HOUSE OF ASSEMBLY

Wednesday 24 November 2004

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

ASSENT TO BILLS

Her Excellency the Governor, by message, assented to the following bills:

Commission of Inquiry (Children in State Care) (Miscellaneous) Amendment,

Oaths (Judicial Officers) Amendment.

HOSPITALS, NOARLUNGA

A petition signed by 284 residents of South Australia, requesting the house to urge the government to provide intensive care facilities at Noarlunga Hospital, was presented by Mr Brokenshire.

Petition received.

NOTICE OF MOTION

Mr HAMILTON-SMITH (Waite): I give notice that on Thursday 9 December I will move that this house censures the member for Chaffey, the member for Mount Gambier and the member for Fisher for supporting the government's efforts to cover up and conceal the full facts surrounding misuse of the Crown Solicitor's Trust Account and unlawful transactions linked to that account, and for acting to ensure that possible abuses of ministerial power and parliamentary privilege remain concealed and—

Mr HANNA: I rise on a point of order, sir: the motion would seem to reflect on a vote of honourable members of this house and would therefore be out of order.

The SPEAKER: I will look at the motion to determine if that is the case but, on the face of it, it does not appear to me to be the purpose of the motion.

PAPER TABLED

The SPEAKER: Pursuant to section 131 of the Local Government Act 1999, I lay on the table the annual reports for 2003-04 for the City of Port Lincoln and the District Council of Le Hunte.

PAPERS TABLED

The following papers were laid on the table:

By the Premier (Hon. M.D. Rann)—

Capital City Committee, Adelaide—Report 2003-04

By the Treasurer (Hon. K.O. Foley)—

Wastewater Prices in South Australia—Parts A, B & C Transparency Statement—2003-04

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

Barossa Area Health Services Inc—Report 2003-04
Ceduna District Health Services Inc—Report 2003-04
Coober Pedy Hospital & Health Services Inc—Report 2003-04
Eudunda & Kapunda Health Service Incorporated—Report 2003-04
Eyre Regional Health Service—Report 2003-04
Hawker Memorial Hospital Inc—Report 2003-04
Hills Mallee Southern Regional Health Service Inc—Report 2003-04
Jamestown Hospital & Health Service Inc—Report 2003-04
Kangaroo Island Health Service—Report 2003-04
Lower North Health—Report 2003-04
Mid-West Health & Aged Care Inc. and Mid-West Health—Report 2003-04
Millicent and District Hospital and Health Services Inc.—Report 2003-04
Mt. Barker District Soldiers Memorial Hospital—Report 2003-04
Mount Gambier and Districts Health Service Inc.—Report 2003-04
Northern Metropolitan Community Health Service—Report 2003-04
Northern Yorke Peninsula Health Service—Report 2003-04
Peterborough Soldiers Memorial Hospital and Health Service Inc.—Report 2003-04
Pika Wiya Health Service Inc—Report 2003-04
Port Augusta Hospital and Regional Health Services Inc.—Report 2003-04
Port Broughton District Hospital and Health Services Inc.—Report 2003-04
Port Lincoln Health Service—Report 2003-04
Port Pirie Regional Health Service Inc—Report 2003-04
South Coast District Hospital Inc (Incorporating Southern Fleurieu Health Service)—Report 2003-04
Whyalla Hospital and Health Services Inc.—Report 2003-04
Waikerie Health Services Incorporated—Report 2003-04

By the Minister for Small Business (Hon. K.A. Maywald)—

Office of the Small Business Advocate—Report 2003-04

OLYMPIC DAM

The Hon. M.D. RANN (Premier): I seek leave to make a ministerial statement.

Leave granted.

The Hon. M.D. RANN: Thank you, sir. WMC Resources, Western Mining, has today made a major announcement to the Australian Stock Exchange which notifies it of a significant upgrade of the mineral resource value of South Australia's Olympic Dam mine.

Members interjecting:

The Hon. M.D. RANN: Apparently on the other side of the house there is support.

The SPEAKER: Order! It seems like we have had beans for lunch again.

The Hon. M.D. RANN: It seems that there are members opposite who do not support our mining industry in this state, and that is a great pity.

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: WMC Resources has today made a major announcement to the Australian Stock Exchange which notifies it of a significant upgrade of the mineral resource value of South Australia's Olympic Dam mine. The value of the mine's gold and copper resources has been upgraded from the seventh largest in the world to the fourth largest in the world. It remains Australia's largest underground mine and mineral processing operation.

The ASX has been advised by Western Mining today that total copper resources have increased by seven million tonnes to an estimated 42.7 million tonnes. Its gold resources have increased by about 24 per cent, to an estimated 55 million ounces. Olympic Dam now contains an estimated 38 per cent of the world's uranium resources. As a result of recent drilling—

Members interjecting:

The Hon. M.D. RANN: I understand how upset members opposite are about the news that just came out of the Roy Morgan organisation, but they should sort out their leadership problems outside this house.

As a result of recent drilling and improved long-term uranium price outlook, the Australian Stock Exchange has been advised that the total mineral resources at Olympic Dam have increased overall by nearly 30 per cent. The mine is now estimated to contain 3.8 billion tonnes of premium grade resources. These results of the first phase of the development study drilling are extremely good news for the proposed plan to double the size of the Olympic Dam mine. Let me repeat that: this is extremely good news for the proposed plan to double the size of the Olympic Dam mine.

