HOUSE OF ASSEMBLY

Tuesday 9 November 2004

The SPEAKER (Hon. I.P. Lewis) took the chair at 2 p.m. and read prayers.

GAMING MACHINES

A petition signed by 1 777 electors in the district of Kavel, requesting the house to pass the gaming machine legislation to remove 3 000 gaming machines from South Australia as the first step in removing all gaming machines within five years, was presented by Mr Goldsworthy.

Petition received.

MATTER OF PRIVILEGE

Mr HAMILTON-SMITH (Waite): I rise on a matter of privilege. I express concern that the Deputy Premier, the member for Port Adelaide, and the Presiding Member of the Economic and Finance Committee (the member for Reynell) may have breached the privilege of the parliament by committing constructive contempt by obstructing and intimidating members in the discharge of their duties or by tampering with witnesses.

On 20 October 2004, the Economic and Finance Committee was to consider a motion to inquire into matters arising from misuse of the Crown Solicitor's Trust Accounts revealed by the Auditor-General. Due notice had been given for this motion which appeared on the agenda that day. At or around 9.30 a.m., the committee resolved, on motion of Mr Snelling, seconded by Mr Rau, to call the Auditor-General before the committee for 'an on-the-record briefing in respect of the motion'—

Members interjecting:

The SPEAKER: Order! All honourable members, the Premier included, should realise that matters of privilege are the most serious matters that the house can deal with, because they represent the equivalent of a crime in the wider community. To treat them as anything less than serious is to demean the purpose of parliament in its role to protect the public interest and to do its job according to the purposes for which it is constituted. The member for Waite has a matter of privilege for which he has been given the call, and he will be heard in silence.

Mr HAMILTON-SMITH: At or around 9.30 a.m., the committee resolved on motion of Mr Snelling, seconded by Mr Rau, to call the Auditor-General before the committee for 'an on-the-record briefing in respect of the motion' before that motion had in fact been considered and debated by the committee. The Auditor-General, accompanied by Mr Simon Marsh, Mr Salvatore Bianco and Mr Andrew Richardson, appeared before the committee that day at around 10.25 a.m.

The resolution to call the Auditor-General was passed early in the meeting before the arrival of non-government members. The agenda showed that we were to consider the appointment of a research officer during this initial hour, and the calling of the Auditor-General and his party at such short notice came as a surprise to the non-government members of the committee. In any event, the government members arrived at the meeting clearly resolved to force the issue. The Auditor-General duly attended—

Members interjecting:

Mr HAMILTON-SMITH: —well prepared—

The Hon. K.O. Foley interjecting:

The SPEAKER: The honourable the Deputy Premier is out of order!

The Hon. K.O. Foley: So is half the parliament.

The SPEAKER: Is the Deputy Premier imputing to the chair an improper observation on the part of the chair?

The Hon. K.O. Foley: No, sir, not at all.

The SPEAKER: The honourable member for Waite has the call.

Mr HAMILTON-SMITH: The Auditor-General duly attended well prepared and accompanied by a large media contingent, including Mr Greg Kelton of *The Advertiser*, Ms Michelle Wiese-Bockman of *The Australian*, and others, who appeared to have been given advance notice of the motion to call the Auditor-General.

The Hon. M.J. Atkinson interjecting:

The SPEAKER: The honourable the Attorney-General!

Mr HAMILTON-SMITH: Government members of the committee had copies of the Auditor-General's Report in their hands and presented a series of well scripted questions. As the motion to call the Auditor-General had been prepared in secret and did not appear on the agenda, non-government members of the committee did not have copies of the Auditor-General's Report with them, and had not been given an opportunity to prepare questions—

Members interjecting:

The SPEAKER: Order!

Mr HAMILTON-SMITH: —for the witness, thus impairing the effective function of the committee.

The Hon. M.J. Atkinson interjecting:

The SPEAKER: I warn the Attorney-General.

Mr HAMILTON-SMITH: The Parliamentary Committees Act 1991, section 24 (2)(5) provides:

> Subject to this Act and any other Act, the Committee is to conduct its business—
>
> (a) to the extent that the Standing Orders of its appointing House or Joint Standing Orders (as the case may be) apply—in accordance with those Orders; and
>
> (b) otherwise in such manner as the Committee thinks fit.

The committee had not resolved to operate in a manner other than as required by the House of Assembly Standing Orders, and I therefore take this statutory requirement to predicate that the parent standing orders should have been adhered to. House of Assembly Standing Orders, Chapter 17—Motions, specifically standing order 182 requires:

> No motion is to be made without previous notice.
>
> A Member may move a motion initiating a subject for discussion only if notice of that motion has openly been given at a previous sitting of the House and has been duly entered on the Notice Paper.

Applied to the Economic and Finance Committee, the principle which underpins this standing order should, in my view, have required that Mr Snelling give notice of his motion to call the Auditor-General before the committee—

The Hon. P.F. Conlon interjecting:

The SPEAKER: The honourable Minister for Infrastructure!

Mr HAMILTON-SMITH: —at the previous meeting, and that the agenda should have reflected this course of action. Further, standing order 184 deals with the anticipation of business as follows:

> Business not to be anticipated
>
> A motion may not attempt to anticipate—

Members interjecting:

The SPEAKER: The honourable the Premier and the honourable Deputy Premier!

Mr HAMILTON-SMITH: It states:

> A motion may not attempt to anticipate debate on any matter which appears on the Notice Paper.

The agenda for Wednesday 20 October clearly indicates that a motion was before the committee for an inquiry into matters revealed by the Auditor-General in regard to the Crown Solicitor's trust accounts. In my view, Mr Snelling's motion to call the Auditor-General before the committee and the subsequent resolution by the government members of the committee acting alone to agree to the motion defies standing order 184—

The Hon. K.O. Foley interjecting:

Mr HAMILTON-SMITH: —in that the Auditor-General's appearance before the committee—

The Hon. P.F. Conlon interjecting:

The SPEAKER: I warn the Deputy Premier and I warn the Minister for Infrastructure. The honourable member for Waite.

Mr HAMILTON-SMITH: The subsequent resolution by government members of the committee acting alone to agree to the motion defies standing order 184, in that the Auditor-General's appearance before the committee anticipated debate listed as agenda item No. 9. I also raise concern in respect of House of Assembly Standing Orders 28—Witnesses, which deals with the matter in which witnesses are summoned before committees, in particular standing order 383, which states:

> Witnesses summoned by Speaker or Secretary to the Committee.
>
> Witnesses are summoned to attend before the House by summons under the hand of the Speaker; or before a Committee, by summons under the hand of the Secretary of the Committee.

In my view, the key words are 'summons under the hand of the Secretary', which implies that a request to appear as a witness should be in writing, that is, under the hand of the authorised person. In this case, we have been led to understand that the Auditor-General was notified in the first instance by telephone at 9.30 a.m. on Wednesday 20 October with a request for him to attend before the committee. Again, it appears to me that standing orders have not been adhered to in this case.

As presiding officer it is the duty of the member for Reynell to ensure that standing orders are observed. In this case, as I will explain, there is evidence to suggest that the presiding officer wilfully obstructed and impeded the Economic and Finance Committee and its members by intentionally subverting standing orders so as to prevent certain non-government members from fully performing their duties.

Mr Koutsantonis interjecting:

The SPEAKER: The member for West Torrens!

Mr HAMILTON-SMITH: Erskine May, 22nd Edition, chapter 8, page 108, deals with this as follows:

> Generally speaking, any act or omission which obstructs or impedes either House of Parliament in the performance of its functions or which obstructs or impedes any Member or officer of such House in the discharge of his duties, or which has a tendency, directly or indirectly, to produce such results may be treated as a contempt even though there is no precedent of the offence.

Further, if the member for Reynell did not of her own account set out to subvert standing orders so as to interfere with the due proper process of the committee and to impede non-government members, the house needs to be assured—for reasons I will explain—that the Deputy Premier did not intimidate the presiding officer of the government or government members of the Economic and Finance Committee into taking these actions demonstrated on 20 October.

I therefore move to a more serious concern, that parliamentary privilege may have been breached by the Deputy Premier, the Hon. K.O. Foley, and further—

The SPEAKER: Order! The honourable member knows that he will refer to honourable members by their office or their electorate and not by name.

Mr HAMILTON-SMITH: Thank you, Mr Speaker—and further, that the presiding officer of the Economic and Finance Committee, the member for Reynell, acting together or separately to obstruct and intimidate members. My concerns flow from the Parliamentary Committees Act 1991 section 28(1) and (3) which state:

> (1) All privileges, immunities and powers that attach to or in relation to a Committee established by either House attach to and in relation to each Committee established by this Act.
>
> (3) Any breach of privilege or contempt committed or alleged to have been committed in relation to a Committee or its proceedings may be dealt with in such manner as is resolved by the Committee's appointing House or Houses.

I note that the act emphasises that the Economic and Finance Committee is a committee of the parliament, that section 5 makes it clear that a minister for the Crown is not eligible for appointment to the committee, and that under section 17(7) the committee reports, 'to the Presiding Officer or Officers of the Committee's appointing House or Houses', not to the executive or to ministers.

I also note that section 32 of the act requires that the Presiding Officers of both houses are responsible for the committees in regard to duplication, performance and efficient functioning of committees in general. In the case of the Economic and Finance Committee, the act clearly accords these responsibilities to you, Mr Speaker.

Put simply, my concern is that evidence suggests that a member of Executive Council, in particular the Deputy Premier, has sought to improperly and unreasonably influence the proceedings of the Economic and Finance Committee—

Members interjecting:

The SPEAKER: Order!

Mr HAMILTON-SMITH: —by attempting to coerce or require the chair and/or government members of the committee to take certain courses of action and to take those actions in such a way as to conceal them from non-government members of the committee in a secretive and deliberate way. The effect of this action would be to subvert the committee, thus demonstrating contempt. As an important and influential member of executive government, a request or direction by the Deputy Premier to a government MP or group of MPs could easily be intimidatory. If he or she defied the Deputy Premier a member of a committee could face criticism or sanction from this senior minister. At the very least—

The Hon. M.J. Atkinson: This is the most elaborate late note in the history of parliament!

The SPEAKER: The Auditor-General has been warned already.

Members interjecting:

The SPEAKER: And I am particularly referring to the Attorney-General, making no apologies to the Auditor-General in the process.

Mr HAMILTON-SMITH: At the very least, interference by the Deputy Premier directed towards government backbenchers on the committee, if not a direct attempt to improperly influence, may impair the independence of members in the performance of their duties, thus constituting a contempt.

Erskine May (23rd edition, pages 146-7) deals with the issue along with *Parliamentary Practice in New Zealand* (McGee, page 497). Erskine May states:

> Attempts by improper means to influence Members in their parliamentary conduct may be considered contempt.

For example, a committee of the House of Commons concluded (HC88, 1996-97):

> The Chairman of a Select Committee. . . had exceeded the bounds of propriety in participating in a conversation with a Government Whip about matters within that Committee's remit, and the Whip ought not to have raised with the Chairman a matter critical to the deliberations of the Committee.

There is evidence to reflect concern that the Deputy Premier has unduly influenced the officers of the committee by requiring certain actions of its members. It was clearly apparent to the committee on the morning of 20 October that the Auditor-General had received advance notice of the request to attend to give evidence at that time and place. This is confirmed by the level of preparedness evident at the hearing and the size of the Auditor-General's entourage. It is further reinforced by the fact that government members of the committee arrived with full papers and a prepared plan of inquiry and questioning. The size of the media contingent further suggests that prior notice of the committee's intention to call the Auditor-General was given even before the motion to do so was put to the committee.

If the Treasurer or his officers advised the Auditor-General or others (formally or informally) that he or they would be called to attend the committee, it might constitute a contempt. I therefore draw your attention to *Hansard* of 25 October in the House of Assembly where the Leader of the Opposition asked the following question of the Treasurer:

> Did the Treasurer speak to the Auditor-General in the days leading up to the Economic and Finance Committee hearing last Wednesday and instigate the personal attendance of the Auditor-General at the hearing?

The Treasurer replied:

> Indeed, my office talked to the Auditor-General last week prior to his attendance. . .

I then asked the Treasurer the following supplementary question in the House of Assembly:

> As the minister has just confirmed that he had negotiations with the Auditor-General prior to his attendance at the Economic and Finance Committee, how did he know that the Auditor-General was going to be called before the committee when the committee—an independent committee of the parliament—only made that decision at 9.30 on Wednesday morning?

The Treasurer replied:

> I think the question was that somehow I negotiated with the Auditor-General. I do not recall, myself, talking to the Auditor-General. My staff did. The chair of the committee has raised with me on a number of occasions her willingness, or want, to have the Auditor-General appear before the committee. . .

These admissions by the Deputy Premier clearly indicate some form of communication between the Auditor-General and the Deputy Premier and the presiding officer of the committee concerning the likelihood of his appearance before the Economic and Finance Committee at its 20 October meeting. The Treasurer's admissions further strongly suggest collusion or a conspiracy with the chair of the Economic and Finance Committee in regard to questions that might be asked and points which the Auditor-General might seek to make under privilege.

The fact that the member for Playford and the member for Enfield moved and seconded the motion to call the Auditor-General and that the member for Napier was equally well prepared for questioning of the Auditor-General all suggest that government members of the committee had prior knowledge of the Deputy Premier's plans to have the Auditor-General appear.

Given the foregoing, it is reasonable to conclude that someone (implicitly the Presiding Member of the committee or at the very least the mover and seconder) deliberately or wilfully failed to give notice to the Secretary or to the whole of the members of the committee, thus subverting the accuracy of the agenda and concealing their intentions.

If this was a consequence of improper influence brought to bear by the Deputy Premier or a conspiracy with the Deputy Premier or his officers, it might constitute a contempt. It is my grave concern that all these actions indeed have been a consequence of such a conspiracy between the Deputy Premier, the chair of the Economic and Finance Committee and some government members of that committee. In particular, there are questions to be answered about the extent to which pressure was brought to bear by the Deputy Premier upon government members of the committee to force or require their compliance with his desire to have the Auditor-General appear at that particular time and place, thus subverting the independence of the committee.

Questions about whether the Deputy Premier and not the committee foreshadowed to or advised the Auditor-General of the requirement for him to appear and about who notified the media of plans to call the Auditor-General require an answer. Most concerning of all, as I have noted, the transcript of evidence reveals carefully scripted questions by government members, including the presiding officer, followed by well prepared responses from the Auditor-General.

Given the Deputy Premier's statements to the house on 25 October, questions need to be answered about whether the Deputy Premier or his officers intervened in the proceedings of the committee by pre-empting its examination of the witness through the provision of advance notice to the Auditor-General of questions he might be asked. Were draft questions to government members of the committee provided by the Deputy Premier or his officers on the basis that these were the questions he knew the Auditor-General wanted to be asked as a consequence of the Deputy Premier's preliminary communications with the Auditor-General the week before, to which he admitted to the house on 25 October?

If the Deputy Premier and the Auditor-General discussed or pre-arranged a line of questions for evidence before the committee in order to protect a minister from criticism, and if the Deputy Premier or his agents having arranged that line of inquiry with the witness then required or influenced members of the committee to pursue it within the Economic and Finance Committee, that would constitute a most serious contempt with wide-reaching ramifications. It is relevant to note that, in his evidence to the committee on the day, the Auditor-General noted that he would not respond to resolutions by the presiding officers of either house of parliament and that only to resolutions passed by both houses would he respond. However, it appears that, following influence from the Deputy Premier, he was able to respond to a surprise resolution of the Economic and Finance Committee at 50 minutes' notice.

The government clearly sought to keep secret from non-government members of the Economic and Finance Committee its intentions to call in undue haste the Auditor-General before the committee on the said date. Although there is no suggestion that the Auditor-General was aware of the government's intention to bring about his attendance without

the knowledge of non-government members of the committee, these events raise questions about the need for a process that ensures that the credibility of the Auditor-General is not compromised. If an Auditor-General has concerns that due process may not have been followed in requiring his attendance before a parliamentary committee, he or she should arguably decline the invitation until such time as an assurance can be given that the requirements of both the act and standing orders have been met.

Indeed, through this suspected conspiracy, the Treasurer and the presiding officer of the committee may have compromised the office of the Auditor-General by putting him in the unfortunate position of appearing before a committee without the prior knowledge of all of its members, thus appearing to have the Auditor-General used for a political outcome rather than a parliamentary one. A privileges committee should inquire as to the Auditor-General's understanding of the circumstances of his appearance before the committee. However, assuming of course that the Auditor-General had no prior knowledge of the government's intention to surprise non-government members of the committee in regard to his attendance, it would be interesting to discover whether the Auditor-General has since objected to the actions of the presiding officer and of the government in respect of his attendance.

I raise with you, Mr Speaker, a series of concerns about the conduct of affairs within the Economic and Finance Committee in regard to the observance of House of Assembly standing orders as required by statute. I also raise concerns about parliamentary privilege out of concern that the statutory independence of the Economic and Finance Committee may have been subverted by the executive branch of government and that, as a consequence, the privilege of parliament may have been breached. Questions need to be answered. Who decided that the Auditor-General should appear before the Economic and Finance Committee?

Was it the Deputy Premier? Was it the Auditor-General? And, if so, to whom was that suggestion put? Or was it, as we are led to believe, an initiative of the committee itself acting alone? What was the nature of the conversations between the Deputy Premier and his staff and advisers with the office of the Auditor-General and with members of the committee? Was there an attempt to influence the attendance of the Auditor-General and the evidence he gave by the Deputy Premier, or anyone acting on his behalf? Who notified the media to attend, and when? If it was not made known by the Secretary of the committee, how was prior knowledge of the Auditor-General's attendance made known to the media?

Were the presiding officer or members of the committee subjected to pressure, intimidation or undue influence and, if so, from whom? Alternatively, did members of the committee allow their independence to be compromised by inappropriate dealings with the office of the Deputy Premier or with the Auditor-General prior to any resolution being made by the committee?

If any of the answers to these questions is found to be true, the consequences may—and, indeed, should be—most far-reaching. The truth can only be revealed by a full examination of the matter by a privileges committee of the house. It has always been my fervent view that our constitution, standing orders and statutes are designed to guarantee a separation of power and a division of responsibility between the executive and the legislature.

If, as I fear, the Deputy Premier, or others acting at his direction or on his behalf, have sought to improperly influence the proceedings of the house, the matter would constitute a most serious breach of privilege. I therefore bring it before the House of Assembly today for you, sir, to consider further and determine whether or not a prima facie case exists for a contempt requiring that a privileges committee be established.

The SPEAKER: The member for Waite began on a matter of privilege. I do not know that the house has ever had such a proposition put to it in such detail before and, whereas I began to try to remember and then, in recalling, to make some notes, it has not been possible for me, nor would I believe it likely that any member would expect me, in an instant to answer what has taken over 25 minutes to explain.

One point bears making, and that is that the member for Waite's remarks have sufficient gravitas to require me to do a great deal of research, and I presume honourable members will not expect me to respond to that before close of business today, for any such expectation will be in vain. But I will give it my earnest and priority consideration. As soon as I have been able to determine the detail to which it is necessary for me to reply to the house and compile that reply in response after sifting out those questions which perchance are best answered by a privileges committee than by the chair, I will do so.

MEMBER'S REMARKS

The SPEAKER: The chair has another matter which it must bring to the attention of the house—indeed, three other matters. The chair has received a letter from the His Worship the Mayor of the Adelaide Hills Council complaining about remarks made by the member for Heysen. In it he invites the chair to discover that the remarks made by the member for Heysen may have misled the house. He states his uncertainty about that. From the outset, the chair must find that, notwithstanding his letter and the case he makes point by point in it, so far as the standing orders of the house are concerned, they include standing order 1, which for the sake of all honourable members I will read so that they understand what I am referring to. It is as follows:

> Usages of House of Commons to be observed, unless other provision is made
>
> (1) In all cases that are not provided for in these standing orders or by sessional orders or other orders, or by the practice of the house, the rules, forms and practice of the Commons House at Westminster are followed as far as they can be applied to the proceedings of this house.

All members and members of the general public, therefore, just because no standing order in the standing orders of this chamber refer to a matter, need think that that is the end of it. Those practices in the House of Commons are very much a part of our standing orders as are those that are written in the folder for quick and ready reference for us.

The member for Heysen has committed no offence. His Worship draws attention in his letter to certain of the remarks made by the member for Heysen and then states the facts as he knows them where they differ from what the member for Heysen has said. Because he invites the chair to circulate copies to all members of the house—but the chair has not done and will not do such a thing—I nonetheless draw attention to the practices of brother parliaments, such as the House of Representatives and quote from its practices on page 724, as follows:

> In the past the Speaker normally by way of a statement, has raised matters coming within his (or her) knowledge for the consideration and action of the house as it deems necessary.

Many members of the general public, out of ignorance (and can I explain that that word means lack of knowledge, not bad manners), and possibly some members of parliament, may not understand that a matter of privilege does not arise automatically if remarks made by a member to the house are inaccurate, inexact, imprecise, unbalanced or untrue unless those remarks are designed to deceive the house deliberately and to deny it access to information which would not normally be available to it or members of the house in the public domain.

One needs to note the remarks of retired chief magistrate Cramond, I think, on page 42 in his findings about the way Mr Olsen misled the parliament and the consequent effect of it. He said:

> It is open to any member to challenge what any other member has said during the processes available to all of them as determined by the standing orders.

It is not up to an agency, a member of the general public, a body corporate or a mayor, with or without a motion from the mayor's council, to lay the charge that a member has misled parliament. To the extent that His Worship Mayor Cookesly has been discreet and respectful, it is the responsibility of this house and members of it to determine whether privilege is breached. I conclude by quoting practices of the House of Representatives, again from the same reference, as follows:

> If a question of privilege is raised it must be in connection with something affecting the house or its members in their capacity as such.

And it is in the domain of the house and not things, people or agencies from outside it to determine it. The quote, by the way, closed at the word 'such', and I will repeat that so that no-one can be ambiguous about it:

> If a question of privilege is raised it must be in relation to something affecting the house or its members in their capacity as such.

So much for that matter.

JOINT PARLIAMENTARY SERVICE COMMITTEE ACCOUNTS

The SPEAKER: I now turn to another matter in the public domain which deserves to be laid to rest immediately, that is, the Joint Parliamentary Service Committee's accounts. Some members of this parliament, as well as members of the general public in recent time, have speculated about the propriety or otherwise of the Joint Parliamentary Service Committee's accounting practices. It is to be remembered that the Joint Parliamentary Service Committee is not an agency of government: it is an agency not for profit within this parliament designed and established to provide the services needed in this parliament.

The moneys it collects are not just audited according to the Australian Securities Investments Commission (and other relevant acts) annually. Indeed, it is by the committee's resolution that those accounts are audited quarterly. The stringency with which they are audited exceeds anything expected of any public or private corporation, or individual business anywhere in the rest of society.

PARLIAMENT, PUBLIC LIABILITY

The SPEAKER: There is another matter. Questions have been raised in parliament in recent time about public liability in the parliament, with some people speculating that parliament needs to insure itself against public risk. All honourable members would do well to begin their reading about parliament whence it began. Parliament cannot be sued. Any member of the general public, honourable member, or other person who does not consider themselves to be either a member of the general public or a member of the parliament, for that matter, who comes into the building does so out of their interest in what they consider to be the public interest, and at their own risk entirely. That is the practice not only of this chamber but also of this parliament and all its brother parliaments, and the mother parliament. There is no case that can be made against the parliament for negligence or any other thing such as may be made in common law or under any other statute elsewhere.

PAPERS TABLED

The following papers were laid on the table:

By the Premier (Hon. M.D. Rann)—

- Premier and Cabinet, Department of the—Report 2003-04

By the Minister for the Arts (Hon. M. D. Rann)—

- Adelaide Festival Centre—Report 2003-04
- Adelaide Festival Corporation—Report 2003-04
- Disability Information & Resource Centre Inc—Report 2003-04
- JamFactory Contemporary Craft and Design Inc—Report 2003-04
- South Australian Film Corporation—Report 2003-04
- South Australian Museum Board—Report 2003-04

By the Treasurer (Hon. K.O. Foley)—

- Motor Accident Commission Charter (dated 22 October 2004)
- Regulations under the following Act—
  - Essential Services Commission—Price Determination

By the Attorney-General (Hon. M.J. Atkinson)—

- Claims against the Legal Practitioners Guarantee Fund Report to the Attorney-General 2003-04
- Regulations under the following Act—
  - Juries—Summons to Jurors

By the Minister for Health (Hon. L. Stevens)—

- Department of Human Services—Report 2003-04
- Regulations under the following Act—
  - South Australian Health Commission—Non-Medicare Patients

By the Minister for Transport (Hon. P.L. White)—

- Regulations under the following Acts—
  - Harbors and Navigation—Speed Restrictions
  - Motor Vehicles—Demerit Points
  - Road Traffic—
    - Alcotest Analysis
    - Crash Reports
  - Rules—
    - Road Traffic—Australian Road Rules

By the Minister Assisting the Premier in the Arts (Hon. J.D. Hill)—

- State Theatre Company of South Australia—Report 2003-04
- State Opera of South Australia—Report 2003-04
- Windmill Performing Arts Company—Report 2003-04

By the Minister for Employment, Training and Further Education (Hon. S.W. Key)—

- Construction Industry Training Board—Report 2003-04—Incorporating the 2004-05 Annual Training Plan
- Flinders University—Report 2003

By the Minister for Administrative Services (Hon. M.J. Wright)—

- SA Water—Report 2003-04

By the Minister for Gambling (Hon. M.J. Wright)—

Independent Gambling Authority—Report 2003-04
Liquor and Gambling Commissioner, Office of the
Gaming Machines Act 1992—Report 2003-04

By the Minister for Tourism (Hon. J.D. Lomax-Smith)—

Adelaide Convention Centre—Report 2003-04

By the Minister for Families and Communities (Hon. J. W. Weatherill)—

Statutory Authorities Review Committee: Inquiry into HomeStart Finance—Ministerial Response—October 2004

By the Minister for Agriculture, Food and Fisheries (Hon. R.J. McEwen)—

Dairy Authority of South Australia—Report 2003-04
Veterinary Surgeons Board of South Australia—Report 2003-04
Regulations under the following Act—
Fisheries—
Delivery, storage and sale of Rock Lobster
Disposal of Rock Lobster
Keeping of Rock Lobster

By the Minister for State/Local Government Relations (Hon. R.J. McEwen)—

Local Government Superannuation Board—Report 2003-04
Rules—
Local Government—Local Government Superannuation Scheme—
Australian Renewable Fuels Limited
Corrections to Rule 6
Definition of Dependant
Natural Resources Management Act
Presiding Member

By the Minister for Consumer Affairs (Hon. K.A. Maywald)—

Regulations under the following Act—
Liquor Licensing—
Long Term Dry Areas—
Adelaide and North Adelaide
Mt Gambier.

IN SITU LEACH MINING REPORT

The Hon. J.D. HILL (Minister for Environment and Conservation): I seek leave to make a ministerial statement.

Leave granted.

The Hon. J.D. HILL: I inform the house that the government has fulfilled its commitment to conduct an independent review into the environmental impact of the acid in situ leach uranium mining process, which I now lay on the table. The report paves the way for further improvements to strengthen environmental monitoring of in situ leach mining in South Australia. All 13 recommendations of the report will be implemented in full. The report recommends:

. . . that acid ISL mining of uranium and re-injection of liquid wastes into the aquifer be allowed to continue subject to monitoring showing that there are no excursions of leach solution or waste liquids into other aquifers.

This review was overseen by a project steering committee, which included in its membership, importantly: the Conservation Council of SA; the SA Chamber of Mines and Energy; the radiation protection and operations divisions of the EPA; the Department of Water, Land and Biodiversity Conservation; the Department of Primary Industries and Resources; the Department for Aboriginal Affairs and Reconciliation; Planning SA; and the Office of Economic Development. The steering committee determined the selection process for the tender process, as well as recommending the tenderer for the consultant to undertake the review.

The review was conducted by a consortium of experts led by the CSIRO. The review commenced in November 2003 and included an investigation (which included input from experts), consultation and reporting phase. Importantly, as part of the consultation phase, a public forum was held on 4 March and written submissions were accepted until 8 April. The public meeting drew 46 people, with about two-thirds from industry, government agencies, peak bodies and consultants. The EPA has accepted the report and its 13 recommendations.

MOVING ON PROGRAM

The Hon. J.W. WEATHERILL (Minister for Families and Communities): I seek leave to make a ministerial statement.

Leave granted.

The Hon. J.W. WEATHERILL: The Moving On program was established in 1997 to meet the needs of young people with severe intellectual disabilities who had left school. In the past two years of this government, spending has increased by more than 25 per cent, yet this has not been enough to keep up with the demand for places nor the rising cost of these services.

As all honourable members would be aware, the Moving On program has failed to meet the needs of young people with a disability and their families. In August this year, I set up a working party of parents to examine the program and make recommendations for change. I received the final report on Monday. The report makes 22 recommendations. I can make a copy of that report available to any interested member.

The recommendations cover a broad range of issues concerning the operation of the program. I am pleased to announce to the house that the report's central recommendation, namely, the provision of full-time day options for young people with multiple severe disabilities, has been accepted by the state government. This has been made possible by the innovative suggestions by the parents and our discussions with service providers, together with the allocation of additional resources for next year.

Ms Chapman interjecting:

The Hon. J.W. WEATHERILL: No, sorry; I cannot take all the credit; the parents have, in fact, been an important part of this exercise. The state government will reconfigure the $7.572 million a year program to create new centre-based places through Minda and Intellectual Disability Services Council Incorporated. These two organisations will provide a full-time service for up to 40 new school leavers in the south and north of Adelaide as from the beginning of the school year, 1 February, next year.

We will also immediately distribute a request for proposal to all-day option providers registered on the Disability Services provider panel. This solution is based on a simple proposition of listening to the parents of young people with disabilities and designing programs that meet the needs of their children. By changing the way in which services are provided, we can cater for the growing demand for this program, and the needs of families for much needed respite while retaining high quality day activities.

In conclusion, I would like to thank those people on the working party who gave their very precious time to inform this process.

An honourable member interjecting:

The Hon. J.W. WEATHERILL: They were on the working party, and they gave up their time. It is a very difficult thing for them to give up their time, because they have many responsibilities. I would particularly like to mention the parent representatives on this group by name. They were: Helen Packer, Richard Bithel, Dr Sven Karlsson, Dr John Entwhistle and David Holst, who resigned mid-way through the process. I would also like to thank the independent Chair, Peter Sparrow and Linda Clifford from Parent Advocacy.

QUESTION TIME

SOS CHILDREN'S VILLAGE

Mrs REDMOND (Heysen): My question is to the Minister for Families and Communities. Will the minister explain why he believes that the SOS village at Seaford Rise was based on a dodgy model? Yesterday, in response to a question from me about the former SOS Children's Village, the minister stated:

> Basically, we had some dodgy model brought to town.

