HOUSE OF ASSEMBLY

Wednesday 26 May 1999

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

KAPUNDA HARNESS RACING CLUB

A petition signed by 124 residents of South Australia requesting that the House oppose the recommendation that the Kapunda Harness Racing Club cease to function as a trotting club was presented by Mr Venning.

Petition received.

EMPLOYMENT

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

Leave granted.

The Hon. J.W. OLSEN: Twelve months ago today the State Government unveiled its $100 million employment statement—the largest jobs package ever seen in the history of this State. Twelve months later, this strategy is paying dividends. Today, I can report back to this House that, since then, unemployment in South Australia has fallen, and fallen significantly. Fewer South Australians are looking for work. More South Australians are in a job. The number of people looking for work in South Australia has dropped by 9 500. But even better than that, the number of people with a job has increased by more than 20 000.

The Government has embarked on an aggressive investment strategy to attract back office and call centre operations to this State, and it is paying off. It is paying off for the 6 000 people employed in the 150 call centres in this State. And today I would like to announce that the Government has secured yet another call centre, which will employ another 150 people. Stellar Call Centres, which is a joint venture between Telstra and the US-based Excell Global Services, will open in July and (I hope the member for Hart is listening) it will open in the new EDS building in North Terrace, Adelaide.

Stellar joins the growing list of companies—Motorola, Westpac, Bankers Trust and Boral Energy—which are choosing to come to Adelaide. We have achieved this through the concerted efforts of the Government, with the support of a dedicated department that is focusing on this policy. We had a plan; we identified an industry sector; we targeted it and pursued it; and that strategy is paying off. We have done this in spite of the Opposition. I say that because we have had some companies come to us and question whether South Australia really does welcome investment. We have been advised that there are three companies—involving up to 300 jobs—that have decided not to invest in South Australia due to the treatment of Motorola by the Opposition.

An honourable member interjecting:

The Hon. J.W. OLSEN: The member for Hart interjects. He knows that I will not name those companies in a public forum for exactly the reason that you have pursued Motorola and other companies. Despite that, we have created 6 560 jobs in the past nine months by attracting business investment into the State. We have generated $162 million in investment in that time. We have attracted top class international companies to the State, and we will continue to do so, despite the attempts of those opposite to scare off investors.

I welcome Stellar Call Centres to South Australia. It has recognised that we have the perfect package of lower office rental costs, lower staff turnover and a skilled, available work force—all competitive advantages when considering a location for a company of this nature and type. The call centre industry is growing at about 20 per cent each year. We want to continue to grow that industry sector as well as our defence and mining industries. We will achieve that objective. Twelve months ago I said that tackling unemployment was the Government's No. 1 priority. Twelve months ago I said that, together with the private sector and the community, we must keep adapting and seeking out the best options for our State. That approach stands today, and it will be a foundation for the budget tomorrow and the future for South Australia.

LEGISLATIVE REVIEW COMMITTEE

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

That the report be received.

Motion carried.

Mr CONDOUS: I bring up the report of the committee on unproclaimed legislation and move:

That the report be received.

Motion carried.

QUESTION TIME

EMERGENCY SERVICES LEVY

The Hon. M.D. RANN (Leader of the Opposition): Does the Premier agree with the comments of his Emergency Services Minister yesterday that, under the emergency services tax, a $400 000 home in North Adelaide will actually be receiving a saving—and I direct my question to the Premier not the junior Minister who does not sit in Cabinet?

The Hon. R.L. BROKENSHIRE: I sincerely appreciate this question by the Leader of the Opposition. What I said to the community yesterday, when I was asked—

Members interjecting:

The SPEAKER: Order! The Minister has the call to reply.

The Hon. R.L. BROKENSHIRE: Thank you very much, Mr Speaker. I would like to put this to members of the Opposition, and I would appreciate their listening. Yesterday at the press conference I was asked whether there would be unders and overs in the levy, and I was asked to provide some examples. I gave an example of people who would be better off in Elizabeth, Noarlunga Downs, Jamestown, Penola or Middleton. Wherever you look, there will be some unders and some overs. I highlighted North Adelaide simply because I would have thought that the Leader of the Opposition, who for many years has lived in North Adelaide, I understand, would be interested to know that some people in North Adelaide will be saving as a result of this levy.

Members interjecting:

The Hon. R.L. BROKENSHIRE: Further to that, I would have thought that the member for Elder would be very interested to know that some people in North Adelaide will be better off over this levy. The reason is that the member for Elder is trying to have a go—

Members interjecting:

The SPEAKER: The Minister will resume his seat. There are too many audible interjections on both sides at the moment. The Chair is having difficulty hearing the reply.

The Hon. R.L. BROKENSHIRE: Thank you, Mr Speaker. I would have thought the member for Elder would also be interested to know that some people living in North Adelaide, just like Elizabeth and Noarlunga Downs, will be better off under this levy. I have watched in the media, day in day out, and listened on the radio to the member for Elder who is about to knock off the member for Ross Smith and is showing an interest in winning preselection in and around North Adelaide. That is why I thought he would be very interested.

Mr CONLON: On a point of order, Mr Speaker, not only is the Minister straying from the relevance of the question, but I warn him that he is going dangerously close to misleading this House.

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order! The House will settle down. There is no point of order. The Minister was starting to stray into debate. Has the Minister concluded his remarks?

The Hon. R.L. BROKENSHIRE: Yes, Mr Speaker.

Mr Venning interjecting:

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

BUSINESS INVESTMENT

Mr HAMILTON-SMITH (Waite): Can the Premier update the House on progress in relation to South Australia's business investment and job creation achievements?

The Hon. J.W. OLSEN: The one issue which is at the heart of the Government's agenda is job creation. To achieve job creation, you have to have private sector new capital investment. A key to that is an effective and targeted business investment strategy. We need to have interstate and overseas companies to establish a base here. In addition, we need the capacity for South Australian-based industries to grow. We are proud of our record, particularly in the course of the last year, but it needs to be improved upon.

Building on recent successes in the area, through our business investment program we have achieved in the year to date a further 3 129 direct jobs. In addition, the flow-on effect of those jobs being created through business investment is a range of associated flow-on job opportunities. That amounts to a further 3 426 jobs being created. That is a total of more than 6 500 jobs. The total employment impact of 6 500 jobs, year to date, is a good achievement. That is matched with private sector new capital investment of $161.43 million, and that is a substantial dollar new private sector capital investment in the State.

The impact of this investment on gross State product is $2 177 000 000. That is the substantive nature of the $161 million investment, the 3 000-odd jobs created directly, and the add-on 3 000 jobs that are the flow-on indirect associated jobs. That comes on top of job creation performance in our investment attraction program for 1997-98. That is a total of nearly 12 000 jobs directly and indirectly created with an investment of $335 million. We are pleased with those figures, but will not become complacent about them because, as we have always said, they are volatile figures. They can fluctuate substantially.

But there are some forward indicators that should give confidence about the direction of the South Australian economy. Those indicators are, for example, the ANZ job advertisement index. To April there was a further 12.4 per cent increase in the ANZ job index for South Australia, a far higher increase than in any other State of Australia. The level of job advertisements is at its highest level since 1990—the highest level in almost ten years—and the job advertisements are an indicator of job growth and job opportunities in the forward months. That is underpinned by the respected economic forecaster, Access Economics.

In its latest *State's Economic Monitor*, Access Economics has forecast steady employment growth for South Australia from the current historic high of 658 000 employees to 670 000 employees next year, and with continuing steady employment growth each year to 2002-2003. That is Access Economic's forward projections for South Australia. That illustrates conclusively that the policies that we have put together are bringing about the long-term trend line direction we want for the rebuilding of the economy for job certainty and job creation for South Australians.

We have consistently placed employment creation at the top of our list of priorities through, for example, the comprehensive strategies in the statement last year, and we will continue to do so. It does not help, of course, to have our efforts to reconstruct the Government's finances through debt reduction thwarted wilfully by the Opposition. Sound Government finances are as important for creating and increasing business confidence and therefore attracting private sector new job creation funds as well as freeing up financial resources to direct into Government employment programs.

Interstate and international boardrooms look at the economic performance of a State, its debt levels and its capacity to keep taxation levels down before investing. We have seen, and I have warned in this House previously—and the member for Peake would do well to listen to this for a moment rather than reading his newspaper—that New South Wales has just reduced its payroll tax and that Victoria, for the second year in a row, has reduced its payroll tax. Let us wait to see what Queensland does with its payroll tax.

Mr Koutsantonis interjecting:

The Hon. J.W. OLSEN: The honourable member has never, as I understand it, employed anyone, so he would not understand what it is like to pay payroll tax for the privilege of paying someone else a wage. It is the most insidious tax on employment opportunities. But why are we not in a position to reduce the tax? Because the Labor Party opposes our capacity to free up the debt. The Labor Party opposes our capacity to take the $2 million (or thereabouts) a day in interest payments and redirect that to payroll tax reductions. Members opposite smirk. Do members know why they smirk? It is because they do not want us to break free. They do not want new private sector investment. They do not want the economy to improve, and for base political reasons in the next ballot box.

Members interjecting:

The Hon. J.W. OLSEN: Members opposite do not want South Australia to succeed. The policies of the Opposition are designed to constrain, inhibit and restrict.

An honourable member: What policy?

The Hon. J.W. OLSEN: What policy? The policy of 'No' to everything. That is the policy and the only policy, as the honourable member points out. We see other States in Australia reconfiguring their economy, getting rid of their

debt and getting costs down for new private sector investment. We can either match them and compete for the jobs and for private sector investment or we can see it disappear. In the last year we have had a good track record. We want to continue that in the future and, despite the Opposition, we will continue the course to rebuild and give the greatest security we can give to any individual and family in this State—job certainty, job security and further job prospects for young South Australians.

EMERGENCY SERVICES LEVY

The Hon. M.D. RANN (Leader of the Opposition): My question is directed to the Premier. Given the comments of Mr Wayne Cornish reported in today's media, will the Premier now meet with groups such as the South Australian Council of Social Services, the Farmers Federation, local government, the real estate industry and the Council for the Ageing to listen to their concerns about the emergency services tax? Yesterday the Premier claimed that the Government had consulted with the community, including the Farmers Federation. Today Mr Cornish, President of the South Australian Farmers Federation, said that he was concerned that the tax was inequitable and that consultation had been inadequate.

Members interjecting:

The Hon. M.D. RANN: He is trying to work out who will answer the question. He is the 'good news' Premier.

The SPEAKER: Order! The Leader will get on with his explanation.

The Hon. M.D. RANN: Mr Cornish said, and I quote—

Members interjecting:

The Hon. M.D. RANN: Will it be the Deputy Premier or the kiddie Minister?

The SPEAKER: Order! I will withdraw leave if the Leader does not get on with his question.

The Hon. M.D. RANN: Mr Cornish said:

> We believe that the consultation that has been had with the community in general has been virtually non-existent.

Mr Cornish continued:

> Consultation has been missing in this whole process.

The Hon. J.W. OLSEN: I am glad that we have the gallery full today because it shows the lack in substance of questions from the Opposition, particularly from the Leader of the Opposition. The fact is that the Farmers Federation was represented on the advisory committee under the legislation passed by the Parliament. The advisory committee gave advice to the Government as to the structure and the percentages. Perhaps the Leader of the Opposition would like to do a little amount of homework just to get the facts right before he asks the question. If he did a bit of homework, he might not embarrass himself quite so much. I can assure the Leader of the Opposition that I have more meetings with the Farmers Federation than he would ever have with the Farmers Federation on a monthly or yearly basis rather than on the basis of each decade.

HOUSING TRUST, BUILDING PROGRAM

Mr SCALZI (Hartley): Will the Minister for Human Services outline to the House the new building program for the Housing Trust for 1999-2000?

The Hon. DEAN BROWN: I thank the member for Hartley for his question, because I acknowledge that he has many Housing Trust tenants in his electorate and is therefore very keen in terms of what the Government is doing with its new program.

Members interjecting:

The SPEAKER: Order! Stop interrupting the Minister.

The Hon. DEAN BROWN: I draw to the attention of the Labor Party that in 1990 the high interest debt level within the Housing Trust was $375 million. We were paying $55 million a year out of the trust just to pay the interest on that debt. We now have that debt down to $25 million and, because of that, we can put $40 million this coming year into building 150 new homes, to complete 150 new homes and to renovate 950 older established homes within the trust. That is a substantial increase on what we have been able to achieve in the past year and over recent years. It is a result of the decision of this Government several years ago to focus on reducing debt so that we could then put the money not into interest payments but into building new homes for the people who need them in this State.

Not only will we finish 150 homes next year but we expect to start about 200 homes next year. This shows that the building program is actually on the increase. Even the number we will complete next year will be 50 more than we completed this year. The good news is that we have now got that debt down to $25 million and we will eliminate it in the next financial year. Then all the money, except for our very low interest rate debt, can go towards building new homes or renovating the older homes. This Government, through its wise management of the finances of the trust, is now able to deliver the benefit of an increased number of houses.

SHIP BREAKING INDUSTRY

Mr FOLEY (Hart): Did the Premier suggest to the Australian Steel Corporation that the Government could fast track planning approvals for a proposed ship breaking facility on Pelican Point that effectively bypasses council planning regulations and before the council or local residents had even been informed of the proposal and, if so, why?

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. OLSEN: This is a question from the member for Hart who has taken a bit of a proactive stand recently on Pelican Point, but that is despite the fact that the member for Hart knew about the Pelican Point proposal two weeks before it was announced. He had at least two briefings—telephone briefings, I acknowledge—in relation to that. At these briefings he said that he understood why the power station had to go where it was: he knew it was because it was a terrible site for almost anything else. However, in these briefings and discussions the member for Hart had one condition: he wanted to create a buffer zone between the power station and the residential area and it was in the form of a request for a golf course. He wanted a golf course between the power station and the residents.

Mr Foley interjecting:

The Hon. J.W. OLSEN: The member for Hart might not like a bit of the truth now coming out, but you are going to get it all, because I have had the hypocrisy of the member for Hart.

Mr FOLEY: I rise on a point of order. I am happy for the Premier to say what he likes about the power station, but my point of order is that my question was about fast-tracking the ship breaking facility. Did he say 'Yes' or 'No'?

The SPEAKER: Order! There is no point of order, and the member knows that. I cannot control how the Minister replies.

The Hon. J.W. OLSEN: Thank you, Mr Speaker. The member for Hart's tune only changed when the Port Adelaide Mayor, Johanna McCluskey, bought into the scene. That is when he changed his tune. This comes from a guy who agreed to keep quiet about the location of the station! He was not worried about his constituents then: he was worried about a golf course. If the honourable member wants me to talk about some other discussions that he has had with senior public servants, I will. He is playing a charade with his electorate on this issue.

In relation to the ship constructors' proposal on the Pelican Point site, the simple fact is that I have agreed to an extension of a further 90 days so they can prepare advice to the Government that they can finance a feasibility study into the proposal.

BIOTECHNOLOGY

The Hon. R.B. SUCH (Fisher): Can the Deputy Premier outline the Government's commitment to the commercialisation of biotechnology in this State and the benefits that will arise from that commercialisation?

The Hon. R.G. KERIN: I thank the member for Fisher for his question and for his interest in and commitment to biotechnology. He has taken it on as a project, as he demonstrated in his contribution to this place yesterday. Yesterday we announced a $2 million commitment from the Government for the establishment of a world class Plant and Food Biotechnology Centre for South Australia at the Waite Institute. Biotechnology provides the opportunity for us to utilise new global technologies that will allow us to make major advances in crop improvement for primary producers in South Australia.

The centre will be the foundation stone of a large biotechnology industry in South Australia. This certainly has the potential to greatly increase jobs across a whole range of industry sectors and to make a significant contribution to the State. Predictions of the increase in production of field crops alone run out at $200 million over the next 10 years. In line with the Premier's Food Plan, a key aim of the Plant and Food Biotechnology Centre is to attract both research and commercial investment from private industry to establish the State as a producer of new plant varieties and innovative foods and products. It will also link the researchers and biotechnology companies and nurture small companies to create jobs by commercialising new technologies and products. It will build on some major collaboration that has taken place in South Australia between the research institutions and between those institutions in partnership with industry.

In addition, South Australia's education system will be enhanced, with biotechnology training at all levels, including vocational, graduate, post graduate and post graduate doctorate training for Australian and overseas students. The centre will add many direct and indirect benefits to the South Australian economy, including new job-creating commercial enterprises, an opportunity to develop our own biotechnology rather than purchasing it at great cost from overseas, and the retention of our world class researchers and their expertise. That is important because, if we do not follow this track, they will move elsewhere. It will also help us to achieve world competitiveness in agricultural production, thus securing our economic future.

Biotechnology means many things to many people and it is important that I explain briefly what it is and dispel some of the myths. I encourage members to look at page 13 of today's *Australian*, which talks about some of those myths. The first paragraph states:

> The debate over genetically modified food has been distinguished by its call for information in the face of the public peddling of the most extraordinary misinformation.

As I said, I encourage members to read that article. Genetically modified food is well and truly misunderstood. As far as biotechnology goes, plant breeding is something that takes many years. A couple of cherry varieties that we launched last year had actually taken 20 years. Biotechnology short circuits that whole process and allows us to get there a lot more quickly, which has the potential to make us much more internationally competitive.

Mr Venning interjecting:

The Hon. R.G. KERIN: That is right. The other thing is that this centre will provide us with the opportunity to plug into a major announcement by the Howard Government that it is going to invest $700 million over the next four years, and it is important for South Australia to get its share of that money. We are very pleased to have made that announcement and look forward to the number of jobs that it will create for South Australia.

SHIP BREAKING INDUSTRY

Mr FOLEY (Hart): My question again is directed to the Premier. Why did the Premier—

Mr Venning interjecting:

Mr FOLEY: I think you had better listen to this one, Ivan. Why did the Premier secretly offer land at Pelican Point to the Australian Steel Corporation two years ago to establish a ship breaking industry only several hundred metres from a residential housing estate and without any prior consultation with the local council or local community? In a letter to the Australian Steel Corporation—

Mr Venning interjecting:

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

Mr FOLEY: In a letter to the Australian Steel Corporation from the Premier, dated 30 July 1997, and leaked to the Opposition, the Premier personally offered land at Pelican Point for a ship breaking industry and said that he was strongly supportive of the project. The letter states:

> Given the size and importance of the project, the major project provisions of State legislation would appear to be applicable and could be used to fast track planning approvals if necessary.

This was 14 months prior to Pelican Point being offered by the Government to bidders as its preferred site for a new power station. Explain that, Mr Premier.

The Hon. J.W. OLSEN: I am not quite sure where the member for Hart is trying to go in all this. Is he suggesting that I should not go to a range of private companies—and he has one letter; I reckon that I could find another 50 or 100 letters to investors in which we have said 'Come to South Australia. If you come to South Australia and you have a big project, there is a law in this State that says that you can get major development status. And if you qualify under the law, then we will facilitate the investment.' If the honourable member wants me to make an apology for going out and attracting new private sector investment, complying with the

law of the Parliament in achieving it, then he is horribly mistaken. We will continue to attempt to attract new investment.

The employment figures I have reported to the House today do not just happen: they are a lot of hard, dedicated work and commitment. It is about marketing the State and about attracting new investment into this State. I will continue to go out and market to companies nationally and internationally to invest in this State. National Power, by the way, is going to invest about $400 million in meeting the power needs of South Australia in the summer after next.

Mr Foley interjecting:

The SPEAKER: Sorry to interrupt the Premier. The member for Hart has had a fair go today. If he continues, I will start to warn him.

The Hon. J.W. OLSEN: Because we sold some 45 000 air-conditioners this last summer period compared to 30 000 in previous years; because of the increased demand for power consumption; and because of the economic activity pick-up in South Australia, commercially and industrially there is more power being sold, which means that we need more power being generated. If we did not get new power generating capacity by the summer after next and we had brownouts and blackouts, I know who would be the first person on his feet complaining that we did not fix the problem before it occurred. Not only are we getting the private sector to pay for this power generating facility, but it saves the taxpayer borrowing and building this power generating facility.

So we will continue to attract new private sector capital investment. It will underpin the jobs growth that we have had. And the member for Hart does not refer to the nine or 10 months of job growth, the nine or 10 months of unemployment decline, the best position we have been in, in employment-unemployment terms, since 1990: for 10 years the best position this State has been in. Why? It is not because of your carping, your criticising, your opposing and your no plan policy: it is because we have got off our backside and tried to do something for the State, and we will continue to do so.

GOVERNMENT ON-LINE SERVICES

Members interjecting:

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

Mr CONDOUS (Colton): Will the Minister for Information Economy advise the House of the significance of continuing to provide Government information and services on line?

The Hon. M.H. ARMITAGE: I thank the honourable member for a particularly important question dealing with the future of Government service provision. The budget, which the Treasurer will announce in one day's time, I am pleased to say will contain significant funding to enable the ongoing development of a number of on-line services, which will therefore enhance the ability of South Australians to access information and services when they want to, rather than when Government services happen to be open.

The House will no doubt recall that a substantial effort has been made over a number of recent years to increase the range and the variety of on-line services. As people would know, they can now renew their motor vehicle registration, book tickets to a range of sporting and entertainment events, and pay their water bills on line, and so on. The provision of an additional $2.5 million in seed funding will allow the Government to drive a number of initiatives in this on-line area and will also allow us to, if you like, polish up a number of already existing services.

A particular example of this is the Government tenders site, which has been providing the availability of Government tenders on line for about 18 months. It has been extraordinarily successful, with a large number of people accessing it and downloading the tenders. Clearly, the next step will be to have the business people of South Australia being able to lodge their tenders on line as well, which will be a marvellous thing for business. It will provide substantial savings in time and effort for the private sector and, obviously, it will also be more efficient for the Government.

So, those are the sorts of initiatives which see us being able to provide real leadership in the world of electronic commerce, and it will have a profound effect on the rate of IT utilisation in South Australia. Indeed, it is my view that, shortly, we might make sure that people can only lodge tenders on line at some stage in the near future. Clearly, that will also drive IT utilisation.

There are other sites developed which will contain a lot of information that people in South Australia will like, ranging from transport timetables to weather information, educational resources, perhaps details of the Crows' victories, and so on. As part of this effort, the key entry point (or, as the jargon knows them now, portals) for this information, SA Central, will be further developed and improved with a much greater search engine capacity and, indeed, it will have what people now call greater stickiness, which means that people will stay within that site for a longer period of time.

The provision of electronic services on line I think serves as a step towards digital democracy. An excellent example of that is the ERIC web site, which I announced last night and which now includes a chat site to enable South Australians to have input into and make comment on the industrial relations Bill as the House is debating it, as it is between the two Houses and as it comes to fruition. It is a great initiative that will be announced by the Treasurer tomorrow; frankly, the budget funding helps to buy South Australians a place in the future.

SHIP BREAKING INDUSTRY

Mr FOLEY (Hart): Why has the Premier now advised the House that the ship breaking facility has had a further 90 day extension on the land at Pelican Point, when his Treasurer (Hon. Rob Lucas) indicated to the media last week that the ship breaking proposal would be withdrawn? There is a major discrepancy between the statement last week by the Treasurer and the statement by the Premier just given to this House. The Treasurer, in an interview last Wednesday, said:

> They [the Australian Steel Corporation] had been given an option but subject to if a project of State significance emerged then the offer could be withdrawn and clearly—

this is the Treasurer—

> a power station is a project of State significance.

It has been reported that six kilometres of electricity line, strung along 16 towers, through a 50 metre easement, in addition to a gas pipeline linked to the new power station, will cut across land the Premier personally offered to the Australian Steel Corporation on 30 July 1997. Who is telling the truth: you or the Treasurer?

The Hon. J.W. OLSEN: The member for Hart has a little problem understanding the complexities of this project. I indicated to the House just a moment ago a 90 day period was

made available for the consortium to prepare a submission to the Government, demonstrating it had the finances for a feasibility study. The feasibility study, developed over a period of time, would then give the basis upon which some people—for example, the Government and others—can make a judgment about a project. I put to the member for Hart that, until such time as a project definition is put on the table, you are not able to make a judgment on anything. All we have done is simply, at the request of the consortium, tried to put together the proposal. It has asked us, 'Will you extend for a further 90 day period?' That has been agreed to.

SCHOOL MANAGEMENT

Mrs PENFOLD (Flinders): Will the Minister for Education, Children's Services and Training advise the House on discussions recently held in New Zealand which support the South Australian Government's moves towards local school management?

The Hon. M.R. BUCKBY: I thank the member for Flinders for her question. I know that many schools in the electorate of Flinders are keen to be involved in Partnerships 21, that is, local management of schools. Recently, I visited New Zealand to look at its Tomorrow's Schools program, because that involves local management of schools in New Zealand and has now been running for some 10 years. It was interesting to talk with people both within the department and also at a school level, with principals and teachers, about the faults and benefits of the scheme it brought in 10 years ago. A couple of things we had considered and backed up became clear. One was that 10 years ago New Zealand brought in legislation providing that it was compulsory for all schools to undertake local management. So, basically, the attitude is, 'Friday afternoon, you are under the bureaucracy; next Monday, you're on your own.' That was a mistake for a number of reasons. For instance, there are 2 700 schools in New Zealand, with 60 per cent of those schools having fewer than 100 students. Some of those schools get down to three students in the school. A number of schools have between 10 and 20 students.

You can begin to understand the problem when you look at the fact that only five or six families are supporting a particular school. A lot of those schools are only single principal or teacher schools, and as a result an additional workload goes to the Principal of that school in terms of not only running the school and teaching the children but also sitting on what they call a board of trustees that oversees the local management of that school. They recognise that, and as a result of that they are now discussing the possibility of having clusters of schools joined together to ensure that a board of trustees can oversee up to four or five schools, thereby pooling their resources and also making it less difficult to gain members on their board of trustees, as well as increasing the range of skills that are on that board. That was one lesson that was learnt.

I have said that it will be a voluntary inclusion in Partnerships 21 for all schools. It is not compulsory. As a result of that, schools can join at their will. There is no penalty for that occurring. I have also indicated that we are looking at the clustering of schools to allow that, where schools do not feel they have the expertise or feel a little hesitant about it, they can join in a cluster of schools. We are looking into that now to see if that can happen.

The other question concerned an accountability issue with New Zealand schools. There is a Board of Review that travels around and looks at all these schools. One of the problems they have is that the school has a charter. The only way that the actual Office of Review can test as to whether the school is up to standard or is maintaining its quality and sticking to the curriculum is to look at that charter and go through the school and see how many hours they are spending on maths, English, literacy, numeracy and all that type of thing.

It becomes a very pedantic exercise because it gets down into splitting it up into hours, as to whether a school has been spending the right number of hours on a subject, and of course there are crossovers in literacy and numeracy as well. The problem is there because they do not have basic skills testing or national benchmarks under which the Office of Review can look at that and deem whether or not the students are actually improving in their ability and education. It is another good point of our particular system.

One thing that was very clear from both the principals, the school councillors or the boards of trustees representatives, and also the teachers in the school was, to a person, 'We do not want a return to the old system. We do not want a return to the bureaucracy.' I will give one example—and it is very interesting. Previously if they wanted half a dozen cricket bats, for instance, they wrote out their order form which they sent to the bureaucracy. Sometimes they ended up with half a dozen soccer balls instead of half a dozen cricket bats. That actually started a bartering system between schools. One would ring up another school and say, 'How many cricket bats do you have, because we have got six soccer balls. Do you want to swap?' It was a very interesting exercise. What this will deliver in South Australia is local management and local decision making for local schools. That is the benefit of not having to go through triplicate forms into a bureaucracy. They have the money, the budget is there and they are able to spend it in the way they see best for their local community.

It is interesting that both the leadership of the union here in South Australia and also the Opposition are suggesting that the Government may be transferring the costs of schooling to school parents, and that somehow we will use Partnerships 21 to do that. It is quite wrong to suggest that because those schools that choose not to come into Partnerships 21 will get exactly the same budget as those that do. They will not be cut back in their budget. Any savings—and I believe there are savings to be made under local school management—will stay in the school.

An honourable member: How much will stay?

The Hon. M.R. BUCKBY: The full 100 per cent will stay in the school. So, those local communities will decide how and where they spend their savings, and what is the best for their children. That is what this is all about. It is a matter of deciding how we can deliver a better system of education into our schools.

Ms Stevens interjecting:

The Hon. M.R. BUCKBY: The member for Elizabeth raises the issue of poor schools. I am currently examining how we can get a better distribution of funds to poorer schools, recognising that they have a lesser capacity to raise funds than those schools in what we will call the leafy suburbs. I assure the honourable member that I am looking at that very closely.

Looking at the New Zealand system was a very worthwhile experience. It showed us there are definitely benefits in this system. There are also some issues that we have to avoid and be very careful of, but the proof is in the pudding. The fact is that all people at the school level, whether they be

on the board of trustees, teachers or principals, said they did not want a return to the bureaucratic system.

SHIP BREAKING INDUSTRY

Mr FOLEY (Hart): My question is directed to the Premier. Did the Environment Protection Authority conduct an environmental impact statement on the effects of the Australian Steel Corporation's ship-breaking project on Pelican Point in 1997, and will the Premier table a copy of that report given that a Cabinet submission written on 15 June 1997 by the former Environment Minister warned that the project would result in 'the possibility of significant degradation of the marine environment of the Port River and the adjacent Barker Inlet'? In a copy of a leaked letter from the Premier to the Australian Steel Corporation in July 1997 (just one month later) the Premier said:

> I note the various agencies with an interest in this field, including Customs, AQIS and the EPA, do not see any problems which cannot be readily managed.

Let us see the EPA's report.

The Hon. J.W. OLSEN: A full environmental impact statement will not be undertaken until a full proposal is on the table upon which to judge an environmental impact statement. The member for Hart has got it back to front. Simply, what is being put forward is a proposal. Time has been given to the proponents to develop a full feasibility study and proposal upon which a judgment can be made. Until such time as that is delivered to the Government, a full judgment cannot be made. I can only assure the member for Hart that all provisions, that is laws as passed by this Parliament, applying to all projects in this State are complied with.

MENTAL HEALTH

The Hon. G.A. INGERSON (Bragg): Will the Minister for Human Services outline to the House the priorities for the extra $3.4 million per year allocated by the Liberal Government to improve mental health services for South Australians?

The Hon. DEAN BROWN: As the House is aware, I have been concerned about the increase in the demand for mental health services within the community, and I have been particularly concerned about the difficulty of providing adequate services in rural areas. As a result, we have realigned this current year's budget in certain areas to put in $3 million as additional money. There is a further $400 000 of additional money from the Federal Government. We had the summit approximately 12 months ago. A number of implementation groups, including consumers, are now working through the details of what specific programs should be put in place to meet the needs highlighted by the mental health summit.

I am delighted to say that we have now been able to allocate $3.4 million of funds which will go to the following areas. The first is youth suicide—an area of considerable concern, because Australia has one of the highest youth suicide rates of any country in the world. Although it is commonly acknowledged that youth suicide is a male illness, in fact we find that women are three times more likely to try to commit suicide than men. Invariably the attempt does not work and so we are left with a situation where the victim involved must receive treatment very quickly. We are committing $540 000 to apply much of the work done by Out of the Blues across the State; $240 00 of that amount will go into rural areas and $300 000 will go into the metropolitan area, but all of it is specifically aimed at identifying young people within the community who are most at risk. Special categories of people have already attempted suicide or talked about committing suicide. Last night I had the fortune to hear a presentation on the results of the Out of the Blues program, and I am delighted that we have now been able to commit $540 000 to that area.

Secondly, $1.2 million will be allocated to tackle the high demand areas in mental health, in particular crisis services, especially in metropolitan and country areas. The crisis areas will use the ASIS teams in those areas where there has been considerable pressure. This $1.2 million will help that. We are also providing respite care and supported accommodation where the Housing Trust provides the housing but where there has been a lack of finance to provide supervision for that housing. Now we will be able to provide supervision for that housing for people with mental illness.

There will be $550 000 directed to adult rural and remote health services. Again, I have been concerned about the lack of adequate expertise in country areas and so this $550 000 will allow a great deal to be done. As part of that we will also pilot the first secure beds in country areas. This is a major issue because at present in country areas, particularly in more remote country areas, if someone is found to have a severe acute mental illness attack, the only solution is to put them into a police paddy wagon and bring them to Adelaide. That is very distressing to the person involved and also consumes a great deal of police resources. We are looking at achieving a number of secure beds.

Ms Stevens interjecting:

The SPEAKER: Stop interrupting the Minister.

The Hon. DEAN BROWN: I will come to her shortly, Mr Speaker. We hope to be able to provide, on a pilot basis, a number of secure beds in the country. We need to change the Act because, at present, it is impossible to commit someone to a secure facility in the country with telepsychiatry, even though we have 15 hospitals around South Australia that now have telepsychiatry for people with mental illness. The important thing here is that, if we can commit them to a secure bed in a country hospital (because invariably treatment is only for 48 or 72 hours), it will avoid having to bring these people to Adelaide and save a great deal in police resources. A number of members have raised this issue with me concerning the Riverland, Port Lincoln and Port Augusta. These have been some of the centres in South Australia that have asked for a facility like this.

The next area is mental health prevention and promotion and we are putting $362 000 into this area. Also, we are putting $250 000 into Aboriginal mental health, into traditional Aboriginal healing, particularly in remote areas. Apparently this has been very effective where it has been trialled in other places and we believe it should be applied here. Mental health in particular is a big problem in those Aboriginal areas because they have petrol sniffing and glue sniffing and other problems including an increasing use of drugs. We want to try to cut that off and prevent those types of habits from developing. There will also be $200 000 for better supervision of Aboriginal people with mental illness in country hospitals.

We are now offering a wide range of services and the biggest concentration will be on early intervention and on providing services in country and remote areas and on youth suicide. I draw that to the attention of members because, as I have said, there is an urgent need within our community for

a greater understanding of the problems of mental health and to be able to identify where mental health issues occur and make sure we have suitable solutions to deal with the problem when it arises.

ALICE SPRINGS TO DARWIN RAILWAY

The Hon. M.D. RANN (Leader of the Opposition): Does the Premier stand by his claim that the construction of the Alice Springs to Darwin railway will begin later this year without any increase in the $300 million commitment of the Federal, State and Territory Governments? Can the Premier confirm that all the consortia being subsidised by the taxpayer who applied to be involved in the project have put in non-conforming bids?

Members interjecting:

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

The Hon. M.D. RANN: The former Deputy Premier will be the first to agree that there has been bipartisanship in support of this project.

The Hon. G.A. Ingerson interjecting:

The Hon. M.D. RANN: If the former Deputy Premier does not know that, no wonder he is on the back bench.

The SPEAKER: If the Leader of the Opposition does not get on with asking his question, I will withdraw leave.

The Hon. M.D. RANN: Prior to the last Federal election, Kim Beazley announced that a Federal Labor Government would commit up to $300 million in Commonwealth funding for the rail project in addition to the $200 million committed by South Australia and the Northern Territory. On 8 July last year the Premier told Parliament that the $100 million commitment by the Howard Government was in place and that:

> I am quite confident that sufficient progress has been made on the Adelaide to Darwin rail link that this project will now come to a successful conclusion. We should see construction work start. . . in the second quarter of next year.

That is, 1999. The Opposition has been informed that each of the consortia that have put in non-conforming bids are now claiming that a much greater financial commitment from the Commonwealth Government will be needed to secure the go ahead for the project either this year or any year.

The Hon. J.W. OLSEN: The three bids received by the Australasian Rail Corporation are currently being assessed. My understanding is that advice will be given to the two Governments shortly after 31 May, that is Monday next. A meeting is scheduled with the Prime Minister to discuss aspects of the bids that are on the table. I remain confident that the matter will be resolved satisfactorily but I do not believe that it would be appropriate to comment further, given that at this time negotiations are still to take place with the three bids on the table. In addition to that, once the preferred bidder is selected, there will be a period of time for negotiation to contract close, including due diligence in relation to the bids. I am not sure of the time line for that, but I would prefer not to comment further at this stage and to allow the bidding, tendering, and due diligence process to be concluded before responding in specific terms to the Leader's question.

The Government's endeavours have always been to ensure that we get completion of the Adelaide-Darwin rail link. I remain confident that that will be an outcome. In relation to the time line that the Leader mentioned when he referred to construction starting in the second quarter of 1999, part of the reason for the protracted delay concerned negotiations with the respective land councils to secure title over the land before the consortia could go to tender call. Not to have security of land tenure would have put the project at risk to the extent that, without security of tenure of the land, it was considered that no bidder would put in a substantive bid because there would be too many unknown factors.

Bearing in mind that it would cost of the order of several millions of dollars to prepare a bid, there were factors that needed to be clarified before the first tender call. The protracted negotiations with the respective land councils added several months to the process. However, they have been successfully concluded in the interests of all the parties, which is the right outcome. If you are going to build new transport infrastructure of this nature, it is best to have those matters satisfactorily resolved in advance rather than attempt to do it afterwards, even if you were able to get a conforming bid and a reasonable bid on that uncertain circumstance.

The delays have related to giving certainty and security for the bidders, and that has been achieved. We are now in the last few days of consideration of the bids, perhaps selection of the preferred bidder and then due diligence and moving to contract close, which on my most recent advice is of the order of several months from 31 May when they anticipate being able to report to the South Australian and Northern Territory Governments. There will be a meeting with the Prime Minister for clarification of one or two factors.

INFORMATION TECHNOLOGY

Mr VENNING (Schubert): Will the Minister for Information Economy advise the House of the impact the current tax regime has on investment within the information technology industry?

The Hon. M.H. ARMITAGE: I thank the member for Schubert for an important question about a critically important investment environment. It is important, because investment environments, we believe, ought to act as an incentive, not as a disincentive, for investment. The rationale behind that is that a lack of investment clearly means less employment within the affected industry. I do not think that that can be more starkly demonstrated than in the information industry where, unfortunately, the current capital gains tax regime is a major disincentive to venture capital investment in small, clever, start-up technology enterprises. As a result, the case for capital gains tax change, particularly in high-tech enterprises, is well made.

Tax reform in general is on the Federal Government's agenda, and I am happy to tell the House that I raised the matter of a capital gains tax change at the On-Line Council meeting in Canberra late last year and again last Friday at the On-Line Council meeting in Brisbane. I am pleased to say that every State and Territory Minister in attendance expressed very strong support for that position. Several weeks ago I wrote to the Federal Treasurer, the Hon. Peter Costello, setting out this view and the reasons why capital gains tax change is vital in the current reform of the taxation system. I am delighted to identify that the letter was co-signed by a group of very prominent Adelaide business and community people. As a consequence of the discussion at the On-Line Council last week, I fully expect that other States and Territory Ministers will also take up the cudgels.

I have taken steps as recently as today to follow this up with Allan Stockdale, the Victorian Minister for Multimedia, who was very supportive. The CGT reform needs to be reviewed in a broader context against a backdrop of the goal

of encouraging and rewarding innovation, entrepreneurship and risk taking in the Australian economy. The returns from investment in perhaps relatively risky start-up ventures are typically by way of capital gains rather than by dividend streams. The provision of a tax concession, be it tapered or whatever, for capital gains derived from investment in such enterprises is highly likely to have a stimulating effect on investment and, more importantly, on jobs within the information technology sector.

Recently I was speaking with a major United States venture capitalist who indicated that in Silicon Valley for a company to declare a dividend is regarded as an admission of failure. In other words, the chief executive officer can think of no way in which to expand his or her company, no way to grow employment in his or her company, so they give out a dividend. What a crazy taxation system when this is a growth area. That is the point that I have stressed to the Treasurer. Obviously, our developing an environment that will encourage and not discourage investment is a good policy. I must say that that is not necessarily something for which members of the Opposition are renowned. Indeed, as we have said before, they are more renowned for their lack of policy and vision. Perhaps the objective of Opposition members is to lower expectations so much that, from their perspective, they will be seen to be over-delivering. That could be the only reason.

The information economy is a vital growth area. It is important that it is stimulated, because South Australia will be a particularly important area in the growth of the information economy in Australia. Every constructive step to provide a positive environment ought to be taken, and capital gains tax change is one such step.

ABORIGINAL RECONCILIATION

The Hon. D.C. KOTZ (Minister for Aboriginal Affairs): I seek leave to make a ministerial statement.

Leave granted.

The Hon. D.C. KOTZ: I would like to report to the House that a significant event in Aboriginal reconciliation occurred on the steps of Parliament House today. On behalf of the Premier, and as Minister for Aboriginal Affairs, I attended the South Australian launch of the Journey of Healing. The organisers of the event are to be commended for their commitment to promoting the cause of reconciliation. Today's ceremony took place on the first anniversary of Sorry Day, and tomorrow marks the beginning of Reconciliation Week.