In May this year, WMC Resources and I announced that there would be a $50 million investment over two years in a major study to determine whether there should be a multi-billion-dollar expansion of the Olympic Dam mine in South Australia's Far North. Today I am reconfirming the state government's full support to the study which is helping WMC to decide whether it should double the capacity of the mine at a cost of between $2 billion and $4 billion, which could begin by the end of the decade.

The potential for the Olympic Dam mine is massive. The proposed expansion would lead to the creation of hundreds of jobs and further growth in the population of the Roxby Downs township, which is already 4 000 people. This would also help the state achieve many of the targets laid out in the State Strategic Plan, including increasing minerals production to $3 billion and increasing minerals processing by a further $1 billion by 2020, as well as increasing SA's population to 2 million by 2050. It should also help us in our target of trebling the value of SA's export income to $25 billion by 2013. Last year, Olympic Dam generated $670 million in export income for Australia. WMC has already invested $4 billion in developing Olympic Dam, including $600 million in the past three years and another $80 million during this year in mine development.

I am told that, by 2006, Western Mining will be in a position to identify a single preferred life of mine development plan for the total resource. The development study work will be in addition to ongoing assessment of Olympic Dam's future energy needs, including the option of connecting Olympic Dam to a natural gas network, as well as ensuring environmental sustainability. WMC is now working closely with the SA Economic Development Board and the state government's Olympic Dam task force. This is an extremely exciting development for our state in its mining history, and we should applaud Western Mining today.

Honourable members: Hear, hear!

Members interjecting:

The SPEAKER: Order!

PUBLIC WORKS COMMITTEE

Mr CAICA (Colton): I bring up the 210th report of the committee, on the Adelaide Light Railway Upgrade of Glenelg Tramway Infrastructure.

Report received and ordered to be published.

Mr CAICA: I bring up the 211th report of the committee, on the Black Road, Flagstaff Hill Upgrade, Flagstaff Road to Oakridge Road.

Report received and ordered to be published.

QUESTION TIME

DISABLED, CARE

Mrs REDMOND (Heysen): Is the Minister for Families and Communities aware that many families and carers who have full-time responsibility for the care of a person with a severe disability are no longer able to cope and are abandoning their children into state care? I have been made aware of several cases where families have abandoned their disabled relatives because of inadequate support. One constituent who wrote has a 38-year old sister with Down's syndrome. Her sister spent 15 years at home with her ageing mother, who has now died. The sister suffered sexual and financial abuse thereafter. My constituent has written that Options Coordination did nothing to support her or her sister. She wrote:

> After months of distress and frustration, I was finally able to get my sister into respite by threatening to leave her at the Intellectual Disability Services Council, and when the time came for respite to end I disappeared until the organisation accepted her as permanent care.

The Hon. J.W. WEATHERILL (Minister for Families and Communities): I have just come from a public seminar organised by the Hon. Kate Reynolds from the other place, where a number of these stories were conveyed to us by the carers and, indeed, the people with disabilities themselves, about the inadequacies of our system of disability services. It brought no credit on anyone, including those sitting opposite, that our system of disability services has run down to a point where there is this level of distress in the system.

Ms Chapman interjecting:

The Hon. J.W. WEATHERILL: I did not notice the member for Bragg at this seminar. There were many people who were interested in the plight of disabled people but not the member for Bragg. She did not seem to have managed to find the time.

The SPEAKER: Order! The honourable minister has no portfolio responsibilities for the member for Bragg. And that is probably his good fortune.

The Hon. J.W. WEATHERILL: Many families are finding it difficult to cope, and the policy of this government is to attempt to sustain people with disabilities within a family setting. That is the primary goal that we seek. That means making sure that there are adequate services to ensure that people can remain within their family settings, which, of course, is the prime goal. In some cases, though, it will reach a point where families can no longer cope and no longer sustain caring for someone in the home setting; and, in those cases, we certainly know that there are massive pressures on our system of supported accommodation. The crisis point for many families does come suddenly, and it is important that it be an orderly process.

The truth of the matter is that, when we are confronted with a situation where a young person (or even an adult) is given to the state and we are told that we have to care for them because the parents no longer can or will not care for them, we simply have to pick up that responsibility. So, in some ways there is no economy at all in our not making appropriate provision. We also know that there is an important relationship between respite and the ability of people to continue to be able care for people in their own home.

I heard a story the other day when the member for Goyder brought a delegation of a group of parents and service providers to see me. They identified a 92 year old person in

his electorate who was caring for a 60-odd year old person with Down syndrome within their family and, of course, that was becoming unsustainable.

They are the stories that I hear on a regular basis. We have begun the long process of rebuilding the disability services in our state with the work that we have managed to do with parents in the Moving On program. We will continue to work with parents and we will continue to find solutions and rebuild our system of disability services.

LITERACY PROGRAMS

Mrs GERAGHTY (Torrens): My question is to the Minister for Education and Children's Services. What is the government doing to improve children's literacy skills in our schools?

The Hon. J.D. LOMAX-SMITH (Minister for Education and Children's Services): Can I through you, sir, thank the member for her interest in literacy issues in this state. The government was very keen to act on what it saw as an under performance in literacy tests within our community and, long before the issue was identified by the federal government, had put in place a literacy plan to take us through the next four years by investing $35 million in children's literacy. This program was not a small ill-focused plan but a comprehensive plan which was designated to involve children both in preschool and in the early years of their school—and it amounts to $9.53 million per year. The money is distributed in a way that will help children with their essential reading, writing and communication skills. In particular, schools and preschools will have professional development in the early years for literacy in every preschool and year 3 teachers so that their skills are upgraded.