I am advised that the SOS Children's Villages have been operating world-wide in 132 countries for 55 years. They own and operate 442 villages around the world in more than 300 cities, and have received more than 146 international awards. The organisation was a runner-up for the Nobel Peace Prize in 2001, and was awarded the Conrad Hilton International Humanitarian Award in 2003, worth $1.75 million, and it is the largest and most respected long-term childcare organisation in the world.

The Hon. J.W. WEATHERILL (Minister for Families and Communities): Mister Speaker, with all that, Mr Ellis Wayland managed to turn a group of volunteer mothers into militant unionists—he is a genius! The trade union movement wants this man; this man could be a talisman for the resurgence of trade unionism in this country. He is an absolute genius!

Members interjecting:

The SPEAKER: Order! The minister will answer the question. I am not sure that the inquiry as to whether—

The Hon. J.W. WEATHERILL: I will return to the sensible answer. Of course, the unsustainable element of the model was that it could not keep these women working in basically what was essentially an oppressive set of terms and conditions of employment. There were a whole range of complaints that they made to their relevant industrial organisation and that they sought to have resolved—

An honourable member: That is not true!

The Hon. J.W. WEATHERILL: Do you want to listen to my side of it or do you want to answer it yourself?

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: They have an investment in this, because they invited this organisation into town and, of course, it has all turned horribly sour. This organisation has left town after having, frankly, insisted that these villages be purchased back off them at market value. So, we were faced with the prospect of either paying market value for these homes that they had purchased a few years before or else they were simply going to put us in a position where we were going to have to place upwards of 27 children with various foster families around town.

We already know that there is a crisis in foster care in South Australia—we would have had to break up sibling groups. But they wanted to make their little profit on flogging these homes, notwithstanding the fact that they had been sustained by government subsidies for a number of years. If that does not add up to a dodgy model, I do not know what does.

Mr BRINDAL: I rise on a point of order. In answering a question, the minister is required to address the substance of the question and not enter into debate or traduce an organisation without this side of the house being able to defend the organisation or, indeed, for the organisation to defend itself. What the minister just did is scurrilous!

Members interjecting:

The SPEAKER: Order! I had fried eggs for breakfast this morning; I did not suck them.

Mr BRINDAL: I have great difficulty understanding the English meaning of that ruling, sir.

An honourable member: Sit down and shut up!

Mr Brindal: You shut up!

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

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order! The honourable member for Unley drew attention to a standing order to which I constantly draw attention, and I drew the minister's attention to it. The minister addressed the question. Had it not been for the honourable member for Unley and his colleagues engaging in a cacophony of interjections, the minister may have stuck to the substance of it rather than attempting to deflect the invective that was thrown at him. Neither practice is countenanced in the standing orders, other than that it is disorderly—and the member for Unley is probably one of the most serious and frequent offenders.

EARLY CHILDHOOD SERVICES

Ms BEDFORD (Florey): My question is directed to the Minister for Education and Children's Services. What progress has been made to date on the early childhood services inquiry?

The Hon. J.D. LOMAX-SMITH (Minister for Education and Children's Services): I thank the member for Florey for her inquiry. I know she has been very supportive of the government's view that the early years of a child's life are so important for their future development in that their values, their capacity to learn, their socialisation skills and their ability to relate to other people are really committed very early on—well before they attend even preschool and, certainly, junior primary years in primary schools.

Our view is that this part of a child's life should be supported, and in order to provide the best input into children we have instituted an inquiry, which began in July. We were intent on consulting broadly to get the widest possible views about issues and needs of both children and parents, and in doing so have held 13 community meetings in a variety of locations spread throughout the state, including towns such as Ceduna, Port Lincoln, Port August, Port Pirie, Mount Gambier and in the Riverland.

We were fortunate to get 1 300 responses to the questionnaires and 38 written submissions, but we were intent on hearing the voices of parents, those involved in the sector (both workers and managers), and those involved in early

education, health and wellbeing. The team held a number of site visits and broke into 10 working groups. The issues that were examined were those seen to be the most relevant for children, including: children with additional needs; the early childhood work force; Aboriginal children; early intervention and prevention; funding and affordability; and support for children's services in the non-government sector.

The groups have involved members of the steering committee and other experts in early childhood services. I would particularly like to thank the member for Wright in her role as Parliamentary Secretary for Children's Services and as a member of the steering committee for guiding the consultation and review process, as well as being involved in many of the regional consultations.

Market research firm, McGregor Tan, conducted research in metropolitan and country areas and surveyed 1 000 households with children ranging in age between zero and eight. Of particular interest was the data about satisfaction with services, access to services and the cost of care. Several research papers on the importance of the early years and work and family relationships have been provided to the inquiry steering committee. It is already clear that we will be placing a greater emphasis than has been placed in recent years upon early years needs for children, parents and the work force involved in their development and care.

We are interested in looking at how affordable services can be provided and how we can particularly value those workers who are, to date, undervalued, and who have poor career paths and few opportunities. I look forward to receiving the report later in the year and acting upon it in the new year.

SOS CHILDREN'S VILLAGE

Mrs REDMOND (Heysen): My question is again to the Minister for Families and Communities. On what basis can the minister claim that SOS mothers at Seaford Village—and I quote again from his response to my questions yesterday—'were treated like slaves' and 'a group of volunteer mothers' were asked to work in conditions of employment that were 'on Third World terms'? One of the SOS mothers, Maryanne Kube, has advised me that she was more than happy with her conditions, which included a $40 000 a year salary, superannuation, leave provisions and a car allowance. On top of this and in return for $77 a week, she was provided with a furnished house with all taxes, power, food and housekeeping bills paid. She could also organise to have three or four days free every fortnight, during which time respite care was available for the children.

The Hon. J.W. WEATHERILL (Minister for Families and Communities): Unfortunately, this house has not been furnished with the full material by—

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: This is not an assessment that has been reached by our government; this assessment has been reached by the operators of this village following their inability to reach some settlement with the union representing the people who worked in this place.

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: They were the ones—

Members interjecting:

The Hon. J.W. WEATHERILL: It would be well known to members of this house that wages and conditions that are available by way of basic minimum awards in the disability services and human services sectors in the non-government area are very modest—very modest indeed! In respect of those basic claims that were being put forward on behalf of these people who were seeking to have themselves classified as employees, what is being resisted is that they were not employees—that they were in fact mothers. That is what they were being told: that they were not employees—they were mothers. Therefore, the ordinary terms of employment contained within legislative instruments were not available to them.

This international organisation—for reasons best known to itself—decided to withdraw financial support for its organisation in South Australia. It has not been able to get a beachhead anywhere in Australia. There is no jurisdiction in Australia where this model has been able to bear fruit. They managed to sell it to the previous government, and of course it has all ended in tears, and it is of no surprise that they now seek to defend it.

UNIVERSITIES, REFORM

Ms THOMPSON (Reynell): My question is to the Minister for Employment, Training and Further Education. Is the government going to accept the federal government's proposals for reform of the university sector?

The Hon. S.W. KEY (Minister for Employment, Training and Further Education): I acknowledge the expertise of the member for Reynell in the higher education area. I understand from the federal Minister for Education that today he is meeting with the Australian Vice-Chancellors Committee to discuss aspects of the federal government's higher education policy. The reason why I say 'understand' is that we as ministers in this area around Australia have not had the opportunity for a direct discussion with the federal minister, so the reports that I have are really from media comments that have been made since the federal election. The federal minister has proposed, however, that the commonwealth government should assume complete control of universities in Australia. He has also proposed individual workplace agreements for academics and—

The SPEAKER: Order! The honourable minister was not asked what he is proposing: she was asked whether it is acceptable to the government.

The Hon. S.W. KEY: I am explaining the points of which I have been made aware through the media, and I am happy to give my response to the question.

The SPEAKER: I know what the minister is doing. The chair is inviting the minister, however, to address the question, not canvass debate.

The Hon. S.W. KEY: Thank you, sir, for your guidance in this. The other area that I am looking at is the suggestion that there be a ban on the compulsory payment of services and facilities to student organisations. If these proposals, about which the federal minister has been quite vocal on radio as well as in the print media, are the case, then our government will have real concerns with that agenda. Neither I nor the government believes that this bodes well for proper consultation or consideration in the sector. A number of comments have been made by the Australian Vice-Chancellors Committee, saying that it has concerns with the information that it has received from the federal minister.

The Hon. DEAN BROWN: On a point of order, clearly this is in breach of standing order 98. The minister is debating

the issue. You, sir, have already drawn that matter to her attention, and I ask you to do so again.

The SPEAKER: The minister's remarks are not relevant to the question, which is simply yes or no. If there are reasons, they have well and truly been canvassed. The chair has difficulty understanding why the minister continues in this vein. The question was clear enough. Does the minister have anything further to say about whether or not the government will accept the policy?

The Hon. S.W. KEY: Yes, sir, I am answering the question, which was: do we accept the federal government's proposals? I am saying that the indications I have had so far are very concerning. There is a meeting planned in a couple of weeks with the federal minister—

Ms CHAPMAN: On a point of order, the minister in addressing the answer today has indicated that, if the federal government put forward certain proposals that she has detailed, then this government would have concerns about it, and then proceeds to comment.

The SPEAKER: I know.

Ms CHAPMAN: I ask you, sir, to make a ruling that she has answered the question and what is being presented is clearly hypothetical.

Members interjecting:

The SPEAKER: The member for Bragg makes debating points on standing orders in much the same way as the member for Unley, and the minister does no better in responding to the inquiries from the member for Reynell. The purpose of question time is to discover government's attitude to certain matters that are regarded, quite properly, as being in the public interest. The reason for my hesitation in even allowing the question in the first place was that the minister is on the public record as having said that the federal government has provided no statement to the government yet. I was querulous to know whether or not the minister had already made up her mind on behalf of the government to accept. The question was not inquiring as to the reasons, but simply yes or no. Whilst I was prepared to give licence, I am not prepared to allow debate. Does the minister have anything further to say in relation to the reasons she is providing for saying no?

The Hon. S.W. KEY: Thank you, sir. I would like to summarise my understanding. I have some serious questions about what was put to me as reforms; and, after we have had the benefit of a meeting with the federal minister, I will be able to report back to parliament about these so-called reforms. But I think it is important to advise this house that kites that have been flown in the media are very concerning not only for our government but also for the higher education sector in this state.

SOS CHILDREN'S VILLAGE

Mrs REDMOND (Heysen): Again my question is to the Minister for Families and Communities. Given that the government was (and, again, I quote the minister's answer from yesterday) 'desperate to keep this model going', what action did the minister take to achieve this objective after he met with the president of SOS and the union? The SOS national president, Mr Wayland, has informed the opposition that he told the minister in—

Mr RAU: Mr Speaker, I rise on a point of order. We have had a number of questions already from the honourable member in which—

An honourable member interjecting:

Mr RAU: No, I realise it is question time. Let me finish. As I recall, Mr Speaker, you have indicated previously that lengthy and unnecessary explanations following questions are out of order. There have been two lengthy and unnecessary explanations already and we are about to have a third.

The SPEAKER: Order! That is a reflection on the chair. I understand what the honourable member for Enfield is saying, but there is no point of order. The member for Heysen may explain the question, and I am listening carefully. If it becomes debate, that will be the end of it. The member for Heysen.

Mrs REDMOND: The national president of SOS, Mr Wayland, has informed the opposition that he told the minister in his meeting with him that the staff did not want the union to intervene in their work conditions. They did not want to pursue the union's proposed log of 80 claims and requested the minister to (and I quote Mr Wayland's term) 'get the union off their backs'.

The Hon. J.W. WEATHERILL (Minister for Families and Communities): Yes, Mr Speaker, the relevant employer figure here did say that he said the workers were completely happy with everything. He said there was nothing to see, there was no problem and, really, it was just a bit of propaganda by the union. That is what he said, sir. I investigated and, sadly, that did not end up being the case.

Mrs REDMOND: I have a supplementary question, Mr Speaker. In the light of the minister's previous response, can he advise whether, when he investigated, he attended at the SOS village and spoke to any of the staff about their terms and conditions and what they thought of them?

The Hon. J.W. WEATHERILL: No, sir, I have not attended—

Members interjecting:

The SPEAKER: Order! The honourable the minister is to be applauded for the frankness of the reply.

INTERPRETING AND TRANSLATING CENTRE

Ms CICCARELLO (Norwood): My question is to the Minister for Multicultural Affairs. How has the Interpreting and Translating Centre been able to provide quality services and maintain the quality assurance certification, and has it achieved the new standard?

The Hon. M.J. ATKINSON (Minister for Multicultural Affairs): The state government wants people to have equitable access to government services regardless of their cultural and linguistic background. The availability of excellent interpreting and translating services is essential to achieve equitable access to government services for people who speak little or no English. These services are important in all areas of government, including hospitals, courts of law, policing and schools.

The Interpreting and Translating Centre is the only government owned and operated interpreting and translating services provider in South Australia that provides quality accredited services. The Interpreting and Translating Centre has, for 29 years, provided important services for government, business and individuals. In the last financial year there were almost 30 000 requests in 78 languages for interpreting assignments, and these services have helped people from culturally and linguistically diverse backgrounds access government and private sector services. The number of translating assignments carried out in 62 languages was almost 3 000.

In 1998, the Interpreting and Translating Centre of Multicultural SA achieved quality assurance certification. Most members of the house would be familiar with the standard five tick logo that signifies a certified organisation. ISO 9000 is the name of a series of quality assurance standards recognised by more than 200 countries and adopted as their national standards for quality assurance and conforms to the guidelines of the International Organisation for Standardisation based in Geneva.

The principal feature of the ISO 9001 standard is that it takes the basic principle of quality assurance (which is the need for documented systems) and adds to it requirements to control system documentation to make sure that it is kept up to date. The standard also requires internal audits to ensure that it is working properly, together with constant monitoring to guarantee effective constant improvement of the system. More simply, this means that customers of the Interpreting and Translating Centre can be confident that they will always get quality services; and, because of continuous improvement practices, the services will be the best available at the time.

In September 2004, the Interpreting and Translating Centre underwent a triennial quality assurance audit by SAI Global Assurance Services. The overview of this audit states that the Interpreting and Translating Centre:

> . . . has maintained a solid customer base and continues to identify new opportunities and potential improvements to its (quality) management system. There is a focus on better understanding the requirements of customers and finding innovative ways in which these needs can be satisfied. The organisation's (quality) management system has recently been reviewed and improved. These improvements have ensured that the system remains relevant and up to date.

I am pleased to report that the Interpreting and Translating Centre has now received quality assurance certification at the new standard. This certification of the Interpreting and Translating Centre covers the quality management system for the provision of interpreting and translating services to public and private sector agencies (local, interstate and overseas) and individuals until 2 August 2007.

I congratulate the staff at the Interpreting and Translating Centre and Multicultural SA on their efforts and on their continued success. I hope that the fluency and comprehensiveness of my answer is not a contempt of parliament.

SOS CHILDREN'S VILLAGE

Mrs REDMOND (Heysen): My question is directed to the Minister for Families and Communities. Why did the minister support the Australian Services Union and not the workers at the SOS Village at Seaford Rise when they instructed the union to seesaw claims that it had lodged with the Industrial Relations Commission? Workers at the village have advised the opposition that a large majority of them rejected the union-led log of claims and specifically instructed Mr Ian Heard of the Australian Services Union to withdraw all 80 claims. The opposition is advised that, rather than support the workers, the government then stepped in and acquired the village and has since assumed responsibility for its operations.

The Hon. J.W. WEATHERILL (Minister for Families and Communities): Let us just put a few facts on the table to put this in context. The SOS Director advised the Manager of the Noarlunga FAYS District Centre that SOS management would cease providing operations on 12 March 2004. That advice was made on 11 February 2004.

Members interjecting:

The Hon. J.W. WEATHERILL: Would members opposite like to listen to some factual material? The director advised that its international head office in Austria was requiring it to be financially self-sufficient by 2006, and it has been required to raise $235 000 to support its operations. SOS Children's Village management had been reluctant to enter into funding agreements with the department as it was contrary to their autonomy. The department had, over the years, made small one-off grants to keep them going, and also child payment subsidies. Additional reasons given by the management of SOS for their reasons to close were—this is what we heard, that they were going to close—that industrial action was taken by some SOS 'mothers' and 'aunts'—

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: —that is how they described them—with the Australian Services Union regarding working conditions and wages, including a log of 68 claims; and differences of philosophy between SOS management and Department of Human Services in the provision of alternative care including the age of children to be placed (SOS requiring preferably younger children), sibling groups under long-term orders with minimal contact with birth families and few behavioural management concerns. SOS management believed that the support needs of children and young people and their particular requirements—

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: —were not consistent with SOS and departmental protocol. There are a number of reasons that were promoted for their decision to leave. We took steps to try to bring the parties together. There may have been some people who were happy to work in these conditions, but there was certainly a large number who were very unhappy to be working in these conditions, and they sought, as is their entitlement, to seek industrial representation. A few of them actually sought to be treated—as a matter of law they were likely to be found—as employees. A whole range of things would have flowed from that in terms of their entitlements to terms of conditions of employment.

This model was simply an unsustainable one. It was not capable of working in the Australian industrial context. Some people were prepared to cop that situation and work in those arrangements; others were not; and I did what I could to try to encourage them to come together. Clearly, the differences between the two were irreconcilable and, simply, the SOS village was determined on their course. They also made it very clear that they were going to require us to pay full value for these houses, and we had to do that so that we could keep these sibling groups together. This is not a problem of our making. We did not introduce this model. It has not worked, and we should not be blamed for it. We cleaned up the mess.

The Hon. D.C. KOTZ: I rise on a point of order, sir. The minister in answering his question was reading from a document providing facts to the house. In previous rulings you have asked that those documents be tabled. I would ask the same in this instance.

The SPEAKER: Will the minister tell the house what the document is from which he was quoting?

The Hon. J.W. WEATHERILL: Briefing notes for parliament, sir, which I understand are privileged.

ENVIRONMENT YOUTH ART PRIZE

Mr KOUTSANTONIS (West Torrens): Can the Minister for Environment and Conservation advise the house of the young artists awarded prizes as part of the Environment Youth Art Prize exhibition? As I understand it, one of my constituents, Ms Tracey Rosser, won a prize for outstanding work.

The Hon. J.D. HILL (Minister for Environment and Conservation): I acknowledge the great interest that the member for West Torrens has in the environment, arts and, of course, young people. Last week I presented prizes to some of South Australia's most talented young artists at Carclew, and they were showcasing works about the environment. Importantly, the young artists focused on themes of water use and quality, species loss, marine and coastal environment and climate change. The competition called for artists between the ages of 15 and 26 and was an initiative of the Office of Sustainability and Arts SA, together with Carclew Arts Centre. It is supported by the Environment Protection Authority and the wonderful Youth Environment Council, with the establishment of which my colleague, the member for Unley, had something to do, I believe; or maybe it was the member for Newland, I am not sure. Certainly, it was one of the former ministers responsible for environment. But it was a great initiative.

I would like to take the opportunity to congratulate the winners for their inspiring work. There were two categories of winners. In category A, which was for 15 to 18 year olds, there were two prizes. The second prize of $500, which was sponsored by the Youth Environment Council, went to Ms Ruth Thompson-Richards. The first prize of $1 500, sponsored by the Youth Environment Council, was awarded to Ms Renee Marwe.

In category B, which was for the older young people from 19 to 26, the second prize of $2 000, sponsored by the EPA, went to Ms Tracey Rosser (a constituent of the member for West Torrens) for 'So. . . what's next'. This was four highly decorated and individual ceramic funeral urns with a grouping of species drawn around each urn. The piece was designed to bring to our attention our threatened species and plants. The first prize of $4 000, sponsored by the Office of Sustainability, went to Ms Laura Wills for 'Foreign pests of mass destruction', which is a fantastic drawing of a geological map overlaid with drawings of foreign plants and animals.

The overall standard of the competition was very good, and I commend the young people for the work they did. The art prize and exhibition is a great opportunity to show the talents of our young artists and get a strong message out to the community about key environmental issues. The work of the 32 finalists is currently showing as a free exhibition at the Carclew Youth Arts Centre until 26 November. I strongly urge members to attend when they have a chance.

SOS CHILDREN'S VILLAGE

Mrs REDMOND (Heysen): Again, my question is to the Minister for Families and Communities. Does the minister stand by his statement to the house yesterday that he had to rescue the situation at SOS Village 'because there were sibling groups that we knew we would otherwise have to break up and put into foster care'? The opposition has been informed that the union insisted that they adhere to FAYS criteria, so that SOS mothers must look after only a maximum of three children in each home. This new criterion immediately impacted on all homes within the SOS Village, particularly those that had long-established, long-term family units comprising four or five children. One SOS family of five children which had been kept together for over seven years has been split up by Families and Community Services.

The Hon. J.W. WEATHERILL (Minister for Families and Communities): Yes, I do stand by what I said earlier—

The SPEAKER: Order! The question is not in order, because if the minister was not standing by what he said yesterday he would have said so by way of a ministerial statement. Much of the explanation I am sure is of interest but it does not explain any ambiguity within the question itself and constitutes debate. The honourable member for Enfield.

DA VINCI ROBOTIC SURGICAL SYSTEM

Mr RAU (Enfield): My question without notice is to the Minister for Health. Has the Royal Adelaide Hospital commissioned the new da Vinci robotic surgical system that will enable surgeons to minimise the invasiveness of heart and prostate surgery?

The Hon. L. STEVENS (Minister for Health): I thank the honourable member for this question. I am pleased to advise the house that on Wednesday, 3 November, the first procedure was performed using the new da Vinci robotic surgical system at the Royal Adelaide Hospital. Members will recall that in September of this year, the Pickard Foundation—

Members interjecting:

The Hon. L. STEVENS: It is interesting that members opposite are not interested to hear about such an important piece of equipment that has so very generously been donated to the Royal Adelaide Hospital. In September this year, the Pickard Foundation very generously—

Mr WILLIAMS: I rise on a point of order on relevance: the member for Enfield asked a specific question. The minister has already answered the question and is now going on with a whole heap of information that had nothing to do with the inquiry.

The SPEAKER: The honourable member makes the point that I have been trying to make for a very long time. I guess the minister may explain the reason for the government's decision without engaging in rhetoric. It would be better if material of debate, such as has arisen in the explanation given by the member for Heysen and now debate, I am sure, to be provided by the Minister for Health, were to be provided honestly by the house and its members in debate, rather than masquerading as questions and answers, which they are not.

The Hon. L. STEVENS: I have been informed by the hospital that the first surgical procedure, a radical prostatectomy, was performed successfully by surgeons and nursing staff who have been specially trained to use this advanced technology. I understand that the patient is recovering well.

This is very advanced surgical technology. There are only two of these robotic surgical systems in Australia, and the Royal Adelaide Hospital is the first public hospital in Australia to have this equipment. The equipment will make a very valuable contribution to our health system, and will be of enormous benefit to patients. Importantly, it will also give our medical work force the opportunity to be at the forefront of surgical innovation and technological change. Once again, the government, certainly, this side of the house, thanks the Pickard Foundation for its generous donation of the da Vinci surgical system.

NUCLEAR WASTE

The Hon. R.G. KERIN (Leader of the Opposition): My question is to the Minister for Environment and Conservation. Why has the minister not corrected to the house his statement that toxic waste will not be stored at the proposed Victorian waste dump just over the South Australian border at Nowingi? In a ministerial statement made on 21 July this year, the minister stated:

> The containment facility will not house any toxic waste.

Some two months later, the Minister for the River Murray, in answer to a question on the same toxic dump, stated:

> The issue is one of concern to communities in the Sunraysia region where this toxic dump is proposed.

The Hon. J.D. HILL (Minister for Environment and Conservation): It is interesting that the Leader of the Opposition is still going on about a dump in Victoria, yet when it came to dealing with dumps in South Australia he had absolutely nothing to say. He knows about dumps—he is about to be dumped. In relation to the alleged Victorian toxic waste dump, the advice I gave the house two or so months ago was based on information I received from the Minister for the Environment's office in Victoria. As I recall, I told the house that he had informed my office that it was, in fact, dry industrial waste, and I have had no reason to change that. I will seek advice again, and if I was wrong in that case I will correct it. The advice that I was given is that it is dry industrial waste.

The Hon. R.G. Kerin interjecting:

The Hon. J.D. HILL: The Leader of the Opposition points at me and alleges that I was wrong. The advice I gave to the house was based on advice I had received from the Victorian ministry about the nature of the dump, and that was that it was not a toxic waste dump but was a dump for dry industrial waste.

The Hon. R.G. KERIN: My question this time is to the Minister for the River Murray. What discussions have occurred with the Victorian government, and has the South Australian government made a submission opposing a toxic waste dump being established close to the River Murray at Nowingi?

The Hon. K.A. MAYWALD (Minister for the River Murray): I thank the Leader of the Opposition for the question. Inquiries have been made through the department to the department in Victoria seeking the environment impact assessment to be forwarded to us as soon as it is complete. I understand it is nearing completion. Once we have received that environmental impact assessment we will consider the South Australian government's response.

The Hon. R.G. KERIN: My question is again to the Minister for the River Murray. Was the minister asked by the Victorian government to withdraw from speaking at the public rally in Melbourne on 13 October to protest the toxic waste dump at Nowingi? The minister had agreed to speak at the rally in front of about 2 000 people in opposition to the Victorian government proposal.

The Hon. K.A. MAYWALD: I am not aware any such invitation, and I am not aware of any such request for me to remove from it. Wrong again!

EMPLOYMENT INITIATIVES, WESTERN SUBURBS

Mr CAICA (Colton): My question is to the Minister for Employment, Training and Further Education. What employment initiatives are being pursued to meet the demand for particular skills in the western suburbs?

The Hon. S.W. KEY (Minister for Employment, Training and Further Education): I thank the member for Colton for his question—I know that he has a keen interest in fostering employment in the western suburbs. Last week I was very pleased to announce a new $400 000 government commitment to Adelaide's western suburbs that will assist 300 people to obtain jobs in areas where there are skills shortages.

In addition, the government has attracted another $450 000 from local industry, community groups, local and commonwealth governments to support the 2004-05 Regions at Work program in the Charles Sturt, West Torrens and Port Adelaide Enfield areas. There is also an Employment and Skills Formation Network that has been formed in the western Adelaide region involving TAFE, local industries and all levels of government, with employment agents delivering the Regions at Work plan.

There are a number of direct employment initiatives. This is in response to the high labour demand within the region, including in the retail, property and business services areas, particularly office administration, hospitality and construction trade services (particularly refrigeration mechanics), and health and community services. I am pleased to say that 40 people will undertake accredited training in the home and community care area, and this is another growing needs area for the western region.

Some of the other initiatives include mature age skills development, employment support for those with a disability, literacy and numeracy and language training for refugees on temporary protection visas, and hospitality, retail and office training for people facing acute barriers to employment. I am pleased to say that one of the projects involves 12 young people with work experience in refrigeration mechanics, which is one of the areas of skills shortage. In fact, I am advised that people who pursue trade qualifications in this area can end up with an annual income of up to $100 000. That would be quite a step for people who have been chronically unemployed in the past.

The funds that I announced last week for new employment initiatives brings the South Australia Works commitment in the western suburbs to almost $1.9 million since the start of the year. More than $760 000 of that money will be used to undertake specific Regions at Work initiatives. I am very proud of these initiatives, which are practical and direct ways of getting people into work and which, at the same time, reflect and meet local industry needs.

URBAN DEVELOPMENT AWARDS

Ms RANKINE (Wright): My question is to the Minister for Housing. What awards were won by our housing agencies at the recent Urban Development Institute of Australia conference?

The Hon. J.W. WEATHERILL (Minister for Housing): Our social housing agencies have again been presented with awards for urban development by the UDIA. This is the peak institute representing the interests of the private sector,

and it works in close collaboration with all levels of government to shape the state's urban development industry.

The industry held its annual state conference on 29 October and its awards for excellence were presented that same evening. I am pleased to advise that the South Australian Community Housing Authority (SACHA) won the President's Award for public sector leadership and development under the category of Excellence in Urban Development for their boarding house project at Victoria Street, Victor Harbor. This project was a joint venture with the council, Residential Support and Services Unit, Housing Spectrum and SACHA. SACHA had previously won an UDIA award for its aged housing development at Port Elliot.

So impressed were the judges by SACHA's latest project—which demonstrated a high level of support provision for the clients and overall quality management of the complex—that they have requested an opportunity to present certificates to the clients and the support workers at the Victoria Street boarding house. Of course, the UDIA was part of the South Australian chapter's annual national conference which examined the very timely issue of housing affordability, and they will continue, in partnership with other levels of government and the private sector, to deliver important social housing outcomes for the whole community.

POLICE, ASSAULT CASES

Mr BROKENSHIRE (Mawson): Has the Minister for Police asked for a full explanation as to why for the fifth time in 18 months police have withheld information from the public in relation to assaults about which the community should be warned?

The Hon. K.O. FOLEY (Minister for Police): I have had a discussion with the Commissioner of Police. What I will say is that as the former minister (the member for Mawson) himself once told the parliament—they call it the separation of powers, but it is not quite that—it is one of the fundamental principles of the Westminster system; it is one of the fundamental principles of democracy and justice; it is about giving the police force integrity; and it is about stopping political interference. The point which the then minister was making is that it is not appropriate for ministers of the Crown to interfere with the operations of the police, and he is absolutely correct. I do not do that. I have full confidence in Mal Hyde. If the honourable member does not have full confidence in the leadership of the police force in this state, he should say so. I do!

Mr Brokenshire interjecting:

The Hon. K.O. FOLEY: I have discussed it with the Police Commissioner.

Mr Brokenshire: Give us an answer then.

The Hon. K.O. FOLEY: I have discussed it with the Police Commissioner. The Police Commissioner gave me a detailed response, and I am quite satisfied with that response. I did hear on air earlier today one of the assistant police commissioners—I think it was Assistant Commissioner Brian Fahy—acknowledge that things could have been done better.

Ms Chapman interjecting:

The Hon. K.O. FOLEY: Well, well—

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order! This is not a cage of Barbary apes.

The Hon. K.O. FOLEY: Dear oh dear! What a day! I'm facing grave charges of conspiracy. Apparently there is something wrong with having the Auditor-General give evidence to a parliamentary inquiry.

The SPEAKER: Order! The minister will come back to the question.

The Hon. K.O. FOLEY: I think what we saw today was the first shot in the battle for the leadership of the Liberal Party. That is one certainty.

The SPEAKER: Order!

The Hon. K.O. FOLEY: That is one certainty, Mr Speaker. I don't think the colonel was aiming at me; I think he was aiming at Mr Kerin.

Mr BROKENSHIRE: I rise on a point of order, Mr Speaker—that of relevance under standing order 98. I think the minister has been given a fair bit of flexibility. I would like an answer.

The SPEAKER: Order! I think the member for Mawson has got the answer he is going to get.

The Hon. K.O. FOLEY: As I said, I think the colonel is not aiming at me with that incident today; he is aiming fairly and squarely at the Leader of the Opposition, Rob Kerin.

The SPEAKER: Order!

