HOUSE OF ASSEMBLY

Wednesday 24 March 1999

The SPEAKER (Hon. J.K.G. Oswald) took the Chair at 2 p.m. and read prayers.

MENTAL HEALTH FUNDING

A petition signed by 824 residents of South Australia requesting that the House urge the Government to continue to fund mental health services at a level that meets consumer human rights needs was presented by Mrs Geraghty.

Petition received.

FAIRBANKS-VORWERK ROADS INTERSECTION

A petition signed by 46 residents of South Australia requesting that the House urge the Government to order the redesign and reconstruction of the intersection of Fairbanks and Vorwerk Roads in the District Council of Grant was presented by Mr McEwen.

Petition received.

MOUNT GAMBIER HYDROTHERAPY POOL

A petition signed by 436 residents of South Australia requesting that the House urge the Government to honour a commitment to build a hydrotherapy pool at the Mount Gambier and Districts Health Service facilities was presented by Mr McEwen.

Petition received.

NATIONAL WINE MUSEUM

A petition signed by 72 residents of South Australia requesting that the House urge the Government to disallow the establishment of the Wine Museum on the parklands and take the necessary steps to restore the parklands to open space was presented by Mr Meier.

Petition received.

LEGISLATIVE REVIEW COMMITTEE

Mr CONDOUS (Colton): I bring up the twelfth report of the committee and move:

That the report be received.

Motion carried.

QUESTION TIME

WATER METERS

Ms HURLEY (Deputy Leader of the Opposition): My question is directed to the Minister for Government Enterprises. Given the Minister's statement to the House yesterday that Davies Shephard's water meters are less accurate than Schlumberger's, can the Minister table the evidence to prove this statement and then explain why SA Water has, in the past few months, placed orders with Davies Shephard for the manufacture and supply of water meters after it signed a $20 million contract for the same with Schlumberger?

The Hon. M.H. ARMITAGE: As I identified yesterday, my advice is that the 20 millimetre meter offered by Davies Shephard is, indeed, less accurate at low flows than the Schlumberger meter, and—

An honourable member interjecting:

The Hon. M.H. ARMITAGE: —I am coming to that—that was yet another reason why I identified to the House yesterday that the Schlumberger meters are in fact more accurate. That is the fact of the matter. Given that the Deputy Leader of the Opposition has spent such a lot of time of late talking about the accuracy or otherwise of meters, I would have thought that she actually thought it was a good idea that we purchased the most accurate meter. If the Deputy Leader of the Opposition does not think that it is a good idea to buy the most accurate meter around, maybe she should tell the public, rather than snidely trying to pick off people who have done a good job in South Australia.

In relation to the question of meters being purchased elsewhere, as I indicated to the House yesterday, I am informed that, as one begins a manufacturing process, all sorts of design modifications and toolings, and so on, are expected. There is obviously a set up time for local manufacture in South Australia. I am told that in October 1998, which was a month or so after the contract was announced, because of that set up time, indeed, it was agreed that some meter bodies would be obtained from interstate. Why? It was because there was a need to fulfil the orders that were there. That was in the past, as I identified—

Ms Hurley interjecting:

The Hon. M.H. ARMITAGE: As I indicated, the Davies Shephard meters at low flow are more inaccurate. However, faced with the need to continually put in meters, whilst the Schlumberger people are setting up and tooling, whilst they are providing their international expertise to the new people at Mount Barker Products, while all that is occurring, the need for new meters continues. That seems to me to be a perfectly reasonable interim measure to address a need. However, the important thing that the Deputy Leader of the Opposition has not done today is to come out and say, 'I was actually wrong yesterday. These casings are, indeed, being manufactured in South Australia.' That is the nub of the matter. What the Deputy Leader is attempting to do is to spread about subterfuge that there is something wrong with the contract because some meters were purchased from interstate. That is in complete contravention with what has happened, namely, that the industry is setting up in South Australia, the international expertise is transferring from Schlumberger to South Australians, and the meters that are now being delivered are being manufactured in South Australia. Now that is great.

PUBLIC SECTOR PAY CLAIM

The Hon. R.B. SUCH (Fisher): Will the Premier outline the Government's position with respect to the pay situation for teachers, firefighters and the State's public servants?

The Hon. J.W. OLSEN: Before I answer the honourable member's question, I would like to extend to the member for Playford the congratulations of the House on his becoming a father again. I wish him, his wife and new born every success in the future. Returning to the member's question, the simple fact is that the State's purse is empty. There is no money left to pay ever escalating, increasing wages bills. I do not know how many other ways we can explain to this House that we simply do not have the money to pay any more pay increases, whether to the firies, the teachers or the public servants. The position is that the budget is under significant

strain—not that that is anything new. However, the decision of the Labor Party to oppose the sale or lease of ETSA removes the flexibility in subsequent years and, in addition to that, as the Auditor-General highlights on page 54-55 of the Auditor-General's Report, there is about a $100 million shortfall. It is in that climate that we have these wages pressures. What do we have from the Opposition? By way of example, when the nurses were wanting their 15 per cent, the shadow health spokesperson said:

> I think what the nurses are asking for is well deserved, and I think the Government would be silly to turn their backs on it.

That was just a 15 per cent pay increase! We had the Leader of the Opposition on the steps of Parliament House giving encouragement to the firies for their pay claim. These are the people (and this will strike a chord with the Leader of the Opposition) who have banners up complaining about all members of Parliament getting an 18 per cent pay rise. I do not know about anybody else; I have not seen that in the past year or two, and the firies simply have it wrong.

The Hon. R.L. Brokenshire: And they know it.

The Hon. J.W. OLSEN: And they know it. I hope the Minister keeps reminding them of that in any discussions he has with them. The only alternative is more debt, and we will not allow more debt to be put in place. Also, there will not be budget supplementation from Treasury to any portfolio in an endeavour to resolve these claims by these respective employee groups. If they want to go on strike that is up to them. Actually, if they go on strike they might save some wages and costs for the Government, if they want to pursue that course. Let them understand that the up to 13 per cent that is on the table for teachers—I might add on top of the 17 per cent they got a year or two years ago—and the up to 9.7 per cent average and 13 per cent for some public servants are fair, equitable and generous offers in our current climate, with the lack of a high CPI that we are living with.

Therefore, the Government does not have the capacity to pay more wages, yet we hear the Opposition constantly giving encouragement for more wage increases that we simply cannot afford. We do not have the capacity to meet them. I would pose this question to members of the Opposition: which policy do you want to implement? I am talking about your policies of the last election campaign. Would it be the policy of no new taxes and charges; would it be the policy of reducing debt; or would it be the policy of increased wages? That is the formula of members opposite. None of them add up to a bottom line; none of them are consistent in terms of outcomes for this State. I would have thought that an Opposition worth its salt would at least provide a policy prescription for South Australia in the future. But what do we have? Simply no policy. We understand that some Labor Party members are getting concerned about this no policy position.

Mr Koutsantonis: Name one!

The Hon. J.W. OLSEN: Here is the member for Peake. Every Question Time it takes him a while, but then he joins the debate, usually with something inane. I know the member for Peake can bring all his experience from the commercial world to the House.

The SPEAKER: Order! I ask the Premier not to encourage the member for Peake.

The Hon. J.W. OLSEN: Thank you, Mr Speaker. He does not need encouragement; he gets in without any encouragement. To return to the point, members opposite could respond to the call of some of their colleagues in Caucus about working up some policies so they have a position to argue in the public arena, rather than simply saying 'No' and, in the Deputy Leader's case, constantly being found to be wrong in questions she puts to the House. Then, having put a position down in the House, she is not prepared to go and front the media or answer any questions. She would not front up to the TV cameras yesterday after Question Time, and she would not front up to a radio interview this morning. If the Deputy Leader is so sure of her facts, she should go out and respond to the media questions but, no: the Deputy Leader retreats, because she gets it wrong, wrong and wrong.

WATER METERS

Ms HURLEY (Deputy Leader of the Opposition): Will the Minister for Government Enterprises detail to this House exactly where the 200 jobs will be created as a result of the Schlumberger contract with United Water and exactly how many people will be employed directly by Schlumberger to make water meters in this State? In a radio interview on 5 August last year the Minister said that the 200 jobs created by the Schlumberger contract were in the contract. Where are they?

The Hon. M.H. ARMITAGE: One can only admire the tenacity of someone who continually gets beaten around the ears yet comes into the ring again. It is like Joe Frazier or somebody. In essence, the Deputy Leader is asking about the economic benefits in the contract.

Ms Hurley interjecting:

The Hon. M.H. ARMITAGE: The Deputy Leader is not asking only about jobs because jobs are part of the economic benefit of the contract. It is interesting that clearly the Deputy Leader's incorrect information is being supplied to her by an aggrieved losing bidder. She has actually acknowledged that. It is interesting that, given the concentration of the Deputy Leader on this alleged skewing—which is incorrect, but is a lovely line which, hopefully, the Labor Party puts around in a desperate attempt to try to bring down a good contract (which is its standard line)—I am informed that the person—

Ms Hurley interjecting:

The Hon. M.H. ARMITAGE: I am coming to the jobs. I am informed that the Davies Shephard Company submitted a performance curve for the meters it was offering. This is the fellow who presented a proposal which had a number of negatives for South Australia. When Davies Shephard submitted a performance curve for the meters it was offering, I am informed that, when it was asked to submit actual performance tests, it provided test results that actually failed to achieve the curve it had submitted. If its own meters do not stand up to the performance curves that it is submitting to the potential purchaser, why would you expect the Government to select it from the tenderers? Why would you?

If the Government had selected Davies Shephard, I would expect to be subjected to this sort of barrage because some of the accusations, which the Deputy Leader is not making but which she is hoping everyone else will make by hinting at them, would be absolutely legitimate if the contract had gone to Davies Shephard rather than to Schlumberger. But Schlumberger is so clearly the better contract for the State, we had to take it.

Ms Hurley interjecting:

The Hon. M.H. ARMITAGE: We will come to the jobs because clearly the Deputy Leader has not bothered to read *Hansard* from yesterday. To refresh the Deputy Leader's

memory, amongst other things I advised yesterday that, if one looks at the gross State product at the end of these contracts, the Schlumberger contract provides an additional gross State product of $35 million over six years, compared with the Davies Shephard proposal, which reduces the gross State product by $13 million over six years. A $35 million additional GSP, versus a $13 million subtraction from the GSP (and I am not particularly literate at maths) equals $48 million in bonuses to the GSP of our State. That, on one criterion alone, would be enough for the Government to have gone down the line of accepting the Schlumberger proposal.

Not only that, the Schlumberger proposal provides direct employment for 83 people, plus up to 260 more people, according to the advice I have been given, which is 343 additional people from the contract, which I suggest compares very favourably with the Davies Shephard proposal, which does not lead to 343 additional South Australians being employed but actually, I am informed, reduces employment in South Australia by 230 people.

Members interjecting:

The Hon. M.H. ARMITAGE: The member for Hart—the would-be Treasurer and would-be Leader of the Opposition—says that I am not very convincing. I do not have to be, because the figures speak for themselves.

DEFENCE INDUSTRY

Mr HAMILTON-SMITH (Waite): My question is directed to the Premier. What is the importance of South Australia's defence industry to our local economy?

The Hon. J.W. OLSEN: This is an industry sector with which the honourable member has had previous involvement. He has a very close interest in its development in South Australia and has put forward a number of options as to how we might progress the defence and electronics industry in this State, for which I commend him. The announcement of Kistler Aerospace yesterday about entering into partnership with Northrop Grumman is particularly good news. It is not only good news for South Australia but, importantly, it takes the project at Woomera a quantum step forward.

Northrop Grumman announced this $US30 million investment along with the possibility of increasing the total amount of its investment to $US60 million, and also holding an option for a further $US120 million into that company. This is the project by which we want to secure the use of the Woomera facilities for the launching of low earth orbiting satellites by reusable launch vehicles or rockets. It now looks as though, by the end of this year, we will be in a position to see that facility go ahead. This is in stark contrast to comments of the member for Hart in January this year, when Kistler was having some difficulty with the bond market. The member for Hart said:

> It would appear [this project] is now in jeopardy.

It is almost as though he wanted it to be in jeopardy. Further:

> My very strong view is that John Olsen has taken his eye off the ball and has not concentrated on developing jobs for South Australia.

We now have Kistler being backed by no less than Northrop Grumman, one of the largest electronics defence companies in the United States. Once again, the member for Hart's predictions have been proved wrong. As time goes by, we will continue to prove them so. The eye is not off the ball about job generation in South Australia: we are concentrating on the right economic climate in this State to build jobs in an industry sector. The defence industry is important for South Australia: it is a large employer in this State and has the capacity to grow substantially. In fact, Northrop Grumman also announced this week that it has entered into an arrangement with CelsiusTech, which will enable CelsiusTech to develop software for the new E2-C Hawkeye Airborne Early Warning and Control aircraft that Northrop Grumman will be developing and building for the US Navy.

This is a South Australian company that will be working in the United States on its sophisticated defence software engineering capabilities at the highest level of defence engineering—a South Australia-based company. This demonstrates the dividends of going and speaking to companies such as Lockheed Martin, which we have, and Northrop Grumman. Over the past three years I have visited them twice in the United States. Robert Schwarz from Northrop Grumman was in Adelaide this morning with the Minister for Industry. We met with them early this morning, and they will be returning to South Australia in about five or six weeks' time. Out of that I hope that there will be further advancement in the defence and electronics industry opportunities in the State.

It is an industry sector into which we have put a considerable amount of effort in the past five years or so. There are some threats against some components of our defence and electronics industry. We have to manage the threats and turn the threats into an opportunity, and we are seeking to value add. The fact that CelsiusTech is now, through a major international player such as Northrop Grumman, getting into the defence contract business for the United States brings an economy of scale to a company out at Endeavour House, Mawson Lakes, that will really give us the capacity to further expand that industry. This is where our size—which many people say is a disadvantage—is an advantage.

To have the three vice-chancellors of the universities work cooperatively with the Government for curriculum or course development means that we can have courses here that meet the requirements of these sophisticated defence companies in their software engineering. It is an advantage, a flexibility and a mode of operation that we have that the larger States of Australia do not have. It is an area that is of good news to South Australia, and, for example, in software engineering it is another outstanding example of information technology, telecommunication and the 'smarts', if you like, of South Australians. We take that company called Motorola that has been used and abused in this House on the odd occasion in the past year: Motorola has people in that work force from 38 nationalities. It is now the preferred location from customers in outputs in software engineering.

The Mercedes Benz S series has 25 chips in operating that series. Those chips were designed here in Adelaide, South Australia for the Mercedes Benz S series worldwide. That is something we ought to be proud of. They have a team of 73 engineers out there at Mawson Lakes working on that single project. In addition to that, with Motorola now expanding its operations worldwide, in Poland, Russia, Korea and Montreal, it was Adelaide, South Australia that they sent their teams to for six months for training before they established support facilities in those other countries.

Here is the advantage of the policy approach of this Government of bringing a major international player like Motorola to South Australia. Look at the benefits, the exports that are coming from it, the jobs that are being created, and they are on the eve of expanding that operation, almost doubling the number of employees. They are out of space at the moment and I think they put 50 engineers into either

Endeavour House or one of the other locations, pending further accommodation for them.

What we are doing is bringing a focus to Adelaide and to South Australia by the product coming out of that facility, where the engineering staff are amongst the best, and you would have to say demonstrating about the best in the world, and it is coming out of Adelaide and it is coming out of South Australia. That is from bringing new private sector capital investment in to build new industry sectors for our children of the future. That is the focus, with an export priority. That is where the benefits will be visibly seen in the course of the next 10 years for this State.

ELECTRICITY, PRIVATISATION

The Hon. M.D. RANN (Leader of the Opposition): My question is directed to the Premier. In the interests of informed debate, will the Premier before tomorrow's vote on the ETSA sale inform this House how much has been spent so far on the costs of the consultants appointed to run and promote the ETSA privatisation bid since the time of the last election, when you promised you would never sell ETSA? The Opposition has been informed that several Liberal members of Parliament have also raised concerns about the growing costs and expense of the ETSA sale consultants at a Liberal Party room meeting recently. The Opposition has been informed that several Liberal members who inquired about the costs of ETSA consultants were later contacted by one of those consultants who complained bitterly about the comments they had made in the privacy of the Liberal Party room. How many millions have you spent on these ETSA consultants?

The Hon. J.W. OLSEN: I do not know where the Leader has been during Question Time this year. The member for Chaffey asked this question several weeks ago. The Treasurer has clearly indicated that he will be responding to that—

The Hon. M.D. Rann: Before tomorrow's vote?

The SPEAKER: Order! The Leader has asked his question.

The Hon. J.W. OLSEN: Are you contemplating a change of position for the Labor Party?

Members interjecting:

The Hon. J.W. OLSEN: You are right: they cannot change; they have only a policy that says 'No.' But half a 'yes' might be an advantage. I would be interested to know, given his question, whether the Leader is contemplating some sort of change. I also point out to the Leader that not only has the member for Chaffey already asked that question (so it is 'me too' stuff) but, secondly, if you look at the *Hansard* record and my reply to the member for Chaffey, you see that I also indicated that, first, some of the advice given to us by the consultants as it related to Port Augusta had more than saved—and I am getting these figures checked—the cost, because our previous advice was that we could not use the mothball Port Augusta power stations for environmental purposes. The consultants came back to us and said, 'Yes, you can, at about a quarter of the cost of additional peaking capacity.' So, it will meet the demand this summer. That is the first point; that is already on the record.

The second point—and I do not know whether it has escaped the Leader's attention but I am sure the member for Hart could bring him up to speed if he wishes—is that you had to undertake a restructuring, so part of these fees would have been spent in any event under NCCA-CCC requirements. Failure to meet NCCA-CCC requirements under the Keating deal would mean that tens of millions of dollars would be reduced in disbursements from Canberra to South Australia. That is the second point.

The third point I want to put to the Leader is that, when National Power won the right to build at Pelican Point, it made a sizeable contribution to the Government of South Australia for us to do so. So, when the question comes back in its fullness, I know who will be embarrassed and it will be the Leader of the Opposition.

The Hon. M.D. Rann: Just tell us how much. If you have nothing to hide, tell us how much?

The SPEAKER: Order! The member for Stuart has the call.

BEVERLEY URANIUM MINE

The Hon. G.M. GUNN (Stuart): Will the Deputy Premier indicate to the House the economic benefits to South Australia from the Beverley uranium project, which is in my constituency?

The Hon. R.G. KERIN: I thank the honourable member for his question. The mine is very much in his constituency, and I thank him for his ongoing support for the project. Certainly last week we welcomed the decision of the Federal Environment Minister, Senator Robert Hill, giving the environmental go-ahead to the Beverley project. He has had a long and sustained look at it. He ordered extra work to be done and his approval was well and truly welcomed by the Government. Heathgate Resources will now press ahead with a $30 million program to bring the mine into commercial production by early next year.

Testing has shown that the northern part of the Beverley aquifer is definitely not connected to any other aquifer in the area, and that is very important. That is the work that Senator Robert Hill wanted completed before he gave the ultimate okay. One fallacy promoted during this project was that there could have been a connection between the aquifer in which the disposal will take place and the Great Artesian Basin. That matter has not been in contention since the very early days and it was not what was being talked about. The issue was about connectivity to other local aquifers.

However, some chose to ignore the reality of what the Great Artesian Basin is all about in that the Great Artesian Basin there, as in most parts, is under enormous pressure and, if a crack developed, water would flow from the basin and not into it. Some people have chosen to misrepresent other matters and the in situ leach method has been called 'world's worst practice'. There have been hints of its being banned elsewhere and other emotional arguments that are not true. It is a practice recognised throughout the world as being extremely environmentally friendly. The royalty revenue for South Australia from the Beverley project is estimated to be $1 million per year with income in excess of $20 million a year coming to South Australia, in addition to flow-ons of approximately $9 million to other parts of Australia.

Heathgate will now call tenders for the construction of roads, a mining camp and an airstrip at the site with engineering work on the $17 million processing plant to begin soon, with many flow-ons for jobs and money for South Australia.

One issue that has been raised in radio programs, or whatever, over the past week is that the State will benefit by only $1 million, which was the amount of the royalty. That is absolute rubbish. That is a bonus over other projects. Most projects we talk about giving a boost to the State do not pay a royalty, so you can look at that $1 million as an extra over

and above the jobs and the economic activity that flow. Certainly, the Hon. Sandra Kanck has led the way on that and, over the past few days, we have seen some other examples of her economic prowess.

Radical conservationists have, of course, shown opposition to this project throughout, as has the Federal ALP. Local ALP policy on this matter has been a little hard to read. The Federals have certainly said, 'No go' and, if the ALP had won the last election, this project might well have gone down for the count. The Deputy Leader the other day showed some support for this project in opposition to the comments of her Federal colleagues. I look forward to the Deputy Premier having a lesson on Friday that Labor in the past has got it wrong when we see the opening of Roxby, which will be a perfect example of what mining can do for the State.

In relation to the Beverley mine, all the environmental aspects have been very closely studied and restudied, and Senator Hill's announcement confirms that all the issues have now been addressed. Environmentalists might care to consider that, when it is in full production, the Beverley mine will produce approximately 1 000 tonnes of uranium per year. When used for electricity generation, this will prevent 30 million tonnes of carbon dioxide being released annually into the atmosphere from coal-powered fire stations, which is not a bad environmental outcome. Certainly, the local ACF campaigners, in particular, ought to reach out from the 1970s and acknowledge the environmental outcome of that.

The Aboriginal concerns in relation to the project have been met and agreements have been reached with the four native title claimant groups. Those agreements include royalty payments, indigenous employment opportunities, a new on-site Aboriginal heritage centre and encouragement for the development of Aboriginal business in the area. Once in full production, the Beverley mine will employ 120 people with, of course, flow-on effects off-site. Approximately 75 jobs will be created during the construction phase.

This is a project about which we can be very happy. It is a project that Labor would not have been able to get up because of the Federal ALP influence. This Government has got this project up. It shows our commitment to regional development, and I know that the member for Stuart appreciates that; it shows that we are committed to creating job opportunities in the regions of South Australia; and it shows that we are committed to a better and healthier State economy. Notwithstanding all that, it shows that we are committed to some very rigorous environmental assessment. This project is very much a symbol for South Australia. It shows Australian and international businesses that South Australia is open for business and able to get projects up despite some very outdated and emotional opposition.

WESTERN MINING CORPORATION

Ms HURLEY (Deputy Leader of the Opposition): My question is directed to the Premier. When will the Parliament be given the evidence promised by the Premier that ETSA was not, in fact, impeded by the Government, by the Minister or by the Electricity Sale and Reform Unit from making an unfettered and fully commercial bid for the Western Mining Corporation contract, and will the Premier now table in the House all directives and correspondence from the Government, the Minister and the Electricity Sale and Reform Unit and from any consultants employed by the Government to ETSA in regard to the bid to supply electricity to Western Mining?

The Premier was asked questions on the Western Mining contract on 10 and 11 March and promised that the Treasurer would provide a detailed answer proving that ETSA was not impeded in bidding for the contract. Where is the proof?

The Hon. J.W. OLSEN: The Deputy Leader answered her own question. She asked it and I said that I would get an answer through the Treasurer. It has gone off to the Treasurer for supply of the answer. From the Leader and the Deputy Leader—

The Hon. M.D. Rann: Don't you know?

The Hon. J.W. OLSEN: Check the record. I have already answered. Check the record.

The Hon. M.D. Rann interjecting:

The Hon. J.W. OLSEN: No. Just check the record. So bereft of questions is the Opposition this day that the Leader and the Deputy Leader are repeating questions of the past fortnight.

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. Rann interjecting:

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

WATER METERS

Mr SCALZI (Hartley): Will the Minister for Government Enterprises advise the House of the implementation of the water contracts and any misstatements made in relation to them.

The Hon. M.H. ARMITAGE: I thank the member for Hartley for the opportunity to clarify a number of issues arising from the Schlumberger and United Water contract questions that have been asked by the Deputy Leader of the Opposition during this session of Parliament. I do so because many of the facts—and I emphasise 'facts'—relating to these contracts have been misrepresented, and the Opposition, frankly, ought to be embarrassed by the number of times that that has occurred. It is getting to the stage where one can rely on the Deputy Leader of the Opposition to get the facts wrong, acknowledging that not everyone gets things correct 100 per cent of the time—that is simply not possible. But because of how often the Deputy Leader gets it wrong, one can only question the research she does or someone does for her prior to her launching her parliamentary questions.

An honourable member interjecting:

The Hon. M.H. ARMITAGE: As the Deputy Premier says, she is consistent—consistently incorrect. In her attempt to manufacture some kind of under the table scandal over the Schlumberger contract, there has been a blatant disregard of the facts. The Deputy Leader started by attempting to rouse public sympathy by claiming that a long established local company had been forced to lay off 60 workers. Of course, this is the Davies Shephard company that has also been feeding these other incorrect allegations to the Deputy Leader. That is wrong. Not only is the company a wholly owned subsidiary of a huge multinational company—therefore, it is not a local company—but, prior to this contract, far from 60 people being forced to be laid off because of the contract being awarded to its competitors, this company employed two people in Adelaide. Yesterday, the Deputy Leader built on previous assertions that there was minimal local content going into the Schlumberger meters. Wrong! The meters manufactured in South Australia by Schlumberger—a great bonus to the South Australian economy—do meet the 70 per cent local requirement of the contract.

An honourable member: Wrong again!

The Hon. M.H. ARMITAGE: Yes, wrong again! She also asserted that Schlumberger was importing all its meter castings from Victoria. Wrong! Mount Barker Products—

Members interjecting:

The Hon. M.H. ARMITAGE: That's just an attempt to correct the record, having been proven wrong time and again. The allegation that Schlumberger was importing all meter castings from Victoria is wrong because, unfortunately for the Deputy Leader, Mount Barker Products is manufacturing meter bodies in South Australia as we speak. Unfortunately for the Deputy Leader, the litany of her errors continues. It is actually longer than a Kevin Costner movie. In her confusion about the portion of the United Water contract relating to the provision of design work, the Deputy Leader again strayed into the realms of fiction by asserting that the original RFP did not contemplate the successful tenderer undertaking design work. Also, in the debacle, she accused the independent auditors of impropriety. Wrong and wrong!

Given this sort of track record, it did not surprise me very much that the Deputy Leader stood in the House yesterday quite shamelessly accusing the Government of allowing—if not, indeed, abetting—the fixing of water meters so that consumers were over charged. The only reason that people were pretty relaxed when the Deputy Leader said that was that, as she has been wrong so often again, she would probably be wrong in this assertion, and factually she was. I would contend that such allegations, made without checking, taking the word only of a disaffected losing bidder, are outrageous and, indeed, one could say an appalling abuse of parliamentary privilege.

I am advised this morning—because I asked the question—that the important thing about all this is that the evaluation panel at SA Water did not canvass the possibility of water meter read out levels being adjusted upwards in favour of SA Water and, indeed, the meters supplied by Schlumberger under the contract are required to conform to both the Australian and the international ISO standards. That means that, because of the inevitable slowing, I am informed, of these meters over time and because of the setting SA Water has indicated would be required under the contract, over the average life of the meter, far from SA Water being advantaged by the setting, it is the consumer who is advantaged, because the meter slows down over the course of the life of the meter, I am informed, and actually under measures consumption.

There is only one word to describe that accusation: wrong! It is a great shame that this House is, I would contend, demeaned by unproductive sniping by the Deputy Leader of the Opposition against a successful building internationally focused industry while she ignores the real issues facing the State which are, as every South Australian knows, how to rebuild the economy after a decade of disasters of Labor.

I would be delighted if the Opposition came in and was prepared to engage in legitimate debate about ways of moving our economy forward if, given a success, they were prepared to acknowledge that they had been wrong as, indeed, I have heard the member for Hart do on occasions, and I congratulate him on that. He has made some admissions that, frankly, the Labor Party and the Opposition was wrong. Good luck to him; he is prepared to do it—leadership potential, foreman material! I would be delighted if Opposition members did get stuck into reasonable, meaningful debate. However, I fear that they will continue to take cheap shots at initiatives that are designed to move the State forward. If the Deputy Leader insists on following this negative carping, whingeing, cringing, bleak sort of line, the least she could do is to check her facts and make sure that she has got the story right.

CICCARELLO, Mr S.

Mr WRIGHT (Lee): My question is directed to the Minister for Industry. Why was Mr Sam Ciccarello still being paid by the Government as a consultant 18 months after he delivered his final report and 18 months after the State had been awarded seven Olympic soccer matches? The Public Works Committee has been told that on 25 August 1997—

Members interjecting:

The SPEAKER: Order! Members are not assisting Question Time with these interjections.

Mr WRIGHT: —thank you, Sir—a memorandum of understanding was signed between SOCOG and the South Australian Government over the staging of Olympic soccer matches in Adelaide. In the *City Messenger* of 10 March 1999, the Minister described this memorandum of understanding as 'in essence, the final report' of Mr Ciccarello's consultancy. However, in his press release of 9 March, the Minister stated that Mr Ciccarello's consultancy ran until 28 February this year, 18 months after he delivered his final report.

The Hon. I.F. EVANS: The reason he continued to be paid was that, once the memorandum of understanding was signed, he then assisted the Government with its obligations under the MOU.

EMERGENCY SERVICES INFRASTRUCTURE

Mr VENNING (Schubert): Will the Minister for Police, Correctional Services and Emergency Services advise the House of any initiatives being undertaken to ensure that our emergency services infrastructure is ever ready?