In addition, there will be one-to-one targeted intervention for year 1 children who need additional help, and this will also be of significant support for those children with learning disabilities and other disabilities as well. The skilled staff will work alongside and mentor classroom teachers to upgrade their skills, and there will be additional teacher time in preschools to help those schools with significant numbers of Aboriginal children to help their literacy development as well.

The overall funding will provide 125 additional staff equivalents, who will be employed across the state to target literacy improvements in the first years of education. We will also treble the number of teachers trained in the Reading Recovery program so that the help that this program can provide will be extended across more schools and towards more teachers.

All primary schools and preschools are expected to prepare early years literacy plans in 2005 and to report on outcomes. The Early Year Literacy program has been supported by the Premier's reading challenge, which has had an astounding impact, as well as the extra funds that have gone into library books and upgrading books. The programs are being implemented, and already we have seen a turnaround in our literacy standards. There has been an improvement over all age groups because we have truly put the spotlight on literacy as a key issue. These are the major central irreplaceable planks of a child's learning, and we are focusing on the basics. We have not waited for action from the federal government. We put our money where our mouths were. We saw the problem and we acted.

DISABLED, CARE

Mrs REDMOND (Heysen): My question is directed to the Minister for Families and Communities. What is the additional cost to the state to care for one severely disabled young adult who is abandoned at a respite care centre and ends up in the full-time care of the state? The Dignity for the Disabled group has told the opposition that 20 to 40 disabled young adults are abandoned each year because their families can no longer cope because of inadequate support.

The Hon. J.W. WEATHERILL (Minister for Families and Communities): Of course, that is a debating point (and it is a good one), but it does not necessarily tell the whole story. Of course it is more expensive for someone to be placed in supported accommodation than it is for them to be sustained in respite. The truth is that both programs have massive needs; and sometimes, with all the respite in the world, some families will simply not be able to cope with caring for a young disabled person within their family—there might be a range of needs with which they simply cannot cope. In the worst cases, of course, their parents are no longer there to care for them.

I think that one of the anxieties that exists in the disability sector is that people know that rarely do their issues get onto the public agenda. Certainly, they know that they could not put them on the public agenda during the term of the previous government, but they now are firmly on the public agenda. They realise that it is an important chance for them to have their voice heard, and that is why they are making their public protest. Also, I would like to think that they have some faith in our government to address their needs, and I hope that we can address their needs. It is the case that, certainly, we could make available a range of early interventions, which could eventually save money further down the system; and we need to be mindful of that when we choose which of the things we need to address first in this massive area of resource need for disability services.

Mrs REDMOND: Supplementary please, sir.

The DEPUTY SPEAKER: I believe you have a lot of questions to come. I will come back to you. The member for Wright.

Members interjecting:

The DEPUTY SPEAKER: Order! The matter of supplementary questions is at the discretion of the chair. The member for Heysen, according to the list in front of me, has about the next four or five questions; in fairness, I am asking the member for Wright.

BE ACTIVE—TAKE STEPS

Ms RANKINE (Wright): Thank you very much, sir. My question is directed to the Minister for Health. How will the Be Active—Take Steps program encourage children to become more aware of their physical activity levels and encourage them to include physical activity—and in particular walking—as part of daily life?

The Hon. L. STEVENS (Minister for Health): I thank the member for Wright for her question, because it gives me great pleasure to talk about a program which the government has introduced and which is called the Be Active—Take Steps program, to encourage school children aged eight to 14 to set personal goals and to increase their physical activity. The children will use a pedometer and a diary to count and record their steps and encourage them to include physical

activity—and in particular walking—as part of their daily life. This initiative—

The Hon. I.F. Evans interjecting:

The Hon. L. STEVENS: It is interesting that we have derisive comments from the opposite side of the house on a very important primary health care program that will lead to increased physical fitness. In spite of the derisive comments from the opposition, I will continue. This initiative is an Australian first, and next year we hope to have 25 per cent of the state's schools involved in the project. The program has been developed as a result of research conducted in partnership with the University of South Australia and eight primary schools, and promotes the national physical activity recommendation that children have at least 60 minutes of accumulated physical activity every day. It helps children monitor the amount of time they spend being sedentary and encourages children to limit screen-based entertainment to less than two hours each day.

The program is also useful and relevant to children learning about health, physical education and mathematics. The resource package offered by the program contains a pedometer and a diary for children, and a resource book for teachers with ideas for practical physical activity, information activity sheets and other ways to get the most out of pedometers for students and staff. Be Active—Take Steps was developed by the Centre of Health Promotion at the Women's and Children's Hospital, and the Department of Health provided $110 000 for the project. Pedometers are a good way to get those children who may not be interested in sports to be active.

When I launched this program last week we heard from students from Sheidow Park Primary School and Smithfield Plains Primary School who spoke about the effect of the program and how successful it has been in changing their attitudes and the amount of physical activity they do each week.

MOVING ON PROGRAM

Mrs REDMOND (Heysen): Will the Minister for Families and Communities inform the house when existing Moving On clients, who are presently unable to access the full five days a week of the program, will be able to access these activities from 9 a.m. to 3.30 p.m. for five days a week, 48 weeks of the year, as promised in the minister's media release of 9 November 2004? The member for Hartley has given me a copy of a letter from one of his constituents who wrote to him on 4 November. The letter states:

> I am very resentful of having to resign from my employment because of the inadequate funding for the Moving On program. With only 17 hours per week allocated this makes it impossible for me to work, as well as being Deb's carer when she is not in the program. I am very angry that I have been forced into resignation and would like to know what minister Weatherill's plans are for the Moving On program.