SALINITY

The Hon. I.F. EVANS (Davenport): My question is to the Minister for the River Murray. Is the minister aware that the toxic waste dump at Nowingi will allow the seepage of toxic waste into the water table through the semi-permeable clay membrane and that it has been estimated by the Victorian government that the toxic waste leakage will travel at 300 metres every five years? Is the minister concerned that this toxic waste may seep into the Chalka Creek, just three kilometres away, which flows directly into the Murray?

The Hon. K.A. MAYWALD (Minister for the River Murray): As I said in my previous answer, we are awaiting the environmental impact assessment from the state government of Victoria. Once we have received that document we will have a good look at it and bring the information back to the house.

BIG THINGS

Mr O'BRIEN (Napier): My question is to the Minister for Tourism. I make the point that I do not think there is any hidden intent in this dorothy dixer. My question is: where is the best big thing in Australia?

Members interjecting:

The SPEAKER: Order! The member for Napier should not make sexual connotations in the course of making inquiries!

The Hon. J.D. LOMAX-SMITH (Minister for Tourism): Could I, through you—

Mr WILLIAMS: On a point of order, I am not too sure that the minister is responsible for the best big thing in Australia.

The SPEAKER: No, and I am not too sure what Dorothy Dix knows about them, either. The honourable minister.

The Hon. J.D. LOMAX-SMITH: Of course, the honourable member is referring to the whatif.com competition for the best and largest icon in Australia. Members will all be familiar with those icons around the country. I am pleased to announce that the best big thing is indeed in South Australia, only a few kilometres from Adelaide at

Gumeracha. The Big Rocking Horse beat the Big Banana, the Big Pineapple, the Big Buffalo, the Big Earthworm, the Big Merino, the Big Wool Bales and the one that was really easy on the eye, the Big Gumboot. The organisers judged these big things not just on their visual appearance but on how well maintained they were, how interactive they were and the high quality and comfort they afforded the visitor, particularly in the comforts of the surroundings, the lavatories and the eating areas.

This reinforced the importance of tourism operators getting it all right. Indeed, it was clearly not just a matter of being easy on the eye but of having substance, authenticity, originality and good service. The judges were particularly impressed by the rocking horse's enjoyment factor and interactivity, because the people who run the facility just go the extra mile. There is a toy factory, a wildlife park and a cafe, and visitors can climb to the top of the rocking horse to see magnificent views of the Adelaide Hills. I would also note that the managing director, Mr Anthony Miller, is a fabulous example of migrant entrepreneurship. Mr Miller recently bought the Big Rocking Horse, upgraded it and rejuvenated it after nearly five years of closure.

The cafe sells Adelaide Hills produce including local olives, pistachio nuts and chocolate. The play corner offers entertainment for children and the parents can enjoy a fabulous cup of coffee. I recommend that members visit our own big thing with a big future up in the Adelaide Hills. It is an icon for South Australian tourism operators.

SALINITY

The Hon. I.F. EVANS (Davenport): Is the Minister for the River Murray aware that 40 000 trees will be cleared in the Lake Hattan area to make way for the toxic waste dump at Nowingi, and what is the advice that the minister has sought from her own agencies on the impact of salinity in the Murray-Darling Basin if the 40 000 trees are removed?

The Hon. K.A. MAYWALD (Minister for the River Murray): I will take the question on notice and get back to the house.

PRIVACY COMMITTEE

Mr WILLIAMS (MacKillop): Will the Minister for Administrative Services confirm that the government's privacy committee is not currently operational? The privacy committee was established in 1989 and its last annual report was tabled on 21 October 2003. It disclosed that the terms of the members of the committee expired on 25 May 2004. No new appointments have been gazetted and the opposition has been informed that the committee has rarely met this year.

The Hon. M.J. WRIGHT (Minister for Administrative Services): I am not sure I will be able to answer all those questions just asked by the member but, to the best of my recollection, I think I have signed off on the annual report of the privacy committee. I will check that detail, as I am doing this to the best of my memory, as I said. I think that the annual report would be due to be tabled in the parliament shortly. It is also my understanding (and I have to check the precise date) that the privacy committee that the member refers to is due to meet in early December of this year.

HOME SERVICES DIRECT

Mr BRINDAL (Unley): My question is to the Minister for Administrative Services. Did SA Water seek any advice regarding the privacy implications of disclosing to Home Services Direct the names and addresses from the SA Water client database?

The Hon. M.J. WRIGHT (Minister for Administrative Services): I was asked a similar question yesterday and, as I said, I have also asked a number of questions of SA Water in regard to the Home Services Direct contract. As I said, SA Water has sought Crown Law advice and, once I receive that, obviously I will be in a position to consider it and make a judgment as to what action, if any, may be required.

Mr BRINDAL: I have a supplementary question. Why did SA Water seek legal advice only after the event, when it is clear that to disclose its client database is illegal, given the privacy provisions applicable to government agencies? Why do it afterwards? Why not do it before?

The Hon. M.J. WRIGHT: I am not sure that I can answer that. As I said yesterday and I say again today, I have also raised a number of questions with SA Water. I am awaiting a response to some of the questions that I have raised; and, as I said in response to the earlier question and questions that were asked of me yesterday, SA Water has sought Crown Law advice about this matter, and I await that advice. Once I have that advice perhaps I will be in a better position to give a more definitive answer to the question. And it may well be so. As I said yesterday, I have also asked a number of questions of SA Water and, if SA Water has not done all that it should have done, I will act accordingly.

The Hon. DEAN BROWN: Mr Speaker, I rise on a point of order. We are in question time, and I have noted the fact that two ministers have been outside doing press conferences in the courtyard during question time. I believe that question time is there—

The Hon. J.D. Hill: How do you know that? Do you have second sight?

The Hon. DEAN BROWN: I happen to know that the Minister for the Environment was one of the ministers doing a press conference in the courtyard in the middle of question time, and I understand also that the Deputy Premier was in the courtyard doing a press conference during question time. I believe that ministers have an obligation to be in this house to answer questions.

The SPEAKER: The point of order taken by the Deputy Leader is one of considerable gravity. Ministers are meant to attend in their places in the chamber during question time and, if they are not here but fielding questions from the media or making statements to the media, that is an abuse of the conventions of the Westminster system of parliament. I hope that the Deputy Premier is not making remarks about the matter that is already before the chair (and, in that context, sub judice) in respect of the privilege matter raised earlier in the day in ways which would pre-empt what the chair might or might not decide. That would be, to say the least, grossly improper.

HOSPITALS, RIVERLAND

The Hon. L. STEVENS (Minister for Health): I seek leave to make a personal explanation.

Leave granted.

The Hon. L. STEVENS: I wish to make a personal explanation to correct a claim made by the Deputy Leader of the Opposition. Yesterday, the deputy leader said that he had asked me a question about 27 pays 'about four weeks ago' and that I had promised to come back with an answer. That claim is not true. The question referred to by the deputy leader was asked by him on 23 September 2004 and answered by me. While my answer on 23 September 2004 may not have suited the deputy leader, it did not include any undertaking by me to come back with a further answer.

EXTRACTIVE AREAS REHABILITATION FUNDS

The Hon. J.D. LOMAX-SMITH (Minister for Education and Children's Services): I lay on the table a copy of a ministerial statement on guidelines for Extractive Areas Rehabilitation Funds (EARF) made earlier today in another place by my colleague the Hon. Paul Holloway.

GRIEVANCE DEBATE

SPEED LIMITS

Mr VENNING (Schubert): Today I want to raise a very vexed and serious situation which, as legislators, we have allowed to occur in South Australia. The issue relates to the farce of speed limits in our towns and cities, particularly with respect to arterial and access roads. I believe there is great public disquiet about the inconsistencies, and this has led to inherent confusion. In the old days, South Australia had two speed limits: an open speed limit of 60 miles an hour (which was changed to 110 km/h as a result of metrification); and a town and city limit of 35 miles an hour—

MATTER OF PRIVILEGE

The SPEAKER: Order! The Deputy Premier has just accosted the Speaker and told the Speaker that the matter of privilege which is presently under contemplation is a load of bullshit and crap. I name the Deputy Premier. Is the Deputy Premier prepared to be heard in apology and explanation?

The Hon. K.O. FOLEY (Deputy Premier): Yes, sir, I am happy to. I just advised you, sir, as is appropriate given that the matter was raised in my absence, that I had just done some media on the issue. I explained to the media what I thought of the privilege's motion moved by the opposition, and that is eminently appropriate. It was no reference to you, sir: it was a reference to the motion itself. I thought that, out of duty and respect to your office, I should advise you what I just told the media. I would have thought that that was eminently appropriate. If, sir, I have given you any offence, I apologise.

The Hon. M.D. Rann: He did not use those words, either.

The SPEAKER: The words used are as reported by the Speaker to the house.

The Hon. K.O. FOLEY: I did not say that to the media. It was a generalisation, sir.

The SPEAKER: Obviously, the Deputy Premier does not understand the conventions of the house or the procedures that need to be followed when matters of privilege are raised by members, whether or not they involve the Deputy Premier. They require the chair, whomever the incumbent may be, to give due consideration to the questions raised unless, on the face of it, it is obvious that the material presented provides that there is no prima facie case in this instance.

I said that it would take some time for me to digest what the member for Waite had said to the chamber. There was never any intention on the part of the chair to do as the Deputy Premier implied the chair was doing, that is, to hang him out to dry. The chair needs to be able to give appropriate contemplation to the issue that has been raised and, in this instance, the chair provides the Deputy Premier with far more latitude than might otherwise be provided in order to try to maintain some measure of decorum. It is not appropriate for any member, once a matter of privilege has been raised, to pre-empt what course of action will follow.

Where such cases are made, and inquiries of the chair made, honourable members simply treat the matter, as in their chamber, sub judice. Equally, the Presiding Officer of the other chamber of course never allows debate of any matter under contemplation in the other chamber, nor do they allow reflections upon any members of the other chamber. That is expressly stated in standing orders. So, the matter remains silent, other than that honourable members may comment that it is under contemplation and a question of privilege has been raised. It is simply not possible for any one member of the chamber to decide what they believe ought to be the chamber's opinion. That is a matter for the chamber. There may be no prima facie case for a Privileges Committee. It is not clear to me as to which person the honourable member for Waite was directing his attention in the course of raising that matter of privilege. It may have been the Deputy Premier, it may have been the member for Reynell, and it may have been the Auditor-General. It may have been any one or more of them.

In any circumstances it is not possible, as the chair has explained, to come to an immediate conclusion about it. The honourable Deputy Premier does not have to justify his actions, he simply has to apologise for the offence to the proceedings of the house, not to the chair, not to the incumbent in the chair, the member for Hammond, but to the house, for having presumed that it is within the province of the Deputy Premier, or any other member, to pre-judge the issue. That is a matter that is on foot now in due process. Does the honourable Deputy Premier wish to be heard?

The Hon. K.O. FOLEY: Sir, I humbly apologise. The press conference I gave was in fact not on the substance of the issue raised; it was a commentation by me on matters involving the Liberal Party. I humbly apologise, sir, for any offence given, but questions were asked in the conference towards the end and I was concerned about certain allegations being in the public domain. It was about protecting my character publicly. I apologise if I have transgressed, most humbly sir.

The SPEAKER: The apology is accepted. The member for Schubert will resume the grievance debate, and at the outset, in view of the disruption to the time.

Mr BRINDAL: On a point of order, Mr Speaker: in view of your ruling, should it be competent for this house to consider a motion that matters made inadvertently by the Deputy Premier should not be published by the media lest it compromise your judgment in the matter of privilege? What happened has happened. The Deputy Premier has apologised but it still is pertinent to this house whether the media of

South Australia should be able to broadcast such comments given that they were made in good faith but inadvertently and may compromise your deliberations. I ask for your consideration of that matter.

The SPEAKER: Of course the honourable member for Unley knows that it is within the domain of the house to direct the chair accordingly.

The Hon. P.F. CONLON: On a further point of order, Mr Speaker: I am concerned to understand your ruling in regard to comments that may be made when a matter of privilege is raised because, as I understand what you have said, it certainly does not accord with my understanding of the practice of the house. I wonder if you could bring back a considered view on just what are the circumstances when matters of privilege are raised, because they have before, in my personal knowledge, been aggravated in the media, by both sides of the house.

The Hon. DEAN BROWN: I rise on a point of order, Mr Speaker: as I understand it, the Deputy Premier indicated that he had said outside of this house that the matter of privilege was 'bullshit and crap'. This is a matter of privilege of the entire house and this is not a transgression against the Speaker but, in fact, a reflection on the privileges of this house and, therefore, is a matter that needs to be dealt with by this house.

I am concerned that the Deputy Premier has made statements outside this house which are clearly a reflection on the entire house. The Deputy Premier has made no attempt to make sure that those comments made, which are a reflection on the entire house, are withdrawn by the media. I believe that this house should proceed with the matter of the fact that you have named the Deputy Premier, and I would therefore move:

That the explanation of the Deputy Premier not be accepted and therefore he be expelled from the house for 24 hours.

The SPEAKER: Order! The Deputy Leader of the Opposition is mistaken. The chair has already accepted the explanation given by the Deputy Premier, given genuinely and contritely, for having offended against the practices of the house in any way in which he might have, by whatever it is he has done. The member for Unley raised the point of order, and that point of order has now been dealt with.

Mr BRINDAL: Mr Speaker, in view of the point of order that I raised and in view of your ruling, I move:

That there be an instruction of this house to the media of South Australia that any comments on the matter of privilege raised in the house other than in this chamber not be published and that to do so constitutes a grave contempt of the privilege of this chamber.

An honourable member: You need to suspend standing orders.

Mr BRINDAL: No I don't; there's no question before the house.

The SPEAKER: The chair must, as the house decides, be directed and will be. The chair counsels the house against censorship. The events have happened. If the media in their exercise of licence in coming into this place are prepared to abuse it then the house has standing order 133 with which to deal with them, instance by instance. However, the honourable member for Unley has moved, and the honourable member needs to know that there is not in my contemplation any means available to the chair to do as the house might direct, should the house choose to support his proposition.

Mr BRINDAL: Mr Speaker, in view of not wishing to compromise you or the dignity of this house, I will withdraw the motion—reluctantly.

The SPEAKER: The honourable member for Schubert has the call.

SPEED LIMITS

Mr VENNING (Schubert): Thank you, Mr Speaker. I continue on my concerns about the farce of South Australian speed limits. In the old days we had two speed limits in South Australia: an open road speed limit of 60 mph, which is 110 km/h, and a city or town limit of 35 mph, which is 60 km/h. There was no confusion. But what have we done? We have allowed other authorities to interfere with these decisions. Firstly, we saw some city councils introduce 50 km/h and 40 km/h limits for its backstreets. Then it went round like a plague. This started the rot, and it was not long before one saw main roads having speed limits reduced to 50 km/h.

Today we see a total mishmash of speed limits across South Australia. A driver has no way of anticipating what the speed limit is—unless they see the signpost, if one is there—apart from the suburban household streets being 50, which we are all pretty aware of. However, the big problem is arterial and access roads in our towns. The speed can be 80 km/h, 70 km/h, 60 km/h or 50 km/h—four options. If you do not know the road and you do not see the sign, not only do you suffer a heavy fine if detected over the limit—and you have an excellent chance of being apprehended as the government puts more and more cameras and radar guns on the streets to raise even more revenue—but also you attract demerit points, therefore potentially losing your licence and your ability to drive a car, all because you made a mistake in presuming the speed limit.

The current situation is absolutely ridiculous. We have a 60 km/h speed limit on the Norwood Parade, yet the Sturt Highway through Truro is 50 km/h. King William Street through the parklands is 50. What a revenue raiser that is! King William Road past Parliament House going down to the Torrens and to the cathedral is 50 km/h—another top spot to raise revenue with a four-lane highway, no houses and downhill. I got caught there doing 63 km/h about 10 months ago. On my trip from West Beach to Parliament House this morning, I travelled through eight speed zones: 50 to 60, to 70, to 80, to 40, to 60 and to 50 on North Terrace.

The upshot of all this is that motorists are totally spooked, and they tend to drive everywhere at 50. The delays in peak hour traffic is causing even more frustration, especially coming on to North, South, East and West Terraces across the parklands. In the last 12 months, a trip from West Beach to Adelaide has taken 15 to 20 minutes longer at peak hour. Only half the cars get over the lights every change, especially on the Sir Donald Bradman Drive and West Terrace intersection.

The other day, to add further to my personal frustration, I was pinged again: 61 km/h going into Gawler on the Main North Road. I did not see the sign because I came out of the race track, which I entered from the other side of the town. I wrongly assumed that the main road into Gawler would be 60 km/h. So I am sitting on 61 km/h and under the tree was the cash register—and yes, another point and, of course, the fine.

Well, Mr Speaker, I am fed up and I know so many other South Australians are likewise. I really feel like not paying this fine to protest, and use the system to highlight what a ridiculous situation we have allowed to occur. I know that this is done under the pretence of lowering road fatalities in South Australia. Well, that may be so. It must help. But the

road toll currently stands at 127, eight fewer than last year. Five of those were on country roads, so we are talking about three road deaths saved in towns and cities. A life saved is a life saved. However, we have to be realistic. We do not live in a nanny state completely.

I note the frustrations of the Royal Automobile Association (RAA) and of the Motor Traders Association—especially its president, Mr Peter Roberts, who received 5 000 signatures on his petition and hundreds of letters of support. Undoubtedly, there is an overwhelming groundswell of dissatisfaction, anger and frustration within the motoring community. It is a nonsense to see speed limits lower than 35 years ago, when both the roads and the motor cars have improved so much during that time. Motor cars are safer and more efficient, especially their tyres and brakes.

This is also very discriminating towards those people who have to drive their cars long distances every day, especially those people who live in country regions. To sit on 50 kilometres all the time—they do not allow it because of the time restraints. Surely it is high time the state government legislates for uniform speed limits across South Australia and, more importantly, have consistent speed zoning. All arterial and access roads should not have a speed limit lower than 60 km/h. Yes; we do see 80s and 70s along Sir Donald Bradman Drive, but they are no problem. I am happy to leave suburban streets where people live on both sides at 50 km/h; we expect and can anticipate that there.

VIETNAMESE AUSTRALIAN WAR MEMORIAL

Mr SNELLING (Playford): On Sunday I had the honour to present, on behalf of the Premier, a cheque to the Vietnamese Australian War Memorial Committee. South Australia has no memorial dedicated exclusively to the fallen of the Vietnam War. I commend the project because it has seen Vietnamese and Australian veterans of the Vietnam War (of which my father was one) coming together to build a joint memorial to the fallen of that conflict.

The Vietnamese Australian Memorial Committee was formed in July 2003, and comprises representatives of all the major Vietnam veterans' organisations. The purpose of the memorial is to remember all those who died in the Vietnam War, to acknowledge the close bond, warmth and friendship that exists between the Vietnamese and Australian veterans' community, and to provide an opportunity for the young to understand the significant part the Vietnam War played in our recent history. The memorial will be located at Bennett Reserve on North-East Road at Manningham. At the presentation was General Nhut Van Tran who was the General of the ARVN, the military of the Republic of Vietnam, and a decorated hero of the Vietnam War. He resides in the United States, and told the gathering at the presentation that proposals to build similar memorials overseas have been strongly resisted by the current regime in Vietnam. I certainly hope that any attempts by the current Vietnam regime to exert pressure on the Australian government over this memorial are resisted.

The proposed completion date of the memorial is Vietnam Veterans' Day, so towards the end of 2005. I commend the many people, volunteers and Australian and Vietnam veterans of the Vietnam War for their enormous efforts in raising the necessary funds to build this memorial. I look forward to attending the unveiling of the memorial late next year.

TAMAR WALLABIES

Mr CAICA (Colton): I wish to grieve today to a certain extent in response to the grievance made yesterday by the honourable member for Goyder with respect to Tamar wallabies. Tamar wallabies were once widespread in South Australia, particularly in the mainland, but by the 1930s they were extinct due to fox preditation and broad scale clearance of their natural habitat for agriculture. Through great fortune and luck, a former governor of South Australia, Sir George Grey, established a population on Kawau Island in New Zealand during the 1860s—a bit like the lost island of Dr Moreau or whatever. But far from being a noxious animal, as asserted by the member for Goyder, the reintroduction of the mainland Tamar wallaby is an exciting opportunity to re-establish the mainland subspecies of the Tamar wallaby which until recently was believed to be completely extinct. It is quite right for him to say that it might be a noxious species in New Zealand, where it was never meant to be, but certainly with respect to its re-establishment in South Australia and the Australian mainland it is not a noxious animal.

The Department for Environment and Heritage worked in consultation with the local farming community and representatives from the District Council of Yorke Peninsula, local tourism operators, the Narungga Aboriginal community, the Friends of the Innes National Park and the Marion Bay Township Committee to develop a translocation proposal for the reintroduction of mainland Tamar wallabies to Innes National Park. Innes National Park, as you would be aware, sir, is a fantastic national park, and one of the best in South Australia, if not Australia.

A consultative committee was established, and a number of amendments were made to the draft proposal to address the concerns of neighbouring farmers. The draft reintroduction proposal was released on 28 July 2004 for a six-week broad public comment period, and 11 submissions were received. This proposal was developed with input from the Tamar Wallaby Recovery Team, which included members from the Department for Environment and Heritage, the Monarto Zoo, University of Adelaide, and the Tamar targeted stakeholders. The translocation proposal shows the Department of the Environment and Heritage's commitment to implement management strategies should Tamars ever achieve densities that may impact on agricultural production.

From a personal perspective, and I am sure that many South Australians would agree with me, I hope that they do in fact achieve densities that will properly reintroduce their numbers back into mainland Australia. A number of management options have been identified in the proposal, such as the recapture of any wallabies that move off Innes National Park for initial two-year period, and I do hope that they breed to the extent that they move off that particular area; a review of the translocation proposal with the Tamar Consultative Committee after six months, twelve months and two years to enable changes to the program if required; and the implementation of longer term management strategies that have been identified, including relocation and fencing if Tamars build up to sufficient numbers.

Tamar wallabies, one of the smallest of Australia's wallaby species, cannot coexist with foxes. Indeed, our emphasis ought to be at removing foxes, cats and removing other feral animals that are, indeed, species that ought to be removed from our particular landscape. Many fox baits will be laid and that should, of course, occur irrespective of the

introduction of Tamar wallabies. While the number of foxes has been greatly reduced, there is still movement of foxes into the Innes National Park from the neighbouring land, and I would urge the farmers and the general community to get behind this baiting program to remove the foxes. Continual fox baiting will be an ongoing necessity to ensure the security and survival of the mainland Tamar wallabies.

Contrary to the member for Goyder's suggestion, Tamar wallabies do not breed like rabbits—each one may have up to one young a year. Capturing wallabies can also be carried out without shooting them, as suggested by the member for Goyder. When I was down on the Yorke Peninsula earlier this year it was unfortunate that, on leaving Innes National Park, I hit a kangaroo with my car. It caused some severe damage and, whilst I do not like to hit any native animals, if there was a choice, it would certainly be more preferable to hit a Tamar wallaby than a kangaroo—I do not think the level of damage would have been at all the same had I hit a wallaby.

This is a very exciting initiative, and I congratulate the minister and the government on it. It is just very lucky that these Tamar wallabies were discovered on an island in New Zealand, and I think the majority of South Australians—indeed, the majority of people on the Yorke Peninsula—would welcome this initiative. Indeed, contrary to the honourable member's views, I think they will become a tourist attraction rather than something that will deter tourists from visiting the Innes National Park, which is, as I said, one of the most beautiful national parks we have in South Australia.

BULL BARS

The Hon. G.M. GUNN (Stuart): I want to raise the issue of kangaroo, or bull, bars on vehicles. From time to time we have had some ill-informed and uninitiated people make comments in relation to having bull bars on four-wheel drives and other vehicles. I spend a lot of time driving in the isolated parts of the state, and the issue was again brought to my attention very clearly on Friday morning, when I had a slight argument with a large kangaroo. He came off second-best, because my four-wheel drive vehicle had a very efficient steel bull bar on the front of it. Without that protective device I would have been stranded on the road at a quarter to six in the morning in the misty rain.

I thought it was important to draw the attention of the house to the fact that these are a very important piece of equipment for people who travel in the Outback. I would think that those who criticise them rarely drive in the Outback, or have never had the experience of hitting a kangaroo, emu, wombat, or any other stray animal which may, unfortunately, be on the road.

The crash repairer at Port Augusta advised me to have the good strong steel bars only if I wanted to be able to continue to drive. He indicated that he had a considerable pile of inferior bars at the back of his workshop that had not done their job. So, I say to the Minister for Transport and to others who, from time to time, have people prevailing upon them and pointing out how bad these things are, 'Ignore that sort of advice and allow a little commonsense to apply.' These devices play a very important role in allowing people to go about their daily business knowing full well that they are going to get to their destination, because it is not a very nice experience to be stranded in the middle of a road in an isolated part of the state at 1 a.m. or 2 a.m.

Only a couple of months ago, I struck two small kangaroos north of Hawker but, thanks to my bull bar, I was able to continue without any scratches. On this occasion my insurance company is going to repair my vehicle, and I am sure that they are going to do it with good grace.

Mr Caica: I wish I had had a 'roo bar in February!

The Hon. G.M. GUNN: The honourable member for Colton understands how important it is, and those characters who advocate doing away with them are misguided, and that has been shown to them.

This morning as I was coming into my office at Parliament House I happened to have the radio on. Roger Taylor was interviewing a character who was involved in a group trying to stop expansion at Roxby Downs. I would, perhaps, describe this person as a tent dweller or someone who has never had to be involved in ensuring that there are adequate resources to maintain services in South Australia. This character went on at great length about everything that is wrong with Roxby Downs. However, he failed to appreciate what is right and what a great benefit to the people of South Australia mining at Roxby Downs is, as are other mining developments—how important Leigh Creek is to South Australia, what an efficient mine that is, and how it is ensuring that we have adequate electricity supplies for the people of South Australia.

This morning I was most concerned that this particular character, the head of a group that claims some credit for stopping the nuclear dump at Woomera, is now focusing his group's attention on trying to stop the proposed expansion at Roxby Downs. I say to him that not only is his group misguided, but they are also anti-South Australian and anti-employment, and I hope that the government and everyone else ignores them as misguided individuals who really need to go and have a cold shower and face reality. People want jobs, they want security, and they want other services which can be generated from the massive amount of income that the state government receives from the wonderful project at Roxby Downs.

Members interjecting:

The SPEAKER: Order!

MITRE 10 MEGASTORE

Ms BEDFORD (Florey): For about a year I, along with many Florey locals, have watched a great deal of activity adjacent to the intersection of North East and Smart Roads. Now completed, it is sporting the corporate colours of orange and black. It was therefore with great pleasure that I represented the Premier at the official opening of a wonderful new retail hardware and garden centre, where I was able to saw through a plank of wood to declare the new Modbury Mitre 10 Megastore open.

Facing North East Road, the giant 7 000 square metre warehouse has been completed over a construction period of six months and provides a range of 35 000 different hardware and home improvement products. The Modbury megastore will employ 130 staff and is the first of up to seven Mitre 10 megawarehouses to be opened in South Australia. This will result in the creation of in excess of 700 jobs (in total) and contribute approximately $21 million to the state economy.

I was welcomed on the night by Mr Barry Fagg, Director of Fagg Mitre 10 Home & Trade. Barry is a prominent Geelong businessman whose family has provided five generations of service since 1854. He has played a great

leading role in the current roll-out of stores in South Australia.

Mitre 10 is Australia's largest independent hardware retailer, and this investment sees more than $17 million poured into South Australia's north-eastern suburbs as part of an aggressive expansion program which altogether will see Mitre 10 roll out 30 new Mitre 10 megawarehouses across Australia over the next five years. This significant investment by Mitre 10 demonstrates the confidence that Mitre 10 has in the South Australian economy. The group commenced operations in the state in 1970, and since that time it has grown to more than 77 stores employing more than 1 000 local full-time staff, and it is now expanding with the introduction of Mitre 10 megastores.

Other major retail developments under way in South Australia include the $142 million Elizabeth City Centre refurbishment; the $100 million City Cross redevelopment; and the $25 million Norwood Plaza Shopping Centre redevelopment—on top of the completed Harbour Town development at West Beach. All this investment indicates a new buzz around South Australia of economic confidence, highlighted by the recent decision by Standard and Poor's to award our state a AAA credit rating for the first time in nearly 14 years, as well as the state's success in the KPMG Competitive Alternatives Study, which found that Adelaide was the most cost-competitive business city amongst cities surveyed in Australia and the Asia-Pacific. This survey of 98 cities in 11 industrialised countries around the world also found that Adelaide was the third most cost-competitive city in the world in its population bracket of 500 000 to 1.5 million.

With increasing consumer confidence we are seeing positives emerge, with South Australia's trend unemployment rate in September 2004 of 6.2 per cent being one of the lowest unemployment rates recorded in the state since the inception of the ABS Labour Force survey in 1978. As a consequence of this increased assurance for the public and increased spending by households, this investment growth in the state of 6.7 per cent in 2003-04, together with increased spending on research and development and an increase in retail turnover of 5.7 per cent in South Australia this year, are positive benchmarks demonstrating business confidence.

The government is continuing to work to further improve South Australia's business climate and its competitiveness as a location for business investment benefiting all South Australians. Mitre 10 is to be congratulated on their investment, particularly the facility at Modbury. The Mitre 10 megastore will set a new benchmark for large format, convenient and cost-competitive big box stores. I note they are also marketing the female DIYer, with research indicating that women are actively shopping in hardware stores. In fact, 60 per cent of women during the past three months have shopped in hardware stores compared to 25 per cent who visited a beauty therapist. That information was ascertained from the 2004 Women Power Survey.

I congratulate all involved in this project and I wish Guiseppe Rocca, the local franchisee, and Paul Wood, the store manager, and their staff well with this megaventure. If the attendance at the opening of the invited guests representing existing business connections and the number of cars that I see in their car park every day as I pass is any indication, this Mitre 10 megastore is a welcome addition to the Modbury Regional Centre's facilities and augurs well for their future. I wish them all the very best.

LOCAL GOVERNMENT, PLANNING

The Hon. M.R. BUCKBY (Light): I rise today to raise an issue of concern regarding local government planning and the effect that has on some local residents. A constituent has approached me with an issue about noise pollution caused by a trucking company which is situated on the property next door to them at Gawler. There are many occasions when, particularly in bushy urban areas, you have what I will call light industry, which has been established well on the outskirts of a town, and then the local council approves further residential development, gradually moving houses closer and closer. You end up with residents living across the street from light industry, and then all the issues of noise, dust and other sorts of pollution become involved.

This is exactly what has happened to my constituent. She and her husband are being woken at between 2 and 3 o'clock in the morning by the noise of transport trucks going out to quarries to commence work for the day. My constituent wrote to the EPA, and she received a reply, which states:

> In this instance, having regard to the priorities above, it has been determined that the EPA is unable to take any further action in resolving this complaint at this time. However, experience shows that matters such as this are often successfully resolved by negotiation between the affected parties.