Journey of Healing is an appropriate description of the reconciliation process. The word 'journey' implies movement and, indeed, we are all moving toward healing the wounds left by past injustice. The South Australian Government has moved swiftly in a number of areas relating to reconciliation. When the Commonwealth Government released the Bringing Them Home report, the South Australian Government was the first in the country, in a historic session of the State Parliament in May 1997, to pass a unanimous motion apologising for the past actions of separation of Aboriginal children from their families. The Government has also established the Aboriginal Reconciliation Task Force Working Group. The working group has compiled a paper which is entitled 'Commitment to delivering improved outcomes from programs and services provided to Aboriginal peoples'. The objective is to continue to develop policies that will give effect to the intentions of the Parliament in its support for the vision of Aboriginal reconciliation. Continued policy development is part of this Journey of Healing.

Access to services is another part of the journey. The Government is compiling an Aboriginal services guide to provide information on services specifically for Aboriginal people. Reducing the sense of isolation is also a part of the healing process. The Government has established an Aboriginal Affairs Advisory Forum to provide support to Aboriginal leaders and to reduce their sense of isolation. The forum will assist them to provide advice and guidance to their communities.

The South Australian Government holds the belief that, while past wrongs cannot be corrected, the healing process can be actively supported, and positive efforts can be and are being made to improve the understanding of the plight and the continuing struggle of Aboriginal people in our society. The Government remains strongly committed to the promotion of reconciliation, respecting the richness of Aboriginal culture, ensuring Aboriginal people are active participants in managing their communities' affairs and in the continuance of the Journey of Healing.

GRIEVANCE DEBATE

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

Ms BEDFORD (Florey): As I begin today, I acknowledge that we are gathered on Kaurna land. Today is Sorry Day, the second anniversary of the Bringing Them Home report on the stolen generations. Last year, close to 1 million Australians said 'Sorry' to the stolen generations by signing the Sorry Day books and taking part in events on Sorry Day. Saying 'Sorry' is an understanding that there are both material and spiritual issues involved in reconciliation, and it is perhaps one of the most important things that we can do to address the matters of the spirit. An apology does not say 'I am guilty.' It is a recognition that society perpetuated a wrong and that we are sorry it happened. An apology is not a commentary on the morality or ethics of the people involved in the policies of that time. It says that, by the standards by which we live today, these things should never have happened. The suggestion that an apology can be the basis of a legal claim is a nonsense.

For the many who suffer as a result of forced removal policies, this expression of community concern was profoundly healing. This year, the Sorry Day Committee offers everyone the chance to take the next step, to help overcome the continuing consequences of those policies. I wish today to particularly acknowledge the work of Dr Maryanne Bin-Sallik, the SA Co-commissioner for the Stolen Generations report and one of the patrons of Sorry Day.

The Journey of Healing was launched on 5 May in a ceremony at Uluru. The Mutijulu elders of Uluru presented specially painted ceremonial music sticks and an empty coolamon to representatives of the stolen generations from each State and Territory. On return from Uluru, our State representatives—Elder George Tongerie, Reverend Bernie Clark and Heather Shearer—were received by the Kaurna. This began the official South Australian Journey of Healing. The main focus is today's walk to significant Kaurna sites in

the north parklands, with symbolic actions recalling some of the forgotten history and connecting to current realities which indigenous people face. The sites chosen are among those which have been identified by Kaurna elders and Adelaide University academics, and which the Adelaide City Council has agreed in principle to recognise.

Parliament House was included as an official site. This place has a mixed history for Aboriginal people. It was the means of their being denied their cultural heritage and losing their identity as custodians of this land under South Australian law. However, it is also the site of the restoration of indigenous rights through State legislation, such as the 1965 Aboriginal Lands Trust Act, the 1981 Pitjantjatjara Land Rights Act and the 1994 Native Title Act. It is also the place where the 1997 parliamentary apology to the stolen generations was announced.

The suffering of the stolen generations is clear and, as the report of the national inquiry Bringing Them Home stated, not one indigenous family has escaped the effects. In their lives in the non-indigenous community, many of these families live the pain of having been part of a practice now seen to have caused immense harm. The Journey of Healing offers every local community the chance to come together to see that racism, prejudice and hurt keeps us apart and to start to benefit from everyone's wisdom on how to meet the needs of the whole community.

Reconciliation is a people's movement. It cannot work without commitment from individuals. On a personal level, what is very clear to me is that indigenous people and non-indigenous people believe in and want reconciliation to be delivered. However, it cannot be at the expense of the inherent rights of indigenous people, and a fundamental premise to the reconciliation process must be an apology from the Federal Government regarding the stolen generations.

There is a lack of understanding about what reconciliation means in the political context. If people think that reconciliation is only about forging a better relationship between indigenous and non-indigenous Australians, they have missed half of its meaning. It is also, perhaps more importantly, about social issues, such as better health and education outcomes and lower incarceration rates of indigenous people. It is about forging a greater understanding between us. What is really driving reconciliation is the way in which the people's movement at a local level is forging ahead. Policy makers must note the power of grassroots movements when it comes to helping create change: what the community thinks and wants does count.

The theme for this year is 'Reconciliation—it's up to us,' and today's Journey of Healing is about recognition, commitment and unity: recognition of the past, commitment to the process and our future together.

National Reconciliation Week is framed by two significant dates in Australia's history: 27 May marks the anniversary of the 1967 referendum, in which more than 90 per cent of Australians supported the removal of clauses from the Constitution which discriminated against Aboriginal people; and 3 June marks the anniversary of the 1992 High Court of Australia's judgment in the *Mabo* case.

I am grateful to have been involved in the organisation of the Parliament House leg of the journey, and I would like to acknowledge the assistance of the Minister, you, Mr Speaker, the President of the Legislative Council and the members of the JPSC. Thanks also to Jan Davis, Clarrie and the building attendants, the House attendants and catering staff for their help, and to the Florey Reconciliation Task Force and the outstanding work done by Tabitha Lean. I must also acknowledge the energy and commitment of the SA Sorry Day Committee and their friends who have assisted in many ways, and a special thank you to those who attended today and made the journey such a great success.

The Hon. R.B. SUCH (Fisher): I would like to address principally the issue of taxation but, given the significance of today, I would also like to say that I am very supportive of the reconciliation process. I believe that, as a community, we cannot advance unless we acknowledge what has happened in the past, and I pay tribute to those who are working to make sure that Aboriginal and non-Aboriginal Australians can live together, work together and cooperate together in a harmonious and productive way. So, I commend those who have been involved in the activities today and I look forward to a day when race is no longer even a topic of discussion in this country.

I would like to focus on the need for taxation reform. We are well aware that, at the moment, there are discussions taking place between the Prime Minister and Meg Lees as representative of the Democrats. However, taxation reform goes—or should go—far beyond simply the matter of the GST. I would like to highlight some of the aspects that are in need of reform.

One of the most insidious developments that has occurred with respect to taxation is what is known as bracket creep. 'Creep' is usually a derogatory term referring to certain individuals in the community but, in this case, it refers to the situation where people move from one taxation category to another, usually higher. This is really taxation by stealth, because many people are unaware of the significance of bracket creep. Over time, Governments of all persuasions have been very happy to allow this process to continue at the Federal level, because they realise that they are getting enormous returns to Treasury at the expense of taxpayers, who should have been provided with some justice in that area.

I agree very much with one of our best economic journalists, Terry McCrann, that something should be done to ensure that the issue of bracket creep is addressed via completely transparent legislation. Whilst the matter of the GST and the resolution thereof is important, we need to go beyond that to make sure that this matter of bracket creep is addressed fully, totally and transparently, and preferably by clear legislation, so we do not have this insidious practice of taking money out of people's pay packets as their salary increases over time, usually due to adjustments in the CPI, and so on.

Other aspects of taxation reform are long overdue in this country—and I make no apology for harping on some of these. Members would be well aware that over the years the Federal Government—once again, of all persuasions—has gradually removed taxation deductions, and these have included things such as education, private health cover, and so on. In that case, it is both hands taketh, with little of the giveth.

One area that needs addressing is the ability of taxpayers to claim the cost of travel to work. We know that some self-employed people can claim that, but it is something that needs to be looked at. I have written to the Federal Treasurer on this matter. I see no reason why some people can claim that travel while others cannot. Likewise, with clothing, the argument put up by Treasury is that you have to dress up to go to work. The point is that, whether you are a salesperson,

politician or whatever, you have to dress in a special way that is appropriate to that activity. So, I believe that it is an expense necessarily incurred in earning an income. That is an issue that needs to be addressed. Further, when you are transferred as a result of employment or in seeking employment, you not are allowed tax deduction. The United States allows for that; we, too, should allow for it.

A matter that was touched on by the Minister for Information Economy—and I agree with this whole-heartedly—is the need to change the capital gains taxation legislation so that people can invest not only in information technology but in biotechnology as well. We are discouraging people who need a long time horizon—five, 10 or 15 years—from investing in biotechnology and information technology where the returns involved take many years. I urge the Federal Government to move quickly to address that situation.

Ms WHITE (Taylor): On this National Sorry Day I wish to express my personal regret for the wrongs of our nation in the past and express my hope that we can progress quickly down the path of reconciliation. I wish to bring to the attention of the House the implication of a decision that was taken in the Federal Parliament on Monday night as it applies to a law in South Australia, particularly some sections of the Education Act and their application to the way the rights of children with disabilities are affected. On Monday night, a motion was moved to disallow the disability and discrimination amendment regulations 1999, and that failed. The regulations prescribed provisions under eight separate State Acts to exempt those Acts from the Federal Disability Discrimination Act. There were five South Australian Acts, one of those Acts was the Education Act, and the two sections, section 75(3) and section 75A, of the Education Act dealt with the ability of the Director of Education to direct children to particular schools.

When the Federal Disability Discrimination Act originally came into force, a sunset clause of three years was put into that Act, so that States could modify their laws to concur with that Federal legislation. That three years expired on 30 June 1995. Since then, South Australia and other States were expected to change their laws to comply with the Federal Act. However, absolutely no consultation took place on this move by the South Australian Attorney-General to exempt the South Australian Education Act from that Federal legislation.

I queried the Human Rights and Equal Opportunities Commission, the Disability Discrimination Commissioner, on this in January-February of this year and have so far received no view from the Commissioner, which I find disappointing. The disability lobby is concerned that it should have been entitled to consultation about the changes that will affect its ability to pursue the rights to be free of inappropriate discrimination that has been denied it by the Federal and State Liberal Governments. Perhaps the fact that the Disability Discrimination Commissioner's resources have been grossly diminished by this Government have had something to do with that, but it is unacceptable that consultation has not been undertaken over those four years. Disability Action South Australia and a number of other Federal disability lobbying associations have expressed their concern over what has happened in South Australia. I will quote from one part of its submission to the Senate, as follows:

> The discriminatory use of this law is to grant the Director-General of Education the power to direct students with disabilities away from their schools of choice. This is used to deny students the ability to engage in inclusive education. For parents, the decision to challenge such decisions usually results in long-term complaint and litigation procedures. The final result is almost always a major disruption to the students' education and great distress to the family.

We have seen cases where the system in South Australia has been so unable to deal with these complaints by parents of children with disabilities that there have been threats of legal action.

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

Mr MEIER (Goyder): On the weekend of Saturday 15, Sunday 16 and Monday 17 May, the Copper Triangle area of Yorke Peninsula put on the cornish festival, known as the Kernewek Lowender. This year it was an outstandingly successful festival. It was estimated that in excess of 70 000 tourists came to enjoy the events over the weekend. I want to pay a tribute to all who have been involved in the lead up to the festival and in the running of the festival. They deserve every credit and every bit of praise, because a festival such as that does more to an area such as ours than any other single event.

It is of interest to this House to note that the cornish festival was originally the brainchild of former South Australian Premier Don Dunstan. Don Dunstan passed away this year, as did the inaugural President of the first Cornish festival, Mr Keith Russack. Both gentlemen played a very important role in the beginning of the festival. In fact, this year was the fourteenth occasion that the festival has been held over the 28 year period since 1973, as it is held every second year.

I was delighted that His Excellency the Governor of South Australia, Sir Eric Neal, and Lady Neal were able to attend the festival on the Saturday and Sunday, and they certainly participated in the way we South Australians have come to know and even expect them to participate. We would all say a very sincere thank you to them. Also, the Premier attended on the Saturday. Of course, he was on his home ground of Kadina for the village green fair events for that day. A member in another place, the Hon. John Dawkins, attended the festival on the Saturday, and my parliamentary colleague the member for Schubert came to the festival for the latter part of Saturday and also Sunday.

The activities were certainly widespread and numerous, and I would suggest there was something for everyone. It was up to individuals as to what they chose to attend, whether it was to look at the furry dance on the Saturday morning and the associated procession, to listen to the formal speeches later that morning, to hear the Navy band, vocalists or Cornish folk singers, to witness the May Queen presentation, or to view the maypole dancers. It was certainly a packed day. On that same Saturday we had the gathering of the bards. They are a semi-religious group of people derived from the Druids of earlier times. That is a ceremony that I would heartily recommend to anyone to view.

The cavalcade of cars was a great success. The member for Schubert brought up his 1912 Hupmobile, and we travelled around in it both dressed to the nines in our costumes of that era. We thoroughly enjoyed it. There were more than 700 entries in that cavalcade of cars, and it was certainly enjoyed by all.

I pay particular tribute to this year's Chairman, Mr Paul Thomas, and his committee. They did a wonderful job. I would like to mention people by name, but time does not permit on this occasion. I recommend to any member, and particularly the people of South Australia, that the Kernewek

Lowender Cornish Festival is something special and I hope that all members will take the opportunity to attend it sooner or later.

Mr HILL (Kaurna): I refer to Belair National Park and, in particular, to the announcement by the Minister for Environment about major development in that park. That announcement was made on 18 February in answer to a question put by you, Mr Deputy Speaker, as the member for Heysen. In her announcement in answer to that question, she made three points which I will briefly talk about.

First, she described the development as 'a proposal that seeks to upgrade and redevelop within areas of existing facilities of the park for the enjoyment of its visitors'—and I stress 'within areas of existing facilities'. The second point she made was that 'the upgrade would also preserve and improve the park environment by removing hard surfaces and enhancing natural bushland character in an area of the park which is largely degraded'. The third point was that 'no decision will be made in relation to the proposal until there has been absolutely open and full community consideration of the proposed plan'.

When I heard the Minister say that, I thought that it was fair enough and would not change the shape or size of the development in the park and there would be full consultation: I was not concerned. As you, Sir, had raised the question, and given that you represent the area, I thought it must be something that is reasonably sensible and okay.

After that time I started to get phone calls and letters to my office from people expressing concern about the development. At this stage I thought that, rather than jump into it and criticise the Minister, because that would be unfair, I should get a briefing from the Minister and try to understand what is being proposed. I had my personal assistant ring the Minister's office, seeking a briefing either in writing or one-to-one on this proposal. I was told, as is usual by the Minister's office (unfortunately overwhelmed by bureaucratic processes) that I had to put it in writing. I did so, asking for a briefing from the Minister's office. That was several weeks ago. Despite a number of phone calls, I have yet to receive a briefing from the Minister on this proposal.

It is an important proposal for South Australia. It is certainly important to the people concerned about national parks and particularly those concerned about Belair National Park. Once again, I say it is absolutely typical of the Minister's bureaucratic and secretive style. This is a style which, we know, has caused trouble all over the State. I do not want to be cruel to the Minister for Environment because I gather she is not for the Ministry for much longer: I know that the Minister for Police is getting himself ready to take over her job. It is a job he has had his eye on for some time.

Since the Minister has not told me, I have sought advice from other quarters, and I am grateful to the Conservation Council for the advice it was able to provide me and also to the Nature Conservation Society. I stated three points that the Minister made. I will go through what the Conservation Council says about those points.

First, in relation to development, there is a 300 person conference centre and 50 four star lodges in the existing caravan lease but, in addition, the development proposes to excise an area of 12 hectares of the park currently zoned in the management plan as being for conservation and recreation purposes. On that area, 30 three star eco-cabins, 30 powered caravan sites, a 45 person camping ground and 15 bush camping sites will be built. That is different from what the Minister was saying. She said it would be on the existing site. The Conservation Society is saying something different.

In addition, the Nature Conservation Society says that approximately five hectares of the area proposed for rezoning contains native vegetation of high conservation value, containing in excess of 13 indigenous plant species with conservation ratings. So much for the Minister's comment that this would improve the local environment and enhance what is already there. I would say that the Minister is getting close to seriously misleading the House on this matter.

The third issue is consultation. The Minister might not have noticed but the Opposition is part of the public, and we deserve to be consulted with as well as everybody else. I would think it would have been sensible for her to contact me and offer advice about this proposal. Unfortunately, as I say, several weeks after a request, nothing has been forthcoming.

I have had correspondence from the Field Naturalists Society of South Australia, which is most concerned about this proposal. It says that it is very concerned about the proposal to expand the developed area in Belair National Park. It further states:

> In the mid 1880s, the Field Naturalists Section of the Royal Society (as the society was then known) played a major role in the setting up of this national park. We therefore feel particularly upset by any further erosion of the area of native vegetation.

I, too, am concerned. I am not sure whether, when you asked the question, you knew these facts, but I think you too would have been concerned.

The DEPUTY SPEAKER: Order!

Mr SCALZI (Hartley): Today I refer to our parliamentary system and, in doing so, I would like to oppose the Labor Party's platform of abolishing the Upper House.

Mr Hill interjecting:

Mr SCALZI: It is not for the reason of having coveted seats in the other place: I believe in a bicameral system. No doubt in recent weeks we have experienced the unworkings of our bicameral system. But that does not mean that the bicameral system in itself is a bad thing. In other words, it should be looked at and it should be improved.

Governments of the day, including my side of politics, will criticise the other place, whether it be here or federally, about its obstructionist behaviour in preventing the Government of the day to get on with the business of governing, and that is true. The classic case is occurring now at the Federal level. The Senate was founded on the principle that each State should have equal representation and that the Senate should act in the interests of each State. In 1901 the political conventions were slightly different from how they are today and one could say that, at that time, Senators acted in the States' interests more than they do today.

We know today that political Parties place demands on Senators that they did not place in the past. Whilst Senator Brian Harradine has been the focus of all the attention let us not forget that the 12 South Australian Senators, whether they be Liberal or Labor (and this applies equally to the other States), have a responsibility to represent their State. That obviously is not happening because the Senate is voting according to Party lines. We have Senator Brian Harradine, who obtained only 24 254 primary votes, deciding the fate of a Government's platform, and I find that situation part of an unworkable democracy.

But it is not the fault of just Senator Brian Harradine or Senator Mal Colston: it is the expectation that the major Parties—Labor, Liberal, National and Democrats—place on

their Senators. Consequently, the Senators' commitment to their State is secondary to their commitment to the Party, and that is not what the founders of our Federal system had in mind. On a previous occasion I talked about the problems experienced in the South Australian Parliament, particularly in the case of the Independents blocking important legislation. I believe that if we had allowed the 69 members of this State Parliament, in this place and in the other place, to vote according to their conscience the ETSA dispute would have been resolved long ago.

There is no need to hold a referendum. A referendum took place in 1997 when the public put its faith in the present Liberal Government to make decisions on behalf of the constituents of the State. In other words, it is a representative democracy; we act in the interests of the State as the decision-making process takes place from time to time. If one wants a full participatory democracy, citizen initiated referenda are necessary.

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

PUBLIC WORKS COMMITTEE: SOUTHERN EXPRESSWAY

Mr LEWIS (Hammond): I move:

That the ninety-first report of the committee, on the Southern Expressway—Stage 2, be noted.

The need for this road has increased as urban development has continued to grow in areas south of Darlington, while employment is still mainly concentrated in the central metropolitan area of Adelaide. In December 1995, the Public Works Committee reported to Parliament on stage 1 of the Southern Expressway project, detailing a proposal to construct a new arterial road from Darlington to Reynella (a distance of nine kilometres) and the associated works. The total amount of money allocated for that work was $61 million. Now, Transport SA proposes to construct stage 2 by extending it a further 12 kilometres from Reynella to Old Noarlunga at the southern end.

When the expressway is completed it will provide a one-way fully reversible expressway extending from Darlington to Old Noarlunga, an overall distance of about 20 kilometres. The work is scheduled to be completed by December 2000 at an estimated cost of $76.5 million. The committee notes that an economic analysis undertaken in January this year demonstrated that the proposed work will provide significant benefits to road users in the southern region. This economic analysis is in addition to the review which was done at the time of the stage 1 proposal, where the committee at that time had not taken seriously its responsibilities to examine whether the work was in the public interest and what its value would be.

So, the net present value of the work is $185 million, using a base discount rate of 7 per cent, which means that we have a benefit cost ratio of 2.56:1. Specifically, those features of the expressway will be a grade separated, that is, it will be at a different level to other roads crossing its path along its entire length. The general traffic operation of stage 2 will be the same as stage 1, that is, a one-way reversible road which will carry city bound traffic in the morning, while the flow will be reversed in the afternoons, evenings and weekdays. Conversely, on weekends, if there is heavy traffic in the morning to the south coast, that is the direction in which it will travel and, say, on Sunday evenings, heavy traffic returning to the metropolitan area will have the benefit of access to the one-way system on the expressway there.

High-tech video systems are mounted along its length to monitor the operation of the road at changeover periods to ensure there are no head-on prangs. This equipment will also be used to identify breakdowns and accidents so that emergency vehicles can be sent more expeditiously to those motorists in difficulty. The expressway will provide the opportunity for express bus priority at the access and egress locations, ensuring that those travelling on public transport will get there more quickly. Bicycle and pedestrian access will be provided primarily off-road within the southern expressway corridor using shared use pathways on both sides of the expressway.

The committee has expressed some concern in relation to the proposal for the shared use pathways and I will be making a recommendation on behalf of the committee to the Minister later in these remarks. I trust that on this occasion the Minister pays a little more heed to what the law says about such recommendations from committees of the Parliament. Access for emergency services, including police, will be via dedicated signalised connections and the landscaping will continue to be an important part of the project. The Public Works Committee considers that efficient and effective transport services and their accessibility are socially and economically important to the progress of the southern areas.

Members hardly need the committee to remind them that the lower the levels of stress, to which people who are commuting to and from work and other commitments, suffer in the 1409 the greater will be their productivity, the greater will be their health benefits and the greater will be their longevity. So, the project has health benefits as well as the other economic and social benefits to which I have referred. In this regard, though, the region's transport needs are not considered to be adequately met when compared with the wider metropolitan area. The committee acknowledges that the development of the expressway is needed to provide an improved level of accessibility for residents in the southern area so as to improve transport efficiency and road safety, as well as support the continued growth of economic activity in those regions.

More importantly, members recognise that the alignment of the Southern Expressway and the reduction in traffic levels along the Main South Road will lead to improved overall safety outcomes with corresponding reductions in accident numbers. I would want to redefine the word 'accident' to ensure that members understand that the committee is not guilty of believing that these things do not happen without cause—they are collisions or crashes. Additionally, the expressway will cater for an expected future increase in traffic demand.

Finally, and more specifically, the committee understands that the purpose of the proposed project is to satisfy a number of functional transport requirements at both regional and local levels, and they include improved accessibility for people living in the southern area to employment, education, shopping and community facilities; to improve accessibility for commercial traffic to industry related facilities in the wider metropolitan area; to improve accessibility for tourists to the outstanding locations on Fleurieu Peninsula and to the ferry service from Cape Jervis to Penneshaw; to enhance economic development in the southern regions and on

Kangaroo Island; to minimise travel times and traffic congestion; and to provide safe and convenient facilities for cyclists, small-wheeled vehicle operators and pedestrians.

Notwithstanding the above, the committee has some concerns as to the safety aspects within the proposal for the shared use pathway for bicycles, pedestrians and small-wheeled vehicles. Accordingly, the committee recommends that the Minister for Transport and Urban Planning investigates the feasibility of constructing a separated bicycle and pedestrian pathway in lieu of the proposed shared use pathway to further enhance the amenity value and, more particularly, the safety of the users of both those pathways on each side of the expressway. Given the above and pursuant to section 12C of the relevant Act, the Public Works Committee reports that it recommends the proposed work.

Ms THOMPSON (Reynell): In speaking to the report I inform the House that the majority of the second stage of the Southern Expressway goes through my electorate of Reynell, so I have been pursuing vigorously some of the issues put to me by local constituents. In referring to stage 2, I am really talking about stage 3 because the upgrading of the Darlington intersection undertaken by the previous Labor Government was a necessary precursor to any work done to the new roadway. The contribution of the Labor Government with regard to the traffic ease of the southern community needs to be recognised. We still have a situation where not everyone sees the expressway as being the best way to go to meet the traffic needs of the community but, overwhelmingly, I think people do welcome it and are also welcoming the fact that this Government has given some indication of a study of the possibility of an O'Bahn, thus addressing the issue of the deficiencies of public transport in the south which are indeed severe.

We have only four airconditioned buses for people making a very long journey to the city and some of the short journeys can become very unpleasant for people in the community as well. The fact that we are likely to see some public transport issues addressed is again welcome. The most important benefit that people have observed resulting from stage 1 is the lack of congestion that now occurs on both the Southern Expressway and Main South Road. During the hearing we were also told the pleasing news that this had resulted in a reduction in crashes, which can only be welcomed.

The so-called second stage of the expressway presents different challenges from those of the first stage. This stage goes through quite a long-standing built-up area where people have been used to the amenity of an empty tract of land which has sometimes been of considerable advantage to their lifestyle and some of them now face a busy traffic corridor close to their backyard. This itself brings its own emotional responses from some residents as well as presenting quite different challenges to the expressway project managers.

The current corridor has been vacant for so long that it has developed its own life. It is used in many different ways by members of the community and aerial photographs show the number of footpaths in the current corridor. The fact that the project has attempted to address these local traffic needs of pedestrians is welcome. The informal activities that take place in some of the expressway corridors have not been so addressed and I hope that other amenities for skate boarders, bike riders and various rally drivers will be found in the future.

One of the important considerations in the design of the new stage is that traffic flows will be different. In stage 1 people got on at one end and off at the other, with just the option of getting off at Marion Road or South Road. This second stage of the expressway will be used by locals to do short journeys along various parts of the expressway. Someone might go from Sherriffs Road to Beach Road, thus alleviating some of the traffic congestion on Main South Road and Dyson Road. That involves different requirements. Given the types of issues that I have raised, I am concerned that, although the consultation by the project managers has been extensive, there will be a range of different issues raised by locals as the shape of the expressway begins to be clearer. The impact on what they have regarded as their normal way of life will only strike some as building progresses and I am concerned that the proponents think that they will not hear any further demands from residents once the soil is turned. They dealt very well with the number of issues from residents previously and I hope they deal as well with the issues that will arise in the future.

Some of these issues related to matters like public transport routes. At present public transport uses Main South Road and serves both community and local traffic. Designing an appropriate transport route in relation to the expressway involves a considerable challenge and I note that Transport SA says that the Passenger Transport Board will consult with the local community, and I will certainly be happy to facilitate that consultation in any way I can. One of the difficulties experienced at the moment by locals is the Panalatinga intersection. I have asked the proponents about this issue, because it is a difficult intersection to navigate. I would not be unfairly summarising their response in saying that they hope it will get better under the new arrangements, and certainly so am I and, if I had any suggestions about how to improve it, they would welcome them. I am passing that message on to the community because it is a difficult intersection to navigate now and consideration is needed in terms of public safety.

The Public Works Committee Presiding Member has already spoken of the issue of the bikeway and one of the reasons this is important is that one of the major schools adjacent to the expressway has a major cycling program, with the support of Para Olympic gold medallist, Kieran Modra. Students at Morphett Vale High were very much looking forward to using the expressway bikeway as a training route and, as I mentioned earlier, much local traffic has occurred informally in the expressway corridor and we do not want the building of what should be an amenity to prevent both cyclists and pedestrians from being able to use that facility in safety. We look forward to the response from the Minister on our recommendation as to how this issue might be dealt with.

There are also issues about consequent changes in traffic patterns. People have been using Main South Road for so many years that the patterns are fairly defined, and it is not really clear how other subroads will be affected. The two that concern me particularly are Sherriffs Road, by the Reynella South Primary School, and Acre Avenue, near Morphett Vale High School. I will be monitoring the impact of traffic on those roads and hope that we are able to deal with any problems sooner rather than later.

There is also a major issue with signage. Businesses in the Lonsdale industrial area are most concerned that, as one of the reasons that the expressway has been built is to facilitate their export and general business development, their customers and the suppliers of their goods are able to identify easily where they should get off the expressway in order to visit the

Lonsdale industrial precinct. At the hearing we were unable to get clear undertakings about this matter, and I urge the Minister to ensure that Transport SA and others involved with the project consult with the Lonsdale Business Association to ensure that the commercial needs are met by the expressway development.

All in all, this is a major project which has been undertaken in a professional manner. It will have a number of impacts on the community but, if the same spirit of cooperation that has been evident so far continues, despite a couple of hiccups as far as residents are concerned, I am sure that this facility will make life much better for many members of the southern community who have cars. It will also offer an opportunity for improving public transport and it will assist the development of business in the area.

Mr WILLIAMS (MacKillop): I want to raise a couple of points with regard to the Southern Expressway. It is a great development for people who have chosen to live in the southern region of the greater metropolitan area of Adelaide.

Mr Hill interjecting:

Mr WILLIAMS: It would be good if it went all the way down to the Victorian border along the South-Eastern Freeway because we have problems down there. It is a great development for the people who have chosen to live in the area. There has been a lot of publicity for many years about the access to transport corridors for the people who have moved into that area, but I would like to highlight the larger question as to the effect it will have on the greater metropolitan area of Adelaide. Is our community to allow the greater metropolitan area of Adelaide to develop in the same way as it has for some time?

The geographic necessities are such that Adelaide is jammed in between the Mount Lofty Ranges and the gulf, especially that part of the city that was developed first. It is not easy to get up into the Mount Lofty Ranges or to get across them, and that has caused the city to grow in a northerly and southerly direction, and we have ended up with an elongated city. Some of the problems that this has created concern infrastructure and the costs that a city like Adelaide has to bear to provide infrastructure to the newly developing suburbs, which are far from centralised around a major hub. They stretch out for miles to the north and to the south, and that puts a greater stress on our infrastructure, particularly our roadways and our electricity, water and sewerage services. It also adds considerably to the cost of providing those services.

When considering this sort of development in the future, as a community, we should take into account the additional costs that we bear, because our building something like the Southern Expressway will only encourage more people to continue to expand development in the southern area. At some stage we should take stock of where we are at and where we are going and ask whether that is what we really want for Adelaide in 20, 30 or 50 years. Alternatively, do we want to decentralise the growth away from the city of Adelaide so that our major regional centres—Whyalla, Murray Bridge, Port Lincoln, Mount Gambier and the Riverland towns—can absorb much of the growth of the State rather than put it into the city of Adelaide? The Southern Expressway is a great development, but I question whether it sends the right signals to our society.

The committee questioned officers of Transport SA about the wisdom of channelling this volume of traffic into the old road network at the northern end of the Southern Expressway. Those officers told us that the research that they had done on the traffic using Stage 1 of the expressway showed that, once it merged into the older transport network, it became quite diverse and dispersed into that road network. They do not expect that it will lead to serious congestion on the major roads that run from there to the city centre, namely, Marion Road, South Road and Goodwood Road. A fair percentage of that traffic does not end up on those roads or travel much further north.

Mr Koutsantonis interjecting:

Mr WILLIAMS: The member for Peake questions that, but that information came from officers of Transport SA when the committee questioned them as to whether they envisaged problems with congestion on the road network that fed into the northern end of the Southern Expressway. I am just conveying that information to the House.

There is one other good point about the Southern Expressway that I should mention. One of the problems that has been experienced traditionally with building major roadways is the ribbon development that occurs around them, and that is a bane of planners all over the world. It is certainly a problem in rural towns, regional centres and major cities throughout this country. The Southern Expressway is just that, an expressway, and the entry and exit points are few and far between, and that will certainly stop the ribbon development mentality that has been a problem for many years.

The only other point that I would like to add is that, although the people in the southern region have been calling for this road for many years and will be happy to have it, I question the wisdom of going ahead with this sort of development without looking seriously at other forms of public transport. Adelaide has the O-Bahn busway, it has a reasonable train system and it has a tram that runs down to Glenelg. It really is a bit of a mishmash of public transport, and it is high time that, as a community, we had a serious look at the public transport network of Adelaide and tried to rationalise it.

Mr HILL (Kaurna): I support the report that has been presented. I commend the member for Mackillop for his contribution because he raised a number of important points with which I agree. As to the issue of development in the southern suburbs, I make the observation that estimations as to growth in those suburbs were much more optimistic when the Southern Expressway was planned. The Seaford Rise development, which is in my electorate, was due to be completed by 2002. The developers are now suggesting that it will take some 20 or so years longer to complete.

There has been a slowing of growth in the southern suburbs, and that, of course, has an impact on infrastructure and employment opportunities for people living in the area. In addition, the Onkaparinga City Council (through the Southern Partnership) has investigated to some extent the issue about where the city should end and where the country area should begin. More work needs to be done on that, because we need to establish a pretty clear understanding of the limits of the city and then work back from that as to what infrastructure is needed.

On the issue of public transport, which the member for MacKillop also raised, I would agree with the honourable member that the public transport needs of the southern suburbs have not been given as much attention as they ought. There is a reasonably good train service, and I catch the train as often as I can. In fact, this morning I caught the train from Noarlunga to the city. Unfortunately, the train broke down

just after Brighton railway station and an hour-plus later I arrived at the city railway station via a public bus! But that is a one-off experience: there is a reasonable train service. It would be good to see that or some other form of public transport extended farther south.

For people in the most extreme parts of the southern suburbs, those who live in Aldinga and Sellicks, public transport is very problematic. I support the Southern Expressway and supported the first stage of it. A recent report indicated that the expressway, for a cost of about $90 million, saved commuters from the southern suburbs some two minutes in travel time from once they get on this expressway through to the end of it. That does not seem like an awful lot of time to be saved by the expenditure of $90 million. It is a much more comfortable trip and, no doubt, it seems faster when you are on it, but in fact it saves only a couple of minutes. I hope that the combination of the second stage, which is considerably longer, and the first will mean that greater time is saved by people who live in the southern suburbs.

I look forward to the second stage being completed; I am someone who will directly benefit from it. It finishes around Old Noarlunga-Seaford, and Seaford is the suburb in which I live, so I will be able to use it very easily, I suspect. There are a couple of issues with the second stage which have been addressed and a couple on which I would like to comment. The issue of bike lanes has already been addressed, and I must say that I share the concern of the member for Reynell on this issue. It would have been good to see bike lanes continued, although I understand that there are technical reasons why that has not been possible.

I note that the second stage of the expressway will be delivered a year later than was originally promised by the Government. There is not much we can do about that now, but I guess it is an example of a broken promise. A third issue (and I do not know whether the committee looked at it when it was addressing this matter) was pointed out to me by a constituent recently. The part of Flaxmill Road that will go over the expressway will be a two lane bridge, whereas the rest of Flaxmill Road is four lane, and that may well cause some local congestion. The constituent who raised it with me pointed out that a considerable amount of money had been spent widening Flaxmill Road and it seemed rather pointless to put in a two lane bridge in the middle of it; it would undermine all the work that was done by putting in a four lane road.

One comment, and I guess a negative comment, that I would have about the expressway is that it seems to have soaked up all the money that was available for other roadworks in the southern suburbs. In particular, I note the promises made by the current Minister for Transport (Hon. Diana Laidlaw) to the electorate of Kaurna that Commercial Road, which runs through that electorate, would be upgraded in the near future. In fact, work was supposed to have started well and truly by now. That commitment was made in a letter to constituents in the electorate and was promulgated by the former member for the electorate. After the election, that proposal disappeared and there is now no indication at all as to when Commercial Road will be upgraded.

Commercial Road is a major north-south road that goes through my electorate parallel with the coast. It is used very extensively by citizens south of the Onkaparinga River, but it is in fairly poor shape. There have been a number of accidents, including some fatalities, on that road, one recently in the Moana-Seaford Rise area, a tragic accident in which an elderly gentleman lost his life, and there have been other accidents along the road from time to time. It is a dangerous road in spots and does need urgent attention. I am regularly contacted by residents of all the suburbs along that road—Maslin Beach, Moana, Seaford, Port Noarlunga—about the need for upgrading of that road. I believe that one of the sources for funding of the second stage of the Southern Expressway was by robbing commitments that had already been made to other roads in the south, and in particular to Commercial Road.

The other project that I think has now been put on the back burner as a result of the Southern Expressway's going ahead is the long promised extension of Dyson Road through Christies Beach and Port Noarlunga, forming another crossing over the Onkaparinga River and ultimately connecting with Commercial Road. That has been on the drawing board for some 20 years, and people in my area have been promised that many times. It was something that the council was promoting very strongly at one stage but, now that the Southern Expressway is going ahead, that seems to have fallen off the agenda. I know that people in the area who had those promises made to them are mightily disappointed. In addition, promises were made that the Saltfleet Street bridge, which currently crosses the Onkaparinga River and connects the northern and southern sides of that river, would be replaced. Those promises have been reneged on as well, and that is merely going to be upgraded. That has also caused some distress in my community.

The final point I would make is that it is all very well to have the Southern Expressway, and it certainly does make it easier and more convenient for residents to get from the southern suburbs to Darlington, but the real problem we have in Adelaide is the connection between Darlington and the north of the city. At some stage, some Government has to do some serious policy work and serious thinking about how to make that road easier to access.

The Hon. I.F. Evans: You sold the land.

Mr HILL: I understand that decisions were made in the past that were not smart, but there is a real problem in getting transport from the southern suburbs, once it is off the expressway, through to the city. A range of things could be done, possibly turning some of those roads into one way roads. Perhaps South Road could be one way in one direction and Goodwood Road could be one way in the opposite direction; provisions could be made to stop parking on some of the streets at certain times; more flyovers might be needed, but work needs to be done on that road to make it easier for traffic from the south to get to the city. Having made those comments, I commend the committee on its report.

Mr LEWIS (Hammond): I thank members for their contribution to the debate and, in doing so, draw attention to the concerns that they have raised almost without exception. The member for Reynell, in the remarks that she made, also noted that it is all very well to have ready access at the southern entrance point and ready access to the egress at the southern end of the expressway, but it is at the northern end where congestion is already occurring and will continue to occur in even greater measure as people believe it to be a desirable location in which to live and raise their families or in which to establish new businesses. The member for MacKillop made a remark about that, to which the member for Peake interjected.

For the benefit of all members—including the member for Peake and the member for Kaurna if they did not otherwise

know—during the late 1960s and throughout the 1970s into the early 1980s, State Governments of both political persuasions had been buying land in the western and south-western suburbs to avoid that problem, to head it off, but they were using capital works funds to do it, and the land bank of the corridor had been established. Then some fools—some bloody fools—in the Bannon Government, amongst them Kim Mayes, had the smart alec idea to flog it off and use the money for recurrent expenditure programs to try to ameliorate the deficiency in the recurrent budget during the 1980s of excesses undertaken by the Bannon Government. Not only was it sold off—

An honourable member: The biggest tragedy that ever befell this State.

Mr LEWIS: As far as planning for traffic management goes, most definitely—and in other respects, such as the State Bank, and so on. But do not take me from the importance of the point. The interchange site that was already secured in Hindmarsh is the site upon which Kim Mayes has built the Entertainment Centre, as a memorial to the idiocy and short-sightedness of that Government over successive years. I trust that everyone who goes there knows that that is exactly what it has done—destroyed the capacity of the State, and future Governments beyond that time, to do anything meaningful for probably 40 to 50 years, which will take us to 2030. And that is sad. I said so at the time, but no-one would listen to me—not even my Leader—at the time I wanted to attack the Bannon Government.

Mr Hill: Who was the Leader?

Mr LEWIS: The Leader was someone who this place can well do without: Dale Baker. He was unwilling to join that debate. I was appalled at the information that was being given to me, as the shadow Minister of Lands at the time, as to what was being done with that land that had been purchased out of capital works grants money and then sold off and used to pay for recurrent expenditure. It was very sad. But that is what happens when you get a Party that has control of every one of its members to the extent that they must say nothing ever against decisions made by a majority in the Party, which may be stupid decisions. They are bound by a rule that prevents them from saying anything on pain of being excommunicated from the Party. They simply have to resign: they are expelled if they do not. That is, indeed, an abuse of the democratic process.

I am, therefore, most anxious to ensure that the record shows that we are, indeed, aware of that problem, and I thank all members of the Public Works Committee for their attention to that detail and, now, members in this place for again drawing attention to the problem confronting us. The State will have to now find a means to solve this problem, and it will probably be something along the lines of the West Gate Bridge. We will have to build an elevated central carriageway down the middle of South Road and put express traffic on the upper deck, using the same kind of architecture that has been used in eastern Los Angeles, outer Chicago and eastern San Diego, for example. It looks like cathedrals, with Virginia creeper in the shaded areas, and these twin T columns look quite magnificent in the autumn. I commend the motion to the House.

Motion carried.