To date this carer has had no indication from the minister regarding the extended respite provisions and wonders when she can expect to commence five days a week of activities.

The Hon. J.W. WEATHERILL (Minister for Families and Communities): The member for Heysen—and indeed the member for Hartley—could have communicated with the constituent about the ministerial statement, rather than, unfortunately, participating in the lack of information—or the misinformation—that has been spread around about this question. I will repeat what I said to the house on that occasion. In relation to existing clients from the Moving On program, we have already made those arrangements. We have had the negotiations to ensure that the five-day arrangements are in place. As I understand it, they have received their letters.

In relation to the people who are in the current system—so the current stock of 447 families who are not getting five days—I think we have written now to all the service providers, and we are making arrangements with them so that they can make an offering which will ensure that each of those parents will be able to obtain the five days of full-time day activities that they are seeking. That is the commitment we have given.

As soon as we have completed that task, we will be communicating with parents to explain that process. I found out today something of which I was not aware: that is, parents have not received any specific communication about that except that which was communicated through the media. In terms of their actual allocation, that will be communicated to them as soon as possible. I repeat the commitment that we gave: these young adults will have an option to increase their day activities to five days a week.

An honourable member interjecting:

The Hon. J.W. WEATHERILL: Well, from next year—when we said we would do it. I know it sounds too good to be true and members opposite did not believe that we could do it, but we have done it. We have given the commitment.

Mr Brokenshire interjecting:

The DEPUTY SPEAKER: I warn the member for Mawson for defying the chair.

The Hon. J.W. WEATHERILL: I know it galls those opposite to think that we have made a positive contribution.

Members interjecting:

The Hon. J.W. WEATHERILL: It galls those opposite to think that we have made a positive contribution, but we have. But apparently some of the parents are not aware of it. It has been unfortunate that people have spread misinformation about our intentions.

I repeat it again for those who are listening: we will provide the full-time day activities to the existing people within the program, and that will be put in place for the purposes of next year. We are busily working with service providers to ensure that we can provide each of those families with the service that we have said we would have on offer for them. That work will continue.

If you recall, sir, we set up a working party with parents on it that did some excellent work in a very short time frame. We are acting expeditiously to ensure that the very intelligent recommendations that came out of that inquiry are implemented. The feedback that we have been receiving from parents is that it is the first time they have been listened to—in up to 18 years in some cases.

There being a disturbance in the Strangers' Gallery:

The DEPUTY SPEAKER: Order! There is to be no clapping or other noise from the gallery.

WHITE RIBBON DAY

Mr O'BRIEN (Napier): My question is to the Minister for the Status of Women. What is the significance of White Ribbon Day and why is it so important for our community?

The Hon. S.W. KEY (Minister for the Status of Women): I would like to thank the member for his question. Tomorrow is United Nations International Day for the Elimination of Violence Against Women. Recent tragic events remind us that they are euphemistically called

domestic disputes, but they often mask the horrific violence committed against women and children. The white ribbon campaign marks a day that is the largest worldwide effort, involving men in a campaign to help end violence against women and children and to stop crimes such as domestic violence and sexual assault. In Australia, this campaign is being organised by UNIFEM and is a collaboration between a large number of government and non-government organisations, service clubs, media and educational agencies across the country to raise the importance of this issue.

There is an abundance of evidence that women are over-represented as victims of violence within our community, particularly sexual, domestic and family violence. Australian research has established some pretty horrific facts: more than one million women have experienced violence during a relationship; 23 per cent of women involved in relationships have experienced physical or sexual violence from a partner; 20 per cent of women who experienced violence were pregnant when the violence first occurred; and 67.6 per cent of women who experienced violence said their children had witnessed that violence.

The cost of this violence is not just personal; it is borne by our whole community in many ways. Domestic violence generates enormous costs for the health sector and the legal sector. There are significant costs of income and other support for women who are unable to keep or obtain a job in the wake of leaving a violent relationship. Violence also disrupts employment and business productivity, with direct and indirect costs to business estimated nationally at $1.5 billion annually.

I have written to all members of this house and all members in the other place asking that tomorrow they wear a white ribbon that I have supplied. The wearing of the ribbon is a personal pledge that you will not commit, condone or remain silent about violence against women and children. I urge all members, indeed all South Australians, to wear the ribbon tomorrow and to use this as an opportunity to raise community awareness about this important issue.

MOVING ON PROGRAM

Mrs REDMOND (Heysen): My question is again to the Minister for Families and Communities. When will all of the 386 young adults with multiple disabilities already on the waiting list or receiving less than five days a week for the Moving On program be provided full-time options, as promised in the minister's statement to the house on 9 November? The minister stated to the house on 9 November as follows:

The provision of full-time day options for young people with multiple severe disabilities has been accepted by the state government.

The Hon. J.W. WEATHERILL (Minister for Families and Communities): Sir, I thought I had answered this question before. I fail to pick up the nuance. One thing that has come out loud and clear from the young adults with disabilities and their parents is that they want us to stop playing politics with disability services. They want a bipartisan approach to this matter. They are not stupid: they know that this problem has not emerged overnight. They want those on this side of the house to work with those on that side of the house and come up with a solution.

PROBLEM GAMBLING

Mr CAICA (Colton): My question is to the Minister for Families and Communities. What is the government doing at the local level to encourage awareness of problem gambling?