My constituent had attempted to have negotiations with the transport company, but those attempts had borne no fruit whatsoever. The transport company basically said, 'We were here first, so you have to put up with it.' The question was: where could my constituent turn? Naturally, she turned to me, and I wrote to the EPA and received absolutely the same answer: to go ahead with mediation. They suggested that she approach Community Mediation Services, which is a free service that offers confidential and unbiased advice to assist in disputes such as this. That is all well and good, but the fact is that it did not work; my constituent had already gone down that path.

This reminds me of Adelaide Mushrooms in the south. The same sort of planning by the Onkaparinga council affected Adelaide Mushrooms. The council gradually approved land for residential purposes closer and closer to Adelaide Mushrooms and, in the end, that business was forced out of the area, but not because it had not changed any of its practices. In fact, they had changed some of their practices to alleviate the odour that was coming by having higher venting towers and changing some of their practices as the houses encroached. It was a local government decision to allow this residential development, and it seems that local government is pretty much the same across the board, in that it seeks higher rate revenue by allowing for residential encroachment of land that was previously buffer land, and ends up with the resultant problem of unhappy residents because of pollution of smell, dust or noise generated by those companies that were there in the first place.

This is a very unsatisfactory outcome for my constituent. She is still having to endure trucks starting up and leaving that place of business at 2 o'clock and 3 o'clock in the morning. She has attempted mediation but to no effect, and the EPA is not prepared to step in to do anything further to help her. So, my constituent is in what I would call a lose/lose situation, first, because the EPA will not ensure that she is protected from this pollution and, secondly, because of local government.

INDUSTRIAL LAW REFORM (FAIR WORK) BILL

Adjourned debate on second reading.

(Continued from 8 November. Page 761.)

Mrs PENFOLD (Flinders): I support the sentiments of my Liberal colleagues and very strongly oppose Labor's Industrial Law Reform (Fair Work) Bill. The bill is just payback for union involvement in getting Labor members elected to parliament and an attempt to shore up Labor's financial support base. Many of my constituents may not be aware that unions affiliated with the Australian Council of Trade Unions are branches of the Labor Party and that officials of those unions owe their first allegiance to the union, then to the Labor Party and lastly to members. Where there is a conflict of interest, the union and the Labor Party win out over the interests of members. Instances of this occur frequently in the workplace.

In one particular instance of Labor and union officials wanting to strike, a significant majority of the membership voted against striking. The members were ignored and the strike was called. One of those opposing the strike received death threats. His family was threatened and he was told that his legs would be broken. Very little of the intimidation and blackmail that is part of the union movement is made public. However, it is very real and frightening. There are even examples from Port Lincoln. However, I would be worried that individuals could be identified if I used them here, as our community is so small.

Under this legislation, such unionists would have access to offices even in homes and even if the business does not have any union members but only potential ones. Labor wants to enforce union membership, and a proportion of affiliated union subscriptions goes to the ACTU and to the Labor Party. This in practice means that members of those unions are compelled to financially support a political party. That in itself is bad enough, but the compulsion means that they must support a party to which they may be diametrically opposed. Imagine the outcry if any other political party in Australia tried that tactic, yet Labor gets away with it.

Imagine what would happen if workers were told that, before they would be employed, they had to make a donation to the Liberal Party or, much to Labor and ACTU horror, perhaps to Family First. More and more people are questioning the undemocratic principles behind Labor and its associated unions. However, the bill that we are debating today attempts to kill union opposition while strengthening Labor support. According to the March 2004 Review:

> Unions donated nearly $5 million to the ALP in 2002-03 and since 1995-96 have donated around $40 million.

The ALP was described as a wholly-owned subsidiary of Australia's union bosses. This is money taken from struggling families and young people, sometimes by coercion. In one instance, information from the Australian Electoral Commission concerning donations to the Liberal Party produced headlines suggesting collusion between a company donor and the coalition. The donation accounted for less than 1 per cent of the coalition's fundraising while the total of trade union donations to the Labor Party was 10 times bigger, but no headline suggested that the ALP policy was a payback for union donations.

This payback arrangement is quite blatant even in the Labor government, with just this year a $20 000 seniors grant being used to fund a union history, despite arts grants being available for such projects. Seniors grants under the former (Liberal) government were highly valued by my small volunteer groups, as they were used to provide such things as disabled toilets, access ramps, self-opening doors and airconditioning for elderly people who have given so much to their communities in the past. I quote from the Review as follows:

> These double standards demonstrate the depths to which Australian democracy has descended. The fact that the Labor Party tolerates the provision of discriminatory preferences to its largest donors is accepted without complaint but, when a corporation decides to donate to the Liberal Party, the story is turned into a major controversy.

This controversy helps to ensure that businesses donate equally to Liberal and Labor or do not donate at all.

This bill will particularly affect small, non-unionised businesses that are already struggling to comply with the reams of red tape and Public Service deadlines that have to be complied with or severe fines are incurred, when the same department can take months or even years to complete its requirements and no excuse is given or penalties applied. It seems that, even now, Labor does not want to understand that an unviable business cannot employ. Even a viable business cannot employ when profits are diminished.

The Premier's assertion that his government is pro-business is empty talk designed for media consumption. This bill indicates that some Labor people would rather workers went on the dole and help keep a large unionised bureaucracy employed, despite knowing what this does to the self-esteem of the unemployed and their families. One constituent wrote to a minister in these terms, and I concur:

> I totally agree with steps to ensure that unscrupulous employers do not take advantage of workers, provided that such steps are balanced and fair. Unfortunately, the rather draconian measures in your proposed bill are not so. Existing laws relating to unfair dismissal already lean towards employees. Introducing further imposts will make people like me even more reluctant to either own businesses or employ additional staff. The proposals relating to labour hire firms ignore the reasons why some employers use labour hire firms at extra cost. Some employers do so to avoid the pitfalls associated with being an employer.
>
> Your proposed additional powers for the Industrial Relations Commission will be a further disincentive to employ. The clauses deeming contractors and volunteers as employees are simply foolish. I have been actively involved in giving dozens of school students work experience. Your proposed bill will put an end to this.

All in all, the letter's comments on the bill can be summed up as pointing to a reduction in jobs and therefore employment options for workers, a reduction in businesses and therefore also employment options for workers. Far from being a fair work bill, it is a no work bill that will increase and foster unemployment.

The bill as it stands will target services to our elderly, disabled and their carers among the business activities that will be affected. I quote from a letter from the manager of an organisation that provides these community services. It states:

> We achieve a very cost effective and quality service through a brokerage model in which we do not employ but contract people to provide the services. Some 175 people are registered with us and on average 80 contractors per week are providing services to the aged, disabled and their carers. . . The majority of our contractors only provide two to three hours assistance per week and that is all they want to do. Contractors have a choice of the hourly rate, the service type they want to provide, the hours of availability and level of qualifications to pursue based on the service types to provide.
>
> We as an agency match the contractor skills/qualifications with the clients' needs, and the client has a choice as to which contractor they want, when they want the service and how they want it

delivered. The client can at any time choose to change the contractor. This works to everyone's satisfaction and benefit. When we have asked contractors whether they would value coming under a union/award their response has been negative. They value being 'self-employed' choosing when they work and their work lifestyle.

The average hourly rate is $17.70. After clients contribute to the cost the final hourly rate to the organisation is $15.58 per hour. If we had to deem these contractors as employees then the additional cost and conditions of service would change considerably. Certainly not to the clients' benefit and certainly would raise the hourly cost thereby reducing the number of clients that could receive a service with the same amount of government funding. At a time when governments are being pressured to find increasing funds for a wide range of human services this proposal would either reduce the number of clients able to be serviced or would require an increase in funding. . . .additional costs would amount to. . . a 25 per cent increase in funding and this does not include costs such as staff development, insurance, travel and motor vehicles. If contractors became casual employees penalty rates would also apply. For example, a half hour service would have to be paid at a minimum call out of three hours!

In summary, we believe that implications of bringing all contractors into an employee status or under an award condition be reconsidered most seriously. The implications as they stand will:

- limit flexibility in service provision away from consumer choice;
- increase the costs of services, or the reduction in services or both; and
- force contractors to become employees (no choice in remaining self-employed).

The International Labor Organisation (ILO) has grappled with labor regulation for about seven years. One of its statements issued in 2003 reads:

> While laws and regulations should be sufficiently clear and precise leading to predictable outcomes, they should avoid creating rigidities and interfering with genuine commercial and genuine independent contracting arrangements.

The bottom line of the effect of this bill will be to reduce employment opportunities, threaten the viability of some businesses and reduce services to the most marginal and impoverished in our communities. That is the outcome for what is termed a fair work bill. But then the main thrust of this bill is not for workers, it is not for businesses and it is certainly not for those who need assistance to manage their daily lives: the main thrust of this bill is to increase union power and dominance and make workers more dependent and less empowered while also increasing funding to the Labor Party. One ILO conclusion states:

> Changes in the structure of the labour market and in the organisation of work are leading to changing patterns of work within and outside the framework of the employment relationship.

But the Labor Party does not want this to happen. If such a move as that recognised by the ILO goes unchecked, the Labor Party's funding will be affected. It will lose some of its control of the Australian work force and may have to justify its existence as a political party rather than just being a subsidiary of certain unions.

In line with the sentiments of this legislation, Labor's 2004 national conference supported the idea that 'union-friendly' firms should be favoured in the awarding of government contracts. These firms are usually the bigger businesses located in the cities, ensuring that, once again, small businesses—particularly those located in country areas—are discriminated against. Were the Liberal Party to propose a measure whereby government contracts were more likely to be awarded to companies that were employer and individual worker friendly, the outrage would be widespread. The whole thrust of the bill goes against the ILO, because the ILO is dealing with the world as it is today, not as it was more than a century ago when the Labor Party was formed. The ILO states:

> Self-employment and independent work based on commercial and civil contractual arrangements are by definition beyond the scope of the employment relationship.

The bill prolongs a fallacy that is prevalent in Australia. We have been trained to look at industrial relations from one perspective: the alleged workers' rights image. In fact, industrial relations is a double image, with a second picture being about the core nature of how business is allowed to be done in Australia. Labor considers only the first half of industrial relations and simply does not want to know and understand the second part, which relates to how business is best done to increase employment and the standard of living of our nation.

Small businesses are the incubator for big businesses. People who take risks and go into business often fail before they succeed and regularly risk everything they have. As I have been in an accounting practice for 10 years and run my own business, I am well aware that, for many years, many owners earn less and have fewer holidays than the people whom they employ before they find their feet, if indeed they ever do. Yet this bill proposes that unfair dismissal laws be strengthened when already I am aware of business people who just pay out rather than taking time out of their business and pay lawyers they cannot afford.

However, under one proposed amendment the business would also have to pay punitive damages of up to six months' wages to the employee, in addition to other payments awarded. With this hanging over their head, many businesses would choose not to employ at all, ensuring that they would never become bigger businesses and major employers.

One of the many letters I have received states:

> It appears that the more this highly complicated, wordy and convoluted bill is studied the more it is understood for being an attack against the rights of workers and businesses across a broad spectrum.

I urge all members to reject this bill outright.

The Hon. D.C. KOTZ (Newland): I rise to speak to this bill but, unfortunately, having perused it over a period of time the outlandish proposals that appear in the bill will not have my support. That denial of support for this bill is ratified by the immense number of letters I have received from business and industry—and, indeed, small business—across the state. They have taken the opportunity to express their concerns to almost every member of parliament, at least on this side of the house; and I support their constant urging to seek our disapproval of the bill because of the nature of the proposals within the Labor government's fair work bill.

The government's fair work bill can be classed only as a real piece of work. The use of the word 'fair' in the title of this bill is not just anomalous in its contextual usage but it is anachronistic in its intent. Turn back the clock, the good old Labor Party is back! The class distinction war that their federal counterparts tried to initiate during the federal campaign recently by misinforming the public on the distribution of funds to public and private schools will be seen as a very minor debate compared to what this Labor government intends for South Australian business and industry.

The planned industrial changes will re-regulate South Australian workplaces. It will cost jobs and, certainly, it will bring back union power to create the type of havoc that we have seen in the past. Not all South Australian workers or employers would have been employed or have owned businesses when union power was previously prevalent in this

state. They would not have experienced the 'no ticket no work' era of union dominance. They would not have experienced the trivialities of creative strikes on building sites—strikes that pulled total workplace employees out of business and industry for days or even weeks at a time.

This bill is a recipe for even greater disputes between employees and employers which will surpass that which we saw in the past. Disputes and strikes were part of the past recipe that saw big business move their business offshore to less aggressive and stable environments in order to protect their investments from continual erosion caused by frivolous and contentious strikes that cost industry millions of dollars.

It would be stating the obvious to point out that losing business interests from across Australia into foreign countries lost tens of thousands of jobs to the Australian workplace. However, it may be necessary to state the obvious because this Labor government appears to have difficulty grasping the principle that the biggest threat to South Australia's prosperity is a re-regulated work force. Rather than increasing flexibility and making it easier for employers to employ more South Australians, this Labor government wants to take the state of South Australia back to the industrial dark ages.

Although concessions have been made by the government to drop some of the extreme draconian proposal measures from the draft bill, South Australians should not be under any illusion that those concessions change the intent of this bill. The bill will slug small business with extra cost and, most importantly, it will cost South Australian jobs. This bill will see unions control South Australian workplaces.

Access Economics, which undertook an economic analysis of the original draft bill for Business SA, states in its report:

> The bill may lead to additional negative economic consequences beyond those related to the broad intent of the bill.

On the basis of this Access Economics analysis, Business SA made the comment:

> Neither the Stevens report, the bill, the explanatory information, nor associated ministerial media releases, quantify the likely economic effects of the bill, nor estimate the number of South Australians who may be affected by the bill.

That appears to be quite typical of this government and its ad hoc approach to all of its policy moves. Business SA made further comment, which I find I could not say better myself, and so I look to quote further from their initial response to this bill and its ramifications:

> While increasing the wages and conditions of the state's workers is a noble aim, one worker's wage increase can be another worker's job. Increased wages (without offsetting productivity gains) will reduce employment.
>
> A rise in unit labour costs results in falls in jobs, profits, and the $A, combining with higher interest rates and taxes. Falling private consumption points to a community as a whole, worse off as a result of a pay rise unsupported by improved productivity. The bill does not bake a bigger South Australian economic cake. Rather, it crudely redistributes 'who gets what' of the existing cake with higher wages, higher on-costs and less flexible working arrangements all falling at the feet of employers.
>
> Access Economics finds that the bill may mean:
>
> - lost jobs, (lost to other states, other nations—or just plain lost) and
> - lower investment (so a smaller South Australian economy in the future, meaning that subsequent fights may be over a relatively smaller cake.

It was earlier this year when the draft bill was revealed and the horrendous impact and ramification to business and employment in this state became clear. At this point I want to also commend the shadow minister for industrial relations for his analysis of the intent of this bill, and the initial actions of the shadow minister to alert business and industry in this state of the many vagaries contained within the bill. His further and, shall we say, complete, research into this bill and his commitment to survey all business across the state to seek their opinions on the bill was a supreme effort, and I use the term specifically because the honourable member's actions were not matched by the Labor government, whose own consultative efforts were an abject non-event.

I asked the shadow minister to attend a breakfast meeting that I had organised for the business managers, owners and employees in my electorate of Newland in March this year. The attendance of members at that breakfast were representative of some 1 500 businesses and a greater number of employees. Their reaction to this bill, as members in this place have already stated when speaking about business and industry in their own electorates, was one of shock-horror. They were clearly amazed that this Labor government would attempt to transgress their solid commitment (during their time in opposition) which was given to Business SA when that association promoted its manifesto on policy frameworks which covered:

> The role of government, regulatory regime and economic development.

When in opposition, the Labor government overwhelmingly endorsed these principles. This bill before us works against the manifesto priorities of: promotion of the private sector; encouragement of investment; facilitation of competition; and minimisation of compliance regimes. What we see in this bill is not a minimisation of compliance regimes but a total move to make sure that compliance regimes are at an absolute maximum. The push for the re-invigoration of massively increased union power in this state is quite sadly more about increasing the dollars accessed by the unions through membership than a concern for the health and welfare of business in this state. The forceful measures in this bill will increase membership of the unions, and increased membership means more dollars into union coffers—and where does a large percentage of union dollars end up? Directly into the coffers of the Labor Party, the political arm of the Labor government.

In recent years we have seen union funds support Labor candidates at elections to the tune of hundreds of thousands of dollars. In fact, the honourable Gail Gago MLC, was a relatively recent recipient of those funds over several elections until she was finally successful—but oh, how the funds must have been depleted. This bill will help replenish the union's funds and support future Labor government election campaigns. I would like to draw attention to some of the proposals within the bill that not only have created shock-horror but also quite stagger most of us to think that a Labor Party in this century could actually believe that regressing to this point would be acceptable to the people of South Australia, would be acceptable to business and industry in this era, or would even be acceptable to the opposition parties in this parliament.

One of the proposals is to give unions greater access to workplaces, by allowing them access to every workplace where there is a union member or potential union member. That is every workplace in the state. Currently, unions only have access to a workplace where at least one employee is a union member and access is provided for in an award or enterprise bargaining agreement. This government's proposal would give unions automatic access to all workplaces in the

state. Another proposal is that re-employment should be the preferred remedy in unfair dismissal cases. The government proposes that the Industrial Relations Commission is to consider re-employment as the preferred remedy. This includes the power to make a business re-employ a sacked employee against its wishes.

The proposals in this bill are totally amazing. The legislation does not in any sense pick up business interests at all. It totally denies that there are aspects of the workplace that include relationships between employees and employers and that those relationships are far better left in many instances to both of those entities to be able to decide their conditions and their salary rates, without the intervention of government to this degree.

Another proposal is to introduce a co-employer concept for unfair dismissals where, if a worker is hired through a labour hire firm, both the labour hire firm and its client can be liable for the unfair dismissal of the worker. Two totally separate businesses may become liable for one unfair dismissal. If a business contracts a worker from a labour hire firm for a period of at least six months to work at the business's workplace and the labour hire firm then dismisses that worker, then the labour hire firm and the business contracting the worker can both be liable for the unfair dismissal of the worker and can both be sued. This is so even though the business that contracted the worker from the labour hire firm had no employment relationship with the worker whatsoever. Whoever thought this one up really is one of the most creative, inventive little unionists that I have ever come across. To think that a government would dare to go to that point to create such disputes between three entities in this case is just an amazing situation.

I must point out that, when the shadow minister conducted his survey across the state, many of the responses came from my electorate. With the last three sequential proposals that I have just mentioned, 94 per cent of business people in the area covering many hundreds of businesses strongly disagreed with each of those proposals. A further proposal is that workers engaged for a specific task or period who can demonstrate that they, the worker, had reasonable grounds for expecting employment to continue will be able to sue for unfair dismissal. Now workers employed for a specified task or period may be able to sue for unfair dismissal if they have reasonable grounds for expecting the employment would continue. The emphasis is on what the employee believes. If the employee believes there were reasonable grounds for expecting employment to continue, then that is sufficient to demonstrate that the employer must reinstate that particular worker, even though they may have been working on a casual basis with no expectations coming from the employer that further work would be offered.

A further proposal is that the Industrial Relations Commission will be able to direct that people operating independent contracting businesses are no longer contractors but that they become employees of those that they are contracted to. Any industry or business operating by contracts—industries such as transport, information technology, building and many others—could be taken to the Industrial Relations Commission by unions so that the Industrial Relations Commission could decide whether contractors are operating legitimate contracting businesses or should become employees of the firm they are contracted to. Contractors could find themselves made employees of the companies they are contracted to and could lose their right to operate as contractors.

I do not know what happened to freedom of choice but, when it comes down to a situation like this, I am very pleased to be a member of the Liberal Party that believes in free enterprise. For a government to consider that they can deem, through the unions, any area where a person chooses either to be employed or chooses to be the owner of their own self-employment—but this will not be their choice in the future if this bill goes through. It will be no longer up to the individual out there to decide whether they are capable of running a self-employed business or industry so that they can support their family in the way they wish to conduct their business. No, it will be left to the unions, to this government, to decide that they will no longer be able to make that choice, take that path; they will be forced to become employees of companies they are contracted to and lose their right to operate as contractors.

The whole of this bill is so questionable that it makes me wonder why we are even here discussing it. Not one business, industry or small business across this state that I am aware of has any support for any of the measures that appear in this bill. In the past I have refuted propositions where unions have had so much power that they have become dangerous to the economic workings not only of business and industry but also of the very people that they supposedly, and allegedly, represent. I can also tell this house that I do believe that unions are, and should be, a necessary part of our work force, but I do not believe that they should have the type of power that we have seen given to them in the past, which has destroyed industry and which has moved industry and business out of this state.

If ever there was a comparison needed in order to see what occurs when unions have too much power this state is a perfect example. It is only a little over a decade ago that we saw some of the atrocious occurrences when union power was totally out of control. I believe in safeguards for workers, I believe they should be able to have advocates who speak on their behalf, but I do not believe that the freedom of choice and the freedom of the individual should be regulated by government. This is absolute, abject intervention, and it has no right to take place in a democratic, free speaking country, especially one that allows its own people to have a choice of where the path to their future lies. It does not come about by union domination or this bill.

Time expired.

Mr WILLIAMS (MacKillop): I say from the outset that I will not be supporting this bill, and I will be voting against the second reading. Irrespective of the success or otherwise of the amendments which have been foreshadowed, I believe I will vote against the third reading. This bill does nothing for this state, and it does nothing for the people of this state. This government came into power—and I will not go into that, but this government did come to power, and found itself governing by accident, I believe. It spent at least the first year and probably the first 18 months of its term reviewing everything that moved or did not move in the state, and it said it was going to come up with some plans to rebuild the state. Well, I argue that this state was well on the way to being rebuilt.

In a very short space of eight years, the previous government brought the state from a position of virtual bankruptcy to a position where the economy was going very well. We have seen the growth in the economic activity in South Australia starting to falter already, and that is purely because the government has been out there reviewing everything rather than getting on and helping business and workers to go

about their daily business. Now we have before us a measure which will, I think, significantly undermine the economic growth that occurred during those eight years to which I referred. In its reviewing process, the government first came out with a framework for economic development, and said that this was very important. It held summits and it gathered some people on whom it was going to rely in order to give us that, I guess, road map to success for the state.

Nowhere in that framework of economic development did we see the sort of measures that have been introduced to the house in this bill. Nowhere have these measures been contemplated. In fact, the framework for economic development talked about freeing up the labour market and getting businesses operating even more efficiently and effectively. Subsequent to that we saw the State Strategic Plan adopted by this government and, as I said a number of times in the house and outside of the house, the State Strategic Plan is neither strategic nor a plan; but it is a wish list of objectives which the government believes might win it some electoral appeal. It is not much more than that. It certainly does not contemplate the sort of measures that are put before the house in this bill. I think the government should be out there explaining to the people of South Australia and to the people it has brought in to work on these fine documents, A Framework for Economic Development and the State Strategic Plan, how they see the state moving ahead economically under the provisions that are in this bill before the house.

I do not really believe that the government even expects to get this legislation through the parliament. This is a cynical exercise to appease its union mates. I do not think it is much more than that, particularly when we look at the process of bringing out a draft bill in relation to which I think most members on the government side would have been aghast when they saw some of the measures in it. They were obviously put there to frighten everybody, and then they come back with a bill with some of the more draconian measures having been deleted. Even so, I do not think the minister seriously expects the parliament to cop this bill; I really do not. If it did, and if perchance this bill did pass through the parliament and become law in South Australia, I think the Premier, the Treasurer and the other senior ministers would have some very serious explaining to do to those people who have been working with the government on things like the State Strategic Plan, because most of that work would be completely undone.

Can I also say that I have not noticed across workplaces in South Australia any groundswell of revolt by working men and women in the state against—

The Hon. J.W. Weatherill: Oh yeah, well in touch with the workers of the state; old Mitch, the workers' friend!

Mr WILLIAMS: The minister wanders in and makes another inane comment.

Members interjecting:

Mr WILLIAMS: Well done, minister, shoo him out of here; he is not helping your cause at all. There has been no groundswell of complaint against the current industrial relations system that we have in South Australia, against the balance. That is what it is when you develop, refine and modify an industrial relations system; there is always a balance, and there is a fine line that needs to be taken. To be quite honest, at the moment I think South Australia has a system which is pretty well balanced because, as I say, there has been no groundswell of revolt or outrage from either the employee or employee sectors. Both seem to be getting along fairly well in South Australia at the moment. In fact, the only employees in South Australia that I have noticed in the past 12 months who have concerns with their employers are from the public sector. The public sector unions right across the board, whether they be the teachers, nurses, firefighters or the police, are the only employees in South Australia in the past 12 to 18 months who have raised any serious concerns about the way they have been treated by their employer. So I suggest that the minister and the government should be looking directly into the mirror rather than trying to foist this onto hard-working, industrious employers in South Australia

. I am not going to take up the house's time by going through the bill clause by clause, pointing out its deficiencies and the problems the opposition has with the bill, but I will say that I think the Liberal Party's spokesman on industrial relations matters, the member for Davenport, has done an absolutely fantastic job in presenting the Liberal Party's position on this bill. It is only a short time since we have seen the final draft of this bill—which is a complicated and lengthy piece of legislation—but in that relatively short time the member for Davenport came up with a comprehensive list of amendments and concerns.

Even prior to that, when the draft bill was being circulated, the member for Davenport carried out an extensive survey of business operators right across South Australia seeking their comments on the measures that the government was putting forward—and I am most thankful that the member has forwarded me the results from the businesses in my electorate that responded to that survey, because it has given me quite a resource to work with. It is not to a man and woman: there were several hundred responses from my electorate (the exact number has escaped me) but there were only two that showed any sort of support at all for any of the measures that the minister has before the house.

The Hon. M.J. Wright: You had better go and find them!

Mr WILLIAMS: I have already identified them, minister. I am going to visit them, and I think I will take a good doctor with me because I think they may need one! There is no support for virtually any of the measures from the business or the employer sector. The minister must understand that not one person in South Australia—not one unionist, not one person who relies on being employed by someone else—would have a job unless the business was viable, because the payment of wages and the provision of conditions all come from the funds generated by the business employing the workers. I wish I had thought to get this quote but it has just popped into my mind so I will have to paraphrase—Henry Ford, that great American industrialist, pointed out in his book *My Life and Times* that all the manager did in running a business was ensure that the business operated viably so that it would generate funds to pay the work force and keep them in employment. That is what the manager of a business does. Unfortunately, the Labor Party continues to ignore that, continues to overlook that fundamental fact.

Here we are in the 21st century with, as I say, no groundswell of revolt from working men and women in this state about Draconian working conditions or sweatshops, or about Third World working conditions—as one minister would have us believe if we listened to him in question time yesterday and today. And not only is there no groundswell, there is not even a squeak out there about the Draconian industrial relations system that we have here in South Australia. Yet this government brings in these outrageous provisions to try to appease its mates in the union movement.

I have downloaded the industrial relations policy that the Labor Party took to the last election from their web site, and reading through that I can say that there is no talk of these measures in there. I do not know where the minister has pulled them from, but they certainly were not open and accountable with the electorate in the run-up to the last election when it comes to industrial relations. In fact, I know they were not open and accountable to the electorate about a whole heap of policy areas because there was no policy statement on their web site in a lot of areas—tourism and transport being but two of them. However, I believe the Labor Party's industrial relations policy position was there on the web site at the time of the election but it did not mention any of these measures that the government would have the parliament enact for them.

To go back to the point I was making, paragraph 27 of that policy 'Terms and Conditions of Employment' says:

> Labor believes:
>
> That all persons have the right to secure and satisfying work for fair remuneration under conditions which protect their safety, health and welfare, which enhances their personal development and provides for their income security in retirement.

Very lofty words—no-one would argue against them—and I would like to think that everyone in this state had the opportunity to meet those lofty aspirations. But how can you give someone the right to secure satisfying work for fair remuneration, etc., if someone is not managing a business to provide that work? Someone has to manage a business, someone has to bring the resources together to enable that person to carry out their job and produce some saleable product or service to generate the funds that will provide all the things the Labor Party describes in their policy. That is the key fundamental of industrial relations—you have to have the balance where one man or woman is willing to go out and, generally, take a considerable risk to manage and run a business to provide employment for others who choose to be employed by someone else.

I believe that more than 80 per cent of employment in South Australia is created through small business enterprises. The provisions of this bill cut to the heart of managing a small business enterprise. Small businesses do not have the resources to manage the complicated issues that will arise as a result of this bill if it ever becomes law. Large corporations employ specialist industrial relations and human resources people who do nothing but look after the welfare and needs of their work force.

Mr Caica interjecting:

Mr WILLIAMS: The member opposite laughs, but a number of the larger industrial corporations around Adelaide do very well in providing for their work force, so I do not think the honourable member should laugh at that. If the government closed down a few of those major corporations in the city of Adelaide, plenty of people would be very unhappy with the Labor government for doing so.

I want to mention a couple of things which really concern me. I will not go chapter and verse through all the clauses in the bill, but I will refer to the transmission of business provisions which come into force if somebody purchases a business. This goes to the heart of the matter that I am talking about: having a viable business. From time to time, a business—it may be a large business or a relatively small business—finds itself in jeopardy. Historically, often that situation has arisen because of industrial relations issues. If we put into law that, when a business goes into receivership and is taken over by a new owner, the new owner will have to take on all the enterprise bargaining agreements that were struck under the previous ownership, all we will do is transfer those inherent inefficiencies which caused the problem with the business in the first place.

I will cite a business in my electorate, a meatworks at Naracoorte, which was built in, I think, the late 1970s. Although it started off as a very viable business, it has had a relatively chequered history over much of its life, largely as a result of work practices. It was taken over by what I would argue is one of the best abattoir operators in Australia. If this provision had been in law when that company was taken over, I think four years ago, those abattoirs would not be working today; they would never have reopened. By the time the business was taken over, those abattoirs had not been operating for quite a number of months, and they would never have reopened. I think you could say exactly the same thing about the abattoirs at Murray Bridge.

Those two businesses, between them, employ, I would suggest, in excess of 700 South Australians. So, just this one provision would have meant at least 700 fewer jobs in two provincial centres in South Australia. If you use the sort of employment multipliers which are generally used in regional development circles when you are trying to work out the employment implications of creating new jobs, that probably transfers to somewhere between 2 000 and 3 000 jobs that would have been lost from regional South Australia if this provision had been in law when those businesses last changed hands. That is just one example and, as I said, there are a number throughout the bill.

Another provision which particularly concerns me is that relating to labour hire firms. There are unfair dismissal provisions in the bill, and it is deemed that people who utilise a labour hire firm to provide labour for their business could become embroiled in an unfair dismissal case. That is absolute nonsense! One of the big economic drivers in regional economies in South Australia for the last seven or eight years has been the wine grape industry, which relies very heavily—

Mr Brokenshire interjecting:

Mr WILLIAMS: —yes, right throughout the state—on labour hire enterprises to provide labour for their businesses. It works very well as it is. I have not heard even one squeak or a groundswell of outrage from people working for these labour hire companies about their terms and conditions of employment. Without these companies, the wine grape industry would not be the great industry that it has developed into in recent years in South Australia, giving much impetus to the South Australian economy and, in particular, bringing in, I think, in excess of $1 billion in exports for the coming year. That is another example of the sort of things that if this bill had been law prior to—

Time expired.