Members interjecting:

The SPEAKER: Order!

The Hon. R.L. BROKENSHIRE: Yes, we are ever ready as a Government when it comes to delivering policies and initiatives that are taking infrastructure requirements and directions of emergency services right to the forefront. I will give a few examples of very good initiatives.

Members interjecting:

The Hon. R.L. BROKENSHIRE: I will do it this way this time. They are very good initiatives this time. First, I would draw the honourable member's attention to the fact that we are committed to ensure that we have a Government radio network that will work right across the whole of South Australia, which will provide the services that are required for all emergency services in South Australia; and a common computer aided dispatch system, which will deliver in whatever the scenario may be with respect to tasking with emergency services. That is about fair and equitable funding and policy initiatives that will address sustainability and continuity for future generations of South Australians.

Members interjecting:

The SPEAKER: Order! The Opposition has made its point, I think. I would ask members to come back to order so the Chair can at least hear the reply.

The Hon. M.D. Rann interjecting:

The SPEAKER: Order! I warn the Leader of the Opposition for interjecting after he has been called to order.

The Hon. R.L. BROKENSHIRE: Our initiatives in emergency services are about addressing situations that were not addressed when the Labor Party was in office, such as the reduction of the $13 million debt after Ash Wednesday which was not addressed and which had an enormous impact on the ability to deliver emergency services. They are just some of the initiatives that we have put forward. With other members on this side, as Minister I am still waiting for some policies and initiatives to come forward from members opposite. I thought that, as things developed with respect to a change of leadership in the Opposition, the finalists might have come up with some policy. Of course, the problem there is that there are two Ts up in the Upper House, where they cannot get the numbers to be able to roll the current Leader and Deputy Leader of the Opposition. Whilst they may be smiling right now, the reason they have not been showing any energy or commitment whatsoever to this Chamber in the past few weeks is that they are too busy and too annoyed about these numbers.

Mr FOLEY: I rise on a point of order, Sir, for the sake of the Minister. He clearly needs to be put out of his misery; he is clearly debating the matter.

The SPEAKER: Order! What is your point of order?

Mr FOLEY: The Minister is clearly debating the answer.

The SPEAKER: I uphold the point of order for the past couple of sentences. The Minister will answer the substance of the question that was put to him.

The Hon. R.L. BROKENSHIRE: I am pleased and will give an accolade where it is due, because as Minister for Police, Correctional Services and Emergency Services I have had the opportunity to see now a policy from the Opposition, particularly from the Deputy Leader of the Opposition, who no doubt now will be the policy direction for the Labor Party as we head towards the next election. I refer to the policy of fire plugs. I thank the Deputy Leader of the Opposition for alerting me to this fact, and I am in the middle of taking some briefings on this important policy initiative, but I ask myself whether this policy may not be Labor's foundation policy for the next election when it comes to arts. Perhaps the Deputy Leader of the Opposition thinks that fire plugs are all about art and culture. Perhaps the Deputy Leader of the Opposition's policy for the Labor Party for the next election is about fire plugs, because they could be a tourism icon; or perhaps it is an animal welfare policy for the Labor Party, because every dog needs one.

Mr FOLEY: I rise on a point of order, Mr Speaker. Yet again he is clearly debating the answer and I ask the Minister to be wound up.

The SPEAKER: I do not uphold the point of order. I would ask the Minister to start to wind up his reply.

The Hon. R.L. BROKENSHIRE: In conclusion, I would say that our Government does have policy and direction; and every day it takes a step further to bring in initiatives and opportunities for emergency services. Maybe I have slightly overstated the case of the Deputy Leader of the Opposition's position on fire plugs, but I must say that this is the only defence I could raise on behalf of the Deputy Leader.

CICCARELLO, Mr S.

Mr WRIGHT (Lee): I direct my question to the Minister for Industry and Trade. How much was Mr Ciccarello paid by the Government as a consultant between August 1997 and February 1999? The Minister has said in the media that the final report of Mr Ciccarello's Olympic soccer consultancy was the memorandum of understanding signed in August 1997, yet Mr Ciccarello remained on the Government payroll until 28 February 1999.

Members interjecting:

Mr WRIGHT: Sir, I am happy to read the question again, if the Minister—

The SPEAKER: Order! The honourable member will continue with his question.

Mr WRIGHT: The Opposition now understands that every other State that received Olympic soccer matches handled negotiations and bidding arrangements through Government departments and agencies.

The Hon. I.F. EVANS: I acknowledge that all States handled it differently; not every State handled it in the same way. The honourable member asked for specific costs between specific dates. I do not have that information before me. The advice I have previously given the House is that, from memory, the total cost was about $378 000. I am happy to get the costs between the exact dates the honourable member mentioned and bring back a reply.

TOURISM, REGIONAL

Mrs PENFOLD (Flinders): Will the Minister for Tourism outline to the House where the Government plans to increase the development of tourism infrastructure in regional South Australia and what is being done already? I recently heard the Minister commenting on backpacker tourism and explaining the success the Government is enjoying in this area.

Members interjecting:

The SPEAKER: Order!

Mrs PENFOLD: The Minister was then followed by the normally silent shadow Minister for Tourism, who was calling for more tourism infrastructure, particularly in regional areas.

The Hon. J. HALL: I thank the member for Flinders for her question and her absolute commitment and ongoing interest in the development of infrastructure projects, particularly in her electorate. This Government is making real inroads in building tourism infrastructure across the State, and it is the sort of investment in the future that this industry needs. It is important that members who did not read the *Advertiser* this morning know that some of the success is now being reflected in major investment from the eastern seaboard. I would remind those members who did not read the paper this morning of the fantastic announcement by Ansett yesterday. Ansett has increased its scheduling to Adelaide out of Sydney and Melbourne. The reason it has been able to do that is that Adelaide is one of the airline's fastest growing markets and is showing an increase of 47 per cent in passenger numbers so far this financial year. That becomes particularly relevant when you look at the sorts of destinations that interstate and international tourists visit when they come to South Australia.

All of us have an interest in making sure that the South Australian tourism industry sector continues to grow, because it particularly reflects very well on the opportunities and economic impact in regional South Australia. Considering the difficulties under which this Government has had to work, given the debt inherited, I think that some of the examples that I would like to share with the House so far are pretty good. We have the Barossa with the All Seasons resort, which is nearly completed, and I understand that the interest in that resort so far is quite phenomenal. That interlinks very

easily with the new convention facilities at the Faith Lutheran College, and we all know of the importance of the Barossa to our State. In the Flinders and northern areas we have the upgrades of Balcanoona and Hawker air strip. I understand that at the moment they are on schedule and ready to beat the winter rains and we can only wish them luck in that. That is despite Cyclone Vance—so far. Those investments and developments will make an enormous difference in the future.

We also have the BRL Hardy's recently opened magnificent new facility at Banrock Station at Kingston. In addition, we have the ongoing development taking place at Kangaroo Island. We all know of the areas and projects we would like to see pursued. All this sort of stuff can only be pursued in reality if we are able to sell or lease ETSA, a matter which always manages to stir some controversy from members opposite. Whilst we are making enormous in-roads with our infrastructure activities, it is not fast enough for this Government and I sincerely hope that over the next 48 hours at least some members of the Opposition might do what they are saying in private, namely, work out a compromise.

We have the Statewide tourism plan nearly complete, which will have an amazing list of infrastructure developments we would all like to pursue and we have the Premier's working party on infrastructure on Yorke Peninsula. We know that those reports will say that more investment is needed. That is why I was particularly pleased to hear the shadow Minister on ABC radio the other day.

The Hon. M.K. Brindal interjecting:

The Hon. J. HALL: He actually says some very good things in relation to tourism. The shadow Minister said:

> We can't do enough to make sure we get every possible dollar in the tourism industry.

I agree, absolutely. For us to get more dollars we need, as he would well know, the sale or lease of ETSA. He went on to say, and this is what is so particularly important:

> We must have the infrastructure in place and what the key tourism people are telling me as I meet with them is that not enough is being expended in the tourism area on infrastructure.

We would like to spend more. There are many more projects on which we would like to spend money. But, he went on to say—

Members interjecting:

The Hon. J. HALL: Don't you like that? Are you going to ask for free tickets when they come? The shadow Minister went on to say—

Members interjecting:

The SPEAKER: Order! The member for Ross Smith will come to order.

The Hon. J. HALL: The other quote that is particularly important, as it relates to infrastructure, from the shadow Minister is as follows:

> The only way we are going to be successful, or should I say even more successful, as a tourist destination is to have the best possible infrastructure in place.

We agree with that because we all know of the sorts of projects on which we would like to spend. For example, several weeks ago we announced some of the activities that would be involved in the infrastructure development fund. To talk about one, I refer to the $15 million accommodation incentive fund. Projects that would be included in that cross the State, and I am absolutely positive that all members would benefit from it.

STATE WATER PLAN

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: Water, as we all know, is a vital ingredient to South Australia's future prosperity. Its use and management for economic, social and environmental gains underpins much activity in the Government, industry and community sectors. The State water plan plays a pivotal role in ensuring that the use and management of the State's water resources sustains the well-being of all South Australians and facilitates economic development of the State.

The Water Resources Act of 1997 establishes a water resources planning and management hierarchy, of which the State water plan is at the highest level. The document entitled South Australia—Our Water Our Future was published in September 1995 and adopted as a State water plan under the Water Resources Act 1997 when it came into operation on 2 July 1997. The State water plan is now being updated to provide a contemporary assessment of the state and condition of the State's water resources and to set out the South Australian Government's strategic policy directions for development and management of our water resources.

The State water plan will be a statement of high-level water policy from the Government of South Australia and as such will guide investment that relies on access to reliable water suppliers. The State water plan provides the policy framework for water resource management and use throughout the State. As required under the Water Resources Act 1997, water allocation plans are being prepared for prescribed water resources in the State and in close consultation with the community and relevant Government agencies. Although the 15 plans are in different stages of preparation, all are on track to be completed no later than early July 2000, as required by regulation.

While these new water allocation plans are being prepared, the water resources of the prescribed areas are being managed in accordance with the management policies prepared under the previous Water Resources Act 1990. Under transitional arrangements these management policies are deemed to be water allocation plans until they are replaced by new plans under the 1997 Act. I intend to launch the new State water plan during National Water Week, which this year runs from 17 to 23 October 1999. A dedicated project team has been established in the Department for Environment, Heritage and Aboriginal Affairs to undertake the project and input will be sought from key industry bodies and Government agencies.

I have also established a steering committee to oversight the project, with members of the community bringing experience in economic development, industry, rural water use, local government and catchment water management to the task. The review of the State water plan is a significant activity and I am pleased to advise the House that Mr Robert Champion de Crespigny has accepted my invitation to chair the steering committee. He and other members of the steering committee will bring considerable expertise to the review and will ensure that the new State water plan is a pivotal document for the future of the State and its vital water resources.

GRIEVANCE DEBATE

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

The Hon. M.D. RANN (Leader of the Opposition): Today I will talk about the New South Wales Drugs Court, an initiative that deserves serious bipartisan consideration and not the immaturity shown yesterday when falsehoods were read into the record. However, I am pleased that the member for Waite apologised to me yesterday. I strongly recommend that any members of this Parliament who get the opportunity visit the court. It is a most enlightening and inspiring experience to see first hand a dedicated group of professionals who are offering hope and a path out of the bleakness of drug addiction.

The Drugs Court, based in Sydney's western suburbs in Parramatta, is an initiative of the New South Wales Attorney-General, Geoff Shaw, whom I also met during my visit to discuss the policy and initiative. It has been running for only five weeks, but is already proving to be an important part of the fight against drug addiction in that State. The Drugs Court at this stage is a pilot project. It intends, over the course of the next 12 months, to take in 300 drug addicts who have pleaded guilty to drug-related offences and selected by random choice before being placed on a 12-month intensive rehabilitation program.

The court offers to these offenders a clear choice. They can either go into a conventional gaol and serve their time, which in some cases could be just a month or two, or can undertake to enter into a contract for a 12-month detoxification and rehabilitation program. So far more than 50 addicts have agreed to take part in the program. An important criteria for eligibility into the Drugs Court is that offenders must be from the western suburbs, must be drug dependent, must not have been involved in violence or drug dealing and must have a firm commitment to get off drugs and out of the criminal cycle.

The rehabilitation program is no picnic. The first seven days are spent in a detoxification unit, two of which have been built at a men's and a women's prison in Sydney. After that, the offenders must spend time in residential care undergoing stabilisation. They are tested for drugs twice a week and come before the court for weekly assessments. I sat in on one of these sessions in the Drugs Court: it was a moving experience. The court is by its charter non-adversarial, so it was very difficult to distinguish between the prosecution and defence counsel. Everyone in the court, including Judge Gay Murrell—who was present while I was there and not overseas, as was indicated to the Parliament—was very supportive of the offenders. They found it important that they work as a collective unit working towards the same end. If, for instance, an offender's drug tests, which are shown in court each week, are clear, they are given a round of applause by everyone in the courtroom—including the judge.

Those who have been found to be using drugs are often taken back into prison for a time to think about their behaviour and breach of contract and given serious warnings about future consequences, or they have privileges taken away from them. Also, they can be asked to explain to the court why they have transgressed their obligations. In another moving session, one young offender pleaded with the court to be let into the program because, in his words, 'I have got a life out there and I am wasting it.' He also kept calling the judge 'mate'. Judge Murrell did not flinch. She accepted him into the program. Another young offender had been told minutes before his appearance in court that he had not been accepted. He was clearly distressed when he entered the court, and it was obvious by the appearance of his parents that his whole family was desperate for him to stay out of gaol and to see him out of the drugs and criminal scene.

If this Drugs Court pilot program is a success—which we all hope will occur—then the program will be expanded in New South Wales to other courts across the State and other areas. Then most young offenders, such as the young man who was refused the opportunity to enter the program, can be offered in the future a way out of the futility and hopelessness of drug addiction and crime. In a bipartisan plea to this Parliament, I strongly recommend that members of the Government join members of the Opposition in monitoring the process of the New South Wales Drugs Court and visiting the court, and also taking the opportunity to meet with Judge Gay Murrell when she visits Adelaide next month.

The Hon. R.B. SUCH (Fisher): I would like to relate to the House my experiences at three functions in the past week or so. I had the pleasure of representing the Minister for Human Services at Government House recently when Soroptimists International hosted a police band concert designed to raise money in the fight against osteoporosis and, in particular, to provide additional bone density measuring machines that could be used particularly by women in the country. We do not hear a lot about Soroptimists International, but it is an organisation comprising mainly business and professional women, who work to improve the community and to enjoy each other's fellowship. Once again, Sir Eric and Lady Neal have shown their great worth to our community: their choice as our vice-regal couple was excellent.

The function raised considerable funds towards the fight against osteoporosis. The point was made that many elderly women, in particular, who suffer falls and break bones do not ever fully recover from that, so it is not something that we should take lightly. A point made by one of the specialists there was that one of the simplest preventive measures is for elderly women, in particular, to wear foam cushioning on the side of their hips. It may not look all that elegant around the house, but it can drastically reduce the incidence of hip fractures amongst elderly women. The other point made was that osteoporosis also affects men. That does not get a lot of coverage but is something that also needs to be addressed.

The second function that I attended was the farewell concert of the Adelaide Girls Choir at Elder Hall last Saturday night. They are a fine group of young women. In fact, there are two choirs, and they presented a range of musical items from sacred songs and folk songs to popular songs. Once again, we have evidence of the fine young people we have in our community. They are about to head off to the United States and Canada to show their skills. I compliment them and all the people involved in the Adelaide Girls Choir on what they are doing to develop the musical skills of young people.

On Sunday—and members might gather that it was a busy weekend—I had the pleasure of representing the Government at the special luncheon for fundraising for the Mary Potter Hospice, held at the Festival Centre. All the cooking was done by Adelaide's top chefs, with a very large input from the Regency Hotel School (headed by Brian Laws). The top chefs of Adelaide (and I think there were close to 40 of them) did all the food preparation. At that function we saw the generosity of many Adelaide businesses. That luncheon, with an auction, raised over $48 000 for a very worthwhile cause. Once again, I had the privilege of being in the company of Sir Eric and Lady Neal. I was also delighted to see Sister Thora

Specht, the head of the Little Company of Mary, which conducts the Mary Potter Hospice.

One could not help but be impressed by the dedication of people such as Sister Thora and her staff. A function like that shows that Adelaide is prepared to contribute to the running of the hospice. It is not the only hospice we know: there is one at Daw Park and there are others. I pay tribute to the staff in each of those hospices for what they do. One of the privileges of being a member of Parliament is that one is able to attend functions. They show the diversity of groups in our community, with people often working quietly for the betterment of the wider society, like the Soroptimists, as well as the chefs, the waiting staff and others who gave their time at that Festival Centre function. It demonstrates in a most forceful way that we have a community that is really prepared to help others. We should all be proud of that and be prepared to recognise it.

Ms STEVENS (Elizabeth): Now that Nippy's products are back on supermarket shelves, it is important to review what has happened since the Garibaldi HUS epidemic and the Coroner's subsequent investigation and recommendations. All members would acknowledge the work of the Human Services Department in identifying the source of the recent epidemic, the steps taken to recall the affected products and the advice to the public, which I noted was published in a number of foreign languages—a welcome change. On this occasion there has been general approval for the post-epidemic action. But this still begs the question of why this epidemic occurred and whether the Coroner's recommendation that the Government ensure that the food legislation is adequately enforced has been acted upon. This is the question that the Minister has been fudging.

Members will recall that the Coroner made 12 recommendations. Recommendation 12 advocated a wide-ranging review by the Minister for Health to ensure that food legislation is rigorously enforced. Surely prevention is the number one goal? Members might also recall the events that occurred after the HUS epidemic, concerns about the delay in launching legal proceedings, and the shortcomings of the Food Act. Let me quote the former Minister for Health when he told Parliament on 12 October 1995:

> I am keen to explore amendments to the Food Act to allow the institution of proceedings in a more realistic time frame. Further, I will be considering increasing the penalties under the Food Act. I am amazed that, following the 1991 and 1992 incidents, the former Government did not see the need to amend its Food Act to bring penalties into line with the importance of public health issues or to provide the Health Commission with appropriate powers and sanctions to ensure good manufacturing practice.

I am also amazed that, four years later, the Food Act remains unchanged, even though the Olsen Government made an election commitment in 1997 to amend that Act. Four years later, and the Minister now says that we must wait for national legislation—a position not shared by Victoria, which has proceeded in this respect ahead of national legislation, presumably because of the urgency of matter. The Minister claimed on 9 March 1999 that all 12 of the Coroner's recommendations had been acted upon by his department. Yet just four months ago, on 28 October 1998, the Minister told the House that the review carried out by his department had been inadequate.

Next day the Minister went even further and in a prepared statement told the House that some councils had not responded to a survey of officers responsible for environmental health and their qualifications. It was no surprise then that in the face of another epidemic the Minister was keen to gloss over his admission that the work done by his department had been inadequate. The Minister said on 9 March 1999:

> My Department of Human Services last year carried out a very comprehensive review of the skills and numbers of people employed by local councils to carry out their responsibilities.

The Minister went on:

> I have already reported to Parliament on the findings of that review.

Yes, Minister, you did report. You told the Parliament that the review was inadequate and you reported that some local councils were not cooperating. It is a pity that South Australians will now have to wait for the answers to questions on the Notice Paper to find out what has actually been done and whether we can have confidence in South Australia's food legislation.

The second issue I mention is the Minister's explanation that, although new communications systems have been established with all general practitioners, as recommended by the Coroner, it was not considered necessary to formally notify the GPs of the Nippy's epidemic. Why was it not necessary to inform GPs that an epidemic was in progress and who made that decision? Was the Minister consulted? The Coroner apparently felt very strongly about the need to keep GPs informed after the Garibaldi epidemic, as this was his first recommendation. Doctors contacted by the Opposition said that they had treated patients affected by the salmonella poisoning and made comments such as, 'We are the last ones to be told.'

The potential ramifications of not conveying timely and accurate information direct to all GPs is obvious. If the Minister has any doubt about the importance of keeping community doctors informed then I recommend that he re-read the transcript of the Coroner's inquest following the Garibaldi epidemic. So, instead of accusing me of making a grossly inaccurate statement, the Minister should look to the accuracy of his own statements and get his own house in order in relation to this very important matter.

Mr VENNING (Schubert): I rise today to speak on an important local issue concerning a constituent of mine, Mr Terry Whitebread, who lives at Kapunda in my electorate of Schubert. He has approached me in relation to an application he made to the local Animal and Plant Control Board to breed and farm meat rabbits. He has encountered some problems in obtaining approval to commence his venture, with the opponents being mainly the South Australian Farmers Federation, and others. They are strongly opposed to this type of operation due to the perceived risks associated with biological controls and resultant diseases that may come from such a venture. Of course, historically, we have always tried to control rabbits and we should not encourage breeding them, but these are not the ordinary rabbit.

To a degree I can understand their position on this, but I am not overcome by the argument. I know that rabbits are quite susceptible to disease and it can spread through their population like wildfire once it gets established. We have already seen the effects of the calicivirus recently and the myxomatosis virus over many years where the numbers were totally decimated, particularly here in South Australia. But I cannot see any real danger or risk of disease in a controlled breeding environment, because of several quite pertinent facts.

First, the rabbits used in this farming operation are not the common garden variety or the bush bunny as we know them. They are not the ones we see running around in paddocks. They are specifically bred rabbits coming from a larger New Zealand cross-breed, bred with a large Flemish rabbit, which are slow moving and they do not burrow. They are similar in appearance to the big white pet rabbits we see, but the commercial breed used produces a large amount of consumable meat, and also huge furs which are tanned. Secondly, the breeding and farming would take place in a controlled environment. You would not have an open range scenario because these rabbits would not survive more than 24 hours out in the wild. They would be easy prey to the many natural predators out there. Strict quarantine procedures would have to be adhered to, as I know that rabbits as a species are prone to disease, particularly hydatids, which is also commonly found in our community dogs. This would be eradicated under strict quarantine conditions. Also under strict licence conditions only the dead, fully processed rabbits would be able to leave the facilities.

Furthermore, it is not as though we are breaking new ground here in assessing the risk of this pursuit. Most of the other mainland States allow the licensing, commercial breeding and farming of meat rabbits. I understand that Victoria was the most recent State to approve these ventures. The Northern Territory has never prohibited it and New South Wales and Western Australia have allowed it for sometime. Yes, there is a problem of liability. If government encouraged biological control such as calicivirus I believe that anyone entering this industry should agree to indemnify the Government from any problem that it may cause.

The ABC *Landline* program ran a feature story on a commercial rabbit farm in Western Australia. People by the name of van der Sluys began the operation 10 years ago and are currently producing more than 10 000 rabbits a year. However, the market is such that they intend to expand the operation to produce 100 000 rabbits per year. That is a huge increase in anyone's book. That shows the sort of demand out there for this product. These rabbits would eat locally produced pellets, consisting mainly of lucerne. The growth rates are excellent, as good as chickens. The meat is great, better than chicken, without the reliance on staple diets of medical feeds, and the meat I am told is better than our common feral rabbit, and that is really good. Being a much larger rabbit they are easier to eat, there is less bone per kilogram of meat, and also its nutritional value is good. Also, the rabbit has a great hide, which tans beautifully. Some have already been done at the Bute tannery, with excellent results.

It would be a great success story in value-adding with a ready market for meat, hides and furs. I do not expect to see a rabbit led recovery in our economy but it is worthy of at least a trial period. People on the land are continually encouraged to diversify their farming operation to best manage the risks associated with it. This is an example of such diversification, and I strongly believe that my constituent, Mr Whitebread, should be given the encouragement to go ahead.

Mr KOUTSANTONIS (Peake): I rise to talk about an article I saw in the paper today regarding the historic first right of reply a constituent has against being defamed in the Federal Parliament. It concerns a constituent of Ms Gallus, member for Hindmarsh. Ms Gallus defamed Mr Bill Thomas of Camden Park. Mr Thomas, a very successful businessman, was defamed by Ms Gallus. She claims that Mr Thomas had sent her threatening letters, letters that she could not in any way repeat in the Parliament, because they were too threatening. They threatened her character and then she said he threatened to send out these letters into the electorate. Mr Thomas was and is a member of the Liberal Party. He is a supporter of the Liberal Government, both Federal and State. He went to see Ms Gallus for satisfaction in the case regarding copyright infringement on some of his products. Ms Gallus did not even attempt, I believe accurately, to help Mr Thomas, so he sought help elsewhere.

He went to the Labor candidate Mr Steve Georganis. Mr Georganis then very effectively was able to institute a Federal Police investigation into why the matter had not been taken up and the matter has now been resolved satisfactorily towards Mr Bill Thomas. But the point that I want to get to is that we have a member of Parliament abusing her high office. We have a member of Parliament sitting in coward's castle, either here or Federal Parliament, using her power politically to defame someone who has attacked her in an election campaign. It is totally inappropriate. Mr Thomas came to see me and I wrote Ms Gallus a letter on 18 February this year, and I said:

> On 7 December 1998 in the House of Representatives you claimed [that is, Ms Gallus] that your office received a threatening letter from Mr Thomas. Your comments recorded in *Hansard* are as follows and I quote:
>
> > That letter that you quoted was not the one I remember getting from Mr Thomas, which was highly threatening. In it he threatened to write about my character in ways that I would not like to repeat in this House. It was an absolutely threatening letter.

They are Ms Gallus's words, under privilege, in the House of Representatives. My letter to Ms Gallus states:

> Mr Thomas has denied that he sent any such letter to you or to any other members of State or Federal Parliament. Therefore, I am seeking a copy of this letter [from Ms Gallus], which you allege was 'highly threatening'. If you are not willing to supply a copy of this letter to Mr Thomas, or me, I believe it would be appropriate to apologise to Mr Thomas in the House so that it may be on the public record. This would satisfy Mr Thomas and serve to repair the damage to his reputation.

My letter further states:

> I am well aware of the frustration and problems that abusive and threatening constituents can cause to members and their staff [etc.]

The response I received from Ms Gallus dated 26 February 1999 reads as follows:

> Mr Koutsantonis,
> We have received your letter of 18 February and have noted its contents.
> Yours sincerely, Carolyn Gillespie, Office Manager for Chris Gallus.

Ms Gallus did not even respond to me personally. Mr Thomas wrote a complaint to the Speaker of the House of Representatives in the Federal Parliament. He has seen his complaint and has found that, under the guidelines set forth in Federal Parliament, Mr Thomas has a case to go to the Federal Parliament to rebuff the allegations made by Ms Gallus. An excellent report on the matter appears in the *Advertiser* written by a very good journalist, David Penberthy, under the headline 'MP's target wins right of reply'. Also on the front page of the newspaper appear the words 'Victory for the people'.

It is about time members of Parliament, especially in Federal Parliament, stopped using their high office, an office with which they are entrusted every three years to serve the public, not to attack it. This constituent had every right to go to his member of Parliament and seek help and, when he was

dissatisfied, he went elsewhere. It is his democratic right. It is not Ms Gallus's right to attack Mr Thomas and accuse him of being a bankrupt when he is not. He is a businessman. The last thing a businessman needs is to be accused of being a bankrupt—and under privilege.

I challenge Ms Gallus to apologise and, if she does not apologise, to at least have the courage to repeat her remarks outside Federal Parliament so that Mr Thomas can have his day in court. Ms Gallus has failed the people of Hindmarsh and I believe that she should resign.

Mrs MAYWALD (Chaffey): I speak for two main reasons: first, I have concerns about the integrity of the Government's budget strategy; and, secondly, I am concerned about the less than frank manner in which the Premier and Treasurer are dealing with South Australian taxpayers. For the average South Australian family, and particularly those in rural South Australia, the most important point about the proposed ETSA tax increase is that it is regressive and unfair. It will hit average South Australian families, particularly those in rural areas, much harder than any other group in the community. As far as I am aware, none of the statements of the Premier and Government members have denied the regressive nature of this new tax.

What concerns me is that statements of every Government member who has anything to do with or say about this new tax has simply concentrated on trying to shift the blame for it onto opponents of the sale of ETSA. To my mind, blaming others for this new tax is a futile exercise in reality avoidance. Those who have opposed the sale of ETSA did not design this new ETSA tax and they did not have any say in the budget strategy of which this new tax is an integral part. There is undoubtedly a black hole in the out years of the budget forward estimates. The budget black hole exists because it was one of the design features included in the Government's 1998 budget strategy. This is clear from the 1998 report of the Auditor-General on the State's finances.

The Auditor-General reported that, as far as taxing and spending was concerned, for the 1998-99 budget there was 'a marked change in emphasis compared with the previous year'. The Auditor-General concluded that this change in budget emphasis boiled down to the fact that the Government tried to relieve pressure from two directions in framing its 1998-99 budget: first, it had to deal with public sector union demands for substantial increases in public sector wages; and, secondly, it saw an urgent need for increased spending in various areas and programs that had high priority. Faced with these pressures for increased spending, the Government decided to loosen the purse strings in 1998-99.

According to the Auditor-General, the Government has budgeted for substantial real increases in recurrent and capital spending in 1998-99 and beyond, and has attempted to off-set this spending surge 'by an increase in taxation revenue attributable to the introduction of gaming machines in particular'. Of course, once new or increased spending programs and wage increases are locked into the budget in any given year, the budgetary cost is compounded over later years, and this is exactly what has happened in the 1998-99 budget and its associated forward estimate years. Spending increases were announced by the Treasurer for 1998-99 and, for this year at least, they have been funded by substantial tax increases, particularly gambling taxes.