PUBLIC WORKS COMMITTEE: BOTANIC, WINE AND ROSE DEVELOPMENT—STAGE 2

Mr LEWIS (Hammond): I move:

That the ninety-second report of the committee, on the Botanic, Wine and Rose Development—Stage 2, be noted.

This project involves undertaking Stage 2 of the development, that is, the construction of the National Wine Centre at the corner of Botanic and Hackney Roads, at an estimated capital cost of $20 million. The planned completion date for the National Wine Centre is mid 2000, to allow the centre to be commissioned to take advantage of the expected surge in tourism generated by the Sydney 2000 Olympic Games. As I understand it, the project is on time at this point.

It is pointed out that, in August 1998, the committee reported to Parliament on Stage 1. That report detailed a proposal to refurbish the Goodman Building and Tram Barn A at Hackney to accommodate the Botanic Gardens administration in the Goodman Building and the State Herbarium in Tram Barn A. That work is taking place apace and I am quite impressed, in fact, by the appearance of the facade of what is emerging in consequence, despite my reservations about leaving the buildings there in the first place. I also point out to people that, if they get the chance, they should go and see the engineering components in Tram Barn A, because they are probably the most attractive aspect of the entire building.

The work also included the preparation of the siteworks for the Adelaide International Rose Garden. In December 1998, the committee tabled a report on the development of the deferred works (Parliamentary Paper No. 192), which endorsed a number of project elements that had been previously deferred to be included as part of the Stage 1 works there.

In summary, as far as this project is concerned, the Department of Premier and Cabinet proposes to undertake Stage 2 of the development. Essentially, it will involve the demolition of existing buildings and the subsequent construction of the National Wine Centre. On completion of the Stage 1 works, the buildings currently sited at the corner of Botanic and Hackney Roads and occupied by the Botanic Gardens and the State Herbarium will be demolished and the site cleared to accommodate the National Wine Centre. Of course, they will be demolished only after the records and the State Herbarium, and so on, have been shifted to the new accommodation, which is well under way in Goodman Building and Tram Barn A.

The National Wine Centre complex will accommodate a number of functional elements, including a core tourist attraction; wine education facilities; a wine tasting and sales facility; function space; wine industry administration; food outlets; and wine-tourism information centre. There will be general site works, some car parking, and landscaping and establishment of a vineyard of approximately 1 hectare in size for training and educational purposes and as a visual amenity. The committee was very impressed with that feature, in that it will enable tourists who come here and who have never seen a grape vine—especially if they are here during the growing season, and particularly at harvest time—to see what the grapes look like and the differences between the varieties, their botanical features, and so on.

At the same time, there will be—indeed, there already is—extensive landscaping and planting of a rose garden. As far as the rose garden is concerned, it is not before time, and I place on record my profound respect for the diligence and persistence of the Hon. Legh Davis in pursuing that. I know that other members have been supportive of it but he, more especially probably than anyone else I can think of in the

Parliament, has had that vision and he has worked closely with members of the general public of all political persuasions to eventually find a site on which that can be done. I think that it will be just as important in the image created here in South Australia as many of the other things that we are doing now: it will be a real icon in years to come.

We are told that the National Wine Centre aims to encourage people to visit the wine regions of the whole nation to create a dynamic showcase of excellence and diversity of Australian wines, of their wine makers and those regions from which they come, to create a central headquarters for the industry and a link between food and wine and the Australian lifestyle—incorporating that—and to emphasise the economic and social importance of the Australian wine industry.

The National Wine Centre complex will provide 5 800 square metres of space, and it has been designed to accommodate these functional spaces to which I now refer. The main tourist attraction will consist of a series of exhibition spaces accessed via a central grand ramp with a foyer. It will lead the visitor through the history of the production of wine, put the Australian wine industry in a world context and describe the varietal differences of grapes and the wines which are made from them, tell the Australian wine industry history and story and describe its regions, with the opportunity provided for the successes of the wine industry to also be put on display. Finally, it will enhance the desire for visitors to go to the wine regions and the wineries to be found there.

Then there is what is referred to as the Great Hall. This space has been designed as the important architectural space of the Wine Centre to provide a facility for large gatherings, including dinners and banquets for up to 350 people. It will also house static displays relevant to the production of wine at present and aspects of its history in ways that do not interfere with its capacity to be used as a large flexible space in the manner that I have just referred to. The wine tastings and sales area will provide a tasting opportunity incorporating an extensive range of Australia's premium wines. People who visit there will have the opportunity to purchase wine from the centre, using sophisticated, world's best practice in intelligent technology to do it, having the wine then probably delivered, without their having to worry in the least, to their homes, wherever they may be anywhere in this country or elsewhere in the world.

There will be a wine cafe and private dining areas which will provide snacks, light meals and seating for 100 or so people. There will be three private dining areas located over the wine cafe, and they will have views over the new vines that are to be planted in that hectare or so to the north-east of the facility, between it and the Goodman Building, over the creek. Education facilities will provide for consumer appreciation classes of wine for vocational and training opportunities, and for the professional development of people in the wine industry. There will be the industry body head offices in a separate building to the east, of approximately 800 square metres in size, which will give office accommodation to those peak bodies of the wine industry nationally. In the reception foyer there will be an orientation display, enabling the visitor to quickly understand the range of facilities and activities that are on offer in the centre.

An assessment of the economic impact of the proposed botanic wine and rose development has been undertaken, and it states that this development will offer a number of benefits to the State which include: attracting additional investment to increase South Australia's share of the wine industry; increasing tourism activity; increasing wine exports; and promoting the State in the process of doing those things. The analysis we have been given provides indicative estimates of potential impacts that are likely to be associated with the project, in particular its impact on the wine industry. We see an estimate in excess of $500 million as the net present value to the State's economy, which illustrates the significance of the economic development benefits that may arise principally as a consequence of the centre being located in Adelaide. It reaches the conclusion that the indicative analysis confirms the potential of the National Wine Centre to have a marked effect on the South Australian and national economies.

As I have stated in the August report to Parliament for the Stage 1 works, the committee considers the industry to be of major economic importance to Australia and South Australia in particular. The establishment of a world class national centre will have a major regional economic impact for us, with social benefits flowing from it. Furthermore, members of the committee believe that the National Wine Centre should contribute significantly to the development of tourism and, therefore, the creation of long-term jobs in those industries. Committee members recognise that the provision of this development will provide an opportunity for South Australia to reassert its position as the leading wine State in Australia. Furthermore, the adjacent rose garden will afford similar opportunities for the State's rose industry and will help create a major tourism focus in the city whilst enhancing the existing and adjacent attraction, that is, the Botanic Gardens, the Bicentennial Tropical Conservatory and, a little more afield, the Royal Zoological Society's park.

In addition to the foregoing and notwithstanding them, the Public Works Committee—and, indeed, the wider community—has grave concerns in relation to the further use of parklands for this purpose and generally. In particular, we are concerned with respect to the recent precedent set in the alienation of parklands from the public via the erection of permanent structures to be used for commercial activities, such as has occurred at Memorial Drive.

Accordingly, the committee recommends to all and any Ministers that no structural change, first, of any substantial nature to existing buildings or, secondly, development or alienation of any area of the land of the City of Adelaide originally surveyed and designated as parkland by Colonel William Light, be undertaken without the approval of an absolute majority of all members of each House of Parliament and the Corporation of the City of Adelaide in sessions separately assembled. As such, though with some reluctance, pursuant to section 12C of the Parliamentary Committees Act, the committee reports that it recommends the proposed public works. I point out that, had it not been for the enormous economic benefit which was shown to have been likely to accrue from it to the State in the manner of the details that I have referred to, I am sure the committee's findings would not have been so strongly positive.

Ms THOMPSON secured the adjournment of the debate.

PUBLIC WORKS COMMITTEE: ADELAIDE FESTIVAL CENTRE

Mr LEWIS (Hammond): I move:

That the ninety-third report of the committee on the Adelaide Festival Centre upgrade—Stage 2—asbestos management/removal—air conditioning, be noted.

The Adelaide Festival Centre was constructed in the early 1970s and, as was the practice at the time, asbestos was used extensively throughout its construction. In the late 1980s, the

Adelaide Festival Centre Trust, in response to growing concerns about the safety of asbestos being present in public 'unsealed' locations, initiated an asbestos removal program and created a register of residual asbestos. Arts SA proposes to undertake Stage 2 of the Adelaide Festival Centre upgrade. These works will involve the removal of asbestos from the air-conditioning duct work at the Festival Centre, specifically in the Festival Theatre foyers, the main auditorium, the stage area and under stage areas, ancillary areas, and drama centre, that is, the Playhouse and the Space Theatre. The estimated cost of that work will be $1.8 million.

The committee understands that there will be recurrent savings to the Festival Centre Trust as the requirement to monitor airborne asbestos decreases when decontamination is complete. This will represent a monthly saving of about $6 000 a year, or just over $70 000. It should be noted that the Adelaide Festival Centre Trust's southern offices and banquet room will not be part of this work, as they were built later than the rest of the centre and are free of asbestos in their air-conditioning ducts.

It is proposed that decontamination of the air conditioning ducts will be undertaken by getting into the existing air conditioning access points that are cut in the duct work, and placing in position at those points a mobile self-contained machine consisting of a blower unit coupled to filters to ensure that the duct work is kept under negative pressure at all times; then, feeding through the duct work a device on the end of a high pressure air line which will dislodge the asbestos back through the self-contained unit and filters to allow large sections of duct work to be decontaminated at a time; by utilising traditional hand cleaning methods for larger sections of the duct work; by undertaking quality control inspections using both a remote control mini camera and visual assessments by an independent consultant; and by monitoring the air throughout the whole process.

The Public Works Committee notes that during the current upgrading program using improved methods of detection asbestos was discovered and a complete building audit was carried out in consequence. The committee understands that the aim of the proposed project is to remove this asbestos in ways which minimise the risk to both human health and cost, and such project is of paramount importance in addressing a public health issue and maintaining the future financial viability of the centre. The committee has been assured that currently the Festival Centre facilities are considered safe for use by the public, staff and performers. Additionally, the committee has been further assured that the Adelaide Festival Centre Trust is meeting all legislative requirements for air monitoring of asbestos fibres and, at the time of our hearings, none had been detected.

The committee considers that, while the Adelaide Festival Centre Trust has taken all reasonable steps to manage, control and monitor the friable asbestos present in the air conditioning ducts, there is still the potential that this asbestos may deteriorate and/or the ducts be disturbed by any further building work or general movement. The members of the committee therefore agree that, given the unstable—that is, friable—condition of the crocidolite discovered in the air conditioning ducts, coupled with the fact that the asbestos is a confirmed human carcinogen, it is imperative that the work commence immediately to meet the trust's duty of care responsibility. We know it has already commenced and, pursuant to section 12(c) of the Parliamentary Committees Act, we recommend that the work be undertaken.

Ms THOMPSON (Reynell): This does not appear to be one of the most significant works that has come before the Public Works Committee in recent times, yet in many ways it is because, in relation to this matter concerning the removal of asbestos in the Festival Theatre, we are dealing with critical issues of health and, indeed, lives. For many years, workers—and particularly the asbestos representative on the United Trades and Labor Council, Jack Watkins—have been raising concerns about the impact of asbestos on their health and that of the public who might be using the facilities in which they are working. They do this because, as the member for Hammond has pointed out, asbestos is a known carcinogen, and it is responsible for and the sole cause of one of the most awful forms of cancer there is, and that is mesothelioma. Anyone who has seen a person die from mesothelioma knows that it is very painful. The only positive thing that can be said about it is that it is relatively quick. People frequently die within four to six months of diagnosis, and it is a very distressing process for both the patient and their whole family.

Often when people point to the presence of asbestos, it is seen as being alarmist, because it is often hidden and people are not really sure that there will be an impact in their workplace. Unfortunately, mesothelioma is increasing in our community. For those who are already dying, we cannot do anything, but we can stop many deaths in the future. The Adelaide Festival Trust has acted quickly to ensure the safety of the workers and the public in relation to that centre.

Debate adjourned.

AUSTRALIAN STEEL CORPORATION

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

Leave granted.

Mr LEWIS: Earlier today, since the commencement of business in the House, allegations have been made in this building that I and/or members of my family have a pecuniary interest in the Australian Steel Corporation's efforts or activities in its endeavours to establish a ship repair and recycling facility at Port Adelaide and in the outports around South Australia. That is grossly untrue. I have no pecuniary interest in that organisation whatever; neither do any members of my family, nor my wife in particular. I have never had any discussion with any member of that organisation about any commercial interest in it at all. My interest is and always has been to procure for South Australia an industry which is likely to be worth $1 billion per annum in sales after an investment of in excess of $1 billion to establish it.

APPROPRIATION BILL

The Hon. M.R. BUCKBY (Minister for Education, Children's Services and Training): I move:

That on Thursday 27 May 1999 Standing Orders be so far suspended as to enable—

(a) the Premier to have leave to continue his remarks on the Appropriation Bill immediately after moving 'That this Bill be now read a second time';

(b) the Treasurer (Hon. R.I. Lucas) to be immediately admitted to the House for the purpose of giving a speech in relation to the Appropriation Bill; and

(c) the second reading speech on the Appropriation Bill to be resumed on motion.

Mr LEWIS (Hammond): I have strong views about this matter and I guess I suffer as much pain for holding those views as other members might equally suffer for my commitment to express them. Let me make it plain that my strong opposition to this is no different from the opposition which I expressed at the same time last year, one day later than this, on 27 May. I have a profound respect for the institution of Parliament around the world. I believe that whenever we change the way in which Parliaments function those changes should be rung in only after there has been fulsome debate of the matter, and whilst I made that point last year there has been no subsequent debate of it in this Chamber.

My belief comes in consequence of my view that the two Houses traditionally have separate roles in debating matters relevant to the interests of society in polity in reviewing what happens within the community at large and the way in which they function side by side to form the Parliament. The two Houses ensure that the wider community of South Australia can accept changes to law and the rate of change of its law, and changes to its administrative procedures, as determined by proclamation, or subordinate legislation of any kind under that statute. When we do this, it blurs the minds of the public as to what each of the Houses does, and why they are an important part of the whole Parliament.

I believe further that we ought to respect the differences between the memberships of both Houses, and we should observe the difference in their respective roles. Indeed, we do that in our Standing Orders, and I draw the attention of honourable members to Standing Order 120 which provides:

> Reference to debate in the other House.
>
> A member may not refer to any debate in the other House of Parliament or to any measure impending in that House.

That is the same as would be the case in the other place in its Standing Orders. So, what we now have is a set of circumstances where the debate, in the form of a speech to be given should this measure pass this Chamber by the Treasurer, will not be able to be referred to by members in the other place because he has made them in here. I think that of itself, whilst it might seem an academic point, is nonetheless an important point and reinforces my belief that we are mistaken when we allow it to happen because it blurs in the public mind the difference between the two Chambers and, indeed, any belief there may be that we need two Chambers, and I strongly believe that we do.

You must state what you believe, and my point is that my remarks are in no sense personal nor directed at any Minister, including the Treasurer. What we are proposing to do, as we did last year, is nothing like doing what is done in the Estimates Committees, and I will not go over that debate again as I did last year.

My final point, not made in the course of my remarks last year but which I will make now, is that, if there is legislation to be introduced in one Chamber which relates to the portfolio responsibilities of a Minister in the other Chamber, we already have conventions whereby the Minister resident in the Chamber representing that Minister with the portfolio responsibility can simply move the measure and, indeed, already does move the measure, and there is no risk in consequence of any conflict.

If it happens and we go down this path, then why is it any less or more important to continue that convention and, worse still, and my final point is that, if there is an altercation on the occasion that the Treasurer is here in which the Treasurer is involved then by what Standing Order will we deal with that altercation and in what manner can it be argued that justice was done in applying the Standing Orders in this place where the Standing Orders do not contemplate that a member of another place will come here to participate in the debate.

Motion carried.

The Hon. M.R. BUCKBY: I move:

That a message be sent to the Legislative Council requesting that the Treasurer (Hon. R.I. Lucas) be permitted to attend the table of the House on Thursday 27 May 1999 for the purpose of giving a speech in relation to the Appropriation Bill.

Motion carried.

OFFSHORE MINERALS BILL

The Hon. M.R. BUCKBY (Minister for Education, Children's Services and Training) obtained leave and introduced a Bill for an Act relating to exploration for, and the recovery of, minerals (other than petroleum) in the first three nautical miles of the territorial sea in respect of South Australia; and for related purposes. Read a first time.

The Hon. M.R. BUCKBY: I move:

That this Bill be now read a second time.

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

Leave granted.

This Bill seeks to establish a legislative regime to govern mineral exploration and mining in South Australia's coastal waters and mirror Commonwealth legislation applying in adjacent Commonwealth waters.

Under the Offshore Constitutional Settlement of 1979, the Commonwealth and States agreed that as far as practicable, a common offshore mining regime should apply in Commonwealth and State waters. It was agreed that State coastal waters should extend three nautical miles from Australia's territorial sea baseline and Commonwealth waters should lie beyond the three nautical mile limit. Commonwealth waters are administered under its *Offshore Minerals Act 1994*. South Australia's coastal waters will be administered under this proposed new legislation.

The administration of the minerals regime applying in Commonwealth waters adjacent to South Australia is shared between the Commonwealth and South Australian Governments. This joint administration operates through two institutions, the Joint Authority and Designated Authority.

The Joint Authority consists of the Commonwealth Minister for resources and energy and the corresponding State minister, and administers all offshore minerals activity in Commonwealth waters adjacent to South Australia. The Joint Authority is responsible for major decisions relating to titles, such as grants, refusals and the like, and in the event of a disagreement, the views of the Commonwealth Minister prevail.

The State minister is the Designated Authority, and is also responsible for the normal day-to-day administration of the Commonwealth legislation.

Under the auspices of the Australian and New Zealand minerals energy council, ANZMEC, a 'model' bill to apply in State coastal waters was developed by the Western Australian Government in consultation with Parliamentary Counsels in other States, including South Australia. The "model" bill has provided the basis for the development of South Australia's *Offshore Minerals Bill 1999*.

In accordance with the Offshore Constitutional Settlement, the Bill closely mirrors the Commonwealth's *Offshore Minerals Act 1994*. This will ensure that exploration and mining proposals in Commonwealth and State waters receive consistent treatment, which is particularly important if projects straddle both jurisdictions.

The Bill applies to South Australia's coastal waters which are defined to be those waters extending three nautical miles seaward from the baseline determined under the *Seas and Submerged Lands Act 1973* of the Commonwealth. The baseline encloses Spencer Gulf, Gulf St. Vincent, Investigator Strait and Backstairs Passage by a line from the mainland to the western end of Kangaroo Island, along the south coast of Kangaroo Island and then from the Eastern end of the island to the mainland. Mining in the gulfs and in Investigator Strait and Backstairs passage will be regulated under the *Mining Act 1971*.

The Bill provides a legislative framework for the administration of various types of mining licences in South Australian coastal

waters and has regulation-making power to detail relevant royalty, and environmental management regimes. In the interim, the respective onshore regulatory regimes will continue to apply in State coastal waters. It is expected that the environmental management regimes to apply in State coastal waters will be consistent with the arrangements applying onshore.

The Bill also details State functions in Commonwealth waters under Part 5.1 of the Commonwealth's *Offshore Minerals Act 1994.* In effect, relevant South Australian laws can be applied to Commonwealth waters when a corresponding Commonwealth law does not exist. For example, South Australia's environmental management and safety and health regimes can be applied to Commonwealth waters in the absence of corresponding Commonwealth regimes.

The impending environmental protection review of South Australia's '*Mining Act 1971'* will reshape the environmental management regime for onshore mining activities and also provide the basis for the establishment of a complementary environmental management regime in South Australian coastal and adjacent Commonwealth waters.

This greater consistency of legislation between jurisdictions will create a more efficient and effective regime for the administration of exploration and mining in South Australia's off shore waters.

While there has been some interest in offshore minerals occurrence in South Australian waters in recent years, there are no applications or permits currently in force.

This Bill complements South Australia's offshore petroleum legislative regime which was established 16 years ago. Since the establishment of this complementary Commonwealth–State petroleum regime, there has been significant petroleum exploration activity in South Australia's offshore waters which has proven to be a good test for the legislation.

Passage of this bill will fulfil South Australia's obligations under the Offshore Constitutional Settlement of 1979.

Explanation of Clauses

Clause 1

Clause 2

These clauses are formal.

Clause 3—Outlines the main principles of the Offshore Constitutional Settlement by which the States share in the administration of the Commonwealth Act and under which a common mining code will be maintained in the offshore area. The clause also details those Acts which either gave rise to, or flow from the Offshore Constitutional Settlement.

Some sections of the Commonwealth Act contain provisions which are not relevant to this Bill. Throughout the Bill some clause numbers are not used to maintain uniformity with the Commonwealth Act.

Clause 4—Many provisions of this Bill are accompanied by explanatory notes. These notes may explain further the purpose of the particular provision or they may draw attention to another provision which may be relevant to the substance of the original provision. This clause provides that the notes which may be included in a clause may assist the understanding but do not form part of that clause.

Clause 5—provides the meaning of terms used in the Bill.

Clause 6—The intention here is to identify the shareholders in a licence and their percentage holding. It ensures that where a licence has a number of holders it does not automatically mean that all have equal shares, but rather only those percentages that are specified in the Register.

Clause 7—This explains that a transfer of a licence or share in a licence has occurred when all or any of the percentages of the interest in a licence changes.

Clause 8—This provision makes it clear that if a holder of an exploration licence applies for and is granted a retention licence or a mining licence, these latter licences over the same area are defined as successor licences to the exploration licence. It also allows for a mining licence to succeed a retention licence which previously succeeded an exploration licence. The intention is that over the life of an offshore minerals project, the previous rights of the project owner are in certain circumstances continued in the successor licences.

Clause 9—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 10—From time to time it will be necessary to determine various positions upon the Continental Shelf, for example the position of a particular boundary of a title area. This clause explains how the position on the Earth's surface is calculated and ensures that all determinations of points will be made by reference to a single geodetic station, namely the Johnston Geodetic Station in the Northern Territory. This point was established through the co-operative effort of the survey authorities of the Commonwealth and the States.

Clause 11—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 12—This ensures that where an instrument issued under this Act is varied in any way, the variation is carried out according to the same procedures and under the same conditions by which the original instrument was issued. The intention is to ensure that there is consistency in the administration of this Act.

Clauses 13 to 15—(Numbers not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 16—"Coastal waters" of the State is defined as the first 3 nautical miles of the territorial sea from the baseline—this is the area subject to this Bill. The "baseline" is described as effectively being the lowest astronomical tide along the coast, but varies where bays and other indentations occur. This clause explains the effect on a licence issued under this Bill where there is a change in the baseline. If the baseline moves landward and causes a licence to no longer be within coastal waters, the Bill will still apply to the licence as if it were still within coastal waters. If the baseline moves seaward and causes a licence issued under the Commonwealth Act to move within coastal waters (covered by this Bill), that licence is not affected by this Bill. Once a licence (or any successor licence by the same holder) affected by a change in the baseline is no longer in force, the new position of the baseline applies to subsequent licence applications.

Clause 17—This clause provides that for the purposes of this Bill the offshore area is divided into blocks bounded by one minute of latitude and one minute of longitude.

Clause 18—This provision allows the Minister to withdraw a block entirely from the operation of this Bill, provided the block is not the subject of an existing licence or an application for a licence. The intention is to allow blocks to be reserved for conservation purposes, environmental reasons or any other reason.

Clause 19—This clause defines a standard block as one that is not reserved and is available for any one to apply for either an exploration permit or mining lease.

Clause 20—This clause defines a tender block as a reserved block which is made available for an exploration licence or a mining licence by way of a public invitation to apply for the licence.

Clause 21—This clause defines a discrete area as a group of blocks where all the blocks join each other at least on one side.

Clause 22—This clause adopts an all embracing descriptive definition of minerals to include all naturally occurring substances or any mixture of them.

Clause 23—This clause adopts a broad definition of exploration to include any operation directly related to exploration. However, underground exploration from land in accordance with the *Mining Act 1971* is not included.

Clause 24—This clause adopts a broad definition of recovery.

Clause 25—This clause defines a licence holder as one whose name appears in the Register.

Clause 26—This clause defines "associates" in order to make a distinction between them and the licence holder. Associates may do all the work necessary for the exploration and mining of minerals under agreements with licence holders or other associates. Associates may be contractors, sub-contractors, agents or employees.

Clause 27—This clause ensures that any information provided to the Minister by the licence holder remains confidential so long as it relates to only those blocks covered by the licence and for so long as that licence or a successor licence remains in force.

Clause 28—This ensures that any material recovered as a sample which is provided by the licence holder to the Minister remains confidential so long as it relates to only those blocks covered by the licence and for so long as that licence or a successor licence remains in force.

Clause 29—Where "Commonwealth-State offshore area" is referred to in this Part, it has the same meaning as in the Commonwealth Act. The Commonwealth-State offshore area is the offshore area seaward of the 3 nautical mile limit.

Clause 30—This clause provides for the Minister to perform duties as a member of the Joint Authority, or as the Designated Authority in Commonwealth waters under the Commonwealth Act.

Clause 31—Similarly, this clause provides for a public sector employee with delegated authority under the Commonwealth Act to perform those duties under that Act

Clauses 32 to 34—(Numbers not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 35—This clause provides that the Bill does not apply to petroleum.

Clause 36—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 37—This clause makes this Bill applicable to all natural persons whether or not they are Australian citizens or residents of South Australia, and to all corporations whether or not they are incorporated or carrying out business in South Australia.

Clause 38—This clause provides for the basic control over offshore minerals activities. It provides that all offshore mineral activity is prohibited unless authorised according to the provisions of this Bill.

Clause 39—This outlines the five licences and consents which may be granted, their respective purposes and the sequence in which they may be used.

Clause 40—This outlines the steps that must be taken before a licence becomes fully effective.

Clause 41—This clause allows the Minister to determine the form and manner in which an application for a licence or the renewal of a licence is to be made.

Clause 42—This is one of the fundamental clauses in the legislation. It provides that minerals authorised by and recovered under a licence (but not a works licence) are the property of the licence holder.

Clause 43—The clause makes it clear that while a licence or consent does not extinguish any native title, the native title rights in the area will be subject to the rights conferred on the holder of a licence or consent. Subject to clause 44, the subordination of native title rights during the life of a licence is consistent with the subordination of any other rights other interested parties may have in the licence area. In other words, native title rights are subordinate to the licence rights of the licence holder while the licence exists. Also, liability to pay compensation in relation to native title, lies with the licence applicant and not the Government.

Clause 44—The licence holder must respect and not interfere with the rights of other persons who may be lawfully in the area including any native title rights and interests.

Clause 45—This provides that an exploration licence may be granted for blocks that are open for exploration or blocks that have been previously reserved and which have been released for tender.

Clause 46—This outlines in clear terms what a licence holder can or cannot do under a licence. The licence authorises its holder (subject to compliance conditions and all other legal requirements) to explore the licence area for all minerals except those specifically excluded or for minerals specified in the licence. It also allows the licence holder to recover samples and carry out associated activities.

Clause 47—A licence can be cancelled for failing to comply with the conditions of the licence and for breaching a provision of this Act or Regulations or a condition attached to the transfer of a licence. No compensation is payable to the licence holder in this situation.

Clause 48—This provides that any rights conferred by an exploration licence may be suspended in the public interest. For example, an investigation may need to be conducted to establish whether or not exploration activity in the area is having an adverse impact on a newly discovered and unique ecological occurrence. It also provides the procedures the Minister must follow if the Minister decides to suspend the licence. They may be later restored and the licence holder must be informed of both events in writing.

Clause 49—This provides that compensation must be paid to a licence holder if property is acquired as a result of suspension of exploration rights.

Clause 50—This provides that a person may apply for an exploration licence to cover one or more vacant blocks providing they form one discrete area up to a maximum size of 500 blocks.

Clause 51—This provision outlines the various circumstances under which a block can be excluded from being available for an application for an exploration licence. The intention is to allow the Minister the opportunity to reserve a newly vacant block, for whatever reason. It is also designed to prevent previous licence holders of, or applicants for those blocks from immediately re-applying for them again so as to give other interested parties the opportunity to apply for them.

Clause 52—This allows a person to apply to the Minister for a determination to enable him or her to apply for an exploration licence over an area covered by an excluded block.

Clause 53—This provision allows a person to apply for and the Minister to consider an exploration licence application covering more than one discrete area. It is possible that some applications lodged around the same period may be for over-lapping areas. This provision gives the Minister the discretion to grant an exploration licence to cover up to three discrete areas, if the severance of the area is caused by a grant of a prior application.

Clause 54—This provision outlines to whom and the manner in which an application for an exploration licence is to be made, as well as the details to be included in the application.

Clause 55—This provides that an application for an exploration licence is not invalid if it includes a block which is not available. This provision allows the application to be considered in relation to those remaining blocks that are available.

Clause 56—The licence application fee is prescribed by regulations and is generally not refundable except in special circumstances where it may be refunded in whole or in part. The purpose of the fee is to recover the administrative costs of processing applications wherever possible.

Clause 57—Applicants must advertise the details of their application for an exploration licence in the print media and invite comments on the application which should be lodged with the Minister within 30 days.

Clause 58—The purpose of this clause is to ensure that as a general rule, all exploration licence applications will be considered on a "first come, first considered" basis. The exception to this rule will be where applications for substantially the same area have been received close together in time. On such occasions, ballots will be used to determine the priority as to which application will be considered first. The conduct of such ballots and the rules for determining what constitutes close together in time will be specified in regulations.

Clause 59—This provision allows the Minister to discuss the shape of the total area comprising a number of blocks sought by an applicant for an exploration licence. Following the discussion, the Minister, with agreement of the applicant, may change the shape of the area in the application. The purpose is to prevent an applicant from encircling or closing off small pockets so as to make it difficult or uneconomic for another applicant to explore such areas.

Clause 60—Its purpose and contents are similar to clause 57. Applicants must advertise the details of their revised application.

Clause 61—This clause empowers the Minister to request any further information about the licence application. The information in the application may be deficient in some aspects or may require further elaboration.

Clause 62—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 63—This clause enables the Minister to grant a provisional exploration licence which becomes final upon the applicant paying the prescribed rental fee and accepting other certain conditions.

Clause 64—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 65—This requires that the licence must specify the area, the terms and conditions of the licence.

Clause 66—This provision requires the successful applicant to be given the licence which contains the terms and conditions of the provisional grant and a notice of any security deposit and any fees due. The provisional licence will lapse if the applicant does not confirm that it wishes the provisional grant to be made final and if it does not pay the security and all fees associated with the licence.

Clause 67—This allows the provisional licence holder to request, within 30 days of receiving a written notice of a provisional grant of an exploration licence, an amendment to a condition of the provisional licence and the Minister may amend that condition or any other condition of the licence.

Clause 68—This allows the provisional licence holder to request within 30 days of receiving a written notice of a provisional grant of an exploration licence, an amendment of the security requirement and the Minister may amend the security requirement.

Clause 69—This provides for the payment of fees and the confirmation of grant to be deferred to allow time for any conditions or the level of security to be amended, if thought necessary.

Clause 70—This is the final formal step (subject to registration) in the grant of an exploration licence. The grant becomes final upon the applicant paying the required fees, lodging appropriate security and confirming in writing, acceptance of the grant. If the confirmation of the grant is made after any amendments to the conditions or security requirements during the payment extension period, the date of the confirmed grant remains the date of the original conditional grant. This means that when discussions are held on

possible amendments to the conditions or security requirements, the "clock still ticks away" so as to provide an incentive to the provisional licence holder to conclude discussions as soon as possible.

Clause 71—This ensures that the conditions specified in the licence become legally binding on the licence holder.

Clause 72—A provisional grant of an exploration licence lapses if acceptance and payment of relevant fees and securities are not made within 30 days or, if an extension is granted, within this extended period.

Clause 73—It is intended to ensure that the potential applicants for licences over reserved blocks are made aware of the "ground rules" under which the tender process will be conducted. It requires the Minister to determine the amount of security that will be required to be lodged, the conditions of the licence and the procedures that it will adopt in allocating the licence. This provision will allow the Minister to determine whether the licence will be allocated on the basis of program bidding or cash bidding.

Clause 74—In Division 2, the initiative for making an application over a standard block lies with the applicant for a vacant area and at a time of the applicant's own choosing. Under this clause, the initiative lies with the Minister who invites applications to be lodged within a specified time frame for a reserved area which has been released for exploration by way of tender.

Clause 75—The Minister must publicly specify the criteria the applicants will need to meet and the procedures the Minister will use in selecting the successful applicant. It also limits the size of an exploration licence to 500 blocks. The intention is to ensure that the potential applicants are made aware of the conditions and procedures against which their applications will be assessed.

Clause 76—This provides that a person may apply for an exploration licence according to the public notice of invitation.

Clause 77—This is a procedural provision. It outlines to whom and the manner in which an application for an exploration licence is to be made, as well as the details to be included in the application.

Clause 78—This allows the fee to be prescribed by regulations and provides that the fee is generally not refundable except in special circumstances where it may be refunded in whole or in part. The purpose of this clause is to recover the administrative costs of processing applications wherever possible.

Clause 79—This provision allows the Minister to request further information in relation to the application which may be thought necessary to assist in the consideration of the application.

Clause 80—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 81—The Minister may grant a provisional exploration licence subject to the procedures as advertised in the public tender notice being observed.

Clause 82—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 83—It requires the successful applicant to be advised in writing of the terms and conditions of the provisional grant of the exploration licence which will expire if they are not met.

Clause 84—This is the final formal step in the grant of an exploration licence. The grant becomes final (subject to registration) upon the applicant paying the required fees, lodging appropriate security and confirming in writing acceptance of the grant.

Clause 85—This ensures that the conditions specified in the licence become legally binding on the licence holder.

Clause 86—This provides that a provisional grant of an exploration licence lapses if it is not properly accepted.

Clause 87—If there is more than one application as a result of the tender process, this allows the Minister to provisionally grant an exploration licence to the next best applicant should the first chosen licence holder allow its provisional licence to lapse.

Clause 88—The term of an exploration licence is four years. The date of the provisional grant is when the licence commences and it is this date that determines the expiry date, however the licence does not come into effect until it is registered. The time difference in normal circumstances will be approximately one month, during which time the provisional licence holder can decide whether to accept the provisional grant and pay the required fees and level of security. The period could be longer if the provisional licence holder wishes to negotiate any changes to the conditions of the licence.

Clause 89—The term of a renewal is two years, and the maximum number of renewals is three. This clause, taken together with clause 88, ensures that the maximum period of an exploration licence is ten years.

Clause 90—This provision empowers the Minister to extend the term of an exploration licence by the same period as licence rights have been suspended. The intention is to ensure that the licence holder is not penalised by the suspension and is able to carry out the exploration program within the same period of time once the licence rights have been restored.

Clause 91—This provision allows an exploration licence to continue in force until the Minister either grants or refuses a renewal.

Clause 92—This provision allows an exploration licence to continue until the Minister grants or refuses a retention or mining licence applied for by way of conversion.

Clause 93—This allows an existing exploration licence to remain in force beyond its due expiry date so that any application for an extension can be considered by the Minister.

Clause 94—This covers the situation where an exploration licence holder has not been able to complete its exploration program during the maximum time allowed because of circumstances beyond the licence holder's control. In this situation, the licence holder can ask for extra time to compensate for the time lost and thus complete the original exploration program.

Clause 95—This provision makes it mandatory for the Minister to extend the licence term if the Minister is satisfied that the unforeseen circumstances did affect the exploration program. The Minister may attach conditions to the extension and there are restrictions on the term of the extension.

Clause 96—This allows a licence holder to request an extension of the term of the licence than those outlined in clause 94, that is for circumstances other than those beyond its control such as suspension of licence or exemptions from licence conditions.

Clause 97—This empowers the Minister to grant a licence extension and to impose whatever conditions the Minister thinks appropriate. This is considered necessary as the circumstances may indicate that the licence holder may need to comply with additional conditions.

Clause 98—This clause provides that the applicant is to be advised in writing of the grant or refusal of extension, and of any conditions that may be attached to it.

Clause 99—This provision allows a licence holder to voluntarily surrender some of the area covered by a licence if the remaining portion forms a discrete area. Under this clause the notification constitutes surrender.

Clause 100—This clause requires the consent of the Minister before a licence holder can surrender blocks leaving two or three discrete areas. This allows the Minister the opportunity to examine the proposed surrender so as to avoid undue fragmentation of the remaining title area and prevent the licence holder from encircling or closing off small pockets so as to make it difficult or uneconomic for another applicant to explore such areas. If the Minister does not agree, then consultations can proceed to decide on the final shape of the areas to be surrendered. In the event of agreement, the applicant is advised in writing.

Clause 101—This allows for an exploration licence holder to lodge an application to renew the licence.

Clause 102—This specifies that an application to renew an exploration licence must be made at least 30 days before the licence expires. It also allows the Minister discretion to accept a later application if the circumstances warrant it.

Clause 103—This is a procedural provision which outlines the manner in which an application for an exploration licence is to be made, as well as the details to be included in the application.

Clause 104—This clause provides that the licence area must be reduced by 50% for each renewal. If a renewal is sought for more than one discrete area, then the application must not exceed 3 discrete areas. This is to avoid undue fragmentation of the licence area. The clause also gives the Minister the discretion to reduce the mandatory reduction in the licence area by less than 50% if he or she thinks that circumstances warrant it. The flexibility provided by this clause will allow the Minister to treat special cases on their merits.

Clause 105—This provision empowers the Minister to request any further information about the renewal application which may be thought necessary to assist in the consideration of the application.

Clause 106—This provision allows the fee to be prescribed by regulations and provides that the fee is generally not refundable except in special circumstances where it may be refunded in whole or in part. The purpose of this clause is to recover the administrative costs of processing applications wherever possible.

Clause 107—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 108—This provision sets out the circumstances under which the Minister must provisionally renew an exploration licence.

Clause 109—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 110—This provision sets out the details that the Minister must provide in the written notice of provisional renewal to the applicant.

Clause 111—This allows the licence holder to request an amendment of the conditions within 30 days of receiving a written notice of a provisional grant. It also provides that the Minister may amend the conditions and confirm this to the licence holder in writing.

Clause 112—This allows the licence holder to request an amendment of any security requirements within 30 days of receiving a written notice of a provisional grant. It also provides that the Minister may amend the security requirements and confirm this to the licence holder in writing.

Clause 113—This clause provides for the payment of fees to be deferred to allow time for any conditions or security requirements to be amended if thought necessary.

Clause 114—This is the final formal step in the grant of a renewal of an exploration licence. The renewal becomes final (subject to registration) upon the applicant paying the required fees, lodging appropriate security and confirming in writing the acceptance of the grant.

Clause 115—This ensures that the conditions of the licence become legally binding on the licence holder.

Clause 116—A provisional grant of a renewal of an exploration licence lapses if it is not properly accepted.

Clause 117—This clause outlines the sources of the obligations associated with an exploration licence. In addition, the clause provides that where there is more than one shareholder in an exploration licence, each shareholder will be held 100% responsible for all obligations of the licence in the event of failure by any one of them to meet their obligations.

Clause 118—Under this clause an exploration licence may be granted subject to such conditions as the Minister thinks fit.

Clause 119—Apart from the payment of a penalty or lodgement of security, this clause prevents a condition requiring the payment of money to the State.

Clause 120—This clause enables the Minister to vary any of the conditions of a licence in any of the circumstances specified.

Clause 121—This clause enables the Minister to suspend or exempt any of the conditions of a licence in any of the circumstances specified.

Clause 122—If a licence is suspended, this clause frees the licence holder from complying with the conditions for the duration of the suspension.

Clause 123—The fundamental principle contained in this provision is that exploration operations are to be carried out at a standard accepted in the industry and other provisions elsewhere in this Bill ensure that these standards will be the subject of inspections. The clause also requires the operator to maintain in good condition and repair, all structures, equipment and other property in the licence area which are used in connection with the operations. All structures, plant and equipment that are not or no longer going to be used are to be removed from the operations area.

Clause 124—This empowers the Minister to require the licence holder to maintain, and provide when required, any records or samples resulting from exploration activities. This provision is also necessary so that the Minister has the information necessary for the proper and efficient administration of the legislation.

Clause 125—This requires the licence holder to allow inspectors access to its operations and records.

Clause 126—This clause outlines the circumstances when an exploration licence expires.

Clause 127—This provision allows a licence holder to surrender the licence.

Clause 128—This clause provides that an existing exploration licence covering the same area as a newly granted retention licence automatically expires to the extent of the overlapping blocks. This is to ensure that no area is covered by more than one licence.

Clause 129—This is similar in substance and intent as the previous provision, clause 128.

Clause 130—The clause outlines the circumstances under which an exploration licence may be cancelled and ensures that the licence holder receives natural justice prior to any moves to cancellation. It gives the licence holder the opportunity to make submissions within a specified time or to take remedial action. It outlines the conditions the Minister must meet before proceeding with the cancellation.