Mr BROKENSHIRE (Mawson): I want to put on the public record concerns that I have about this bill, particularly on behalf of my electorate, because I have received enormous representation over a great period of time now with respect to the impost that this will have on not only employers but more so employees when they are not able to put on the table the bread and butter that their families have been able to enjoy for several years. This bill is different from the original bill introduced by the Labor Party, but it still shows the true colours of the Labor Party when it comes to its lack of understanding of economic success and everything to which we aspire: that is, very low unemployment in this state.

The best thing that any parliament or government can do for anybody in a state or a country is to give them a job. That is what it is all about. Wherever you go, people will tell you that the number one thing that they want over and above a happy home life is to have a job. These jobs are now under threat. Fortunately, because of a lot of hard work by the opposition and business sectors, a few of the draconian measures that would have put us back nearly three centuries have been taken out of this bill.

However, this bill will still take South Australia backwards, not forwards. I want to congratulate the shadow Minister for Industrial Relations, because I believe he has done a good job with this bill. As for the Minister for Industrial Relations, he is a glutton for punishment for bringing dopey bills into the parliament, because only a couple of weeks ago I had to work with him for 30-plus hours in this chamber to try to get some sort of sense and balance into addressing problem gambling. Sadly, on that occasion we failed as a parliament to get to the core of the problem of problem gambling but, hopefully, we will not fail on this occasion in trying to stop this draconian bill.

This bill clearly was a deal done by the Labor Party for financial support from the union movement. The union movement, if it really wants to get members, ought to be out there looking after union members. If people want an example of that, my experience would say the Police Association, which is a professional, modern union that actually does a good job when it comes to representing its people, which is why it has 98 or 99 per cent membership. Some of these other draconian and archaic unions ought to look at a modern union in action, getting good results, good membership and not working against the best interests of the employees that they represent, because they understand that there has to be a two-way street.

Clearly, workers have to get a fair day's pay for a fair day's work. In fact, I would like to see increased good conditions for employees. As an employer myself, one of my greatest privileges is to know that you have had some input into the future direction; when someone who works for you can come smiling because they have bought a property, a car or furniture. Those are the things that give you great satisfaction when you run a business. But this bill is fundamentally and ideologically flawed. I would suggest that the people who have had the greatest input into this bill are the unions—possibly some young, fresh academic graduates who have not actually utilised their degrees in the workplace and understood the importance of looking after an employer and an employee—and, of course, the Labor Party, which has no experience whatsoever when it comes to business.

That is why we are seeing trend indicators in this state working against business at the moment. Whilst that may not become clearly evident before the next election, in about 2006-07 we will see what this government is actually doing in driving business and driving economic opportunity backwards. That is sad, when you consider that we have come from a tough history in this state, a lot of hard work done by the Liberal government in this state together with the federal Liberal government, to create the opportunities that we now have where people feel good about themselves, feel good about employment opportunities and are actually spending disposable income. I want to touch for a moment on disposable income.

You have only to look at the real facts to see that employees have done extremely well and in real terms are well ahead with their take-home pay today in South Australia and Australia from what they were under the previous Bannon and Arnold Labor governments in this state and the Hawke and Keating Labor governments federally. That has come about because there has been a modernisation of industrial relations practices and a partnership between employees and employers. There are many examples now of where employees are very happy with the way in which industrial relations are managed.

Frankly, I have had next to no representation as I move around the community, either in my electorate or in the broader part of the state, when it comes to saying 'reinvent the wheel' or 'change the wheel' with respect to industrial relations. There has not been representation because, whilst we all want to see more money in our pay packets, people realise that there has to be a net bottom line profit for a business or they will not have a job. And, as I said earlier, it has to be fair for both parties.

I want to put a few points on the public record. The business survey in my own electorate, where lots of my constituents commented, was interesting. Most of the things in the bill they disagreed with or strongly disagreed with, and then they had a comments section. They said things like, 'Leave things as they are.' They said:

> To be able to employ more staff and expand the business without exorbitant costs, and stop the unions having too much power.

They are not saying that employers do not believe that unions should have reasonable power to protect their people, but that this bill gives too much power at the expense of legitimate small business owners who want to expand and grow. It goes on and on. One constituent says:

> I need to employ staff soon but not under this proposed legislation. . .

or 'these rules', as another constituent put it. It goes on like that throughout the responses. Then you get comments from industry. I want to say that I am surprised that Business SA feels reasonably comfortable with the amendments that are here now, because I do not feel comfortable with the amended bill. In fact, I will be opposing this bill. It is interesting to hear a number of other business industry group leadership organisations saying that this is still a bad bill for people in South Australia and a bill that should be thrown out of the parliament. I quote a paragraph as follows:

> This bill is in every sense anti-employer and therefore anti-business generally, and also the prosperity and economic wellbeing of South Australia. . . This is not an isolated view of our industry. It is the view of a significant part of business and industry in this state.

They are two very good sentences that sum things up. Why risk the growth that we have had just to satisfy the union mates of the Labor Party? This is not about what is in the best interests of employees at all. In fact, it goes against the national trend when it comes to modern industrial relations, and we will be seeing a totally different direction federally when it comes to keeping unemployment low and keeping people in jobs. If this government was really serious about looking after the economy, it would be doing much more in spending money on infrastructure and on a proactive WorkCover strategy, because something that none of us wants to see is unsafe workplaces, yet we saw what happened with some of the initiatives with WorkCover a while ago that were proactive. Some of them have been cut.

We see where South Australia now sits at no. 6 in how expensive it is. In other words, it is the last state in Australia to have a competitive WorkCover these days. That is a concern for employees. This is where the government should

be putting its attention if we are to continue to even have a chance at maintaining jobs in this state—and we are not even talking about job growth, because you only have to look at the short-term indicators in employment to see that South Australia is starting to get away from the national average again in its unemployment numbers.

South Australia has seen a mass exodus of women from the work force (which is very sad) against the national trend, where more women are getting work; and we are seeing even more part-time jobs coming into South Australia. They are the areas on which the government needs to focus, not on an archaic bill that will not help workers. We all know that workers need (as I said earlier, and I want to reinforce this) protection and opportunity, and that is paramount. However, they can get that protection and opportunity only if businesses are making a profit.

I can tell the house that, whilst things appear on the surface still to be good at the moment, when you actually start to look into the business sector and split up the industry sectors, you will discover that in this state a number of businesses are doing it quite tough and finding that the only way they can continue to get product into the market is by cutting, more and more, the slim profit that they make.

We know, for instance, that we have had an artificially high real estate industry in South Australia for some time and, whilst at the moment South Australia's real estate industry has not come off the boil to the same extent as has the market in Sydney and Melbourne, it is starting to trend down and will come off, and stay off, the boil a lot longer than the market in the eastern states; and it will get worse if we have legislation such as this—because there will not be the job growth and there will not be the opportunities for bringing critical mass into this state to increase our population (as we need to do) if, indeed, employers do not have the confidence to expand.

It is very simplistic for some people. I have heard them say, 'We have lost the Mobil oil refinery; sadly, also, we have lost Mitsubishi at Lonsdale; and we have lost 60 jobs from another major company in the south.' And this was the answer to the problem of losing around about 950 to 1 000 jobs our own southern suburbs—this was the answer from a particular person who is involved in economic development for the government: 'If every small business took on one person, that would solve the problem.' That is a simplistic solution and perhaps that might be true, but it will not happen when there is legislation such as this before the parliament.

I have here a sample of responses and feelings from my own electorate saying that this bill is anti employment, anti jobs growth and anti business, and they will not wear it. So, they will not take on that one person and run the risk when they know that there could be inspectors and unions coming in all over their business. Of course they will not do that. Some of them have been there before and tried to cope when that happened.

I say to the union movement that it has a place—I have always said the union movement has a place—but it must earn that place. As an employer, I am a member of an association, because I sometimes need the support and back-up of that association, just the same as an employee does. But, why have employees run away from the union movement over the last 10 years? Why is it that only about 30 per cent on average, as I understand it, are now members of a union? It is because the union has not delivered for them: that is why. Many people who are still in the union movement today say, 'Robert, I am in the union movement for one reason only,' and I am quoting the school teachers. They say, 'Robert, I am in the union for one reason only, and it is that if there happens to be an incident where I have a problem as a result of a teacher-student relationship, the union is there to give me support and help.' That is the key reason why they are in the union.

So, I say to the union movement: modernise yourself, go forward and get back to looking after those employees, and they will be happy to pay the $300 or $400 union fees. But many of them have told me in recent years that they would rather take their wife and kids out to tea a couple of times a year because they reckon they get better value out of that than blowing $300 or $400 a year on a union that is back in the dim, dark ages. I say again to the union movement: if you want to look at a modern union, look at the Police Association, because that is a model that I would hold up high as being a very good union, a modern union and a union that gets results.

Finally, Mr Acting Speaker, as I come back to this debate with respect to this bill, this is what you get with Labor. You do not get an opportunity to go forward. You have a Premier who has modelled himself on Premier Dunstan—that was back in the 1970s—and you now have an industrial relations minister bringing legislation into this parliament that is also going backwards into the 1970s. I thought we had just gone into a new century and grown past the 1970s era and that we had learnt from previous mistakes and were now creating long-term, sustainable opportunities for the existing work force and, even more importantly, for future work forces.

There is enough pressure on businesses on a day-to-day basis now. Profit lines are thin and each day more people are saying to me they are seeing less spend in their business when it comes to retail. So, potentially, we have problems looming there. I say to the parliament: be serious about the best interests of South Australia's economy, and understand that it is not a dirty word to make a profit and that you can give employees jobs and opportunities only if you are making a profit. The Labor Party has often said that business is a capitalist; it does well; it is fat; it makes profit; and it is a baron or a baroness.

The Hon. P.F. Conlon interjecting:

Mr BROKENSHIRE: Plenty of times. The government says that business can afford it. Well, I tell the Labor government today to have a good close look at what it is doing because, at the end of the day, it does not support the blue collar workers any more. In fact, I do not think the Labor Party really knows where it is. Someone said only today that they could not work out what colour the Labor Party really was any more. Of course, blue collar workers are realising that they are better off with a Liberal government. Look what they did with the Howard government. Where were the swings? It was in the blue collar areas, and why? It was for two simple but basic reasons. Hard-working husbands and wives, hard-working men and women, partners, or whatever, want prosperity for themselves and their children, and they know that two things are fundamental to that: first, a job; and, secondly, keeping those job opportunities ongoing in a sustainable manner by keeping inflation rates down by having a fair and reasonable workplace relationship which, by and large, is there. There will always be exemptions to that and, if an employer is not doing the right thing, clearly, processes and structures are in place to address that.

By and large what we have now is working well. Let us not damage that and see unemployment go back to where it was when the now Premier was the minister for unemploy-

ment. I think unemployment peaked at 12.6 per cent, at least. That was the record of Premier Rann when he was the minister for employment or, as he was better known, the minister for unemployment, because unemployment was growing so much. Let us not allow this Premier to get his hands on this sort of legislation to get back in the hip pockets of the unions so that he gets more money for the next election at the expense of the people in whom the Liberal Party believe, that is, the families, employees and employers of this state.

I ask the parliament to reconsider and do itself a favour and, even more importantly, do the South Australian community a favour, and pull the bill. Let us get on with business in this state; let us get on with growing opportunities in this state, rather than what this bill will do, that is, turn back the clock so far in South Australia that it will not give our young people, the next generation, the opportunities for which we have worked so hard over the last 10 years. I condemn the bill. I ask the government to get rid of this nonsense and let employers and employees get on with growing South Australia.

The Hon. M.J. WRIGHT (Minister for Industrial Relations): I thank all members for their contributions. This is an important debate; and, obviously, there is a variance of opinion with respect to a large part of this bill.

Members interjecting:

The Hon. M.J. WRIGHT: I have been able to detect that in the contributions of members opposite. This bill is about a fair go for all South Australians. Many South Australians do not earn even a minimum wage, and we do not think that is acceptable. Many people to whom I have spoken are surprised to hear that there is not a minimum wage. The national wage case and the state wage cases about which we hear affect only people who earn under an award. People without an award have no minimum wage, and in this day and age I do not think that is acceptable; and I do not think that the broad cross section of the population thinks that it is acceptable, either.

As part of our commitment to fairer industrial relations outcomes, we think there should be a minimum wage for all South Australians. We think that is fair and we think that South Australians think it is fair.

The bill also proposes that carers' leave and bereavement leave be included in the act as a minimum standard. These are common award entitlements, and South Australians who do not have an award should be able to access these basic entitlements as do people who are covered by awards. Under the bill, up to five days of the existing 10 days' annual entitlement to sick leave can be taken as carer's leave. This does not increase the amount of sick leave but simply does what I just said.

The bill also proposes a minimum standard of two days bereavement leave in the event of a death. We are also proposing amendments to try to make sure that outworkers—some of the most disadvantaged people in our community—get paid for what they do. That does not seem outrageous to me. Currently, outworkers can find it hard to recover moneys they are owed. This proposal makes it more practical to recover debts owed to them, and I believe that all people would see that as a fair thing.

We are also restoring the powers of industrial relations inspectors after they were downgraded by the previous Liberal government. Currently, inspectors cannot conduct an investigation without a formal complaint that identifies the employee; and, very often, employees will not raise their concerns if they know that that will be identified to their employer. The law should be observed. Just like we expect the police to police our police laws, our inspectors should also be able to police our industrial laws. This amendment makes that possible—nothing more, nothing less.

Again, I should have thought that South Australians would believe that to be fair. We make a case that this bill is about fairness for all South Australians. I appreciate that the opposition has a different point of view, but I guess that is one of the different philosophical positions between the two major parties.

I would also like to draw to the attention of members the government amendments which I filed straight after Labor caucus today at about 12 o'clock. I apologise that the shadow minister has only recently received them. I have been informed by the Clerk that there was some hitch beyond our control. I do apologise for that.

The Hon. I.F. Evans: You told me last night that you were not making any amendments.

The Hon. M.J. WRIGHT: No, I did not say that. I will give a general outline of the effect of the government amendments. Amendment No. 1 is the definition of 'workplace', and it is relevant to union right of entry in particular. We amend so that there is no right of entry to employer's homes except where outworkers are working. Amendment No. 2 relates to the definition of a group of employees. It is relevant to enterprise bargaining and it ensures that our proposal for multi-enterprise bargaining works effectively. Amendment No. 3 relates to declaratory judgements. It is a clarifying amendment. Reference to any relevant provision of this act was always directed to the definition of contracted employment under the act, and that has been further clarified.

Amendments Nos 4 and 5 relate to declaratory judgements. They make it clear that people who may be employers or employees can apply, or that their representatives can apply. If their representatives apply, they do not have to disclose the identity of the person on whose behalf they are applying to any respondents to the application. However, they must disclose it to the court on a confidential basis if the court asks them to do so. Amendment No. 6 is about the definition of outworker. It addresses concerns about potential unintended consequences in terms of who is defined as an outworker. It makes it clear that when someone is an outworker as defined they are entitled to all the benefits of the act.

Amendment No. 7 is about the minimum remuneration provisions. It is clarifying the intent in regard to machinery provisions such as transitional arrangements. Amendment No. 8 is about enterprise bargaining agreement involving the disabled. We have received representations asking for changes to the language and we have done so to recognise that. Amendment Nos 9 and 10 are simply typo errors. Amendment No. 11 is about record keeping. It is making clear that the exception in that provision relating to time books is in relation to circumstances where remuneration does not change based upon hours worked. It essentially relates to salaried workers.

Amendment No. 12 is about inspectors' powers. It makes it clear that inspectors can enter workplaces as defined, as well as other premises where work is performed or records are kept. Amendment No. 13 is technical. It is consistent with Clause 63 of the bill. It is simply providing that where the Full Commission in hearing an appeal wants a member of the commission to hear further evidence they can refer it to any

member of the commission, which would include a deputy president instead of being limited just to commissioners.

An issue that has been raised with me is the insertion of the word 'clean' into the definition of outworker. Quite clearly those sections are qualified by the use of the words 'articles or materials'. We are talking about cleaning objects not premises. Also in relation to the operation of the minimum standard for severance pay, I can confirm that it is only intended to apply where there is an application under subsection (5) of that provision.

In conclusion, once again I thank members for their contribution. Much of this bill is about the disadvantaged. The most disadvantaged are largely not members of the trade union movement. This is about fairness for all. It provides a safety net for all South Australians. It is about restoring the balance. In conclusion, I would like to thank all of the stakeholders who have participated in a long consultation process, too many of them to name them individually, but I would like to thank all of the stakeholders for the consultation process. Obviously we have listened to the stakeholders, and we have made significant changes as a result of the draft bill and the consultation process. I think that this bill that comes before us is a good bill for all South Australians, and I look forward to a successful vote at the second reading and going into committee.

The house divided on the second reading:

AYES (22)

Atkinson, M. J.	Bedford, F. E.
Breuer, L. R.	Caica, P.
Ciccarello, V.	Conlon, P. F.
Foley, K. O.	Geraghty, R. K.
Hanna, K.	Hill, J. D.
Key, S. W.	Koutsantonis, T.
Lomax-Smith, J. D.	O'Brien, M. F.
Rann, M. D.	Rau, J. R.
Snelling, J. J.	Stevens, L.
Such, R. B.	Thompson, M. G.
Weatherill, J. W.	Wright, M. J. (teller)

NOES (20)

Brindal, M. K.	Brokenshire, R. L.
Brown, D. C.	Buckby, M. R.
Chapman, V. A.	Evans, I. F. (teller)
Goldsworthy, R. M.	Gunn, G. M.
Hall, J. L.	Hamilton-Smith, M. L. J.
Kerin, R. G.	Kotz, D. C.
Matthew, W. A.	Maywald, K. A.
McEwen, R. J.	McFetridge, D.
Meier, E. J.	Penfold, E. M.
Venning, I. H.	Williams, M. R.

PAIR(S)

White, P. L.	Redmond, I. M.
Rankine, J. M.	Scalzi, G.

Majority of 2 for the ayes.

Second reading thus carried.

The SPEAKER: As is customary, I will make the remarks for the benefit of my own constituents when the house resumes, which shall be at 7.30 p.m.

[Sitting suspended from 6.03 to 7.30 p.m.]

The SPEAKER: I again say how much I appreciate the indulgence the house allows me to put on record my thoughts. I am happy to be accountable for them. In the first instance can I say I am disappointed that, in the 21st century, in our approach to human relations in the workplace we still seem to have been unable to get away from the notion that there is a class war still on foot, that has its origins particularly in Ireland, but more recently in Australia that the ruling classes and the nobility need to be cut down to size by those in the work force who can do so, if for no other reason than to simply cut them down to size. I acknowledge that for centuries the work force, from feudal times onwards, were not given just reward for the efforts they made in producing the wealth that society enjoyed.

However, having made that point I guess it is fair to say right now—as I think the member for Stuart said—that the Liberal Party should be expressing gratitude to the Labor Party for the introduction of this legislation because, frankly, it will fill the Liberal coffers for the next election, from small business and medium size business based in South Australia, which finds itself unable to move, out of the fear that people who are the entrepreneurs of such businesses have—the owners and managers—that they will be much worse off if they allow this direction to be taken in the change to the law, to the extent that they will no longer possess control of their businesses and they will no longer be able to make and determine arrangements and establish relationships with their work force. They will find that they have to do it through an agent and more often than not, regrettably, the agent will be more like an agent provocateur than an honest broker in the deal.

Having made the remark—not with tongue in cheek in the least—that the Liberal Party should be praising the Labor Party and thanking them for bringing in this legislation, for the reasons I have said, that, of course, makes me fear for my future, having to recognise, as I do, that, for better or for worse, not members of the Liberal Party in this place but members of the Liberal Party extant are prepared to spend as much as something over a half a million dollars to see the end of me, whenever the opportunity presents itself.

I commend the remarks, though, that were made by the member for Morialta—not because she had necessarily attacked the underlying proposition put in support of the legislation by the government, and eloquently argued by the member for Cheltenham, who is, of course, the Minister for Families and Communities. For us to have seen such debate in this parliament has not been a common experience in recent years, and, if for no other reason, I found the debate to be interesting for that reason. Of course, the member for Morialta failed to draw attention to what I might say—tongue in cheek or however else you might choose to put it—that if this bill find its way into law then God help massage parlours. Occupational health and safety implications for massage parlours makes the mind boggle. I cannot see how it will be possible to apply this law to the people who have to work there, be they male or female. Nonetheless, I am sure honourable members will be able to address that in the course of the debate on the clauses in the committee stage.

I hold the view that the amendments to the bill that have been drafted (and this is no reflection on the minister, because I also share the view with others that the minister has to deliver this legislation, at least into the parliament, as part of the rites of passage for any Labor minister in a Labor government: if the minister does not bring such propositions into the parliament at least once in the course of the parliament, woe betide the minister; the Trades Hall would not wear it), in this instance, have merely been shifting the pea under the walnut. The words have been altered and the emphasis in the bill, in the places in which the provisions are

addressed, has changed, but the effect is pretty much the same. And we do not know what regulations might be brought in by the executive should they find that they are not blessed with the passage of this bill but cursed by it.

I do not know that honourable members anywhere in the debate engaged in diatribe to any great measure, and I was pleased by the way in which most members addressed it. It made it easier for me to understand their view of the legislation and probably some of its contents. The member for Unley, nonetheless, says diatribe is unnecessary. Well, it is all part of the political process, and it has to be expressed so that everyone's view about such proposals, regardless of what position they take on them, is nonetheless aired, and debates of this kind are an important part of ensuring that we argue what ought to be done here in this place in its two houses rather than fight about it, as so many other countries do, out in the streets or in the wider community.

Parliament is the glue that holds the society together, because it ventilates those differences and forces a resolution of them in a timely manner, however unpleasant it may be to any one of us for some of the decisions and however delightful it may be to others. It is, nonetheless, pretty good.

I am attracted to the honesty of the argument that was tendered by most of the contributors from the position they took, but my own position is pretty much like that of the member for Chaffey, in that I believe the legislation does lack clarity, and I think the state's economy ought to deserve better than that. I worry about the implications of how it will be introduced and enforced, if it ever does see the light of day, and I agree that it will create disputes, not resolve them.

The worry I have is that the 80 000-odd small businesses in South Australia will not be well served by its substance. I wonder if the Economic Development Board ever envisaged the changes to what were in the past referred to as industrial relations measures, and what I think we ought in future to refer to as enterprise and economic development labour market relations measures, because that is what they ought to be known as. People's minds ought to be focused upon them. But the Economic Development Board's view of these proposals is something that we do not have the benefit of understanding. It has not been given to us; therefore, we cannot understand it if it has not been spelt out to us.

It is distressing to me that we have such a board yet it is denied the opportunity to make public utterances about such important legislation. If any legislation can do anything to turn this state into a mendicant state it is legislation in this domain which will do it. A mendicant state means that we would be beggars having to go to the commonwealth on a smaller economic base than we have now and beg for more money, simply because we do not have a sufficiently broad and vibrant, viable taxation base, with driven capital and skilled workers who want to be rewarded, not just for the fact that they have a job but also for what they contribute to extra productivity and the improved profitability of businesses as well as contributing by reducing the amount of money that has to be spent on repairs and maintenance and so on.

If anything in the 21st century, our attitude as legislators ought to be to encourage people not to think about the job as being something we do where we are exploited by the boss, but rather the opportunity we have to contribute to society. The incentives for taking the work ought to be not so much a commitment to a block pay packet in the wages we receive or the salary we get each pay period (weekly, fortnightly or monthly) but more especially that we get a retainer. In addition to that, according to our personal confidence, in working with our team-mates to generate improved productivity, we get a bonus. Equally, another form of bonus is worked out on improved productivity through the reduction in costs of repairs and maintenance that our skilled application to the job would provide. That should be done in a consultative fashion in the workplace between the employer (that is, the job provider) and the work doer.

I share the view of the member for Fisher that there are some rapacious employers around the place who will never reward people who do extraordinary work. Indeed, they are rapacious to the extent that they will even exploit young people or anybody who wants a job by saying, 'Come and prove your mettle and show us what you can do,' but at the end of the day—say the boss was not here for whatever reason—come back at such and such a time. This has been drawn to my attention, and I have gone and seen the miscreants that have done it and let them know that I will not tolerate it if they go on with it. These are employers who bring in five or six young people and give them work for three days to prove their mettle, but pay them nothing. The employer then gets up to 20 days of free work out of those folk who aspire to do the job. In one instance that I know of the employer probably managed to get that much out of them in two weeks: 20 days of free work—and then they appointed one of them. That is improper.

To the extent that this legislation addresses that matter, it is commendable, but it otherwise frightens the hell out of honest and honourable employers by imposing draconian requirements upon them. It dictates how much they will pay as a base rate and denies the opportunity to the employer to have a sociable and responsible relationship with their employees and to work together in harmony to generate the wealth that will service the debt, replace worn out equipment, expand the business, and provide well-paid jobs and prosperity for the people who do the work as well as their families. That is what we should be aiming for, but that is not what the general thrust of this legislation will deliver.

There needs to be the means by which employers are encouraged to reduce the base rate and pay more than would otherwise have been the case by rewarding extra productivity per unit time and reduced costs of repairs and maintenance. I note the point that this legislation had no part in the compact for good government. Indeed, the commitment in the compact for good government was to get a rapidly growing economy. Such legislation as this does not enhance the prospects of achieving that. If we now look at the world scene and try to find a model we might copy, where prosperity has been generated quickly by such societies as have succeeded in doing it to the point where they now nearly match us, with nowhere near the measure of natural resources and broadacres from which agricultural wealth can be derived, we only have to look at countries in our region that have done it. While some members lament sweatshops, it is better to have work in a sweatshop than to starve to death; at least they can live. If you look at the speed with which prosperity has spread through the society, generally, in places such as Taiwan, Germany after the Second World War, Singapore and Korea, you see that it is not necessary to have these draconian measures to generate wealth, where there are no natural resources, such as Singapore and Korea; yet by buying in the raw materials, reprocessing and adding value to them, and selling them to the world markets those societies have made themselves very prosperous indeed.

The emerging nations that are doing just that, copying those models, are Vietnam, Czechoslovakia, Poland and

China. The rate of growth there has exceeded anything we have ever known in this country since the wool boom. Their labour relations laws do not set out to model themselves upon the bigotry of the class warfare that once seemed appropriate, if it was ever appropriate; it only ever seemed appropriate to me more than 100 years ago in Ireland, and more than 100 years ago perhaps in the UK. It has no place in the 21st century, and the attitudes which drive it ought to be removed from the minds of those of us who have the responsibility to provide the means. I thank members for the chance to put those remarks on the record.

In committee.

Clause 1.

The Hon. I.P. LEWIS: I move:

Page 4, line 3—
Delete 'Fair Work' and substitute:
Enterprise and Economic Development—Labour Market Relations.

This amendment has been circulated. I think it is important to send a signal to the community that the parliament understands what matters in generating wealth through the efforts we all make each day in our paid employment. To my mind, 'Industrial Law Reform (Fair Work) Bill' is too much rhetoric, too much a pejorative. It simply implies, as does the sort of terminology that is being used by the federal government at the present time, that there is some merit in using words which are not relevant to the goals.

What is 'fair'? Is it the kind of thing that members would say ensures that there are high wages for workers? Is that fair? I would say to you, Mr Chairman, and to all members, 'No, it's not,' because the end result of raising wages is simply to shed the number of jobs in an economy at the margin. The rate of economic growth must at least equal or exceed the rate of expansion of wages, otherwise it is axiomatic that the number of jobs will shrink. So, 'fair work' does not tell me anything, whereas 'enterprise and economic development' does tell me quite a lot, if I am reading or hearing it. 'Labour market relations' tells me what part of enterprise development and what part of economic development this legislation really addresses. It is the labour market.

What does it cost, if you are making widgets, to employ the people who are doing it and how, in law, is it possible for you to do that? I am saying that it is better for us as a parliament to more accurately describe in words that will provide the basis for a better mindset in the wider community and do away with the shibboleths of the past and the old antagonistic attitudes of adversarial advocacy that they imply and put in place, instead, words that mean what we must be doing. Whenever we contemplate the costs of production, whether it is labour or anything else, what we must be doing is ensuring that we are not getting rid of jobs, destroying the ease with which jobs can be created to the point where there are fewer jobs after we make the change than before it, in consequence of the extra costs that have to be borne by the enterprises which the change has produced for the employer, the job provider.

Equally, I say that where those employers are rapacious or insensitive and behave inappropriately by exploiting their work force without providing proper award and incentive for improvements in productivity where such improvements are possible, that, too, is about what you can get away with. You might call it industrial law and, under that law, if they can get away with it, it seems to me that they do. Those people need to know and, when they read the title of the legislation, need to understand that it is not about them and us, it is about all of us together, hence my proposition to delete 'fair work' and in its place put 'Enterprise and economic development-Labour market relations'.

The Hon. M.J. WRIGHT: The government does not support the amendment.

The Hon. I.F. Evans: It's a simple amendment.

The Hon. M.J. WRIGHT: It is a simple amendment and we do not support it. We would say that economic development is one of the government's highest priorities; there is no doubt about that. We took our position on industrial relations to the electorate under the banner of restoring the balance. This, as I said during my second reading explanation and also in my concluding remarks, is about fairness. That is why we think this is a good title. 'Fair work' is the right title for this bill because this bill is about fairness for all workers.

I understand where the member for Hammond is coming from but, as I said, I do not think that the title of a bill about industrial relations in any way impacts upon the government's priority with regard to economic development which, as I said, is unashamedly one of our highest priorities. It would be for all governments; if it is not, it should be. As I said, this is what we took to the electorate in the lead-up to the last election, that is, a policy of restoring the balance. The bill is about fairness and this is a good title for a bill of that type.

The Hon. I.F. EVANS: What we are debating is clause 1 of the Industrial Law Reform (Fair Work) Bill, and we are debating what the new act, if the bill is successful, will be called. The government argues it should be called the 'Fair Work Act 2004', the member for Hammond argues that a more appropriate title is the 'Enterprise and Economic Development—Labour Market Relations Act', and the opposition would prefer it remain as is, which is indeed the 'Industrial and Employee Relations Act'. We think the 'Industrial and Employee Relations Act' accurately describes what the act is about, and therefore we support the retention of the current provision. However, we are happy to support the member for Hammond's amendment only on the basis that it is a better title than the 'Fair Work Act' because, as the record will show, we are opposing most of the clauses in relation to the fair work provision because the community tells us that there is little about fairness within the bill that the minister calls the 'Fair Work Bill'.