But in the out years of the forward estimates for 1999-2000 and beyond, a spending black hole was built into the budget estimates by the Treasurer as a planned part of the budget strategy. A black hole exists because the compounding cost of 1998-99 spending initiatives will not be off-set by funding from existing taxes in future years. To put it another way, once the 1998-99 spending measures were decided on as a keynote of the 1998-99 budget strategy, new tax raising measures were inevitable if the underlying budget deficit was to be kept under control in the out years of the forward estimates.

A number of new tax measures were announced in the 1998-99 budget but they were not enough to fund the new spending cost increases. When the Government framed its 1998-99 budget, it knew that more revenue was needed to off-set the accelerating costs of its spending initiatives in 1999-2000 and beyond, but for what are now obvious reasons the Government decided to delay the announcement of a new tax until now. I do not accept the Premier's spin on this new tax slug. It has nothing to do with the sale or retention in public ownership of ETSA and everything to do with the 1998-99 budget strategy which was built around substantial spending increases in 1998-99 and beyond but only partially funded by new tax measures.

To make up the revenue shortfall, the Premier and Treasurer now tell us that they constructed a 1998-99 budget strategy that was totally reliant for its fiscal integrity in 1999-2000 and beyond on interest savings from the future sale of ETSA. At the very least, this is an extraordinary admission of fiscal irresponsibility by the Premier and Treasurer. It means that the 1998-99 budget strategy was a sham from the start. In May last year the Government committed itself to substantially increased spending in a variety of areas knowing that this increased spending could not be paid for from tax revenues in hand or in prospect for 1999-2000 and beyond.

We are now told that the budgeted spending increases announced almost a year ago must be paid for either by forcing the sale of ETSA or by increased taxes. So, the announcement of this new ETSA tax is, in effect, a ransom note: either agree to the sale of ETSA or we will impose a regressive and unfair new tax on all South Australians. But even if the blackmail worked and ETSA was sold off, there is real doubt that South Australians could realistically expect to avoid paying the new extra tax.

LEADER'S COMMENTS

Mr HAMILTON-SMITH (Waite): I seek leave to make a personal explanation.

Leave granted.

Mr HAMILTON-SMITH: Yesterday I made a statement to the House about the Leader of the Opposition's recent visit to New South Wales. I may have given the impression that the single judge appointed to that court was overseas on the day of the Leader's visit. The Leader has explained that, in fact, he met with Judge Morell last Thursday. I apologise to the House and to the Leader of the Opposition, and I accept full responsibility for my unintended error.

MEMBER'S ABSENCE

Mr LEWIS (Hammond): I seek leave to make a personal explanation.

Leave granted.

Mr LEWIS: During the course of the debate on the Local Government Bill last week, I was absent from the House for a division. There has been speculation around the Parliament and in the press about that matter. I was in the company of an officer of the Premier's staff and, in any event, the division result would have been no different had I been present.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE: FISH STOCKS

Mr VENNING (Schubert): I move:

That the thirty-first report of the committee, on fish stocks of inland waters, be noted.

The committee was instructed by the House of Assembly to investigate and report on the environmental impact of commercial and recreational fishing on the native fish stocks of inland waters. The inquiry took place over a period of six months: 90 submissions were received and 24 witnesses appeared before the committee during this time. The committee undertook a site inspection to the Riverland to visit the Loveday wetlands, Pilby Creek, the Bookmark Biosphere Reserve, Nildottie and Walker Flat. This enabled the committee to view local river projects, including the re-establishment of the wetting and drying cycles of the Murray River flood plains and carp control methods. The committee is encouraged by this work and believes that these and other ongoing projects of this type should be supported.

The inquiry has focused on the Murray River as this is the area that generated the most submissions. Consequently, the findings and recommendations of the committee are generally targeted at this area and not the Coorong end of the fishery. As everybody knows, the Murray River is very important to the people of South Australia. It supplies a major proportion of the water needs of the State. The inquiry has uncovered a number of significant issues associated with the Murray River. Problems for the native fish stocks of the Murray are associated with poor water quality, decreased flows and loss of habitat. These need to be improved and preserved to ensure ongoing biodiversity of native fish stocks. In addition, the committee believes that there should be greater cooperation between States regarding the management of the fishery, and in particular a coordinated approach for dealing with endangered fish species is needed.

The committee is concerned that the Department of Primary Industries intends to implement the restructure of the river fishery as outlined in paper No. 17 while there is considerable public discontent with some aspects of the recommendations. During the formation of a committee to specifically address some of this discontent, the outcomes have not provided much satisfaction. The committee was very concerned to hear the many complaints regarding the lack of consultation over issues affecting the local community. The committee believes that the restructure of the fishery was based on economic viability, with little regard to environmental sustainability. The committee believes that environmental sustainability should be the priority for any future restructure.

One of the most important questions that this inquiry has raised is whether the Murray River fishery is being managed sustainably. The committee believes that an annual assessment of native fish stocks needs to be undertaken to assist closer monitoring of their harvests, both recreational and commercial. The committee does not believe that it can be determined whether fishing practices are sustainable if no accurate published data is available as to fish stock levels. Therefore, the committee recommends greater resources for the South Australian Research and Development Institute (SARDI) to ensure this annual fish stock assessment occurs, as well as other research into the fishery. The committee believes that it is time to introduce a system that will have a much greater control over the harvesting of fish from the Murray, licences and/or a tagging system for recreational fishers, and a docket system for commercial fishers should be investigated to determine whether they would be appropriate tools to monitor the catch, as well as potentially reduce illegal fishing. The committee recommends that any money raised as a result of the introduction of recreational licences and/or a tagging system be returned to the fisheries for funding, more compliance officers and public education for fishers.

The committee investigated some specific issues and has drawn the following conclusions. The committee does not believe that commercial fishers should be given access to native fish in backwaters. The committee thinks that farmers and environmental groups should be given the opportunity to gain temporary licences to harvest carp on their property. The committee finds that current fish ladders are ineffective in enabling fish to move easily past locks. The committee believes that alternative fish bypass systems should be investigated. The committee recommends that reach relocations should occur only with the agreement of local councils. The committee also believes that making commercial licences transferable was an unfortunate decision.

It has not been demonstrated to the committee that the commercial fishery is sustainable in perpetuity. Therefore, the committee recommends the immediate investigation into a fair and equitable way to phase out the commercial fishers from the Murray River over a period of no more than 10 years. The committee concludes that aquaculture should be the way of the future, as a number of native fish can already be farmed. The committee recommends that commercial fishers should be actively encouraged and supported to take up fish farming of native fish species outside the riverine environment.

I would like to take this opportunity to thank all those people who have contributed to the inquiry. I would also like to thank the members of the committee, as well as the staff, Mr Bill Sotiropoulos and Ms Heather Hill, who have worked diligently to complete this report. The committee also appreciated the assistance of parliamentary intern, Ms Stefanie Geyer, and we wish her well. The committee tried on two occasions to visit Cooper Creek to take evidence from the local people there. However, inclement weather prevented this from happening—both times. We almost got there. We were in four-wheel drives halfway between Moomba and Innamincka. Storm clouds were brewing and we were radioed to return, which we did. So near, yet so far. The time before we did not quite get onto the aeroplane. We have not given up: we intend to visit Cooper Creek to look at the fishery, because from what we have heard it is quite fascinating. The committee has made 22 recommendations and looks forward to a positive response to them. I commend the report to the Parliament and urge all members to study it.

Ms KEY (Hanson): I support the report given by the Chair of the Environment, Resources and Development Committee with regard to inland fishing. This has been a very interesting and informative brief. I must say on a personal level I now know more about fish than I ever wanted to know. However, needless to say, it has raised a lot of interest

in the community. As the Chair of the committee has already said, we were prevented on a number of occasions due to weather from perhaps doing the investigation we would have liked to do. However, given the number of submissions we received—which numbered well over 90—and the number of witnesses who made their time available either on-site or in Parliament House, the investigation was very worthwhile. I was impressed by the great commitment on the part of the witnesses and people who wrote submissions to us on their interest and concern in the area.

A number of issues were raised. I know that the committee spent a lot of time on the recommendations. We had some concerns about data collection and the information available whereby the department or appropriate officers would be able to make known their views and their investigations regarding fish stocks. That concern has been highlighted in our report. It is difficult from the committee's point of view to understand how some of the decisions can be made with such little data being publicly available on a regular basis.

An honourable member interjecting:

Ms KEY: Certainly, as the member interjects, some concerns were raised on the basis of the information that was available. So we are hoping that the Minister will look at this recommendation in particular and make sure that resources are put into not only research but making sure that there is access for the public and for people who are fishers by profession, in particular, so that they know what stocks are low or where we have problems with fish stocks and also where we have plentiful supply.

The terms of reference that were raised from the ERD Committee through the work of the member for Chaffey have been worthwhile. A lot of witnesses and people who submitted information to the committee were impressed that she did take up this reference and make sure that we did follow it up. Although I am sure that there will be some difference of opinion on some of our recommendations, this has been a worthwhile project. As the Chair has said, we could not visit a number of areas for different reasons and, with the level of information we have received and the heightening of awareness that all of us have gone through—particularly me—in this area, the committee will have a watching brief and make sure that the recommendations are looked at and followed through.

Mrs MAYWALD (Chaffey): I will add my comments in respect of this report, given that it has a major impact on my electorate. I initially introduced this brief through this place to the ERD committee because of concerns in my community about the way in which the river fishery was being managed. It has been an extremely controversial issue, and it has taken considerable time for the committee to deliberate on the over 90 submissions that were forwarded to the committee and also given the number of witnesses we were able to see. As a result of the deliberations we have come up with recommendations that I believe give us an opportunity to move forward from the previous position of commercial versus recreational fishermen which has plagued my community for a considerable time. The committee has based its findings on what it believes will be a sustainable future of the resource and not on an age-old battle between recreational and commercial fishermen. In fact, the committee has recommended significant reforms to recreational fishing regulation as well.

The evidence that we received—and a lot of it was anecdotal—was that there is a considerable amount of professional poaching and a widespread use of illegal 'wiries'. In fact, wiries have almost come to be accepted practice in the district, and this is of great concern. The community in the Riverland has been extremely vocal in its opposition to the commercial fishers and, with the release of this report, I call on those people in the community to be just as vocal and vigilant in their support for the sustainability of the river and in their opposition to the use of these illegal wire nets and illegal poaching.

The report also highlighted the appalling lack of stock assessment data from which the fishery is managed and made recommendations in respect of improving that kind of information. It also highlighted a lack of coordination in the research effort into the sustainability of the resource. It also looked at the lack of resources given to SARDI in respect of the research and development effort. This is primarily due to the fact that there are only 30 commercial fishermen in the area and that its primary source of funding is from those 30 commercial fishermen. The report calls for a more coordinated approach to the research effort and calls for SARDI to take a lead role in that—sound advice and recommendations.

The committee is also concerned that the department identified that the reason for the recent restructure of the fishery was to ensure the economic sustainability of the fishery. The 1989 management policy in fact took away transferability from the commercial fishers, because it believed it was not sustainable in perpetuity at that time. To reverse that for economic reasons with no environmental considerations I believe was a bit of a folly.

As a result, the recommendation of this committee is to ensure that the 30 remaining fishers are not financially impacted and that there needs to be a fair and equitable phasing out of commercial fishers from the Murray River. All those who have a vested interest in the future sustainability of the Murray River should be required to share whatever cost is associated with the phase-out. This is important, because a lot of people, such as local government and environmental groups, have been extremely vocal in saying there has to be a better way, and I believe that all those communities should be asked to take some responsibility for the costs associated with that phase-out.

No evidence has been given to the committee that commercial harvest of wild fish stocks is sustainable virtually anywhere in the world. In light of the serious degradation of the watercourse that is the Murray River, it is unreasonable to expect that a commercial fishery can be sustainable in perpetuity, and hence the recommendation for the phase-out. The Fisheries Department has met with considerable opposition to its Murray River management plan outlined in paper No.17 and released last year. Local councils in the region have been particularly vocal, and I understand they will be meeting with the Minister for Primary Industries, Natural Resources and Regional Development. A delegation will be coming down from the Riverland next week to discuss issues in relation to the representation and the consideration given to the input by local government to the River Fishery Structural Adjustment Advisory Committee. I look forward to the outcomes of that meeting.

One of the other matters that was highlighted by the committee is the fact that many major factors are impacting upon fish stocks within the Murray River. They are water quality, flow management, fish barriers and turbidity. In relation to turbidity, I wholly agree with Minister Kerin's comments in the *Advertiser* about the state of the muddy water. It is virtually impossible for recreational fishers to

catch fish, particularly because the water is so turbid, and dangling a line is not an effective method of catching fish. This has been the main cause of the conflict between the commercial and recreational fishermen. With that I commend the report. I thank the committee for its deliberations on this issue. It is an issue which has developed around my electorate, and I appreciate the efforts put in by all those members; thank you.

Mr LEWIS (Hammond): I wish to make some comments about this, because I appeared before the committee as a witness, in addition to which there is some further information which I believe I can provide to the House over and above that which I gave to the committee. I strongly support the views expressed by the committee and in some instances would go even further. I commend the member for Chaffey for her courage in confronting the reality and tackling the political problem of examining the issues inherent in the proposal which she brought to the committee's attention. No-one has been game to do that in the past. I believe that the numbers of commercial fishers on the river are far greater—indeed, one would be too many—than is sustainable. That is illustrated by the point that over the past 40 or 50 years the number has decreased substantially, and it is further illustrated—if further illustration was needed—by the fact that many of them obtain incomes of only $4 000 or $5 000 a year from their commercial fishing efforts. That is in spite of the fact that over that same time frame the efficiency of the gear they use has improved. Boats are faster, fuel costs less and gear lasts longer without the necessity to spend so much time and money on its continued repair. New techniques for setting drum nets and so on have also been devised.

If people engaging in an industry can get only an annual income from it less than the dole, I do not think there is much justification for continuing with that industry. I am also disturbed about the impact on the most popular target species as far as value per kilogram goes, that is, native fish stocks of cod and, to a lesser extent, callop or yellow belly or golden perch as it is otherwise known. There is no doubt about the fact that if most anglers believed it possible that they could go to the river for the weekend and catch a cod or so, many more of them would do it. There would not be the dozens or scores who attempt to do it now, but hundreds of people would do that. I am equally quite sure that it would also attract the attention of overseas anglers. However, there is not the prospect of being able to catch a Murray cod anywhere in the South Australian part of the river, and for that reason no such effort is made by amateur anglers. That is sad, because it would be worth a great deal more to the community if only that amount of additional activity in the fishery were possible.

It would be worth far more to the community through the dollars spent by the anglers when they went into the Riverland area, or more particularly in my electorate as I share a good part of the length of the river with the member for Schubert and represent the communities farther downstream on both sides of the river. Altogether then the best interests of the State and the people who are currently engaged as commercial fishers will be served if we devise the means by which those commercial fishers can be taken out of the commercial fishery in every other respect than to either harvest yabbies whenever there is a flush of their population (and I even have some doubts about that) or, using appropriate technologies, harvest the feral species, that is, in particular carp and red fin.

The technologies or gear best used for that, in spite of what some people have said, is unquestionably electric fishing equipment, which simply stuns the fish, they float to the surface, they can be removed by dab net and the native species allowed to recover and swim away. You simply regulate the activity of the commercial fisher using such technology, requiring them to stay in place until all the native fish have recovered from the shock or the feral noxious fish like carp have been collected, regardless of their size. At present it is an offence to return any carp or red fin to the river once they are caught.

There is no question about the fact that anyone who has half a wit and a willingness to work can easily learn how best to make a living from fish farming or aquaculture, and any of those commercial fishers at present not of retiring age who wish to continue to make their living selling to the markets they have established could do so more efficiently and effectively if they were then provided with the simple background information of the technology involved in farming the species in the adjacent areas to the river on sites acceptable for the purpose and derive their living from so doing. To my mind that is not only a desirable outcome for the environment and a desirable outcome for the amateur anglers but also a compassionate and desirable outcome for the codgers presently involved as commercial fishers. It is not fair to leave them attempting to make their living on $5 000 or so a year, which their returns clearly indicate is the case in a number of instances. There were far more than 30 of them many years ago and there are only about 30 of them now.

It has not been an exercise that has been edifying in the least to the standing of government, either in the communities of the river valley or the rest of South Australia, to have gone through the process of attempting to relocate two of them from the Riverland region to the mid-Murray, and it still has been steeped in controversy. The only other thing I want to say is that with an effort of about 35 to 40 hours a week, and around $100 000 invested in capital, a person can easily generate an income net of all costs of $50 000 a year by farming native species rather than attempting to separate them from the wild stock in the waterway of the Murray.

Finally, I am disappointed that we allow commercial exploitation of Coopers Creek. We should be promoting it not for commercial fishing but rather for amateur anglers. The way in which we can manage exploitation of the native stock is to sell tags to those people who target the native species. The amateur anglers would buy their tags just as they might buy their coke and their bait. The tags can be sold wholesale by the Government. The numbers are then known and, if you are caught with a fish without a tag on it, you have to pay a hefty fine on an expiation fee basis of several hundred dollars. That would stop people from taking fish for which they had no tag. You would not only regulate the number of fish you could take but you would know how many were taken. It would be an easy way of financing research into the native species and the environment upon which they depend.

Motion carried.

PUBLIC WORKS COMMITTEE: LOXTON IRRIGATION DISTRICT

Mr LEWIS (Hammond): I move:

That the ninetieth report of the committee, on the rehabilitation of Loxton irrigation district, be noted.

The Loxton irrigation district was established by the Commonwealth Government in 1948 to settle return soldiers under the War Service Land Settlement Scheme. It is part of the Riverland region. It currently has a population of about 7 000 people. There are about 225 irrigated properties consisting of approximately 3 200 hectares of irrigated vineyards and orchards which use about 36 000 megalitres of water a year for the purpose of irrigation, all of which is taken from the river.

In 1995 production was about 50 per cent from vines, 40 per cent citrus and 10 per cent stone fruit. Since then there has been some replacement of stone fruit and citrus by vines. Primary Industries and Resources SA proposes to rehabilitate the Loxton area by replacing approximately 70 kilometres of existing pipes and open channels and also replacing existing pumps with new pumps, having a total output in excess of 4 000 litres per second, which is about 16 megalitres per hour, and a total installed power use of about 3 000 kilowatts.

There will be replacement of all inlet and outlet pipes at the pumping station, a replacement of all valves, pipes and fittings in the pumping station and the provision of a new surge tank with a capacity of about five megalitres. It will be done in stages. Stage 1 will supply approximately 18 per cent of growers in the district as well as the privately financed Century Orchards development nearby. Accordingly, stage 1 will comprise the construction of eight kilometres of 600 millimetre diameter pipeline, the construction of a booster station, outlets to about 40 irrigation units and provision of supply to Century Orchards. The committee has been told that Century Orchards will be developed subject to the total rehabilitation of the Loxton irrigation system. The company intends to undertake a new development of 650 hectares, mostly planted to almonds, with some vines on soils which are unsuitable for almonds. This will be about a 25 per cent increase in the district of land under irrigation.

As mentioned a short while ago, the total rehabilitation will allow for development of about 1 080 hectares of new irrigation in the district and that will depend upon the efficiency with which the water is used. It will provide many benefits to the local community, to the Loxton growers and to the State in general. There is an in-principle agreement specifying that Century Orchards will be adequately supplied with water from the Loxton distribution system as part of the contracted arrangements now in place.

The committee was told that stage 1 will provide existing growers with a more efficient supply where they adjoin the new pipeline, as well as enabling the ongoing development of the Century Orchards area. All of stage 1 will be incorporated into the total rehabilitation scheme, apart from a booster pump, which is required in the short run to deliver water to Century Orchards prior to the completion of the rehabilitation of the total area.

In order to minimise costs, the booster pump will utilise a second-hand pumping unit, which will be fitted into a disused shipping container for protection and ease of removal when it is to be decommissioned when the final stage is completed. Stage 1 is planned to be fully operational by the middle of this year. The estimated cost for the total rehabilitation of the district is about $42 million, and it is proposed that the capital costs of the project will be shared between the Commonwealth and State Governments and the Loxton growers on a 40/40/20 basis respectively. In addition to that, the proposing agency (PIRSA) has advised the committee that the net present value of the proposed works is calculated at $35.86 million with a cost benefit of $1.72 million and an internal rate of return of 7 per cent over a 25 year period. That means that it is a very sound investment for both the State and the growers in the Loxton area.

On Monday 8 February a delegation of the Public Works Committee conducted an inspection of the Loxton Irrigation District and we were able to see first-hand the existing irrigation system in operation, its impact on the local environment—including the natural environment—as well as the new developments proposed for the district. More specifically, the committee was shown an area of river flats adjacent to the Loxton town centre that illustrate the severe detrimental impact that irrigation has had over the 50 or so years that Loxton has been in place on the riparian flood plain vegetation. This land has been salinised and its impact on the environment—that is, the impact of irrigation in the surrounding district on the environment—is illustrated by the serious and general degeneration of the natural vegetation.

The committee then inspected the site where the new booster pump station will be built, and from there inspected the open channels along the route of the proposed new pipeline. We saw the inefficiency and vulnerability of the existing concrete paved open channel system, which cracks and requires constant repairs to seal those cracks in order to prevent large volumes of water not only leaking from the system but also adding to the ground water mound which, through hydraulic pressure, moves that salinised ground water into the river. We noted that every step is taken to minimise water wastage, as was demonstrated by water overflowing from the channel into purpose built storage tanks.

The committee also noted that most properties had converted from the inefficient thorough irrigation systems that were used at the time they were first established to the more modern and efficient under-tree sprinklers, and even more modern and efficient drip irrigation systems. At this stage let me point out that I had some part in the pioneer research and development of trickle irrigation or drip irrigation, as it is called, beginning in 1966. In consequence of my work and that undertaken by me in conjunction with the Israelis and ICI, the initial drippers that converted low pressure laminar flow into low pressure turbulent flow and thereby restricted the discharge from the outlets was the means by which we achieved those outcomes. That necessitated the development of more modern techniques for extruding plastic hose pipe using low density polyethylene, now known as low density poly pipe.

Finally, members were shown the proposed new site for Century Orchards. This huge development will be planted predominantly with almonds and with some vines, and will be supplied with water from the Loxton distribution system. Inspection of the site confirmed for us the need for the proposed rehabilitation. The Public Works Committee considers that the Loxton irrigation system is at the end of its expected economic life now. It incurs increasingly significant maintenance costs and is very inefficient. More specifically, as growers have to take water based on the availability of that water rather than on their need for it, they often irrigate their crops to excess at a time when it is not necessarily optimal. That not only results in wastage, which results in a water table build-up and salt mobilisation, but it also can in fact reduce crop yield by saturating the soil for a far greater period than is otherwise necessary.

The committee understands that the proposed works will address the problems I have just referred to by enabling water supply to be matched with crop water requirements, substantially improving the use of water and the productivity in the

existing area. It will reduce water table build-up and salt mobilisation and will further provide incentive to reduce consumption by metering growers' use. It is vital that we do not proceed in any irrigation scheme anywhere in this continent of ours, certainly within our State, without metering the diverted supply being used, otherwise we do not know how much water we are using, nor are we able to determine the efficiency with which we use it and whether or not we could obtain greater income from that volume of water.

Doing these things at Loxton will reduce the environmental impacts such as the drainage returns to the river environment, and it will extend the effective use that can be made of the existing allocations for diversion by enabling more profit to be made and less damage to be the result of the natural environment. Members noted that the Century Orchards development will occur subject to the total rehabilitation of the Loxton irrigation system. The development is of paramount importance as it will provide significant benefits in terms of increased employment to the local community. That has important implications for the Loxton community, the other growers in the district and the State's economy.

The committee acknowledges that the main benefits of this proposal arise from the increased horticultural output both from that existing area under irrigation, which will arise if for no other reason than the greater timeliness of water application, and a further expansion of the area that can be irrigated. We were told that rehabilitation produces an increased level of confidence in the ability of the distribution to provide that timely irrigation, and it will be a stimulus for individual growers in the existing area to review and improve their operations. Other benefits will include savings in repairs, savings in maintenance costs and savings in administration costs.

Given all that evidence, and subject to section 12C of the Parliamentary Committees Act, the Public Works Committee reports to the Parliament that it recommends the proposed work.

Ms THOMPSON (Reynell): I support this report. One of the disappointments to me was that only 18 per cent of the 225 irrigators in the area will benefit in the first stage of this project to improve the salinity and general soil degradation in the Loxton area. It must have presented quite a difficult situation to the project proponents when faced with the request from Century Orchards for water to enable its important development to go ahead, and the need to upgrade the whole of the Loxton Irrigation District, which still needs a great deal of attention, with 72 per cent of irrigators not yet being addressed in the project.

It is pleasing see the major contribution from the Commonwealth to this scheme and the fact that the irrigators also are contributing as well as Century Orchards, which is contributing $800 000 to the overall cost of $42 million. Another pleasing point that came out during this project was that South Australians have developed an advanced computer optimisation technique which assists in the design of pipe networks, to ensure the minimisation of the overall cost of the system without affecting in any way the standard of service to growers. It was very pleasing indeed to note this development by South Australians of an advanced water management technique. I believe that that was undertaken within SA Water. So we see that we are being served very well by the State's public servants.

It was once again appalling to see the land degradation at Loxton when we went on the site inspection tour and it emphasised for me the importance of reclamation projects and the importance of water capping. I echo the comments that the member for Chaffey made recently in this Chamber where she spoke very strongly against the proposal by the National Party in New South Wales to remove the water caps. It was quite clear from what we saw that, with the present knowledge of water management techniques, those caps have to stay. Every time I visit one of these areas I am humbled by the fallibility of our knowledge. I know perfectly well that when those irrigation schemes were built they were built according to the best knowledge, understanding and intentions of the time, that those people sincerely believed that they were doing something for the development of the State, providing employment for those returned soldiers, as many of them were, and not damaging the River Murray system, and yet 50 years later today we can see what a terrible travesty has been done to our natural resources.

It does make me very cautious indeed about how extensive our knowledge is, when we try to tamper with great natural systems. They are indeed great compared with our current knowledge and understanding and we have to take great care not to be too ambitious in thinking that we can tamper with them without long-term consequences. So, we are now paying the price for the good intentions of our forebears and we have benefited greatly from their work in the development of our Riverland industries, the products from many of which we consume every day. So, we recognise their good intentions but recognise also that we need to work extremely hard in our generation to use the knowledge that we have to try to fix some of those problems, but not be arrogant in thinking that we have all the answers.

Mr WILLIAMS (MacKillop): I have quite an affinity with the Loxton area. My in-laws live in the Loxton district and I have spent quite a bit of time over the years relaxing on the River Murray at Loxton. Over those years certainly some of the degradation that has occurred along the river has come to my attention. I have become friendly with quite a few of the blockers, as they are known in the area, the owners and operators of various horticultural fruit blocks in the Loxton area. Having talked to them about the problems they have encountered over the years, I feel that I can speak on this topic with some degree of knowledge.

There are several factors in the Loxton area which have created the problem that has occurred since 1948 when the Loxton irrigation district was developed. Some of the factors include the highland topography of the Loxton district. The irrigation area, as with many of the areas along the Murray, is on the higher ground above the river flat. I will come back to that in a moment. That is one of the things which has created the problem. The other immediate problem in the Loxton area is that the water is delivered mainly in open channels, as previous speakers have already alluded to. The problem with the open channel delivery system is that the amount of water that is put into the channel basically has to equal the amount of water that is taken out of the channel. Consequently, the irrigators have to order their water up to a week ahead of when they are going to use it. This has created great inefficiencies in the actual use of water.

The first schemes, or irrigation technologies or methods used in the Loxton area, were mainly based around flood irrigation, where the vineyards and other various crops were watered by furrowing channels through the block and letting the water flood down through them. This was very inefficient. They put on a lot more water than what was needed by the

plant and a great deal of the water that was applied through those methods went down beyond the root zone of the plants that the growers were trying to water and got into the lower aquifers. I believe that on some properties that method is still used, although in a very limited manner in the Loxton district.

Most blocks now work on a sprinkler system, whether it be overhead or under tree sprinklers. Again, because of the nature of the delivery, because the operator, the irrigator, has to put in his order for the water up to a week ahead of when he actually applies the water and because of the changes that can occur in that week through climatic conditions, rainfall, etc, and because he cannot really monitor what the soil moisture level will be a week ahead, generally I think it would be fair to say that most irrigators would apply more water than what is actually utilised by the plants.

So if we look at a water balance diagram for the Loxton area, we find that about 31 000 megalitres of water are pumped from the river. About 8 200 megalitres falls in rainfall on the irrigation district. Of those two amounts, approximately 15,500 megalitres of that water actually passes the root zone of the plants that have been watered. In the Loxton area many years ago back in the 50s a comprehensive drainage scheme was put in to carry away a lot of that water and to a large extent that scheme has been quite successful, but of that 15 500 megalitres of water only about 5 500, or 14 per cent, is picked up by the drainage scheme. It leaves about 10 000 megalitres a year, or 25 per cent of the water, actually percolating beyond the root zone, escaping past the drains that make up the drainage scheme and getting into the aquifers below this highland area.