Clause 131—This clause provides that any outstanding obligations must be discharged by the licence holder after the termination of the licence no matter what the circumstances were which gave rise to the termination. It is intended, among other things to ensure that the licence holder's environmental obligations are met.

Clause 132—This clause provides for the grant of a retention licence and the accompanying notes outline the reasons for the licence.

Clause 133—This outlines what a licence holder can or cannot do under a retention licence. It also prohibits using the licence for recovery of minerals for commercial purposes. This is to ensure that the licence holder applies for a mining licence should the licence holder wish to commence commercial operations.

Clause 134—This provides that no compensation is payable on the cancellation or non-renewal of a retention licence.

Clause 135—This provides that any rights conferred by a retention licence may be suspended if the Minister is satisfied it is in the public interest to do so. It also provides the procedures the Minister must follow if the Minister decides to suspend the licence. It may be later restored and the licence holder must be informed in writing of both events as they occur.

Clause 136—This provides that compensation must be paid to a licence holder if property is acquired as a result of suspension of rights under a retention licence.

Clause 137—This provides that a holder of an existing exploration licence may apply for a retention licence covering a group of blocks in the exploration licence area and each must form a discrete area up to a maximum of 20 blocks.

Clause 138—This is a procedural provision. It outlines the manner in which an application for a retention licence is to be made, as well as the details to be included in the application.

Clause 139—This provision allows the fee to be prescribed by regulations and provides that the fee is generally not refundable except in special circumstances where it may be refunded in whole or in part. The purpose of this provision is to recover the administrative costs of processing applications wherever possible.

Clause 140—This provides that the applicant must advertise the details of the application for a retention licence in the print media and invite comments which should be lodged with the Minister within 30 days. The purpose of the provision is to improve the transparency and accountability of the administration of the Act.

Clause 141—This provision empowers the Minister to request any further information about the application. This requirement is necessary as the information in the application may be deficient in some aspects or may require further elaboration.

Clause 142—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 143—This clause gives the Minister a discretion to grant or refuse a retention licence.

Clause 144—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 145—This provision outlines the various grounds on which a retention licence may be granted.

Clause 146—This details what the licence must include and limits the term of the licence to 5 years. The licence may specify what activities are authorised by the licence.

Clause 147—This provision requires the successful applicant to be given the licence which contains the terms and conditions of the provisional grant and a notice of any security deposit and any fees due. The provisional licence will lapse if the applicant does not confirm that it wishes the provisional grant to be made final and if it does not pay the security and all fees associated with the licence.

Clause 148—This allows the provisional licence holder to request an amendment to a condition of the provisional licence within 30 days of receiving a written notice of a provisional grant. It also provides that the Minister may amend the conditions and confirm this to the licence holder in writing.

Clause 149—This allows the provisional licence holder to request an amendment of the security requirement within 30 days of receiving a written notice of a provisional grant. It also provides that the Minister may amend the security requirement and confirm this to the licence holder in writing.

Clause 150—This clause provides for the payment of fees and the confirmation of the grant to be deferred to allow time for any conditions to be amended or for a new determination as to security requirements to be made.

Clause 151—This is the final formal step in the grant of a retention licence. The grant becomes final (subject to registration)

upon the applicant paying the required fees, lodging appropriate security and confirming in writing the acceptance of the grant.

Clause 152—This ensures that the licence conditions become legally binding on the licence holder.

Clause 153—This provides that a provisional grant of a retention licence lapses if it is not properly accepted.

Clause 154—This provision outlines the date of commencement and the initial term of a retention licence.

Clause 155—This provision specifies the date when the renewal of a retention licence comes into force and refers the reader to clause 169 which provides that each renewal may not exceed 5 years.

Clause 156—This provides that where an application for renewal has been made, the initial retention licence continues in force even though it has expired. This will allow licence related activities to continue until an application for a renewal is approved or refused by the Minister or not accepted by the applicant.

Clause 157—This allows a retention licence to continue until the Minister grants or refuses a mining licence.

Clause 158—This allows the holder of a retention licence to voluntarily surrender some of the area covered by a licence if the remaining portion forms a discrete area.

Clause 159—This clause allows for an application to be made to renew a retention licence.

Clause 160—This specifies that an application to renew a retention licence must be made at least six months before the licence expires. It also allows the Minister discretion to accept a later application if the circumstances warrant it. The intention of the provision is to encourage the licence holder to make an application well before the expiry date of the initial licence and not wait until it is due to expire.

Clause 161—This is a procedural provision. It outlines the manner in which an application for a retention licence is to be made, as well as the details to be included in the application.

Clause 162—This clause empowers the Minister to request any further information about the renewal application.

Clause 163—The provision allows the fee to be prescribed by regulations and provides that the fee is generally not refundable except in special circumstances where it may be refunded in whole or in part. The purpose of this clause is to recover the administrative costs of processing applications wherever possible.

Clause 164—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 165—This provision states that the Minister can provisionally renew or refuse to renew a retention licence.

Clause 166—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 167—Empowers the Minister to take into account the commercial viability of mining activities in the licence area and the applicant's past record in complying with the various legal, operational and administrative requirements of the offshore minerals mining legislation.

Clause 168—This specifies the procedures the Minister must follow if the Minister proposes to refuse an application for a renewal of a retention licence. The intention is to ensure that the applicant is not denied natural justice and is given the opportunity to restate the applicant's case for a renewal.

Clause 169—This sets out the details that the Minister must provide in the written notice of provisional renewal to the applicant and specifies that the term of a renewal is not to be more than 5 years.

Clause 170—This allows the provisional licence holder to request an amendment of the conditions within 30 days of receiving a written notice of a provisional grant. It also provides that the Minister may amend the conditions and confirm this to the licence holder in writing.

Clause 171—This allows the provisional licence holder to request an amendment of the security requirement within 30 days of receiving a written notice of a provisional grant. It also provides that the Minister may amend the security requirement and confirm this to the licence holder in writing.

Clause 172—This provides for the payment of fees to be deferred to allow time for any conditions or security requirement to be amended, if thought necessary.

Clause 173—This is the final formal step in the grant of a renewal of a retention licence. The renewal becomes final (subject to registration) upon the applicant paying the required fees, lodging appropriate security and confirming in writing acceptance of the grant.

Clause 174—This ensures that the conditions of the licence are legally binding on the licence holder.

Clause 175—This provides that a provisional grant of a renewal of a retention licence lapses if the provisional renewal of the licence is not properly accepted under clause 173.

Clause 176—This clause outlines the sources of the obligations associated with a retention licence. In addition, this clause provides that where there is more than one shareholder in a licence, each shareholder will be held 100% responsible for all obligations of the licence in the event of failure by any one of them to meet its obligations.

Clause 177—Under this clause a retention licence may be granted subject to such conditions as the Minister thinks fit.

Clause 178—With the exception of payment of a penalty or lodgement of securities, this clause prevents the possibility that a tax may be imposed by way of a condition.

Clause 179—This clause enables the Minister to vary any of the conditions of the licence in any of the circumstances specified.

Clause 180—This enables the Minister to suspend or exempt any of the conditions of the licence in any of the circumstances specified.

Clause 181—If a licence is suspended, this clause frees the licence holder from complying with the licence conditions for the duration of the suspension.

Clause 182—This imposes an obligation on the licence holder to notify changes in the circumstances which significantly affect the long term viability of activities in the licence area.

Clause 183—The fundamental principle contained in this provision is that operations are to be carried out at an acceptable industry standard and provisions elsewhere in this Bill ensure that these standards will be the subject of inspections. The clause also requires the operator to maintain in good condition and repair, all structures, equipment and other property in the licence area which are used in connection with the operations. All structures, plant and equipment that are not, or no longer going to be used, are to be removed from the operations area.

Clause 184—This empowers the Minister to require the licence holder to maintain, and provide when required, any records or samples resulting from exploration or development activities. This provision is also necessary so that the Minister has the information necessary for the proper and efficient administration of the legislation.

Clause 185—This provides that the licence holder must provide inspectors with reasonable facilities and assistance for the purpose of carrying out inspections.

Clause 186—This clause outlines the circumstances in which a licence expires.

Clause 187—This provision allows a licence holder to surrender the licence.

Clause 188—This provides that a retention licence automatically expires when a mining licence over the area is granted and registered. This is to ensure that no area is covered by more than one licence.

Clause 189—The clause outlines the circumstances under which a retention licence may be cancelled and ensures that the holder receives natural justice prior to any moves to cancellation. It outlines the conditions the Minister must meet before proceeding with the cancellation.

Clause 190—This provision allows the Minister to request the licence holder to explain why the holder should not apply for a mining licence if the Minister thinks that mining is viable. It is intended to ensure that the licence holder does not just sit on the area under the licence without making attempts to develop the area to the point where commercial operations can commence at the appropriate time.

Clause 191—This provision provides that any outstanding obligations must be discharged by the licence holder after the termination of the licence no matter what the circumstances were which gave rise to the termination. It is intended, among other things, to ensure that the licence holder's environmental obligations are honoured.

Clause 192—This clause outlines the kind of blocks in coastal waters that may be covered by a mining licence. The licence authorises its holder (subject to compliance conditions and all other legal requirements) to exploit the licence area for all minerals except those specifically excluded, or for minerals specified in the licence.

Clause 193—This outlines what a licence holder can or cannot do under a mining licence.

Clause 194—This clause provides that no compensation is payable if the Minister cancels or refuses to renew a mining licence.

Clause 195—This provides that rights conferred by a mining licence must be suspended in the public interest if it is thought necessary by the Minister. The rights may be restored later and the licence holder must be informed of both events in writing.

Clause 196—This provides that compensation must be paid to a licence holder if property is acquired as a result of suspension of mining licence rights.

Clause 197—This provides that a person may apply for a mining licence to cover any area that is vacant and not covered by an existing licence. The maximum size of an area covered by a licence is 20 blocks which must form a discrete area.

Clause 198—This provides that only the holder of either an exploration licence or a retention licence may apply for a mining licence to cover an area which is the subject of the existing titles. Each licence to cover a maximum area of 20 blocks which must form a discrete area.

Clause 199—This provision outlines the manner in which an application for a mining licence is to be made, as well as the details to be included in the application. There is also a requirement that each application must be accompanied by maps which show the general location of the area sought.

Clause 200—An application for a mining licence is not invalid if it inadvertently includes a block which is not available. It is possible that an applicant may not be aware that a block is already under title or is a reserved block. In such circumstances, the application should not be considered invalid and this provision allows the application to be considered in relation to those remaining blocks that are available.

Clause 201—This provision is similar to those elsewhere in the Bill. It allows the fee to be prescribed by regulations and provides that the fee is generally not refundable except in special circumstances where it may be refunded in whole or in part. The purpose is to recover the administrative costs of processing applications wherever possible.

Clause 202—The applicant must advertise the fact that the applicant has lodged an application for a mining licence and invite comments. The purpose is to improve the transparency and accountability of the administration of the Act.

Clause 203—The purpose of this provision is to ensure that as a general rule all mining licence applications will be considered on a "first come, first considered" basis. The exception to this rule will be where applications for substantially the same area have been received close together in time. On such occasions, ballots will be used to determine the priority as to which application will be considered first. The conduct of such ballots and the rules for determining what constitutes close together in time will be specified in regulations.

Clause 204—This clause empowers the Minister to request any further information about the licence application. The information may be deficient in some aspects or may require further elaboration.

Clause 205—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 206—This provision empowers the Minister to grant a provisional mining licence which becomes final upon the applicant paying the prescribed rental fee and accepting other certain conditions.

Clause 207—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 208—This specifies the procedures the Minister must follow if the Minister proposes to refuse an application for a mining licence. The intention is to ensure that the applicant is not denied natural justice and is given the opportunity to restate the applicant's case for a licence.

Clause 209—This specifies the items that are to be included in the licence. It also limits the term of the licence to 21 years.

Clause 210—This provision requires the successful applicant to be notified of the terms and conditions of the provisionally granted mining licence and a notice of any security deposit.

Clause 211—This allows the provisional licence holder to request an amendment to a condition of the provisional licence within 30 days.

Clause 212—This allows the provisional licence holder to request an amendment of the security requirement within 30 days.

Clause 213—This clause provides for the payment of fees to be deferred to allow time for any conditions or security levels to be amended, if thought necessary.

Clause 214—This is the final formal step in the grant of a mining licence. The grant becomes final (subject to registration) upon the applicant paying the required fees, lodgement of appropriate security and confirming in writing acceptance of the grant.

Clause 215—This ensures that the conditions of the licence become legally binding on the holder.

Clause 216—A provisional grant of a mining licence lapses if it is not properly accepted.

Clause 217—This provision ensures that potential applicants are made aware of the "ground rules" under which the tender process will be conducted. It requires the Minister to determine the amount of security that will be required to be lodged, the conditions of the licence and the procedures that the Minister will adopt in allocating the licence. This provision will allow the Minister to determine whether the licence will be allocated on the basis of program bidding or cash bidding.

Clause 218—Under this clause the Minister may invite applications to be lodged for a reserved area which has been released for mining.

Clause 219—The Minister must publicly specify the criteria applicants will need to meet and the procedures the Minister will use in selecting the successful applicant. It also sets the maximum size of the licence to 20 blocks. The intention is to ensure that the potential applicants are made aware of the conditions and the procedures under which their applications will be assessed.

Clause 220—This clause provides that a person may apply for a mining licence according to the public notice of invitation.

Clause 221—This is a procedural provision. It outlines the manner in which an application for a mining licence is to be made, as well as the details to be included in the application.

Clause 222—This provision allows the fee to be prescribed by regulations and provides that the fee is generally not refundable except in special circumstances where it may be refunded in whole or in part. The purpose of this clause is to recover the administrative costs of processing applications wherever possible.

Clause 223—This provision allows the Minister to request further information in relation to the application.

Clause 224—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 225—This provides that the Minister may grant a provisional mining licence in accordance with the procedures advertised in the public tender.

Clause 226—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 227—This requires the successful applicant to be advised in writing of the terms and conditions of the provisional grant of the mining licence.

Clause 228—This is the final formal step in the grant of a mining licence. The grant becomes final (subject to registration) upon the applicant paying the required fees, lodgement of appropriate security and confirming in writing acceptance of the grant.

Clause 229—This clause is similar to those covering exploration and retention licences. It is to ensure that the conditions of the licence become legally binding on the licence holder.

Clause 230—This clause provides that a provisional grant of a mining licence lapses if it is not properly accepted under clause 228.

Clause 231—If there is more than one application as a result of the tender process, this clause allows the Minister to provisionally grant the mining licence to the next best applicant should the first provisional licence holder allow its provisional licence to lapse.

Clause 232—This clause outlines the date of commencement of a mining licence as well as the expiry date.

Clause 233—This clause outlines the date of commencement of a renewal of a mining licence as well as the expiry date.

Clause 234—This clause allows the mining licence to continue in force until the Minister grants or refuses a renewal of the licence.

Clause 235—This clause allows a licence holder to voluntarily surrender some of the area covered by the licence if the remaining portion forms a discrete area.

Clause 236—This clause allows for an existing licence holder to apply for a renewal of the existing mining licence.

Clause 237—This clause specifies that an application to renew a mining licence must be made at least six months before the licence expires. It also allows the Minister the discretion to accept a later application. The intention of the provision is to encourage the licence holder to make an application as soon as possible and not wait until the licence is due to expire.

Clause 238—This provision outlines the manner in which an application to renew a mining licence is to be made, as well as the details to be included in the application.

Clause 239—This provision empowers the Minister to request any further information about the renewal application which may be thought necessary.

Clause 240—This provision allows the fee to be prescribed by regulations and provides that the fee is generally not refundable except in special circumstances where it may be refunded in whole or in part. The purpose of this clause is to recover the administrative costs of processing applications wherever possible.

Clause 241—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 242—This clause provides that the Minister can provisionally renew a mining licence or refuse to renew it.

Clause 243—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 244—This clause empowers the Minister to take into account the applicants past record in complying with the various legal, operational and administrative requirements of the offshore minerals mining legislation.

Clause 245—This clause specifies the procedures which the Minister must follow if the Minister proposes to refuse an application for a renewal of a mining licence. The intention is to ensure that the applicant is not denied natural justice and is given the opportunity to restate the applicant's case for a renewal.

Clause 246—This clause sets out the details that the Minister must provide in the written notice of provisional renewal to the applicant.

Clause 247- This allows the provisional licence holder to request an amendment of the conditions within 30 days of receiving a written notice of a renewal. It also provides that the Minister may amend the conditions and confirm this to the licence holder in writing.

Clause 248—This allows the provisional licence holder to request an amendment of the security requirement within 30 days of receiving a written notice of a renewal. It also provides that the Minister may amend the security requirement and confirm this to the licence holder in writing.

Clause 249—This clause provides for the payment of fees to be deferred to allow time for any conditions or security requirements to be amended, if thought necessary.

Clause 250—This is the final formal step in the grant of a renewal of a mining licence. The renewal becomes final (subject to registration) upon the applicant paying the required fees, lodgement of appropriate security and confirming in writing acceptance of the grant.

Clause 251—This ensures that the conditions of the licence become legally binding on the licence holder.

Clause 252—This provides that a provisional grant of a renewal of a mining licence lapses if the renewal is not properly accepted.

Clause 253—This clause outlines the sources of the obligations associated with a mining licence. In addition, this clause also provides that where there is more than one shareholder in a mining licence, each shareholder will be held 100% responsible for all obligations of the licence in the event of failure by any one of them to meet licence holder obligations.

Clause 254—Under this clause, a mining licence may be granted subject to such conditions as the Minister thinks fit.

Clause 255—With the exception of the payment of penalties or lodgement of securities, this clause prevents the possibility that a tax may be imposed by way of a condition.

Clause 256—This clause enables the Minister to vary any of the conditions of a mining licence in the circumstances specified.

Clause 257—This clause enables the Minister to suspend or exempt any of the conditions of the licence in the circumstances specified.

Clause 258—This provides that if a licence is suspended, the licence holder is relieved from complying with the licence conditions for the duration of the suspension.

Clause 259—The fundamental principle contained in this provision is that operations are to be carried out at an acceptable industry standard and other provisions elsewhere in this Bill ensure that these standards will be the subject of inspections. The clause also requires the operator to maintain in good condition and repair, all structures, equipment and other property in the area which are used in connection with the operations. All structures, plant and equipment that are not, or are no longer going to be used, are to be removed from the operations area.

Clause 260—The licence holder must pay the royalty required by Part 4.4 Division 2.

Clause 261—This empowers the Minister to require the licence holder to maintain, and provide when required, any records or samples resulting from mining activities. This will ensure that the Minister has the information necessary for the proper and efficient administration of the legislation.

Clause 262—This provides that a licence holder must provide inspectors with facilities and assistance to enable them to carry out inspections.

Clause 263—This clause outlines the circumstances in which a licence expires.

Clause 264—This provision allows a licence holder to surrender the licence.

Clause 265—This clause outlines the circumstances in which a licence may be cancelled and ensures that the licence holder receives natural justice prior to any moves to cancellation. It outlines the conditions the Minister must meet before proceeding with the cancellation.

Clause 266—Under this provision, any outstanding obligations must be discharged by the licence holder after the expiry of the licence no matter what the circumstances were which gave rise to the termination. It is intended, among other things, to ensure that the licence holder's environmental obligations are met.

Clause 267—This clause provides that a works licence may be granted to carry out licence related operations on blocks which are outside the area. Works licences may be granted even over areas that are subject to a licence held by some other person.

Clause 268—This clause outlines what a works licence holder can do.

Clause 269—This clause provides that no compensation is payable if the Minister cancels or does not renew a works licence.

Clause 270—This clause provides that a person may apply for a works licence over any block.

Clause 271—This clause is a procedural provision and outlines the manner in which an application for a works licence is to be made, as well as the details to be included in the application.

Clause 272—This provision allows the fee to be prescribed by regulations and provides that the fee is generally not refundable except in special circumstances where it may be refunded in whole or in part. The purpose of this clause is to recover the administrative costs of processing applications wherever possible.

Clause 273—This clause provides that the applicant must notify in writing any other holders of licences which may be affected by the application. The notification must invite any comments to the Minister within 30 days of the notice being given.

Clause 274—An applicant must advertise within 14 days of making the application, the details of its application in the print media, and any objections to the application should be lodged with the Minister within 30 days. The purpose of the provision is to improve the public accountability of the administration of the legislation.

Clause 275—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 276—The provision empowers the Minister to grant a provisional works licence which becomes final upon the applicant paying the prescribed rental fee.

Clause 277—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 278—Ensures that the licence contains all the required information necessary to ensure that the licence holder is aware of the terms, conditions and obligations pertaining to the licence. The maximum term of the licence is 5 years.

Clause 279—This provision requires the successful applicant to be given the works licence which contains the terms and conditions of the provisional grant and a notice of any security deposit. The provisional works licence will lapse if the applicant does not confirm that the applicant accepts the provisional grant and if the applicant does not pay the security and all fees associated with the licence.

Clause 280—This allows the provisional works licence holder to request an amendment to a condition of the provisional licence within 30 days of receiving a written notice of a provisional grant. It also provides that the Minister may amend the conditions and confirm this to the licence holder in writing.

Clause 281—This allows the provisional works licence holder to request an amendment of the security requirement within 30 days of receiving a written notice of a provisional grant. It also provides that the Minister may amend the security requirement and confirm this to the licence holder in writing.

Clause 282—This clause provides for the payment of fees to be deferred to allow time for any conditions or security requirements to be amended, if thought necessary.

Clause 283—This is the final formal step (subject to registration) in the grant of a works licence. The grant becomes final upon the applicant paying the required fees, lodgement of appropriate security and confirming in writing acceptance of the grant.

Clause 284—Ensures that the conditions of the licence become legally binding on the licence holder.

Clause 285—This clause provides that a provisional grant of a works licence lapses if the grant is not properly accepted.

Clause 286—This clause outlines the date of commencement of a works licence as well as the expiry date.

Clause 287—This clause outlines the date of commencement of a renewal of a works licence as well as the expiry date.

Clause 288—This provision allows a works licence to continue until the Minister grants or refuses a works licence renewal.

Clause 289—This clause allows for an application be made to renew a works licence.

Clause 290—This specifies that an application to renew a works licence must be made at least 30 days before the works licence expires. It also allows the Minister discretion to accept a later application if the circumstances warrant it. The intention of the provision is to encourage the works licence holder to make an application as soon as possible and not wait until the works licence is due to expire.

Clause 291—This is a procedural provision and outlines the manner in which an application for the renewal of a works licence is to be made, as well as the details to be included in the application.

Clause 292—This provision allows the fee to be prescribed by regulations and provides that the fee is generally not refundable except in special circumstances where it may be refunded in whole or in part. The purpose of this clause is to recover the administrative costs of processing applications wherever possible.

Clause 293—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 294—This provision empowers the Minister to provisionally renew a works licence.

Clause 295—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 296—This provision sets out the details that the Minister must provide in the written notice of provisional renewal to the applicant.

Clause 297—This clause allows the provisional licence holder to request an amendment of the conditions within 30 days of receiving a written notice of a provisional grant. It also provides that the Minister may amend the conditions and confirm this to the licence holder in writing.

Clause 298—This clause allows the provisional licence holder to request an amendment of the security requirements within 30 days of receiving a written notice of a provisional grant. It also provides that the Minister may amend the security requirement and confirm this to the licence holder in writing.

Clause 299—This clause provides for the payment of fees to be deferred to allow time for any conditions or security requirements to be amended, if thought necessary.

Clause 300—This is the final formal step in the grant of a renewal of a works licence. The renewal becomes final (subject to registration) upon the applicant paying the required fees, lodgement of appropriate security and confirming in writing acceptance of the grant.

Clause 301—Ensures that the conditions of the licence become legally binding on the licence holder.

Clause 302—A provisional grant of a renewal of a works licence lapses if it is not properly accepted.

Clause 303—This clause outlines the sources of the obligations associated with a works licence. In addition, this clause also provides that where there is more than one shareholder in a works licence, each shareholder will be held 100% responsible for all obligations of the works licence in the event of failure by any one of them to meet their obligations.

Clause 304—Under this clause, a works licence may be granted or renewed subject to such conditions as the Minister thinks fit.

Clause 305—With the exception of the payment of penalties or lodgement of securities, this clause prevents the possibility that a tax may be imposed by way of a condition.

Clause 306—This clause enables the Minister to vary any of the conditions of the works licence in any of the circumstances specified.

Clause 307—This clause enables the Minister to suspend or exempt any of the conditions of the licence in the circumstances specified.

Clause 308—The fundamental principle contained in this provision is that operations are to be carried out at an acceptable industry standard and other provisions elsewhere in this Bill ensure that these standards will be the subject of inspections. The clause also requires the operator to maintain in good condition and repair, all structures, equipment and other property in the area of the works licence which are used in connection with the operations. All structures, plant and equipment that are not, or are no longer going to be used are to be removed from the operations area.

Clause 309—This clause empowers the Minister to require the works licence holder to maintain, and provide when required, any record as required by regulations or directions by the Minister.

Clause 310—This clause obliges the works licence holder to provide inspectors with facilities and assistance for the purpose of carrying out inspections.

Clause 311—This clause outlines the circumstances in which a works licence expires.

Clause 312—This clause allows the works licence holder to surrender the licence.

Clause 313—The clause outlines the circumstances under which a works licence may be cancelled and ensures that the works licence holder receives natural justice prior to any moves to cancellation. It outlines the conditions the Minister must meet before proceeding with the cancellation.

Clause 314—This clause provides that any outstanding obligations must be discharged by the works licence holder after the termination of the works licence no matter what the circumstances were which gave rise to the termination.

Clause 315—This clause provides for the grant of a special purpose consent for the purposes outlined. Unlike licences, the special purpose consent may be granted over areas which may be reserved or are the subject of an existing licence.

Clause 316—This outlines what a consent holder can or cannot do. This provision highlights the difference between a consent and the licences issued under this legislation. The consent is different in that it does not give the holder any exclusive rights over the area covered by the consent, nor does it give any preference when it comes to the grant of a licence for the same area.

Clause 317—This is a procedural provision and provides that any person can apply for a consent.

Clause 318—This is a procedural provision and outlines the manner in which an application for a consent is to be made, as well as the details to be included in the application.

Clause 319—The provision allows the fee to be prescribed by regulations and provides that the fee is generally not refundable except in special circumstances where it may be refunded in whole or in part. The purpose of this clause is to recover the administrative costs of processing applications wherever possible.

Clause 320—This provision obliges the applicant to obtain the agreement of licence holders to the application. It also provides that such agreement is not necessary for scientific investigation which may be covered by international agreements. As the special purpose consent does not confer exclusive rights to the consent holder, the restriction of only one title over an area does not apply.

Clause 321—This provision obliges the applicant to notify any interested works licence holders about the application and invite them to lodge any comments they may have with the Minister within 30 days.

Clause 322—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 323—This provision empowers the Minister to grant a special purpose consent.

Clause 324—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 325—This clause ensures that the special purpose consent contains all the required information that is necessary so that the consent holder will be aware of the terms, conditions and obligations pertaining to the consent.

Clause 326—When taken together with clause 325, this provision limits the period of consent to not more than 12 months.

Clause 327—Empowers the Minister to impose any conditions, including reporting and environmental conditions, on the special purpose consent if the Minister thinks it is appropriate.

Clause 328—The clause directs the Minister to set up a register of licences issued in respect of the offshore area.

Clause 329—The clause directs the Minister to create and maintain a document file.

Clause 330—This clause allows the Minister to maintain the register and document file in any form or manner the Minister decides. It allows the register to be kept in an electronic form.

Clause 331—This clause allows the Minister to correct any errors in the register. The Minister may act either on the Minister's own initiative or on an application by a person affected by the error. The clause also specifies the procedure the Minister must follow if any correction is planned or contemplated.

Clause 332—This clause is fundamental to the whole concept of registration of titles. It allows a person to inspect the register and document file on payment of the prescribed fee. It also obliges the Minister to make the register available for inspection at all convenient times.

Clause 333—This provision specifies the various particulars which are to be entered in the register.

Clause 334—This provision specifies the various particulars which are to be entered into the register when an application for a renewal is made, when provisional renewal of a licence has been accepted or when a renewal application has been refused.

Clause 335—This clause directs the Minister to register an application for an extension to an exploration licence or a refusal of an extension application.

Clause 336—This clause directs the Minister to register the fact that a licence has expired. It also places an obligation on the licence holder to give the licence to the Minister for endorsement that it has expired.

Clause 337—This specifies the various particulars which are to be entered in the register when a variation is made to a licence.

Clause 338—This clause provides for the registration of the transfer of a licence.

Clause 339—This clause provides for the registration of other dealings in a licence.

Clause 340—Under this clause, a person or persons upon whom the rights of the registered holder of a licence have devolved by operation of law, may have their name or names entered into the register in place of the original registered holder. This is dependent on the person making an application, accompanied by the prescribed fee, to the Minister.

Clause 341—This clause provides that while a caveat remains in force, the Minister shall not register a dealing in a licence unless otherwise exempted by the provisions of this clause.

Clause 342—This provides for the lodgement of a caveat by anybody claiming an interest in a licence.

Clause 343—This outlines the form of a caveat and the particulars to be specified in the caveat.

Clause 344—This clause requires the payment of a fee by a person lodging a caveat.

Clause 345—provides for registration of caveats.

Clause 346—This clause enables a caveat holder to withdraw the caveat.

Clause 347—provides for the form of withdrawal of a caveat.

Clause 348—provides for the time at which a caveat has effect and when it ceases to have effect.

Clause 349—This clause outlines the circumstances when the Minister must notify a caveat holder of dealings in the licence.

Clause 350—This clause provides that a caveat holder may consent to the registration of a dealing. The consent must be registered by the Minister.

Clause 351—This clause outlines the jurisdiction of the Supreme Court in relation to caveats. The provision includes a power for the court to deal with vexatious, successive caveats which seek to frustrate or delay actions to be undertaken by the Minister.

Clauses 352 and 352A—(Numbers not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 353—This provides that a Minister, a delegate of the Minister or a person acting under their direction, is not liable to actions or suits in respect of matters done or omitted to be done in good faith in the exercise of any powers or authority conferred by this Part.

Clause 354—This provides for an application to be made by a person to the Supreme Court if it is desired to have an omission or error in the register rectified. The Minister must rectify the register in accordance with any Court order.

Clause 355—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 356—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 357—Provides that the register, a computer record, a certified copy of, or an extract from the register are admissible as evidence in legal proceedings.

Clause 358—Provides that a certified copy of any document which is registered can be provided on the payment of a fee and it is admissible as evidence in any legal proceedings.

Clause 359—Provides that a certificate about any actions which may or may not have been done may be issued on the payment of a fee. Such a certificate will be admissible as evidence in any legal proceedings.

Clause 360—This clause provides that dealings in a licence require a written document.

Clause 361—Provides that any such dealing in a licence has no effect until the document is registered.

Clause 362—This clause provides that all transfers, or the transfer of part of a licence has no effect until approved by the Minister. This provision is required because the Minister in granting the original licence in effect approved the percentage holding in the original title. Therefore, any subsequent change in the percentage holding of the title will need approval before being registered. The intent is to prevent any person considered as being unacceptable by the Minister from gaining a part of a licence through the "backdoor" by way of a transfer of a share in a licence.

Clause 363—This a procedural provision. It outlines the manner in which an application for a transfer is to be made and that it must be accompanied by the prescribed fee.

Clause 364—This provision empowers the Minister to request the production of documents in respect to an application for a transfer in a licence.

Clause 365—This provides the Minister with the discretion to approve or reject an application for a transfer. It also outlines the actions the Minister is to take in the event of the transfer being approved.

Clause 366—This clause provides that a Minister, a delegate or a person acting under their direction, is not liable to actions or suits in respect of matters done or omitted to be done in good faith in the exercise of any powers conferred by this Part.

Clause 367—This clause enables the Minister to require the production of information in connection with any activity authorised under this legislation and outlines the procedures to be followed in making such a request. These provisions would be used to obtain information which is believed to be necessary for the proper administration of the legislation. For example the Minister might wish to obtain data to assist in the determination of the quantity and value of minerals extracted for royalty purposes.

Clause 368—This provision is similar to clause 367. It empowers the Minister to request a person to appear personally to provide information.

Clause 369—This clause gives the Minister or an inspector the power to administer an oath or affirmation, and to examine on oath, a person attending before them.

Clause 370—This clause enables the Minister to request the production of documents in connection with any activity authorised under this legislation and outlines the procedures to be followed in making such a request. These provisions would be used to obtain documents which are believed to be necessary for the proper administration of the legislation.

Clause 371—This clause enables the Minister to request the production of samples in connection with any activity authorised under this legislation and outlines the procedures to be followed in making such a request.

Clause 372—The clause requires a person to provide information or to answer a question, notwithstanding that the information or answer may tend to incriminate him or her. This clause also creates an offence for any person to give false or misleading information to the Minister.

Clause 373—This provides protection to the supplier of information which has been requested and given to the Minister. The information or answer does not become admissible evidence against the person in proceedings other than proceedings concerned with the giving of false or misleading information. The aim of this clause is to use the power for the purposes of the administration of the legislation and not for the purposes of obtaining evidence for prosecution.

Clause 374—This clause establishes as a general rule that the Minister cannot release or publish confidential information or samples.

Clause 375—This outlines the circumstances in which confidential information or samples may be released. If the licence holder releases or gives consent to the release, then the Minister may do so.

Clause 376—Under this provision, the Minister must make available reports over areas that are no longer the subject of a licence.

Clause 377—This defines what is meant by a compliance inspection.

Clause 378—This outlines what an inspector appointed under this legislation can do when carrying out a compliance inspection.

Clause 379—This empowers an inspector to inspect licence related premises without a warrant provided the inspector is able to produce an identity card on request by the licence holder.

Clause 380—This allows an inspector to carry out a compliance inspection of any premises provided the owner has given consent.

Clause 381—This empowers an inspector to carry out a compliance inspection with a warrant.

Clause 382—This is a procedural provision. It outlines the steps that an inspector must take to obtain a warrant. It also specifies what the warrant must contain.

Clause 383—This allows the inspector to use such assistance and force as is thought reasonable and necessary to carry out a compliance inspection.

Clause 384—This requires occupiers of premises to provide all reasonable facilities and assistance to enable the inspector to carry out a compliance inspection effectively.

Clause 385—This places an obligation on a person to comply with a direction given by the Minister.

Clause 386—This provision empowers the Minister to give a direction on any matters on which regulations may be made. In particular, it highlights the fact that they can cover environmental protection and site rehabilitation.

Clause 387—This provision allows the Minister to issue a direction to the licence holder. It outlines the procedures which must be followed by the Minister in giving directions. The intent is that directions are to be title specific and generally be in response to an emergency or unforeseen event that needs to be implemented quickly.

Clause 388—This allows directions to incorporate material in other documents. For example, a direction may require a diver to follow the safety rules as set out in a particular manual produced by a recognised professional diving association.

Clause 389—Empowers the Minister to issue a direction which prohibits an action being taken or allows it only with the consent of the person affected.

Clause 390—This provides that a direction given to a licence holder or a special purpose consent holder may extend to include associates if they are specified.

Clause 391—This clause obliges the licence holder or a special purpose consent holder to ensure the direction is brought to the notice of associates if it extends to them.

Clause 392—Provides that a person can be given a direction in respect of an outstanding obligation. This is to ensure, among other things, that a licence holder can be given a direction in respect of rectification of site damage and environmental rehabilitation after operations have ceased.

Clause 393—This clause provides that a direction can over-ride earlier directions, regulations, or conditions relating to safety or the environment. This is necessary so as to give the Minister the flexibility to respond quickly to any emergency.

Clause 394—Empowers the Minister to impose a deadline for compliance with a direction.

Clause 395—This empowers the Minister to do anything required by the direction if the person has not complied with the direction within a specified time.

Clause 396—This allows the Minister to recover any costs associated with the action taken under clause 395 from the title holder or associate.

Clause 397—This outlines the defence that a title holder or associate can mount if faced with a claim from the Minister for the recovery for debts due to the State.

Clause 398—This clause specifies that a security may be required to be lodged and places restrictions on how it is to be used.

Clause 399—This outlines the occasions when the Minister may determine the amount of security as well as the time it is to be lodged.

Clause 400—This outlines how the security may be used by the Minister.

Clause 401—This clause provides that regulations may be made which specify the manner of removal of any property etc. that was brought into the area in connection with offshore minerals activity, but which is no longer used in accordance with the conditions of the licence.

Clause 402—This provides that regulations may specify the manner in which any damage to the environment of the title area may be rectified.

Clause 403—Under this provision the Minister is empowered to set up specified areas called "safety zones" for the purpose of protecting a structure or equipment in coastal waters.

Clause 404—This provides that once a safety zone has been notified in the Gazette, all shipping to which the notice applies is prohibited from entering or remaining in the zone without the Minister's consent and then only subject to any conditions attached to such a consent. Defence mechanisms against prosecution are also included.

Clauses 405 to 420—(Numbers not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 421—This empowers the Minister to appoint inspectors to enforce the provisions of this legislation, regulations, conditions of licences and consents as well as directions.

Clause 422—This provides that inspectors must be issued with a photographic identity card as proof of his or her authority to inspect any aspect of the operations being carried out under the legislation.

Clause 423—This places an obligation on a person to return the identity card to the Minister as soon as possible after the termination of the appointment as an inspector under this Act. The intention is to ensure that the integrity of the identity card system is maintained.

Clause 424—This clause defines "year" for the purpose of fee calculation.

Clause 425—This clause provides that a licence holder must pay annual fees as prescribed.

Clause 426—Notwithstanding any prescribed fee, this clause puts a limit on the annual amount payable in respect to each licence.

Clause 427—This provides that fees are due within one month of each anniversary year.

Clause 428—This clause defines "royalty period" in terms of six month segments.

Clause 429—This clause provides that the holder of a mining licence must pay a royalty for all minerals recovered.

Clause 430—This clause enables the Minister to set royalty rates by an instrument in writing, and the rate set will apply to the mineral or minerals specified in the instrument while the instrument remains effective.

Clause 431—This clause enables the Minister to set a lower rate of royalty for individual mining licences where it is determined that mineral recovery in specific cases would be uneconomic at the general rate set.

Clause 432—This clause provides for the value of a mineral extracted to be agreed between the Minister and the holder of a mining licence, or set by the Minister.

Clause 433—This clause provides that, for the purpose of royalty calculation, mineral quantity can be agreed between the mining licence holder and the Minister or, where there is no agreement, the quantity will be determined by the Minister.

Clause 434—Provides that royalty is payable within one month of the end of a royalty period.

Clause 435—This clause continues the existing arrangement whereby the royalty breakup is the same as under the Commonwealth Offshore Minerals Act 1994.

Clause 436—This clause provides that the licence holder is liable to pay a penalty if royalty payments or fees are not paid by the due date.

Clause 437—This clause provides that any payment outstanding is a debt to the State.

Clause 438—This clause empowers State courts and authorities to operate under the Commonwealth Act.

Clause 439—This clause enables the Minister to delegate any of the Minister's functions by instrument signed under the Minister's hand and gazetted.

Clause 440—makes it an offence to give false statements or information under the Act.

Clause 441—This provides for the method of service of documents on a licence holder.

Clause 442—Provides that the Governor may make regulations from time to time to assist the proper administration of this Bill.

Schedule 1—This schedule describes the coastal waters to which the Bill applies.

Schedule 2—makes consequential amendments to other Acts.

Ms HURLEY secured the adjournment of the debate.

STATUTES AMENDMENT (FINANCIAL INSTITUTIONS) BILL

The Hon. M.R. BUCKBY (Minister for Education, Children's Services and Training) obtained leave and introduced a Bill for an Act to amend the Debits Tax Act 1994, the Financial Institutions Duty Act 1983 and the Stamp Duties Act 1923. Read a first time.

The Hon. M.R. BUCKBY: 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 *Statutes Amendment (Financial Institutions) Bill 1999* amends the *Stamp Duties Act 1923* the *Debits Tax Act 1994* and the *Financial Institutions Duty Act 1983* to ensure that cheque duty, debits tax and financial institutions duty continue to be collected in accordance with the current revenue base.

The amendments arise as a result of changes to the Commonwealth provisions relating to the issue of cheques. The *Cheques and Payment Orders Amendment Act 1998* (Cth) amends the *Cheques and Payment Orders Act 1986* (Cth) to encourage competition of financial services to the community by allowing credit unions and building societies and their industry Special Service Providers ("SSP's") to issue cheques in their own name. Customers of credit unions and building societies will be able to draw cheques on their own financial institution, or on their institution's SSP, instead of drawing cheques on a bank through agency arrangements, as is currently the case. The Commonwealth amending Act came into operation on 1 December 1998.