The Hon. J.W. WEATHERILL (Minister for Families and Communities): We are the only government that has made a serious attempt to grapple with the harm caused by problem gambling.

Members interjecting:

The DEPUTY SPEAKER: The Attorney-General is out of order.

The Hon. M.J. Atkinson interjecting:

The DEPUTY SPEAKER: Order! The Attorney-General is out of order. He will be warned in a minute.

The Hon. J.W. WEATHERILL: This is a complex issue, and it affects people from many different walks of life. I have launched a problem gambling awareness resource, which we have taken under licence from a Canadian model. It acknowledges that problem gambling has to be approached and treated from a range of specific local contexts. It is no good if we simply have a problem gambling tool that just addresses people who want to come forward and receive assistance. We need to reach out and find some of the more difficult people to target—young men, for instance, who are very difficult to target and who make up an extraordinarily large proportion of our problem gambling community. Different tools are needed to meet and reach those people and provide assistance to them. People from different ethnic backgrounds may not approach mainstream services. It is important that we understand the cultural and local context in which problem gambling emerges.

This will be a significant and important new resource. It will be provided to service providers within the Break Even agency network. The package includes learning materials and resources to be used with specific population groups. It will include a manual in hard copy and CDRom, which will allow all the Break Even agencies to have access to those services.

The resource will be distributed for use by counsellors and community workers. It will have the potential to educate specific work forces, and it will be used to train staff. It builds on a range of important initiatives, including the problem gambling intervention orders, which are already seeing their first customers and which are having the desired effect. It builds on the television campaign, 'Think of what you're gambling with,' which members opposite may have realised has recommenced. Whenever we show those advertisements it causes an increase in the demand on our Break Even services, which we fund and which we are happy to fund.

There is a problem guide for partners and family members. We have also sent an important message to the community that the harm caused by problem gambling is unacceptable, and we are supporting people to address this issue within their own families.

MOVING ON PROGRAM

Mrs REDMOND (Heysen): My question is again to the Minister for Families and Communities. In relation to the Moving On program, how does the minister reconcile the fact that the government is providing only 40 new places for school leavers in February next year, when the minister stated in his press release on 9 November that the government was expecting 'possibly 75 additional people requiring places from early 2005'?

The Hon. J.W. WEATHERILL (Minister for Families and Communities): That is at least an intelligent question

(that is not to reflect on the member for Colton's former question). The advice is that the additional centre-based options that will be necessary to meet all the needs of the 77 people will be taken up by creating an additional 40 places within the—

An honourable member interjecting:

The Hon. J.W. WEATHERILL: No, with additional resources. There is a furphy being spread around by those opposite that no additional resources are being put into this model. There are additional resources are being put in for next year to ensure that all the places are available. I know that you find it too hard to believe, but we are actually going to deliver on our promise. We will ensure—

Members interjecting:

The Hon. J.W. WEATHERILL: Are they actually sad that we are delivering on this? I am happy to give the member for Heysen a more detailed briefing as to precisely how the new school leavers will be taken up in a range of options that are available, but it is a combination of expanding the existing services and the additional centre-based places which will ensure that we have five days of day options for all the existing 77 school leavers. We are in dialogue with the remaining people on the Disability Service Providers Panel to ensure that we provide the additional places that will be necessary to take the remaining 447, I think, in the program up to the five days per week that we said we would provide to them. In some cases in regional areas, it may mean that because we are not going to be able to build up the capacity instantly we will have to use existing service arrangements, which will obviously be more expensive than a centre-based option. But, necessarily, to meet the commitment that we have made, we will address that and, of course, that will require additional resources.

HOSPITALS, NOARLUNGA

Ms THOMPSON (Reynell): My question is to the Minister for Health. What action is the government taking to increase the number of doctors at the Noarlunga Hospital and to address the demand for GP type services at this important hospital?

The Hon. L. STEVENS (Minister for Health): Thank you very much, Mr Speaker. I certainly have got good news for the south, and I thank the honourable member for Reynell for the question and for her interest in this area. I know equally it is of interest to my colleague the Minister for the Environment and, of course, yourself. Estimates put the shortage of general practitioners in the southern metropolitan region of Adelaide at between 30 and 40 doctors. Because of this, the region is chronically under-serviced and people have been increasingly reliant on the Noarlunga Hospital for their medical care.

In recent years, demand at Noarlunga has grown to now make it the fourth busiest emergency department in Adelaide, with 42 000 presentations a year. To meet this demand, an extra $8.4 million has been allocated by the state government over the next five years to the Noarlunga Health Service to recruit and retain eight more permanent doctors to staff the emergency department at the hospital. It is also going to employ an extra five doctors to work after hours in the hospital's wards. This move will effectively increase access to GP style services in the outer southern suburbs, as well as boosting the staffing roster of the emergency department.

While the provision of general practitioners is a federal government responsibility, and while there have been some efforts by the federal government to attract extra GPs in the area, these have been mostly unsuccessful. The Noarlunga Hospital has one of the most modern emergency departments, outstanding nursing staff, and a core of exceptional GPs. As we increase the numbers of staff doctors we will build our continuing education and, in turn, continue to improve our services. We hope that as a result of this funding boost, this allocation to Noarlunga Health Service to increase its ability to attract and retain doctors, we will be able to make a difference to the situation in the southern metropolitan area.