This percolates down through the ground, through the soil structures, and it does two things. Some of it actually runs out at the base of the cliff and that forms lagoons and pools along base of the cliff, which has had a serious effect on the vegetation along those cliffs. The committee was told that these ponds form on about 22 per cent of the flood plain adjacent to the irrigation area, and that that would be reduced to about 8 per cent of the flood plain area over the period of the next 50 years with the rehabilitation. Not only does the rehabilitation enable the growers to utilise better technology in applying the water but the old open channels are prone to leakage and to overflowing, which also contributes to the problems.

That has identified the basic problem and its origin, but this water mound which is growing under the irrigation district is growing vertically at the rate of about 200 millimetres per annum. It is creating a much larger head pressure on the underground aquifers in that area, which are quite saline. As a result of the extra head pressure, more water is being pushed laterally towards the river and it is finding its way into the river. This is contributing to the salt loads presently found in the river. The best estimate, from evidence given to the committee, was that the salt load entering the river would be reduced from 120 tonnes to 58 tonnes per day. I believe that this will make a difference to the salinity of the river at Morgan by about 10 EC units. That reason alone would justify this particular project.

Previous speakers have said that this project will enable a much greater area in the Loxton district to be irrigated. In fact, there will be an increase of 1 080 hectares of a total of approximately 3 200 hectares which is currently being watered. There will be a 30 per cent increase in the total area that can be irrigated with the same amount of water and at the same time the salt loads into the river will be reduced. If that is not a win-win situation, I do not know what is. We are expecting a considerable economic advantage resulting from the extra irrigation as well as an environmental advantage as a result of the reduced salt loads into the river from this irrigation area. I commend the project to the House.

Mrs MAYWALD (Chaffey): I support the report of the Public Works Committee into the Loxton irrigation district, and I commend the Government on its support for this project over the past few years. The Loxton irrigation rehabilitation scheme represents the last rehabilitation area in the Riverland-Murray River area. The scheme that currently exists is owned by the Commonwealth. It is an old soldier settler scheme based on the old irrigation channels and it is very inefficient. The scheme is State managed and, of course, is used by the growers. The existing irrigation scheme is running into disrepair and, if this scheme does not go ahead, will need significant funding for its upgrade.

Currently, the State Government is committed to stage 1 of the proposal on the basis that the Federal Government has committed only to stage 1 of the proposal. The State Government is committing to the entire project subject to the Federal Government's committing the further funds required. It is great to have stage 1 going ahead. It means that the Century Orchards project, which involves 800 hectares of vineyards and almonds, can go ahead and will be part of the irrigation redevelopment scheme. Without stage 1 going ahead, Century Orchards would have been forced to go along another path to supply water to its property, which would have been outside the bounds of the proposed scheme. That would have meant that Century Orchards, as an 800 hectare developer, would not have been a contributor to the scheme in the long term. It would also have meant that the existing 225 irrigators would have a significant price hike in the maintenance and on-going costs in respect of the scheme.

Whilst it is great that stage 1 is going ahead, we must continue to lobby the Federal Government to commit the funding for the remainder of this scheme. It is a vitally important scheme for the reasons that have been outlined by previous speakers. I want to outline a few issues which I believe indicate that the scheme should go ahead.

Currently, the existing irrigation system dumps approximately 120 tonnes of salt per day into the Murray River. Rehabilitation will mean that this level will be reduced to approximately 58 tonnes per day. It will also reduce the EC count at Morgan by 10 ECs, which will be an extremely good benefit to the State, the river system and the environment. Irrigators in the current scheme are presently operating at 65 per cent efficiency and, with rehabilitation, they will be operating at approximately 85 per cent efficiency. This will mean that a considerable amount of water will become free and available for future development.

The new scheme will mean that water will be provided on demand rather than, as at present, on a time frame. That is significant, because it means that growers will be able to maximise the efficiency of the irrigation practices on their properties, which will result in not only considerable financial benefits to growers but also considerable benefits to the environment. I am very pleased at the speed with which the Public Works Committee has dealt with this matter, because Century Orchards is well under way with its project and it needs the water for the trees it has already ordered for planting.

In light of the recent attempts by New South Wales to remove the cap, it has become evident that irrigation rehabilitation and reform must be a primary focus of the future

security of the water resource in this State. The only way that South Australia can have a strong case to argue for the retention of the cap is to lead by example and demonstrate to the other States that the cap does not mean a halt to development. South Australia has clearly shown that irrigation management through efficient delivery and best practice on-property water use frees up considerable amounts of water for development. New South Wales should be looking at the rehabilitation of its irrigation schemes and improving its irrigation management before it starts looking at issues of freeing up and taking more water out of the river: it makes good environmental sense.

I believe that everyone is a winner from the Loxton irrigation scheme rehabilitation: the environment wins; it reduces salt loads to the river; the State wins with improved water quality for all State users; extra water is freed up for future development; and the irrigators win because they will be able to improve the irrigation practices on their properties, which will result in substantial financial savings to growers. I commend the motion to the House.

Motion carried.

EXPLOSIVES (BROAD CREEK) AMENDMENT BILL

The Hon. M.H. ARMITAGE (Minister for Government Enterprises) obtained leave and introduced a Bill for an Act to amend the Explosives Act 1936. Read a first time.

The Hon. M.H. ARMITAGE: 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 Explosives Act provides for the manufacture, importation, keeping, handling, packaging, transport and quality of explosives.

This Bill concentrates on provisions in the Act that establish an Explosives Reserve at Broad Creek for the purpose of receipt and delivery of explosives by sea transport. The explosives handled at Broad Creek were moved to the adjacent Government Magazine at Dry Creek for storage and distribution.

Explosives storage has a rich history in South Australia. About one hundred and fifty years ago the government of the day decided that a facility was required to receive explosives from overseas and three floating hulks and a magazine were located adjacent to North Arm Creek. In 1900, explosives storage moved to Port Gawler Creek with four floating hulks, but, by 1904 all explosives were transferred to a new magazine facility at Dry Creek.

The Dry Creek Magazines were connected by a small railway using horse drawn wagons to Broad Creek so that explosives received from overseas could be safely unloaded and the product moved to safe storage for inspection and distribution.

Broad Creek is defined as an explosives reserve in the *Explosives Act* to provide adequate control over the area in order to ensure safety during explosives handling. Shipments of explosives have not occurred at Broad Creek since about 1961 and there is no likelihood that Broad Creek will ever be used to land explosives from sea transport again.

The Dry Creek Magazine was closed in late 1995 because the quantity of product stored had reduced dramatically due to improved distribution methods, increased on-site storage at mines and quarries and greater use of bulk explosives.

The Broad Creek area forms part of the original MFP Core site land holding that is now administered by the Land Management Corporation as successor to the MFP Development Corporation. The Land Management Corporation have asked that the 'Reserve' status of the area be removed so that they may properly manage the area and remove reference to this encumbrance from relevant land titles.

This amendment is procedural and removes redundant clauses from the *Explosives Act* so that the landholder may better manage their affairs.

I commend the Bill to honourable members

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides for commencement of the measure.

Clause 3: Amendment of s. 28a—Definitions

This clause removes the definition of 'the creek' from the Act.

Clause 4: Repeal of ss. 28e and 28f

This clause repeals sections 28e and 28f of the Act which deal, respectively, with conditional access to Broad Creek, and the power of the Minister or delegate to block and fill Broad Creek.

Clause 5: Repeal of Schedule

This clause repeals the Schedule of the Act which provides graphic representation of Broad Creek and the surrounding explosives reserve.

Mr ATKINSON secured the adjournment of the debate.

CRIMINAL LAW CONSOLIDATION (JURIES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 2 March. Page 892.)

Mr ATKINSON (Spence): The Opposition supports the jury system. We are confident that the public also backs the jury system. We think it is one of the most important of our civil rights, dating as it does from *Magna Carta*, although there is nothing in our State constitution or statutes that would entrench the jury against attempts to minimise its role. I endorse the remarks of English historian E.P. Thompson in his book *Writing by Candlelight* where he says:

> The jury system is a stubbornly maintained democratic practice. It has never been a perfect practice. Its practice can never have risen higher than the commonsense and integrity of the jurors, but it has proved repeatedly a salutary inhibition, especially in matters of conscience and political behaviour upon executive power.

One of the delightful aspects of the jury is its habit of ignoring common or statute law that it thinks is unjust or oppressive and reaching the result the jury thinks is fair. A recent case was the acquittal on homicide charges of my erstwhile constituent Mr Joseph Nashar. It may be remembered that, when up to 20 youths invaded Mr Nashar's suburban yard at night in search of a drug crop, Mr Nashar and his family retreated to an upper floor of their home. In response to an object's being thrown through the window, Mr Nashar shot and killed one of the intruders.

The Government, advised by the Director of Public Prosecutions, had carefully changed the law of self-defence in South Australia, following the Kingsley Foreman acquittal, so that someone in Mr Nashar's circumstances would not be able to make out a defence of using such force against trespassers in his home as he genuinely believed was necessary in the circumstances. In a sense, the House of Assembly tried Mr Nashar's case in the abstract during debate on the Government Bill before the event that led to Mr Nashar's being charged occurred. The DPP charged Mr Nashar with murder and had a very strong case on the law as amended, but the jury acquitted.

This kind of verdict, far from diminishing the public standing of juries, enhances it. I am not sure how the jury in the Nashar trial reached a verdict of acquittal but they did, and I am happy not to know. It is my preference that jury deliberations remain secret. I think that secrecy is necessary to maintain the jury's mystique and that mystique underpins the popularity of the jury. Perhaps there is a parallel with the royal family, which was much more popular when we knew almost nothing about its workings.

The Hon. I.F. Evans: So were politicians.

Mr ATKINSON: I thank the Minister for his intervention. Familiarity may breed contempt. This tendency of the jury in some cases to defy the law and legal logic in its verdict can be compared with the discretion of a judge to exclude relevant evidence on the ground of public policy. The Bill makes it an offence for jurors to disclose improperly the jury deliberations or the jurors' identities. The qualifying adverb 'improperly' contemplates proper disclosure in several circumstances defined in clause 3 of the Bill. Only two of those are pertinent for the purposes of the debate. The first proper disclosure by a juror would be to the Director of Public Prosecutions or to a police officer for the purpose of investigating an alleged contempt of court or alleged offence relating to a jury's deliberation. The second proper disclosure would be to a researcher authorised by the Attorney-General to study juries or jury service.

The Bill prohibits anyone from soliciting or obtaining information about a jury's deliberations. It would be an offence to publish such material or to identify a juror in published material. It is important for us to avoid television stations and newspapers offering money to jurors for their story, as happens in the United States of America. However, the Bill also prohibits disclosure for the purposes of publication even without reward. The Attorney says there is a need to ensure finality of a jury's verdict and to protect jurors from pressure to explain the reasons for their verdict. I agree with him. The Bill is in line with the Standing Committee of Attorneys-General model Bill. I have one question for the Minister and it is this: now that it is proper to disclose jury deliberations to a researcher authorised by the Attorney-General, would it be possible for a researcher to be a silent addition to the jury room, and could the researcher tape record one or more jury deliberations on the basis that any report would mask the identity of the jurors and the parties to the case? The Opposition supports the Bill with enthusiasm.

Mr CONLON (Elder): I was not aware until I entered the Chamber that I would be speaking on this matter. However, I have been inspired to say a few words by the member for Spence, given his discourse about the benefits of the jury system. In supporting the Bill, I do not agree entirely with everything the member for Spence has said. However, the member for Spence has referred to the long history of the jury system dating back to *Magna Carta*. My apologies to my long suffering lecturer in legal history, Professor Alex Castles, but as I understand it the nature of the jury has changed dramatically since then. I understand that, in days gone by, the local jury, more than being an impartial group there to make an impartial judgment on a matter in which it had no interest—or, as the member for Spence would say, a matter in which they were disinterested—consisted of a group of people who were there to swear the likely truthfulness of the person in the case of the prosecutor or the victim.

I note also that there have been a number of changes in the jury system since that time, in particular the falling away of the use of the grand jury in Australia which played a role similar to that of royal commissions these days and which is still used to a limited degree in the United States for one of its former roles of deciding whether indictments should be brought. I say that only because I want to show that I know something about juries.

While the member for Spence is right about the strengths of juries, he might also view some of his other examples about the weaknesses of juries. It is true that, while they bring the benefit of their own sense of fair play on occasions, they can also bring their own sense of prejudices. I refer to some of the examples given by the member for Spence, and some might interpret those differently from the way he has. I refer to the famous Chamberlain case. As a law student—and not a particularly good one—I remember learning about evidence and the nature of evidence, and being surprised that the jury could have convicted on the evidence that was before it. The ability of the jury to overcome the strictures of the law does unfortunately cut both ways, and it did take a long time for the injustice in that case to be overcome. I will close my short remarks with that.

Ms Key interjecting:

Mr CONLON: The dingo was innocent, according to the member for Hanson. I merely want to point out that, first, there are strengths and weaknesses about juries, although of course we support them, and, secondly, you view whether it is a strength or a weakness in a particular case coloured by the bent you bring to that set of incidents.

Bill read a second time.

The Hon. I.F. EVANS (Minister for Industry and Trade): I move:

That this Bill be now read a third time.

I will take the opportunity to answer the member for Spence's question. The advice to me is that it relates to the intent once the jury has completed its deliberation and reported to the court and the proceedings are finished—not while the jury is in operation. That is the question the honourable member asked about the research officer. My advice is that the intent is that the person would not be able to sit in while the jury is deliberating.

Bill read a third time and passed.

STATUTES AMENDMENT (RESTRAINING ORDERS) BILL

Adjourned debate on second reading.

(Continued from 3 March. Page 940.)

Mr ATKINSON (Spence): The Bill amends the Domestic Violence Act and the Summary Procedure Act as they relate to restraining orders. The Bill also amends a section of the Criminal Law (Sentencing) Act. The Opposition has studied the Bill carefully and resolved to support it. The principal features of the Bill are as follows. If a court is considering making a restraining order on its own initiative when sentencing an offender and there is evidence that the making of the order would alert the offender to the victim's whereabouts, the court should weigh that in deciding whether to make the order. Courts will now be able to make restraining orders based on evidence of incidents that have occurred interstate, and can issue the order although the respondent is interstate. Courts may now order the confiscation of a weapon other than a firearm if threats are made about the weapon, such as a sword or crossbow. The Bill makes clear out of an abundance of caution that hearings at which restraining orders are sought over the telephone are not normally hearings to which the public is admitted and that these telephone hearings must be recorded by audio tape.

The Bill also stipulates that variations to an existing restraining order must be personally served on the respondent and are not binding until this has been done. A submission from the Women's Legal Service urges Parliament to allow

variations without service if the variations are minor or the respondent is dangerous. The service was unable to convince the Government on this point. Experience in the field over the next two or three years may give the service's submission more force when Parliament next considers these Bills. The period during which a restraining order is to be served may be extended beyond seven days if more time is needed to find the respondent. If a restraining order hearing is adjourned, the order continues in force until the hearing is concluded. The police may detain a person for up to two hours if they believe that person is subject to a restraining order that has not been served, and this restraint would be for the purpose of facilitating service.

An unconfirmed State restraining order suspends a Family Court contact order for 21 days. Should the defendant be served with the order but not appear for the hearing in the State court, he could resume his Family Court ordered contact after a while. Now the State court will be able to confirm the order, and the Family Court contact order will be suspended indefinitely. If the respondent disputes the restraining order but leads no evidence or shows no cause why the order should not be confirmed, it may be confirmed.

Although orders may cancel a firearms licence confiscate a firearm, amendments in this Bill allow an order that the defendant not carry a firearm in the course of his employment. This is especially aimed at defendants who are policemen and who have firearms issued to them when on duty. Although SAPOL's practice is to transfer a police officer who is the subject of a restraining order from duties that require him to carry a firearm, this clause will put the matter beyond doubt. Indeed, the commanding officer will be able to say to the police officer concerned that the matter is beyond the commanding officer's control; that it is a matter of law that the transfer occur. To make this effective, an order involving firearms must be served on the employer if the court has reasonable grounds to think that the employer may issue the defendant with a firearm.

Costs will not now be awarded against a complainant in restraining order proceedings unless she has acted in bad faith or unreasonably. Before the passage of this proposal, costs could be awarded as the court saw fit, and that would normally involve costs being awarded against an applicant whose application was rejected. A submission to me from the Women's Legal Service goes further than the Bill's amendment and takes the view that costs should not be awarded against an applicant just because the applicant was unreasonable. The service writes:

> We suggest that costs should not be ordered against a complainant unless the complainant can be shown to have acted in bad faith in making the application. The amendment, as it is currently worded, would allow a court to order a complainant to pay costs upon finding the application to be 'unreasonable'. We submit that the objective test of reasonableness, being judged from the perspective of the ordinary person, is inappropriate and that its application in these circumstances could lead to unfairness for victims of domestic violence. South Australian criminal courts, beginning in *Runjanjic and Kontinnen v The Queen* (1991), have acknowledged that many women who have experienced domestic violence justifiably act in ways that people without similar experience would consider unreasonable or would fail to understand. An application that may be reasonable from the perspective of a woman who has survived long term domestic abuse may not appear reasonable to members of the court who have not had similar experiences. Legislation that exists to address domestic violence should not punish women whose experiences of violence and abuse has led to their making an application that the court considers objectively unreasonable.

Although there is force in this submission, the Attorney's Bill is extending a measure of generosity to women who make unsuccessful applications for restraining orders, and I do not think it is possible for the Opposition to extract a greater measure of generosity out of him on this aspect without the risk of losing the Bill altogether.

One of the most important aspects of the Bill is the requirement that, before a respondent against whom an order has been confirmed can apply to vary or revoke the order, the respondent must obtain leave of the court. Leave shall be granted only if there has been a substantial change in the relevant circumstances since the order was last made or varied. The new requirement for leave is necessary because, as those of us who deal with these matters in our electorate offices know, some vexatious respondents apply for variation or revocation of the order almost as soon as it has been made and then apply for revocation many times at short intervals, although none of the circumstances have changed. I especially welcome this clause, and I support the Bill.

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

CRIMINAL LAW CONSOLIDATION (INTOXICATION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 March. Page 997.)

Mr ATKINSON (Spence): The Bill is one of two Government criminal justice Bills this week that take Opposition private members' Bills and refashion them. We are most grateful to the Government for its acceptance of our ideas. The Bill reaffirms the common law on one point and makes one procedural change. The procedural change is much the more important change and it would never have happened but for the Opposition's campaign on the drunk's defence.

The Bill restates the common law that a person cannot take alcohol or drugs with the intention of obtaining Dutch courage to commit a crime. The leading common law authority on Dutch courage is *Gallagher (1963)* Appeal Cases at page 349, in which the Judicial Committee of the House of Lords held that intoxication is no answer to the commission of a crime when an accused person resolves to commit a crime and then becomes intoxicated to get up the courage to do it. So, that particular clause changes nothing and is window dressing by the Attorney-General.

The second change is that the accused cannot raise intoxication as an appeal issue if the defence at the trial did not plead it. A defendant who wishes to plead self-induced intoxication to raise a doubt about whether he intended to commit the criminal act must now have his counsel ask the judge to instruct the jury on the question. In some recent cases the defence has not led evidence to support the drunk's defence but has relied on prosecution evidence that the defendant had had a few. Defence counsel makes no reference to the drunk's defence. The defendant is found guilty and then appeals to the Court of Criminal Appeal on the basis that the possibility of the drunk's defence ought to have been left to the jury on the prosecution's evidence. This Bill will stop that lawyers' game.

I turn now to the broad principle of the drunk's defence, which the Government supports and the Opposition opposes. The Attorney-General quibbles with the common usage of the expression 'drunk's defence'. He tells the public there is no drunk's defence. He is right only in a very technical sense and the substance of his assertion is misleading to a lay audience.

The accused who uses the drunk's defence does not have to marshall a case and prove it on the balance of probabilities, like other defences in the criminal law. In fact, the drunk's defence is much easier for the accused than that. All the accused has to do with self-induced intoxication is to make sure that evidence of his intoxication with drink or drugs or both gets into the trial transcript and then have his lawyer argue that it raises a reasonable doubt about whether he knew what he was doing when he committed the criminal act. That is, his drunkenness would prevent the prosecution proving beyond reasonable doubt that the accused had the required fault elements, namely, intention, knowledge, recklessness or belief. From the public's viewpoint the drunk's defence is worse than the name implies. It is a drunk's excuse.

About a year ago I circulated a reply paid card asking people to express an opinion about the drunk's defence. About 3 000 people in my electorate signed the card and returned it. It was also distributed in other State districts and the response there was also encouraging. The card focused on the Nadruku case, but future cards on this issue might concentrate on the Simpson case—a case in the South Australian Court of Criminal Appeal of a man convicted of rape, having his conviction set aside because he had five beers on the night the rape occurred. Simpson's appeal was being heard and the judgment setting aside his conviction being read as the Attorney-General, the Hon. K.T. Griffin, was telling Parliament and the public that there was no such case in our State.

The Director of Public Prosecutions, Mr Paul Rofe, told the Attorney-General that there was no recorded case of the drunk's defence being pleaded successfully in South Australia. Mr Rofe knew when he prepared the advice for the Attorney-General that the Attorney would convey the information to Parliament, which he did. The material provided by Mr Rofe was designed to dismiss any public concerns about the drunk's defence in South Australia. Mr Rofe's information was false.

Mr Rofe made it clear, during a speech to the criminal lawyers' conference in Clare last year, that he disapproves of the Parliament making decisions on the criminal justice system and he urged lawyers present to keep these issues to themselves and make sure politicians did not become involved. I do not regard Mr Rofe's position as acceptable in a parliamentary democracy, and if I do one thing as the Attorney-General in this State it will be to apprise the criminal justice elite of Labor's policy that the criminal law of this State is formulated by Parliament and members of Parliament are responsible to the public for it.

Here are some reported cases of the drunk's defence being used to set aside a conviction in the South Australian Court of Criminal Appeal. I have already mentioned one very recent case: Bedi (1993) 61 SASR at page 269, where the court set aside a conviction on the grounds that self-induced intoxication with alcohol and marijuana should have been left to the jury by the trial judge. In Ball, Bunce and Callis (1991) 56 SASR at page 126, the Court of Criminal Appeal set aside the rape convictions on the grounds that self-induced intoxication with alcohol and marijuana should have been left to the jury by the trial judge. One would think that this case would stick in Mr Rofe's mind as he was the unsuccessful counsel for the respondent.

In Martin (1983) 32 SASR at page 419 a manslaughter conviction was set aside on the grounds that the trial judge did not direct the jury about how the accused's drunkenness could negate basic intent. The accused was acquitted at his retrial. These cases bring me to Simpson's case, which was decided by the Court of Criminal Appeal on 20 August last year. According to the prosecution, Simpson forced his way into the complainant's home at 4 a.m., raped her twice and left. The complainant told the court that Simpson appeared to be drunk, that he repeated himself frequently, slurred his words and was swaying a bit. The defence case was that the complainant invited him into her home after he had had five beers at a hotel that night and that they had consensual sexual intercourse.

The defence did not raise self-induced intoxication at the trial, but made it an appeal point. The court decided that Simpson's conviction should be overturned. Justice Nyland held that the evidence of intoxication should have been highlighted by the trial judge in his summing up so that the jury had the opportunity to decide that the accused might have been too affected by beer to know that the victim was not consenting to his sexual advances. Even if one believes in the drunk's defence, as the Attorney and the Australian Democrats do, the decision in Simpson's case takes the doctrine to a new high.

I have placed a question on notice about whether John Simpson is being retried, but the Attorney-General has been unable or unwilling to answer it. I suspect that he knows that answer but, for Party political reasons, he will not share it with the Parliament while we are sitting. In an English case, Fotheringham, (1989) 88 Cr App R 206, the court decided that an intoxication-caused belief in consent does not suffice to negate the required fault in rape. I am sure that if the two decisions were explained to women in South Australia, at least 99 per cent of them would prefer the English law. But a 99 per cent agreement on values cuts no ice with Mr Rofe or with the Attorney-General.

I want to share with the House the facts in Fotheringham's case. What happened there was that a man returned home with his wife after being out drinking. The man was intoxicated. The couple had hired a 14 year old baby sitter to look after their child and the baby sitter had been instructed to sleep in the marital bed together with the child. When the accused came home with his wife, the baby sitter had retired to the bed with the child and was asleep. The accused, while in a drunken state, had non-consensual sexual intercourse with the 14 year old baby sitter. At his trial he pleaded that he was so intoxicated that he was unaware that the 14 year old baby sitter was not consenting and also argued that he was so intoxicated that he did not know that the baby sitter was not his wife. I am pleased to say that those arguments were rejected and his conviction stood.

But if the law of South Australia had been applied—the law as the Attorney-General wishes it to be—then it would be open to a judge in South Australia on the facts of that case—in fact, I think the judge would be compelled—to remit the matter for a retrial, and the possibility of the accused's defence ought to have been left to the jury. That is the state of the law in South Australia and it is the state of the law as members opposite are voting for it to be—not as they wish it to be.

The Hon. G.M. Gunn: That is your interpretation.

Mr ATKINSON: No, the member for Stuart is wrong, it is not my interpretation. It is a comparison between the law of England and the law of South Australia. It is a comparison between Fotheringham's case and Simpson's case. I must tell the member for Stuart that late last year the Court of Criminal Appeal here in South Australia held that consuming five beers could—not necessarily would, but could—suffice to

negate the accused's awareness that a woman was not consenting to his sexual advances. If the member for Stuart is happy for that to be the law, let him go on voting as he was. But I believe that he is sufficiently decent and sufficiently in touch with the public's values that he does not think that that is a very good statement of law and he would prefer another one. In which case, he will support reforms that I have in another place.

The Attorney-General's adviser Mr Matthew Goode deals with this problem in his discussion paper issued in July last year. It is an excellent discussion paper and I enjoyed reading it very much. Its writing, of course, was made easier by the fact that a former Attorney-General, the Hon. C. J. Sumner, procrastinated on this matter and asked the same Mr Goode to write a discussion paper in 1991. Both are well worth reading. Mr Goode writes disapprovingly of those of us who believe:

> The law should be reformed so that men who rape women should not be able to plead a genuine but unreasonable belief in consent. In sexual behaviour, it is said, men should be held to a reasonable standard.

I am happy to be someone to whom Mr Goode, the Attorney and Mr Rofe attribute that opinion. I will put up my hand agreeing with that opinion. In Victoria, the only other State that shares the drunk's defence in its common law form, the Law Reform Commission found 30 O'Connor acquittals in the years immediately after the High Court, by a 4-3 majority (a mere majority) put the drunk's defence in our common law. Victoria went looking for the number of acquittals so that public debate on the matter could be informed. The Attorney-General and Mr Rofe, by contrast, are in the business of making sure that the Parliament and the public of South Australia do not know how many drunk's defence acquittals and verdicts set aside there have been. They have already given incorrect information to the Parliament once and are resolved not to make any genuine inquiry about the matter as the Victorians have done.

Why do they not want to make an inquiry about the matter? It would be politically embarrassing. A report in the *Australian* of 27 November last year says that Victoria may become the first State to make it an offence to commit a criminal act while intoxicated. This would be, the paper says, an attempt to remove the drunk's defence. The Chairman of the committee heading the inquiry, a Liberal MP, says that creating the offence would make Victorians, 'world pioneers'. Well, not quite: the Victorian proposal is substantially the same as Mr Goode's proposal and the same as my private member's Bill that has passed this House with the support of the member for MacKillop and others and is now being blocked by the Liberal Party, the Democrats and the Hon. T.G. Cameron in another place. Blocking ETSA—bad: blocking drunk's defence—good, it seems—at any rate, on the Government side.

The Victorian Liberal MPs are not the only ones to support my reasoning. Back in 1986 a Labor Government Bill abolishing the drunk's defence for the offence of causing death by dangerous driving was being debated in another place. The Liberal shadow Attorney-General had this to say:

> I express some concern about the extent to which self-induced intoxication is considered by the courts in not only determining whether a person is guilty or not guilty but also in mitigation of penalty. While this provision relates not only to causing death or bodily injury by dangerous driving, I would like to think that the Attorney-General will consider the use of the defence in a whole range of other offences.

Yes, Mr Deputy Speaker, this is a Liberal shadow Attorney-General. Who could it be? Let us go further into his remarks. He stated:

> It has always seemed somewhat inconsistent to say that although the consumption or taking of a drug has been voluntary, there comes a point where the person so consuming alcohol or taking a drug is no longer responsible for his or her actions as a result of voluntarily becoming intoxicated or under the influence of a drug.

This shadow Attorney-General—and perhaps it is just an affliction of the office of shadow Attorney-General—goes on to say:

> It is time the community recognised that there should be a penalty for that sort of behaviour which causes death or injury to individuals or damage to property.

Would any members opposite like to guess who that was? No takers? It was the current Attorney-General, the Hon. K.T. Griffin. He changed his spots on this issue the moment he settled into the upholstery on the Attorney-General's seat on the 11th floor of the NatWest Building. I am sure that members opposite have heard his indignation in the Party room against abolishing the drunk's defence. I am sure that they have heard it more than I have, and I pity them.

Mr Lewis: Why do you suppose that?

Mr ATKINSON: Why do I suppose that is so? I am not sure I understand the question.

Mr Lewis: You said the Attorney has changed his spots: why?

Mr ATKINSON: Because his expertise is in civil law. He is essentially not very interested in criminal law and he accepts the advice of his advisers, and in this case his adviser is the Director of Public Prosecutions, Mr Rofe, who the Attorney accepts has some expertise in this area.