The Commonwealth reforms are designed, *inter alia*, to remove the ambiguity in respect of agency cheques which have two institutions represented on a cheque, and thereby making it clear to customers which financial institution stands behind the cheque. These measures provide customers with a greater freedom of choice in choosing a financial institution, in that the products to be offered by building societies and credit unions will now be more comparable with those offered by banks. As such, the reforms reflect the Commonwealth Government's commitment to encouraging competition in the provision of financial services to the community.

As these State Acts are to be 'opened up' to enable amendments to be made as a result of the Commonwealth initiatives, it is also proposed that the opportunity be taken to clarify exemptions currently provided in the *Debits Tax Act 1994* and the *Financial Institution Duty Act 1983* for reversing entries made to correct an error or to effect the dishonouring of a cheque. These proposed measures do not expand the current exemptions but provide clarification of the operation of the existing exemptions and ensure that duty is not payable on these types of transactions.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Interpretation

This clause explains the meaning of references to "the principal Act" in later clauses.

Clause 4: Amendment of s. 3—Definitions

This clause amends section 3 of the *Debits Tax Act 1994*. These amendments are consequential on amendment of the *Cheques and Payment Orders Act 1986* of the Commonwealth (now renamed the *Cheques Act 1986*). In the future the principal Act will not distinguish between banks and other financial institutions. Accordingly the definition of "bank" and references to "bank" are removed. Because of the Commonwealth amendments provisions relating to payment orders are no longer required and the definition of "payment order" and references to payment orders are also removed. Paragraph *(g)* clarifies the meaning of "reversing a credit" referred to in existing paragraph *(a)* of the definition of "exempt debit".

Clause 5: Amendment of s. 8—Imposition of tax

This clause amends section 8 of the *Debits Tax Act 1994*. These amendments are made for the same consequential purposes as the amendments made by clause 4.

Clause 6: Amendment of s. 3—Interpretation

This clause replaces the definition of "bank" in the *Financial Institutions Duty Act 1983* with a definition of "ADI"—an authorised deposit-taking institution within the meaning of the Commonwealth *Banking Act*. The definition of "financial institution" is amended to make it clear that it does not cover the Reserve Bank.

Clause 7: Amendment of s. 7—Definition of dutiable and non-dutiable receipts

This clause amends section 7 of the *Financial Institutions Duty Act 1983*. The amendments—

- make alterations flowing from the fact that there will be no distinction in the future between banks, building societies and credit unions in relation to the processing of cheques; and
- add a new paragraph to section 7(2) dealing with receipts of money in respect of a cheque that is subsequently dishonoured or on which payment is stopped; and
- convert references to banks, building societies and credit unions to references to ADIs.

Clause 8: Amendment of s. 8—Short-term dealings

Clause 9: Amendment of s. 31—Special bank accounts of non-ADI financial institutions

Clause 10: Amendment of s. 32—Short-term dealing account of registered short-term money market operator

Clause 11: Amendment of s. 33—Sweeping accounts

Clause 12: Amendment of s. 34—Other special accounts

Clause 13: Amendment of s. 35—Government Department Account

Clause 14: Amendment of s. 63—Applications by financial institutions to pay receipts to the credit of non-exempt ADI accounts

These clauses make technical amendments to the *Financial Institutions Duty Act 1983* converting references to banks or to banks, building societies and credit unions to references to ADIs.

Clause 15: Insertion of Schedule

This clause inserts a transitional schedule that provides for the retrospective operation of regulations that are consequential on amendments made by this Bill or by the Commonwealth amending Act.

Clause 16: Amendment of s. 2—Interpretation

This clause contains a technical amendment to section 2 of the *Stamp Duties Act 1923*. The definition of savings bank is removed because that expression is no longer used in the Act.

Clause 17: Amendment of s. 7—Distribution of stamps, commission, etc.

Clause 18: Amendment of s. 43—Interpretation

These clauses make consequential changes to sections 7 and 43 of the *Stamp Duties Act 1923*.

Clause 19: Amendment of s. 44—Duty on cheques and cheque forms

Clause 20: Amendment of s. 45—Duty not to be chargeable after certain date

Clause 21: Amendment of s. 46—Power to make regulations

These clauses make consequential amendments to sections 44, 45 and 46 of the *Stamp Duties Act 1923*.

Clause 22: Amendment of Schedule 2

This clause inserts a transitional schedule that provides for the retrospective operation of regulations that are consequential on amendments made by this Bill or by the Commonwealth amending Act.

Clause 23: Insertion of schedule

This clause makes consequential changes to Schedule 2 of the *Stamp Duties Act 1923*.

Ms HURLEY secured the adjournment of the debate.

LISTENING DEVICES (MISCELLANEOUS) AMENDMENT BILL

The Legislative Council disagreed to the amendments made by the House of Assembly, for the reason indicated in the schedule.

EXPLOSIVES (BROAD CREEK) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 March. Page 1247.)

Ms HURLEY (Deputy Leader of the Opposition): This Bill seeks to change the position of the explosives reserve at Broad Creek. An explosives reserve is located at Broad Creek and around the area of the Government Magazine. In the past explosives were transported by sea to the Broad Creek jetty and then transported to the Magazine. The reserve was therefore established around the area to ensure safety during the handling of those explosives. The Magazine has not been used since late 1995 because, by and large, explosives are now stored at the relevant mines or quarries, so there is no need for the Government to run a controlled distribution.

The Land Management Corporation, which is in charge of the area, has asked that the reserve status of the area be removed. I ask for some reassurances regarding the land because Broad Creek is located in fairly sensitive mangrove swamp area with the attendant environmental importance to the ecology of the flora, fauna and fisheries in the area. That reassurance has been given by the Minister in a letter to me, which states:

> The reserve predominantly covers the mangrove environment within the Barker Inlet with approximately 25 per cent of the reserve extending beyond the levy bank of the land zoned MFP.

The Minister's letter further states:

> Plans are well advanced by DEHAA for area 'A' [the mangrove environment area] to be incorporated in a broader recreation park reserve under the National Parks and Wildlife Act. I am advised that, unless the explosives reserve is lifted, it would prevent the dedication of this land in the recreation reserve and the protection that would provide.

The Minister further states:

> In respect of area 'B' [which is the remainder of the reserve], this land is currently utilised by Penrice for their salt evaporation and salvaging operations under mining leases. The LMC, as landowner, has no plans for any change of land use but recognises that an antiquated impediment on the title should be removed. This is seen as sound asset management practice which allows for planning to be undertaken in the future. Any change of land use that might occur would require consideration through the normal planning process and would have to take into account the fragile nature of the adjoining estuarine environment.

Given that fairly clear indication that the mangrove area would be adequately protected by other Acts of Government, it seems a reasonably sensible provision to remove the reserve status under the Explosives Act. I have consulted with Salisbury Council which, I understand, will take over the Government magazine buildings. The council is happy with this arrangement and believes it will be well able to manage the land. I understand there is some prospect of perhaps a museum being made of the Government magazine, which would be a good thing if the funding could be found for it. It reflects an interesting history in the storage of explosives and it played an important part in the mining and quarrying industries in South Australia. I have also consulted with Penrice Soda, which similarly has no problems with this change. Therefore, the Opposition is happy to support the amendment.

The Hon. M.H. ARMITAGE (Minister for Government Enterprises): I thank the Opposition for its support for the legislation which, as is evident from both my contribution and the Deputy Leader's, sees what is in essence now a redundant clause being removed from the Explosives Act so that the landholder, the Land Management Corporation, can better manage its affairs and, as is quite clear in the letter sent to the Deputy Leader, which she has read to the Parliament for the record, we have no intention of threatening any of the estuarine environment. In fact, it is the last thing we would want to do but, because of the now redundant nature of the Broad Creek reserve, we feel it is an appropriate step to pass the Bill.

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

INDUSTRIAL AND EMPLOYEE RELATIONS (WORKPLACE RELATIONS) AMENDMENT BILL

In Committee.

(Continued from 25 May. Page 1390.)

Clause 4.

Ms KEY: Will the Minister elaborate on the new objects of the legislation that he wishes to introduce under the Bill, as follows:

> To encourage and facilitate the employment of young people and protect their competitive position in the labour market;

Why has he deleted the previous object which looked at promoting associations of employees and encouraging both employers and employees to use associations which would be registered within the commission setting? With regard to the employment of young people, how many awards are under the State commission and how many contain junior rates of pay?

The Hon. M.H. ARMITAGE: As I started to discuss last night, the purpose of inserting new paragraph (d) in the objects is that the advice we are now getting from employers is that not only does the continuation of junior rates of pay mitigate positively towards employment of young people who, most people would acknowledge, are less skilled because of a lack of experience, but also it prevents the situation where, as employers are telling us, if junior rates of pay were removed from the awards, they would look to altering their present employment patterns and young people presently employed would be mitigated against. I am aware of the House of Representatives Standing Committee on Employment, Education and Training, in a 1997 report 'Youth Employment: A Working Solution', supporting the contentions I have just made. A staff research paper 'Youth Wages and Employment' by the Productivity Commission states:

> To the extent of replacing junior rates of pay in State and Federal awards with non-discriminatory alternatives would lead to an increase in youth wages, the results suggest quite strongly that there would be a more than proportionate reduction in youth employment.

As I say, that seems to increase the level of cogency in our argument. The best estimate suggests that a 1 per cent increase in youth wages would lead to a decrease in youth employment of between 2 and 5 per cent in industries employing a relatively high proportion of youth. My authority for that is the 'Youth Wages and Employment' paper from the Productivity Commission, a staff research paper published in October 1998, and the figures quoted are at page xiii. We think that, faced with that evidence—a 1 per cent increase in youth wages sees a decrease in youth employment of between 2 and 5 per cent—the promotion of youth employment by youth wages in awards is a perfectly legitimate thing to do.

Certainly, the stories now being told to us by employers are backed up by this latest research. I reiterate, concerning the comments of the member for Ross Smith last night, that that in no way suggests that a number of years ago when he presented a paper or made changes that was not the case then. I think things have changed.

Ms KEY: My question was: how many awards and agreements do we have under the State commission and how many of them have junior rates within them?

The Hon. M.H. ARMITAGE: I am happy to indicate that the majority of awards have youth award wages in them. If you want the exact number, we can obtain that information, but it is the majority.

Ms KEY: Does that include the agreements, which obviously is the other area about which we need to know?

The Hon. M.H. ARMITAGE: I will have to check that and get back to the member.

Ms KEY: With regard to youth wages, some of the information in *Focus on the Workplace*, which was put out by Minister Lucas, and which I presume was supported by Minister Armitage as the responsible Minister, and some of the information in the second reading speech concerned the need for employers and employees to get on with working out proper solutions in their own workplace. I refer to some of the points that the Minister made last night in his second reading speech when he said:

> I cannot imagine anything that is less likely to promote team behaviour than having two intelligent people coming to an agreement between themselves and then having a third party say, 'No, that is no good.'

The Minister went on to say:

> Clearly, what the Labor Party wants is to have a third party impose on what other people might think is best for their workplace.

The Minister has been consistent in saying that the focus is on the workplace and also on employees and employers. How does the Bill that is before the Committee and the amendments to section 63(2) reflect the philosophy that the Minister has been promoting both in literature and in the speeches that he has made in this Chamber? It is my view from reading those amendments and the Bill that is before us that the Minister is suggesting to employers who do not have junior rates as part of their provision that it will be difficult for them not to have those rates in the future, even if they do have awards and agreements that do not cover junior rates, for a whole number of reasons.

The other point that I would make is that a number of industries have looked at award restructuring, structural efficiency and productivity through the various activities that have been promoted through both the State and national wage cases, and they have come up with a strategy of identifying jobs by the type of job that is required, the type of experience and the type of competency. In fact, there are competency standards in many agreements and awards at a State and Federal level. Given the philosophy that the Government has about not interfering in individual agreements, why does the Bill have a philosophy that runs counter to that and makes it very difficult for South Australian employers covered under the State commission not to have junior rates.

Using the vehicle industry as an example, I point out that a lot of negotiations went forward with regard to competency standards. Is the Minister suggesting that, if Mitsubishi decided to have a State agreement or individual contracts, it should go back on all the work that it has done over the last 10 years and introduce junior rates because the current Government thinks that is a good idea?

I have read the same information as the Minister has quoted about what has been happening with regard to employment, education and training and I have read the same documents with regard to youth employment. Can the Minister cite some examples that take into account the South Australian situation and the very difficult employment and economic situation in this State?

The Hon. M.H. ARMITAGE: Our position is that, if someone remains in the award stream, we say that according to the legislation and where appropriate a junior rate of pay ought to be determined in that award. If the employer chooses to pay more than that, appropriate to his or her circumstances, so be it. That would be a position for the employer, who would make that decision. If in an individual workplace agreement a young person was negotiating that agreement, with or without the assistance of other people, there would be a requirement, as is quite clear in the legislation, that the rate of pay at which the employer and the employee could commence their negotiation would be the standard junior rate of pay in the award applicable.

If in an individual workplace agreement the employer and the employee chose to pay more than that junior rate of pay in the award from which they start negotiating, so be it. Again, we would encourage that because that would indicate that the firm is progressing well, everything is going well and the arrangements are progressing well. I do not believe that they are contrary in any way. All we are saying is that awards must allow for junior rates of pay. If people choose to pay more than that in either the award situation or in an individual workplace agreement situation, that is the choice of those people.

In relation to South Australian examples, last night I referred to a bakery called Pantry Plus in Clare. Keith and Wendy Thornton wrote to us and, as I quoted, they said:

> Junior pay rates have nothing to do with exploitation. Teenagers do not have the maturity of adults. They have to be supervised constantly, so should be paid less. My adult rates on Sundays are around $27 a hour. Our business simply could not afford it.

That is a very cogent South Australian example. Mr W.T. Oliver, the personnel manager for Advertiser Newspapers Limited, wrote to us and said:

> The maintenance of youth wages must be a priority for both the benefit of employers and employees. The removal of youth wages would severely impact on the level of youth unemployment in the community.

They are just two South Australian examples. Interestingly, Mr Stirling Griff, the Executive Director of the Retail Traders Association, wrote to me today, and I would like to quote the letter into *Hansard*, as follows:

> Dear Minister, the governing council of the Retail Traders Association of South Australia has considered the implications of the proposed amendments to the Industrial and Employee Relations Act 1994 in full and has no objection to the amendments passing into law.

That is the first paragraph, and I read that into *Hansard* merely because it is further evidence in support of my statements last night that we are not doing this in isolation, as was alleged by a member of the Opposition. In relation particularly to the shadow Minister's question, I will go on to read into *Hansard* the second paragraph of Mr Griff's letter to me, representing the Retail Traders Association, a major employer association in South Australia, as follows:

> In particular we believe that the ongoing retention of junior rates of pay will assist in ensuring job opportunities for young people.

There are lots of examples in South Australia and, as a Government, we are extraordinarily keen on increasing the opportunities for youth in South Australia to be employed.

Ms HURLEY: It was very nice to have those three anecdotes read out to the Committee, but can the Minister

provide any research or more statistics from South Australia that indicate that his point is valid?

The Hon. M.H. ARMITAGE: The Productivity Commission work is Australia-wide, and that indicates that a 1 per cent increase in youth wages would lead to a decrease in youth employment of between 2 and 5 per cent. That clearly would be applicable in South Australia, and that is not a chance we want to take.

Ms HURLEY: Could the Minister provide the House with an estimate of what will happen in South Australia if the Bill is successful? By how much does he see employment for people under 21 improving as a result of these measures?

The Hon. M.H. ARMITAGE: As I have been at pains to indicate, we are very hopeful that there would be an increase in employment if this were to occur in the youth arena. However, what I have been at absolute pains to identify last night and twice already today is that employers are telling us that they would review the employment of the young people they now employ if youth rates were not allowed. If we did not continue that, there would be an increase in youth wages, and for every 1 per cent by which it increases there will be a decrease in youth employment of between 2 and 5 per cent. There is a prospective element in what would happen if this were not passed.

Ms HURLEY: Will the Minister comment on the definition of young people at 18 as a young person and the difference between them and those who are 21, whether he sees that the performance of young people under 18 might be slightly different from that of those aged between 18 and 21 years old?

The Hon. M.H. ARMITAGE: I acknowledge what I believe is the import of the question. Junior rates of pay in awards have an incremental change that reflects just that. I do not have the figures to hand, but my recollection is that it increases by about 15 per cent per year. It may not be that in each award, but it is of that ilk, to indicate that as people approach 21 they are paid a different rate each year.

Clause passed.

Clause 5.

Ms KEY: Will the Minister explain in more detail what the term 'improper pressure' means and whether he has any examples of how that would work if the legislation were successful?

The Hon. M.H. ARMITAGE: I am not sure of any way that I can be more definitive than to state that our definition of 'improper pressure' is as stated in this clause, which clearly provides:

> . . . pressure intended to prevent an employee or prospective employee from making a reasoned decision based on the merits of the agreement.

That is the definition, and it is a legal definition that people may well choose to test at law.

Clause passed.

Clauses 6 and 7 passed.

Clause 8.

Ms KEY: I would like some clarification with regard to the need for the change to the Workplace Relations Court of South Australia. If, as the Minister says in the information that has been put out, this is a purely South Australian exercise and in the legislation or philosophy that we have we are not at all reflecting the Federal sphere, why was there a need to make this change? Does the Minister have any idea of how much it will cost just to change over all the stationery, etc?

The Hon. M.H. ARMITAGE: In any cost benefit analysis one must look at both sides of the equation. Yes, there will be a cost. I guess that there will be the cost of some signs outside the building and a few of those sorts of things, and there will be the cost of some stationery, but I expect good managers not to have three years stationery ordered. If they did, they ordered too much. There will be some costs, and I acknowledge that. However, it is the Government's very strong view that, by directly focusing people's attention on the fact that this court will become the Workplace Relations Court, we are telling people that this whole area of employer-employee relations ought to be determined at the workplace.

We believe that it is a very reasonable change. There will be some small cost but there will be huge benefits, and we contend that this is a change that should have happened long ago.

Clause passed.

Clauses 9 to 28 passed.

Clause 29.

The Hon. M.H. ARMITAGE: It would appear as if somewhere along the line someone's finger slipped and there is a typographical error whereby paragraph (f) should be paragraph (g).

The CHAIRMAN: The Chair is prepared to accept that as a clerical error, rather than an amendment being moved.

Ms KEY: The Minister has said in this House that he sees the changes in the Bill as giving the Employee Ombudsman more opportunity to assist workers, particularly with regard to individual contracts. Will the Minister identify the changes between the current functions of the Employee Ombudsman and these new functions, some of which seem to be very similar to current functions? As to the information that has been circulated—certainly by the media—about the intention of the Government to get rid of the Employee Ombudsman, particularly since his contract comes up for renewal next year, is there any validity in the current Employee Ombudsman's having some serious problems with his employment in the near future?

The Hon. M.H. ARMITAGE: I take it that the member for Hanson is not starting or continuing a scare campaign in relation to the Employee Ombudsman's role, because it is the view of the Government that the role of the Employee Ombudsman through this legislation is being refocussed to those areas of work where the office of the Employee Ombudsman, in fact, is most needed. It is our very strong view that, as an Employee Ombudsman, the present candidate can do his best job in representing employees as they negotiate individual or collective workplace agreements when they ask him to do so. I see nothing sinister in that at all. Indeed, I have discussed the legislation on two occasions with the Employee Ombudsman and I have made that point to him, and he has expressed to me no concern about that. And, indeed, it is fair to say that, in his most recent communication with me, he indicated an acknowledgment that a number of the changes were completely legitimate and he said that changes needed to be made. So, it is not a case of our wanting to undermine the Employee Ombudsman at all.

In fact, as I have been at pains to suggest in all my comments, second reading speeches, summings up and so on, if I was asked to nominate one key element in this legislation, I would identify the uptake of individual workplace agreements. And that is where we are asking the Employee Ombudsman to focus his efforts. So, I regard this as an acknowledgment that he is a good person who does a good

job. We are giving him the responsibility of helping to get what we regard as a crucial element of our legislation, once it has passed, up and running.

Ms KEY: Will the changes under this Bill—expanding and enhancing the role of the Employee Ombudsman, from what the Minister has said—in any way affect the relationship with the Employment Advocate who, as I understand it, has some overlapping responsibilities? Will the Minister comment on the relationship between those two different functions, in many respects?

The Hon. M.H. ARMITAGE: The Employment Advocate operates in the Federal sphere. It is more our intention that, with respect to individual workplace agreements, being a State sphere, the Employee Ombudsman would operate in that sphere. I do not perceive a dilemma or a duplication in that role. Certainly, the Employment Advocate has not made representations to us about that concern. It is fair to say that I do not recall the Employment Advocate making any representations to us about the legislation. However, it is not a concern that the Employee Ombudsman has raised with me at all, and I do not perceive it as being a duplication.

Mrs GERAGHTY: This measure certainly appears to be restricting the role of the Employee Ombudsman. Paragraphs (c), (d) and so on deal with the Employee Ombudsman being able to represent a worker who requests such assistance or representation. What happens where the worker may be too concerned about seeking advice, or perhaps may not be aware that they can seek advice from the Employee Ombudsman? What happens if a third party brings that to the attention of the Employee Ombudsman: what ability does he then have to be able to assist that worker?

The Hon. M.H. ARMITAGE: As I have indicated on a number of occasions, it is my very clear desire to see the Employee Ombudsman working flat out to encourage individual workplace agreements. When the legislation is passed we will be proselytising the virtues of these individual workplace agreements and the Employee Ombudsman's role rigorously, because we believe that this is the best way forward for the economy. So, I do not believe that there will be a huge opportunity for people not to know about the role. May I add also that, if it becomes known to any third party, the Employee Ombudsman can be told. But it is our view that the worker—the employee—ought to request such assistance or representation. However, that does not mean that it will not occur.

Mrs GERAGHTY: Is the Minister saying that, if a third party advises the Employee Ombudsman that a fellow worker is having some difficulty, maybe due to poor language skills, or advises of some other concern of that worker, the Employee Ombudsman may then assist that person?

The Hon. M.H. ARMITAGE: No. The employee will have to make the request himself or herself, because the employee is the only one who knows the detail of the allegation. It is not beyond the realms of possibility that the third party may pick up on a spurious allegation. But that does not mean that the third party, who believes that the employee is being hardly done by, cannot go to that employee and say, 'Do you know that the Employee Ombudsman is here and all you have to do is so and so.' We do not mind that; that is fine. The third party can identify to the employee that there is an Employee Ombudsman to help himself or herself as the employee: we would be thrilled if that occurred. But I reiterate that we want this Employee Ombudsman to be flat out.

Ms KEY: My understanding of the current Act and the proposed Bill would mean that home based workers and out workers are not covered by the Ombudsman—assuming that the Bill is successful. Does the Minister agree with that? If that is the case, what arrangements have been made in this Bill to make sure that home based workers and out workers are not further exploited in the industrial relations system that the Minister envisages?

The Hon. M.H. ARMITAGE: Yes, that is correct. The arrangements that have been put into place are that it has been given specifically to the inspectors, and the number of inspectors has increased by five in the past 12 months.

The Committee divided on the clause:

AYES (22)

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

NOES (18)

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

PAIR(S)

Hall, J. L.	Clarke, R. D.
Kerin, R. G.	De Laine, M. R.
Olsen, J. W.	Hill, J. D.

Majority of 4 for the Ayes.

Clause thus passed.

Clause 30 passed.

Clause 31.

Ms KEY: I know there has been a reorganisation in workplace services based on industry. How many inspectors do we have in each of those industry groups? It was quite heartening to hear that the inspectorate has been increased by five inspectors. How many women inspectors do we have in that group? It was the sad case for a number of years that Augusta Zadow was our first female factory inspector, appointed at the turn of the century. We then had to wait until 1984 before we got our next women inspector. I know that situation has improved. I would be interested to know the gender breakdown of that inspectorate. What areas of expertise do we have in the South Australian inspectorate?

The Hon. M.H. ARMITAGE: As I indicated, it has gone up by four. The reorganisation to which the member for Hanson referred has been done into industrial teams. Those skills include community services, manufacturing, retail, primary industries and the construction industry. There are currently 46 occupational health and safety inspectors, and 23 industrial inspectors have been appointed within DAIS.

Ms KEY: For how many workplaces are the inspectors responsible in South Australia? What is the breakdown between the Federal and State inspectorates?

The Hon. M.H. ARMITAGE: The numbers are changing all the time, so we will have to get back to the honourable member with that number.

Ms KEY: A guesstimate would have been helpful. Assuming the Minister's legislation is successful, there would be quite a number of inhibitions with regard to union inspection in the workplace (for example, the inspection of time and wages records), and also through inhibitions on the right of entry provisions to trade union officials who quite often work with inspectors to make sure that unfair work practices and conditions are followed up on. Should the Minister's legislation be successful, will any more resources be made available for the inspection of time and wages records and, if not, why not? Have there been any changes in the duties outlined in the Act to the status or the ability of inspectors to have right of entry in South Australian workplaces?

The Hon. M.H. ARMITAGE: I am informed that the work of the inspectorate will emphasise proactive work that will specifically focus on things such as times, records, and so on.

Ms THOMPSON: In relation to the order in which the functions of inspectors are set out in the Bill, the duties are: first, to investigate complaints; secondly, to monitor compliance; and, thirdly, to encourage voluntary compliance with this Act. My understanding is that, in recent times, particularly the past 18 months, encouraging voluntary compliance has been the preeminent duty of the inspectorate. What order of precedence is the Minister giving to these functions?

The Hon. M.H. ARMITAGE: We put them all on equal precedence, which is why there are no subsections in there.

Clause passed.

Clause 32 passed.

Clause 33.

Ms KEY: What is the support for setting up the office of the Workplace Agreement Authority? I understand from what the Minister was saying last night that the Industrial Relations Advisory Committee had had the opportunity to be consulted and also be advised on most of the legislation. I think there is some difference of opinion on that. Certainly from having spoken to the members of the working party, the unions tell me that a lot of what is contained in this legislation was not agreed to by anybody, that in fact it is a new initiative on the Minister's part, so we can either congratulate him or condemn him for that.

Could he answer two questions about the office of the Workplace Agreement Authority? First, how much will it cost to establish? The information I have seen around the place is that we have a start-up cost of at least $500 000. Is that accurate? Secondly, how does this differ from the Reith plan of industrial relations where a similar sort of authority has been envisaged to look at individual contracts?

The Hon. M.H. ARMITAGE: I guess it depends a little on the up-take of individual workplace agreements and on functions of the mediator that I am confident we will be discussing later, but I have some all up costs of both of those new additions to the workplace relations scene. At our best estimates, with all of the on-costs, support staff and so on—and there will not be many staff; it will be very focused—in the first year we are providing $600 000 as the costs for this.

I would be absolutely delighted if during the first year of operation a report came back to me that the Workplace Agreement Authority and the mediator were being absolutely flooded with work. If they were, we would be more than pleased to contribute more funds. The reason for that is it is our very strong view that the economy will grow from the implementation of this legislation. If we were required to put in more funding, that would be a bonus for our economy.

Ms KEY: Proposed subsection (4) provides:

> An employer must allow the Workplace Agreement Authority reasonable access to its workplaces and staff to facilitate the discussions referred to in subsection (3).

Does the role of the Workplace Agreement Authority staff cross over with the work of the inspectorate and, if so, would a seniority be applied to Workplace Agreement Authority staff, as opposed to the inspectorate? I also ask the same question with regard to the relationship between this authority and that of what would become the Workplace Commission, or the Industrial Relations Commission as we know it now, and the relationship between this authority and the President of the current South Australian Industrial Relations Commission?

The Hon. M.H. ARMITAGE: As to the first question, the answer is none. The answer to the second question is that the Workplace Agreement Authority will refer on to the Industrial Relations Commission. That is all. That is the only relationship.

Clause passed.

Clauses 34 to 40 passed.

Clause 41.

The CHAIRMAN: If it is the wish of the Committee, these amendments to clause 41 can be dealt with as one.

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

> Page 16, lines 6 to 9 (Proposed new section 74C)—Leave out subsection (2).
>
> Page 20—
>
> Lines 6 to 8 (Proposed new section 77)—Leave out subparagraph (i) and insert:
>
> (i) the agreement must provide, for each employee covered by the agreement, a rate of pay that is no less than the ordinary time rate, appropriate to the nature of the employee's work, applicable under a relevant award;
>
> Lines 15 to 21 (Proposed new section 77)—Leave out subparagraph (iv) and insert:
>
> (iv) if a relevant award provides for bereavement leave—the agreement must provide, for each employee who would, if there were no approved workplace agreement, be covered by the award, bereavement leave on a basis that preserves the essential elements of the award entitlement (i.e. the amount of such leave, the circumstances in which it may be taken, any right to remuneration for the period of the leave, and the employee's right to return to employment at the conclusion of the leave);
>
> Page 30, after line 26—Insert new section as follows:
>
> Transfer of business
>
> 86. If a person acquires the business (or part of the business) of an employer who is bound by a workplace agreement relating to an employee or employees employed in the business (or the relevant part of the business), the person becomes bound by the agreement in succession to that employer.

These amendments have been included as a result of the consultation which has occurred since the draft Bill went out and the Bill was introduced. The amendment to page 20, lines 6 to 8 is moved following the suggestion by Professor Stewart to remove beyond question the Government's clear intent to ensure that appropriate levels of award safety net rates of pay are in place.

It has been suggested that some people may choose to interpret the drafted clause in the tabled Bill to allow the

minimum rate of pay in an agreement to be the lowest of award rates rather than the applicable award rate for each employee where an agreement covers a number of employees collectively within more than one award or within more than one classification within an award. In other words, we agreed with Professor Stewart that the protection was needed to ensure that differential rates of pay were enshrined.

The amendment relating to lines 15 to 21 was also suggested by Professor Stewart, again to remove beyond question our clear intent to ensure appropriate minimum entitlements. This clarifies that the minimum entitlement to bereavement leave for each employee to be covered by an agreement is the award entitlement applicable to each individual employee, again to ensure that there is no bulking up of the employees.

The proposed insertion of the new section on page 30 after line 26 expands the protection available to workers under an agreement on the transfer of a business. Our stated policy outlined in the *Focus on the Workplace* booklet distributed in January was for the protection to be available to workers on both individual and collective agreements. However, during the drafting, the protection in relation to individual agreements was overlooked. That is clearly not our intent. The amendment corrects that oversight.

Amendments carried; clause as amended passed.

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

Clause 42.

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

Page 30, lines 30 and 31—Leave out all words in lines 30 and 32 and insert:

(1) The subject matter of an award is to be confined to one or more allowable matters.

(1A) The following are allowable matters—

Page 31—

Line 17—Leave out paragraph (t).

Line 27—At the end of subsection (3A) insert:

(irrespective of whether corresponding or related awards under the Commonwealth Act prescribe rates of pay for juniors).

The intention of the Bill is to replicate the allowable matters listed in section 89A(2) of the Commonwealth Workplace Relations Act 1996 (except for one matter), despite a number of intrinsic differences between the State and Federal systems. The amendment will ensure that allowable matters are not interpreted more widely than they are in the Federal jurisdiction. This amendment relates to lines 30 and 31, and the same explanation applies to the amendment to line 17. The amendment to line 27 protects the decisions of the Parliament relating to the retention of junior pay rates from any change at the national level. It will mean that most State awards must, where appropriate, provide junior rates of pay even if the corresponding or related Federal awards do not.

Amendments carried.

Ms KEY: I want to ask the Minister two questions about allowable matters. I should note that it is interesting that, on the one hand, we are told that we do not reflect the Federal system but, in this instance, we are certainly making sure that we are in line with the Federal system—so much for the South Australian way of industrial relations. My other observation is that the amendment which has just been passed and which relates to junior rates supports my argument in relation to clause 4, 'Objects of Act'. I believe that the Minister is attempting to ensure that, if it is successful, the Bill will remove the ability for employers to continue with workplace agreements and to take no notice of junior rates.

I am particularly concerned that there seems to be an inconsistency, despite the Minister's reassurance, that if people choose to pay more than the award rate or more than what is considered to be an industry rate that is between the parties. From my point of view there is an inconsistency, but we may have to agree to disagree on that.

In terms of allowable matters, I would like the Minister to explain how issues that have been agreed with a reasonable level of cooperation between parties—for example occupational health and safety matters or other areas where agreement has been reached about hours worked or the spread of hours—will be affected by this clause? Further, how will an area about which we in South Australia have been proud, as have other State jurisdictions, namely, the common rule award, be affected? If this Bill passes, how will it affect those two areas?

The Hon. M.H. ARMITAGE: It does not surprise me that the member for Hanson might make the observation that here we have the State and Federal legislation being at one, because in this instance that is the case. We do not resile from that, but it is very important that I make the point to the Parliament that there are many differences between the two. I would contend that, where the legislation at Federal and State levels in any arena deals with the same subject, for example workplace relations, it is not surprising that in some parts the Federal legislation will be reflected in the State and *vice versa*. I would contend that it would be exactly the same in legislation dealing with, for argument's sake, the environment. If legislation deals with a topic, it is not surprising that legislation at different levels of government will deal with the same issues. We do not walk away from the fact that in this instance the legislation actually reflects the two levels of government.

I make the observation in relation to the comments of the member for Hanson about occupational health and safety that I happen to be the Minister responsible for occupational health and safety, and I am very aware that there are other legislative ways of dealing with this extraordinarily important issue other than in awards. I would not want anyone to think that I did not think it was a particularly relevant and important matter and, indeed, I made a statement to the House only a couple of months ago before the break about upping the penalties in relation to breaches of those laws. That will be brought to fruition in the very near future, and I look forward to the support of the member for Hanson in that regard. I believe there are other ways of dealing with the issues, such as that and the others which the honourable member raised. This would have no effect on common law as such.

Ms KEY: My understanding is that, under the State Commission, common rule awards usually cover areas that involve a large number of employers. Quite often there are small workplaces and there is some commonality in the industry so as to ensure that everyone is covered by an award. So is the Minister saying that, despite the possibility of this provision becoming law, the benefits of common rule awards will not be affected at all by the allowable matter clause or, in fact, any other clause of the Bill?

The Hon. M.H. ARMITAGE: There is no intent to interfere with common rule awards at all. The content of some of those awards may become limited through the allowable matters issue, a matter with which we are dealing but, in this legislation, there is no intent as such, as I indicated before.

The Committee divided on the clause as amended:

AYES (23)

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

NOES (19)

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

PAIR(S)

Hall, J. L.	De Laine, M. R.
Olsen, J. W.	Rann, M. D.

Majority of 4 for the Ayes.

Clause as amended thus passed.

Clause 43.

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

Page 32, line 31—After 'as currently in force under the Commonwealth Act' insert '(but a provision prescribing rates of pay for juniors is not to be removed from an award under this paragraph)'.

This amendment protects the decisions of the Parliament on the retention of junior pay rates from any move away from then at the national level. It recognises that, whilst the Industrial Relations Commission is charged with ensuring that State awards with the nexus with Federal awards must reflect the provisions of the relevant Federal award, this amendment will ensure that the process must not result in the removal of junior rates of pay from a State award. The rationale for this is as we have said before: according to independent studies a 1 per cent increase in junior rates of pay will see between a 2 per cent and a 5 per cent decrease in youth employment.

Amendment carried; clause as amended passed.

Clause 44 passed.

Clause 45.

Ms KEY: With regard to public holidays, can the Minister explain to the Committee what he thinks the success would be in getting agreements in the workplace without what we discussed earlier in the interpretation section concerning improper pressure? Perhaps the Minister could use the example of improper pressure, which he was not able to do before, with regard to making people work on public holidays.

The Hon. M.H. ARMITAGE: The matter will not arise because the whole question of public holiday substitution agreements is an agreement as in proposed new section 101A(2)(a) where an employee agrees to work on a public holiday.

Ms KEY: Although I think I know the answer to my question, for the record will the Minister explain how a worker who agrees to work on a public holiday and substitutes that day for another day will receive the penalty the worker would have received under the present system or the agreement that may be in place at the moment? Can the Minister explain what the social compensation would be for someone working on a public holiday when normally they would have been compensated for working on a public holiday in what we in the industrial relations area call working in unsocial time?

The Hon. M.H. ARMITAGE: I reiterate that this will occur only if the worker or employee agrees to work on the public holiday. In an instance where a public holiday substitution agreement has been made between the employer and the employee, in such a case there would not be a social loss to the employee because clearly the employee would identify that it is to the advantage of him or her or, more importantly his or her family, to move the public holiday. The classic example could be seen in 1999 where Australia Day fell on Tuesday 26 January.

A number of public holidays fall during the year, particularly in winter, and I note that two of those are Adelaide Cup Day and the Queen's Birthday holiday. I do not know because we have not done any studies, but I contend that a large number of people, in discussion with their employer for whatever reason might say, 'I would much rather have Monday 25 January off to give me a four day break in summer, in school holidays, with my family rather than have the Queen's Birthday holiday off.' For argument's sake, let us say that this worker is not a royalist. He or she might think that the Queen's Birthday holiday is ghastly, it usually rains, it is in the middle of winter, the kids are at school, and there is not enough time in three days to go away. That person might think it is a great deal to have the holiday on Monday 25 January.

That is only one example, but there may well be others. The question of social loss will be one for the individual employee to assess when he or she makes what I reiterate is an agreement with their employer to work on that day. Without agreement, it will not occur. However, we believe that there are benefits for the employee and the employer in providing that opportunity.

Ms KEY: Despite what the Minister says, and I can say that in some areas that might be useful and it is already the practice in some industries, I wonder why paragraph (b) uses the wording, 'agrees that the period of work is to be regarded as ordinary hours of work'. Basically the employee loses a penalty and works on the day, so I cannot see any benefit. As the Minister said, that might suit some industries and some employees. The strategy for having holidays was, first, to observe holy days and, secondly, to compensate people for working unsociable hours.

It is my proposition to the Minister that the Government is buying into the theory of people not having any time to themselves. All the time available every day is working time, rather than there being working time, private time and time for rest and recreation. I find this concept totally against the principles that we in the Labor Party stand for, because we believe that people should have time to be with their families, or whomever they choose, and to have recreation, and that people should not be on call 24 hours a day, 365 days a year.

We believe that this measure will contribute to the concept of all time being working time and people being on call. In saying that, assuming this legislation becomes law, how will

a worker who is not a member of a union be able to take up a grievance with regard to being made to work on a public holiday? Can the Minister take us through the steps of how someone would successfully negotiate that issue, especially if improper pressure was being used on them to work on that day?

The Hon. M.H. ARMITAGE: Before getting to that question, I will make some observations about the comments of the member for Hanson. She indicated that the Labor Party thinks that people ought to have time for themselves, and so do we. However, we believe that, in the example I gave, it is better for the person as a family member to have the flexibility to change his or her public holiday observance in a voluntary fashion, according to what he or she might want for their family. The example that I gave indicates clearly that, if a person were to do that, they would have the potential for much more time to themselves and a longer break away from their work. The argument of the member for Hanson, whilst interesting, is a *non sequitur*.

The member for Hanson made a play of emphasising how holidays had their origin in holy days. Whilst I understand in our majority Christian society the importance of holy days, and I would not for one moment suggest that this legislation in any way undermines that, I ask the member for Hanson to look at for argument's sake a firm which prepares meat to be killed in a particular fashion. Every single worker in that factory might follow a completely different religion, and to be 'forced' by some antiquated observation to have their holiday on a holy day which means nothing to them is a bit silly. They may think it is much better to have their holiday on Buddha's birthday. Who knows what they may choose to do.

The fact that there was the historical observance of holy days is a furphy in this context because not everyone will want to observe those holy days. I reiterate that, if they do want to do that, it is a voluntary situation, where the employee agrees to work on a public holiday. If a person working under an award is required to work on a public holiday, the award will state that those people must be paid penalty rates. If a person working under an individual workplace agreement works on a public holiday, that would occur only if part of the workplace agreement acknowledged that, and there would be an arrangement for that circumstance in the agreement.

We are not attempting to undermine conditions. It is a legitimate process. If there is a workplace agreement, it will be considered in that agreement. If the worker is on an award, and they are made to work on a public holiday, penalty rates will apply. I reiterate the comments that I made last night: none of this legislation is compulsory. People can stay in awards if they want to.

Ms BEDFORD: How can a worker who is required to work on a public holiday go through the process of airing his concerns? That was the question posed by the member for Hanson and I would like to know how that person would go through the process if he is forced to work on a public holiday when he does not want to.

The Hon. M.H. ARMITAGE: The legislation makes no change to enforcements if someone is working under an award. If someone is on a workplace agreement, and we hope that lots will be, the agreement would cover matters like this. If they felt perturbed by this matter or felt that they were being forced to work and they did not agree to work on a public holiday, in matters of dispute in relation to workplace agreements the Employee Ombudsman could be involved.

Ms BEDFORD: Will the Minister tell us the relevance of this clause to the Public Holidays Act?

The Hon. M.H. ARMITAGE: The Public Holidays Act declares when public holidays will be held. Its relationship to this is zero: it is unchanged.

The Committee divided on the clause:

AYES (23)

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

NOES (19)

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

PAIR(S)

Hall, J. L.	De Laine, M. R.
Olsen, J. W.	Rann, M. D.