This has become a trend of governments, as the member for Hammond quite rightly says. They think up some nasty provisions to put in a bill, hide it amongst some okay provisions in a bill, then they call it some fancy marketing name so that when they appear in the media or on radio it sounds good. If you are on the radio talking about a 'Fair Work Bill', most people not knowing the detail of the bill would probably give it a head nod in the community. As with all these bills, the devil is in the detail. I am of the same principal view as the member for Hammond; that is, a bill should more properly reflect what it is dealing with. We would argue it is dealing with industrial and employee relations. We accept we probably do not have the numbers for that, so rather than have a 'Fair Work Act', we are quite happy to support the member for Hammond's amendment as an alternative.

The committee divided on the amendment:

AYES (23)

Brindal, M. K.	Brokenshire, R. L.
Brown, D. C.	Buckby, M. R.
Chapman, V. A.	Evans, I. F.

AYES (cont.)

Goldsworthy, R. M.	Gunn, G. M.
Hall, J. L.	Hamilton-Smith, M. L. J.
Hanna, K.	Kerin, R. G.
Lewis, I. P. (teller)	Matthew, W. A.
Maywald, K. A.	McEwen, R. J.
McFetridge, D.	Meier, E. J.
Penfold, E. M.	Redmond, I. M.
Scalzi, G.	Venning, I. H.
Williams, M. R.	

NOES (21)

Atkinson, M. J.	Bedford, F. E.
Breuer, L. R.	Caica, P.
Ciccarello, V.	Conlon, P. F.
Foley, K. O.	Geraghty, R. K.
Hill, J. D.	Key, S. W.
Koutsantonis, T.	Lomax-Smith, J. D.
O'Brien, M. F.	Rankine, J. M.
Rann, M. D.	Rau, J. R.
Snelling, J. J.	Stevens, L.
Thompson, M. G.	Weatherill, J. W.
Wright, M. J. (teller)	

PAIR(S)

Kotz, D. C.	White, P. L.

Majority of 2 for the ayes.

Amendment thus carried.

The CHAIRMAN: On a lighter note, I point out that the short title is now one word longer than the index normally accommodates. Some way will have to be found to deal with that.

Clause as amended passed.

Clauses 2 and 3 passed.

Clause 4.

The Hon. I.P. LEWIS: I move:

Page 5, line 9—Delete 'Fair Work Act 1994' and substitute: Enterprise and Economic Development (Labour Market Relations) Act 1994

I move this amendment for the reasons I gave in relation to clause 1.

Amendment carried; clause as amended passed.

Clause 5.

The Hon. I.F. EVANS: Before I move my amendment, is it the intention of the chair to take each subclause separately? A number of amendments relate to different subclauses.

The CHAIRMAN: It is at the discretion of the committee. If the committee is agreeable, we will do them separately.

The Hon. I.F. EVANS: I move:

Page 5, lines 11 to 13—Leave out subclause (1)

This amendment relates to the part of the bill where the minister is seeking to insert a paragraph that provides:

(ca) to meet the needs of emerging labour markets and work patterns while advancing existing community standards; and

We seek to delete that subclause from the bill for the reasons advanced to us by the business community. The reality is that the wording within that object is so confusing; how would anyone know what it means? What does 'advancing existing community standards' mean when you are in a commission or in a court arguing the objects? The business community certainly do not know what those words mean. Really, it will be a lawyers' picnic for that sort of object to be part of the act. What does 'emerging labour markets and work patterns' mean? As I said in my second reading contribution, the emerging labour markets and work patterns are the very labour markets and work patterns that the minister and his union supporters oppose—namely, labour hire, casual employment, enterprise bargaining arrangements and, indeed, contracting markets—where employment growth has been huge over the past decade, yet further on in the objects the minister seeks to make permanency in employment one of the objects of the act.

We oppose this because the object and the wording of the act are unclear. It will be a lawyers' picnic when ultimately it comes to the commission. The business community have looked at this and certainly do not understand exactly what these words mean. Business SA's submission states, 'However community may be defined'. How is 'community' defined? The reality is that it will be subject to argument. All this object does is set up a mechanism for a lot more industrial dispute in the system. For that reason, we move the amendment to delete the object.

The Hon. M.J. WRIGHT: As the shadow minister says, he seeks to delete paragraph (ca) from subsection (1), which provides:

(ca) to meet the needs of emerging labour markets and work pattern is what advancing existing community standards.

We think that paragraph is appropriate in the objects of the act. The community do not want to see community standards—standards in awards, for example—undermined as we work with emerging labour markets and work patterns. I think everyone would agree that we have emerging labour markets and changing work patterns, and it is important to recognise that. I believe that the community want to see an improvement in standards at work, and I think everyone aspires to that, even though labour markets and work patterns are changing and, obviously, will continue to do so. I oppose the amendment moved by the shadow minister. I think the objects to which we refer in clause 5(1)(ca) are worth while adding to the objects of the act, and I think the community also feel that way.

The Hon. I.F. EVANS: Will the minister explain to the committee his definition and interpretation of 'community' and what he sees as the emerging labour markets and work patterns?

The Hon. M.J. WRIGHT: The 'community' is simply the South Australian community. 'Emerging labour markets' are areas that have been essentially unregulated by awards and agreements, and could be on an industry basis, and also reflect developments that have reduced the security people feel in their employment. As is always the case, and as we would expect, there will be emerging labour markets and changes, and that is not a bad thing. Those are the examples I cite for the shadow minister.

The Hon. I.F. EVANS: The clause states, 'while advancing existing community standards.' Do you intend that to mean improving existing community standards? What do you mean by advancing—is it to improve, or simply to promote?

The Hon. M.J. WRIGHT: In large part it would be promoting, and in some situations it could be improving.

The committee divided on the amendment:

AYES (22)

Brindal, M. K.	Brokenshire, R. L.
Brown, D. C.	Buckby, M. R.
Chapman, V. A.	Evans, I. F. (teller)
Goldsworthy, R. M.	Gunn, G. M.
Hall, J. L.	Hamilton-Smith, M. L. J.
Kerin, R. G.	Lewis, I. P.

AYES (cont.)

Matthew, W. A.	Maywald, K. A.
McEwen, R. J.	McFetridge, D.
Meier, E. J.	Penfold, E. M.
Redmond, I. M.	Scalzi, G.
Venning, I. H.	Williams, M. R.

NOES (22)

Atkinson, M. J.	Bedford, F. E.
Breuer, L. R.	Caica, P.
Ciccarello, V.	Conlon, P. F.
Foley, K. O.	Geraghty, R. K.
Hanna, K.	Hill, J. D.
Key, S. W.	Koutsantonis, T.
Lomax-Smith, J. D.	O'Brien, M. F.
Rankine, J. M.	Rann, M. D.
Rau, J. R.	Snelling, J. J.
Stevens, L.	Thompson, M. G.
Weatherill, J. W.	Wright, M. J. (teller)

PAIR

Kotz, D. C.	White, P. L.

The CHAIRMAN: There being 22 ayes and 22 noes, I give my casting vote with the noes.

Members interjecting:

The CHAIRMAN: Order! I do not believe the wording here is inappropriate as an object of the act. The amendment is lost.

Amendment thus negatived.

The Hon. I.F. EVANS: I move:

Page 5, after line 13—Insert:

(cb) to promote and facilitate employment; and

I bring to the attention of the committee my understanding that amendments 2 and 3 standing in my name run together on this particular issue. First, in conjunction with the next amendment, this amendment seeks to delete clause 5(2)(fb) from the existing bill, which reads:

(fb) to promote and facilitate security and permanency in employment; and

Then the amendment seeks to insert just above that in the objects of the act the words 'to promote and facilitate employment; and'. We have moved this amendment because we think the objects of the act should keep pace with what is happening in the marketplace. The reality is that the marketplace is not necessarily all about permanency in employment. The reality is that a large group of people are not in permanent employment—some by choice, others by circumstance. They are in casual arrangements and, as I said in my second reading contribution, my wife and eldest son are both in casual employment currently, and both enjoy it for their own reasons.

Clause 5(2)(fb) makes it an object of the act to promote and facilitate security and permanency in employment. That really means that casual employment, and the other non-traditional working arrangements such as the sub-contracting and labour hire industries, are something which the act positively discourages. The object of the act will be about permanency in employment, and that therefore directs or guides the commission and the system in trying to concentrate on permanency in employment. In essence, the object positively discourages the other forms of what some would call non-traditional working arrangements. Ultimately, the contracting and labour hire areas and the casual work force have all grown over the last 10 years—that is a reality of life.

To have an object in the act that positively discriminates against what is happening in the marketplace is flawed, in our view. We believe that it is the commission's role to promote employment and, in essence, our amendment seeks to reinstate or at least put back into the objects the wording that it is to promote and facilitate employment. We see no reason why we have to discriminate according to whether or not that is permanent employment. We think that it shows the philosophy of the government, and those who advise it, that somehow labour hire, contracting or casual employment is a poorer form of employment, that you are not worthy in the context of the labour market. The reality is that those areas have grown significantly over the years, as I raised in my second reading contribution. Of course, the objects should deal with the promotion and facilitation of employment, but I do not think it should be restricted to permanent employment. Why should it be restricted to permanent employment? Contracting and labour hire are big industries, and there has been a growth in the casual work force.

These objects are important. I know that some will have the view that they are only objects and that they only guide, but these objects are important, because they underpin the whole philosophy of what follows in the act and in the bill. They underpin the thought processes behind the decisions in the system once they are established in the act. I think that we need to be very careful about the message that we send to the commission and the courts through this particular bill in these particular objects; that is why we are taking some time over the objects in the bill. We see no reason why this object should be limited to talking about permanent employment. The business community is very concerned about that and I think quite rightly. The message in the minister's object is wrong. We believe that the right message we should be sending to the system through the bill, and therefore the act, is to promote and facilitate employment.

The Hon. M.J. WRIGHT: I oppose the amendment moved by the shadow minister. It is always important to read the objects of the act as a whole. In respect of the insertion, the shadow minister seeks to propose an extra object to promote and facilitate employment. There is nothing wrong with that, but it is unnecessary in light of existing objects such as (b), which is 'to contribute to the economic prosperity and welfare of the people of South Australia'.

In regard to the deletion of clause 5(2)(fb), which the shadow minister has also spoken about—to promote and facilitate security and permanency in employment—clearly there are concerns amongst the community about increasing insecurity at work. The government has recognised this concern in proposing this object for the act, which will be balanced against existing objects such as (c) which is about facilitating industrial efficiency and flexibility.

This certainly does not mean the end of casual employment or anything of that kind, but it does take into account that the community is very concerned about insecure employment. It is a growing issue and has been identified as such for quite sometime now. This can very much reduce people's ability to plan for the future, for their lives, buying homes, having children and so forth. Therefore, I speak in opposition to the shadow minister's amendment with respect to the insertion for the reasons that I outlined, because it is already covered in (b). I could also refer to (c), in the objects of the act: to facilitate industrial efficiency and flexibility and improve the productiveness of South Australian industry. As I said, we believe that this reflects the community expectations. Clause 5 (2)(fb) to promote and facilitate security and permanency in employment is a good thing.

The Hon. I.F. EVANS: I do not quite follow the minister's argument. If my amendment to promote and facilitate employment is covered by the existing clause 3(b) of the objects of the act, which talks about 'to contribute to the economic prosperity and welfare of the people of South Australia', then, clearly, the minister's amendment is covered by the act, because permanent employment is simply a subset of employment. Therefore, if the minister's argument is that employment is covered by 3(b) of the objects, then by his own argument, his own amendment is also covered by 3(b) of the objects and is therefore not required.

The reason he then argues that it is required is the very reason why the business community is concerned. The minister is quite clearly saying to the chamber that the government wants to put greater emphasis on permanent employment. Permanent employment does not necessarily deliver the flexibility that the minister refers to in objects 3(c) of the existing act which talks about 'to facilitate industrial efficiency and flexibility'. The reason that a lot of the non-permanent employment markets have developed, such as contracting, labour hire or the casualisation of the work force, is because of the very reason the minister talks about, that the market wants a flexible work force. Therefore, the minister is arguing 50 cents each way. On the one hand he is saying that the existing objects of the act state that we need flexibility and efficiency, but then this government wants to start to bind the system's hand by saying, 'When you are considering matters we are guiding you towards more permanent employment.'

It should be about more employment, taking the member for Hammond's original contribution on the name of the bill. We should be about more employment as a chamber, not necessarily more permanent employment. If the individual concerned wants to work in one of the other fields, or gets offered work in one of the other fields, we should be encouraging that, because it does get them into the work force and it brings all the benefits of financial freedom that come with having some work. We should be encouraging that. However, what we are doing here, by the minister's own contribution to the debate, is saying that in the current objects there is not enough emphasis on permanency in employment so, when there is an opportunity to make a decision, we are going to guide the system, for more permanency in employment. That goes contrary to the other objects of the act, which talk about economic efficiency and flexibility in the labour market.

Ultimately, the minister has laid out clearly for the committee that it is the government's view that the system should be guided more towards permanent employment, rather than simply more employment, and that argument undervalues significant slabs of the labour market, where people may not have permanent employment, but they are very happily employed. What will happen under this regime, with that object, is that slowly but surely the system will twist towards permanent employment, and I do not know whether that will actually deliver a long-term benefit for South Australia.

The Hon. M.J. WRIGHT: I do not agree with the shadow minister's comments or his rationale. If people are happily employed under whatever circumstance, that is well and fine. However, we believe that it is a genuine aim and concern and is not inconsistent with more employment, and I guess that is where I do not agree with the rationale put forward by the shadow minister. As I said, it is necessary and important to read the objects of the act as a whole. I do not think the shadow minister is necessarily correct in what he is saying. I think the community wants more focus on security in employment. We think that it is a genuine aim, but I do not agree with the argument that that is inconsistent with more employment.

Mr HANNA: The objects of the act already talk about increased prosperity and productivity, but the act is essentially about the relations between employers and employees. So, it is about the nature of employment, not how much employment. Therefore, I think it is very relevant to talk about security and permanence of employment. I know that those things are of great concern to my constituents, especially younger people. So, I will be agreeing with the government on this point.

The committee divided on the amendment:

AYES (22)

Brindal, M. K.	Brokenshire, R. L.
Brown, D. C.	Buckby, M. R.
Chapman, V. A.	Evans, I. F. (teller)
Goldsworthy, R. M.	Gunn, G. M.
Hall, J. L.	Hamilton-Smith, M. L. J.
Kerin, R. G.	Lewis, I. P.
Matthew, W. A.	Maywald, K. A.
McEwen, R. J.	McFetridge, D.
Meier, E. J.	Penfold, E. M.
Redmond, I. M.	Scalzi, G.
Venning, I. H.	Williams, M. R.

NOES (22)

Atkinson, M. J.	Bedford, F. E.
Breuer, L. R.	Caica, P.
Ciccarello, V.	Conlon, P. F.
Foley, K. O.	Geraghty, R. K.
Hanna, K.	Hill, J. D.
Key, S. W.	Koutsantonis, T.
Lomax-Smith, J. D.	O'Brien, M. F.
Rankine, J. M.	Rann, M. D.
Rau, J. R.	Snelling, J. J.
Stevens, L.	Thompson, M. G.
Weatherill, J. W.	Wright, M. J. (teller)

PAIR

Kotz, D. C.	White, P. L.

The CHAIRMAN: There being 22 ayes and 22 noes, I give my casting vote for the noes.

Members interjecting:

The CHAIRMAN: Order, the member for Schubert! I do this because this does not impose a mandatory requirement in regard to security and permanency, but I think they are virtues that are well worth pursuing as a general objective.

Amendment thus negatived.

Mr HANNA: I move:

Page 5, after line 13—
Insert:

(1a) Section 3(f)—delete 'to both employers and employees' and substitute:
to all parties

I would like to see this bill cover contractors as well as those who are technically employees under the current law. I will explain the amendment in technical terms in a moment, but first I point out that it is linked to my amendments Nos 4 and 5 which deal with certain contract workers. The background to this lies in the failure of the law presently to adequately protect people who fall outside the current meaning of 'employee'. And, of course, that does have a fairly technical meaning, particularly when artificial means are employed to remove a person from that employee/employer relationship.

So, even though it may be the reality that a person wants another to do work for him or her and it is what anyone else, using commonsense, would call an employment relationship, a device through a contract is used to distance the employer from their responsibilities to protect the employee as if they were, in fact, employed.

The Stevens report, which was the culmination of the review undertaken by the Labor government before bringing this legislation to parliament, picked up this point. The Stevens report very clearly considered that it was worthwhile protecting those people who have fallen through the cracks, so to speak, and failed to get the protection of the Industrial Relations Commission and the laws that give some minimal protection to employees at law.

Other relevant background can be found in the Australian Labor Party policy. Under the heading 'Restoring the balance' in that part of the ALP platform that deals with industrial relations it states:

> Workers who have less economic and industrial power must not be disadvantaged at work. Workers should not be denied access to entitlements or legal protection through arrangements which artificially classify them as non-employees.

Again, under the heading 'Independent contractors and unfair contracts' it is stated:

> Labor believes that workers engaged as independent contractors rather than as employees should have access to the industrial relations system for relief against unfair contracts. Independent contractual agreements should not be used to defeat employee entitlements. Labor will permit the Industrial Relations Commission to review issues related to unfair contracts.

I stress that every Labor Party member in this chamber and in the other place is bound to uphold the platform. It is very clear. It refers to those who have the protection of the employee/employer relationship stripped from them through artificial means. It refers specifically to those engaged as independent contractors rather than employees. It specifically states that Labor will allow relief against unfair contracts for these people. It specifically states that Labor will allow access to the industrial relations system for these people. That is why the original government bill allowed for this protection. So, when at the beginning of this year the minister aired publicly a bill called the fair work bill, it contained provisions to protect these people. The minister was doing the right thing: he was floating a proposal which implemented ALP policy. It put into effect the ALP platform that was decided democratically at a relevant ALP conference. So, as I say, ALP members are bound to vote for such a proposal.

However, in the face of unjustified public attacks from the Housing Industry Association and others in the business community, the government apparently backed down from this proposal. So, in the bill that is currently before the parliament we do not see protection for those who are artificially designated independent contractors when in fact they have what anyone with commonsense would consider an employee/employer relationship. So, I seek to remedy that situation with the amendment that I move. As I have said, there is a series of three amendments which puts into effect the extension of coverage to independent contractors.

There is support for this measure from Professor Andrew Stewart of the Flinders University Law School. He has observed in his writings that people in this situation—whether they be cleaners, whether they work on building sites, or whether they be labour hire workers sent to do factory work—are disadvantaged. They do not have the protections that other employees have, and it is only through artificial means that they are denied such protection. There are, it is fair to say, labour hire firms which are fairly responsible in terms of maintaining the wages and conditions of workers. There are those which have cooperative relationships with unions. However, there are those which create a system where nobody in the loop is an employer or an employee, and this has implications for workers' compensation as well as the right to sue for unfair dismissal if an injustice is done to a worker in terms of termination of their work.

To summarise, this amendment extends the protections that the current law provides for employees to independent contractors—up to a certain point. It does not apply to those who have a very high income, but it will capture most of the people in those industries to whom I have referred, such as cleaners, people who work on building sites and people engaged through labour hire firms. Those people are commonly going to be subject to the artificial ruse of contracts which deny them the benefits of lawful employment.

It is worth pointing out that the set of amendments that I bring forward do not automatically give such contractors coverage under the law. The relevant workers need to apply to the full bench of the Industrial Relations Commission and ask for a declaration. The declaration cannot be made unless the full commission is satisfied that the practical reality of the relationship between the persons who provide the relevant services in the circumstances under consideration and the person or persons for whom the services are provided is a relationship of employment, or that the persons who provide the relevant services in the circumstances under consideration would be more appropriately regarded as employees rather than independent contractors. In deciding whether to make a declaration accordingly, the full commission must take into account a number of factors. I am referring to new clause 4B, which is contained in my amendment No. 5. As I say, this is consequential upon the amendment to which I am presently speaking.

The factors which must be considered by the full commission in an application for a declaration are: the extent of the control exercised over the service provider by the other party to the relevant contract; whether the service provider is integrated into or represented to the public as part of the business or organisation of the other party to the relevant contract, and to what extent the service provider is economically dependent on the other party to the relevant contract; whether there is delegation; whether material, tools and equipment are provided; whether the service provider works on a remunerated basis for others; and any other indications suggesting a service provider carries on an independent business. They are, more or less, the common law indicia of employment. I am stretching my memory from some of the industrial cases that I ran some years ago, but I do recall the High Court case of Stephens v Brodribb as being a hallmark case in this area.

The present amendment looks straightforward in that it deletes reference to employers and employees specifically and replaces that description with 'all parties'. That is necessary, of course, because, if we are going to extend protection to independent contractors by law, or more specifically to those who successfully ask for a declaration from the full commission to be included under the umbrella of the bill, obviously those parties need to be covered, as well as those who are lawfully employers and employees. I am suggesting then that the bill should not be just for those who fall under the current legal definition of employer and employee, but that protection should be afforded to independ-

ent contractors. As I say, elsewhere in the bill there is built in a certain monetary limit. I move the amendment accordingly, and I rely on members on the government benches to vote in accordance with the ALP platform to which I have referred.

The Hon. M.J. WRIGHT: These amendments are about contractors. The member for Mitchell also spoke a little about deeming, but we will come to deeming later. Essentially, this is about providing for the commission to look at contracts and, if the commission believes them to be unfair, it can order a remedy. I understand that these first three amendments from the member for Mitchell are about the unfair contracts proposal. I think the honourable member has raised some relevant points. It would be hard to argue that there has never been any problem with respect to contractors.

However, having said that, the member for Mitchell is correct in that, although not identical, we had a fairly similar type of proposal in the draft bill. One of the challenges for government, of course, as a result of a draft bill (and I always said it was a genuine draft bill), is to go out for consultation. It was an exposure bill and I indicated I would take account of the views of the stakeholders.

One of the areas in which it would be fair to say there was genuine concern from the stakeholders was our proposal in regard to contractors. We have taken account of the views of the stakeholders so, although the member for Mitchell does raise some genuine concerns, we will not be supporting the proposals that he brings forward in his first three amendments that relate to unfair contracts. As I said, there were genuinely held concerns about our unfair contract proposals and we have taken account of those.

The member for Mitchell correctly has talked about some examples. There are artificial means that can certainly be of concern. I have seen some developments in courts that address some of these artificial means of structuring a relationship. The member for Mitchell, the shadow minister and other members may well be aware of cases such as Vabu, in the High Court, which was about bike couriers, and Slater, in the Workers' Compensation Tribunal. So, we are seeing some progress on this issue without the sorts of proposals that the honourable member is suggesting.

I acknowledge that the issues that the member for Mitchell has raised are not without some merit but, ultimately, the government has taken account of the consultation process and has been mindful of the views that were expressed to us by the stakeholders. As I said, there were genuinely held concerns about the government's proposal in its draft bill.

Mr HANNA: I have a couple of questions for the minister. Will the minister acknowledge that what we can do with this amendment is going to be a lot more effective in affording protection to people than relying on the tribunals and commissions to, piece by piece, fill in some of the loopholes that currently exist? Secondly, does the minister acknowledge that the Labor Party went to the last election with this kind of proposal as part of its platform and, if so, why will the Labor government not support it?

The Hon. M.J. WRIGHT: In regard to the first question, I acknowledge that what the honourable member puts forward may be better than the work in the courts and/or tribunals, but I can only repeat what I said earlier that, through an extensive consultation process, there was simply not the support in the community. This was one of the areas where there was genuine concern. I do not want to be disrespectful to anyone or to any of the stakeholders but, certainly, very strong arguments and cases were made about this, as there were in other areas where we took matters out of our draft bill.

With regard to the honourable member's second question, we have taken account of views expressed to us through the consultation process, and I am not so sure that is such a bad thing.

Mr HANNA: For what it is worth, I would like to offer some constructive advice to the minister and the hardheads who run the parliamentary party. I suggest that the Labor government does not really get the benefit of making concessions such as this. It does not really get the benefit of caving in on these important aspects of the ALP platform. The ALP does not get rewarded by the business community, the Housing Industry Association or Business SA by making these sort of concessions.

At the end of the day, there will still be a cynical distrust of the Labor government by the business community, and withdrawing support for proposals such as this (which will afford protection to many working South Australians) will not really get the benefit that must be anticipated.

I can only encourage the Labor leadership to show more courage when it comes to these sort of issues because, at the end of the day, we are here to protect working South Australians, people who might earn $20 000, $30 000, or $40 000 a year and struggle to maintain a family on that wage. We are not here to pander to the Housing Industry Association and the other industry peak bodies, which, after all, do not necessarily represent all their members. It is a shame.

The Hon. I.F. EVANS: The opposition will not be supporting the amendments moved by the member for Mitchell. I can understand the honourable member's dismay at the government's voting against its own election policy. The opposition does not support the amendments. It ultimately leads to an unfair contracts jurisdiction, which we will debate later when we reach the member for Mitchell's other amendments. The principles put forward in these amendments by the member for Mitchell were not only part of the Labor Party policy but were also essentially part of the minister's draft bill.

The Independent Contractors Association, through Ken Phillips, put an excellent submission about these principles, outlining the concerns that the contracting industry would have in relation to these principles if they were adopted. I attended a conference in Canberra with the Independent Contractors of Australia, the first ever national conference of Independent Contractors of Australia—and it was an excellent conference—at which these sorts of matters were discussed and uniformly rejected.

The sad thing tonight is that the government will be forced into voting against its own policy. There is a message there for those who support the government: that is, that the government is really saying that its policy with which it went to the election will not be worth a scrap when the heat gets a bit hard—they will simply walk away from it.

The point the member for Mitchell makes is absolutely valid. On what basis then would the union movement write an election policy with the Labor government for the next election because, if it gets a bit difficult in the consultation process, we are about to set the precedent and the model? Everyone in the Labor movement who wrote the election policy would have known that the contractors were against the policy. That would not have been rocket science or a surprise to those who wrote the policy.

There is nothing surprising about the fact that the contracting industry enjoys a more deregulated market and operating system than does a normal employer-employee relationship. There is no surprise in that. The Labor Party, when sitting down around the caucus, would not have been saying, 'Do not put this in the policy; we might upset the contractors'. They would have been saying, 'It has always been a long-held belief of the Labor Party that these particular contractual arrangements should be brought under the industrial relations act, as such.'

So, what we are seeing here tonight is the true colour of the government, and that is: 'Let us avoid controversy; duck shove out the segments of the bill when it gets a bit hot; and, even though we have agreed with the union movement that it will be our policy and we have gone through our party processes and agreed on policy, as soon as those contractors start raising a bit of an issue we will just retreat.' When they sat around developing their policy, none of that would have been a surprise. Not one argument would have been brought up during the consultation process that the Labor caucus would not have thought of when signing off on the policy—not one. The reality is that the union movement has been sold a pup in relation to these clauses (and, indeed, the unfair contracts jurisdiction that we will come to later). By the sound of it, the government was always prepared to give those up, or maybe it has just developed a weakness in this area since the pressure of the consultation has got so hot.

We know this will be the government's policy in the next election campaign. There is no doubt about that, and we look forward to enjoying campaigning on that particular issue—but we will not support any of the amendments proposed by the member for Mitchell that seek to further regulate contracts.

The contracting industry is a very competitive and efficient industry. The building industry, of which I have been a member prior to coming into politics, is a very competitive industry. We enjoy particularly competitive housing costs in South Australia because of an outstanding subcontracting system. If the government had its way with its policy and had the courage to go ahead with its policy, it would further regulate the contracting industry, and that would ultimately drive up costs.

So, I congratulate the member for Mitchell for at least having the courage of his convictions, and the record will show that. It is just unfortunate that the government will walk away from its election policy when it knew from day one that that particular policy was unpopular and unacceptable to the contracting community.

The committee divided on the amendment:

AYES (2)

Hanna, K. (teller)	Lewis, I. P.

NOES (42)

Atkinson, M. J.	Bedford, F. E.
Breuer, L. R.	Brindal, M. K.
Brokenshire, R. L. t.)	Brown, D. C.
Buckby, M. R.	Caica, P.
Chapman, V. A.	Ciccarello, V.
Conlon, P. F.	Evans, I. F.
Foley, K. O.	Geraghty, R. K.
Goldsworthy, R. M.	Gunn, G. M.
Hall, J. L.	Hamilton-Smith, M. L. J.
Hill, J. D.	Kerin, R. G.
Key, S. W.	Koutsantonis, A.
Lomax-Smith, J. D.	Matthew, W. A.
Maywald, K. A.	McEwen, R. J.

NOES (cont.)

McFetridge, D.	Meier, E. J.
O'Brien, M. F.	Penfold, E. M.
Rankine, J. M.	Rann, M. D.
Rau, J. R.	Redmond, I. M.
Scalzi, G.	Snelling, J. J.
Stevens, L.	Thompson, M. G.
Venning, I. H.	Weatherill, J. W.
Williams, M. R.	Wright, M. J. (teller)

Majority of 40 for the noes.

Amendment thus negatived.

Mr HANNA: I move:

Page 5, after line 21—Insert:

(3a) Section 3—after paragraph (j) insert:

(ja) to provide an avenue to address unfair contracts; and

We are still dealing with the objects clause of the bill. This amendment seeks to insert an object to provide an avenue to address unfair contracts. I stress that this is a different amendment entirely from that which I moved a moment ago and deals with a jurisdiction over unfair contracts. The commission should have jurisdiction to remedy contracts that are unfair. It works in New South Wales, where the government saw merit in introducing this provision, and it should be introduced into South Australia as well.

The typical sort of case covered by such a jurisdiction would be that of an owner-driver truckie engaged by a trucking firm to carry goods around the state, or around the country. If the contract between the owner-driver and the firm is so unfair that it goes beyond anything that would be permitted in an employer-employee relationship, it ought to be the subject of examination by the commission. Indeed, I have known of circumstances where owner-drivers have been sent off summarily after months, or even years, of good work. For example, because of a bad word with the boss, or because the boss wants to give a job to a grandson, one of the older drivers who has given service for years can be chucked out of the door straightaway.

There can be contracts (often unwritten) which allow virtually summary dismissal without good reason. The unfairness of that is obvious, and it is not as though drivers in that situation have much choice. The market is sufficiently unregulated so that, if you want to buy a $25 000 truck and carry goods around Adelaide, you do not have a lot of choice. The most common form of carrying is probably that sort of arrangement, namely, a trucking firm and a lot of drivers. It is a cutthroat business and a cutthroat labour market, and the owner-drivers very often get screwed. That sort of situation should be the subject of the jurisdiction of the Industrial Relations Commission. I stress that it is only in situations where contracts are unfair that there can be intervention. Again, the background is set out very fully in the Stevens report, which was the precursor to the government legislation. There are numerous other examples of unfair contracts.

I am happy for there to be a monetary limit on those who can seek redress. It need not be for well-off IT contractors or professionals who earn in excess of $80 000 a year. It is really for the workers who are struggling and who work in an industry where it is common to circumvent the obligations that go with the employer-employee relationship through the device of contracts.