Mr Lewis interjecting:

Mr ATKINSON: I did not say that, member for Hammond: you did. Mr Goode puts the case for abolishing the drunk's defence rather better than the then shadow Attorney-General at pages 35 and 36 of his discussion paper published last year, and he writes:

> In *Jiminez* 1992, 59 A Crim R 308 the accused was charged with causing death by culpable driving. He was driving a car when it left the road, crashed and a passenger was killed. He argued at the trial that the car left the road because he had fallen asleep.

I think members will immediately see the parallel with the drunk's defence here. It continues:

> The point of the argument was that if he was asleep his actions could not have been conscious and voluntary at the time at which the crash happened. If that was so, it was argued, he could not be guilty of the offence. It is clear law that to be found guilty of culpable driving causing death the actions which constitute the offence must be proven to be conscious and voluntary. However, the High Court decided that the culpable driving which caused the death was not limited to the driving conduct which immediately preceded the crash. The accused may well have been driving in a culpable manner before he fell asleep, and that conduct would also be sufficient to have caused the death.

That is the point. I go back to Mr Goode's paper:

> So, for example, if the accused was driving in a tired or intoxicated condition which made the fact of his driving culpable in the legal sense, the fact that he fell asleep and acted unconsciously immediately preceding the accident is not an answer to the charge. The culpable driving causing death occurred while the accused was awake prior to the crash occurring. In short, the High Court decided that it could go back in time from the point at which the harm was caused and view the conduct of the accused as a whole—as a course of conduct.

Applying the reasoning to self-induced intoxication as a defence for crime, Mr Goode writes:

It is sometimes said that the reason why a lack of awareness or intention, or a lack of voluntariness, brought about by self-induced intoxication is different from other reasons why a person may lack voluntariness or awareness or attention is that the accused has brought the condition on him or herself. He or she chooses to get so intoxicated and chose to put him or herself into that position where he or she could commit what would otherwise be a criminal act. The fault, it is said, may be lacking at the time that that act is committed, but the real fault lies back when he or she made the choice to become intoxicated. It is sometimes suggested, then, that the fault that is lacking at the time can be replaced by an earlier fault in getting intoxicated—and usually the fault is recklessness: an awareness that criminal harm might/is likely to result and going ahead anyway.

I am happy to adopt that reasoning. The House will know that I have twice moved private members' Bills to modify the operation of the drunk's defence in our criminal law. The second of my Bills passed this House against the furious Opposition of the member for Adelaide, but I hasten to add that he was gentlemanly enough to allow it to go to a vote with only minutes remaining in the debate. He could have talked it out, so I give him credit for that. But the member for Adelaide opposed the principle of the Bill. My Bill is now being obstructed by a coalition of the Government, the Democrats and the Hon. T.G. Cameron in another place. This is a most interesting course of action from a Government that is always complaining about the Upper House obstructing its Bills. The ETSA sale Bill springs to mind.

An honourable member: Leaps to mind!

Mr ATKINSON: Indeed, leaps to mind. My original Bill put drunken defendants in the same position as sober offenders and asked the court to judge them as it would have had they been sober. I think this is the outcome most people want. The Attorney said this proposal was completely unacceptable to him. In the interests of compromise and bipartisanship I discussed the drunk's defence with Mr Goode. I read his paper and I adopted his suggestion of modifying my proposal so that the drunk's defence would continue, but so that there would be a new offence, to be called the criminally irresponsible use of drink or drugs. This is the proposal that the Victorian Liberal Party is now considering.

Under my modified proposals, if a person were acquitted of a criminal charge on the grounds that, although he committed the criminal act as charged he was too intoxicated with drink or drugs to know what he was doing, he could be convicted of the alternate verdict of misusing drink or drugs in a criminally negligent way, and would be sentenced on the basis that the maximum penalty be two-thirds of whatever the maximum penalty was for the offence for which he was originally charged. There is one thing I am certain about: if that proposal became law, no-one would plead the drunk's defence any more. You would not hear about it. That is the effect it would have.

For a person acquitted of murder on the drunk's defence the maximum penalty would be 15 years imprisonment. Although I was not entirely happy with this change, I thought it was vital to try to seek common ground with the Liberal Party to try to stop the drunk's defence operating in the way it was in our courts. I am pleased to say that some of my constituents who are on my mailing list on the drunk's defence have written to me congratulating me for taking a course of bipartisanship. The only difficulty is that some of them add a PS that they would like me to support the ETSA sale—but there are only a few of them. The Attorney rejected this compromise.

The Government's attempt to head off the drunk's defence debate is now before us in the form of the Bill. The Bill says that if the defence is going to rely on self-induced intoxication it must ask the judge to direct the jury on the drunk's defence rather than slip in evidence of self-induced intoxication, stay quiet about it during the summing up and then reintroduce it as an appeal point after the jury has returned a guilty verdict. The Attorney rightly refers to this as lawyers playing games. The Opposition will be supporting the change because it is better than nothing, but we will persist with our campaign because it is right on principle.

The Hon. G.M. Gunn interjecting:

Members interjecting:

The ACTING SPEAKER (Mr Koutsantonis): Order!

Mr ATKINSON: Dame Roma is okay.

Members interjecting:

The ACTING SPEAKER: Order!

Mr ATKINSON: I suggest that, if the honourable member wants an answer to his question, he read the report of the Mitchell committee on penal reform in this State, which was issued in, I think, the mid 1970s. I know that elements of the criminal justice elite will not lightly forgive those who summon the genie of populism against it. That hostility will sometimes take intensely personal and improper forms. But they and Liberal MPs in marginal seats should be aware that there is plenty more public discussion on this topic to come in the next three years leading up to Labor's forming a Government and bringing our law on this matter into line with most of the English speaking world. Mr Acting Speaker, I will not forget.

Mr WILLIAMS (MacKillop): I will not use anywhere near the 20 minutes on the clock to address the House on this issue, but certainly I am basically in agreement with the sentiments expressed by the member for Spence. I have spoken at length on this matter on previous occasions. I ask members to refer to *Hansard* for the contribution of the member for Spence on this issue, because it is quite enlightening. I believe that many members are being, to use the vernacular, snowed at the moment with regard to this issue. I first raised this matter in my maiden speech. I was then approached by the member for Spence who was about to introduce his Bill—

Mr Atkinson: The same Thursday.

Mr WILLIAMS: The same day, indeed. I was more than happy to support the intent of the Bill. In my concluding remarks when I spoke last on the Bill I said:

It is my suggestion that we make haste slowly and await the outcome of the Attorney-General's deliberations.

That remark was a reference to the Attorney's statement in another place that he intended to circulate a discussion paper on this matter, and, indeed, he did. The Attorney-General on 18 February 1998 made a ministerial statement and, indeed, circulated a discussion paper—quite a lengthy document—on this matter. Quite a bit has been published on this matter by other people in other jurisdictions. I have previously said to the House, and I am still of the opinion, that this is a very difficult part of the law to legislate. We are told about the Australian jurisdiction but, when you look at it a bit more closely, you realise that only a small part of the Australian jurisdiction is encountering problems, namely, South Australia, Victoria and the ACT.

Other parts of the Australian jurisdiction have, to use my terminology (not being of the legal bent), overruled the Australian High Court's decision in the O'Connor case, I think of 1968—

Mr Atkinson: 1979.

Mr WILLIAMS: —1979; I thank the member for Spence—and have actually codified their laws with regard to this issue. I quote the learned gentleman Lord Simon in his deliberations with respect to this matter. In the case of Majewski, Lord Simon asked the House of Lords 'whether a defendant may properly be convicted of assault notwithstanding that, by reason of his self-induced intoxication, he did not intend to do the act alleged to constitute the assault'. Lord Simon's statement encapsulates what is happening in this instance:

> One of the prime purposes of the criminal law, with its penal sanctions, is the protection from certain proscribed conduct of persons who are pursuing their lawful lives. Unprovoked violence has, from time immemorial, been a significant part of such proscribed conduct. To accede to the argument on behalf of the appellant would leave the citizen legally unprotected from unprovoked violence, where such violence was the consequence of drink or drugs having obliterated the capacity of the perpetrator to know what he was doing or what were its consequences.

I believe that those sentiments encapsulate the thinking of the general public of this State on this issue. Indeed, following the celebrated Nadruku case in the ACT, there was a public outcry from persons of all levels of Australian society—from the Prime Minister down—calling for the removal of legal sanctions on this sort of behaviour in all jurisdictions. I certainly question the Attorney-General on this Bill because I do not believe he is removing the drunk's defence at all: he is skirting around the edges of it. He is addressing one matter which, from my study of this matter, I do not think has been an issue at all, namely, the Dutch courage aspect. It might have occurred occasionally but I do not think that is the nub of the issue at all.

The second part of the Bill certainly addresses the appeal process, which apparently has been used and is being used by certain persons to try to overcome their convictions. I agree that that is moving the law forward and improving the situation, but I do not believe that this Bill does address the drunk's defence. I do not believe that if that occurred in South Australia it would solve the problems that arose as a result of the Nadruku case in the ACT. Having issued the discussion paper and canvassed certain options, I find it very difficult to believe that the Attorney-General has chosen to go only this far.

I must admit that I am very disappointed. I thought that, given the Attorney's ministerial statement, having gone to the trouble of circulating this discussion paper and having taken on board the public outcry from around the nation in response to the Nadruku case, he would have gone a bit further than he has. This issue has been discussed for many years in many jurisdictions, and South Australia, to my knowledge, is one of the few places in the western world where this sort of behaviour is still tolerated under the law. I reiterate that I cannot understand why the Attorney has not gone further.

The previous speaker alluded to the fact that he had some understanding of why the Attorney has done what he has done, but I am still not satisfied. I believe that the South Australian public already find the law far removed from their daily lives, and this is one small way in which the Attorney could turn the law around so that it actually reflected the wishes of the general public. The public could then say, 'Yes, here is the law as we understand it should be.' I find that I must support this Bill because it does go some small way, as I said, to improving the situation, but I am very disappointed that it does not go much further.

The Hon. I.F. EVANS (Minister for Industry and Trade): I thank members for their contributions. There is no doubt that this is a complex and difficult legal issue to debate. I know that there are very polarised views on what the outcome should or should not be. The fact that we have had two reviews under two different styles of Government—one under the previous Labor Government in 1991 and one under the current Liberal Government during 1996, 1997 and 1998—indicates that it is a complex issue.

The fact that we are debating amendments to a law that was left to us by the previous Government indicates how complex it is. The previous Attorney-General, Mr Sumner, chose not to amend the Bill. Mr Atkinson, the member for Spence, was a member of the Government then and now complains about the current Bill. I acknowledge some of the points made by the members for MacKillop and Spence as being arguments of a particular view. It indicates the highly technical nature of the issue we are discussing and of the debate, and I am pleased that both the members for MacKillop and Spence have indicated support.

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

Mr MEIER: Mr Deputy Speaker, I draw your attention to the state of the House.

A quorum having been formed:

YEAR 2000 INFORMATION DISCLOSURE BILL

Adjourned debate on second reading.

(Continued from 23 March. Page 1181.)

Mr FOLEY (Hart): The Minister has requested that the Opposition support this Bill to facilitate its speedy passage through this House and another place. The Bill is designed to 'encourage the voluntary disclosure and exchange of information about the year 2000 computer problems and remediation efforts; and for other purposes'. This is clearly an important piece of legislation in the countdown to the year 2000 and the events that may or may not occur come 1 January next year. This Bill is designed to put in place year 2000 disclosure statements by businesses operating within South Australia to include, obviously, issues to do with protection from civil liability and a number of other aspects. The Minister advises us that it is a Bill that very closely mirrors that of the Commonwealth Parliament where—

Members interjecting:

The DEPUTY SPEAKER: Order! There is too much discussion in the Chamber

Mr FOLEY: —it was supported by both Labor and Liberal Parties. I foreshadow an amendment that was moved by Senator Kate Lundy and incorporated in the Federal Parliament. It is simply a requirement for the Government to make available to the Parliament post the year 2000—

Mr LEWIS: I rise on a point of order, Mr Deputy Speaker. I cannot find a copy of the legislation.

The DEPUTY SPEAKER: I understand that the legislation is being distributed and that the member now has a copy.

Mr FOLEY: The amendment I foreshadow is one that will simply impose some obligations on the Government to provide a reporting function to Parliament as to the events following the year 2000 in respect of compliance and so on. It is the same amendment that the Minister's Federal

colleagues accepted to the Canberra legislation. In our discussions in Caucus today—and clearly this is no criticism of the Minister; it is reality that we have had a short time to consider this Bill—it was apparent that my colleagues have a number of questions and concerns that they would like to raise today. That will no doubt occur, perhaps in the second reading stage but probably more importantly in Committee. This is a good opportunity for all members of the House from both sides—and the Independents—to comment on the record and to ask questions concerning the preparedness of our State with the year 2000 fast approaching.

It is important that we have an opportunity to hear what the Government is putting in place and what the Minister's program has achieved to date. It is also important to point out that this is not a problem with which only the Government has to deal: industry and the community have an obligation to ensure that they do all they can and not simply wait and blame the Government for events that perhaps are more under their own control. I have a feeling that with this sort of problem certain sectors of our community are simply expecting the Government to wave a divine rod and somehow their concerns will be addressed. Clearly, the events facing our State are no different from those facing every single part of the world. It would be quite wrong for us to suggest that there is anything peculiar with respect to the year 2000 bug that is not the case elsewhere around the world.

With those few words, I will allow my colleagues, including members opposite, to speak. In Committee we can perhaps tease out some of these issues involving liabilities, obligations on companies and exactly who is covered by these disclosure statements, and to hear from the Minister exactly what the Government has put in place. The Minister has indicated to us that consumers will still be protected as would be their right under existing consumer legislation and the rights of the consumer. Clearly, a fair amount of effort from all parties will be required to ensure that we have a sensible framework and regime in place so that we manage what may be a traumatic and difficult period when who knows what actually occurs. I look forward to hearing the contributions tonight and to questioning during Committee.

Ms WHITE (Taylor): I will make a short contribution on this important Bill. Having had the information for such a short time, given that the Bill was introduced only yesterday, and not having had the opportunity to devote as much attention to this issue as it warrants, I feel a little behind the eight ball in commenting fully. I will therefore raise a couple of issues that I think are relevant and some concerns about the impact that this legislation may have and the impact of the problem generally.

In his second reading explanation the Minister talked about what the year 2000 millennium bug is but declined to go into detail about what might happen as a result of the problem. So, I ask him straight up to give an overview of what sort of ill effects that he anticipates are possible in the State of South Australia if companies have not sufficiently prepared for this. I also ask him how prepared are Government organisations and what ill effects are possible. In the Minister's second reading explanation he states that a major benefit of the existence of this disclosure legislation that we are dealing with will be that it will 'assist Government and organisations with their contingency planning processes'. Will the Minister explain exactly what he is talking about there? To what extent does the disclosure really assist in your contingency?

I have noted quite some debate and legal opinion about this disclosure in media discussions of the Federal legislation that was passed on 18 February this year. In fact, I have heard some reference to the difference between verbal and written disclosures and the appropriateness of verbal disclosures not coming under such disclosure legislation. Will the Minister pick up on that point and explain to what extent he sees that as an issue, if at all? In the Minister's second reading explanation he states that this legislation is to elicit statements made in good faith and to give limited liability on those disclosure statements made in good faith. Will the Minister expand upon that notion of good faith? Obviously, during this year consumers will want to know answers to many questions about products that they are buying or services that they are using, and one of the things they are most interested in is year 2000 compliance. I am interested in that concept of statements made in good faith. Will the Minister elaborate on how this legislation judges good faith? My final question to the Minister is: will he be flying in an aeroplane on 1 January in the year 2000?

Mr McEWEN (Gordon): Mr Acting Speaker—

Mr Williams interjecting:

Mr McEWEN: Mr Acting Deputy Speaker.

Mr Williams interjecting:

Mr McEWEN: He is the Deputy Speaker. I will get this right in a minute; if the bloody member for MacKillop would stop interrupting me, I could get on with what I have risen to talk about. I think the possible and potential problems in relation to Y2K compliance are now reasonably well understood in the community. Many of the problems with PCs have now been well canvassed and to some degree can easily be discovered in advance. The three clocks in most PCs can be wound forward and you can see the result. We also know that there is a whole range of implanted chips in all sorts of different processors, be they security or manufacturing or anything else, where we do not know what the implications are, such as whether the chip is day-date reliant anyway and, if so, what are the implications for ticking over to 2000. To that end I compliment the Minister and the Government on the actions they have taken to date, putting in place resources around South Australia to assist business to work through the problems.

Recently I took the opportunity to publicise in my community the fact that resources are being made available. I indicated how local business could access those resources and complimented the Minister on doing what he has done. This Bill still leaves me somewhat amazed in that I do not understand what power is contained in the Bill. When you introduce a Bill to encourage people to voluntarily disclose something I wonder why we are going through a legislative process to achieve an end which seems to be voluntary and where there seem to be no forced events on anyone in this regard. In Committee I will be interested in hearing the Minister tell me why we need the Bill, much as everything that we want to achieve is important. We ought to be encouraging people to become responsible in relation to the year 2000, and particularly people along supply chains should understand the exposure they have within the supply chain and the responsibilities they have to others further down the supply chain. Notwithstanding that, I would suspect that this Bill is unique in that for the first time ever we have introduced a Bill to encourage somebody to do something on a voluntary basis.

Mr HANNA (Mitchell): First, I give credit where credit is due to the Minister. He has brought in this legislation before December 1999; that is the positive thing I will say about it. He brought this Bill to the Opposition earlier this week and said it must get through this week, as I understand it. That is the discussion the Opposition has been having. It is really extraordinary that the Minister could not have anticipated the need for this Bill, if indeed he was aware of the discussions that were being held at Commonwealth level. So, it is extraordinary that the Minister has to spring the Bill upon us. It is not entirely a straightforward Bill; it would repay a more careful approach by this Parliament.

The Bill seems to be simply an encouragement to businesses to make year 2000 disclosure statements because if they do and they get it wrong they cannot be sued. If they do not make one presumably they will not be as competitive in the marketplace with whatever their product is, so they are being encouraged to make these year 2000 disclosure statements about their prowess in the computing area and the safety and reliability of the computer information and computer services that they provide yet, as long as they are acting in good faith, if they get it wrong they cannot be sued, no matter how careless they might be in putting together their statement.

I am not sure whether the exemption is broader than it should be. In Committee we may ask the Minister whether the usual avenues of litigation that consumers—or businesses, for that matter—have under the Trade Practices Act, Fair Trading Act, etc. will continue to be available in respect of the goods and services themselves, which are the subject of the year 2000 disclosure statement, as opposed to the matters arising out of or incidental to the making of a year 2000 disclosure statement. That is dealt with in clause 8 of the Bill. It is an unusual Bill, but it is to deal with an unusual problem; hopefully, it will come around only once. It is certainly not clear that the Bill does what the Minister intends.

Mr MEIER secured the adjournment of the debate.

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

ROAD TRAFFIC (MISCELLANEOUS NO.2) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 9 March. Page 1039.)

Mr ATKINSON (Spence): The Bill puts into statutory form national uniform laws that have previously been introduced in South Australia by regulations, gazettals and administrative decisions. It brings together in the Road Traffic Act laws on the mass and loading of heavy vehicles, safe travel of oversize and over mass vehicles and roadworthiness standards of vehicles. By Parliament's passing the Bill the State Government meets its obligation under a Council of Australian Governments agreement. We should all be grateful for the Government's doing this because more than $1 000 million in Commonwealth Government grants to South Australia over 10 years hinge on our compliance with national competition policy, of which the matters before us are a part. I note that the Bill makes it easier for the authorities to punish a transport operator who breaches the law in addition to the owner and driver who were already caught. The Opposition supports the Bill.

The Hon. DEAN BROWN (Minister for Human Services): I thank the member for his considerable contribution to this debate.

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

YEAR 2000 INFORMATION DISCLOSURE BILL

Adjourned debate on second reading (resumed on motion).

The Hon. W.A. MATTHEW (Minister for Year 2000 Compliance): I thank the members for Hart, Taylor, Gordon and Mitchell for their contributions to this debate, and for the spirit with which their comments have been made. It is important to place on the record in this place my appreciation to the Opposition for its assistance in ensuring the debate on this Bill could be brought about tonight. There is a convention applied in this Chamber with the debate of Bills whereby, as members are aware, it is customary to leave a Bill, after its introduction, to lie on the table for a week so members have the opportunity to consider the content of the Bill. Because of the nature of this Bill, its urgency and the fact that the House will not be sitting beyond the end of this week for the best part of two months, the Opposition was prepared to agree with the usual procedure being dispensed with so this Bill could be brought forward.

I place on record the Government's and my personal appreciation for the Opposition's enabling that to happen. I am aware that an extraordinary Caucus meeting was arranged for that to be facilitated. We appreciate that. I understand the concern of the member for Mitchell in not having the opportunity to scrutinise this Bill in the manner in which he would normally. I am sure the member for Mitchell has made good use of the intervening time and I would be very surprised if the member for Mitchell does not seek points of clarification in Committee.

The member for Hart has indicated his intent to move an amendment in Committee. I indicate at this early stage that, having seen and heard his intent, the Government is of the view that the amendment should be supported and I hope that my comments will help facilitate the Committee stage at a faster rate. The member for Taylor indicated that she had a number of concerns. She told me that she would not be able to be in the Chamber in Committee and asked that I address her concerns in my round up. She wished me to give an overview of the ill effects I thought were possible if companies do not sufficiently prepare for year 2000 compliance. Specifically she wished me to indicate how well prepared the Government is.

In relation to the member for Taylor's first question, the ill effects that are possible for business have the potential to be significant. The best guide we have as to business preparation is initially from a survey undertaken by the Australian Bureau of Statistics in October last year and reported in December last year. That survey was of 500 South Australian businesses, of which 93 per cent indicated that they were aware of the year 2000 compliance, or date or millennium bug problem. However, only 63 per cent indicated that they would actually do something about it. Therein lies a warning to Government and to the whole community of the potential for serious malfunction in business.

As I have previously put on the record in this place, no business, regardless of how small, is totally exempt or immune from the effects of the year 2000 date problem.

Members have heard me put on record in this place before, principally during Question Time in the Parliament, how catastrophic some of those effects could be. At the worst end of the spectrum a business could find that it has to close operations because it is not able to function either in part or in full and obviously that could mean job loss. That is something that neither this Government nor the people of this State want to see occur.

In relation to the question by the member for Taylor on the preparation of Government, I put to the House previously the cost of compliance of State Government. Our anticipated cost is sitting at $104.2 million and we have a further $14 million contingency, should we need to expand our spending. However, the $104.2 million as a cost has remained stable for the past three months. Those costs apply to replacement of computer software, hardware and items that have a diagnostic or date related chip that could malfunction. The effects have been far-reaching through all Government agencies, and the types of equipment that have been affected have also been significant.

For example, in the hospital system, only recently I was at the Royal Adelaide Hospital and its heart monitoring equipment is not compliant and will have to be totally replaced. That is an expensive exercise and one that has to be undertaken carefully to ensure that there are no problems after the implementation of that new equipment. Throughout Government there has been an enormous effort to ensure that absolutely every computer software program run within Government, every item of computer hardware and every piece of equipment is carefully checked. I give my assurances to the House that that job is being undertaken with rigour, with the best endeavour possible. It has been closely monitored. Cabinet receives a monthly report on the progress. Where agencies are not adhering to rigorous schedules we have set they are given a none too gentle remainder of the need to adhere to those schedules and, if necessary, they are given extra resources to ensure they get back on track against those schedules. The Government is satisfied with the progress we are making to date in all areas.

To reassure the member for Taylor, I can advise her that the Government as its principal focus has been addressing utilities which we control both directly and indirectly and which fall under legislation outside the province of this Parliament. That would cover the electricity authorities, with the electricity authorities being split seven ways in preparation for a future private sale; SA Water, obviously in partnership with United Water; and Boral Energy. I put on record in this place that Boral Energy as a company has been one of the most impressive with which I have met. Together with Santos and Epic Energy it has formed a group that ensures that the whole of our gas supply and distribution network is compliant, to the extent that not only their suppliers but also their customers have taken action to ensure that they are able to continue operating beyond 31 December this year.

We are also undertaking active, extensive and continuous dialogue with telecommunication companies to ensure that our telecommunications are in place. Obviously, emergency services form part of that essential infrastructure, as does part of our transport infrastructure. As a Government we have been very forward in sharing information we have. I have previously placed on record that some of our transport infrastructure is not at this stage compliant but that the problems are known and the rectification will occur. Indeed, the Minister for Transport likewise has placed on record areas where at this stage compliance does not occur. The traffic management system is not compliant, and we are waiting on componentry for that. The train signalling system is not compliant, nor is the Crouzet ticketing system. For that latter one alone, the rectification cost is $1.2 million to ensure that our ticketing system continues to operate beyond 31 December this year.

The task is a complex one but the Government is on track. At this stage we are endeavouring to ensure that the private sector, which is lagging badly, is equally on track and makes the vital dates before the end of this year. The member for Gordon indicated in his contribution that he had concern about what actual power this Bill has, and indicated that by his reckoning it is a unique Bill that encourages someone to do something on a voluntary basis rather than compulsion or, either directly or indirectly, through fine if people do not adhere. The member for Gordon is correct in that analysis: the Bill is unique, which is why we are debating it with such urgency in this place tonight. It does encourage people to do something without compelling them, and the reason for that is fairly simple.

The biggest problem that our businesses face at the moment is one of ignorance, and the best way in which to help overcome that ignorance is to have other businesses that are aware of the problem share their experiences. I have spoken with a number of companies which have undertaken a year 2000 compliance effort which have found significant problems during and after achieving what they thought was finalisation of that compliance. We would very much like those companies to share their experience. The problem is that their legal representatives have advised them that to share their experience, to publicly advise South Australians or Australians what they have found, could actually result in litigation against them if someone with whom they deal takes that advice on board and part of it is found to be incorrect in some way.

So, the intent of this legislation is to provide protection from civil action if companies in good faith communicate their preparedness and have some of that communication wrong because some of the things they believed had been rectified after 31 December are found not to have been rectified as they thought. With the passage of this Bill I expect a number of companies within this State to come out publicly and share their experience. That, we trust, will encourage other South Australian businesses that thought they would be immune to realise the extent of the problems they could face and similarly undertake action to rectify them.

The Bill mirrors one that has gone through the Federal Parliament. It went through the Federal Parliament in amazing time, passing through both Houses on the same day. I cannot recall that having happened with legislation before. It went through with tripartisan support from all the major Parties. The impetus is there for it to go through the State with the cooperation of all Parties in this Chamber and the other place. South Australia will actually be (only just) the first State in Australia to join the Commonwealth with this legislation, and we expect other States to follow suit very quickly. If my knowledge of other States is sufficient, I expect that Victoria would be fairly shortly legislating after our legislation passes.

The only reason that theirs has not passed yet is that that State's Parliament is not sitting at this time. I believe that, with those remarks, I have covered the concerns of all members. The member for Mitchell has made a couple of comments but indicated that he will pursue those in Commit-

tee, so I will wait until that stage to address his concerns in detail. I thank members for their cooperation in having this Bill brought to this Chamber and for getting it to this stage.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2.

Mr HANNA: I am intrigued by the aspect of the clause that provides that the legislation itself will have retrospective effect from the day on which the Commonwealth Act comes into operation, if the proclamation so provides. I can understand that being necessary if this Parliament is behind other States in passing this legislation but, given that we are likely to get it through this week, is that aspect of this clause necessary at all? In any case, is that a unique or common provision in legislation?

The Hon. W.A. MATTHEW: It is unique, but that is not to say that it has not occurred before where mirroring legislation is passed in States after agreement with the Commonwealth. That clause will be in the Bill as introduced in all other States, so that all States of Australia, with the Commonwealth, have their legislation come into effect from the same day so that the statements made by companies, if they operate over State boundaries, will have the same protection regardless of which State a statement is made from.

Clause passed.

Clause 3.

Mr HANNA: In relation to the definitions of 'electronic communication of speech' and 'electronic communication of writing', are the references to 'guided and/or unguided electronic energy' and, in the other case, 'electromagnetic energy' terms of science or are they created specifically by the Commonwealth parliamentary draftsman for the purpose of this Act?

The Hon. W.A. MATTHEW: They are actually the same terms that are used in the Commonwealth Act. What we have actually done for the purpose of this Bill is simply reproduce the definitions as they are in the Commonwealth Bill. We had two choices in drafting. We could either have simply referred to the Commonwealth definition, which would have meant you had to read the two Acts side by side, or for completeness and ease of read we could place them in one Bill. As to the term 'guided and/or unguided electronic energy' this has been put in by the Commonwealth Parliamentary Draftsman. I agree with the member for Mitchell; they are not terms that I have used before. The clarification of 'telephone call', 'radio broadcast', 'facsimile transmission' and 'electronic mail' makes me a little more comfortable. But I agree, they are unusual terms. They are definable but they are not the terms I probably would have ideally used, but for the sake of consistency we have replicated them in this Bill.

Mr HANNA: I also refer to the definition of 'Year 2000 processing'. I note that it refers to computer activity, so to speak, of date data, whether or not the date data relates to the year 2000. Are we to assume that that refers to computer operations which might involve years dated in the twenty-first century, or perhaps the setting of video recorders at home, which might run into Y2K bug problems, even though we might not be performing that computer operation or that video recorder setting in the year 2000 specifically?