Majority of 4 for the Ayes.

Clause thus passed.

Clauses 46 and 47 passed.

Clause 48.

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

Page 34, line 20—Leave out 'Expiation fee: $315.'

Again indicating the extraordinarily consecrative way in which this Bill has been developed, this amendment reflects advice received from the Crown Solicitor. Concern was expressed about the appropriateness of expiable offences within this provision, which deals with hindering or obstructing inspectors carrying out their duties under the Act, given that the expiable offence would be a matter only of judgment (and particularly a judgment of the inspector making an assessment as to whether someone had indeed hindered or obstructed him or her). The Government has accepted the advice of the Crown Solicitor and moves for the deletion of this expiation provision.

Amendment carried; clause as amended passed.

Clause 49 passed.

Clause 50.

Ms KEY: This clause has caused a number of concerns in the trade union movement and amongst a number of young people (those who have actually had the opportunity to understand the implications of this Bill) who have contacted my office. The concern that has been raised with me is on two levels, one being the difference between the treatment of a regular casual and a permanent casual. It is the view of our Party that you can actually become a regular and systematic casual before you work somewhere for 12 months, so why has the Minister come up with this 12 month figure?

Under the current legislation these sorts of restrictions exist already, and I note the low level of cases in the unfair dismissal jurisdiction that actually go the full length of the claim and also the fact that a number of cases are actually conciliated. As I guess the Minister would agree, as a form of resolution conciliation is always preferable to arbitration, but we believe that arbitration needs to be available should it be necessary. My honour, I suppose, in the trade union movement has been to represent thousands of employees in the unfair dismissal jurisdiction, and it is my belief that quite often there are some difficulties with casuals.

I understand that a number of employers may not want casuals kept on their books, for one reason or another. But in the past, before the legislation changed, we certainly managed to use the conciliation system or, if not, we just sat down and talked about the issue and resolved it in the workplace. Why do there need to be changes of this order in the Bill as proposed? I would like to get a sense from the Minister of why this was considered to be an important part of the amendments that are before us.

The Hon. M.H. ARMITAGE: Similarly to the member for Hanson and the Labor Opposition, we also regard this as an important part of this legislation. In relation to the period of 12 months for a casual employee, we acknowledge that there is a degree of judgment in these matters, and someone has to set a line. Where does one draw the line? We believe that the opportunity, I suppose, for a person to have the expectation of future employment on a regular and systematic basis is valid after 12 months. However, we have made a judgment that the 12 month period will be the one that is required. The justification for this matter—and I forget exactly what the member for Hanson's question was, but—

Ms Key interjecting:

The Hon. M.H. ARMITAGE: No, there was another observation you made. It was an observation rather than a question. I think I have answered the question.

An honourable member: Conciliation and arbitration.

The Hon. M.H. ARMITAGE: Yes. The observation that is made to us frequently—and I think there were a number of contributions last night and certainly a number of interjections from the Labor Opposition—is that employers have, at worst, a perception of difficulty in employing people if they are to be subjected to unfair dismissal claims. I suppose it should be the other way around. At best, they have a perception that they will be at risk and, at worst, they have had personal experiences, or their companies have, where unfair dismissal claims have cost them money, time, energy, expertise, anxiety, worry and so on. The upshot of all that, whether it is perceived or actual in the individual employer's case, is that we are continually told that employers will not employ people for that reason.

I know of a number of people who have been particularly enthusiastic about this clause. One person, a major employer in regional South Australia, said to me (and I have no reason to disbelieve this person) that, if this legislation were to be passed, he would be looking to employ up to 50 extra people. He is a big employer, as I acknowledge, but in regional South Australia 50 jobs is a major bonus. So, that is the rationale behind it.

Ms KEY: I want to make a couple of observations in relation to my second question. I find it quite concerning that, in the way in which this Bill is structured, we seem to be in contempt of International Labour Organisation conventions, in particular, termination of employment. As the Minister would know, International Labour Organisation conventions are a tripartite process. It is not as if it is an ACTU congress gone international, or something like that: it involves a considered group of people who look at an international perspective. There have been criticisms at an international level of the Reith legislation, as we call it, and I would not like to see the worst features of the Reith legislation (bearing in mind the Minister says that this is a South Australian Liberal Party version of industrial relations) associated with the State legislation, which for a long time has been a bit of a circuit breaker and a leader in industrial relations legislation. We had a lot of concerns with the Ingerson industrial relations legislation but this seems to take the step that much further, and I wonder at the sense of not taking any notice of international standards in this area.

This brings me to my point, that the cut off of 15 employees is of great concern to the Opposition, especially when one looks at South Australia's work force. The Minister could not tell me how many workplaces there were in South Australia that would be looked after by 46 (I think it was) inspectors. Can the Minister tell me, under the definition in this Bill of 'small business' with fewer than 15 employees, how many employers we are talking about? The Minister cites cases, and I do not doubt that those cases are legitimate and that people have quite sincerely come to him with suggestions about industrial relations in their workplace. In some cases I am sure there are some employers who are concerned about unfair dismissal, but I wonder about the number of cases that the Minister has heard of and the number of workplaces and whether there is any statistical justification for the changes in legislation.

My point is that, on the one hand, casuals are being discriminated against. This is in a State where one in four people are now casuals, where mainly women workers, who are quite often not covered by any industrial association and who are quite often the most vulnerable in the workplace, work casually. We have a lot of bad instances of casual work and casual employment and a lot of exploitation, and we will cut those people out of having industrial rights. Moreover, small businesses of fewer than 15 employees will also be cut out of this area, and it is my understanding that, in fact, the majority of businesses in South Australia are small businesses. With the statistics of one in four people being casual workers, who will this legislation be accessible to? And, with respect to the third parties, why are we flouting International Labour Organisation conventions in our attack on unfair dismissal? It just does not make sense to me.

The Hon. M.H. ARMITAGE: I will have to get back to the honourable member with respect to the exact number of employers in that category. I am very happy to do that. Again, I inform the member for Hanson that, in direct contradistinction to her emotional claim, the small business exemption is supported by Article 2(5) of the ILO Termination of Employment Convention, which allows exemptions in relation to unfair dismissals where '. . . special problems of a substantial nature arise in the light of the particular conditions of employment of the workers concerned [and I emphasise this] or the size or the nature of the undertaking that employs them'. So, for the member for Hanson to say that we are flouting the ILO is good emotional rhetoric, but it is wrong.

Ms KEY: I make the point that, if this legislation were successful, it would stop casuals with less than one year's service, even if they be what we call permanent casuals (which is an oxymoron but which is the case in many instances), people who work on a regular and systematic basis

for less than 12 months, from even getting into conciliation on their particular grievance.

We also find with this legislation that the dispute resolution procedure will not come under 'allowable matters', unless someone has a grievance that is connected with another jurisdiction, for example, an equal opportunity problem. In my experience as a union advocate, that is quite often connected with employment practices and unfair dismissal, and the statistics will bear out that there is a connection here. Further, the legislation makes it clear that in South Australia you will not even be able to access the Industrial Commission to state your case. How does the Minister see this as being fair and equitable? If a casual worker who had been unfairly dismissed or harshly dismissed came to him—and this is what the legislation now provides—what would the Minister advise them to do about it?

The Hon. M.H. ARMITAGE: As I said before, it is always a case of striking a balance in these matters. The employers would indicate to me, as they may have indicated to the member for Hanson, that they believe they have rights in this matter, as well. Their contention is very strongly that their rights have been disregarded in this arena and that is why they are reticent to employ people. That is what I am being told. At the end of the day, there is a balance in this matter. As I indicated last night, the experiences that have been relayed to me by former union officials regarding their procedures for unfair dismissal claims made my hair stand on end.

Members interjecting:

The Hon. M.H. ARMITAGE: I do not need to tell you, because you people probably discuss this with your masters on South Terrace all the time. At the end of the day, there are numerous examples where former union officials have indicated their opportunity to shore up their power base by stretching the unfair dismissal legislation opportunities into some financial recompense for the people they are representing. Those are the facts I am told. As I said before, I hope the member for Hanson will acknowledge that it is a matter of striking balance between rights. Rights is not a one-sided affair. If we had made it 18 months, we would have been criticised by you for having too long a period. If we made it six months, the employers would have said that is too short, and so on. We have made a judgment for 12 months and we will be judged on that accordingly.

Mr CLARKE: When I was a union official I used to say in negotiations with employers, 'God save me from accountants,' because they were utterly useless in solving industrial relations disputes. They were utterly useless; in fact, they protracted them. They had the vision of a Toc H lamp. In industrial relations policy making in this State, God save us from medical practitioners who no bugger all about industrial relations. This industrial relations legislation is predicated on the most narrow, venal position that one can imagine. When Graham Ingerson was the Minister for Industrial Affairs, I pointed to his then industrial policy director, Peter Anderson, and said, 'This is yours. Every case you ever lost in the Industrial Commission as the Executive Director of the Retail Traders Association you have now tried to import into our State legislation,' and that is exactly what is happening here today as well. Peter Anderson was also the brains trust behind Peter Reith and the attack on the Maritime Union last year which exploded in Reith's face so spectacularly. I would suggest, Minister, that you watch very carefully your advisers in this matter, because they are as bright on industrial relations policy matters as a Toc H lamp.

In terms of unfair dismissal, a simple fact is this Minister: in 1998 and 1997, the highest award for an unfair dismissal in one year was $19 000; the other was $16 000. The average award handed down by the State Industrial Commission for unfair dismissal for between those two calendar years was between $3 000 and $5 000. In terms of the Industrial Commission's determination on unfair dismissals and awarding damages, we rank with Kenya. How do I know that? Because I had a look at a study made by Professor George Hagglund of the University of Wisconsin. He was a visiting professor at the University of South Australia, who made a comparison between the reinstatement provisions of South Australia, Canada, the United States, Trinidad & Tobago, Jamaica and Kenya. His conclusion showed that South Australia ranked, in terms of the number of reinstatements made and the awards made of damages, with Kenya—a one-Party state where the bosses have it all their own way. Jamaica was more generous in terms of reinstatement provision orders made by its court. We were about the same as Canada but lower than the United States.

In 1998, not one person was reinstated under the South Australian legislation. In 1997, there were four cases of reinstatement. Where is this army of employers in this State saying that reinstatement provisions in South Australia are so horrific that they cannot employ people? The legislation today is equivalent to the South Australian State legislation we have had since 1972. Every State has had this at least since the late 1980s. South Australia followed New South Wales. Victoria came later in the early 1980s, when John Cain was elected. Employees under Federal awards had no rights whatsoever until comparatively recently. Minister, I dealt in the Federal award area extensively, and I dealt with companies such as Elders GM and Bennetts Farmers—those national companies—all supposed to be very paternalistic stock agents. When they sacked someone, irrespective of their years of service they had with the company, they did not have a legal right for an unfair dismissal. When their rights are infringed on, employers in this State had the right to go to various courts to seek the enforcement of their rights.

A worker has only their labour to sell. What you are doing in this legislation is saying to a significant number of employees, 'Even though the only asset you have to sell is your labour, no matter how harshly we as an employer treat you, you will have no legal recourse.' As the member for Hanson said, one in four South Australians now work as a casual. They may have not just one job but, to try to feed a family, they might balance two or three casual jobs. You are saying to those people who work for less than 12 months for an employer with fewer than 15 employees that they have no legal recourse for unfair dismissal. You could have any young woman working for one of those employers being sexually harassed and they would have no recourse, except the Sex Discrimination Act. If you want justice and go to the anti-discrimination board, you have to wait for two or three years to get a determination, as it works its tortuous way through. If you are the young woman being harassed and you voluntarily resign, you wait how many weeks before you get the unemployment benefits, and you have to pay your rent and feed yourself in the meantime, because you voluntarily resigned.

Those who work for an employer who employs fewer than 15 people, or who have been engaged for less than 12 months or are not casual employees who work on a regular and systematic basis extending over a period of at least 12 months—and there is an increasing number of people in our

society in the work force who fit that description, for reasons that are obvious to us all—have no legal recourse whatsoever regarding an unscrupulous employer. A dog has greater rights under the Animal Welfare Protection Act than this Minister grants casual employees with less than 12 months service or who have worked for an employer with fewer than 15 employees. A dog has more rights under the Animal Protection Act than he will grant such an employee, and this is at the end of the twentieth century.

The Minister has a department that has a mindset of its treatment of the employees that goes back to the last century, and he calls himself a small 'l' liberal progressive in this Government. The Minister is an absolute disgrace in that he can leave so many people totally unprotected from whatever employer exploitation they want to get involved in.

I know that the Minister will say that I am far-fetched, that this is painting a very colourful picture to suit an argument. Well, the Minister would live in cloud cuckoo land if he believed that to be the case because, if he had been a union official, as the member for Hanson and I have been, he would know that we are like police officers: we know that 95 per cent of the employers are reasonable as 95 per cent of the population are law abiding citizens. There are 5 per cent who are absolute mongrels and you have to watch them all the time, such as in the general population. However, this Minister and this Government are opening the flood gates to that 5 per cent of the employer population to do as they will.

For employees who complain that they have been underpaid their wages, that they have been rorted on their shift work or that they have not been given their proper rostered days off, or who complain about occupational health and safety, this Minister and this Government have gutted workplace inspections. You only have to look at the number of improvement notices or prosecution notices against defaulting employers or see the escalating increase in injuries at the workplace to realise that this Government has given up on workplace safety.

Any employee who has less than 12 months service or who works for an employer with fewer than 15 employees and who complains can be given the shove at the flick of a finger without legal recourse. Just to add insult to injury, even if you had a common law claim, a civil claim, against the employer, this Government plus their mates in Canberra have cut legal aid so much that they cannot get legal aid to take a civil action in the first place. There is no legal recourse whatsoever for this group of workers: there is no recourse for the weakest and most vulnerable in our society. But all members in the Liberal Party and the three Independents, so-called, will vote for the Government's proposition. By all means do it. You will add strength to our arm at the next election. But I suspect that the Minister will not get his vote upstairs.

I do not even know why he wants to do this. His mates on Greenhill Road at the Employers Chamber will put up their hand for this. Rob Gerard, the Party Treasurer, will put up his hand for this, but he knows it is a nonsense. The members of the Employers Chamber talk behind your back, and people I have dealt with for years tell us what a bunch of mugs you are, but they will put up their hands because they are expected to. They then get on with their life and deal in the real world with union officials.

Those whom the Minister is protecting are the shysters, the white shoe brigade, the absolute crud of the employer class who just simply want to exploit people. Your reasonable employers, such as Mitsubishi, General Motors-Holden's, the major retail stores—a whole range of significant employers—do not support this legislation. They will put up their hand and write a fax so you can read it out in Parliament as a show of solidarity. But let this House and every member who votes for your proposal understand this: your vote only supports the lowest common denominator of employer—the shysters, the crooks, the exploiters of human beings. That is whom you are protecting. If ever I thought you were supposed to be a small 'l' liberal—

The Hon. M.H. Armitage interjecting:

Mr CLARKE: You describe yourself as a small 'l' liberal, Minister. Well, God help us. If that is the philosophical division in the Liberal Party between Attila the Hun and Genghis Khan, I do not know which one I want. Certainly not either of you as a protector of the weak and the vulnerable. That is what you are doing: you are screwing the weak and the vulnerable. Those who are unionised and organised will get through your legislation, through solidarity and on the job effort, but you will screw the 70 odd per cent of people in the private sector who are not unionised, who work in small workplaces, who look to the Government through the Industrial Commission for a fair go. You will screw the very people you say you want to protect.

Once again, this so-called small 'l' liberal from North Adelaide wants to put our industrial relations laws with respect to unfair dismissals on a par with those of Kenya, a one Party state, where Jamaica is actually more progressive than South Australia, and where Trinidad and Tobago has a better reputation than has South Australia. That is the extent of this small 'l' liberal protector of the shysters, the crooks and the white shoe brigade of the employer class who want to deal with young people and people who are too vulnerable and too weak to be able to look after themselves.

The Hon. M.H. ARMITAGE: I did not hear a question in that, but nevertheless I would like to address some of the observations. The report to which the member for Ross Smith referred, by Professor George Hagglund, I believe, does not take into account the time and energy of the employer in being involved in these cases, and I will particularly make mention of that in a minute. Most importantly, it does not take into account the number of unfair dismissal claims that are settled, and they are settled because the employers are terrified by the consequences of not settling. That is the absolute building block for the perception that unfair dismissals will cause employers grief in the long term, and that is the building block for employers saying, 'I will not take on another employee'.

The member for Ross Smith says that four people were reinstated. Well, he does not identify how many were not compensated, and he certainly does not identify the number who were settled. Between July 1998 and April 1999, 871 unfair dismissal applications were lodged under the State legislation and, in the same period in the previous year, 806 unfair dismissal applications were lodged. In other words, a 65 number quantum increase which, I guess, would be of the order of, perhaps, 8 per cent. Between July 1998 and April 1999 inclusive South Australian employees lodged 201 unfair dismissal applications in the Federal jurisdiction. That means that in that period of time nearly 1 100 unfair dismissal applications were lodged, and I am absolutely sure that every one of those employers told their friends, who told their friends, who told their friends about the experience.

Hence, employers tell me hand over fist that they will be dudded if they take on another employee and that employee, for whatever reason, does not produce to the common good

of the company. Those are the actual numbers but I would like to identify that these amendments in this particular arena are not supported only by the employers that the member for Ross Smith identified. Indeed, the number of people who have written to me, I think, would be appalled to be regarded as shysters and the white shoe brigade.

Mr Clarke: Name them.

The Hon. M.H. ARMITAGE: I will; I am about to. The Chairman of the partners of KPMG, Mr Graham Walters, with regard to the unfair dismissal provision, said:

> We recognise that this is a difficult area to get right. It is fundamental to the processes to be fair and equitable and we agree that it is necessary to limit the extent of frivolous claims against employers and consider that a filing fee for lodgement of claims has merit.

The Director of Piccadilly Springs Natural Water, Mr Jim Hurst, a small manufacturer, said:

> We welcome the amendments to the Act as we feel that the current system is a disincentive in the hiring of permanent employees. We feel there currently exists in the workplace a culture that encourages every dismissed employee automatically to claim wrongful dismissal, with many frivolous claims often paid just to avoid the time and costs associated with fighting a claim.

In his letter, Mr R.L. Richards, a lawyer with Lempriere Abbott McLeod, said:

> There was urgent need for changes and your proposals are to be commended. Of course this, in a broader sense, is in favour of the workplace because we as employers will be encouraged to get into the marketplace. To date the unfair dismissal laws have been a very real disincentive to us taking on new employees.

I have a letter dated today's date from Elizabeth Connolly from Connolly and Co., barristers and solicitors. Two paragraphs of her letter state:

> I am often informed by business owners that, in the present climate, they prefer to hire casual employees as this minimises the risk of being drawn into expensive litigation if they select an inappropriate employee and then terminate the contract because the employee has not 'measured up'. Small business owners have a much greater need to have harmonious workplace relations given the often very small number of persons working in close proximity. Many small business proprietors perceive that productivity will suffer if they do not have more of a right to terminate staff contracts where an employee is disruptive or simply not productive.
>
> Many find that even when they are forced to summarily terminate an employee for extreme breaches they will be drawn into protracted and costly litigious processes with no guarantee that they will emerge unscathed, even though they may have acted lawfully in dismissing the employee. Any forced or unplanned absence from their business is doubly costly for a small business proprietor whose presence is essential for the management and continuation of the business. I have too often seen such people settle unfair dismissal claims when they have a very good chance of defending the claim successfully, simply because of the likely cost to them of being drawn into the proceedings. They are well aware that in the current climate they must pay for a large bill merely to defend such claims and the prospect of a hearing going on for two or more days is such a daunting one that they often pay out the former employee rather than take the uncertain risks involved.

I make the point, as I did before, that every one of those employers does not say, 'Well, that is the end of it.' They then spend the next five years telling their colleagues the appalling experience that they have had. I quote also a letter I received from Mr Peter Sickmann, the Federal President of the Australian Small Business Association. This letter is dated today also. The letter states:

> Small business proprietors are employers. I understand they are the largest employer group in the State. They are certainly the group most likely to provide employment for the unemployed. Small business proprietors still have the right to decide whether they will employ or not. Small business proprietors will have the limited right to decide what the status of their employees will be, casual, permanent or contractors. Small business states, unequivocally and unquestionably, that an impediment to their decision to employ is the current unfair dismissal regulations. I believe, therefore, that an indication of total irrationality is anybody saying that there is no proof that the current unfair dismissal legislation is an impediment to employment when those who employ believe it is.

I acknowledge that what I have said will not be accepted by the member for Ross Smith. I did not expect it to be. The member for Ross Smith and I have been fighting each other on this type of scenario for more than 10 years. I understand that. But I can only go on the evidence presented to me by people who are the key generators of employment. I must say that the member for Ross Smith, I think, is still a constituent of mine. Certainly he lived in North Adelaide for a number of years not long ago.

Mr Clarke: Very poor representation there was, too.

The Hon. M.H. ARMITAGE: It was fantastic, actually. May I say that—

Mr Clarke: Very poor.

The Hon. M.H. ARMITAGE: Yes, indeed, but then again most of the people in North Adelaide would disagree with the honourable member which is what keeps me there, which is great. The member for Ross Smith regularly enjoys coffee in O'Connell Street in a number of—

The Hon. M.K. Brindal interjecting:

The Hon. M.H. ARMITAGE: As the member for Unley says, a number of restaurants—

Members interjecting:

The ACTING CHAIRMAN (Mr Lewis): Order!

The Hon. M.H. ARMITAGE: And these, I should add, are the very same restaurants where most regularly the very people the member for Ross Smith delights in sledging on a regular basis are also having coffee. But in that area—

An honourable member interjecting:

The Hon. M.H. ARMITAGE: I beg your pardon?

Ms Hurley interjecting:

The Hon. M.H. ARMITAGE: After some of the contributions I think that I have actually been quite constrained. I heard the member for Ross Smith say not to encourage me, otherwise I will keep going. However, my point is that I have been sitting in those same restaurants drinking the same caffelatte as the member for Ross Smith, and since this legislation—

Mr Clarke: I don't drink out of your glass.

The Hon. M.H. ARMITAGE: —the same type of caffelatte—has become a feature in the public domain I have been overwhelmed by the number of employers who have made the point to me, 'I want to go out and employ someone else and I will not do it if you do not get that legislation through.' To me it is crystal clear. As I say, I acknowledge that the member for Ross Smith will not agree with me, but I think he is flying in the face of what I perceive to be the reality from the employers who, after all, are the people who write the cheques for the employees who then become the union members of whom the member for Ross Smith is so enamoured.

Mr CLARKE: You can always tell a medical practitioner—but you cannot tell them anything! Unfortunately, that has been my experience with the Minister. In my 5½ years in this place I have seen some dog's vomit dressed up as an argument but this is the first time I have seen the dog return to it. The fact is that the employers to whom the Minister has referred are listening to the rhetoric of the Minister and this Government and in their own myopic and stupid way they are saying that, because of unfair dismissal laws, they do not hire

people. The fact is that, if businesses are booming, if products or services are being bought or sold, they will hire staff irrespective of the unfair dismissal laws. New South Wales and Queensland relative to South Australia are booming because of the Sydney Olympics and the like and unemployment is much lower in those States than in South Australia. Unfair dismissal laws apply in New South Wales and Queensland and in New South Wales they do not exclude small businesses of less than 15 employees.

Why are those small businesses hiring people? It is because their cash registers are ringing. It has nothing to do with the state of the unfair dismissal laws but it has to do with the number of customers they have and how much of the old green folding staff is going into the hip pocket. That is what determines whether or not an employer is going to hire staff. The Minister referred to a reference from KPMG and, if I picked up the quote correctly, it talked about frivolous claims. The Minister is seeking to cut out all claims for people who are casual with less than 12 months' service or who are working for a small business employer with fewer than 15 employees. They are not frivolous claims. The Minister cannot avoid the simple fact that, despite the justice of an unfair dismissal claim, no matter how badly an employer may have treated an employee, his laws exclude those people in that category from any legal redress.

The Minister referred to my estimate of costs and the survey in 1997-98 indicating that the costs awarded were between $3 000 and $5 000, saying that the estimate did not take into account the time and energy of the employer and, presumably, the employer's legal costs.

The Hon. M.H. Armitage interjecting:

Mr CLARKE: The employee has a few costs as well because, as the Minister is only too keen on telling members on this side of the Committee, about 75 per cent of the work force are not in unions, particularly people engaged in small business in the private sector. Those people have no recourse to a paid trade union official or union solicitor to represent their interests. If they do not represent themselves—and the majority do not—they have to get a lawyer or a registered agent. The Minister might be surprised that many lawyers in this town are just like medical practitioners—they do not treat people for free. They cost between $120 and $150 an hour if people can get a cheap lawyer. There is this financial disincentive straightaway for any worker, yet this is a cost-free jurisdiction because, even if a worker wins the case against an employer for being harsh and oppressive in their treatment of the employee, they cannot get legal costs awarded against the employer.

There is an enormous incentive already under existing laws for the worker not to pursue frivolous claims or to engage in lengthy litigation because, if they are hiring a lawyer or registered agent themselves, the clock is ticking and they are paying. The total payout under the unfair dismissal laws (I do not have Professor Hagglund's study before me) but, if I remember correctly, was well less than $1 million in one of those two years that I quoted. Out of all the employers in this State and just under the Clerks SA Award—the major common rule award for clerks in South Australia—there are about 20 000 employers under that award so there are many more thousands of employers in the State. If you average that cost against all of the employers, of less than $1 million being paid out by the commission or by settlement, it is a pittance.

The Minister may be surprised to learn that at times of high levels of unemployment people who are dismissed make unfair dismissal claims because, in more buoyant times, they might say, 'I know I got a raw deal from that employer but I can pick up a job tomorrow with a new employer and there is no point in my pursuing an unfair dismissal claim because I already have a job and I do not want to wait six months for a decision to come down one way or another. How will I get time off from my new employer to appear in court and represent myself in an unfair dismissal claim? So I will take the new job.' Of course, when there are high levels of unemployment there is less likelihood of finding alternative employment and people pursue unfair dismissal claims and there is nothing wrong with that. We are talking about a property right.

We have a Liberal Minister talking about taking away property rights of people and that is extraordinary because, if it is good enough to take away the property rights of a worker in terms of an unfair dismissal claim, why should not the argument be put that an employer's property rights can also be seriously eroded? We could take away the rights of an employer to sue under public liability, for negligence or breach of contract. They are property rights. We could make it unlawful for any business that has entered into a contract with the supplier of goods or services for less than 12 months who employs fewer than 15 people to have any right to sue for breach of contract.

Let us see the Minister's mates in the Chamber of Commerce react to that. The study by Professor Hagglund shows that in the four-year period in South Australia total documented awards amounted to $431 000. That relates to arbitrated decisions—$431 000 during a four-year period in South Australia. Amortised over four years, how many employers were involved? This is nonsense.

The Minister knows as well as I do that the anecdotal evidence from employers that he claims is so overwhelming in support of this legislation is patently false. For the President of the Small Business Association to say what he did in the quote that the Minister read out is a bit rich, given that it comes from an association that is forever lobbying the Labor Party and so on for assistance to look after its interests against large companies trying to screw its members over unconscionable conduct. That association wanted the Trade Practices Act amended, which it finally was by the Liberal Government, but we promised it when we were in government federally before the 1996 election.

I find it a bit rich for Peter Siekmann from the Small Business Association to come to the Labor Party asking for protection under the law from Westfield and other big business over unconscionable conduct. Yet his association has the hide to say to the Minister and to us as members of Parliament that some 15 year old casual delicatessen worker who is sexually harassed by a boss who has fewer than 15 employees and who has worked for that company for less than 12 months has no lawful rights for unfair dismissal. She cannot resign because she cannot collect the dole for a certain number of weeks or months because it is a voluntary resignation. She can by all means go to the sex discrimination board and wait three years on average, if she is lucky, to get a determination. The Small Business Association comes to us seeking protection from big business against unconscionable conduct. It is rank hypocrisy and, as I said, I have seen better dogs' vomit than that argument.

The Hon. M.K. BRINDAL: I have been following this debate with much interest and will contribute but briefly and in this form. When I became Minister for Employment, the Premier asked me to go around South Australia to listen to the people on what they thought about employment and, more

importantly, what solutions they could arrive at. Many members of this Chamber joined me at various forums. Every member of this place has the results of those job workshops and so on their discs can check this: at every single forum the matter of unfair dismissal was raised at least once and often multiple times.

I am not as well equipped as the Minister or the member for Ross Smith to argue whether this is perception or reality, but I can inform the Committee that small business believes it is the major impediment to employment in this State. The member for Ross Smith might disagree, but that is the message that came across clearly—that small business believes it is a major impediment to employment.

Indeed—and I point out for the member for Ross Smith's benefit that this was not in the leafy suburbs of Burnside but at Elizabeth—one of the most moving ways of describing it came from an unemployed person in that area who said that we in government build fences to protect the work force, the people who are employed, but that what we do not realise is that the higher we build those fences, the better the people inside are employed, but that creates a barrier to keep those outside from coming in. I remember that image because I believe it is right.

Before this Bill was introduced, I asked the Minister whether it looked at two matters. Does it look at the matter of taking account of inexperienced people being able to train, and the employer not having to bear 100 per cent of the wage costs while they are training? Some people describe that as a youth wage but I would like to see it restyled as a training wage. Secondly, does the Bill look at the matter of unfair dismissal? I had long conversations with the Minister. I do not know that any legislation is perfect but I am absolutely convinced that this legislation has not been introduced by Attila the Hun. It has been introduced by someone who is genuinely seeking, in this totally imperfect world, to create a better climate for all South Australians to have a go at getting a job. I commend the Minister for this legislation and I commend him for taking—

Mr Clarke: You have always been a toady.

The Hon. M.K. BRINDAL: I am trying to add constructively to this debate. I wish the member for Ross Smith the same good fortune.

Mr Clarke interjecting:

The Hon. M.K. BRINDAL: No, I believe that the Minister is acting honourably. I believe that he is taking a difficult step because it will not be universally popular, but is it a step that is needed to provide leadership for this State? As Minister for Employment, I stand up and give an unqualified 'Yes' to the Minister.

Mr CONLON: For those people who are excluded from the statutory remedy and who do not have quite as many work mates as some other employees do, what common law protection of their employment do they enjoy? How does their contract of employment in the common law operate to give them some protection?

The Hon. M.H. Armitage: They have the same rights that they have at present.

Mr CONLON: We know what they are.

The Hon. M.H. Armitage: We are not changing them.

Mr CONLON: No, the Government is changing something: it is taking away a statutory right that overcomes a complete absence in the common law. I have no doubt that the Minister has brought himself up to date with all these things because I know, as the Minister for Local Government said, that he is an honourable man who is doing this with the best intentions. I want to be confident that he understands what his intentions are.

The Minister would no doubt be aware that, during the contract of employment, there are duties owed by the employee to the employer that go to the relationship and beyond the mere terms of the contract. I refer to the duty of obedience, the duty of good faith and the duty of fidelity which applies within the contract of employment and often after the contract of employment ends. Can the Minister explain what sort of reciprocal obligations of good faith are owed by the employer at common law to the employee?

The Hon. M.H. ARMITAGE: My answer is as for the previous observation. We are not changing anything.

Mr Conlon: What are they?

The Hon. M.H. ARMITAGE: They are unchanged.

Mr CONLON: I asked those questions because I know the answer. The answer is that there are none. There is no duty of good faith in the contract of employment owed to an employee. There are duties of good faith and fidelity under this archaic piece of legislation. Aspects of the contract of employment arise from the law of villeinry when masters had ownership of their servants. There has been no progression in that. As a result, under the contract of employment into which the Minister would thrust workers, which is back to a time when masters had ownership of servants, strict duties of good faith, fidelity, loyalty and obedience are owed to a master. No reciprocal duty of good faith is owed to an employee. Therefore, when employees do their work for their master, not only must they do it according to the contract of employment but, where they take industrial action such as work to rule, that is a breach of the fidelity and good faith. They are not acting with the loyalty they owe to their employer.

But when it comes to the right to terminate a worker at common law, the employer's only duty is to give the lawful period of notice under the contract. There is no duty of loyalty, no reciprocal duty of good faith and no need at all to have a reason to terminate his loyal employee. As we have heard from the Minister of Local Government, just so that we know how honourable his lordship's—sorry, the Minister's—intentions are, is that precisely the situation he would like the workers to be in, where they can be terminated with no duty of loyalty, no fidelity and no requirement to act in good faith from the employer? Is that the fair situation that this Minister is attempting to create with his legislation?

The Hon. M.H. ARMITAGE: It took the member for Elder three observations to get personal: I thought it might have been earlier than that. The member for Elder makes a large claim—legitimately—and I wonder if this was part of his thesis. I cannot remember exactly. I did get it out of the university library and look at it, but it was some time ago. The honourable member legitimately makes a number of claims about employees' rights, and that is a very important point. In concluding his letter to me under today's date, Mr Peter Siekmann (Federal President of the Australian Small Business Association) said that, as far as this matter is concerned, if you want employees' rights you first have to be an employee.

As we have heard, the Minister for Local Government identified that in jobs fora everywhere around South Australia this was the matter that was raised as a major impediment. Earlier tonight I cited example after example of where business people have identified it as a direct impediment to their employing people and to their clients, if they were lawyers, employing people, and so on. I acknowledge that the

last thing I expected, as the member for Unley said, was that this legislation would be universally applauded by members opposite. But at the end of the day, we as a Government believe that this is an important way of breaking the nexus between the perception of employers and employment opportunities.

The Committee divided on the clause:

AYES (22)

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

NOES (20)

Atkinson, M. J.	Bedford, F. E.
Breuer, L. R.	Ciccarello, V.
Clarke, R. D.	Conlon, P. F.
Foley, K. O.	Geraghty, R. K.
Hanna, K.	Hill, J. D.
Hurley, A. K.	Key, S. W. (teller)
Koutsantonis, T.	McEwen, R. J.
Rankine, J. M.	Snelling, J. J.
Stevens, L.	Thompson, M. G.
White, P. L.	Wright, M. J.

PAIR(S)

Hall, J. L.	De Laine, M. R.
Olsen, J. W.	Rann, M. D.

Majority of 2 for the Ayes.

Clause thus passed.

Clause 51.

Mr CLARKE: I oppose this clause. The one redeeming feature of this legislation is that at least the filing fee is in the Bill, whereas in the principal Act at the moment the filing fee is set by regulation. The current filing fee is $50—if I am correct on that point—which can be amended by regulation. Whilst it can be disallowed by either House of Parliament, as we know, even if they disallow something in the Upper House, Executive Government, particularly under the Liberal Party, simply reinstates it the next day. So, the one virtue of the Government's clause that we have before us in this Bill is that it sets the monetary amount for the filing fee in the legislation so that, if it were to be increased in the future, it would have to go through both Houses of Parliament. That is its only redeeming feature. But it is double the existing filing fee and, in terms of access to justice, it is wrong that an employee should have to put up $100 as a deposit, so to speak, on filing for what are their rights in terms of protecting their property rights, namely, their right to sell their labour where they think they have been unfairly treated.

We can see where this is leading. Two years ago, there was no filing fee. Then it became $50. Now the Government proposes a $100 filing fee. In a year's time, if this legislation gets through, or the year after, it will be seeking a filing fee of $200, then $400 and so on. Not only does the Government want to restrict the access to unfair dismissal applications by workers who have less than 12 months' service working for an employer with fewer than 15 employees and the like, it is now saying to that class of worker who does qualify to file for an unfair dismissal claim, 'We are trying to dissuade you from doing it by putting up $100 up front.' Many workers who do not have the financial means could simply be dismissed—with more than one year's service, for example, with barely any accumulated annual leave or long service leave or anything of that nature. They would suddenly have to find up front $100 from their fortnight's pay or their week's pay (which they may only be entitled to when they are terminated—their termination pay) to file for an unfair dismissal or they would have to go and see their family and friends.

I do not believe that the imposition of a filing fee should be used to try to dissuade people from accessing their rights. I know that the Minister will argue, as did the former Minister, 'What is wrong with a $50 fee? It is only a pittance. If they do not have $50 in their own pocket they can go and see their mother, father, brother or sister or their mates, or whatever, for that money and they can file for it.' That is the same argument that this Minister will use with respect to a $100 fee, and a Liberal successor to him in a couple of years time will say that they can do the same for a $200 fee, or a $500 fee. That is just not appropriate in this jurisdiction. Again, it shows a massive misunderstanding of industrial relations by a Liberal Government and, for those reasons, I oppose this clause.

The Hon. M.H. ARMITAGE: I particularly thank the member for Ross Smith for acknowledging that my successor in a couple of years will be a Liberal Minister: it is terrific of him to do so. I draw the member for Ross Smith's attention to clause 51(5), which provides a number of opportunities for remission or fee reduction, or whatever—which, of course, the member for Ross Smith did not acknowledge, which I understand. But there are ways in which this fee can be remitted or reduced if it is beyond the applicant's means. The only other thing I can say is that I thank the member for Ross Smith for his support for the filing fee being in the legislation.

Mr KOUTSANTONIS: Can the Minister inform the House exactly how much it costs to process an application for an unfair dismissal—the cost per client? I imagine that it would not change per employee. Can the Minister give us an exact cost to process the application, from the notification to the hearing?

The Hon. M.H. ARMITAGE: I am happy to try to provide that detail on an average case, I suppose. But, at the end of the day, the filing fee has nothing to do with the costs of the—

Mr Koutsantonis interjecting:

The Hon. M.H. ARMITAGE: No, we acknowledge that it is to stop frivolous and vexatious claims. That is what it is about. There is no suggestion that it is there to cover the costs: it has absolutely nothing to do with cost recovery.

Mr CLARKE: I simply make the point to the Minister that, in terms of subclause (5), that the Registrar may remit or reduce the fee if satisfied that it is beyond the applicant's means, quite frankly that is giving a very broad discretion to the Registrar, depending on the Registrar's predilection on the day—whether he or she wakes up in a good mood, or whatever. The Government is saying to this person to make a judgment as to whether a person who has been paid out a fortnight's pay in advance and who has four children in rented accommodation, is a sole income earner, etc., cannot afford the $100, but another person, perhaps with three children, can, for example, to try to strike a balance. I think that it is a nonsense.

The Government does not want anyone to apply for unfair dismissal; that is the truth of the matter. That is the fundamental principle. The Government cannot get it all in one go, so it is doing it in stages, and this is just part of the stage. It is a nonsense. The Government will win on the floor on this occasion in this Chamber. Hopefully, upstairs they will knock it back. Unfortunately, they did not knock it back last time around on this aspect of the legislation but, with a bit of luck, they will knock it back on this one. The truth of the matter is that the Government does not want anyone to have any rights whatsoever with respect to pursuing an unfair dismissal claim and it is just trying to do it by stages; that is all.

The Hon. M.H. ARMITAGE: I think the fact that the member for Ross Smith has identified that indicates that he does not understand our aims. If, indeed, that is what we want to do, we could have moved that in the legislation. We had every opportunity to do that and we chose not to do so. We have reacted to the countless claims from the employers, many of whom have responded to me (and whom I have identified and whose letters I have read in Parliament) and have said that this is a major disincentive to them taking on another employee.

The Committee divided on the clause:

AYES (23)

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

NOES (19)

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

PAIR(S)

Hall, J. L.	De Laine, M. R.
Olsen, J. W.	Rann, M. D.

Majority of 4 for the Ayes.

Clause thus passed.

Clause 52 passed.

Clause 53.

Ms KEY: How does the slow, inexperienced and infirm workers clause work in relation to the supported wage provision, and how will this work if a worker with a disability is not able to make a representation on their own behalf?

The Hon. M.H. ARMITAGE: My assessment is that this is a consequential clause. I ask the honourable member to repeat the question.

Ms KEY: With regard to slow, inexperienced and infirm workers, a provision was made through the Federal commission and also in our State commission called the supported wage system. This is a system of accessing workers with disabilities to different jobs so that they would also have access to outside employment. They would also be paid in accordance with their productivity and efficiency on the job. I understand what the Minister is saying. How would this clause affect those workers? What is the relationship, particularly when the supported wage was based on awards rather than agreements or individual contracts? Given that you need a licence to be covered under section 112 of the Act, how would this worker have access to some sort of remedy if he or she felt that they were being discriminated against in negotiating, for example, a workplace agreement?

The Hon. M.H. ARMITAGE: I am informed that there is no change. If one looks at the Act, one sees that there is still the award provision. The award does not become clear in the amendments, but the award is still present in the Act if we pass this amendment which, as I indicated before, is consequential. The remedies are the same, as well as the additional penalties for such things as coercion, harassment and so on.

Ms KEY: The supported wage system is an award system, as I explained. It contains provisions for workers with a disability. How does that fit in with allowable matters, should the allowable matters part of this Bill be successful?