HOMELINK PROGRAM

Mr HAMILTON-SMITH (Waite): My question is to the Minister for Disability. How serious is the government's under-funding of the Intellectual Disability Services Council's Homelink program? The Brunt family in my electorate has been seeking crisis Homelink support for their daughter Rebecca for over a year. One parent has cancer, and both parents are suffering manual handling injuries due to lifting Rebecca on and off the toilet, on to her wheel chair, and into and out of cars. The family is at crisis point. I have written to the minister about the family's situation on numerous occasions and have been consistently told that IDSC does not have a vacancy for Rebecca.

The Hon. J.W. WEATHERILL (Minister for Disability): I thank the honourable member for his question. Obviously I acknowledge that the story he tells is very serious and one to which, as I say, I cannot offer any persuasive excuse why we have not been able to ensure that that particular case has been dealt with. I will undertake to look at it again, if it is precisely as he has suggested. It sounds like a very urgent case that needs special treatment, and I will address it again.

MULTICULTURAL GRANTS

Ms CICCARELLO (Norwood): My question is to the Minister for Multicultural Affairs. Can the minister inform the house which organisations have been successful in the latest round of multicultural grants?

Mr Scalzi: This is publicity.

The Hon. M.J. ATKINSON (Minister for Multicultural Affairs): The member for Hartley says that this is publicity, and, indeed, it is; it is advice for the house. The government's Multicultural Grant Scheme is an important boost for our local ethnic communities. The scheme was more than doubled to $150 000 by the government when it was elected and is intended to help groups run projects that enhance our multicultural society. Non-profit volunteer organisations that have benefited from this funding round include the Coordinating Italian Committee (CIC), the African Communities Council, the Kurdish Australian Association, the Iraqi Community Cultural Association, the Coober Pedy Multicultural Community and the Pan-Macedonian Association.

Many different types of projects will be embarked on with government support, including the Young People's Afghan Cultural Nights, several multicultural festivals such as Carnevale, Glendi and the Persian New Year Festival, to name a few. One group is holding information workshops with police and legal practitioners to teach communities to understand our legal system. Activities will also link groups of different ethnicities, as well as projects that will assist our communities in gathering historical information and holding exhibitions. For instance, yesterday was the day of mourning

for the Ukrainian community recalling the Soviet-organised and imposed famine of the early 1930s. The member for Hartley may have noticed that—

Mrs REDMOND: I rise on a point of order, sir. I do not see the relevance of what the Attorney-General is now saying to the question that was asked.

The DEPUTY SPEAKER: The minister has some degree of flexibility, but he should not take liberties.

The Hon. M.J. ATKINSON: I was referring to grants made by Multicultural SA to help ethnic communities to gather historical information and hold exhibitions. The member for Heysen may have a completely different view from me about the Ukrainian famine. She may have a different historical perspective and she may think it is not relevant, that it is not worthy of commemoration, or perhaps, along with some political tendencies, that it did not happen at all.

I was wearing the Ukrainian flag yesterday and a button with the Ukrainian trident because I believe that that famine was engineered by the Soviet government of the day. It led to the loss of millions of Ukrainian lives, and it is well worth Ukrainians here in South Australia gathering historical information about that matter. I would not want to see the member for Heysen go down the same path that the member for Waite went down about the Katyn Forest massacre, but that is best forgotten.

The grants will also support activities such as the open day for the Vietnamese community and the new year festivals of the Chinese, Middle Eastern and Vietnamese communities. Alas, there is never enough money to meet the needs of all applicants. The grants committee considers factors such as the needs of smaller, new and emerging communities and the needs of regional communities, among others, to determine the successful applicants for each round. I know that the member for Hartley and the member for Morialta are sensitive to these things and would not approve of the kind of point of order that was taken by the member for Heysen, who seems quite insensitive to these communities.

The DEPUTY SPEAKER: Order! The Attorney is debating the question.

The Hon. M.J. ATKINSON: Some 97 applications were received requesting $347 650 in support. I am pleased that through the Multicultural Grants Scheme the government was able to provide 53 organisations with more than $76 000; as I say, a quantum increase on the previous government. I expect the next round of grants will open in late January and I am pleased to report that, because of advice from the South Australian Multicultural and Ethnic Affairs Commission and thanks to improved arrangements with Multicultural SA, community organisations will now have more time to prepare and submit their applications.

The DEPUTY SPEAKER: I point out to the minister that some of that information might be better presented by way of ministerial statement.

ELECTRICITY, DISCONNECTIONS

The Hon. W.A. MATTHEW (Bright): What action has the Minister for Energy taken to immediately address the large number of South Australian households and businesses that have had their electricity disconnected because they cannot afford to pay their electricity bills? The fifth annual—

Members interjecting:

The DEPUTY SPEAKER: Order! The member for Bright has the call.

The Hon. W.A. MATTHEW: The fifth annual performance report of the Essential Services Commission shows that 13 720 South Australian households had their electricity disconnected in 2003-04, an increase of 167 per cent in just 12 months and three times the rate of the disconnections in Victoria, which also has a privatised electricity market. It also shows that 1 660 South Australian businesses had their electricity disconnected, an increase of 288 per cent in just 12 months.

The Hon. P.F. CONLON (Minister for Energy): I am more than happy to answer this question and tell members what I am going to do. First, I apologise for the grammar of the member for Bright. He said 'to immediately address', which of course was a split infinitive. I have more than immediately addressed it, because it is apparently only the member for Bright who did not know anything about this level of disconnection being reported. I have been talking to welfare agencies about it and actually had a meeting about the levels of disconnection with the Ombudsman.