I am not saying that those contracts are unlawful or improper, but they do provide employers with an avenue for escaping what would be their obligations, were it an employment relationship at law. So, we are essentially talking about

the same sort of people doing the same sort of work but who have a relationship through contract rather than what is considered an employer/employee relationship. There is no reason in justice for the distinction, and that is why in its draft bill the Labor government initially introduced provisions which allowed coverage of people in that situation. It is a matter of justice and, again, I can refer to the ALP platform which was set in the year 2000, and I have already referred to those words under the heading 'Independent contractors and unfair contracts'. Once again I stress these words:

> Labor will permit the Industrial Relations Commission to review issues related to unfair contracts.

What could be clearer than that? Every Labor member in this house, and every Labor member in this parliament, has a duty to vote in favour of a proposal which is in accordance with the ALP platform. What I cannot understand is why the Labor government would not at least have a go. Of course the government is going to be criticised by those who are currently escaping obligations by obtaining services through contracts, but why would the Labor government not at least attempt to implement the Labor platform? It is hard to understand. This amendment provides an opportunity for Labor members to uphold and implement the ALP platform on unfair contracts.

Mr RAU: I have two questions for the honourable member in relation to the proposed amendment. First, assuming the amendment were to be carried, would the honourable member understand that this would have application for all purposes under the act, that is, for example, for the purposes of the jurisdiction to deal with unfair dismissals as one element; the jurisdiction in relation to minimum wages as another level; and the jurisdiction in relation to application of awards, should the award conditions and so on have application aside from the contracting nature of the relationship to the work being performed?

Mr HANNA: I ask the member for Enfield's forgiveness, because in my previous contribution I did not address the technical implications of this particular amendment. In fact, this amendment to the objects clause relates to my further amendment in amendment No. 11, whereby a new chapter headed 'Review of unfair contracts' is to be inserted into the legislation. The member for Enfield and other members will find in the proposed new chapter the circumstances under which unfair contracts may be taken to the commission and the remedies which may be sought. So, in particular, proposed new 114D proposes that the commission could, in the event of unfairness, vary, revoke or reinstate such a contract with variations as the commission considers fair and reasonable in the circumstances.

Proposed section 114E would give the commission the power to award compensation in the event that variation, revocation or reinstatement of a contract provided an insufficient remedy. The amount of compensation in that event could not exceed the amount that applies if the party were a dismissed employee under current section 109 of the act. I finally note in that respect that it would be possible for injunctive relief to be sought to allow an urgent remedy, if that were necessary.

Essentially, a new set of remedies is being provided for those who have contracts that they successfully argue are unfair. But there is some correlation between the remedies which might be granted, particularly in terms of compensation, and the current remedies for employees.

Mr RAU: I understand from what the member for Mitchell has just said that this is not in effect a deeming provision. It is a provision which provides for a completely separate set of remedies based on the unfairness of the contract, as opposed to deeming individuals who are contractors to be employees for certain purposes.

Mr HANNA: I thank the member for that comment. He is absolutely right. The amendment which I moved previously dealt with independent contractors and effectively deemed them to be employees, and therefore extended the coverage of our current law to such people.

This is a different proposition entirely. It deals with people who are engaged by a contract. It does not alter the colour of the relationship. The contract remains. It is still the relationship between two parties to a contract. It does not dress up that relationship as anything else. It says that, if the contract is unfair, there is a jurisdiction to remedy unfairness.

Mr RAU: Last question: having regard to what the honourable member has just said, is my understanding correct that this particular object that he is seeking to insert presently is an element of a larger package of measures which flow through his amendments? That is, it is all of a piece with other parts of his amendments which are slated to come later. Would I be correct in understanding that this is part and parcel of that general jurisdiction that he is seeking to give to the commission and that, when voting on this amendment, we should be looking at that package? That is, this object does not make much sense if the rest of it does not go in, and vice versa.

Mr HANNA: Again, the member for Enfield has shown his grasp of the amendments. In this case there is a package of two amendments: amendment No. 3 and part of amendment No. 11. If this amendment is lost, then I will seek to move amendment No. 11 in an amended form deleting that which provides for a review of unfair contracts. Simply due to the circumstances of drafting, the substantive amendment comes later and is contained in amendment No. 11. However, because it would be inappropriate to give the commission a new jurisdiction without making some reference to it in the objects, there is an amendment to the objects section of the act. That is why the first of these two amendments comes up at this point.

The Hon. I.F. EVANS: In speaking against the member for Mitchell's amendment No. 3, I will also speak against the member for Mitchell's amendment No. 11 because, as the member for Enfield quite rightly points out, they link. The member for Mitchell has picked up the Labor Party policy that it went to the last election with and has simply put it into legislation. Again, I congratulate him on sticking to his principles when others in the chamber do not appear to be. This actually gives the government an opportunity to support its own policy. Why the government would not do that is for it to justify. For those who can contribute to the Labor Party and have influence on its policy, it is a good observation to make that, when the pressure is on, the member for Mitchell stands by his convictions whereas the government runs to the corner and withdraws its amendment from the draft bill.

The government's policy was exactly what the member for Mitchell's amendment is; that is, when the government was in opposition it went to the last election with a policy to introduce an unfair contracts jurisdiction. This was probably one of the worst provisions in the draft bill, and the government got carved up everywhere it went in respect of this provision. When you go through the provisions put in by the member for Mitchell highlighting the government's policy,

you can see why the business community was so upset about this provision. The member for Mitchell and the government, in their discussion papers and public presentations, argue that this jurisdiction works in other states. I think that there would be some debate about how well it works in other states and, if it does work well in other states, it raises an even bigger question for the government about why it is not bringing it in.

Let us walk through the government's policy in relation to unfair contracts. It is laid out chapter and verse in the amendments moved by the member for Mitchell, particularly in amendment 11. I will not speak much on amendment 3 because that is really just an object provision that points you to amendment 11. Essentially, it provides for the establishment of an unfair contracts jurisdiction within the commission and, ultimately, the commission can look at contracts and determine their fairness. An unfair contract means a contract that is harsh, unconscionable or unfair. It is quite ingenious of the Labor Party to have a policy that says an unfair contract is unfair; but that is what the draft bill said and, indeed, that is what Labor's policy said.

An unfair contract could be a contract that is against the public interest—whatever that means. Who knows how you would interpret that when you get to the commission? An unfair contract could be a contract that provides a total remuneration that is less than a person performing the work as an employee would receive. Again, this is just the continuation of Labor's interest in trying to interfere with those who seek to work by contract. The last area where a contract can be unfair is if it seeks to avoid, or is designed to avoid, the provisions of an industrial instrument. Apparently, any one of those four provisions makes a contract unfair.

That would mean that, when the two contracting parties went to sign a contract, they would have to make some judgment before signing the contract about whether the contract would be deemed unfair. You could imagine the subcontractors and everyone sitting around a table saying, 'Is this contract harsh or is this contract unconscionable or, indeed, is it unfair? Is this contract against the public interest?' How would they judge that? The reality is that it would be difficult for those in the contracting industry to make a judgment about those matters. So, the contracting community, represented by the Independent Contractors of Australia, is vehemently opposed to this provision moved by the member for Mitchell, which was Labor Party policy at the last election. It then goes on to say in the provision that the commission would have the power to vary or revoke an unfair contract. It would be able to come in and say, 'This contract is unfair, so we will change it. You will have no contractual certainty in relation to your contract.'

What happens when they change it? Can you go back and seek compensation from the other party because the quote you have given on the contract has now changed because your cost structure has changed? Can you seek compensation from anywhere else? That is really not addressed, and it was certainly not addressed in the draft bill put out by the government. What happens if you vary or, indeed, revoke a contract? Indeed, what happens if you have actioned a contract and had to buy equipment or whatever to enforce the contract? Having been in the building industry, I know that we have, on occasions, won tenders or contracts and, on the basis of the value of the contract, we have bought special equipment to help us fulfil the contract. If that was then found to be revoked, who would then compensate us for the capital purchase? It also talks about making associates of a party to a contract also a party to a contract; so it is sort of a catch-all for the commission in relation to this provision.

I will not go through every clause because that would take too long for the committee. The reality is that the contracting industry, the housing industry, the IT industry, the transport industry, the fishing industry and the wine industry are vehemently opposed. In fact, there is not an industry body that I can name that has one ounce of support for this provision.

The interesting thing to note—and I will come back to the point that the member for Mitchell makes—is that this is the government's policy. Twice in an hour tonight we are going to have the government voting against its own policy; we are going to have the government walking away from its own policy. This is the great industrial reform that is going to be brought to South Australia. For eight years in opposition they have been champing at the bit, and telling everyone who would listen that they would come in and make the reforms to make the system fair. Well, the first tough decision that the member for Mitchell moves, the Labor Party deserts. This is the second tough decision for the Labor Party. The question simply remains: will the government vote for its own policy, or is it going to desert?

Mr HANNA: The member for Davenport raises a few points. In respect of the conditions which have to apply before a remedy could be given, should this become law, it is worth going through those conditions once again. After all, who would wish there to be no effective remedy for a contract which is harsh, unconscionable or unfair, or a contract against the public interest, or which provides for pay less than the person would get if they were an employee, or something which is designed to avoid an award, because employees would be covered under such an award? The point is that contracts can be used to avoid the obligations that an employer has where there is a lawful employer-employee relationship.

There is a very good practical clue given to contractors in the provisions. If they were to assess when they make a contract, 'What would an employee receive if I got them to do the work?' and they bargain more or less in accordance with that rate of pay or those conditions, then they are very likely to stay clear of the unfairness which this amendment is designed to counteract. Therefore, there is not the great uncertainty pointed to by the member for Davenport. I expect to have the support of the minister and Labor MPs, because these conditions of harsh, unconscionable or unfair contracts, or contracts which are against the public interest, surely cannot be allowed to persist under a Labor government.

Question—'That the amendment be agreed to'—declared negatived.

Mr HANNA: Divide!

While the division was being held:

The CHAIRMAN: There being only one vote for the ayes, I declare that the amendment is negatived.

Amendment thus negatived.

Progress reported; committee to sit again.

SITTINGS AND BUSINESS

The Hon. M.J. WRIGHT (Minister for Administrative Services): I move:

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

Mr MEIER (Goyder): Sir, I do not want to delay the house—I believe there may actually have been an agreement that we go beyond 10 p.m.—but I think it is another example where—

The SPEAKER: Order! The honourable member for Goyder cannot speak to this motion. He could have spoken to the previous motion, but not this one.

Mr MEIER: Well, if I had had the chance, sir, I would have said that it is 14 hours, I think, that we have been here and, again, this is not the way we should go in respect of a piece of legislation.

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

Motion carried.

INDUSTRIAL LAW REFORM (FAIR WORK) BILL

In committee (resumed on motion).

The CHAIRMAN: I point out to members that industrial law reform does not apply to this place, hence we sit late. I also point out that the other place has a very sensible innovation where it has a tea break; we are not that enlightened.

Clause 5.

The Hon. I.F. EVANS: I move:

Page 5, lines 22 to 25—Delete subclause (4)

In relation to objects, subclause (4) provides:

to encourage and facilitate membership of representative associations of employees and employers and to provide for the registration of those associations under this Act

The reason we seek to delete this from the objects is that we do not see it as a role of the system to promote membership of employer associations or, indeed, employee associations. We see that as a role for the associations, and they will stand and fall on their merit. We see no role for an object to say that we will be promoting employer associations' membership. That might be Business SA membership, it might be the Motor Trades Association or the Retail Traders Association. They are, in effect, in a competitive market for membership themselves—some businesses will go to the MTA, some will go to Business SA and some will join both.

We just do not see that as a role that should be included in the objects. Later on, of course, one of the roles of the inspectors is to promote the objects. So, we could have the situation where the inspectors look at the objects and say, 'My role is to promote the objects. The objects say that we are to encourage and facilitate membership of representative associations of employees and employers.' Therefore, we will have industrial inspectors out there promoting the cause on behalf of business associations and, indeed, the unions. We just do not see how that fits. We think that it fits fairly and squarely in the objects of the associations. We also think it is up to the unions to go out and promote themselves, and it is up to the business associations to go out and promote themselves. We do not see that as being part of the objects.

The minister seeks to insert into the objects the words 'to encourage and facilitate membership of representative associations of employees'. So, those who administer the act are going to help to facilitate membership of employer associations. I am not sure what is intended by the government with respect to that provision. I am not sure what is intended by the government by having the words 'facilitate membership of employee associations'. We are not convinced that there is merit in having that provision as part of the objects of the act. We are very firmly of the view that the employee associations can go out and market themselves and develop their own membership, and we believe that the employer associations should do likewise. We do not think it should be in the objects of the act.

The Hon. M.J. WRIGHT: The government does not support the amendment moved by the shadow minister. I think it is important that we promote a collective approach to industrial relations. A collective approach facilitated through employer associations and unions provides the best prospects of employers and employees being well informed of their rights and obligations and, therefore, how to get the best out of the industrial relations system. The government has a different view to the opposition.

As I said when we were debating an earlier amendment—I think of the shadow minister's—it is important, when looking at the objects of the act to read them as a whole. It is not beneficial to consider them in isolation. That is something that we recommend be included. As members would be aware, section 3(k) of the act also talks about freedom of association. I think it is important when considering the objects that one takes account of the objects of the act as a whole. In summary, it is the government's view that a collective approach to industrial relations is the best approach and should be encouraged.

The Hon. I.F. EVANS: Under clause 21 of the bill, the general functions of inspectors are to conduct promotional campaigns to improve the awareness of employers and the people within the work force of their rights and obligations under the act and the enterprise bargain agreements and awards. If I was an inspector, I could certainly argue that that would fall into promoting the objects, because their rights and obligations flow from the objects. Therefore, potentially, we have the capacity to have inspectors out there promoting membership of these organisations. That is the role of the membership officers of the organisations, not of those involved in the administration of the system.

The government says that it supports the collective nature of the industrial relations system. That can be promoted in a whole range of ways without having this particular object in the bill. Other than a philosophical reason, the minister has given no reason why the system should be out there promoting the membership of unions and business associations. Maybe the minister will explain why the system should do that, why we should promote those particular memberships, and why is that not a role for the associations?

The Hon. M.J. WRIGHT: I think I answered part of what the shadow minister referred to when I first spoke in opposition to his amendment about why I think the collective nature is important. I am not sure that I need to go back over that point, but the assertion that the member makes about inspectors is simply not correct. I do not know why he would put that argument. The object is a guide for the court and the commission. The assertion that inspectors will go out there and do what the shadow minister alleges is simply not the case.

The Hon. I.F. EVANS: Let us walk through that argument. Is it not a right under the act, and the bill if it is passed in the form that the government wants, for an employee to join a union and a business to join an employer association?

The Hon. M.J. WRIGHT: Yes, it is.

The Hon. I.F. EVANS: So, we have established that it is a right. Under clause 21, an industrial inspector can conduct promotional campaigns to improve the awareness of employ-

ers and people within the work force of their rights under the act. Given that membership of those two bodies—whether it be an employee association or a business association—is now confirmed as a right under the bill by the minister, it is crystal clear that, if this object gets through, inspectors will have that capacity, if they so wish.

The Hon. M.J. WRIGHT: I think the member has asked on the third occasion pretty much the same question. I am not sure where he is trying to head with this. Hopefully, he would be aware that, under the former government, material was produced that actually promoted employees and employers joining their appropriate associations. I am not too sure what the member is seeking, but I can only repeat what I said: his allegation that inspectors would go out and undertake this work is simply not the case.

The Hon. I.F. EVANS: If it is a right and if a general function of the inspectors is to conduct promotional campaigns to improve the awareness of employers and people in the work force of their rights—the minister has confirmed that it is a right to belong to an association—how has an inspector breached the act or done anything wrong if he does promote the membership of those associations?

The ACTING CHAIRMAN (Ms Thompson): I point out to the member for Davenport that he has just asked his fourth question and he has also spoken to his amendment.

The Hon. M.J. WRIGHT: It is simply about informing people of their rights. I am not sure what the mischief in that is.

The committee divided on the amendment:

AYES (21)

Brindal, M. K.	Brokenshire, R. L.
Brown, D. C.	Buckby, M. R.
Chapman, V. A.	Evans, I. F. (teller)
Goldsworthy, R. M.	Gunn, G. M.
Hall, J. L.	Hamilton-Smith, M. L. J.
Lewis, I. P.	Matthew, W. A.
Maywald, K. A.	McEwen, R. J.
McFetridge, D.	Meier, E. J.
Penfold, E. M.	Redmond, I. M.
Scalzi, G.	Venning, I. H.
Williams, M. R.	

NOES (21)

Atkinson, M. J.	Bedford, F. E.
Breuer, L. R.	Caica, P.
Ciccarello, V.	Foley, K. O.
Geraghty, R. K.	Hanna, K.
Hill, J. D.	Key, S. W.
Koutsantonis, T.	Lomax-Smith, J. D.
O'Brien, M. F.	Rankine, J. M.
Rann, M. D.	Rau, J. R.
Snelling, J. J.	Stevens, L.
Thompson, M. G.	Weatherill, J. W.
Wright, M. J. (teller)	

PAIR(S)

Kerin, R. G.	Conlon, P. F.
Kotz, D. C.	White, P. L.

The CHAIRMAN: There being 21 ayes and 21 noes, the particular provision is, I guess, equally good or bad in that it supports both the employers and employees. The chair would have been happier if this particular section could have been split, but I will support the noes because, as I say, it treats employers and employees equally.

Amendment thus negatived.

The Hon. I.F. EVANS: I move:

Page 5—
Line 26—Delete '(m) and'
Line 26—Delete 'paragraphs (m) and' and substitute: paragraph
Lines 27 and 28—Delete paragraph (m)

These amendments are consequential. The business community has raised concerns throughout the consultation on this bill about the uncertainty that the bill creates, and this is one of those clauses that looks good when you read it, although most people out there in voter land would probably not. However, when you analyse what it actually means the question becomes what does it mean, and that is where uncertainty comes into the equation. That is the reason for our opposition. The proposed object reads:

(m) to help prevent and eliminate unlawful or unreasonable discrimination in the workplace;

If we take out the words 'or unreasonable' it would read:

(m) to help prevent and eliminate unlawful discrimination in the workplace;

Discrimination is a difficult issue, but the reason we move this is to ask: what does the word 'unreasonable' mean in relation to discrimination if it is not unlawful? The government is saying that the object would be to help prevent and eliminate unlawful discrimination. We do not have a problem with that. In fact, we support it. It then goes on to say in essence that it should be an object to help prevent lawful but unreasonable discrimination.

During my second reading contribution I asked the minister to give us some examples of what lawful but unreasonable discrimination might be, and the minister chose not to do so. That, I think, shows the concern that the business community would have in relation to this matter.

No-one in this house likes to see people discriminated against, and that is why a raft of discrimination legislation has been brought in that seeks in appropriate circumstances to protect people from discrimination. That is why we support the prevention of unlawful discrimination being part of the objects, but what we are now being asked to put into the objects is a provision to help prevent lawful but unreasonable discrimination. If it is unreasonable discrimination, you would have to ask why the government has not moved to make it unlawful. If the government has an example of something that is unreasonable discrimination, on what basis is it not unlawful and why is it not seeking to change the discrimination laws if it is concerned about unreasonable discrimination that is not already unlawful?

It is not and should not be painted as an issue that the opposition is not as concerned about discrimination or does not care about discrimination. It does, but it also likes laws to be clear, because if laws are clear, then it becomes less costly and there are fewer disputes for those involved, particularly in the industrial relations system. What we are seeking to do is to remove the words 'or unreasonable' from this particular object. Virtually every business association picked this up. Some of the submissions from business associations picked up one point and others made a different point, but in nearly all the submissions this point was consistent, which gives an indication of the level of concern from the practitioners in the community who will have to deal with this issue if it becomes part of the bill.

We would urge the committee to support the opposition's amendment. We still leave in the bill, quite appropriately, an object to help prevent and eliminate unlawful discrimination in the workplace, and we think that by taking out the words

'or unreasonable', we give more clarity to the bill, which will be a positive for everyone concerned.

The Hon. M.J. WRIGHT: I oppose the shadow minister's amendment. I think unreasonable discrimination ought to be discouraged and this is a means to do so. The shadow minister makes an argument about clarity and trying to limit it to unlawful. He may well want to ask a couple of questions. If I had responded to everything during my second reading speech, we may not be as advanced as we are now. We think strongly that unreasonable discrimination ought to be discouraged and this is a means to do so.

Mr GOLDSWORTHY: Continuing on from the comments of the member for Davenport, we received many submissions from different associations of the business community and all expressed a real concern about this clause. I refer particularly to a submission we received from the South Australian Wine Industry Association. As I said in my second reading contribution yesterday, the wine industry plays a significant role in the economic wellbeing of the Adelaide Hills, and no doubt the member for Schubert and the member for Mawson who have a significant wine industry in their electorates would also be interested in these aspects. I share with the committee the concerns that the wine industry has raised about this clause. In part of their submission they say:

> In reviewing this change a new dimension is added—'unreasonable discrimination within the workplace'.

They ask:

> What is unreasonable? What number of people will have an opportunity to decide this? What is considered to be 'reasonable' or unreasonable is open to interpretation. To identify the range that is possible, reference should be made to the change proposed.

In their view, this expands the interpretation of a discrimination beyond the current documented law to any case that can be made out that is considered to be unreasonable, even if it is lawful within the workplace. They then go on to say:

> We oppose the widening of this object. It could be that an action while lawful discrimination is nevertheless found to be unreasonable.

I will repeat that for the benefit of the committee: 'an action while lawful discrimination is nevertheless found to be unreasonable'. Further, they say:

> Wine industry employers demand certainty from the lawmakers. Isn't it fair and reasonable to expect that the law state the tests and obligations expected of an employer and employees. Any object that exposes an employer or employees to an opportunity for litigation and adversarial relationships is to be avoided.

But it comes back to this question: an action could be regarded as lawful discrimination but, nevertheless, be found to be unreasonable. I think that poses a question that should be answered.

The Hon. M.J. WRIGHT: Sorry; what is the question?

Mr GOLDSWORTHY: For the benefit of the minister I will repeat it. It provides that an action, while being considered lawful discrimination, can nevertheless be found to be unreasonable.

The Hon. M.J. WRIGHT: I thank the member for his question. 'Lawful' and 'unlawful' normally fit into some pretty specific categories such as race, sex, political beliefs and so on. But it is certainly possible for a person, not based on gender or race, to take a real dislike to someone and make their life hell at work. That should be discouraged. It may well be that someone chooses to make someone's life hell at work for all sorts of arbitrary reasons, and that should not be acceptable. That is certainly what we are talking about here.

Mr HAMILTON-SMITH: 'Unreasonable' is a term that is open to different interpretations depending on which particular commissioner is dealing with it or which particular advocate is considering it. I note, in reading the parent act, that there does not seem to be (and correct me if I am wrong, minister) a definition in the act of the term 'unreasonable'. Would it not be appropriate that the act contained such a definition so that commissioners and those acting under the act had something by way of firmer guidance? A term such as 'unreasonable' could finish up costing an employer thousands of dollars, however it is applied, whether it was in the context of an unfair dismissal or recruitment or any provision in the act. Will you put a definition of the word 'unreasonable' in the act?

The Hon. M.J. WRIGHT: No is the simple answer. The courts and commissions deal with issues such as this all the time and have been doing so for probably in excess of 100 years. They do it on a daily basis and they do it very well. The shape and the character will depend on the circumstances.

Mr SCALZI: The minister has just talked about likes and dislikes. If someone is giving someone else a hard time, surely that would come under harassment and it could be dealt with, rather than putting something in the bill which is so subjective that it would be difficult to administer. Either something is lawful or it is unlawful. To say that it is lawful and unreasonable really diminishes the definition of what it means to be lawful. You cannot qualify something to be lawful or not lawful, and that is what 'unreasonable' does in this case, and it will lead to unnecessary disputes. As the minister said earlier in his explanation, if someone dislikes someone and is giving them a hard time and so on, then deal with that. If someone is being harassed and given a difficult time as an employee, surely it would be better to deal with that type of behaviour under a different provision rather than diminish the value or the definition of 'lawful' in this case.

The Hon. M.J. WRIGHT: I have already dealt with that matter in a previous question.

The Hon. I.P. LEWIS: When you disagree, the simple fact remains that you disagree; and, in this case, the opposition makes the point—well made in the first instance and simple enough to understand through the remarks of the member for Davenport—that how can it be possible for an employer to accept responsibility for an entirely subjective appraisal that is to be made by someone down the track? If it is not possible to say in law what it is that will be offensive, it is simply not reasonable to expect an employer to comply because the employer cannot know what it is they will be prosecuted for.

I will give an extreme but not ridiculous example. Per chance, one day, prostitution becomes lawful in South Australia, and prostitution services are being provided for homosexual women who cannot arrange partners for themselves in any other way to gratify their sexual lust. The operator of the 'Pussy Bordello' will require, naturally, a prostitute to provide the services that are being paid for by the person who cannot secure the service through normal social interaction. And, in these circumstances, should the person who has paid for the service demand favours of a kind that are regarded by the client as entirely reasonable—

Mrs GERAGHTY: Sir, I rise on a point of order. I do not think that anyone could say that I was a prude, but I think that it would perhaps be appropriate if the member for Hammond could find some other example.

The Hon. I.P. LEWIS: That is sad, because the honourable member obviously overlooks the seriousness of the situation. There is a very real possibility—

The CHAIRMAN: Order! The chair is not here to dictate, but, if the member for Torrens takes offence at that example, I would urge the member for Hammond to consider that and, perhaps, be inclined to give a different example. The chair cannot rule that the honourable member cannot use that example.

The Hon. I.P. LEWIS: It already happens, lawful or not. This sort of thing happens whether it is men on men or women on women.

Mr BRINDAL: I do not want to delay the member for Hammond, sir, and I do not want to disagree with your ruling, but in 15 years I have not heard the chair direct a speaker on what example they can use. Whatever the member for Hammond says, he is entitled to say it. He is not using offensive or unbecoming words in terms of other members, and I do not think that you should ask him to change his illustration. I do not necessarily like it—

The CHAIRMAN: Order! The chair did not direct the member for Hammond to do anything. Given that the member for Torrens took offence at his example, I asked him to consider giving a different example. The chair did not direct the honourable member to do anything other than consider the feelings of the member for Torrens.

The Hon. I.P. LEWIS: My point then is that, if the service provider in this instance takes offence at the demands being made by the client, the employer is then at risk of being guilty of having behaved unreasonably by then refusing the service demanded and, according to this law, that is improper. How on earth can anyone know in advance whether they are the provider of services? I chose an example deliberately extreme so that the attention of members would be drawn to the reality of what occurs elsewhere in the work force.

If it is regarded by the customer as being reasonable, the service provider—the worker—must provide it. It does not matter whether or not it is on a steeply sloping heritage listed roof, or whether it is someone working in a bordello, or whether it is someone being asked, as a hooker operator (and I am talking about an employee working for a crustacean collector in the marine environment on the end of a hooker hose, who, instead of carrying a cylinder of air on their back, uses a hooker) to dive into what the employee regards as dangerous and risky waters, even though that is part of their task. That is where the crustaceans are to be found that the employer seeks to have harvested, whether they be sea urchins, abalone or sea cucumbers. We all know that sea cucumbers provide us with a great source of cure for some diseases that have been hitherto incurable and fatal.

We also know that our South Australian gulf waters contain a greater variety (and probably an equivalent number) of sea cucumbers than any other marine environment on earth, including the tropical reefs—that is, where it has not been butchered by irresponsible prawn trawlers dragging chains and wrecking the ecosystem on which they depend. As a scuba diver, I know what I am talking about. I know that those sea cucumbers are there, and I enjoy them with chilli sauce when I catch a few, which is probably why I am still alive, although many people believe I should have been dead long ago!

The CHAIRMAN: Order! I think that the member for Hammond is straying from the amendment.

The Hon. I.P. LEWIS: The simple fact is that the employer cannot be expected to know what is lawful or unlawful, if part of the law says it is unreasonable and if the law is elsewhere stated, and suddenly this subjective criterion is applied that it is unreasonable and therefore an offence. Therefore, the employer is at risk, and the employee does not have to do what the employee undertook to do when they accepted the job. There is nothing the employer can do about it, if the court rules accordingly. The employer simply has to go broke—that is what it amounts to.

It does not matter whether you are running a bordello, or employing scuba divers, or wanting someone to segregate weaners day in and day out in a piggery. Some of those little sods can get very aggressive and, if you do not understand pigs and know how to make eye contact with them (and I am not talking about police: I am talking about the animals with four legs you find in sties), they are extremely difficult animals to handle if you do not know what you are doing.

Although it is not unlawful, it should not be an offence on your part as an employer to require the person who accepted the job to work in the piggery to do the jobs that have to be done amongst the weaners. It is just part of life. If the law is to be reasonable and not seen as an ass, it must say what is unlawful. It must not leave these subjective interpretations to a court once an employee decides to make a complaint, pursue his case and screw the employer. That is not reasonable. Nowhere else in law, or in society, have we entertained such behaviour since we gave up proving innocence or guilt by requiring people to walk on hot coals or, for that matter, to stand on the point of knives or nails.

That kind of determination of guilt or innocence is very subjective, and irrelevant to whatever offence there may have been. Equally, to include in the law something as ridiculous as saying that it is unreasonable, and to make the word mean that it is therefore unlawful, in addition to what is already unlawful, defies logic. On the point of logic, if you look at it in terms of a Venn diagram, it is simple enough to understand that what is included in the set of ideas that is stated in the black letter law and in case law, must stand, and nothing more than that can stand; as the grounds upon which it is either reasonable or lawful to have a dispute, nothing more than that stands, as the grounds on which it should be possible to find someone guilty or innocent of an offence.

The subjective interpretation of what is reasonable or unreasonable gives an unrealistic expectation to employees as to what they can demand; that is more heinous than what some employers may require on the other side of the question. It is better to either define it in law or leave it alone, and leave it out.

Mr SCALZI: I have been persuaded, not by any argument in the last five minutes, but by the fact that there has been such a broad range of arguments that illustrate the point that if we include 'unreasonable' we are going to get so many unreasonable arguments. It diminishes the very fact of what is lawful and unlawful. It is no different from when I was a school teacher; if you did not make it clear what was allowed or not allowed in the classroom you were going to have problems. If we have spent the last 10 minutes giving five wide-ranging examples going down to the deep blue sea, what in the hell is going to happen in the workplace when we are confronted with this provision 'unreasonable'? You cannot have a law—

The Hon. S.W. Key: We have managed for 100 years.

Mr SCALZI: Right; but make it clear and say it is unlawful. Say exactly what is lawful and what is unlawful. Do not include subjective tests—and make it unreasonable. If, as we have seen in the last 10 minutes, we are arguing over

it in this place, surely there is going to be argument in the workplace.

The committee divided on the amendments:

AYES (21)

Brindal, M. K.	Brokenshire, R. L.
Brown, D. C.	Buckby, M. R.
Chapman, V. A.	Evans, I. F. (teller)
Goldsworthy, R. M.	Gunn, G. M.
Hall, J. L.	Hamilton-Smith, M. L. J.
Lewis, I. P.	Matthew, W. A.
Maywald, K. A.	McEwen, R. J.
McFetridge, D.	Meier, E. J.
Penfold, E. M.	Redmond, I. M.
Scalzi, G.	Venning, I. H.
Williams, M. R.	