The Hon. W.A. MATTHEW: I am not sure I entirely understand the point being made by the member for Mitchell. However, the terminology 'Year 2000 processing' simply refers to all date processing associated with a computer, with an electronic chip, whether or not the date specifically has 2000 in it. It may be another date, but it is still effectivly covering anything that could be affected by the year 2000 syndrome. I think that is what the member for Mitchell is looking for.

Mr HANNA: I think that answers the question. We will have to look in the *Hansard* tomorrow and reflect upon it. I want to come back to these terms, which intrigue me, such as 'guided and/or unguided electromagnetic energy'. What can they possibly be apart from telephone calls, radio broadcasts, fax transmissions and electronic mail? Does the Minister actually have other examples which are not listed in the legislation?

The Hon. W.A. MATTHEW: To further clarify the point that I made before, the reason the Commonwealth draftsman has pulled those terms into this Bill is that they are actually also the terminology used in the Commonwealth Telecommunications Act. It is therefore being used in relation to this Act. As I said, they are not really the terms that I would use today. I guess, in fairness, when we look at when that Act was drafted, people have become more information technology literate and are probably using different terms today, but for the sake of consistency and reflecting other Acts those terms are used in this Bill.

Mr Hanna: We have better draftsmen in South Australia, anyway.

The Hon. W.A. MATTHEW: Our Parliamentary Draftsmen in this State are extremely skilled and I am sure would have come up with far better definitions if they had done that in the first place.

Clause passed.

Clause 4.

Mr HANNA: My question is in relation to the Crown in clause 4, the meaning of the Crown in all its other capacities. Is that a unique expression in our legislation? Is it only there because it is a copy from the Commonwealth? Is it common in other legislation, and what does it mean?

The Hon. W.A. MATTHEW: The term is not unique. It is actually used in many other Acts. It is also covered in the Acts Administration Act. As the member for Mitchell is aware, there are a number of areas in which the Crown operates through a number of entities, for example, through the Government Business Enterprises. So it ensures that everything is bound through this legislation.

Ms RANKINE: In relation to clause 4, can the Minister give an assurance that the State itself will be ready for the year 2000, that our computer systems will be year 2000 compliant?

The Hon. W.A. MATTHEW: I have probably put a lot of this on the record in this place a number of times before and, unfortunately, the member was not here for my second reading round up. But to ensure that members are aware of these matters I indicate that the State has a very active year 2000 compliance program under way. The fact that we have a Minister, in the form of myself, with sole responsibility for year 2000 compliance is not only unique in Australia but also I think it demonstrates our determination to combat this problem.

There are many hundreds of employees across Government who are actively working on this problem. They have very strict target dates which have been set and which they must comply with. Their progress is monitored by their agencies and indeed by Cabinet, and Cabinet receives a monthly report on the adherence of agencies to the target dates that have been set. Where those dates have not been met

agencies are given appropriate encouragement. Sometimes that is the necessary hurry up that is needed. At other times it is allocation of additional resource, and, where that has been needed, additional resource has been applied.

Our expenditure anticipated at this stage is $104.2 million. For the last three months our anticipated expenditure has been stable at the $104 million figure, which indicates that we have a pretty fair grasp of the extent of the work that is needed. The process that we have gone through is one that is used by a number of organisations. That was, firstly, to go through an inventory process and physically determine everything that needed to be examined for compliance, and that was every computer program, every piece of computer software, every piece of computer hardware, every piece of equipment within Government that had an embedded chip that might have a date problem.

The next process was assessment, and that was to physically go through and assess those items. I am sure the member would appreciate that in a place like a hospital that has literally meant that hundreds, and sometimes thousands, of pieces of equipment have had to be physically checked one after the other. The difficulty with this problem is that you cannot simply take one piece of equipment of a certain type, brand, and bought at a certain time and, because it works, assume others which were purchased in a like manner and which are of a like model will also be compliant, because it does work that way. It depends when the manufacturer bought its chip that they placed in it and from where.

So, every piece of equipment has had to be checked and that has resulted in some considerable expense to rectify. In Human Services, the failure rate of that sort of equipment has been less than 1 per cent, so it really has been a needle in a haystack exercise, but when the needles have been found they are not inexpensive, and I shared with members briefly a while ago the fact that at the Royal Adelaide Hospital, for example, its entire heart monitoring equipment in one area has to be replaced with new equipment, and we are waiting for delivery of that.

I believe that, with the best will and endeavour, Government will be on track, against schedule. But I can never give a guarantee that every single piece of equipment and software will work, because there is a human intervention component and, with the hundreds of employees who are undertaking the work, we can only be as ready as the individual endeavour on every item they check. So, I think it is fair to say that there is an element of risk that some things will not operate correctly, but in view of the fact that we have divided our efforts into critical and non-critical systems, and the critical systems are obviously checked with extra vigour, I believe that if there are any problems they will be of a very minor nature and would be largely transparent to the South Australian community. The work that is being done at the moment is to complete the rectification process.

Agencies have all finished their inventory, have pretty well all finished their assessment and are working actively on rectification and testing. They are also concurrently working on their contingency planning because, obviously, they need to ensure that if anything does go wrong contingency plans are in place so that the business continues uninterrupted. Essentially, our drive is to ensure that South Australians notice no change in Government service delivery from that which they received in December 1999: it will continue into January 2000 and beyond.

Ms RANKINE: Has the Government been vigilant in its purchase of new computer systems since it became aware of the year 2000 problem to ensure that they will be year 2000 compliant?

The Hon. W.A. MATTHEW: Any contract signed regarding every new computer program and piece of software and hardware that is purchased, as a consequence of the State Supply Board's ruling, is required to include a year 2000 clause. That clause should, therefore, cover that guarantee for Government that it is buying compliant equipment. However, having said that, certainly before that occurred a number of items of equipment that were bought were not compliant. A check of our desktop computers, for example, showed that of those computers bought in a two year period more than half were not compliant.

In that lies a warning for the general community that just because something is new—and I think this is what the honourable member is alluding to—does not mean it is compliant. Whether it be a business or individual community members, there must be absolute vigilance with any purchase of computer hardware or software and purchasers must extract from the retailer a written guarantee on purchase, or written guarantee through contract, that what they are purchasing is year 2000 compliant. Obviously, where Government did detect equipment in that situation, we have gone back to the suppliers to ensure that they bear the responsibility for rectification. That process would not yet be completed: it would be ongoing.

Ms RANKINE: It is my understanding that the Government expended quite considerable sums on a new Justice Information System. It has been put to me that considerable problems are being experienced with that system. Will the Minister advise whether that system will be year 2000 compliant and, if not, who will be responsible for ensuring that that is the case?

The Hon. W.A. MATTHEW: The honourable member has picked up on a good example of a system where work has been actively undertaken in one of the earlier stages. The Government's employee who heads up the Justice Information System is a gentleman named Spence Briggs. He is a very professional IT technician and one, I am happy to put on the record in this place, to whom I have an extremely high regard. He was one of the first Government employees to push strongly for a compliance program and that system has been vigorously pursued.

In fairness, though, that system was a little easier than some simply by virtue of the fact that, when the system was put together and the major components of that system were commenced in their building in 1986, the system was already working beyond the year 2000. The Justice Information System, for members who may not be aware of it, is essentially an offender tracking system. It a system that receives information from the courts and then the system itself covers the agencies of police, Correctional Services, Family and Attorney-General's, Community Services and the industrial courts.

Because that system was dealing with police and Correctional Services and because people were imprisoned in 1986 and will be imprisoned beyond 2000, from a very early stage—in fact on launch—that system had to cope with dates beyond 2000. The honourable member, though, suggested that some expenditure had been incurred on the system. I think that the expenditure to which the honourable member refers is actually the transfer of that system from the software that was being used. The system was originally built in a language that was promulgated through a company called

Culinet and the database management system and code was known as IDMS.

That particular system is cumbersome and is now aged. I am aware that the Justice Information System and the Courts Administration Authority, which is also using that system, have been going through the process of transferring over to more modern databases and a different code. So, I think that if the honourable member has been advised of expenditure, that was probably the major reason. I am not aware of significant year 2000 expenditure as part of the Justice Information System, although I know there were some areas of that system that did need some minor modification.

Clause passed.

Clause 5.

Mr FOLEY: My colleagues have raised a question and it is a fair question: why are we not making the disclosure statements compulsory for companies?

The Hon. W.A. MATTHEW: Compulsion, of course, requires enforcement which requires considerable effort and we have but nine months left. I would much prefer to place Government resources—and I know that the Commonwealth also felt this way—in encouraging effort and people to understand the extent of the problem rather than having an enforcement agency forcing them to comply and disclose. Companies actually want to disclose. They want to reveal the extent of their compliance because to do so helps give other companies and customers with whom they are dealing a sense of comfort and also a knowledge on where they are at. But because their legal representatives are advising them that to so disclose could result in litigation if they make a mistake, they are not willing to comply.

We are confident about the presence of the legislation. The Federal Government has already indicated—and this is proving to be the effect—that it will bring companies forward and they will disclose. Frankly, if you were going to purchase a good or a service from a company and that company was not making a disclosure statement, you would probably think twice about buying from it.

Mr FOLEY: What mechanism or resources will be used to decide in relation to a company which has completed a disclosure statement and where there is dispute as to whether that company has in good faith disclosed and has done the remediation? Who will determine whether that has occurred? Are you just leaving it to the courts or will expert panels be appointed to decide that?

The Hon. W.A. MATTHEW: As the honourable member identified in the final part of his statement, it is a matter for the courts and it is a matter that would be determined by civil action should it get to that stage.

Mr FOLEY: I assume that companies will have to publish their disclosure statements or will the Government be keeping a register? What sort of record keeping will be in place?

The Hon. W.A. MATTHEW: Companies will publish their disclosure statements by whatever avenue they deem appropriate to reach their target market, and I would envisage that taking a number of forms. The Internet has been commonly used by companies to make information easily and readily available. We would certainly expect that a large of number of companies would utilise that avenue. We would expect that a large number would use their mid-year annual reports and that others would send out letters to customers and to other companies with which they deal advising of that detail.

I should have also mentioned in my previous answer to a question from the member for Hart that the Australian Stock Exchange has required that companies listed with the exchange furnish it with statements. This legislation will also encourage a process whereby those can be expanded and made publicly available. The Stock Exchange has been very heavily involved in ensuring that those companies that are at least publicly listed are compliant. However, as the honourable member is aware, in the broad spectrum, if we talk company numbers rather than size, it is nowhere near the full gambit of companies and businesses in our community. Many companies of a small and medium size enterprise nature will never be publicly listed. It is to those companies in particular that we look with this legislation.

Clause passed.

Clause 6.

Mr FOLEY: I suspect that the most significant agencies that the Minister has concern about will be ETSA (assuming it is still in Government ownership by the end of the year, and no doubt it will be), the generators and obviously SA Water. What remediation and preparation has ETSA, in particular, and SA Water carried out given the essential service nature of those two functions? Is the Minister confident that ETSA will continue properly?

The Hon. W.A. MATTHEW: As the member is aware, essentially the ETSA organisation has been broken into seven component parts for privatisation, should that ever occur. That has meant that we have needed to ensure that we have an additional focus in that organisation so that those seven component parts had a correct and proper focus with a sense of urgency on year 2000 compliance. KPMG was engaged initially to undertake an assessment and then after that event to oversee the compliance of ETSA. At this stage, I meet with KMPG officials on a four weekly basis to receive regular reports from it. I am satisfied with the progress our electricity sector is making. It is a considerable way down its remediation path. The work that I have seen has given me no cause to believe that it will not be ready. It is also well advanced in its contingency plans.

While SA Water is a single entity, it obviously has a responsibility to ensure that United Water, with which there is a contract, is also able to provide and deliver the service in which it is involved. Again, I am satisfied with the progress being made by both those organisations. I am happy to read into the record the costs that Government has identified to date that make up that $104 million. It is important that we place that on the public record.

An honourable member: can you table it?

The Hon. W.A. MATTHEW: It is not in a form that can be tabled, so it is probably easier for me to read it. This information, too, will be available on the Internet. Already on the Internet, effective from today, we have published the January figures that show compliance progress. For any members who are interested, I put the web site address on the record so it is there for future reference: it is www.y2k.sa.gov.au. The major components of that expenditure, looking principally at the 10 Government agencies are as follows: the Department of Administrative and Information Services is spending just under $1 million; the Department of Environment, Heritage and Aboriginal Affairs, just under $600 000: the Department of Education, Training and Employment, $ 11.7 million; the Department for Human Services, $32.7 million; the Department for Justice, $6.9 million; the Premier's Department, just over $500 000; the Department for Primary Industries, $1.9 million; the

Department for Transport, Urban Planning and the Arts, $6 million; and the Department of Treasury and Finance, just under $2 million.

In addition to that, there are some centrally funded projects. As members would be aware, the Government mandated a number of computer systems to apply centrally in the concept human resources system and it is costing just under $3 million to ensure compliance. As I indicated, some $1.2 million has been allocated for the Crouzet ticketing machine system; Government business enterprises collectively, $18.9 million; and the electricity sector, $15.1 million. There is a further $3 million potential additional health sector cost estimates, but together those established figures add up to approximately $104 million. Those are the principal components. If members care to check that web site, they will see those costs ultimately up there in detail, and the reported progress will go up once a month as those figures become available. As I indicated, the January figures are there now; the February ones will go up in about two weeks.

Clause passed.

Clause 7 passed.

Clause 8.

Mr HANNA: We have come to the crux of the Bill. This Bill contains the no liability clause, which is the carrot being offered to people who might make statements regarding year 2000 compliance. My question relates to clause 9 as well. Because rule 8 does not apply where a disclosure statement is false or misleading or where there was a degree of recklessness on the part of the person who made it—just to simplify that—how much scope is there for the operation of clause 8? In other words, if we are talking about a corporation, for example, which makes a disclosure statement and if it is not being reckless or false or misleading in the way it has put together the statement, is there much scope for the neglect of a duty of care which might arise from litigation anyway?

The Hon. W.A. MATTHEW: The scope really lies in the area of negligence and the area of deliberately false statements. If the member looks carefully at the way the exceptions have been drafted throughout clause 9, he will see that we have ensured that, where false or misleading statements are made or where there is direct negligence, there still is the opportunity for civil litigation. As I indicated, there are a number of companies which have progressed with year 2000 compliance and which have had experiences that the rest of the State would benefit from hearing about and would actively encourage other businesses to pursue. However, if those businesses, in making their disclosure statements, inadvertently give information they believe to be correct but on 1 January 2000 is not as correct as they believed at the time, they are protected. If they have been deliberately misleading or provably negligent, obviously the usual civil action avenues remain open; it does not block those.

Mr HANNA: With regard to my imputation that clause 8 is redundant in some way, my suggestion that it has little work to do is really only a concern because, if that is the case, companies are likely to get legal advice, and the legal advice is likely to be that there might be a small scope of action where you might be negligent without being reckless. However, that line is so thin that, if you have doubts now about whether you should put out a statement, you might as well hold onto those doubts, because one of these exceptions about your recklessness can be used against you anyway, and you will end up in court if you not just about perfect in what you say in your statement. That is the concern I am driving at.

The Hon. W.A. MATTHEW: The member for Mitchell is right in that he is endeavouring to define the line beyond which our legal adviser would advise the client not to cross. I have no doubt that, even after the passage of this legislation, there will still be legal advisers. The member for Mitchell is legally credentialled and he may form this same view: he would say, 'Play safe and say absolutely nothing.'

No doubt that will still occur, and I do not believe there is any way we will get those companies to publicly disclose if that is the advice they get. However, certainly other companies have been advised that this draws a sufficient line for them to safely make a statement, share their experience, help other companies and give their shareholders, the other companies with which they deal and the public at large the sense of security they need in knowing they are professional companies that are combating this problem to the best of their ability. But I will not stand here and pretend to the member for Mitchell that this is absolutely foolproof and that every lawyer in town will say to their client, 'Well, you can go ahead and make any statement and you are covered.'

I do not believe we could provide legislation as tight as that because, if we did, we would potentially start to breach civil liberties and do more harm than good. This has been a delicate balancing exercise, and I would not like to see it any tighter than it is now, because it would then risk denying people their natural rights. Our endeavour is simply to ensure that responsible companies will come out and share their experience and allow members of the public to receive the information that in my view they deserve to have. Those companies can do so without fear of litigation, all things being equal.

Mr HANNA: Has the Minister received representations from legal firms or accountancy firms or anywhere else which counsel against the passage of this legislation? In other words, has the Minister received any submissions that this Bill should not pass? Obviously, in the matter of the few hours I have had to look at it I have certainly not heard anything along those lines—I have not had that opportunity—but I wonder whether the Minister has.

The Hon. W.A. MATTHEW: No, unless correspondence has come into my office that has not yet come over my desk, I have had no personal representations from legal representatives about their concerns. I am certainly aware of some who are strong advocates of this legislation, but I am also aware of the limitations. I have discussed the legislation with a number of personal contacts who are legally qualified and who have expressed a range of reservations, but all have acknowledged that to go stronger on the protection had the potential to affect civil liberty and to go any less on the protection had the potential to render the legislation ineffective. So, I believe the appropriate balance has been found and certainly the Commonwealth and the other States have also concluded that in their drafting. I acknowledge that it is a difficult balancing exercise to achieve the desired result and not deprive people of their natural rights.

Clause passed.

Clause 9.

Mr HANNA: Earlier the Minister referred to an obligation on the part of Stock Exchange companies imposed by the Stock Exchange to make disclosure statements. How does that relate to the references to obligations in clause 9(2)? To put it another way, is the Stock Exchange requirement of disclosure statements an obligation imposed under a contract

or under a law, or is it something that would not fall within subclause 9(2) exceptions?

The Hon. W.A. MATTHEW: The Commonwealth advice is that a statement will not be protected where it was made in pursuance of a continuous disclosure requirement under corporations law or ASX listing rules or in pursuance of the prospectus or takeover requirements of corporations law. So, the Commonwealth has specifically stated that.

Mr HANNA: I make a broad comment about clause 9. Compared with clause 8 it is as if we have a cardboard cut-out clause 8 with several big cannons of clause 9 aimed at it to just about blow it out of the water. In other words, there are so many broad exceptions that I query just how much work clause 8 will have to do. In saying that I suppose it is a cautionary note for those corporations that might wish to make disclosure statements. I do not mean to spoil the intention of the Act, but I can only interpret what I see before me.

I specifically draw attention to clause 9(3), which I see makes an exception where one of the purposes—and I repeat one of the purposes—for making the year 2000 disclosure statement was to induce people to buy goods and services, in other words, in general commercial advertising, to get other businesses or individuals to buy the products of the firm making the disclosure statement. Why has the legislation taken the form of creating an exception where a purpose—perhaps one of several purposes—is to advertise the goods and services of the business concerned? Why does it not provide an exception if the sole purpose is to advertise the goods and services of the firm? In other words, will a business not be in potential trouble despite clause 8 if it states that it will be a responsible corporate citizen and publish its year 2000 statement to fellow businesses that might be facing the same computer problems but at the same time it will use it in its marketing and broadcast it on the TV saying, 'We are year 2000 compliant'? Therefore, even though they have the best intentions they might be throwing away their clause 8 protection.

The Hon. W.A. MATTHEW: The intent of the whole of clause 9(3) is to ensure that consumer protection provisions that are already in existence are not overridden by this legislation. We felt it was essential to ensure that the rights of the consumer were protected. If one of the honourable member's constituents were to buy a video recorder which is not compliant, I am sure he would be the first to advocate that his constituent, regardless of whether a statement was made that the video recorder would be compliant, should be able to take it back to the retailer and have it replaced or speedily repaired. The intent of this provision is to ensure that consumers' rights are not taken away and that existing protections they have are left intact.

Mr HANNA: Is the Minister willing to go so far as to turn that around the other way and to advise corporations that, if they are going to make disclosure statements, they really should be careful not to disclose them to people who might be buying their goods and services or they might be losing their clause 8 protection, accordingly?

The Hon. W.A. MATTHEW: Clause 9(3)(a)(i) specifically provides that a purpose for making the year 2000 statement was to induce persons to acquire goods or services. If businesses are making a statement specifically to induce the acquisition of their good or service then they may have a dilemma. If, however, they are simply publishing a year 2000 disclosure statement, saying this is the readiness of their business and the service they provide, that is an entirely different situation. I am confident businesses will recognise the difference between those aspects and ensure that they comply with the legislation as a consequence.

Clause passed.

Clause 10 passed.

Clause 11.

Mr HANNA: I refer to clause 11(1)(c). Maybe it is just a question in relation to drafting, but I find it curious that one of the elements of proof in the prosecution of someone who has allegedly made a false or misleading statement is that the person concerned was engaged in conduct in relation to the year 2000 disclosure statement. By itself I do not know what that means. It is so general that it is impossible to interpret standing alone. If the subclause actually combined paragraphs (c) and (d), I would understand it better. If it said that one of the things to be proved was that the person was engaging in conduct simply within the scope of his or her actual or apparent authority, and the other items were proved as well, I could understand that, but is there some special significance attached to the concept of engaging in conduct in relation to a disclosure statement separate and apart from the knowledge that it was false and some kind of publication activity that the person might be involved in?

The Hon. W.A. MATTHEW: I draw the member's attention to the last word and in each of paragraphs (c) and (d) as it relates paragraphs (c), (d) and (e). The only 'or' is between subparagraphs (e)(i) and (ii). The statements all apply in conjunction with each other.

Mr HANNA: Why is it separated out in the drafting? Is there some special significance in the concept of engaging in conduct in relation to a disclosure statement or is it simply that the drafting person has separated out each possible element?

The Hon. W.A. MATTHEW: I acknowledge the point. It is perhaps not the way our Parliamentary Counsel here would normally draft it, but it has again drawn its origins from the Commonwealth Bill, in the interests of consistency. The join is there through the word 'and', and I guess we cannot expect the same high standards of the Commonwealth as we have in South Australia.

Clause passed.

Clause 12 passed.

Clause 13.

Mr HANNA: I am intrigued by the fact that we are legislating for an exemption from a national code. Is this the only example where South Australia has become party to a national legislative code and is legislating to come out of it and, if so, is that only because other States have indicated their intention to do so as well?

The Hon. W.A. MATTHEW: As I understand it the Commonwealth does a similar thing in relation to the Trade Practices Act. We likewise needed to do it for this piece of legislation. As to whether there are any other examples of this having occurred to date, neither I am aware, nor is the source of the advice I am receiving aware, of that. I would not want that to be taken to indicate that this is the first; there could be cases, but I am not aware of other examples to date.

Clause passed.

New clause 13A.

Mr FOLEY: I move:

Page 12, after line 2—Insert:

Quarterly reports about Year 2000 processing issues relating to State agencies

13A. (1) The Minister must, at least once in each quarter, cause to be laid before both Houses of Parliament a report about

the progress of State agencies in detecting, preventing and remedying problems relating to Year 2000 processing.

(2) In this section—

'quarter' means—

(a) the period of three months beginning on the day on which the Governor makes a proclamation bringing this section into operation; and

(b) each subsequent period of three months, being a period that begins before 1 July 2001;

'State agency' means—

(a) an administrative unit established under the Public Sector Management Act 1995; or

(b) an agency or instrumentality of the Crown, except where the functions of the agency or instrumentality are wholly or primarily commercial functions.

As foreshadowed at the second reading stage, the Opposition moves this amendment, consistent with one moved by my colleague in the Federal Senate, Senator Kate Lundy, which simply requires the Government to provide quarterly reports about year 2000 processing issues relating to State agencies. This amendment means that the Minister must at least once in each quarter cause to be laid before both Houses of State Parliament a report about the progress of State agencies in detecting, preventing and remedying problems relating to year 2000 processing.

The quarter will begin from three months, beginning on the day on which the Governor makes a proclamation bringing this provision into operation and each subsequent period of three months being a period that begins before 1 July 2001. A State agency is simply an administrative unit established under the Public Sector Management Act, and an agency or instrumentality of the Crown, except where the functions of the agency or instrumentality are wholly or primarily commercial functions. The Government has indicated its preparedness to accept the amendment, and we welcome that. It is a useful addition to the legislation to ensure that all members of this House and another place are able to be fully aware as best we can be of the progress of the Government's work.

The Hon. W.A. MATTHEW: I appreciate the reasons for the member for Hart's moving this amendment. No Government Minister likes to place themselves, if they can avoid it, in a situation where they are compelled through legislation to report on a regular basis, but I acknowledge the importance of Parliament's receiving reports on this matter. Regular reports are available through the Internet at www.y2k.sa.gov.au. Cabinet also receives monthly reports, but I am comfortable with bringing to this House on a quarterly basis reports of Government progress. For that reason the Government will agree to the amendment.

New clause inserted.

Clause 14 passed.

Title passed.

The Hon. W.A. MATTHEW (Minister for Year 2000 Compliance): I move:

That this Bill be now read a third time.

I thank the Opposition for its cooperation with this Bill, due to extraordinary circumstances. I thank members opposite for their interest in Committee. Their endeavour has not been misplaced and I encourage all members to carefully follow this issue and contribute in a mature and sensible way as the State hopefully moves towards a very successful change of century.

Bill read a third time and passed.

INDUSTRIAL AND EMPLOYEE RELATIONS (WORKPLACE RELATIONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 23 March. Page 1226.)

The Hon. G.A. INGERSON (Bragg): I was discussing last evening the fact that wages and conditions in the jurisdictions in relation to single people in agreements had improved and not declined. That really is a significant and important issue and puts to rest a lot of nonsense stated by the Labor Party and the unions about how these individual agreements cause havoc. There are only 60 000 of them in the whole of Australia, so how they can cause havoc has me quite amazed.

The reality that those people who have entered into them have gained improved wages and conditions seems to me quite an amazing exercise. The fact that industrial relations moves very slowly is one of the important issues in terms of any significant change. As I said earlier, it is five years since this Bill was essentially changed (in 1994). The point I wanted to make most is that you need to have in place a legal framework that enables people to shift into these new areas if they want to, but you have very strong rules and guidelines to protect both the employer and the employee. That is the most important issue. Whether there is a big jump or a small jump is irrelevant. For those who wish to make some change, there ought to be legal frameworks in which they can move.

As I said last night, in all the States that have been involved—in Western Australia, Victoria and Queensland—and in the Commonwealth there has not been a whole range of employees who have been significantly disadvantaged. If there had been, I know that the Labor Party would have had a magnificent ad at the State election and at the Federal election, but they did not do it because there has not been any significant advantage.

Mr Clarke interjecting:

The Hon. G.A. INGERSON: When the honourable member was Deputy Leader he used to be an exciting industrial relations opponent but, now that he is with me on the backbench, he is neutered, too! It is very important that we recognise that changes have occurred and that there have not been significant issues for employees. That is what the union and the ALP rightly argue. But at the end of the day there have not been any significant disadvantages. The other area that is important has been in doing some research on the IWAs under Federal law, and the fact is that in reality some 50 000 employees (as at 5 March 1999) have now made these individual workplace agreements with their employer under the Federal legislation. We need to remember that Victoria does not have any State-based legislation any more and there has been a significant amount of these agreements in Victoria because of that.

Some 2 000 to 3 000 IWAs every month are being carried out, and that is a critical issue, because the employees are not being disadvantaged. If you are an employee with an IWA who is getting better wages and conditions, you would be jumping in there. One of the problems with employers—and I am as critical of them as I am of the unions—is that they have not gone out with their own mechanisms to sell the advantages of the IWAs to the employers and their staff. That is an issue that the employer associations need to do something about, but what we cannot do is turn a blind eye to this reality.

About 2 000 IWAs have been made in this State in industries such as mining, finance, retail and transport. Figures supplied by the Office of Employment indicate that there is only one active complaint in South Australia by an employee against an IWA process. The fact that that complaint is being investigated under the legislation indicates that proper checks and balances are built into the system to protect employee interests. This Bill does contain checks and balances of that type and I would encourage all members opposite to look at it, but not in the traditional Labor way of opposing everything in the industrial relations area, because I went through this in 1994.

Every single thing gets opposed and at the end of the day, when the Democrats agree to let it go through, they say, 'It wasn't too bad after all.' It would not be a bad idea if the ALP was actually a little progressive and had a look at how it could improve and perhaps support some of the issues in the Bill. The Bill is about flexibility but, more importantly, it is about a partnership and about increased employment. The honourable member said last night that there were no examples of future employment. I do not know that there ever are. What you have to do is put modern frameworks in place so that you can encourage future employment. But flexibility is one of the most important issues.

The issue of public holidays, the long service leave entitlements in the system and bringing them under the Act, the targeting of the powers of the Employee Ombudsman—which I was very proud to be part of introducing because he has done a fantastic job in the non-union area—and building a better safety net—

Mr Clarke interjecting:

The Hon. G.A. INGERSON: I remember that you did not even want him, because he was going to do a job that your union members could not do—and he did a fantastic job. He has picked up all the people you could not be bothered even looking after. He has done a fantastic job. The new Bill recognises a new safety net, it recognises important changes in unfair dismissals, and it introduces mediation opportunities. Finally, it recognises that in some awards we need to have wages for youth employment. I do not believe that it should be only youth employment, but it should also be a training wage. But there are some that youth wages do apply to.

Mr CLARKE (Ross Smith): I have heard some horse swill spoken in this place in my five years, and the member for Bragg has not disappointed me, as he never disappointed me when he was Minister for Industrial Affairs. I had to educate him five years ago, but the problem is that he just will not be educated. He is totally beyond redemption. Now I have a new Minister to try to assist the shadow Minister in educating. As the former Minister found in 1994 when we had to neuter the worst aspects of the Government's legislation, I understand that the present Minister is somewhat of a fan of horse flesh and he, too, will have to be gelded in the process of his learning curve.