Members interjecting:

The Hon. P.F. CONLON: No, he cannot get over the fact that he did not know this was going on until he read about it in the paper! This is the level of work from the shadow minister: he does not know what is going on in the electricity industry until he reads about it in the paper, then he makes ill-informed comments, which I am going to address. Can I first say this about the figures, and I will not run away from this: there is no doubt that privatisation of our electricity utilities has imposed a much greater burden on people than energy costs used to. There is absolutely no doubt that the Liberal privatisation has hurt people.

I did meet with the Regulator, with the retailer initially, AGL, and with the Ombudsman some weeks ago, because we knew, as did many people—everyone but the member for Bright—that there were disturbing figures coming on disconnections. The member for Bright is the only person involved in the industry who had to read it in the paper. One of the first things we did quite a few weeks ago was to ask for explanations for the increase, because there was obviously some disturbance in the figures as there was actually a drop-off last year. If the member for Bright remembers anything, he would know that there was a major problem with billing systems when the retailer moved to an electronic billing system.

Those investigations discovered a number of things. One of the things that they discovered was that these numbers, both in the past and at present, have a high degree of unreliability, as do all numbers interstate. I will provide the member for Bright with some information on that. It found that there was a high degree of unreliability. It found a number of other things, too. I have to say that when the member for Bright finally discovered this issue today, he was out saying that it is absolutely unacceptable that almost 14 000 have been disconnected. The numbers—

The Hon. W.A. Matthew interjecting:

The Hon. P.F. CONLON: It is. He says it is; he confirms it. It is disgraceful, isn't it? It is. I will tell members the previous record number of disconnections. I advise the house that in 1996 and 1997 it was 23 700. If 14 000 is unacceptable, what is that? After I heard that it was absolutely unacceptable, I knew that he as a former minister would have leapt into action to do something about it, so I looked through the records. There was no point in my doing that because they do not care—they did nothing. Of course, it was in the dying

days of his mate Dean Brown's premiership, and it may well have contributed to it—

Mr BRINDAL: Mr Deputy Speaker, I rise on a point of order. The minister is required to address the substance of the question. The minister is responsible to this house for the disconnections this year: he is not responsible for the disconnections in 1996.

The DEPUTY SPEAKER: Order!

The Hon. P.F. CONLON: I will not go on. I will save the member for Bright the embarrassment; I will not go on.

The DEPUTY SPEAKER: Order! The minister is starting to debate, and I know he seems to enjoy this role. However, he needs to keep within the bounds of providing a reasonable answer.

The Hon. P.F. CONLON: The report indicates unreliability not only in these figures but also in past figures, which is of a concern to me. I can provide more detail to the member for Bright. There is still an unacceptably high level, and I do not run away from the fact that the Liberal privatisation did hurt, but they said a couple of other things in the investigation for which I asked.

Another thing that I should tell the house is that the shadow minister has suggested that there should be a $250 fine for people improperly cut off. He thinks that is a good idea today. If he had bothered to read the report, he would know that it says that they could not find examples of the retailer not complying with the retail code. What the member for Bright wants us to do is fine people for not breaching the code. I mean, it is a nonsense. He really needs to catch up with the issue and analyse it properly—and we will get a briefing for him so that he can understand it.

However, it is disturbing. The fact that the retailer has abided by the code has seen the Commissioner at present reviewing the retail code to see whether there is more we can do. I am cautious about leaping to a particular course of action because of the advice on the reliability of the figures. Let us face it: the real answer here about affordability of energy is for us to do the things that we are doing to recover the industry from the dreadful privatisation of the previous government. That is what we are doing, and that is what we will continue to do.

HOUSING TRUST, WHYALLA

Ms BREUER (Giles): My question is to the Minister for Housing. How is the Housing Trust contributing to the development of regional communities such as Whyalla?

The Hon. J.W. WEATHERILL (Minister for Housing): I thank the member for Whyalla for her question, and I must say I was very pleased to—the member for Giles, in fact. She seemed like the reference to the member for Whyalla! She is a much loved woman in Giles—a feted member of parliament. Indeed, I was very pleased to accompany her to the newest housing development in Whyalla on Saturday 13 November. It was part of a fantastic family fun day at which we celebrated the newly established urban renewal demonstration project Myall Place. This is a fantastic example of government intervention in a regional area to kickstart a major housing development. We know that in some of these regional towns it is very difficult to get the private sector interested in the provision of affordable housing. Of necessity, businesses want to see a business case before they are prepared to lend to investors to make these redevelopment opportunities.

What this does is produce private housing sales which provide valuations and which then can provide the basis for a business case and drive the process of investment in regional areas. It was a very exciting day. They were the first new Housing Trust dwellings built in Whyalla in 15 years. The trust is leading this $2.6 million collaboration with the city of Whyalla, and it has already had tremendous spin-off effects by attracting a range of private sector developers into this area. There is already talk of planning for an aged-care facility in that area. It is an excellent contribution to the suburb. It creates a village green, and it ensures that people are located near services in the centre of town. One of the difficulties of Whyalla is that it is very decentralised. This is about renewal of a housing estate, which is right near the centre of services in the centre of Whyalla.

Whyalla has had many challenges recently, including the fact that its population has dropped from about 40 000 to about 20 000, which has left a very a spread-out town and a run-down public housing estate. This project has real prospects, and early indications are that this is turning Whyalla around. It was a very positive day. The community was thrilled to have this investment in Whyalla.

This project, along with a range of other good news stories (such as the new water treatment plant and the upgrade of OneSteel), means that Whyalla has a rosy future. I congratulate the local member, Lyn Breuer, for her advocacy on behalf of her constituents.