NOES (21)

Atkinson, M. J.	Bedford, F. E.
Breuer, L. R.	Caica, P.
Ciccarello, V.	Foley, K. O.
Geraghty, R. K.	Hanna, K.
Hill, J. D.	Key, S. W.
Koutsantonis, T.	Lomax-Smith, J. D.
O'Brien, M. F.	Rankine, J. M.
Rann, M. D.	Rau, J. R.
Snelling, J. J.	Stevens, L.
Thompson, M. G.	Weatherill, J. W.
Wright, M. J. (teller)	

PAIR(S)

Kerin, R. G.	Conlon, P. F.
Kotz, D. C.	White, P. L.

The CHAIRMAN: Order! There being 21 ayes and 21 noes, I wish to indicate quite clearly why I feel so passionate about many aspects of this bill: it is because I detest injustice and discrimination and have always felt that way. It offends my very inner being. I will do anything at any time to try to remedy any unjustice or discrimination I see, whether it is in the workplace or anywhere else. I make the point in relation to this section that we are talking about the objects of the act, so these are very general guidelines.

This measure talks about helping to prevent and eliminate unlawful or unreasonable discrimination in the workplace; it is not necessarily against the employer. I can say that, from my experience as a minister, I had at least two staff who were driven out by the unreasonable behaviour—not unlawful but unreasonable behaviour—of a senior staff member who was very subtle and did things against those two people. I could give some examples where people may object to someone wearing a cross or other Christian pendant, for example, and that would not be unlawful to treat them badly but, in effect, they could be treated unreasonably. The same goes for someone like a Sikh who wears a turban and could be discriminated against, not necessarily unlawfully. On that basis, I will cast my vote for the noes.

Amendments thus negatived.

The Hon. I.F. EVANS: I move:

Page 5, lines 33 and 34—
Delete paragraph (p)

Those who are following the bill realise that a lot of the divisions occurred early in the bill. A lot of matters then become consequential later in the bill, and we will move faster through the later part of the bill than in the early part of the bill. I am not of the view that a quick debate is a good debate. Every debate should be on its merits. This amendment seeks to delete clause 5(5)(p), which supports the implementation of Australia's international obligations in relation to labour standards. The reason we move to delete this is that we have no problem with the international labour standards or organisations and the obligations in those conventions in forming our law, but we do not necessarily believe they should automatically become the law. We have absolutely no problem with considering those matters that are brought forward by the international labour organisations and through the treaties, etc. that are signed up by the commonwealth which then bring international obligations to consider. The government is making it an object of the act to support those obligations. The minister has visited Geneva and met with the ILO. He would be far better at knowing what the ILO intends to do in the future than I would. However, I did go to that contracting conference in Canberra, and there was a speaker who also has a lot to do with the ILO.

The member for Mitchell would be pleased to know that the unfair contracts jurisdiction and the deeming provisions that he supports and, indeed, all the Labor Party supported until tonight, are the sort of provisions that the International Labour Organisation is looking at on an international level. This particular provision will give more focus to those principles if and when they are adopted by the ILO at an international level. Again, we have no objection to those obligations and those conventions informing our law, and we will make a considered decision about it, but we do not necessarily see it as a role for the objects.

The Hon. M.J. WRIGHT: I do not support the amendment put forward by the shadow minister, and I am a little bit surprised that he would not support this. The amendment provides, 'to support the implementation of Australia's international obligations in relation to labour standards'. When our nation adopts an international obligation, it is quite appropriate for our industrial tribunals to take those matters into account. I am not so sure where the mischief might be there. As we have said previously during the course of the evening, the objects are simply a guide for the court and the commission. Once Australia adopts an international obligation, it is quite appropriate for our industrial tribunals to take those matters into account; it does no more than that. I cannot quite capture the argument as to why we would want to delete that from the objects. From my point of view, it just seems basic commonsense.

Mr HAMILTON-SMITH: In relation to this provision, I ask the minister why it is that the objects of the act have chosen to state these words: 'An actual object is to support the implementation of Australia's international obligations in relation to labour standards' rather than just saying that we will take those obligations and simply work them into the clauses of the act. In other words, we will apply those existing obligations as they stand into the intent and the words of the act, rather than put this clause in there. My concern is that, by having this as an object of the act, it seems to invite the automatic adoption of any international agreement in future without particular consideration. I put that to the minister: why is it necessary to have it in there so dramatically?

The Hon. M.J. WRIGHT: I thank the honourable member for his question. As he may well be aware, when Australia adopts an international obligation, it consults with the states and, consequently, we are agreeing as a nation—all of us—to that international obligation. It only happens once Australia adopts an international obligation. The process is that the commonwealth consults with the states. I have said before and I will say again that the objects are simply there,

as are other objects, as a guide for the court and the commission. All we are asking is to support the implementation of Australia's international obligations in relation to labour standards. Once we have followed that process, that is, as a nation we adopt an international obligation, the consultation has occurred with the states; as a nation we agree to it. All we are suggesting is that, in its objects, the court and commission can have regard to that, and we are putting it in the objects.

Mr HAMILTON-SMITH: I thank the minister for that advice. However, I suppose the point I am making is that, as a matter of principle, perhaps international labour organisations standards should inform our laws, not become them, and industrial relations law in South Australia should be determined more by the people of South Australia, not the employers, unions or governments elsewhere in the world. I take the minister's point that as a nation we have agreed to these statements. However, from my reading of the constitution, there is no constitutional role for state legislatures to necessarily induct those international agreements into their own state laws.

I accept the minister's point that, if the federal government agrees to an international standard, it should induct those agreements into its own laws. I take the point that the spirit might be that the states should take note of those agreements, but there is no constitutional requirement for us to do so. I ask whether it would not be wiser for us to take this out of the objects of the act and take the view that we will look at international agreements on a case by case basis as they are agreed to and amend the law accordingly. There is no constitutional commitment, so why put it in the objects of the act?

The Hon. M.J. WRIGHT: I appreciate that the member has a different view. However, we think it is appropriate that, once the nation has adopted it and the consultation process has occurred with the states (which is the case), it is quite appropriate for our tribunals to take these matters into account. It does not make it law, but it provides it as an object, amongst other objects, in the act, which we have been talking about for some time now. They should not be read in isolation, but they are a guide for our tribunals. For those reasons, we support that.

The committee divided on the amendment:

AYES (21)

Brindal, M. K.	Brokenshire, R. L.
Brown, D. C.	Buckby, M. R.
Chapman, V. A.	Evans, I. F. (teller)
Goldsworthy, R. M.	Gunn, G. M.
Hall, J. L.	Hamilton-Smith, M. L. J.
Lewis, I. P.	Matthew, W. A.
Maywald, K. A.	McEwen, R. J.
McFetridge, D.	Meier, E. J.
Penfold, E. M.	Redmond, I. M.
Scalzi, G.	Venning, I. H.
Williams, M. R.	

NOES (21)

Atkinson, M. J.	Bedford, F. E.
Breuer, L. R.	Caica, P.
Ciccarello, V.	Foley, K. O.
Geraghty, R. K.	Hanna, K.
Hill, J. D.	Key, S. W.
Koutsantonis, T.	Lomax-Smith, J. D.
O'Brien, M. F.	Rankine, J. M.
Rann, M. D.	Rau, J. R.
Snelling, J. J.	Stevens, L.
Thompson, M. G.	Weatherill, J. W.

NOES (cont.)

Wright, M. J. (teller)

PAIR(S)

Kerin, R. G.	Conlon, P. F.
Kotz, D. C.	White, P. L.

The CHAIRMAN: There being 21 ayes and 21 noes, it comes down to the chair. I cannot envisage how anyone would want to support the removal of this. It is not making any international obligation on the part of South Australia; it is supporting the implementation which would be by the federal government. So, this is a John Howard provision and would cover matters such as child labour, exploitation of women and sweatshops. I am not sure whether members have some other intention in terms of their action, but there is no way in the world we could have a system in South Australia where we supported child labour, exploitation of women and sweatshops. I cast my vote for the noes.

Amendment thus negatived.

The Hon. I.F. EVANS: I move:

Page 6, lines 12 and 13—Delete paragraph (d)

This amendment deals with a provision in the bill that provides a regulation-making power to the minister so that, in effect, any other convention or standard prescribed by regulation for the purposes of this provision can be put into the objects. Clause 5(6)(2) provides:

> In exercising powers and carrying out functions under this act, the court, the commission and other industrial authorities are to have regard (where relevant) to the provisions of. . .

We seek to delete the regulation-making power. The reality is that we think that, if other conventions or standards are to be brought into the bill, there should be a debate about that. The minister should bring that forward more publicly than just by regulation. For that reason, we oppose the regulation-making power.

The Hon. M.J. WRIGHT: I do not support the shadow minister's amendment. Clause 5(6)(2)(d) provides:

> (d) any other convention or standard prescribed by regulation for the purposes of this provision.

So, this would be monitored and controlled by the parliament. If the parliament did not like it, it would simply toss it out. The intent here is about ILO conventions. It could be other standards or conventions of a national standard. If the parliament does not support them, obviously, they can be disallowed. Any minister of the day, whether it be me, the shadow minister or whomever, whenever, wherever, would obviously need to take account of that and would be mindful of that. I am not supporting the proposal that has been brought forward by the shadow minister to delete this provision. As I said, it can be disallowed by regulation, and I think that provides a very good safeguard for the parliament.

Mr HAMILTON-SMITH: When one looks at the wording of subclause (6)(d), 'any other convention or standard prescribed by regulation', it seems to me that this clause provides carte blanche to the government to basically take on board and prescribe through regulation any convention or standard that might come from Geneva—industrial relations from Geneva, or anywhere else; we will just throw that into the mix. It has been my experience that the devil is in the detail with respect to these matters. The regulations, in fact, can be quite overpowering for business and can contain a whole lot of quasi legislation that has not had the purview of the parliament.

I take the minister's point: 'But they will be disallowable instruments put before the parliament and the parliament can

decide on it.' However, the reality is that the government of the day could cook these things up, throw them on the table and just keep putting them down until such time as they find their way through. Should not these conventions or standards, which sound as though they could be quite far reaching, be examined through debate and scrutiny within the context of a bill? If you want to introduce a new convention or standard, should you not introduce an amendment to the bill so we can have a debate about it, rather than do it through regulation? I support the amendment, and I ask the minister to address the issues that I have raised.

The Hon. M.J. WRIGHT: I am happy to do so. One obviously can have a debate about a disallowance motion. It is not carte blanche, because it will be monitored and controlled by the parliament. Let us not lose sight of what we are debating: clause 5—the objects of the act. As important as they are, as I have said a number of times during the course of the past three hours or so, the objects of the act should not be looked at in isolation; they should be looked at in totality. Some objects are in the current act, and the government has brought forward some other suggestions. We think we have improved upon the objects of the act as a result of those things which we have brought forward and which, in part, reflect changing circumstances. We have talked for three hours or so about the objects of the act (clause 5 of a 78 clause bill), but they simply provide a guide for the tribunals. It has been a healthy debate. Some might suggest that we have spent a little longer than we envisaged on this, but we are working our way towards the end of clause 5.

The Hon. I.F. EVANS: If the parliament disallows the regulations, there is nothing to prevent the minister automatically remaking the regulations. They could then be disallowed again, and that cycle could continue. Will the minister confirm that?

The Hon. M.J. WRIGHT: That is possible. The member has been here longer than I; he probably knew the answer to that question.

The Hon. I.F. EVANS: I was just refreshing my memory. The regulations can continually be remade. The other option, of course, is for the regulations to be made on the last day of sitting in, for instance, November, and they could sit there until March. With 14 days disallowance you could have the regulation there for four, five or six months. There are all sorts of tricks that ministers can use to put in a regulation without having very much parliamentary debate, so I think the concern about regulation making powers in relation to these standards and conventions is valid.

Other than the ILO, what conventions or standards is the minister envisaging? Who else makes conventions; who else sets standards? If you want to adopt a standard from America or the European Union, I assume that under this provision there is nothing to stop you from doing so, because this says 'any other standard or convention'. So, I assume you can pluck something out of the industrial relations club from anywhere in the world and plonk it down here on the basis that it is a convention or a standard. That is why the member for Waite and I have some concerns about this provision.

It is not restricted to any other convention or standard from the ILO, because that goes through a process. It is not any other convention or standard issued by the federal government, because that goes through a process. This says 'any other convention or standard', per se. So, we could go to a convention in America and, if they adopt a new standard for Washington or Oregon, lo and behold we might find that attractive, and we could make it a regulation here. That is the concern. There is no protection in this section of the legislation that requires conventions or standards to go through a process.

The ILO has a process, and Australia is represented on the ILO—there are also representatives of workers and employers—and there is an international debate. If a convention or a standard was signed off by the federal government, there would be a national debate, but there is nothing about this in the bill. If my side of politics came to power, we might want to use this provision to adopt a convention or a standard in relation to employer matters. I am not sure how employee associations would feel about that. Where is the protection in relation to that matter?

The Hon. M.J. WRIGHT: The protection is the parliament. The honourable member knows full well that regulations—

The Hon. I.F. Evans interjecting:

The Hon. M.J. WRIGHT: That is an accusation you are making. I am not aware of the tricks to which you refer. It may be the business of former governments. I would not think any member in this parliament on either side of the fence would play those sorts of tricks.

The Hon. I.F. EVANS: Specifically what conventions and standards is the minister talking about? Do those conventions and standards go through a process such as the ILO does? Do standards adopted nationally go through a process? As I mentioned before, the ILO and the national government have some process where there is input. This allows the government to adopt any convention or standard from anywhere in the world that has had no input or real process. The minister may not do that, but this allows you or a future government to do it.

The Hon. M.J. WRIGHT: The clause is quite clear and the member well understands that. He talks about the ILO, which a moment ago he was wanting to knock out. In relation to the other point, I do not have any particular standards in mind.

The committee divided on the amendment:

AYES (21)

Brindal, M. K.	Brokenshire, R. L.
Brown, D. C.	Buckby, M. R.
Chapman, V. A.	Evans, I. F. (teller)
Goldsworthy, R. M.	Gunn, G. M.
Hall, J. L.	Hamilton-Smith, M. L. J.
Lewis, I. P.	Matthew, W. A.
Maywald, K. A.	McEwen, R. J.
McFetridge, D.	Meier, E. J.
Penfold, E. M.	Redmond, I. M.
Scalzi, G.	Venning, I. H.
Williams, M. R.	

NOES (21)

Atkinson, M. J.	Bedford, F. E.
Breuer, L. R.	Caica, P.
Ciccarello, V.	Foley, K. O.
Geraghty, R. K.	Hanna, K.
Hill, J. D.	Key, S. W.
Koutsantonis, T.	Lomax-Smith, J. D.
O'Brien, M. F.	Rankine, J. M.
Rann, M. D.	Rau, J. R.
Snelling, J. J.	Stevens, L.
Thompson, M. G.	Weatherill, J. W.
Wright, M. J. (teller)	

PAIR(S)

Kerin, R. G.	Conlon, P. F.
Kotz, D. C.	White, P. L.

The CHAIRMAN: There are 21 ayes and, not surprisingly, 21 noes. In relation to this section, I think the argument for deletion is flawed because, if you believe that regulations are potentially so dangerous, we should abolish that procedure altogether in every act. This says 'prescribed by regulation' and you can disallow it in either house. We do this all the time. I do not see what is difficult about having this provision in the bill, therefore I cast my vote with the noes.

Amendment thus negatived; clause passed.

Clause 6.

The ACTING CHAIRMAN (Ms Thompson): Does the member for Davenport wish to move his amendment?

The Hon. I.F. EVANS: There are a number of amendments. I assume we are still proceeding on the basis that we are splitting the clause into subclauses and going through it.

The ACTING CHAIRMAN: I understand that the first amendment is to clause 6, page 6, after line 18, subclause (2).

The Hon. I.F. EVANS: Yes, that is right, but are we allowed to ask questions on other subclauses before that?

The ACTING CHAIRMAN: Are you asking whether your amendment No. 9 will be put separately?

The Hon. I.F. EVANS: Yes, and before I move amendment No. 9, the bill introduces a definition of 'child' about which I want to question the minister. I am wondering how we will proceed with that.

The ACTING CHAIRMAN: Ordinarily it is amendments first.

The Hon. I.F. EVANS: Yes, but the amendment comes after the definition of 'child', which is before line 18. My amendment comes in at line 18.

The ACTING CHAIRMAN: Does your query affect your amendment?

The Hon. I.F. EVANS: No.

The ACTING CHAIRMAN: In that case, the normal tradition of the committee is to deal with the amendments and then, if you have other questions—

The Hon. I.F. EVANS: No, Madam Chair, you misunderstand. My amendment refers to a later line number than the definition of 'child'. If I go past the definition of 'child' and move my amendment, I miss the opportunity to ask questions on the definition of 'child' that has been inserted in the bill. The definition of 'child' is at line 17; my amendment comes in at line 18. I want to ask questions about the definition of 'child', so I need to do that before I move my amendment.

The ACTING CHAIRMAN: Do you want to be able to make three points in relation to every subclause?

The Hon. I.F. EVANS: No, not three questions, but with clause 5 it was agreed that the committee could explore each subclause separately. I am asking to do that here. We did not use all three opportunities on the last clause, and we will not on this one. I have two amendments to this clause, so it needs to be broken into parcels somehow. I am asking the chair for an instruction as to how I move two amendments to the one clause and ask questions on the other subclauses which I do not seek to amend.

The ACTING CHAIRMAN: Perhaps there is some speed in proceeding to the first amendment and, before anyone moves it, there will be an opportunity to ask questions on the matters that come before the first amendment. Is that satisfactory?

The Hon. I.F. EVANS: Absolutely.

The ACTING CHAIRMAN: This is not the normal procedure but, if everyone is agreed, that is the way we will proceed. The first amendment is to line 18. Are there any questions before line 18?

The Hon. I.F. EVANS: Madam Chair, I thank you for your agreement, as I am not quite sure how we could possibly do it without breaking it into these parcels, so I appreciate your cooperation. The only reason I want to explore this matter is to ask why we need a definition of 'child'. Specifically, I raise the concern the wine industry has—and the minister would have received its submission. I raised it during my second reading contribution in response to an interjection by the member for Torrens.

Essentially, the Wine and Spirit Industry SA Award says that no person under the age of 16 will be employed. Therefore, in the wine industry case employees aged 16 to 17 years will be potentially subject to schedule 9, which is the worst forms of Child Labour Convention 1999. Then they go on to express concern about that. Why do we need to put a definition of 'child' into the bill?

Other industries would have a similar provision to that of the wine industry which will also get caught. I notice that an adult is defined as being 21 years under the act, a child is under 18 years, and someone who is between 18 and 21 years is called a junior. That is the way I understand the bill and the act. I wonder if the minister can walk me through why we need three definitions, with particular reference to the wine industry's concerns.

The Hon. M.J. WRIGHT: Would you repeat the wine industry's concerns?

The Hon. I.F. EVANS: The wine industry sent its submission through the consultation process. It states:

> The inclusion of a definition for 'child' is new and did not form part of the December 2003 consultation bill. Child means a person who has not attained the age of 18 years. The Wine and Spirit Industry (SA) Award states that no person under the age of 16 years will be employed. Therefore, in the wine industry's case employees aged 16-17 years will be potentially subject to the schedule 9 Worst Forms of Child Labour Convention 1999. While the majority of this convention is understood and thankfully not a feature of South Australian working life, article 3(d) will potentially be an option for prosecution of employers under this proposed bill as well as the Occupational Health, Safety and Welfare Acts. In part, article 3 states as follows:
>
> > For the purposes of this convention the term 'the worst forms of child labour' comprises
> >
> > (d) work which by its nature or the circumstances in which it is carried out is likely to harm the health, safety or morals of children.
>
> Unfortunately, incidents relating to health and safety can and do happen in the workplace. In this case, an incident involving a 16-17 year old working in the wine industry will potentially expose an employer to a breach of the proposed bill. If the same incident happens to an 18 year old the proposed bill will not be breached.
>
> The wine industry is concerned with this definition and the link to the ILO convention and how in practice it might be applied. Employers were considering this issue based on an example given in the December 2003 consultation bill of children selling confectionery door to door.

So, that is the problem that the wine industry has. It would apply, I suspect, to farming enterprises and the building industry, etc. Without wishing to delay the debate, because it is a matter specifically raised in the consultation, I seek some clarification from the minister.

The Hon. M.J. WRIGHT: I thank the member for his question and for repeating the concerns of the wine industry association. The first question relating to the definition of 'child' is relevant to the child labour provision, which is later in the bill. The ILO convention is part of the objects which, of course, we debated earlier. That does not create an offence, which I think is maybe not solely but largely the concern of the association. In relation to the third question that the

shadow minister asked, 'junior' generally relates to provisions usually in awards for junior rates.

The Hon. I.F. EVANS: I move:

Page 6, after line 18—
Insert:
bargaining services means services provided by (or on behalf of) an association in relation to—
(a) an industrial dispute (including representation in proceedings before the Court or the Commission); or
(b) an industrial matter; or
(c) an industrial instrument (including, as appropriate, the negotiation, making, approval, variation or rescission of the instrument);
bargaining services fee means a fee (however described) payable to—
(a) an association; or
(b) someone else in lieu of an association,
wholly or partly for the provision, or purported provision, of bargaining services, but does not include a membership fee:

This amendment is in relation to bargaining agents' fees. I indicate to the committee that this will be a test clause. A number of provisions in my amendments relate to bargaining agent's fees and, if I am unsuccessful on this amendment, obviously I will not proceed with the other amendments. The opposition has twice put before the house this principle of bargaining agent's fees. Once it did not get debated, and I think on the second occasion some second reading contributions were made but it was not put to the vote.

The reality is that the opposition does not support the introduction of bargaining agents' fees. Generally, the commonwealth legislation does not allow bargaining agent's fees. Recently a High Court case known as the Electrolux matter has further confirmed the federal government's position, and that is now being further considered by all parties as to its exact impact. The opposition does not support bargaining agent's fees.

Currently, the government is in negotiation with the Public Service Association. The Public Service Association seeks to introduce bargaining agents' fees for all those unsuspecting members of the Public Service who are not members of the Public Service Association. I thank those members of the Public Service who are not members of the Public Service Association and who have contacted my office and expressed concern about the PSA's proposal. The association's proposal is to negotiate a tidy fee of $825 every two years or just over $400 per year. The emergency services levy, for the average house, is about $80 or $90.

The union tax proposed by the Public Service Association is over $400 per year. I can remember the outrage of members opposite at the introduction of the emergency services levy. However, when the union wants to apply a tax to the average household five times the amount of the emergency services levy, the government runs out and supports it; and I think that the electorate will judge that on its merits come the next election. The opposition is of the view that a bargaining agent's fee should not be charged to those people whom the union wishes to charge.

They are non-union members. If the non-union members wanted the services of the union they would join the union. It is up to the unions to sell their wares and the benefits of membership to those non-union members. It seems to us that people should not have to pay for a service that they do not request, and many people do not request the union to negotiate EBA's or other matters on their behalf; and, under the government's view, ultimately, they would end up paying a bargaining agent's fee. The opposition strongly opposes the concept of a bargaining agent's fee and seeks the support of the committee.

The Hon. M.J. WRIGHT: I oppose this amendment moved by the shadow minister. I make the point that the Industrial Commission is dealing with this matter, and it will do so appropriately. For that reason I do not think that it is necessary to legislate for this. This issue should be dealt with by the industrial parties and the commission. The member for Davenport (the shadow minister) makes a couple of relevant points about the PSA. Nothing I picked up that he said about the PSA struck me as being incorrect but, of course, the PSA seeks lots of things.

The government's proposal that was put to the ballot did not include a bargaining agent's fee. Obviously, some reference was made during the second reading, and this may be an opportunity to correct it. I do not want to spend a lot of time on this particular point. I am not talking about the amendment now, but some reference was made (not by the shadow minister but by two or three opposition members) about the enterprise process. I cannot remember which member made an assertion that a major dispute with the nurses had lasted for 12 or 18 months. That is simply not correct.

We acknowledge that we have not been able to resolve the enterprise bargaining negotiations with the PSA but, in the main, some very good enterprise agreements have been negotiated with the nurses, the police, the teachers, the firefighters and the doctors since this government came to office, and we are proud of that. We would have preferred to have negotiated an agreement with the PSA, and I am disappointed that we have not been able to do so, but we must be realistic about the budget. We believe that we have put forward a very good offer, and that offer did not include a bargaining agent's fee.

So, the proper place for this is the Industrial Relations Commission. It is dealing with the matter, and it will continue to do so. It will deal with it appropriately, and it should be allowed to be dealt with by the industrial parties and the commission. For those reasons, I do not support the amendment moved by the shadow minister.

Mr HAMILTON-SMITH: I rise to support this amendment, because it will provide some certainty to those workers who are not members of the union and who do not want to pay a large bargaining fee from their wage. I take the minister's point that this matter is currently before the Industrial Relations Commission but, surely, it is up to our parliament to set the laws and to decide whether or not bargaining fees should be legal. One signal that has come from the federal election is that people want more economic reform and that managing the economy is a very important issue. We want to unshackle the economy, the work force and business and let them go forth. Surely, we do not want to tie down workers who are not members of a union with massive bargaining fees.

I take the minister's point about the PSA, but I cannot help but wonder whether the fact that the PSA does not contribute to the Labor Party financially is a factor in why it is having such a hard time from this government. Am I correct that it does not contribute?

The Hon. I.F. Evans: It doesn't contribute.

Mr HAMILTON-SMITH: So, it is really out there on its own. It has not paid its way, so it will get a good bashing, won't it? I just wonder whether that is a factor in the minister's opposition to the member for Davenport's amendment to rule out these bargaining fees. Is it not a cop-

out to say that it is before the Industrial Relations Commission, rather than to agree to the member's amendment and give the commission direction from the parliament?

The Hon. M.J. WRIGHT: I do not agree with that position. In addition, the claim just made by the member for Waite is outrageous, namely, that the agreement has not been able to be negotiated with the PSA because it was not making a financial contribution to the Labor Party, or words to that effect, and the honourable member will correct me if I am wrong. I think it is an insult. It is debasing the debate, and I reject it in totality. We have made a range of agreements, including agreements with other unions not affiliated with the ALP. I think the honourable member is a better member than that.

The Hon. I.F. EVANS: The minister expresses the view that the government wants to adopt the policy that it is going to be hands-off, and it will be up to the commission in relation to bargaining agents' fees so that they can be argued at the point of EBA, or award sign-off, when those matters are before the commission. That really means that the government wants enterprise bargaining agents' fees to be introduced because ultimately large slabs of the work force will be under agreements that are majority union dominated and, of course, when the matter is voted on, the non-unionists will be out-voted and so a number of the agreements will be able to sneak in bargaining agents' fees under the cloak of fair negotiation before the commission. That is ultimately what the minister is doing, and he will be able to put his hand on his heart and say to the cameras, 'The independent umpire made a fair judgment in relation to this matter.'

The reality is that the PSA will get something like about $5.5 million a year out of the pockets of ordinary every-day families. That will flow on, and that power will then be sought by other unions, and they will then get millions of dollars out of the pockets of workers just to pay the union tax for a service that they have not required. To my mind, I agree with the comment by the member for Waite. I think that it is up to the parliament to give the policy direction to the employers and employees, and make it absolutely crystal clear whether bargaining fees will be able to be charged or not. The minister says, 'Hands off.' Ultimately, that means that it is another incentive to go to the federal system, because if they go to the federal system they will get better protection from bargaining agents' fees than they will under the state system. So, it is a direct encouragement for those who have the time, energy and drive to flick off to the federal system.

There is no justification for the minister's position not to take a view on the policy matter of whether or not bargaining agents fees can be charged. This union tax will cost, in some cases, over $400 a year. It will cost families dearly. This will hurt families. We hear the Labor Party come in and say that they are sticking up for the worker.

The Minister for Families and Communities and made an impassioned speech about how he had worked all his life for workers and low-income people. Well, how does it help them by charging them, and allowing unions to charge them, over $400 a year for a bargaining agent's fee? It does not help them. It is a nonsense, and this position shows the entire South Australian public that the Labor Party is not here for the worker. Indeed, the Labor Party is indeed here for the workers' associations, called unions. Labor members sit there and scratch their head and cannot work out why more workers are voting for John Howard than Mark Latham.

The reason why more workers are voting for John Howard than Mark Latham is that Howard has a genuine concern for people's incomes and trying to grow their incomes. The minister's position says, 'No, Labor believes in helping the worker and the low-income worker. We believe that so much that we are going to sit on our hands and let the system deliver to the union, award by award, agreement by agreement, an enterprise bargaining fee, and the low-income worker that the Labor Party supposedly seeks to protect is going to get done in the eye every year for over $400.' It is a nonsense and it shows to me the insincerity of the minister's position in relation to this issue.

There is no doubt that the South Australian public do not accept that every-day families, ordinary workers out there, simply trying to make ends meet, should have to dip their hand in their pockets for $400 every year just to pay a union tax because the government refuses to take a position, and refuses to deal with the matter by way of policy.

The committee divided on the amendment:

AYES (21)

Brindal, M. K.	Brokenshire, R. L.
Brown, D. C.	Buckby, M. R.
Chapman, V. A.	Evans, I. F. (teller)
Goldsworthy, R. M.	Gunn, G. M.
Hall, J. L.	Hamilton-Smith, M. L. J.
Lewis, I. P.	Matthew, W. A.
Maywald, K. A.	McEwen, R. J.
McFetridge, D.	Meier, E. J.
Penfold, E. M.	Redmond, I. M.
Scalzi, G.	Venning, I. H.
Williams, M. R.	

NOES (21)

Atkinson, M. J.	Bedford, F. E.
Breuer, L. R.	Caica, P.
Ciccarello, V.	Foley, K. O.
Geraghty, R. K.	Hanna, K.
Hill, J. D.	Key, S. W.
Koutsantonis, T.	Lomax-Smith, J. D.
O'Brien, M. F.	Rankine, J. M.
Rann, M. D.	Rau, J. R.
Snelling, J. J.	Stevens, L.
Thompson, M. G.	Weatherill, J. W.
Wright, M. J. (teller)	

PAIR(S)

Kerin, R. G.	Conlon, P. F.
Kotz, D. C.	White, P. L.

The CHAIRMAN: There are 21 ayes and 21 noes. Members would appreciate that I have had a longstanding view that, if you get a benefit, you should contribute towards it. I have never supported bludgers or parasites. I take the view that, under the current arrangements, the government is not seeking to put this provision in its bill. The member for Davenport is seeking to define and then delete or prohibit bargaining agents' fees. The current arrangement is that the commission considers the issue on its merits, and I think that is the way it should be. I cast my vote for the noes.

Amendment thus negatived.

Progress reported; committee to sit again.

ADJOURNMENT

At 11.58 p.m. the house adjourned until Wednesday 10 November at 2 p.m.