The Hon. M.H. ARMITAGE: I am informed that, in relation to general allowances, there is provision for payment in addition to minimum rates for disabilities, responsibilities and skills.

Mr CLARKE: I draw the Minister's attention to section 112 the principal Act regarding slow, inexperienced or infirm workers. Subsection (1) provides:

> The commission may, on application by a slow, inexperienced or infirm employee, grant the employee a licence to work at a wage less than the minimum that would otherwise apply. . .

Given that another place knocked off at 3.50 yesterday afternoon, has the Government made an application to the commission for a slow, inexperienced or infirm worker's permit?

The Hon. M.H. ARMITAGE: I have to declare that there are many occasions on which it would be a very firm principle on which we ought to work.

Clause passed.

Clause 54.

Mr CLARKE: I cannot quite fathom the rationale behind this clause, which provides that, if a member of a registered association resigns, it takes effect 14 days after the written notice of resignation is delivered. Effectively, that means that no notice is required. Subclause (2)(a) provides that 'a member of the association may resign from the association whether or not the member is a financial member at the time of the resignation'. I find that somewhat extraordinary. As the Minister knows, I have been a union official for 20 years; I was Secretary of a union for 10 years, and very proud of it, and—

Mr Scalzi interjecting:

Mr CLARKE: Thank you to the member for Hartley for pointing out that I was a good Secretary. The point is that there were a number of members of my union, for example, who gave no notice in writing that they were resigning from the union, and under both the Federal and State Acts a union cannot just expunge from the membership records the name of a member simply because they have not paid their membership fees, unless the member has indicated in writing that they intend to resign, or that the union has given them notice that, unless they have paid their fees by a certain date,

their name will be expunged from the register of members. Otherwise, all sorts of rorts could take place, and members would appreciate that.

A member must positively indicate in writing that they want to resign or leave the union, or the union itself must take a proactive role and say that unless you pay your dues, or for some other reason, and that is not remedied, we will remove your name from the membership list. Indeed, there are a number of Federal court decisions on contested union elections on that very point. Back in the mid-1980s, there was a case involving the Liquor Trades Union where, because of the nature of that union, thousands of members who were casual employees, moving in and out of the industry on a regular basis, who paid their membership fees through their employer by payroll deductions, never notified the union that they were intending to resign. They just left. Their name did not appear on the check off remittance from the employer, and the union deleted their name as a member. The Federal court ruled that that was contrary to the rules of the union, that that person had to be notified in writing by the union of the union's intention to remove them from the register of members unless they complied with certain specifications—unless they notified the union within seven days or whatever that they wanted to retain their membership.

This Bill provides that a person resigns and gets 14 days' notice, and they do not have to be financial when they give notice. A union could have been assisting that person, through an unfair dismissal case, seeking a reclassification for that person under the award, or in an underpayment of wages claim, because they were a member of the union. The employee may be seeking assistance from the union to remedy their concerns with their employer, but might owe 12 months' dues, and have had the benefit of an award increase because they were covered by an award or enterprise agreement. They might have received the benefit of an improvement to that award or agreement, yet that person is entitled to resign without giving effective notice to that organisation, traditionally three months, and without having to be financial at the time they effect their resignation, so the money can be claimed back by the union.

If this type of rule were applied to the Australian Medical Association and the like, I think there would be howls of outrage from the AMA, the Dental Association and a number of others. I would like to know what has given rise to this amendment. What motivated the Government to bring in this legislation? What are the actual problems with the existing legislation that caused the Government to want to change it to the Bill that is now before us?

The Hon. M.H. ARMITAGE: The member for Ross Smith makes the case that a member of a union who is unfinancial benefits from any award increases which may apply during the course of that person's non-financial status. That is exactly the same now for non-union members. That applies anyway, so I do not see the relevance of that. If the member's concern is that the unions will potentially provide services to members who are non-financial, there is absolutely nothing stopping the union from having an internal rule, clearly identified when the person joins the union that, if you are not financial, you will not be provided with services. That seems to me like a completely reasonable way of behaving.

For argument's sake, I know that the honourable member is a member of the South Australian Cricket Association. He knows full well that, if he does not pay his membership fee by a certain date, he will not be serviced by the cricket association. That is a very legitimate thing for a union to do. I would also identify that this clause applies to an association, for example, an employers' association. It is not aimed at the unions specifically.

Mr Koutsantonis interjecting:

The Hon. M.H. ARMITAGE: It is not. If it was aimed at the unions, it would be 'a member of the union'. It is not. It provides for 'a member of an association'. Those are all legitimate discussion points at least in relation to the matters which the member for Ross Smith raised.

However, a number of people have identified to me the fact that they have even attended a union premises to indicate that they wished to resign from that union, shortly prior to the time when the date for renewal of subscriptions occurred, to be told by the union, 'It is just pre-Christmas' or 'just pre-Easter' or whatever, 'We are a bit busy; come back in a couple of weeks' time.' When they come back, they are told, 'The time for renewal of your subscription is due. For you to resign, you will have to pay another six months' or 12 months' subscription.' That is factual. So, that is what we intend to stop.

I acknowledge that the member for Hanson and the member for Ross Smith know far more about the internal machinations of unions and the way they are financed than I know now, than I ever will know, and than I ever want to know. However, I am prepared to be conciliatory, because I am always conciliatory. If the member for Ross Smith and the member for Hanson wish to discuss with me privately between now and when the Bill gets to another place any other way in which we can ensure that that sort of thing does not happen, so that someone who legitimately wants to resign from the union can do it forthwith and not have months and months of subscriptions which they do not want to pay, I will be delighted to listen to them and I will guarantee to introduce the amendments in the Upper House.

Ms KEY: The Minister has heard our views previously about what we consider to be the double standards with regard to union fees both on this issue and also on payroll deduction. I believe that, as far as Labor's position is concerned, the two go together. Despite the fact that a distinctly South Australian Bill is before us, does this provision of the Bill reflect at all section 264 of the Federal Act? I note that, in some cases, it suits to mirror a Federal Act and in other cases it does not. There is no provision as there is in that section of the Act (subsection 3) which highlights that the union may still sue for or recover any dues payable and not paid by the resigning member with respect to membership upon the date of resignation.

The Minister knows that we disagree with him about the different treatment he gives unions. I believe that this is a federally inspired provision, so why will the Minister not discuss it with us privately, as he offered, and be fair about the sort of provision he is putting in?

The Hon. M.H. ARMITAGE: Very easily I can answer the member for Hanson: I have no idea what is in that particular section of the Federal legislation—absolutely none. This clause is not designed to mirror that in any way. I can only reiterate that where one has a Federal Government and a State Government legislating in an area, such as the environment, an example I used previously (and I am sure there are others), or any other area where there are similar responsibilities, it is not at all surprising that various parts of the respective legislations reflect the same things.

Ms KEY: The Minister talked about trade unions and experience. Is the Minister a member of the AMA and is a resignation provision included in that particular membership?

The Hon. M.H. ARMITAGE: The answer is 'Yes.' I was a member of the AMA for approximately the same time I was a member of the Transport Workers Union.

Mr CLARKE: So, you were a scab. That about answers the lot. I mean, the AMA was too much of a soft, pinko left wing organisation for this Minister to belong to. Perhaps he was actually a closet member of the Doctors' Reform Society. I take it that the Minister does not intend this legislation to mean what it seems to mean from his answer to the member for Hanson, namely, that a person can be a member of a union and be unfinancial and then, after about a year when they have used up the union's services, seek to resign. I have seen that and the member for Hanson has seen that. People come in, join, use up the organisation's resources, do not pay a brass farthing and then seek to resign. Is the Minister saying that the union does not have the right to seek recovery of the union dues that that person owes from the date they applied for membership and became a member up until the time their resignation becomes effective, whether it is 14 days from the date of receipt of the notice of resignation or even if it were three months hence, whatever the existing rules may provide? Surely the Minister is not suggesting that the union is not able to recover fees outstanding for the period that person was a member and, if that is the case, why does the Bill not reflect it?

The Hon. M.H. ARMITAGE: I need to clarify that it is the view that union members can indeed be prosecuted, if necessary, for unpaid dues up to the date on which they resign. We are saying that a person can resign with two weeks notice and he or she does not suddenly have to pay another six months prospective fees to resign, as has been identified to me.

The Committee divided on the clause:

AYES (23)

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

NOES (19)

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

PAIR(S)

Hall, J. L.	De Laine, M. R.
Olsen, J. W.	Rann, M. D.

Majority of 4 for the Ayes.

Clause thus passed.

Progress reported; Committee to sit again.

SITTINGS AND BUSINESS

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.

Mr CLARKE: Mr Speaker, I rise on a point of order. As I read the clock, Sir, it is nearly two minutes past 10 and the Minister has missed his time and, under Standing Orders, we have knocked off. Sir, it is after 10 o'clock.

The SPEAKER: Order! It is the understanding of the Chair that when the House is in Committee and if, during the process of a division, the clock moves past the high noon of 12, it is permissible to accept the Minister's motion.

Mr FOLEY: Mr Speaker, I rise on a point of order. Can you run it past us again concerning the high noon of 12, because it has me a bit confused?

The SPEAKER: I am happy to run it past the House again. If the House is in the process of a division and the counting of that division and the minute hand on the clock has moved past the 12, then the Chair can take a motion from the Minister to allow him to move that the House sit past 10 o'clock.

Mr CLARKE: Mr Speaker, I rise on a point of order. Would you be so good as to point out which Standing Order or procedure underlines your ruling?

The SPEAKER: The Chair has made a ruling and I do not have to give you coaching on Standing Orders. The reality is that I have made a ruling. There was a division in process when the minute hand reached the hour and I have made a ruling appropriately. If the House disagrees with that ruling, members know the course of action that follows. I believe the Minister can now appropriately move for the adjournment of the House beyond 10 o'clock based on my ruling.

Mr CLARKE: I move:

To dissent from the Speaker's ruling.

The SPEAKER: If the member for Ross Smith wants to formalise this matter for serious consideration by the House, I ask him to submit the motion in writing and we will go through the various steps.

Mr CLARKE: In deference to the Deputy Leader and given the arrangements that have been entered into with the Government of which I was unaware, I withdraw my motion to dissent from the Chairman's ruling. I will nonetheless be interested to read the authority.

Motion carried.

INDUSTRIAL AND EMPLOYEE RELATIONS (WORKPLACE RELATIONS) AMENDMENT BILL

In Committee (resumed on motion).

(Continued from page 1441.)

Clause 55.

Mr CLARKE: Section 127 of the principal Act provides that the Industrial Commission may, on the application of a member of an association registered under this part, or a person who is being expelled, and so on, do certain things, and a penalty of $1 250 is provided. That has now been increased to $2 500, and I wonder why the Government is doubling the penalty. What has happened since this law was last dealt with that has caused the Government to seek to double the penalty? What breaches of the legislation in this regard warrant such severity?

The Hon. M.H. ARMITAGE: This is in line with a number of instances where, at my instruction, we have quite deliberately increased penalties.

Clause passed.

Clause 56.

Mr CLARKE: This clause is about financial records, and the penalty has been doubled from $750 to $1 250. I make the point about a number of sections in the principal Act and the amendments that this deals with registered associations only. What about proper financial record keeping for unregistered associations and the like? You have to go back historically in time to understand why unions were prepared to submit themselves to Government regulation with respect to financial records, rights of membership and a whole range of other things. That was because they used to enjoy an exclusive right under both Federal and State legislation so that, once they were registered, they had exclusive membership territory that they could call their own. The *quid pro quo* on the union movement for having exclusive coverage of certain sections of the work force was that unions had to comply with a set of laws that set a maximum term of office of four years for elected officials; they had to have secret ballots for officials; their rules had to be democratic; and their financial affairs had to be open to public scrutiny and the like—not that I object to any of those provisions.

When the principal Act was introduced in 1994, the Government gave unregistered associations the right to represent workers before the Industrial Commission, to seek enterprise agreements, to be parties to awards and to seek to vary those awards, yet those unregistered associations are not bound by any other provisions in this legislation with respect to having their financial records open to public scrutiny and audited by an independent auditor, or that their officers must be elected every four years in a democratic fashion and in a secret ballot.

Both this Government and the Federal Government are reducing increasingly the advantages of unions to be registered in the system and to comply with the laws with respect to elections and the like. An unregistered association, with office bearers elected for life, if that is what the rules provide for, with no financial accountability, with the harshest and most oppressive rules that they can apply to their membership, can do so with impunity. The Government's laws govern only registered associations, yet it has given unregistered associations all the advantages of registered associations and none of the responsibilities or obligations that it has imposed on registered associations. Why does the Government not impose the same obligations and responsibilities on unregistered associations as it insists on putting on registered associations?

The Hon. M.H. ARMITAGE: As the member for Ross Smith identified, the change that we are making here is to increase the penalty. We are making no change to the present law, which talks about registered associations. I emphasise that those registered associations include employer associations, just as they may well include other employee associations. Government policy is not to change the legislation, and no stakeholder raised it with us.

Mr CLARKE: Does the Minister agree with me that, under the Government's laws, unregistered associations of employees can have rules which elect people for life, which are not subject to secret ballots and which do not have public scrutiny of their financial records and account keeping? Yet the Government has vested in them the same rights as registered unions in so far as representing workers before industrial tribunals. Why has the Minister's policy unit or think-tank not come up with the idea that non-registered associations should conform at the very minimum to the same requirements as registered associations with respect to accountability of their officers and their financial record-keeping?

The Hon. M.H. ARMITAGE: I really do not think I can be more contributory than to indicate, as I did before, that we are not changing the present circumstance and we had no intention of doing so. But, this is not revolutionary: it has been the situation for years.

Mr CLARKE: The Minister is wrong. It has only been like this since your laws of 1994, and I told the then Minister—who would not listen to me either. You blokes are slow learners. I am simply making the point that your laws may be unintentional—

The ACTING CHAIRMAN (Mr Lewis): Order! The member for Ross Smith will address his remarks through the Chair.

Mr CLARKE: Through you, Mr Chairman, to the Minister, the Government's laws will create a situation at some time down the track where you are going to get, potentially, a Norm Gallagher running an unregistered association of employees. He will be able to do so with impunity under your industrial laws and do all the things and enjoy all the rights before the Industrial Commission to advance the interests of that association without having any of the obligations of a registered association. You are driving, slowly but surely, registered associations away from the system of registration because it is now becoming increasingly more useful, tactically, to be unregistered and not subject to the industrial laws of this State or this country.

The Hon. M.H. ARMITAGE: I would contend that the present legislation does not have an onerous effect on a registered association. The present laws merely provide that if you are registered you must have a balance sheet giving a true and fair view of things, there must be a statement of receipts and payments and the accounts must be prepared and audited. That seems completely legitimate to me. All we are doing is increasing the penalties for a breach of those rules. If adherence to those matters is driving people away from the registered association arena, as the member for Ross Smith alleges, I have to say that the people who become members of those unregistered associations clearly are ill-advised. Why would anyone become a member of an association that was not prepared to give a true and fair view of the assets and liabilities, to have the accounts audited, and so on? People are not fools. They do not rush to join associations that do not have blatant accountability. We will insist people be more accountable by increasing the penalties for not being accountable.

Clause passed.

Clause 57.

Ms KEY: I understand that this provision is doubling the maximum penalty under section 139 of the current Act. What is the justification for doubling the penalty? What use of this section of the Act over the past five years has warranted the doubling of the penalty? Is this a highly used section of the Act, with the penalty increase designed to provide a bigger detriment to people who abuse the Act? There is no definition either in the current Act or the Bill, so what is the Minister's definition of 'industrial services'?

The Hon. M.H. ARMITAGE: The 'industrial services' definition is as developed by case law. In relation to the actual doubling of the penalty, as the member for Hanson

would have clearly identified, we have in fact virtually doubled all the penalties. Indeed, we have increased some of them more because we want the legislation to have teeth. As to why or how this clause arose, I am not sure, but the legislative process is a wonderful animal and I am quite sure that at some stage in the past someone had a bee in his or her bonnet and the legislative process has determined this will be the case. Of course, we are all the children of our forefathers, and someone determined that this was a good idea.

An honourable member interjecting:

The Hon. M.H. ARMITAGE: Maybe, but I must say that my prime concern was not to delve into that but to maintain the *status quo* in relation to the clause. I openly admit that it was inconsistent not to double this penalty when we were doubling the others, and I reiterate that we started doubling these penalties because I was intent on hitting as hard as possible employers who were clearly attempting to abuse their alleged power over employees.

Ms KEY: I do not have an adequate definition of 'industrial services' from the Minister's answer, although I do have experience in interpretations of 'industrial services'. Would 'industrial services' include assistance with regard to a superannuation claim, bearing in mind that superannuation is still considered under the Minister's Bill to be an allowable matter? It is certainly defined as an industrial matter, and there are many instances where people, certainly in employee associations and perhaps in employer associations, need to represent former members or people who are part of an occupational superannuation scheme and who may not necessarily be part of the membership.

I know from dealing with superannuation in my own case in, for example, the transport industry, that there were members who were part of the superannuation scheme and there were also non-members of the TWU who were members of the superannuation scheme. As the Minister would probably be aware, occupational superannuation has now been opened to people throughout the community who would like to join, rather than being member or industry specific. I wonder how someone would deal with this case. If there have not been any instances to which the Minister can refer of people being penalised under this section, it seems to me that, despite his argument of consistency with doubling all the penalties, $5 000 is pretty steep, especially when the Minister cannot tell me what an industrial service actually is.

The Hon. M.H. ARMITAGE: I acknowledge as a lay person the strength of the argument in relation to superannuation being an allowable matter. As long as it is an allowable matter, it would seem reasonable, but I am informed that case law (for example, commissions, and so on) would make a judgment on that. I would emphasise that if anything is an offence under the Bill, it is an offence under the Act, because we have not changed that. It is our view that this is not a part of the legislation that has been utilised a lot.

Mr CLARKE: What happens under section 139 of the principal Act as it stands if a union or, for that matter, an employer association seeks to vary an award that covers many thousands of non-members, both of employers and of employees, who have not contacted the union in writing, by fax, by smoke signal or in any other way indicating their preparedness to be represented by that employer association or by the unions representing them in those proceedings? If that is the case, the Minister will make a few bob on retrospective application of the legislation if he prosecutes.

The Hon. M.H. ARMITAGE: My advice and my thoughts after discussion on this matter would be that, if it is an offence, the Industrial Commission would rule accordingly and, if the member for Ross Smith believes that to be the case, I would be very surprised because this is not a new clause, this has been around for five years and I would have thought that—

Mr Clarke: Your predecessor was an idiot, too.

The Hon. M.H. ARMITAGE: I would have to disagree with that. However, as I say, that would be a matter for case law to determine.

Mr CLARKE: I believe that this House is entitled to a more substantive answer from the Minister with respect to section 139 because we are passing laws which we expect people to uphold and obey and, if there are breaches, there will be prosecutions. It is not the Industrial Commission that enforces these laws. It would be the Industrial Court that would have to make a finding as to whether the laws had been breached. Section 139 is as plain as the nose on anyone's face in this Chamber. It clearly states:

> An association, or an officer or employee of an association, must not, except at the request of the person, represent a person who is not a member of the association, and has not made an application to become a member of the association, in proceedings before the Commission.

I mean, it is as plain as the nose on our face. I know this has been around since 1994—and I am sure this was probably drawn to the then Minister's attention in 1994 and was overlooked—but, in any event, we are now doubling the penalty to $5 000, on a law that is breached every day by employers, associations and trade unions. Every day they are before the Commission, particularly with common rule awards, representing persons in wage increases or improvements to conditions of employment or, for that matter, employer organisations resisting those claims where employer associations represent barely 10 per cent of employers in this State and the trade union movement around 28 per cent of the total work force.

This Minister is saying to this Parliament, 'Look, do not worry about it, we will pass this clause. Even though it is as plain as the nose on our face, we really do not mean it to operate in that way and we will allow the Commission to try to muddle its way through.' However, any employer or any individual could appear before an industrial tribunal hearing who is not a member and say, 'I am not represented, I am not a member of that association—

The ACTING CHAIRMAN: The member for Ross Smith makes persuasive argument about the substantive provision, but that is quite out of order. We are debating the clause in the Bill, not the existing law. The honourable member cannot reflect upon the proceedings of a previous determination of the Parliament other than by formal motion. I invite the member for Ross Smith to come back to the provision in the Bill, which is simply to delete the existing penalty and replace it.

Mr CLARKE: That being the case, could I seek your assistance by indicating an amendment to clause 57, so as to read 'that section 139 of the principal Act be struck out'?

The ACTING CHAIRMAN: No, the honourable member needs to bring up such amendments and give notice of them in writing to the House.

Mr CLARKE: Will the Acting Chairman give me a few moments to formulate such an amendment?

The ACTING CHAIRMAN: No.

The Hon. M.H. ARMITAGE: I am very happy to discuss this matter with the member for Ross Smith between here and another place. I am happy to discuss it outside and

come to some cogent arrangement when we have all had time to look at the background and, if there is a legitimate case, we will move it in the Upper House. I am quite relaxed about that.

Mr CLARKE: If it means that I am slowly getting through to the Minister in his education, I will accept it as an act of goodwill.

Clause passed.

Clause 58.

Ms KEY: Of all the clauses, this is one of the most offensive to the union movement, as I am advised, and certainly to members of the Labor Party. I have spent a number of years as a union official, carrying out work site inspections, particularly in areas where women work, and I am very aware of the fact of having a union come in and look at time and wages records without identifying the union members concerned, and making sure of the proper legislation with respect to a number of matters (health and safety and equal opportunity legislation, just to name two). I find this clause particularly offensive. I understand the political reasons for restriction of the powers of officials and employee associations but the reality in the workplace, especially in areas where workers are not in a position to speak up for themselves, is that people are not in a position to query the directions that they are given, and this is a particularly serious matter.

When this is looked at in light of the Bill's proposal with regard to the workplace services inspectorate and the obvious inadequacy in the number of inspectors in this State and the number of union officials who do a lot of what would be considered inspector's work, I raise real concerns with respect to the whole of this clause. Section 140 in the current Act has not been accepted readily by the union movement but this clause seeks to inhibit even further the good work that is done by the union movement in workplaces where employers exploit their workers, give their workers a hard time, harass them, do not pay them properly and do not provide a secure and safe workplace. So, for all those reasons, I would like the Minister to explain (other than perhaps the political reasons why he may be putting forward this amendment) the rationale behind the restrictions he proposes.

My last point with respect to this question is that perhaps the Minister has not had the opportunity (and I am pleased in some ways that he has not had to endure it) to deal with people who are absolutely frightened about speaking up and who do not have the courage, the support or the confidence, whatever the case may be, to get together with other workers and speak up against inequities and exploitation in the workplace. I have certainly been in that position a number of times with respect to migrant workers, Aboriginal workers, women workers—and, in fact, some male workers—and young workers. Quite often, if a union had not come in and made some representations on the part of its members—most of them secret and silent members because of their fear—more people would have been killed in the workplace. As the Minister knows, we already have a disgustingly high level of workplace injury and deaths in South Australia. I dread to think what would happen if unions were not there in a number of instances to try to change the behaviour. As I said, I understand the political reasons why the Minister would not want union officials in workplaces, but will he explain the rationale behind this clause, because I fear what will happen?

The Hon. M.H. ARMITAGE: As we have talked about before, on the rights continuum, if you like, there are employee rights and employer rights. A number of employers have indicated to us that union officials exercising rights of entry represent an imposition on the employer in time and cost.

Mr Clarke interjecting:

The Hon. M.H. ARMITAGE: Well, it is self-evident that they do, because the employer is obliged to communicate, if you like, with that union official. It is actually self-evident. So, there are some rights for employers. We believe that it is appropriate for that to occur in situations where there are real concerns with work practices rather than, if you like, at random. We have not made any prohibition on officials of associations of employees, for example, unions, getting onto the premises. All we have said is that they must suspect on reasonable grounds that breaches of awards or workplace agreements are taking place. They are allowed to look at and to investigate a number of matters. They have to give notice to the employee of the time of the proposed entry, the nature of the suspected breach and the grounds on which the breach is suspected. That is not saying they cannot go in and represent the very workers whom the member for Hanson identified.

Ms KEY: Earlier tonight the Minister mentioned the Employee Ombudsman. I had some reservations about the creation of the office of Employee Ombudsman, and I have said before in this House that I have some concerns about that role, but probably for different reasons from some others. One thing that I noticed in the Employee Ombudsman's annual report is the constant reference to the number of people who see him, and the reports I have read of the Working Women's Centre indicate the number who see those organisations, whether they are union members or non union members, because they are frightened of being identified as union members, as they know that down the track the fact that they have dared to join a union will be used as an excuse to get rid of them.

From my own experience—and, again, this is in a lot of areas where women work—women are too frightened to identify themselves as union members because they know they will lose their job. I am telling the Minister this from first-hand experience and from my experience when working with agencies such as the Employee Ombudsman. As I said, the Employee Ombudsman reports this in his annual report continually, and it appears in reports of the Working Women's Centre. Will the Minister identify some of these instances of abuse to which he has referred, because the majority of unions—and certainly the unions I have worked for—have made sure that they give true respect to the employer. They let the employer know that they are on site. They make sure, especially in the case of country visits, that they write to let the employer know that they will be visiting that particular work site. Quite often, a lot of the business regarding some of these work sites is undertaken in the pub after work, at the local coffee shop, at the local church and in people's homes.

Does the Minister disbelieve the reports that are made of these various agencies that come under the umbrella of enterprise services? Does he not believe that there is a problem out there? I am at a loss to understand why he cannot take notice even of his own organisations under the umbrella of enterprise services. He may not want to believe me, but I can tell the Minister that some people out there are frightened and are being exploited. Basically, if this clause becomes legislation, it will make sure that they continue to be exploited and frightened. In 1999 in South Australia that seems absolutely ridiculous and totally inappropriate.

The Hon. M.H. ARMITAGE: There is no prohibition on people approaching the Employee Ombudsman. If they are concerned and they work under a workplace agreement, that is absolutely one of the criteria we are setting for the Employee Ombudsman's role. I emphasise that this clause in no way requires identification of the individual employee to the employer. All it requires is for the official to have a suspicion on reasonable grounds—not proof—and to identify to the employer that that union official will make a visit.

Mr CLARKE: I would like reiterate what the member for Hanson had to say, again from practical experience as a union official. The principal Act was watered down in 1994. Section 140(2) of the Act provides:

> Before an official exercises powers under subsection (1)—

that is, inspects time or wages book and tips, inspects works and so on—

> the official must give reasonable notice to the employer and comply with any other requirements imposed by the award or enterprise agreement.

In other words, they must give reasonable notice. Section 140 (3) provides:

> A person exercising powers under this section must not—
> (a) harass an employer or employee; or
> (b) hinder or obstruct an employee in carrying out a duty of employment.

The employers already have adequate protection under the existing Act such that, if an official is willy-nilly trying to harass an employer by going to inspect time and wages records for the sake of harassing that employer for whatever purpose, or tries to hinder or obstruct an employee from carrying out their normal course of employment, that official can be fined up to a maximum penalty of $5 000. So the employer is protected under the existing Act.

The Minister is now saying that, first, it applies only to members in association. There were many times—and the member for Hanson would know this—in my union when only one or two out of 25 workers at a work site were union members and we knew they were being underpaid. The last thing you do is telephone the boss and say, 'I'd like to inspect the time and wages record of Mrs Bloggs.' That immediately gives the employer the identity of the person who has complained to you about possible breaches of the award, and that person can be subject to all sorts of harassment and coercion. If they work for an employer with fewer than 15 employees and have worked there for less than 12 months, under the Minister's legislation they could be sacked without right of recourse.

The Minister's inspectors, of which there are too few, are too poorly trained in respect of many awards to understand whether an award is being breached. They do not deal day-to-day with industries and develop the same level of skills and expertise in understanding awards or agreements as the relevant union official. That is not having a go at the inspectorate—it has a huge workload and too few resources. We can forget the inspectorate as an effective arm of enforcement because it can never get around to enough jobs. The Minister may recall a couple of years ago that his predecessor by two, the member for Bragg, was Minister at the time and there was a concerted effort by the department to check on a number of cafes and restaurants in Gouger Street and around the city for underpayment of wages claims and, surprise, surprise, they caught a lot of employers paying under the award wages—cash in hand, a lot of black money and no penalty rates. If I remember the media publicity at the time, something like 60 per cent plus of employers inspected were all guilty and had to put up their hands for significant underpayment of wages claims.

In that time it was the inspectorate that was able to conduct the time and wages inspection. They do not have the resources to do it every day in particular industries across a State the size of South Australia. Union officials are a very important arm of ensuring that our laws are complied with by their being able to go on site, inspect time and wages records and complement the work done by the inspectorate to ensure that the right wages and conditions are being observed and protecting the identity of those who have blown the whistle in the first place.

I do not know what the Minister thinks union officials do in a working day, but they do not sit at their desk thinking of how they can raid a number of employers' premises to inspect time and wages records where they do not have members or a particular vested interest. They do not just walk up and down Gouger Street, through the city, into every shop and nook and cranny and say, 'Let's have a look at your time and wages records.' In the clerks' award some 20 000 employers were under the common rule award and I had about 1½ organisers dedicated to looking after the commercial clerks' award and two industrial officers' time was shared between 63 other State and Federal awards.

I do not know from where the myth comes that union officials have a lot of time on their hands to go around and create unnecessary work, and if they did the employer has the remedy under the Act already. In the past five years since the 1994 Act was passed, how many official complaints have been received by the Minister's department from employers with respect to their believing that officials of unions have abused their powers under the existing section 140 of the Act? Of those complaints how many prosecutions were launched; of those prosecutions how many were successfully prosecuted; and will the Minister name and identify those cases where the successful prosecutions took place over the five year period?

The Hon. M.H. ARMITAGE: I would be much more interested in figures that indicated the number of people who kowtowed to union officials when they were under that threat. The interesting thing is that the member for Ross Smith talks about a situation where there might be one or two members of a union and he believes that they would be immediately identified by a union official going in and asking for their time sheets. I do not believe that that would be the case. Even if there were any such victimisation, section 223 of the Act indicates that the employer who is found guilty of victimising (and that is very broad), dismissing or prejudicing an employee in any way is up for a fine of $20 000. I would contend that there are real protections for the employee in that provision.

Mr CLARKE: The Minister constantly displays his ignorance of industrial relations. His response to my questions demonstrates amply enough that in the last five years (and I challenge the Minister to disprove what I am about to say) no complaints have been lodged with the department with respect to union officials abusing their power under section 140. In the last five years no prosecutions have been launched either in the Industrial Commission or the Industrial Court with respect to abuse of power under section 140 and, as a result of there having been no prosecutions, there are no cases. If there were, this Minister would have loved to elaborate on them here tonight, as well as in his second

reading explanation, and bring out all the gory detail. There are none. It is a furphy.

It is not about employers being kowtowed but rather is about putting the slipper into workers once again. I can tell you, Mr Chairman, as you would know, that as soon as a union official walks into a work site and says to the boss, 'Could you show me the time and wages records of Mrs Bloggs?', the employer may not even know or believe that that person is a member of the union.

What I do not understand about this legislation is the inconsistency—and I would like the Minister to answer this question also. If I go in and say, 'I want to see Mrs Bloggs' records,' the employer can say, 'Is she a member of your union?' With respect to freedom of association and privacy laws, what happens there? How would the Minister like it, being a medical practitioner, if someone bowled into his medical practice and asked, 'Are you a member of the AMA, because I would like to inspect your records?', or when he was an intern at the RAH, or wherever he did his internship, and joined SASMOA—although that is a union, so he would not have joined it—if a union official went along and said, 'I would like to see the wage records of one Dr Michael Armitage,' and the RAH turned around and asked, 'Is he a member of your union?'? How would the Minister feel if the union official said, 'Yes, he is,' yet the Minister had marked on his membership form, 'Confidential member; all mail to be sent to private address. Never disclose to anyone that I am a member of a union without my prior permission'? How would the Minister feel in that position, because that is what he is asking of other people who, I might add, in many instances have skills and work experience that are much less saleable on the open market than those of a medical practitioner?

The Hon. M.H. ARMITAGE: Freedom of association provisions protect against discrimination, as I have identified. Section 223 provides for a severe penalty for employers who victimise employees.

Mr CLARKE: I can tell the Minister how many prosecutions have been launched by this department of the Liberal Government in the last five years with respect to victimisation of employers for coercion—zero. In fact, the departmental inspectors would run a million miles rather than be confronted with that; otherwise, they would be appointed as the resident inspector somewhere in the north-west frontier of the Punjab.

How do you prove it? For example, I had a case in my office recently and, although it is not exactly on point with respect to union membership, it does show the difficulty that is involved. A casual nurse, working in a nursing home in St Peters, injured herself, which was the employer's fault for not having the correct lifting equipment, and the like. That was confirmed by the Minister's own department after we asked someone to visit the nursing home. This person was a casual nurse. Miraculously, even though she was cleared to return to work by her doctor, she was told, 'I am sorry, there are no shifts available for you.' She is a casual, works fewer than 12 months with the employer and, even under the existing legislation, has no rights to an unfair dismissal claim.

In those circumstances, and particularly if one has no financial resources of their own—and remember that, in the main, we are talking about non-union people, the people the Minister seems to want to cuddle up to and protect—how does a person prove that they have been discriminated against? Remove the fact that it was a workers' compensation claim. Someone came in to check her wage records and, because she is a casual and works different shifts, the employer just said, 'I am sorry, no shifts are available.' You cannot prove discrimination of that kind and the Minister knows it.

The Hon. M.H. ARMITAGE: I guess that the member for Ross Smith would acknowledge that, as I believe the Minister for Local Government said, legislation is not perfect in an imperfect world. Certainly section 223 does its best to penalise people who victimise employees in that sort of circumstance. If the member for Ross Smith wants to move a Private Member's Bill which sees that improved, we will certainly look at that. But, at the moment, the legislation attempts to address that and we have increased the penalties.

Mr KOUTSANTONIS: What interests me about this particular clause is that before an official exercises the power under subsection (1) the official must, a reasonable time before entering the premises, give written notice to the employer stating the time of proposed entry and the nature of the suspected breach and the grounds on which the breach is suspected. This is the equivalent of the police department's informing a group of criminals or people who are making narcotics or growing drugs, 'Look, we have a suspicion that you are making narcotics. We will be investigating your premises in two days. Do not change anything because we are coming to have a look so that we can prosecute you.'

The whole nature of giving a union official the opportunity to attend a workplace to carry out an inspection or even visit members is to ensure that an employer is not mistreating their employees. We are not assuming that they are but if they are an employer would not be silly enough to do anything when a union official is present. If a union official receives a report of a breach of health and safety regulations, or some machinery is faulty and a union official wants to inspect those premises, it is obvious to me that what will happen is that, after the union official gives written notice saying that he or she will be attending the workplace, the employer will either remove the incriminating piece of machinery or rectify the situation that is endangering people's health and safety. They are given forewarning.

The whole idea of having a union movement and a union official is to protect the innocent. If the Government wants union officials to give notice it is basically ensuring that employers who are practising shoddy workplace relations will not get caught. It is obvious that the Minister is trying to ensure that there are no prosecutions; that no employer is caught out. As Minister you have a responsibility to represent not only small business but also employees. I listened to the Minister earlier reading out a list of faxes he had received from employers' chambers and small business associations. I did not hear the Minister read out one letter from a worker, a union, an association or an employee advocacy—not one.

But the most absurd part of this Act, as far as I am concerned, is that the Minister wants union officials or any other person doing an inspection on behalf of an employee to give advance notice of their turning up. It is outrageous and preposterous and I cannot believe the Minister comes into this place with a straight face trying to get us to accept this rubbish.

That is what it is: rubbish. How can the Minister expect any organisation to inspect a workplace adequately and fairly when a breach is reported by a member or worker if the employer is given advanced warning of the inspection?

The Hon. M.H. ARMITAGE: The example the honourable member quotes, I think in this instance, is irrelevant in that it does not apply to OH&S matters. I would have thought

that, if the outcome of a notification of some poor machinery was that the employer fixed that machinery, it would be a real bonus. However, that is an aside: the important thing is that the member for Peake makes the point that it is terrible that notice must be given, but he is conveniently forgetting that the present provisions require reasonable notice to be given. The only change is that we are asking that it be given in writing.

Mr KOUTSANTONIS: The Minister conveniently ignores the fact that reasonable notice, without writing, can mean telephoning an employer and saying, 'I will be there in half an hour.' Giving notice in writing would involve mail, which could take one working day, and I assume that that will be the outcome. The employer must be told the time that the person concerned will be there and which breach of the award breach is involved. The Minister is asking for something that is different from what is currently in place by asking a union official or association to advise an employer in writing that they are in breach of part of the award, in which part of the premises and affecting which worker, and stating that the official will be present at a certain time to inspect the premises.

Ms Rankine interjecting:

Mr KOUTSANTONIS: That will identify the union member which is outrageous, anyway. The Minister made the point that this change to the law might fix the problem. However, the employer might just take that piece of machinery elsewhere and, as soon as the union official is gone, he can bring it back. The employer will know exactly where and when the union official will be on the premises. They will know, say, that Tom Koutsantonis from the SDA will be arriving at McDonald's at 3 p.m. on Saturday, and they will therefore remove that faulty bit of equipment. As soon as the official has gone they will move the equipment back because they know that he cannot come back and reinspect the facility. The Minister is also giving employers a defence because, if an official turns up uninvited and sees the faulty equipment, he cannot bring it up in the Industrial Relations Commission because he has not followed the provisions of the legislation and has turned up without complying with the Act's requirements. Even though the official turned up uninvited, there is nothing he can do about it because he has not followed the appropriate procedure.

Let me give another example from my first day working at the SDA which involved a sexual harassment case at a Hungry Jack's store. The father of a 15-year-old girl called me to say that he had received a call from his daughter that the manager had sexually harassed her. He said, 'I don't want to go down there because I'll overreact. My wife picked up my daughter and took her home but I don't want to go down and confront this man because my 15-year-old daughter is the most precious thing in my life and I will behave like any father would. I want you to go down and sort this thing out.'

I did not give advance notice that I was going there: I just turned up. But what you would want me to do is to write to this employer, informing the employer of who is accusing the manager of sexual harassment, who made the complaint and what time I will be there, giving that employer or whoever is committing the sexual harassment time to work out a story and a defence and intimidate potential witnesses. Of course, you think that is fine, because somehow it is does not change what is currently in place, but I argue that it does change it, dramatically. You are basically saying that that 15 year old girl has no right to have me go down there and defend her. You are saying now that the police cannot attend the scene of a crime or report a crime until they have given notice to the resident of that house before they turn up. It is outrageous. What you are doing is taking us back 400 years. No-one would put up this rubbish with a straight face in any Parliament in the country, except you and your mate Reith. It is disgraceful.

You talked about the member for Elder getting personal, but the fact is that we are getting personal, Minister, because the people you are affecting and disfranchising with this rubbish law are people whom we and you are elected to represent, but you sit there in your ministerial chair, not caring. You are not really understanding the issues: you are just sitting there as if it does not really matter. There will be no real change to the effect, but what you are doing is making people—

The CHAIRMAN: Order! The honourable member will address the Chair.

Mr KOUTSANTONIS: What the Minister is saying is that, if you are sexually harassed, you must identify your harasser and yourself as the person who has been harassed to your employer, to the union and to the Government, and you must also notify them that you are a member of the union and give notice. Can you imagine—

Mr Conlon: No-one would pick on you for that!

Mr KOUTSANTONIS: No; that's right. Can you imagine, Mr Chairman, if we passed an amendment in this place stipulating that everyone who was a member of the Liberal Party must identify themselves on the electoral roll?

Members interjecting:

Mr KOUTSANTONIS: Yes, it would, actually.

Mr LEWIS: I rise on a point of order, Mr Chairman. The provisions of this clause do not relate in any way to either whether or not someone is a member of the Liberal Party or, for that matter, whether an employee has been harassed, sexually or otherwise. They relate to inspection of books and wage records and work carried out by employees, that is, under what conditions they are working; and they relate to non-compliance with the award or workplace agreement. They are not about matters of sexual harassment; those are entirely the subject of another piece of legislation which can be debated under other clauses or at another time.

The CHAIRMAN: Order! I accept the point of order made by the honourable member, although I think a certain amount of flexibility has been shown throughout this debate. The Committee is referring to certain conditions under which the work is carried out. .

Mr KOUTSANTONIS: I will not labour the point. I understand the significance of the honourable member's point of order, but I am just trying to get a grasp of exactly what situations can arise as a result of these amendments to the principal Act. Sure, we are sitting in this place on luxurious leather seats, looking at this piece of paper, thinking, 'It won't really change anyone's life, will it? It's just a small amendment; nothing will change a lot. There's really nothing to fear.' What I am saying to the Minister is that it will. He will change in practice the way people's rights are defended. He is taking away their rights by watering down the rights of union officials to defend those rights. Wherever there is tyranny, there are two organisations that always speak up first: the church and the unions. Wherever there is oppression or tyranny, there are two organisations that are required for freedom: the unions and the churches. Through this legislation the Minister is trying to water down their ability to do their job, because he has some sort of ideological bent against workers representing themselves.