This legislation has all the hallmarks of Peter Anderson. Peter Anderson used to work for the former Minister (the current member for Bragg) and he drafted the legislation in 1994 which we had to knock into shape—not as much as I would have liked but, nonetheless, into some form of acceptable shape. He is the architect and apparently the genius behind Peter Reith with respect to the plans by the Federal Government on industrial legislation and was, no doubt, the architect of that master stroke with respect to the Maritime Union of Australia, which saw a massive defeat for the Federal Government. Likewise, with respect to this legislation, I am sure that he is also the architect, if not directly then certainly indirectly.

Again he will fail because, whilst I prefer not to have the Upper House, while it is there the Labor Party will constitutionally use the Upper House to knock this piece of legislation into shape—subject, of course, to the vagaries of the Democrats, who could be anything at any point in time. I could go for at least three hours on this legislation, but unfortunately I have only 18 minutes left so I will try to canvass the issues briefly and deal in more detail with specific clauses when we reach the Committee stage.

Let us be clear that this Government tried to bring in individual workplace agreements under the current Minister for Human Services back in 1996-97, and it was defeated comprehensively by this Parliament for reasons which have been very well explained by the shadow Minister (the member for Hanson) and which I will not go into detail about, other than to say that the individual contracts are contracts that this Government wants to enter into for no other reason than to reduce wages and working conditions. Let us just go to facts: the classic case is the Naracoorte abattoirs.

The Hon. G.A. Ingerson interjecting:

Mr CLARKE: No, I am talking about Naracoorte, where the owners want to bring in individual work contracts to defeat the Federal award, and are introducing them. What we are having there is, for no increase in pay, an increase in output which will see a reduction in paid employment at Naracoorte. The member for MacKillop would be well advised to look into this. They will reduce employment from 300 to 200 workers, for no increase in wages for the workers; but a reduction in the work force from 300 workers to 200 workers.

The Hon. M.H. Armitage interjecting:

Mr CLARKE: The Minister knows nothing about industrial relations. He should concentrate on looking after Barton Road in North Adelaide. That is what obsesses the Minister and member for Adelaide. Leave industrial relations to those who know something about it. He would best remain mute on the subject. In relation to the Employee Ombudsman there is no reason to introduce this extra strata.

The Hon. G.A. Ingerson interjecting:

Mr CLARKE: Well, let me deal with the interjection first. The Employee Ombudsman we did not want. But when we realised that we were going to get an Employee Ombudsman we decided to give you the pineapple, and we made sure that that Employee Ombudsman was independent. The now member for Bragg when he was Minister wanted the Employee Ombudsman subject to Ministerial direction. We saw that coming; we dropped it out and made sure that if you wanted an Employee Ombudsman we would give you a totally independent one and put a pineapple right where it hurts the employers, and he has been doing a very good job since he was appointed.

We now find that, because the Employee Ombudsman is too independent, this Government wants to bring in a workplace agreement—whatever you call it, a body.

Members interjecting:

Mr CLARKE: You wanted to bring in the pineapple remover; that is what you wanted to bring in. You could not put up with an independent Employee Ombudsman that was a pineapple to employers; you wanted to bring in the deplucker of pineapples, and that is what you brought in with respect to this workplace agreement body, because what you

will do is bring in one of your clones, probably one of your failed candidates at the last election, bring them in, and produce exactly what has happened at the Federal scene, where you brought in the former head of Peter Reith's department, or his adviser, who would rubber stamp any shoddy agreement and claim that it conformed with the Act. It was not appealable and unions could not take it to the Industrial Relations Commission and put the light of day on it, examine it closely and make sure that the award or the agreement did not contravene the no disadvantage test. That is what you want to bring in here in South Australia. These are the points which I would hope that the so-called Independents in this place will closely examine, because they actually do have a number of workers in their electorates and most of them are not members of unions but are people who could be widely exploited.

In the brief time that I have left I want to deal with the unfair dismissal provisions. We have had this cant, this humbug, this sheer rubbish from the Liberal Party over the years about how unfair dismissal legislation destroys employment opportunities in this State. Let us get some facts, because we have had unfair dismissal legislation in this State since 1967, largely in the Parliament since 1972. The Brereton legislation was amended the second time around, which largely brought it into conformity with the State provisions here in South Australia and New South Wales, and in every State in Australia, for at least 25 to 30 years, including those States where there has been significant growth in employment opportunities. When there was growth in South Australia during the 1970s under Labor Governments the unfair dismissal legislation did not inhibit employment growth.

I now refer to an article in the Industrial Relations Society newsletter of January this year which is headed 'A Comparison of South Australia's Dismissal Dispute Resolution System With Those of Other Countries'. It was done by Visiting Professor of Management, University of South Australia, and Professor Emeritus, University of Wisconsin—Madison, Professor George Hagglund. He studies the unfair dismissal legislation in South Australia, Wisconsin, Canada, Jamaica, Trinidad and Tobago and Kenya. Let us look at what he said in South Australia. We look back to 1997-98, and he found:

> Only about 4 per cent of 1997-98 dismissal cases ended up being heard by the Commission. Forty-three decisions were issued involving 34 dismissed employees in 1997. There were 43 decisions in 1998 affecting 40 workers.
>
> In 19 of the 1997 decisions (44.2 per cent) the management dismissal decisions were sustained in full. The employee was given his or her job back in five cases (11.6) per cent, but in one of those the reinstatement was overturned on appeal. In 19 decisions the employer was found to have acted in a harsh, unjust or unreasonable manner but, instead of reinstatement, financial penalties were awarded the employee.
>
> Only four people were put back on their jobs in 1997, and none in 1998, suggesting that the South Australian Industrial Relations Commission seldom determines reinstatement of the employee.

He further states:

> Suffice to say that reinstatement is usually not considered an appropriate remedy by the Commission when the employer is judged to have been harsh, unjust or unreasonable. Total documented awards amounted to $112 444 in 1997 and $96 650 in 1998.

That is the sum total of reinstatement cases in this State for the last two years, including the amounts awarded in arbitration. It is an absolute joke to say that our unfair dismissal legislation in this State is destroying employment opportunities. Let us look at a comparison with these other countries. Under 'Summary and Conclusions' Professor Hagglund states:

> Along with Trinidad and Kenya, South Australia is a State where reinstatement by the Commission to one's job is highly unlikely to occur.

Kenya is a one party State, for God's sake. He continues:

> Rather, the South Australian Industrial Commission, while generous in terms of finding unfair, unjust or harsh treatment, is much more prone to make a financial award instead of ordering reinstatement.
>
> In South Australia, about 40 per cent of workers whose cases were heard by the Commission in 1997-98 were found to have been treated unjustly, but only around 5 per cent of that number are returned to work. If it is true that few people are reinstated in earlier steps of the Commission procedure, then the rate is 0.2 per cent—one reinstatement for every 509 initial applications.

This is the nub of it, when he states:

> The overall percentage of harsh, unjust and unreasonable findings is consistent with the United States but lower than for Jamaica and the Canadian provinces. The number of people returned to work in South Australia is far lower, closer to Trinidad and Tobago and Kenya, two other former British colonies more recently separated from the Empire than to the other countries studied.

This study is very useful. In terms of reinstatement orders we rank with Kenya, a one party state. This is what this Government is all about in respect of its industrial relations legislation. It wants to turn South Australia into a low wage State in Australia. The object of this Minister is to turn South Australia into the Bangladesh of Australia. If low wages—

The Hon. G.A. Ingerson interjecting:

Mr CLARKE: Yes, I said that in 1994 and I said then, member for Bragg, that when you were giving your speech at the time on industrial relations you had the smile of an artificially inseminated cow. You felt good but you did not know why, and you have not learnt anything in the last five years. You are still the artificially inseminated cow: you are still smiling and still not understanding why you feel good. That is the problem with this Government: it does not understand industrial relations—never has and never will. In relation to unfair dismissal legislation, this report, regarding the financial penalty awarded against employers for unfair dismissal in this State, indicates that the biggest assessment in 1997 was $19 000 and $16 000 in 1998. The typical award made for an unfair dismissal in this State ranged between $3 000 and $5 000.

It is an absolute nonsense to say, when one looks at these figures, that this Government's legislation is warranted with respect to excluding casuals and employees working for a company with fewer than 15 employees and with less than 12 months service—that they should have no rights with respect to unfair dismissals. What we would find, and as admitted by the departmental officials who recently briefed the Opposition, is that under the AWA contracts improper pressure or coercion should not be applied. Right? The fact is that, under this legislation, if I were hired by a company with fewer than 15 employers—and I know the member for Bragg would never get a job outside this place—

An honourable member interjecting:

Mr CLARKE: No. You will not even be here to worry about what happens to me. The fact is that, under this piece of legislation, if I had less than 12 months service and worked for an employee with fewer than 15 employees, I could be coerced; I could be subjected to all sorts of intimidation about signing an AWA and, if I refused to sign it and I was sacked, I could not initiate an unfair dismissal claim under the Government's legislation. I would be entirely in the hands of

the Minister and his departmental officers to decide whether or not they would prosecute that employer.

We all know what has happened to the Department of Labour under this Liberal Government of the past five years. The number of prosecutions that have taken place for breaches of the award with respect to breaches of occupational health and safety regulations has plummeted: it has dropped to being negligible. Inspectors are being told, 'Do not prosecute for breaches of the awards: go around and try to educate the boss.' The only way you educate the boss for occupational health and safety breaches in many respects is to hit them in the pocket—fine them hard and often every time they breach. But those inspectors do not do it. They have been told to lay off, because this Government is a friend of big business and this Government will not do it. It will not lay a hand on bosses who unnecessarily injure workers through unsafe working practices. It tells the inspectors that they are not to prosecute. This legislation, if it were dinkum, would include provisions whereby it was not just left in the hands of the department to initiate prosecutions for breaches of the Act: individuals would be allowed to bring claims—

The Hon. G.A. Ingerson interjecting:

Mr CLARKE: No, they cannot. Graham, go ahead and read your own Act. You did not understand in 1994 and you do not understand it now. It is entirely in the hands of the department to prosecute for breaches of award provisions and occupational health and safety breaches. It is time for the introduction of a new regime to allow registered organisations and to allow individuals to launch individual prosecutions, because this Government has lost the guts and commitment to enforce its own laws.

I do not expect any different from the Liberal Party.Why should I expect any different from the Liberal Party? It is in the hands of big business. It is in the hands of the bosses and that is all it is interested in, because they fill the election coffers. Unfortunately, I do not have much time left with respect to the legislation. I will deal with it in far more detail in Committee. Let the Minister be assured of this: every clause will be fought by all 21 members of the Labor Party. We will have amendments and you will go upstairs and try to deal with the marshmallows and the Democrats, and we understand that they are a bit jelly-backed on industrial relations. The member for Bragg found that out and we are aware of that, too. But it will be a different kettle of fish when you come to a deadlock conference.

You might get away with this legislation through this House because we have the two so-called Independents and the National Party represented here. They do not mind ignoring the low-paid workers in the main who work in their particular electorates because they are captives of this Liberal Party Government. I know that they will vote in every division on this piece of legislation with the Liberal Party because that is where they belong—in the Liberal Party—and let us make no pretence about it.

The fact is that, when the Bill goes upstairs, the Government does not have the numbers. We then get back to educating you again and kicking this Minister around, as we had to kick around the former Minister to try to educate him. The other issue that is quite interesting relates to right of entry and trying to take away—

The Hon. M.H. Armitage interjecting:

Mr CLARKE: I am sorry; I cannot quite hear the Minister.

The Hon. M.H. Armitage: You are not trying to intimidate me, are you?

Mr CLARKE: Intimidate you?

The Hon. M.H. Armitage: Yes.

Mr CLARKE: No, the only thing that worries the Minister is Barton Road and the squires and the squattocracy that happen to live in North Adelaide where you are going to graze your royal deer. That is what worries Lord Armitage, the Minister who is supposed to be—

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

Ms BEDFORD (Florey): This Bill sets workers, South Australian men and women of all ages, back many years. I cannot understand why any attempt to rewrite legislation that concerns people is not done in consultation with the parties involved so that acceptance can be universal. Instead, we have consternation; instead we have opposition from many quarters; instead we see a raft of grossly unacceptable measures thrust upon this House for approval. How can we, in good faith, accept legislation that has the capacity to reduce incomes and inflict savage cuts to rights and conditions—rights and conditions earned by increased productivity?

How can parties 'mutually decide' the elements of their relationships when the parties involved are not equal? The outcome of this Bill will see us left with a set of conditions being offered with a 'take it or leave it' bottom line. This Bill is an attack on the rights of workers—rights won after many years of negotiation, only to be taken away so cruelly in the name of what? Flexibility? We have flexibility in our State system, yet it is not being used. In his annual report our Employee Ombudsman stated:

> There remains scope for much more imaginative use of enterprise agreements under the existing legislation.

If that scope is not being used, then we must conclude there is no need to use it. Indeed, there is evidence to show that established awards are beneficial to many employers as their existence simplifies employment arrangements. Therefore, I say that flexibility is now a word that describes exploitation of workers. This legislation is not an honest attempt to address the appalling employment situation—and this, I hope, must have been the original and honourable intention of the legislation—for it appears that, in the guise of encouraging employers to employ more people, we are faced with unacceptable measures. Workplace agreements, collective or individual, are about reducing entitlements and wages.

This premise is reinforced by what the draft Bill will allow in relation to the agreements. Instead of the existing requirement for enterprise agreements that employees not be disadvantaged in relation to their award entitlements, workplace agreements would have to comply only with a minimum of six conditions which do not include hours of work. Only workers covered by Federal awards would continue to be eligible for the no disadvantage test: State award workers would lose that protection.

It is not hard to see that reductions to pay and conditions will be possible—indeed allowable—through the measures we have before us. The element of secrecy compounds the difficulty in exposing abuses of powers and assessing how the agreements are being used and their effect on workers. Workers have been doing it hard—after meeting the calls for increased productivity. The main reason why wage increases are sought at any time is that current wage rates no longer enable workers and their families to survive. Workers have made the tough changes and worked cooperatively and ask

only for a fair day's pay for a fair day's work. They do not ask to be pitted against each other in the world of individual contracts, nor do they ask to be disadvantaged by untested collective agreements without the benefit of the expertise of unions to represent them.

Union negotiations benefit all workers not only union members, and now non-union workers have lost the assistance of the Employee Ombudsman to routinely scrutinise their agreements. We in this place have our own staff involved in negotiations: our electorate officers are continuing negotiations which are not moving in a manner that will recognise the level of expertise that allows them to perform so many duties—multi-skilling at its very best. What shame that we do not look after our own army of dedicated workers, and what are the implications for other men and women who rely on us to ensure they have a fair go?

Many aspects of this proposed legislation demand close scrutiny as to motive and outcome, and I will deal with a few. Workplace agreements will attack wage rates. There is no proof that lower wages—and, make no mistake, this will be the result of the legislation—for the same work will create employment or that extended junior rates of pay will improve aggregate levels of employment. Relying on changes to labour market regulation to achieve employment growth is unproven and, therefore, unreliable.

While the age for junior wages is 21 at present, there are Federal implications whereby the age of 24 may be recognised, as with Youth Allowance. There is no evidence to suggest lower rates of pay for young people will create the climate where jobs will 'appear'—jobs that will not take advantage of young workers and see them doing the work of adult workers. The assumption that thousands of youth jobs would be lost if junior rates were abolished is flawed because, despite the earnings of young people falling compared with adult wages over the past two decades, youth unemployment has risen from 14.6 per cent in June 1989 to 28.2 per cent this month, March 1999. This is an example of how lower wages do not automatically mean job creation and higher employment. This is shown in the experience of the past 15 years for workers generally. We have had lower wages through wage restraint—wages have effectively decreased—yet unemployment remains a constant dilemma.

There is no protection for our young people as they strive to become productive members of society, and there is no security for the legions of adult workers who will see themselves vulnerable in this new deregulated workplace. It is more likely that young workers will displace older workers rather than an improvement to job creation. Measures that bring lower wages and loss of income will bring reduced consumer demand and lower tax collection. The agreements will see workers pitted against each other in competition for jobs and allow employers to engage in exploitative contracts.

The role of the umpire has been tampered with, too, and a new administrative body will be created at considerable cost. I question why the role of our current 'auditor', so to speak, the Industrial Relations Commission, is feared rather than valued. These measures, along with the reduction of the Employee Ombudsman's duties, raise suspicion. Why could we not change and improve the role of the IRC? We will see further changes to the role of all three bodies in the future, no doubt.

Then there is the new role of mediation. It seems that this measure may not be welcome by any party involved in a dispute. The whole process is not defined clearly. The question of funding and what delays might be expected will arise, I imagine, with the flurry of claims during the implementation stage—if the Bill is passed. Parties must represent themselves. This measure alone is fraught with difficulties. Then there is the issue of hours worked, especially shift work, which may be deregulated completely. This is an occupational health and safety issue. Although workers may think it is attractive to have groups of days off in a row, this will be possible only where large numbers of days or hours are worked. And public holidays will be moved around, as well. This will reduce the capacity for families to have days off together. We should look at ways to strengthen the family, not limit its ability to be together in leisure time.

Unfair dismissal provisions are said to discourage employment. There is proof that this is not so. Even if excluding unfair dismissal provisions could create jobs, how many jobs would warrant the greater levels of injustice? This Bill will increase inequities that are already appearing, making a larger disparity between the haves and have-nots, younger and older workers, and men and women. Women have seen the gap widening over recent times. While the 1990s saw women in a better position, increased enterprise bargaining has seen women on the slippery slope. Their main areas—retail, education and clerical—will be especially affected.

John Ralston Saul, the Canadian theorist, has pointed out that Governments of all persuasions have failed to come to terms with the disaster that is unemployment: Governments have failed to identify that we are living in a depressed economic environment, and we have been for the past 20-odd years. Wage restraint and workplace flexibility was tried and failed during the Great Depression of the 1930s. Lower wages and flexible working conditions did not produce a significant decline in unemployment then, and it will not lead to a change in the situation today. This Bill purports to advantage both businesses and working people. The Government claims that it will assist in increasing employment levels. This is rather optimistic. The reality is that it will only make the situation more difficult for people currently employed, to the advantage of the interests of big business, while having a negligible impact upon the scourge of unemployment in this State.

Mr HAMILTON-SMITH (Waite): I support this Bill. I believe that it is a landmark piece of legislation and that it reflects admirably on the reformist agenda being set by this Liberal Government. In supporting the Bill, I remind the House that, as an employer of nearly 50 people, I feel it is a matter of considerable importance. I note that there are a number of employers on this side of the House and I assume some on the other side of the House, and employers bring their own perspective to this debate. I also rise as someone who has served as National Secretary of an industry body, and as one who has represented an employer group in the Industrial Commission, both in negotiations over awards and changes to awards, and as a person who has, as an employer, been in the industrial commission on a range of industrial matters from time to time. Having had an opportunity to see first-hand as an employer the Industrial Relations Commission and other aspects of our industrial framework at work, I must say that there is scope for improvement. This Bill goes a long way to making those improvements.

It is time to go forward with micro-economic reforms and to overhaul our industrial framework so as to enable it to stand up to the dynamic pace of the next millennium. There can be no going back to the industrial world of Australia in

the 1950s and the 1960s—a world of trench warfare between employers and employees, and of highly structured labour arrangements that limit the flexibility of businesses to the create jobs and develop this great country. We need to find new structures that will work in the 1990s and beyond. The reforms we are pursuing are significant and will continue the trend under the State Liberal Government of progressive and meaningful reform of our workplace relations system. It does not represent a radically deregulated system but would align us to systems in operation in Western Australia, Queensland and federally, which also covers Victoria. However, it does not simply copy other jurisdictions but rather retains many of the elements of the South Australian 1994 Act. The Bill seeks to improve key areas of South Australia's workplace relations system, in particular the introduction of work place agreements, the award system, terminations, mediation, freedom of association, public holidays—

Mr Clarke interjecting:

The SPEAKER: Order!

Mr HAMILTON-SMITH: —long service leave and youth employment. The Bill recognises that individual workplace agreements are a key component of a balanced workplace relations system, providing greater choice for workers and employers. Individual agreements operate under Federal laws in every Australian State, including South Australia, but are not available to South Australian employers not covered by Federal awards. This Bill also recognises that the Industrial Relations Commission will still have a role, but there is a need to do more. Some would call the Industrial Relations Commission and other components of our industrial relations system an industrial relations club. Indeed, I have seen evidence of this myself. I think the arrangements have become a little cosy, both for employers and employees, and for the many people who have found their way into the quite exclusive and well rewarded club. Many of them will feel threatened by these changes, but the changes need to be made. We can do it better.

While recognising that there is a place for the Industrial Relations Commission, this Bill seeks to facilitate changes which are designed to avoid conflict and confrontation and which will present solutions and not focus on process. The Workplace Agreement Authority will be an administrative body charged with approving both types of agreements as informally and expeditiously as possible. This will represent a cultural change from the traditional, adversarial and judicial environment of the Industrial Relations Commission. I can speak as an employer and put the view that it is quite daunting for small businesses—often husband and wife teams or small family businesses—suddenly to find themselves in this highly adversarial, court-like commission, where they are forced to use systems with which they are unfamiliar to resolve industrial problems that could easily be sorted out through mediation or a less formal process. The authority exists to sanction agreements reached between employers and employees.

Mr Hanna interjecting:

Mr HAMILTON-SMITH: It is very easy for the member for Mitchell to interject and say, 'That is what the commission does'. The member for Mitchell is a lawyer, but I remind him that most small business people are not lawyers and are not familiar with the intricacies of the Industrial Relations Commission. The Workplace Relations Commission will exist to sanction agreements reached between employers and employees, not to determine disputes, but the IRC also retains a specific role in respect of agreements. Protections are built into the system for making agreements, including that agreements are fairly reached, that parties understand their rights and obligations and that the agreement provides for the minimum standards established by the Act in respect of annual, sick, parental and long service leave. It also provides for the relevant award entitlement to bereavement leave and the hourly rate of pay provided in respect of a relevant classification in the appropriate award to be taken into account.

This Bill limits the role of the Employee Ombudsman to providing advice and to representation of employees upon specific request of employees in respect of agreements. It gives them another person to call for advice, whether they are or are not members of the union. Whatever assistance the employee can receive I would hope they would welcome. In respect of the award system the Bill simplifies awards by limiting the content of South Australian awards to the defined matters set out in section 90 of the Bill, and it sets a specific time frame for the adoption of the new arrangements for all awards.

In relation to unfair dismissal laws, the Bill is a particular step forward. It requires all employees to have performed at least six months' continuous service with their employer before they can claim an unfair dismissal remedy. From an employer's point of view, you need time to find out whether an employee is serious and genuine about making a commitment to their job, whether they are really able to perform, whether they really make a positive and constructive contribution to the work force at that workplace or whether they are a disruptive and counterproductive influence within that business. The employer needs some flexibility to hire but also to fire. This Bill will enable employers to take action up to six months into an employee's term of employment to dismiss that employee if they are simply not performing.

The Bill also requires casual employees to have performed at least 12 months' regular and systematic service with their employer and have an expectation of ongoing work before being able to claim for unfair dismissal. What is so remarkable about that? These people are casual employees; there is no expectation of ongoing work. At present, employers are having to queue up in the Industrial Relations Commission just for the right not to continue with casual employment. It is an absolutely ludicrous situation and to argue that it is not a disincentive to creating employment simply beggars logic. Anyone who has been an employer knows the difficulties that not been able to get rid of a disruptive employee entails. From time to time—and they are the exception—there are employees who can do extraordinary damage to a business in a short period of time.

Mr Clarke interjecting:

The SPEAKER: Order! I warn the member for Ross Smith for interjecting after he has been brought to order.

Mr HAMILTON-SMITH: Businesses have been scuttled over the inability to fire and replace disruptive, combative, inefficient and incompetent staff. Some discretion needs to be given to employers. This Bill does that.

Mr Clarke interjecting:

The SPEAKER: I warn you again.

Mr HAMILTON-SMITH: This Bill also requires small business employees engaged by an enterprise having 15 or fewer employees to have at least 12 months' continuous service with their employer before they can claim unfair dismissal. I must say that this is a particularly meritorious part of the Bill. I say that, because the vast majority of small business employers in this State are husband and wife teams

or small family businesses. They do not understand the intricacies of industrial relations legislation. They are certainly daunted and scared off by the complexities of having to go to the Industrial Relations Commission. They at least need a period of grace to evaluate an employee's performance before deciding whether or not to give them the guarantee of ongoing permanent employment. This gives those small family businesses a 12-month period to examine the employee's performance before they can claim for unfair dismissal. As an employer I find that to be a very reasonable initiative to be put down in this Bill, and I am certain that any small employer would feel likewise.

The Bill also imposes a $100 unfair dismissal filing fee to deter frivolous or vexatious claims. The fee will be waived in cases of hardship and will be refunded if the claim is discontinued at least two days before a conciliation conference. Again, vexatious claims are occurring each day we sit in this House, and they need to be deterred. They are a continual stress to small business and a solution needs to be found—and it is in this Bill. The Government's reforms establish an alternative dispute resolution process—alternative mediation—outside the IRC to address many matters that currently fall within the jurisdiction of the IRC, although not to unfair dismissals at this stage. Alternative mediation will be an option that is not part of the formal IRC process, although the IRC will retain the capacity also to utilise mediation.

The Bill provides greater flexibility in relation to public holidays by allowing individual employers and employees to agree to alternative arrangements about the observance of and payment for public holidays. As an employer of 50 people I must say that I have been approached on so many occasions by employees wanting more flexibility in respect of swapping public holidays with other time off that I have just lost count. This is a provision that many employees will welcome with open arms; why should we resist it? Surely we need workplace arrangements which are to the benefit of employees and which suit their family and personal circumstances. Surely a bit of flexibility with their time off is an important part of that.

In relation to youth employment, the Bill encourages the employment of young people and protects their competitive position in the labour market. The Bill recognises that the unemployed have no union, and in doing so it recognises that the Government has a responsibility to look after those people and to make sure that they have an opportunity to gain employment, because there is no guarantee that the union movement will reach out its arm to those unemployed people. They are not members of the union and are not paid up with their union dues. Understandably the union will represent its constituency—its paid-up union members. This Bill takes steps to help the unemployed.

Unions provide a valued and important function in the process of our industrial framework and in the vitality of this State's economy. The union movement protects employees from unscrupulous employers. I recall on one occasion purchasing a business which in my view was run by a proprietor who I would describe as unscrupulous and who was indeed ripping off the employees and not running a very good business at all. I was shocked at what I found and quickly fixed it, with the cooperation of the union movement in that case. The union was extremely cooperative. I also add that in my experience I have had innumerable pleasant, efficient and cooperative interactions with the union movement and it provides a valued role. However, there are occasions when the union movement's activities need to be qualified for the protection of both workers and small business.

This Bill introduces changes which will limit the rights of union officials to enter a workplace to situations where the official has a reasonable suspicion that the employer is breaching an award or agreement in respect of a union member and the union official provides the employer with reasonable notice of the nature of the suspected breach, the basis of that suspicion and the intention to enter the workplace. Having entered a workplace, union officials will be able to inspect the time and wages records of their members only. I have seen cases where a union official comes in and says, 'Let me look at your pay records, let's see what I can find,' and it seems to the employer to be nothing more than a union recruiting exercise. If you can just create a seed of doubt in the mind of the employee, you have a potential member of the union. In so doing you create a lot of stress, disharmony and ill feeling in the workplace, particularly in situations where it was a happy and harmonious workplace. Even if it turns out that there is no problem with pay allowance conditions, which is more often than not the case, the ill feeling has still been created and the sense of need has been created in the mind of the employee that they need to join a union. That seems wrong and this Bill fixes it.

This is a great piece of work. It is an important keystone piece of legislation that needs to be passed expeditiously by this House. I congratulate the Minister for its creation. I congratulate the many staff who have worked assiduously with him on it within the department—they have done a good job. The Bill implements the Government's commitment to introduce a series of significant changes to the work force relations system in South Australia. The changes proposed in the Bill will further the South Australian Government's objectives of increasing employment opportunities, economic growth, productivity in investment, workplace cooperation, flexibility, choice and workplace freedom, fairness, protection and reward for effort, job security, job opportunities and simplicity.

The changes will increase the flexibility and freedom of employers and employees to choose the workplace arrangements best suited to their mutual benefit—a win/win outcome. The Bill threatens some sacred cows and some privileged turf. There will be people whose jobs hinge on whether or not this Bill passes. They will oppose it. It is up to us in this Parliament to ensure that right is done at the end of the day. It is anticipated that most provisions in the Bill will be fundamentally opposed by the trade union movement and the Opposition and generally supported by employer groups. South Australian workplaces will one way or another find access to a more flexible system. If we do not take this initiative as a State Parliament we will increasingly see workplaces moving to Federal coverage where Federal legislation offers the win/win outcomes we seek with this piece of State legislation.

We must go forward. We must create jobs. Employers and employees must work together and they want to work together. This Bill will help them to do that. Businesses must be able to hire and fire. Businesses must be able to manage and operate productively and effectively if they are to be successful and if we are to create jobs in this State. Most importantly, we must see a work force that is motivated, not by combative basic need oriented motives, but by self-actualising opportunities, by workplace agreements that encourage them and promote their interests, workplace

agreements that give them an avenue to improve their remuneration and conditions of service for the mutual benefit of both the employee and the employer. This Bill will help achieve that outcome and it should be supported.

Mr HANNA (Mitchell): I rise to speak against the provocative, aggressive and unnecessary provisions in this Bill, which amends the Industrial and Employees Relations Act 1994. It would be rude and dishonest to talk about it as reform because the Bill is entirely regressive. It takes us back to something like 100 years ago in the principles it puts forward to create an animal, dog eat dog industrial relations arena. The Bill is proof of the Liberal Government's disregard for working people and its ideological obsession with free market individualism. Even the new title for the legislation—Workplace Relations Act—is symbolic.

It is individualistic, it is atomistic and represents a view of the world where individual struggles against individual. There is no community, no society, no solidarity between workers, no mateship, no matter what the Prime Minister says—not in this view of the world. Worker is set against worker and workplace against workplace. It will not produce the social cohesion, sense of community and sense of wholeness in the workplace that most workers want.

There are a number of specific reasons that I will touch upon as to why this legislation should be fiercely opposed. The feature of the legislation is the bargaining and agreement process put forward—the so-called workplace agreements. The system put forward is an attempt to undermine not only the rights of individual workers but to undermine the legitimate rights of unions, that is, organised labour to be involved in bargaining on behalf of workers for wages and conditions. Under this legislation union officials will be restricted in their right to enter workplaces. I am completely convinced that any scheme of inspectors is only ever going to be as good as the commitment of the Government of the day to see injustices rectified. Certainly that commitment is utterly lacking on the part of this Government.

The workplace agreements can lead to a diverse range of outcomes. I will briefly refer to one of the most shocking attempted workplace agreements that one organisation I know of sought to put into practice a few years ago. It was an enterprise bargaining agreement, but the principle is the same. The sort of provisions it included were trading off sick days, making the ordinary hours of work between 6 a.m. and 6 p.m., and generally trading off wages for very nebulous, indefinite benefits. This was all the more callous because it was in respect of workers in a sheltered workshop situation. The employers were doing their best to screw every last bit of energy and effort out of those people with disabilities, and I know how much the Minister cares about those people.

Let me go to another aspect of the workplace agreements that this Bill puts forward, and I refer to working hours in particular, to the possibility of trading public holidays and Sunday rates, and so on. This has a profound effect. It is not just a matter for the individuals and not just a matter for specific workplaces, but across society we are seeing the harmful effects of the gradual erosion of the 37½ hour week concept, a concept that was hard fought for by workers and by unions on their behalf. Already, many young people, many families, many mums and dads are practically forced to give up Sundays, to give up Saturday sport with the kids and to give up quiet evenings at home with the family because, in the tough economic environment in which we live, when the employer says 'I want you in next Thursday night and I want you in all day Sunday', there is very little practical choice for the worker.

This points to one of the fundamental fallacies and weaknesses underpinning this Bill, and that is the complete lack of acknowledgment of the unequal bargaining power between employer and employee, particularly when there is a pool of unemployed as there is in these times. The employer holds all the aces and, unless workers can get together and organise to bargain together, they can never win individually against the employer who has the power to say 'Don't come back next week.' It is because this Bill completely ignores that that it gives rise to injustice—not just in general terms but injustice in many tens of thousands of individual lives as workers are forced to work hours they do not really want to work and forced to work under conditions that they would not tolerate if they had any fair choice in the matter.

The Government claims to be making workplaces 'flexible' and 'competitive'. What this means is the individual competing against the next individual so that one young person has to outdo the next young person to get more hours at the fast food shop, or whatever. Flexibility, competition and freedom are becoming euphemistic terms for lower wages and diminished conditions. In the process the Olsen Liberal Government is undermining United Nations principles that provide for dignity, fair pay and no discrimination among working people. Another example of the viciousness in this Bill is the confidentiality clause to apply to individual agreements so that the harsh deals, the oppressive deals, the exploitative deals forced upon workers by employers can remain in the dark, without the benefit of public scrutiny. It makes a mockery of the free market arguments relied upon by the Government in putting the Bill forward in the first place, because one of the basic tenets of a perfect market, according to every economic text book, is perfect information. In other words, everyone should be able to know what everyone else in that market is doing.

So, the hypocrisy of the Government points to its real aims, which are the selfish aims congruent with those of employers in our society, in general terms. Perhaps the most abominable provision of this legislation is the attempt to remove the right of legal action from workers who have been unfairly dismissed. Casual employees and those employed for less than six months will have their right to claim unfair dismissal removed. Bearing in mind that we are seeing a gradual increase in casual labour throughout the economy, this legislation will in the course of time disfranchise more and more of the work force.

Why is this fundamentally unjust? Because the whole premise of the unfair dismissal legislation is that a dismissal has taken place that is potentially unfair. Why should that not be tested in every single case before the appropriate court or commission? It is absolute nonsense in terms of principle for a dismissal that on any objective reading is unfair to give rise to a legal remedy if a worker is permanent but not to give rise to a legal remedy if the worker is casual or has been there only a few months. From personal experience as a plaintiff lawyer, a person who has represented many working people who have been unfairly dismissed—and I say unfairly dismissed as proven by the Industrial Relations Commission—I can say that the biggest single problem for employers is not the law but their ignorance of it.

I am sorry to say that to the small business people in my own electorate, but I have no doubt that 99 per cent of the grumbling that we hear from employer groups and small business people, in particular, is based on their ignorance of

how to properly dismiss a person. There is no doubt under the current legislation that, if a worker does the wrong thing, they can be dismissed; if they are not performing, they can be dismissed. It is only a matter of doing it fairly and properly. In fact, it is the Employers Chamber that is falling down badly in not educating small businesses—or any businesses, for that matter—about how to appropriately dismiss workers they believe are not performing or have done the wrong thing, whatever that might be.

Furthermore, the Olsen Government wants to introduce a $100 filing fee for those employees who are able to file a claim. The Government knows well that such a fee will be beyond the reasonable financial reach of many working people, especially those who have just lost their jobs. I would like to ask whether the Government is also going to be introducing a filing fee to file a defence, an answer or a response to the claim of unfair dismissal. I do not think so, because clearly this measure is designed to knock out people making claims and not designed to achieve justice. Here again I will give one example of an unfair dismissal, to let the Government know quite clearly the sort of situation where it wants heartless provisions to prevail.

About six months ago a teenage woman came into my electorate office. She had been working in a local deli in the electorate of Mitchell, having been employed on a job incentive scheme whereby the employer had received a subsidy to employ her for a certain period. A week before the end of that period, the employer dismissed her. The reason he gave was based on an incident that happened in the sandwich bar in the deli during a busy lunch time when one of the customers complained that they had butter on their sandwich when they had asked for no butter. As soon as the busy lunch hour period was over, he told the young woman, 'I am not having complaints like that: you are dismissed; don't come back. That's it.' There was no period of notice, just 'You can leave now and I will send you whatever I owe you for today.'

That is the sort of behaviour that this Government would condone by the measures that it brings in now. This is the sort of behaviour that one can only conclude the members of this Government care nothing about. It is in that sort of situation that a young woman like that would have no recourse, even in a case of blatant unfairness, under the legislation proposed by the Government. I will draw my comments to a close. I am interested in the fact that the member for Waite, who of course has a military background, has referred to the term 'trench warfare' in terms of the industrial relations arena. The great irony of this legislation, with its emphasis on individualism rather than on collective negotiation and bargaining, is that it will revive the bad old days of us against them, trench warfare and workers getting together one way or another in the face of injustice and oppression to make sure that businesses are stuffed up because workers are getting a raw deal.

It is going to happen more and more. It was happening 100 years ago; it was happening 50 years ago. We have had a long period up until recent times of collective bargaining in the wage and condition arena, but that is being blasted away not only by the Federal Government measures but by this legislation as well, and not to mention the legislation which the Liberals pushed through conning the Democrats in our own Parliament a few years ago. I find it one of the great ironies that, in pushing this legislation with its individualistic, each one to themselves, focus, the member for Waite thinks that this will somehow be an end to trench warfare, when in fact it is reigniting the class war which he thinks he can win. Ultimately, he and his ilk will not win it. I wholeheartedly condemn this Olsen Government measure. I will not call it a reform. It is totally regressive. Its provisions are unfair and oppressive and it will serve to disenfranchise those in our community who have least and it will reward greatly those in our community who have the most, and I will not be voting for it.

The Hon. M.H. ARMITAGE (Minister for Government Enterprises): I move:

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

Motion carried.

Mr CONLON (Elder): It is with some sadness and a sense of lack of hope that I rise to talk, I hope with some factual basis, about this Bill and the Government's general approach to industrial relations. I will not speak on the particulars of the Bill, because I could not hope to do any better than the shadow industrial relations Minister, the member for Hanson, in her very complete coverage of the Bill. But I want to touch on the conceptual framework for this Bill and for the Government's general approach to industrial relations and its existing very bad industrial relations regime. They are amending with a bad Bill a bad Act.

As I have said before in this place, it is an area in which the differences between the Government and the Labor Party are stark. I do not think all members of the Government are bad people, but they are ignorant and uninformed in this. It is a blind ideological commitment to the individual that has no historical, philosophical or legal basis. It is purely a fad and, unfortunately, it is a poor fad that they bring to bear upon the workers of this State, as opposed to those on this side who know full well the essential collective nature of the work relationship.

Let me be clear about this. The employment relationship is, outside of the family relationship, quite possibly the single most important social and economic relationship any of us have in our lives. By the very nature of work, the interests of labour are predicated upon a collective approach to it. That is simply true in terms of bargaining position. I think the member for Bragg summed up the Government's approach best. Their individualism is a little inchoate and a little uninformed and a lot ignorant, but they believe in it, although I am not sure that they actually know what it is they believe in.

The member for Bragg summed it up this way: he said that he introduced the previous legislation and it was about gradual deregulation, instead of rapid regulation. He said that, first, as though it was a natural law that deregulation was a good thing and, secondly, without actually any analysis of what he means. I am sure that the member for Bragg does not mean that the employment relationship should not be regulated by any law at all. I am sure he does not mean that employees should be free to steal from employers with impunity or that employers should be free to decline to pay workers their wages without there being legal remedy. He did not define what he means, but I am sure he does not mean that. I can only help him out and suggest that what he does mean is that he would like to see a removal of the intervention of the State in making the relationship fair within the existing law and, in his mind, a return to the law being governed by contract.

That is a very important point. When the member for Mitchell said we were going back to a relationship of 100 years ago, the Minister scoffed and laughed. I can only say that that is because he is abysmally ignorant on this subject. The only thing that the member for Mitchell got wrong is that it goes back a lot further than that. The relationship described in the contract of employment is a relationship that finds its origin in the sixteenth century. I will explain why.

I think it would do the Minister well to go and read a few texts on this. I would recommend Atiyah's *Rise and Fall of the Freedom of Contract* and the seminal work by Tawney *Religion and the Rise of Capitalism*. The simple truth is as follows. I apologise to Atiyah for encapsulating very briefly his premise. With the rise of the Industrial Revolution there was a great urge to make money. The accumulation of capital made the making of money and new means of production available that were never available before. At that time and just prior to that time there was not a system of contract as we know it. Law was based on status. What I mean by that is that the law that applied to you as an employee applied to you because you were an employee; if you were an employer the law applied to you because you were an employer; and if you were a landowner, and so on.

There were sets of laws. There was the common law and legislation, but predominantly there was the common law that applied to you on the basis of your status. It was inconceivable that people could buy and sell goods at any price they chose to set between each other, because the community had an interest in things being sold within the framework of the community. It was inconceivable that land could be freely disposed of as it is today. That is part of the origin of the reason for or use of trust. All of these things were great impediments upon the opportunities presented by the Industrial Revolution. So, a new doctrine was born, a new philosophy and a new legal system. It was the notion of the freedom of contract, that individuals could make some free bargain between themselves. That freed up the use of land, the use of labour and the setting of bargains that could be predatory, but the problem was that employment had to be explained this way, too.

As I said, the employment relationship is a central social and economic relationship in our society, and at the time when this was happening what occurred was that the employment needed to be described within this new overarching legal structure, or freedom of contract, but the last thing that people wanted to do was actually change the established order of things and have workers get out of their place. What occurred was that status relationship based on taking property in the worker was transformed to the language of contract, and nothing else changed. I tell this House that that is predominantly the same contract of employment that operates today that they want to return us to, that they think should be the governing law for industrial relations.

I will labour this point, because I want to make clear the absolute ignorance of the Government when it treats this area, when it treats industrial law and when it treats industrial relations. They do not feel they have to know anything about it to have absolutely rock solid ideological views on it. What happened with the origin of the contract of employment is, as I said, that there was a status based relationship in which the employer took property in the servant, the master and servant relationship, in the same way as he was then—because they were exclusively 'he'—assumed to have property in his family, and it was what came to be described in the contract; that is, to a great extent the employer had property in the servant. That law persevered well into the 1950s in Australia and it may still be the case.

The Hon. M.K. Brindal: Are you sure of that?

Mr CONLON: I can guarantee that. In Australia in the 1950s, the High Court confirmed that there was an action in trespass available for a master against a person who injured their servant; that is a property based remedy. I will provide the House with an example of two old cases, the reference for the first case I forget but it was an agricultural case. The facts of the case were that an agricultural employee ordinarily started work at 6 a.m, worked until 2 p.m. when he had his dinner brought to him by his wife, and then he worked until 6 p.m. It was a fair working day in those days.

He was told by his employer to go to some place five miles away on the farm at the time he was to take his dinner. The bloke had been at work for six hours at this point so there should have been some sympathy for him. The worker refused to do that. He was brought before the magistrates and he was put off because no employer was required to keep an employee who refused to obey his orders. In fact, the case went so far as to say that there is no contract except which the law makes, and the law says that you must obey all lawful orders. Just a few years later, *Turner v Mason*, a case of which I do remember the citation, examined the same thing. It was a case of a domestic servant—

The Hon. M.H. Armitage: You should write a thesis on this.

Mr CONLON: I did; you can read it.

The Hon. M.H. Armitage: I have read it.

Mr CONLON: It was a case where a domestic servant's mother was ill, possibly dying. The servant was not doing any work that night; she asked her employer whether she could see her sick mother and he refused. She was not working but he refused. She saw her sick mother anyway in case she died and she was put off. She brought a case and this time the language was in contract. The language was that it was an implied term in every contract of employment that an employee must obey all lawful orders. Do members see the point I am making? The ownership that was described in the previous relationship is now described in contract but it is an implied term.

No-one says why this term is necessary to the contract—not like the other tests for implied terms that so informed the rest of our contract law. It was because it was socially intolerable that a servant should be able to disobey his or her master, except that it was now described in contract. I ask members to consider this: the test for a contract of employment—certainly not the exclusive one now but traditionally—was the control test. While members opposite want to describe it as a bargain between equals, what an employee could not bargain for was the right not to do absolutely everything the employer said because, if you were not under the employer's control, you probably were not an employee: you had a contract for services.

I stress all this, because this is the law largely as it stands at the moment. The duty to obey all lawful orders remains in the common law of contract to the present. It is not a necessary element of an employment relationship: it is merely the hangover of a description of a change from a status-based relationship to a contractual one. The reason the contract of employment has never changed is very simple: it never worked. The contract of employment was never an adequate way of governing the employment relationship. As the

industrial revolution grew and as there was a concentration of employees, they combined.

The law in the early stages set its face resolutely against combinations of workers, unions or strikes and it failed. It failed completely until gradually, at the turn of the nineteenth century, there was recognition of organised labour. What has happened is that labour law since that time has developed away from the contract of employment. England established a regime of collective bargaining with legislative protection of what the common law would ordinarily do. In Australia, of course, we went down a path of conciliation and arbitration. The simple fact is that the contract of employment is plainly, manifestly, not only wrong and unfair but absolutely inadequate to describe the actuality of the work relationship.

It has never applied until, of course, 100 years later this Government and conservatives around the country think that, having failed in the nineteenth century, when workers did not even have a vote, it is now an appropriate mechanism and it has not changed in that period. The contract of employment still contains a number of duties. It still contains the duty to obey all lawful orders. It still contains a number of implied duties, which most employees do not know they have. They were found whenever a court, in the old days, needed to find them: the duty of good faith, fidelity and honesty towards an employer.

The duty of good faith owed by an employee towards an employer in the common law to this day extends beyond the end of the contract of employment. When the employer is not paying the employee anymore, there is a duty of good faith not to hurt the employer's interest—after they have stopped paying. Do members know what duty of good faith is owed to an employee by an employer in a contract of employment? Would members like to have a guess? Anyone? None whatever. An employer at common law can put off an employee as long as they are given the requisite notice for no reason at all. There is no good faith at all.

I am saying to the House that this is a legal mechanism to describe a relationship as it existed 200 years ago when not only did no women have the vote but most men did not have the vote. There was a property franchise. It has not changed in any remarkable sense since then for the reasons I have pointed out. It is manifestly not only an unfair way to do it but it does not work and never has worked. This Government will pursue its deregulation, as it calls it, and what will occur is this: it will never actually get organised labour, much as it wants to. It could not get it in the nineteenth century and it will not get it now.

What the Government will get is the unfair outcomes of its attacks. The strong areas of organised labour, as we have already seen in the last decade, will do well industrially and the weaker areas will fall behind. Women, child-care workers, hospital workers, every person who cannot strike, every person who works in a service area, every person who is weakly organised and those employed in the hospitality industry will all fall behind the strong. The Government has had the lesson of history on this. It has abysmal ignorance on this. The Government knows nothing about it but still it will legislate. Members opposite can keep their selfish individualistic fantasies. We on this side understand the nature of the law and the nature of work, and we will do everything we can to protect the workers of South Australia.

Mr CLARKE: Madam Acting Speaker, I draw your attention to the state of the House.

A quorum having been formed:

Mr FOLEY (Hart): I join my colleagues this evening in opposing the Government's legislation. As the previous speakers have said tonight, the Labor Party feels that this is draconian legislation, which is not about supporting the work force of this State but about supporting a narrow interest group of people who will benefit. This Government always looks for simplistic solutions to its problems to give the appearance that it is out there at the forefront. The Opposition is opposed to this legislation. My colleague the shadow Minister for Industrial Relations has put a lot of effort into going through this legislation. He indicated to us at a recent Caucus meeting that this may not be the final draft and that we may, indeed, see further amendments and drafts over the break. We may even have a different Bill when we return to this House for the May budget session.

That is what I would consider to be a sloppy way of handling legislation. I must ask the question: why are we dealing with this legislation now when it is perhaps not in its final format? I have also heard rumours that—surprise, surprise!—even some of the employer groups are not satisfied about or happy with certain elements of this legislation. Indeed, the Employers Chamber of Commerce has some grievances. However, I will let my colleagues in on a little secret. I do not think we will hear the Employers Chamber criticise this Government publicly. It is fair to say that the Employers Chamber has grievances with this Bill that it is not in its complete form. The Government—the Minister in particular—has not properly drafted this legislation and has not completed and concluded discussions with the various interest groups to give us a final package of legislation to deal with.

This is my second term in this Parliament. This Government has one consistent: about every 18 months or two years we see new law to attack the working people of our State. It is tradition. It is typical form from this Government. The former Minister, the member for Bragg, was the first Minister to embark on this, and he has pride in what he achieved with that legislation. I do not begrudge him that, even though we oppose much, if not all, of what he did. This Minister is dealing with it in a more clumsy manner—in a manner that is not particularly clever.

We have a broad range of concerns about this legislation. It is yet again further evidence of the Liberal Party's ideology when it comes to working people in our State and in our country. It is very much driven by Peter Reith's philosophy on industrial relations. Basically, we do not have industrial relations: we simply have the employer-servant relationship, no better illustrated that by what we saw with Webb Dock and the approach to sorting through the issues to do with waterfront reform in this country.

It might be interesting to note that, from my latest discussions with people involved in the waterfront, it is apparent that Patrick is doing it cheaper than prior to the industrial disputation. But guess what? Those savings have not been passed onto the consumer. The shipping agents and companies using the stevedoring services have not seen a reduction in the cost to them, which clearly just goes to show that any savings made have gone into the pockets of Patrick and not into any so-called microeconomic reform to benefit the economy as a whole. I suspect that that is not news to people.

In Committee, the Opposition will go through this legislation clause by clause. I look forward to hearing from members opposite because, according to the last opinion poll, they are not travelling so well. From the last opinion poll, it

was apparent that the member for Unley is in trouble; the member for Adelaide is certainly gone; the member for Colton is gone; and the member for Hartley is gone. The reality is that the latest opinion poll that we have seen published is that your ETSA legislation has certainly driven your polls to an all time low—clever strategy that one! But the reality is that you are now running the very real risk of alienating the very people you will need to have any fighting chance at your next State election, that is, the working people of your districts.

Member for Unley, if you do not think that there are many working people in Unley you are going to need to support you, you are sadly mistaken. We know the member for Colton is not running at the next election. Whoever replaces the member for Colton will need the support of working people in his or her electorate. The reality is that they will not get it. We have seen some very clever politics from this Government. I know that we do not normally comment on polls, but it is past 10 o'clock. Their primary vote is crashing. They wondered, 'Can we do it better? Can we alienate another section of the community?' And they have found a way to do it.

I find that this is extraordinary but very cruel politics, because it is about alienating and hurting those within our community who are most vulnerable. The member for Unley need worry more about where his next vote will come from than about European wasps, local government reform or some of the other issues he is dealing with. I look forward to the member for Unley having a view on this Bill. I would like to hear the member for Unley's view on this. No doubt the member for Unley will give us his normal humdrum of irrelevance, where he does not canvass anything in the Bill of any substance but simply goes on with political rhetoric.

An honourable member interjecting:

Mr FOLEY: I'm happy to talk about any aspect of this Bill. One aspect that has concerned me about this Bill is the downgrading of the functions of the Employee Ombudsman, who will have his or her position significantly gutted—

An honourable member interjecting:

Mr FOLEY: Exactly, as the Leader says, because the original Employee Ombudsman has not played ball for this Government, and clearly they have decided that they had best reduce the powers of that Ombudsman. I understand that this Bill is proposing a clever process where we will have workplace mediators. We will have a ludicrous situation where we have a whole raft of new positions out there for mediators with now power. Can you just imagine a mediator sitting down with an employee and an employer with no sanction and no power and having to attempt to mediate a resolution? I would not mind having a look at the scorecard at the end of the first six months of that process to see how many are on the side of a win for the employee and a win for the employer. It would be a bit like a one-sided football match where my beloved Magpies were 25 goals to two or something like that, because I do not think there would be too many with no umpire.

An honourable member interjecting:

Mr FOLEY: Exactly! That's it. As the shadow Minister says, it will be like having a game of footy without an empire. Could you imagine a mediator instead of an umpire at a football match? He would be asked, 'You did not really mean that head high tackle, did you?' It is just ludicrous. For a Government that talks about smaller government and leaner processes, you seem to be more about putting bureaucracy and cumbersome processes into place that at the end of the day serve only to make a mockery of what I thought was an attempt to streamline our workplace relations. As I said, they no doubt are some of the issues with which the Employers Chamber is less than satisfied. I can only hope that our Employers Chamber can make representations to the Government.

But I look forward to hearing the member for Adelaide. If any member is on a death wish in this Parliament it is the member for Adelaide, where no doubt he has seen his margin drop quite significantly with the Government's handling of the ETSA debate. I suppose he thinks there are not too many workers living in North Adelaide for him to worry about, but as my colleague the member for Spence would point out there are workers in Ovingham and other parts of his electorate who will know full well what this legislation means. It is anti-worker and is simply not fair for the ordinary South Australian man and woman who want to go about simply earning a decent income without the threat of having to work within the constraints proposed in this Bill. As we go through this legislation—and I have done that very closely—we find the good old issue of public holidays. Let us make sure that, if we are going to have a crack at the worker, we had best throw in public holidays. It is a pretty mean spirited Government which at every opportunity wants to bring up the issue of public holidays.

All in all I think it is a pretty poor attempt at legislative reform. It is all about hurting the worker and advantaging the employer. What is more, I know we are not dealing with the final form of legislation, because this Minister has not been capable of getting it into its final form. We will see more amendments coming through and more changes. The employers' chambers will have their grumbles heard by this Government; no doubt with some luck the United Trades and Labor Council will be able to have further dialogue with this Government; and what we are dealing with here tonight will not be what we deal with in a couple of months.

I am looking at a workplace agreement from Western Australia, and it is a pretty thin bit of paper. The document provides that wages be $450 per week, paid in weekly instalments and that ordinary hours of work shall be 45 hours per week; that is $10 an hour. They have blanks here which they fill in, providing that the employee will receive four weeks per year of paid annual leave, as if that person would not be entitled to that. They also provide for 10 days sick leave. This is a terribly flimsy document, and if this is what a future employee in this State has to rely on for their job security, it says to me, 'Look out: this is pretty scary stuff.' It is incumbent on all of us in this Parliament, particularly on the Labor side of politics, to make sure that every person in each of our electorates understands the scary documents and scary workplace agreements that this State Liberal Party, together with the Federal Liberal Party, want to make the norm.

Conservatives opposite such as the member for MacKillop, who is probably one of the keener supporters of significant workplace reform, should one day stop and look at how vulnerable we want to make workers in our community. One of the interesting things, particularly from where I sit as shadow Treasurer with an interest in financial management, banking and so on, is that we are creating in this society workers who no longer have job security. Whether that be real or perceived, they have no job security, and that is now getting translated to areas such as the bank. Whether or not that employee has job security, the banker will look at it and say, 'I don't perceive your job security as

being all that good. If you want to borrow to buy a house, I am not prepared to accept a three-page flimsy document that has $450 per week over 45 hours pencilled in as your contract of employment.' As they are already doing, bankers will look at such agreements and say, 'You are not a risk that I am prepared to take onto my books to lend money to buy a house.'

So, we are forcing a whole class of people in our society away from owning their own house and away from the Australian dream, and forcing them into rented accommodation. If you do not think that is happening, go out to some of the northern suburbs represented by my colleagues the Leader and the members for Napier and Taylor. Have a look down south and certainly in many parts of my own electorate, where people are simply not able to buy homes, because bankers do not perceive those people to have decent job security. I would have thought that if any class of employee would know a bit about job security it would be members of this place, particularly the member for Adelaide, whose job security is pretty flimsy and the member for Unley, whose job security is looking pretty shaky. The job security of the members for Hartley, Colton and (dare I say it) even Bright and certainly Light, is such now that I would have thought they might have a bit of empathy with the worker.

I have just caught the eye of the member for Adelaide, who I know is attempting to ignore my comments tonight, because they are putting fear into his belly, but what I am saying is correct. The member for Adelaide knows that many people throughout the seat of Adelaide are very much concerned about the insecurity that this legislation is bringing to them. I feel for those people, and no doubt I and all my colleagues will be knocking on every door in every seat in this State, particularly those seats that are held by 5 per cent of the votes and under, and making sure that everyone knows the mean, nasty things the members for Adelaide, Hartley, Unley and Colton did to them. When those people go into the ballot box in 2½ years' time, it will be not only your treachery over ETSA at the forefront of their minds: it will also be your cruel, mean, disgraceful industrial relations law.

An honourable member: What about the member for Flinders?

Mr FOLEY: The member for Flinders sits there thinking, 'This won't bother me.' But that tidal wave of discontent with conservative politics may well hit the member for Flinders in a way she cannot conceive. I dare say that each one of these nasty pieces of legislation that you bring into this House will be incremental and cumulative. The stack will get higher and higher and, quite frankly, if I was sitting in one of those seats held by under 5 or 6 per cent of the vote, I would be pretty concerned. Every time a Cabinet Minister comes into your Caucus meeting as the member for Adelaide has done and says, 'I've got a bit of law that I'd like you lemmings to follow me with. I've got a bit of law here that's a great bit of reform; it's going to be my mark in this place and I need you lemmings to come with me,' you had better start to think about it, because every bit of dopey law and every vicious attack on working people is just chipping away at your margins. If you cannot see your margins are getting whittled away by this Government—

Members interjecting:

Mr FOLEY: At least one satisfaction that we on this side can take is that, when the poor workers suffer the sack because of your law, there is a fair chance that that law will contribute to your sacking as members of this Parliament. So, if you are foolish enough to continue to undermine your own careers, what hope do we have? I have been pleased to make a few observations in the short opportunity I have had tonight.

The Hon. M.K. Brindal: Absolute drivel.

Mr FOLEY: The member for Unley calls what I put on the public record tonight absolute drivel. I am offended by that. If you are saying that my standing up for working people in my electorate in Port Adelaide is drivel, quite frankly—

Members interjecting:

Mr FOLEY: Exactly. As my colleague says, I am out there researching this legislation. When called into the breach to speak ahead of time by the member for Elder, I have had to come down without my notes and speak on this Bill, and I think that should be acknowledged and not ridiculed, because this Parliament might have had to stop at 10.10 p.m. if I had not come forward tonight to offer my contribution. I offer my colleagues my notes upstairs if anyone would like to make use of them. They are there, and I am happy to make them available at any stage. My contribution tonight is certainly one that I will look back on and at least know that I can doorknock at the seats of Unley and Adelaide at the next election and make my contribution available to all those electors.

Ms HURLEY secured the adjournment of the debate.

WINGFIELD WASTE DEPOT CLOSURE BILL

Received from the Legislative Council and read a first time.

ADJOURNMENT

At 10.32 p.m. the House adjourned until Thursday 25 March at 10.30 a.m.