Mr LEWIS: As to the last point made by the member for Peake, I do not know whether he is mistaken or not. The church and the unions are not always there to right every wrong. In fact—

Mr Koutsantonis: But they speak up.

Mr LEWIS: I have no doubt about that, and so do a number of other organisations and groups of people when they see something wrong. I remind the honourable member of the Inquisition, but I am not quite sure whom that helped. I also remind the honourable member of the way in which some—

Mr Koutsantonis interjecting:

Mr LEWIS: Sure, if you would like to be burnt at the stake and become a martyr and famous or infamous, although I am not sure which.

Ms KEY: I rise on a point of order, Mr Chairman. We were reminded by the member for Hammond when he was in the Chair that we were straying from the subject of the legislation. We understood and supported that ruling by not dissenting from it, so I would ask you, Sir, to rule on the question of relevance.

The CHAIRMAN: Order! The Chair has already indicated to the Committee that a certain amount of flexibility has been shown in the debate so far. I ask all members to consider both the time and the fact that we are about halfway through the legislation. Therefore I ask members to concentrate on the matters contained within the clauses and not to stray from them.

Mr LEWIS: In response to the other point made by the member for Peake about unions being there to protect workers, I suggest that in the main he has a point, but I am reminded of two instances. First, I refer to my own case, where I was belted up by three union officials in the middle of the night. Secondly, I remind the Committee of the way in which the fellow Owens from the Builders Labourers Federation used to break ankles with steel bars and things like that as an enforcer. I do not know how the member for Peake would explain that, but I suppose he would happily acknowledge that those workers were being protected from their own silliness.

The provisions in section 140 of the principal Act, as amended by this clause, are very little different. It is simply that members of an association's hierarchy, I guess that we would call them union officials, have to let the employers or job providers know when they are coming and what it is they want to talk about. This clause addresses only timebooks and wage records, and officials can inspect the work carried out and the conditions under which that work is carried out. It also applies to where a complaint has been made about non-compliance with an award or workplace agreement by the member of that union to the union itself.

It is not about all the other matters that the member for Ross Smith, the member for Peake and others have spoken about in this debate. They are being melodramatic and quite over the top. The clause is very narrow in its focus. It does not apply to the measures to which the member for Peake just alluded. It is quite outside the ambit of the provisions of this clause. This clause enables the employer to have the information available to the union official for him to examine on behalf of his member when he gets there and stops confrontation in the process.

Mr Koutsantonis interjecting:

Mr LEWIS: The member for Peake needs to remember that union officials are not policemen: they are inspectors employed under the provisions of this Act as specified elsewhere. Yet, the member for Peake mistakenly believes that union officials are policemen and that they are there to collect evidence to get prosecutions.

Mr Koutsantonis interjecting:

Mr LEWIS: That has been the problem with industrial relations for too long in this country, 100 years. We do need to have employee ombudsmen and we do need to have diligent inspectors who are properly authorised to examine what is going on. Those people are not union representatives who have a vested interest in a particular outcome where they would misrepresent the truth of the matter. It is well documented and I will not regale the House with the instances I could recall where that has been done. I will simply say, as I said before, let us stick to the provisions dealt with by this clause and get some merit back into our argument as to whether or not it is a good clause and, compared with what we have already agreed to as a Parliament just five years, the changes are minuscule.

The Hon. M.H. ARMITAGE: I want to add two brief comments. I have emphasised the fact that the case is only a suspicion on reasonable grounds. 'Reasonable' is obviously a definitional matter. The member for Peake believes that a union official's telephoning and giving half an hour's notice is reasonable. In other circumstances I might contend it is not, but clearly it would depend on the individual circumstances. I do wish to emphasise that this clause does not require identification of the individual union member.

Ms KEY: In relation to 'in writing', the Minister in previous speeches has talked positively about alternative means of communication. Indeed, that is part of his information economy portfolio and he has referred to strikes on the ERIC system. I am not sure whether it is covered at present, but under the workers' compensation legislation, lodging an application by facsimile is accepted. Could the Minister be more specific of what 'notification in writing' means? Is it the traditional understanding we have of notification in writing? Some union officials now carry laptop computers and I know that they have fax machines. Can they use those alternative means of communication?

The Hon. M.H. ARMITAGE: I commend the member for Hanson for her observation. If there is a particular obstruction to written notice facilitating e-mail, facsimile or whatever in a legal definition of 'written', I will do everything within my power to ensure that is overcome. I have nothing but positive thoughts towards having those forms of communication being regarded as appropriate. The matter for me is not what form the writing is, but rather what the writing is about and the notice. May I say that I am thrilled that the member for Hanson has picked up on the information economy and the opportunities for efficiencies, but I do also pick up on a remark of the member for Ross Smith that factually, at present, many companies perhaps would not have access to e-mails. I hope we can overcome that collectively as an economy shortly.

The Committee divided on the clause:

AYES (22)

Armitage, M. H. (teller)	Brindal, M. K.
Brown, D. C.	Buckby, M. R.
Condous, S. G.	Evans, I. F.
Gunn, G. M.	Hamilton-Smith, M. L.
Ingerson, G. A.	Kerin, R. G.
Kotz, D. C.	Lewis, I. P.
Matthew, W. A.	Maywald, K. A.
McEwen, R. J.	Meier, E. J.
Oswald, J. K. G.	Penfold, E. M.

AYES (cont.)

Scalzi, G.	Such, R. B.
Venning, I. H.	Williams, M. R.

NOES (18)

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

PAIR(S)

Brokenshire, R. L.	Ciccarello, V.
Hall, J. L.	De Laine, M. R.
Olsen, J. W.	Rann, M. D.

Majority of 4 for the Ayes.

Clause thus passed.

Clause 59 passed.

Clause 60.

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

Page 37, after line 37—Insert:
Expiation fee: $160.

Again it reflects advice from the Crown Solicitor that this section requires that a registered association provide a printed copy of its rules on request. The introduction of an expiation fee in this section is consistent with our desire to ensure that there is a quick and expedient way to achieve justice in the workplace relation system when it is not appropriate to use the court process for determining an offence; and I reiterate that this is done on the Crown Solicitor's advice.

Amendment carried; clause as amended passed.

Clause 61.

Ms KEY: I was wondering about the rationale for this particular section. As I understood it—and it may be that I have missed the reason why it is being repeated—we have already dealt with this issue under resignation from registered association. We had a quite lengthy discussion in regard to that section earlier. Will the Minister explain why that is necessary in the legislation?

The Hon. M.H. ARMITAGE: The rationale behind this is that the present rules of some registered associations may indeed not allow the matters which we have discussed before and, accordingly, we are indicating that, despite those rules, we have agreed to work on that between here and the next place, provided that it achieves the goals. We have moved this because it was contrary to the previous course.

Ms KEY: What would the application be, therefore, if the registered association—in this case, employee association—is a federally registered employee association?

The Hon. M.H. ARMITAGE: I think we would have to look at (and I am happy to do that between here and the other place) whether a federally registered association is looking to exert its rights within a State jurisdiction. I think I see the point that the honourable member is aiming at. I believe that it perhaps would have no effect but I am happy to look at it.

Clause passed.

Clause 62 passed.

Clause 63.

Mr CLARKE: Section 153(1) of the principal Act provides that the Minister, if he or she believes that the public interest is likely to be affected by the determination of the court or commission, may intervene in proceedings and make representations. Subsection (2) provides:

> Any other person who can show an interest may, with the leave of the court or commission, intervene in proceedings.

Subsection (3) provides:

> However, only the Minister or the Employee Ombudsman (apart from the persons who are or are to be bound by the enterprise agreement or their representatives) may be heard in proceedings relating to an enterprise agreement matter.

The Minister's amendment stops the Employee Ombudsman from being able to, as of right, intervene in these matters with respect to what he now terms a workplace agreement matter. He leaves it as of right only to the Minister or the persons who are bound by the agreement or their representatives. That is wrong, because if we are to have an Employee Ombudsman, that person should be able to do the job properly. In 1994, the then Minister wanted an Employee Ombudsman subject to his general control and direction. He wanted the Ombudsman, so we gave him one within the true meaning of the words 'truly independent of ministerial direction', and he has not liked it ever since—or the employers, for that matter—because the Employee Ombudsman has been independent.

What the Minister is saying here with his amendment, by deleting the Employee Ombudsman, reminds me of a situation that occurred and received considerable publicity about three or four years ago concerning the Phoenix Society. Those people, who were intellectually disabled, were covered by an enterprise agreement. An agreement had been entered into between those people and the management of that company and it was inferior to awards; it was an appalling agreement. These people were not represented by unions. The parents of those intellectually disabled persons working at the Phoenix Society smelt a rat and contacted the unions. In fact, if my memory serves me correctly, they also contacted, in the first instance, the Leader of the Opposition's electorate office which, in turn, passed it on to me. I spoke to representatives of some of the relevant unions that covered those fields and the parents of these intellectually disabled people were able to use the Employee Ombudsman to directly intervene in the case. The union could not get in, as of right, because these intellectually disabled persons were not members. The only hope those parents had was the Employee Ombudsman getting up there and putting a case. He put a very good case, which proved to the commission that it was an unfair agreement; that those intellectually disabled persons did not understand what was being put to them and did not understand the ramifications of that agreement. In light of those submissions from the Employee Ombudsman, the Enterprise Agreement Commissioner, Deputy President Hampton, directed the parties to go away again and think about it and refused to certify that agreement.

We say that the Employee Ombudsman should have the right to intervene. The individual workplace agreements that this Government wants are applicable not only to able-bodied and able-minded persons (if I can put it that way) but also to disabled people in our community, people with an intellectual impairment, to the extent that they can be exploited. The Phoenix Society example is very apt. There is no reason whatsoever for the Minister to be able to delete the role of the Employee Ombudsman in this area. There is no case of which I am aware where this Government or any employer could reasonably say that the Employee Ombudsman has abused his rights in terms of intervention.

Let us remember this: the Employee Ombudsman almost overwhelmingly intervenes on the side of people who are not members of unions—these non unionists whom the Minister loves so much. Therefore, the proposed clause should be deleted and the provision of the principal Act maintained, with the role of the Employee Ombudsman retained for all the reasons I have outlined. It serves no public policy interest whatsoever to remove the Employee Ombudsman's right of direct intervention to prevent the sorts of abuses that could have occurred in the Phoenix Society had that safety net not been there.

The Hon. M.H. ARMITAGE: I am pleased to inform the member for Ross Smith that the Employee Ombudsman will still be able to appear, if asked, because of previous clauses that we have passed. In the Phoenix Society example, the parents would simply have asked him to intervene.

Mr CLARKE: I might have missed that. If the Minister can point me to the clause, I will read it. If I am factually wrong, I am happy to correct what I said. If I picked up the gist of what the Minister has just told me, the point is that the Employee Ombudsman can become aware of things and intervene in his or her own right under the present legislation. He or she does not necessarily need a parent or a person affected by the agreement to tap him or her on the shoulder and say, 'Please intervene on my behalf.' The Employee Ombudsman's role is to ensure that there has been no coercion and that all the requirements of the Act have been fulfilled. If he or she becomes aware of some contravention in that respect, of their own motion the Employee Ombudsman can intervene and state a case. The Employee Ombudsman does not have to wait for someone to tap him or her on the shoulder to do it. I think that is a very important right, just as it is for the Minister.

The Minister, in the sense of the argument and under your powers, is in exactly the same position as is the Employee Ombudsman: the Minister does not have to wait for a parent of someone at the Phoenix Society to say, 'I think there is a problem here. Can you intervene and stop the certification of that agreement?' The Minister's office is automatically advised of a number of these things and, if the Minister believes it is in the public interest, the Minister, as of right, can intervene in those proceedings. The Employee Ombudsman, equally, should be in the same position in that when they become aware of workplace agreements which they think contravene the law—even though a representative of the workers who may not even know that they have been taken to the cleaners has tapped the Employee Ombudsman on the shoulder—and they know that someone is being taken to the cleaners or being exploited, of his or own motion they should be able to go directly to the commission and intervene. I think that right should be enshrined. The Minister keeps telling us that unions represent only 28 per cent of workers in this State. Therefore, about 72 per cent of the work force do not have access to the range of skills and expertise that unions are able to offer, and they need the protection of the Employee Ombudsman to be able to step in as of right, if necessary.

The Hon. M.H. ARMITAGE: The relevant provision is new section 62(1)(d). However, I emphasise to the member for Ross Smith that that does say at the request of employees. That is a deliberative amendment.

Ms KEY: I understand that the Employee Ombudsman's role will be restricted if this Bill becomes law. I support the member for Ross Smith's comments regarding the Employee Ombudsman being left out of this section—I would argue deliberately—because you will set up a new structure to deal with workplace agreements. Depending on what the Minister is trying to achieve with the amendment, we would argue that the Employee Ombudsman should remain in this provision, as it is in the Act at present. The member for Ross Smith has covered that matter adequately, so I will not go over it again.

If this Bill becomes law, it would be appropriate for the powers to be widened to include not just an enterprise agreement as it is at present in the Act but also a workplace agreement and an award. We would argue that the Employee Ombudsman's role should continue so that he can intervene in whatever circumstances employees find themselves. I cannot see how that detracts from the role of the Employee Ombudsman or the comments that you make, Sir, with regard to the Ombudsman doing a good job and continuing to represent workers.

The Hon. M.H. ARMITAGE: With the greatest respect, the member for Hanson reiterates a previous element of this debate. The Government's view is that the Employee Ombudsman's role is most appropriately focused on individual workplace agreements. That is why we have redefined it, and we passed it in the Parliament earlier. We do not believe that that is a writing down of his role but that it is increasing his role because we as a Government believe that individual workplace agreements are so important to South Australia's economy.

Ms KEY: How does that answer the member for Ross Smith's question when groups of workers are covered not by those sorts of agreements but by awards or enterprise agreements? What role does the Ombudsman have with regard to intervention, or will it solely rest with the Minister?

The Hon. M.H. ARMITAGE: At the risk of repeating myself, the Government has made its decision on this matter. This is a quite deliberative assessment. You will disagree with us; we understand that. However, our rationale is that the Employee Ombudsman can intervene when he is requested to do so. That will not often prevent him—in fact, probably never—from intervening. We believe that that is an appropriate focus for the Employee Ombudsman.

Mr CLARKE: I agree with the Minister. There is a clear philosophical difference and we will not change his mind, but I address my comments to the two Tory Independents and the agrarian socialist member for Chaffey on the issue. Whatever they have done with respect to supporting the Government's legislation in terms of clipping back the Employee Ombudsman's powers and voting for individual workplace agreements and various other atrocities with which we on this side of the House vehemently disagree, at the very least let these two Tory Independents and the agrarian socialist member for Chaffey support us in defeating this clause.

If this clause was in force at the time when the Phoenix Society brought in workplace agreements with these intellectually disabled people (and those individual agreements can all mirror one another—they do not have to be different), they could have had individual workplace agreements for these intellectually disabled employees and the Employee Ombudsman would not have been able to do under the Minister's amendment what he was able to do a couple of years ago in protecting the rights of those people. I am simply making the point to the two Tory Independents and to the member for Chaffey that, whatever else they do in industrial relations, at the very least support us in opposing this provision so that the type of exploitation which would have taken place with respect to the Phoenix Society intellectually disabled people will not occur in future under the guise of individual work-

place agreements, that the Employee Ombudsman can still as of right intervene and protect their rights.

That is a very small ask for a very big benefit for people who are not able to look after themselves. So, whatever else you think of the union movement, whatever else you think about these things involving the union movement and its rights, this is fundamental and may occur only once every couple of years. But I tell the members for Gordon and McKillop, when it happens you really need legislative protection for these people. We cannot necessarily rely on the Minister of the day to intervene in these matters. We know how bureaucratic it can be and we need someone with the flexibility of the Employee Ombudsman.

That is why we have the Employee Ombudsman. That is why you lot wanted him in 1994. You gave birth to the Employee Ombudsman—not the Labor Party—and ever since you gave birth to him you have been trying to clip his wings and now you want to take away the chance for people like those who work for the Phoenix Society or some other disabled organisation to have direct access to the Employee Ombudsman so that he cannot directly intervene and ensure that those people's rights are looked after. It is a small ask I make of the two Tory Independents and the member for Chaffey. It is a small ask but for a very big benefit potentially for people who cannot look after themselves because of their disability. If you have any heart at all you will vote with us on this, if on no other clause.

The Hon. M.H. ARMITAGE: I hear the member for Ross Smith, but for the benefit of the House I draw everyone's attention to the amendment of section 62 relating to the general functions of the Employee Ombudsman, which we passed as clause 29.

Mr Clarke: I am not trying to be obstructive—is that in the Bill?

The Hon. M.H. ARMITAGE: Yes, on page 7, clause 29 of the Bill. In section 62 of the principal Act the Employee Ombudsman's functions are put in as follows:

(d) at the request of employees—to advise them about their rights under, or in respect of, workplace agreements and to assist or represent them in asserting or enforcing any such rights.

So, the allegation that the member for Ross Smith makes passionately does not take that into account, because in the Phoenix case, clearly the intellectually disabled people through their guardians, *id est*, their parents, would have asked the Employee Ombudsman. We have given the Employee Ombudsman, through clause 29 of the Bill—which is why the Employee Ombudsman is taken out in this arena—the right to appear.

Mr Clarke interjecting:

The CHAIRMAN: Order!

The Committee divided on the clause:

AYES (22)

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

NOES (18)

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

PAIR(S)

Brokenshire, R. L.	Ciccarello, V.
Hall, J. L.	De Laine, M. R.
Olsen, J. W.	Rann, M. D.

Majority of 4 for the Ayes.

Clause thus passed.

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

That Standing Orders be so far suspended as to enable the House to sit beyond midnight.

Motion carried.

Clause 64 passed.

Clause 65.

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

Page 39, lines 1 and 2—Omit paragraph (d) and substitute the following paragraph:

(d) if a party or a party's representative contravenes, without reasonable excuse, a rule of the Court or the Commission and, by doing so, delays the hearing of the proceedings or causes substantial inconvenience to another party or the Commission.

This amendment was suggested by employer and employee stakeholders. The amendment makes clear that the cost power in relation to the rules of the Industrial Relations Court and Commission applies only to those breaches of the rules which impact upon the ability of the IR Court and Commission to deal with the relevant matter in an effective and timely manner.

Amendment carried; clause as amended passed.

Clause 66 passed.

[Midnight]

Clause 67.

Ms KEY: Could the Minister cite examples of where this section of the Act has been used and the reasons for the maximum penalty of $5 000?

The Hon. M.H. ARMITAGE: I am unable to do so at the moment. I identify that the penalties are being increased for exactly the same reasons as before, for example, consistency with doubling the penalties.

Ms KEY: I register my concern that, although I understand the formula, which is basically doubling the present fines, I would have thought that the Government could have done more research in support of its reasons for doing so.

I am concerned that in most cases the Minister is not able to cite any examples or give reasons other than that it is a good thing to double the fine.

Clause passed.

Clauses 68 to 72 passed.

Clause 73.

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

Page 41, lines 32 and 33—Leave out 'at his or her own cost'.

Those words were included during the drafting but we believe that, in order to open the area to everyone and ensure that there is no language barrier, it is appropriate for interpreters

to be paid for by the Government. Similar amendments follow, but that is the rationale behind them.

Amendment carried.

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

Page 42—

Lines 10 and 11—Omit paragraph (h) and insert:

(h) the mediator's cost and, if a party to the dispute is not fluent in English, the reasonable costs of an interpreter, will be paid out of Government funds but, in other respects, the parties will bear their own costs.

Line 15 (Proposed new section 193C)—Redesignate section as section 193D.

Line 15—After 'Division' insert: is

One could almost assume that the amendment to lines 10 and 11 is consequential on the previous amendment as it clarifies the source of funds for the new mediation and translating service as the Government rather than the Parliament. Some members might believe that this is simply a matter of semantics but I can just imagine what the Joint Parliamentary Service Committee would do if we hit its budget for translation costs, and we chose not to do that. The amendments to line 15 merely correct a typographic error.

Mr LEWIS: I thought it was quaint to use the word 'Parliament' and I am equally astonished that the Minister uses the word 'Government': that it will be paid out of money provided by the Minister is the way in which I would otherwise have it because the Minister is Cabinet and Cabinet is Executive Government in every other piece of legislation that I have seen, where the word has been 'Minister'.

The Hon. M.H. ARMITAGE: We believe that putting in 'Government' was the appropriate way in which to identify that we were not seeking the funds from Parliament. We believe that was the most appropriate focus of the amendment.

Amendments carried.

Ms KEY: I have a number of questions and I am sure that the member for Ross Smith also has some with regard to Division 1A, which relates to mediation. My first question is with regard to the consultation process and the Industrial Relations Advisory Committee. Although not party to the minutes of IRAC, I understand from different members on the Industrial Relations Advisory Committee that this is a United States process of dispute resolution that seems to have been adopted for our purposes in South Australia. Will the Minister give the House the background to why we would introduce a mediation service? As I understand it, he is envisaging that with the legislation this will be part of the Workplace Agreement Authority's functions. Will the Minister explain the background and the need for such a service when I understand that the conciliation service that is provided by the Industrial Commission is considered to be excellent and has been written up in industrial relations journals as a state of the art way of resolving disputes? I would also like to know how this mediation process fits in with the dispute resolution process that is written into many enterprise agreements and awards. This is before the allowable matters saga being put into effect.

The Hon. M.H. ARMITAGE: This will be completely separate from the Workplace Agreement Authority. The rationale behind it is that most people with experience in industrial relations—and particularly people such as the members for Hanson and Ross Smith—would have absolutely no fear of the Industrial Relations Commission. Most small business people, however, are wary of those sorts of formal, legalistic, rigid proceedings. The point has been made quite frequently to us that a way to have disputes addressed, first, externally from those rigid proceedings, secondly, in a less legalistic framework and, thirdly, where people can do it even at their own work site would be of benefit in solving disputes before they became world war three. That is why we have set up this mediation service.

I would dispute its being seen as an Americanism. I think it is very Australian when two people who have a dispute get together to talk about the matter and try to work out a solution. That is all this does; it is couched in some rather long, legalistic phrases, but one has to do that. It provides that when there is a problem we will provide a mediator so that the two sides of the dispute can come to a conclusion of the dispute which they own, rather than have a third party intervene and give them a solution which neither of them owns and which satisfies neither of them. It is also particularly interesting that, when we were discussing various aspects of mediation in one of the IRAC meetings, one of the people commented with words to the effect that 'conciliation is just a necessary evil before you get into arbitration'. This was said to me. So, the component players actually see the commission as a judgment giver, which means that people are often aggrieved at the end of the day. We think that, as a voluntary first step—you do not have to do it if you do not want to—and as a way of stopping arguments becoming world war three, it is an appropriate innovation.

Mr CLARKE: I see this as slightly more sinister than the Minister. I know that it is voluntary and that, on the surface, it potentially does no damage. However, I see it as further undermining of the Industrial Relations Commission in this State. A good part of the Industrial Commission's work is mediation. I do not know why the Government wants to set up another bureaucracy or another group of people to mediate on disputes when that is what we pay Industrial Relations Commissioners to do and have done so ever since the independent commission was established.

Whilst the Minister says that some employers are frightened of the process or awestruck by some of the formalities of the commission, he ought to take into account that, on a large number of occasions that I have seen, the fact that this formal institution both conciliates and arbitrates and has some formality, and the Commissioners are able to exercise undoubted powers within their jurisdiction, has a very sobering effect in mediation between the disputing parties. Because the community has a fair degree of respect for the commission, when a dispute is going on, both sides know how far they can push one another and how much they can expect out of the system and out of the commission. They know that commissioners deal with these matters on a daily basis and can, through compulsory conferences and the like, make binding orders. The parties understand how far they can go.

If mediation is voluntary, nothing is binding unless an agreement is entered into and agreed to, when it then becomes binding, as I understand it. It is no different from an Industrial Commissioner coming to an agreement with the parties and handing down a formal order in accordance with that agreement. Usually they do not need a binding order because the recommendations are adhered to. There have been many times when I, as a union official, have been involved in disputes and I have dealt in an informal setting with an Industrial Commissioner who has certain powers and who, as he attempted to conciliate, has advised the parties of the likely result should they keep pushing their point and it goes to arbitration. People understand that format and, because the commission is held in that regard, the commis-

sioners are usually able to get the parties around the table to come to some sort of compromise, and they can and often do exercise their powers to make a binding decision.

The Government, the single largest employer in this State, has not been slow to use those powers over the years when there have been industrial disputes amongst its own work force to try to effect a speedy return to work or the lifting of bans and limitations. The Government has been very quick off the mark to use the influences of the commission, and I do not blame it for doing so. Whether or not I agree with the Government's stance on any dispute, I do not dispute its right to take it to the commission.

I would prefer not to see mediation institutionalised in legislation because it would be a further diminution of the standing and moral authority of the Industrial Commission in our community. I think the Government will rue this day further down the track, if it remains in Government, which it will not, when it finds itself in a dispute. The Government will have so undermined the moral authority of the commission over the years through its attempts to bend it to its will that it will have a mediation service that will not work because it will not be able to achieve agreement over irreconcilable differences. Because you have undermined and continue to undermine the moral authority of this commission in the eyes of the community, the commission's ability to be able to get recalcitrant employees or unions to respect and obey its orders will be substantially diminished. The Government will rue that day. Rather than seek to undermine the authority and respect with which the commission is held in the community, the Government should try to enhance and maintain that reputation.

Go ahead, by all means, with mediation if that is what you want to do. It will be of no practical benefit in my view that cannot already be obtained through the commission. You will be paying a group of mediators; it will probably be a bloody good job for people who have left the industrial relations scene on a full-time basis, that is, ex-union officials and people from ex-employer associations—there is a growth industry in that area. They will all put up their hands for a paid part-time job. You will have full-time commissioners with less work and less authority being held in lower esteem by the local community, and you will gradually undermine the system that has served us extremely well in Australia. But, if you think this will be of long-term benefit, I think you are sadly deluding yourselves.

The Hon. M.H. ARMITAGE: Again, we will have to agree to disagree. We think that mediation is a great advance, but I emphasise that it is voluntary and the commission will still be there for those people who choose to use it.

Ms KEY: There are a number of points about who can be represented through a mediation process. Can the Minister comment on whether there will be an opportunity to seek legal advice on an agreement that is reached to ensure that there are no legal implications that have been referred to or need to be referred to with regard to whatever agreement is made by the parties? If there is agreement between the parties, is there an opportunity to obtain legal advice on the solution, because there may be legal implications to a solution that may be negotiated in the mediation process.

The Hon. M.H. ARMITAGE: The answer is 'Yes', legal advice can be obtained. However, the mediation must occur between the two parties.

Ms KEY: The clause provides:

> The Minister may establish and maintain a mediation service for the purposes of this Division.

I am assuming that regulations will be drafted with regard to the specifics of the sorts of skills the mediators will have. Will more details be available about how the Minister will make a decision on these mediators? Will mediators form part of the Public Service and be covered under the Public Sector Management Act 1995, the same Act which excludes those employees from the mediation service? How will the Minister appoint them? What criteria will be used? Will these mediators come under the Public Sector Management Act 1995? Am I correct in assuming that employees who are covered currently under the Public Sector Management Act are not able to access this mediation?

The Hon. M.H. ARMITAGE: The aim is to have trained mediators, full stop. There is no suggestion they will be anything other than people who are able to utilise their training and expertise to bring two disputing parties together so the parties will own the dispute. Section 193B(5) of the Public Sector Management Act provides that that Act does not apply in relation to the appointment or conditions of employment of mediators; they will be contract employees. In relation to the Public Service application of this, that will be a call on each occasion for the relevant Minister responsible for the Public Service.

Mr CLARKE: Section 193C(2)(d) provides:

> a party to the dispute is not to be represented except as follows—
> (i) a body corporate may be represented by an officer or employee;

A registered association is a legal entity, but there is no definition of 'body corporate' in the principal Act or in this Bill in relation to whether it also means a trade union or a private company. I would like to know whether or not 'body corporate' means an association of employees.

My other point is that in paragraph (d), following subparagraph (iv), it provides that no such representative may be a legal practitioner unless one or more of the parties is also a legal practitioner. Of course, the Crown can be represented by an officer or employee of the Crown, and that means someone from the Crown Solicitor's Office. A legal practitioner working for the Crown could, in fact, represent the interests of the Crown, whereas other parties to the mediation would not have rights to legal representation. That is inherently unfair. If you want to exclude legal practitioners you have to exclude all legal practitioners, whether or not they are directly employed by the Crown. I suggest that if the parties want a legal practitioner to assist them in mediation, let them bring one along. They are meeting the costs of that legal practitioner.

I know that there is a certain fetish amongst members opposite concerning lawyers in the industrial system. Although I am not an advocate for them, I must say that they can be very useful, and I would far rather that a group of people be represented by a competent industrial lawyer who can get to the kernel of the problems quickly and understand the rights and obligations of the different parties. If you are going to go to mediation, let us do it from an informed basis, not with people who, unfortunately, may not be aware of their legal rights in some respects. That does not apply, largely, to trade unions (which have their own full-time people) or employer associations, but it certainly would be true of individual employers, some individual groups of employees or some relatively small unions that may want to use the services of a legal practitioner. Having a legal practitioner present can be of use on some occasions.

The Hon. M.H. ARMITAGE: I reiterate that this is voluntary: it is not a compulsory system. Only if people

choose to go into it will they be involved in it, so there is no compulsion. According to our advice, all the groups that the member for Ross Smith was talking about before will be covered in the definitions in subparagraphs (i) and (ii). In relation to the legal practitioners, Crown Solicitor and so on, I would identify to the member for Ross Smith the words in brackets after paragraph (d)(iv):

(but no such representative may be a legal practitioner unless one or more of the parties is also a legal practitioner);

That would preclude that unless the other party was a legal practitioner. If that were not the case, the Crown would be required to find someone else, for argument's sake, other than the Crown Solicitor. In relation to the general contention of the member for Ross Smith, lawyers can be useful, not for one moment would we suggest that lawyers are not always useful, but, at the end of day, this is a mediation process. It is not a formal legalised Industrial Relations Commission type process and by having the mediator present we think there will be some real gains for the parties, rather than a more formalised legalistic structure.

Ms KEY: With regard to the mediation service, I understand that the two people who are in dispute need to agree to go through mediation. There needs to be agreement to have mediation before you go through mediation. In the legislation the Government is proposing it says 'a settlement of an industrial dispute'. In the definition in the Act of an industrial dispute, an industrial dispute means 'a dispute or a threatened, impending or probable dispute about an industrial matter', and, as the Minister would be aware, there is a whole definition with regard to what is an industrial matter. In part it provides:

(and an industrial dispute does not come to an end only because the parties, or some of them, cease to be in the relationship of employer and employee);

The Hon. M.H. Armitage interjecting:

Ms KEY: I am looking at the definition of an industrial dispute. Under division 1A, mediation, section 193A(1) provides:

A settlement of an industrial dispute negotiated by the parties is to be preferred to a solution imposed on them by another.

That is the first point. Do we use the same interpretation or definition—and I imagine we would—that is in the Act currently of an industrial dispute? Assuming that that is the case, will the Minister comment on the point that is made in the definition of industrial dispute that an industrial dispute does not come to an end necessarily when the relationship between the employer and the employee ceases? The point I am getting at is: would it be possible when the contract of employment or the mutuality between the employee and the employer had ceased for there still to be mediation about outstanding issues? Although, I think it makes it clear that mediation is not expected to be used as a substitute for unfair dismissal provisions—assuming people are eligible for unfair dismissal, the few people who might be left in the State who could access unfair dismissal—could it still be made available to those agreeable employees and employer?

The Hon. M.H. ARMITAGE: The answers are that the definition of industrial dispute is the same; and, yes, it would be available after the parties had ceased to be in the relationship of employer and employee.

Ms KEY: Under the Workers' Rehabilitation and Compensation Act, as the Minister would know, section 58B relates to people being dismissed while on workers' compensation. Would there be availability under that Act? Sometimes people are dismissed or they leave their employment, for a number of reasons, so other jurisdictions come into play. The same situation would apply to someone who believes that they have been discriminated against for one reason or another under the Equal Opportunity Act. With respect to those cases where you have perhaps the Equal Opportunity Commission and the Industrial Relations Commission through an unfair dismissal, or you have the workers' rehabilitation and compensation provisions mixed up with an industrial relations provision, will there be an opportunity for those people also to use mediation?

The Hon. M.H. ARMITAGE: I take it that the member for Hanson's question is what would occur if these people were in the middle of a mediation and suddenly the relationship blew up—the relationship of employee and employee no longer existed. There is still the point that this is a voluntary system and, if the relationship had been destroyed to such an extent, the powers of the commission, and so on, would be involved—and I recognise that there are other jurisdictions. The whole purpose of mediation is for people to come together voluntarily to try to sort something out. The minute that that relationship, or the trust between those two people, is lost there are other ways of handling it.

The Committee divided on the clause:

AYES (21)

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

NOES (17)

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

PAIR(S)

Brokenshire, R. L.	Ciccarello, V.
Hall, J. L.	De Laine, M. R.
Maywald, K. A.	Hill, J. D.
Olsen, J. W.	Rann, M. D.

Majority of 4 for the Ayes.

Clause as amended thus passed.

Clause 74 passed.

Clause 75.

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

Page 42—Leave out all words in the clause after 'amended' in line 23 and insert:

by striking out subsection (2) and substituting the following subsection:

(2) As a general rule, a Commissioner assigned to deal with a dispute relating to the negotiation, making, approval, variation or rescission of a workplace agreement should be a Workplace Agreement Commissioner but the President may authorise a departure from the general rule in a particular case, or cases of a particular class.

This amendment was suggested by the President of the Industrial Relations Commission. It requires as a general rule the Workplace Agreement Commissioner to deal with workplace agreement disputes, but it also allows the President of the IRC to authorise a departure from this general rule in certain cases.

Amendment carried.

Ms KEY: I wanted to ask a question in relation to the particular cases that the President might have cited so that we have an idea why this amendment is being put forward. I am not saying that to propose to oppose it: I just want to clarify what the Minister is referring to.

The Hon. M.H. ARMITAGE: It is merely a matter of efficiency. The President indicated to us that there are occasions where a non enterprise agreement commissioner is sent away to deal with a problem and when he or she arrives it is identified as an enterprise agreement problem and it cannot progress. So, this allows the President in those circumstances to authorise.

Clause as amended passed.

Clauses 76 to 95 passed.

Clause 96.

Mr CLARKE: This clause relates to rules for terminating employment. Schedule 8 of the Principal Act sets out certain minimum procedures that an employer must follow for the purposes of terminating an employee's employment. This was introduced—with some fanfare, I might add—in 1994 by the then Minister, the member for Bragg, who said how we in South Australia were leading the way in introducing legislation that would give effect to the termination of an employment convention established by the International Labor Organisation. The mere fact that members opposite were quite happy to trample over most other aspects of the ILO conventions did not seem to strike them as being somewhat hypocritical.

Anyway, according to the dictates of the South Australian Liberal Government, we now find in this Bill that a period of notice is not required by ILO conventions for a certain class of employees, namely, casual employees or daily hired employees in the building and construction or meat industries. This really is getting back to the turn of the century. Rural members who have abattoirs in their electorates ought to give some serious thought to the abattoir workers who would be covered, I suppose, under the definition of the meat industry. I have not seen whether there is a definition under the Bill for the meat industry. The Minister might be able to enlighten me as to the definitions of the building and construction industry and the meat industry. Perhaps he can point me to the definitions under this Bill or the Principal Act.

It is unreasonable in the extreme for this group of people, who often have interruptions to their employment through no fault of their own because of the nature of the industry they are in or the shortage of livestock and the like, to be treated like employees of last century, and to be treated like employees were treated not that long ago on the waterfront during the 1930s, 1940s and 1950s. Before permanent employment was brought in, they could be dismissed at short notice because of a lack of work at the time—again often through no fault of their own—and they were treated little better than chattels. However, we forget that they have families to feed, clothe and educate, and that we continue to perpetuate insecurity in the minds of so many South Australians in terms of their continued employment or what their benefits are. It is particularly mean-spirited legislation, designed obviously to curry favour with the Farmers Federation and various other right wing groups within the community that want to take pot shots at the meat workers' union employees and those in the building industry.

Mr Scalzi: You generalise.

Mr CLARKE: The fact is that we are passing laws that discriminate against these people and take away rights that they have, which you lauded. If I remember correctly, the member for Hartley got up and spoke in that 1994 debate and referred at some length to these ILO conventions, saying how we were leading all Australian States by inserting these rights that we did not previously enjoy. It has been there for the past five years and now you are taking it off a group of workers who work in insecure and seasonal industries—for what reason, other than to save the employers concerned some money. There has been no demonstrated reason in the Minister's second reading explanation or any other speeches to justify members going against their own ILO Convention that they put in five years ago.

Mr Venning interjecting:

Mr CLARKE: The member for Schubert says, 'We did not do it.' You were here five years ago and helped pass the legislation. Every time there was a division you were sitting over there. I always said you never knew what you were doing and you have just confessed. You just rolled in like the pigs at a pig sale, following the herd, one following the other, and put up your trotter and voted as directed by the Minister of the day. What are you here for if you do not study the legislation, read the clauses and understand the impact it has on individuals? That is what we are elected for.

I am sorry if you are all a bit tired and we are holding you up from your bed at night, but the whole thing about this legislation is taking away people's rights. We will go home and sleep safely in our beds secure in the knowledge that we are paid every month through to the next election, but these people do not have that security and through this provision you want to take away the little security they have. You should be ashamed of yourselves. I oppose the clause in its entirety.

The Hon. M.H. ARMITAGE: In the contribution by the member for Ross Smith, given with his usual passion, he talked about these employees being in a uncertain industry. That is exactly what this clause encapsulates.

Mr Clarke interjecting:

The Hon. M.H. ARMITAGE: At the end of the day it is a matter of balance between employers and employees and in an uncertain industry, where there is no legitimate expectation of continuing employment—

Mr Clarke: You just described the Public Service.

The Hon. M.H. ARMITAGE: —described employment—this clause is justified.

The Committee divided on the clause:

AYES (21)

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

NOES (17)

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

PAIR(S)

Brokenshire, R. L.	Ciccarello, V.
Hall, J. L.	De Laine, M. R.
Maywald, K. A.	Hill, J. D.
Olsen, J. W.	Rann, M. D.

Majority of 4 for the Ayes.

Clause thus passed.

Clause 97.

Ms KEY: I understand that the provisions with regard to long service leave have already been passed in this Chamber, but it is important for me to make the point that we believe the whole area of long service leave has been totally diminished. The status of long service leave entitlement has been cut back for a number of years now with the changes that we—

Mr CLARKE: On a point of order, Mr Chairman, I wonder if we could have a bit of quiet so we can actually hear what the member for Hanson has to say on this rather important subject.

The CHAIRMAN: Order! I ask members to refrain from discussion at this time.

Ms KEY: Thank you, Sir. We believe that the repeal of the Long Service Leave Act 1987 and the transfer of the entitlement to a schedule of the State Act diminishes the status of this entitlement. We believe also the entitlement has now been reduced below the scheduled minimum entitlements if the commission so orders under proposed section 78C. We are quite concerned about this change. For a long time, as I said previously, there has been a weakening of long service leave provisions.

Our position is that we would like to see long service leave being more portable and more accessible rather than something that is enjoyed only by a privileged few. As I said in my earlier remarks, when we have so many casual workers and so many people who have very uncertain employment prospects, whether they be contractors or employed under labour hire conditions, the whole concept of long service leave conditions is being seriously eroded. We believe that this situation is to our shame in South Australia. Certainly under a Labor Government this will be one of the areas we will address. As I said, it is the view of the Labor Party and certainly the trade union movement that we should make this entitlement more portable rather than cutting it back. In terms of long service leave the rot has been setting in for a long time, and this is one area that fills us with great concern. I will not ask the Minister a question on this but simply indicate that we have that concern.

Clause passed.

Clause 98 and title passed.

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

That this Bill be now read a third time.

The House divided on the third reading:

AYES (21)

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

NOES (17)

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

PAIR(S)

Brokenshire, R. L.	Ciccarello, V.
Hall, J. L.	De Laine, M. R.
Maywald, K. A.	Hill, J. D.
Olsen, J. W.	Rann, M. D.

Majority of 4 for the Ayes.

Third reading thus carried.

APPROPRIATION BILL

The Legislative Council intimated that it had granted leave to the Treasurer (Hon. R.I. Lucas) to attend the House of Assembly on Thursday 27 May 1999 for the purpose of giving a speech in relation to the Appropriation Bill, if he thinks fit.

ADJOURNMENT

At 1.4 a.m. the House adjourned until Thursday 27 May at 10.30 a.m.