ELECTRICITY PRICES

The Hon. W.A. MATTHEW (Bright): What guarantee will the Minister for Energy give South Australians that electricity prices in South Australia's privatised market will reduce over the next three years as they are in Victoria's privatised market? When the South Australian electricity market was deregulated under this government, prices increased by an average 32 per cent for summer peak after the government approved an application for an increase from AGL. In Victoria prices rose by 4.7 per cent after its deregulation of the market when the Bracks Labor government rejected an application for a 15 per cent increase—

The SPEAKER: Order! The honourable member knows that he is debating the matter. The question is clear enough without reading that material into the data. That is more to do with debate.

The Hon. W.A. MATTHEW: With your indulgence, Mr Speaker, I have a quotation that is relevant to the question.

The SPEAKER: Then the honourable member may make the quotation should it further explain the question; but I cannot imagine how it would.

The Hon. W.A. MATTHEW: Thank you, sir. The Victorian energy and industries resources minister (Hon. Theo Theophanous) said:

> [their] changes will ensure that by 2007 Victorians will be paying up to 5.6 per cent less in real terms for their electricity.

The Hon. P.F. CONLON (Minister for Energy): I will just correct some of the things asserted in the explanation which were utterly wrong.

The Hon. W.A. Matthew interjecting:

The Hon. P.F. CONLON: Facts, he says. I should take a privileges matter, but I will not. The honourable member said that the government approved a 32 per cent increase. The honourable member knows that the regulator did; he knows that. Can I say that, in one circumstance—

The Hon. W.A. Matthew interjecting:

The Hon. P.F. CONLON: I have seen their cabinet submission that said it should go to the same regulator and forecast big increases. They knew it was coming, because they designed it. What they did was to take—

The SPEAKER: Order!

The Hon. W.A. MATTHEW: I rise on a point of order, Mr Speaker. I refer to standing order 98. The question was very specific: what action has the minister taken to ensure that our prices will go down here as they are in Victoria?

The Hon. P.F. CONLON: As you know, sir, the member for Bright then went on and made a number of bald-faced and completely inaccurate assertions in a bizarre belief that he was explaining his question. If the honourable member wants to make those bizarre assertions, it is my obligation to make sure that this chamber is properly informed and correct them. They had their own cabinet submission signed in, saying that the preferred option was for a regulator but that there were likely to be big increases. They forecast that. What they did when they privatised was make a conscious decision to transfer state debt onto the backs of electricity users. That is what they did. That is why it happened. I have been asked for a guarantee—

The Hon. W.A. MATTHEW: I rise on a point of order, sir. My point of order is under standing order 98, again relevance. The question is very specific: what guarantee can the minister give this house and this state that electricity prices in South Australia will reduce, as they are in Victoria?

The SPEAKER: Order! Had the question been framed in a fashion which did not go to the debate of the matter but, rather, asked the minister the difference between the prices in Victoria and South Australia, and then something of the nature that the member for Bright posed, without the explanation, it might have been reasonable to expect that the minister would not respond in this fashion. As it was, the question was asked in a manner which, if not debating the subject, certainly provoked a response which can only be seen as no less or more debate than the member for Bright participated in.

I remind the house that the way in which to deal with this problem is to have a question and answer time and then to debate the matters. The house mocks its own standing orders—and small wonder people think less of us for so doing. Minister, it is not really necessary to animate the grasshoppers.

The Hon. P.F. CONLON: I will give this one very factual piece of advice to the shadow minister: there is one thing that will happen to future prices in electricity (which of course are the hands of the regulator, and it would be unlawful for me to predetermine the views of the regulator). However, one thing that I know will occur in the coming period is that in July next year the dirty, sweetheart privatisation deal with the distribution company runs out. That is the deal we are in. At the privatisation, they were given a higher return on capital than any other distribution company in Australia—by you! That runs out. It is very reasonable to expect that a regulator will reduce that, thereby easing the privatisation burden on South Australians. I can give the indication that at least we will be able to do away with one aspect of the dirty privatisation deal in July next year, which would give some relief to the suffering that members opposite imposed on South Australians.

SUPPLY SA

Mr KOUTSANTONIS (West Torrens): My question is to the Minister for Administrative Services. What changes have been made to the warehouse operations being provided by the government of South Australia?

The Hon. M.J. WRIGHT (Minister for Administrative Services): I thank the member for West Torrens for his question and for his strong support—

The Hon. M.J. Atkinson interjecting:

The SPEAKER: Order! The Attorney-General drowns out the minister in a manner which makes it impossible for me to hear the answer, in which I am interested.

The Hon. M.J. WRIGHT: It does, indeed; thank you, sir.I thank the member for West Torrens for his question and his strong support for all things good. The government has made significant changes to improve warehouse operations. Supply SA services government departments, public and private hospitals, schools and public benevolent institutions with sales of approximately $20 million per annum. As members may be aware, the Supply SA Adelaide metropolitan warehouse operation was contracted out to a private company in October 1999, with an expiry date of 31 August 2002. At that time a review found that without a restructure to address high costs the services provided by the warehouse would become untenable.

In May 2003 the government approved a strategy for the restructuring of the Supply SA operations, including the insourcing of the warehouse function and greater agency support. The management of the Supply SA warehouse transferred smoothly back to government in November 2003. The benefits of in-house management and operations of this warehouse include significantly lower operating costs and access to new and more flexible delivery arrangements. These arrangements ensure more effective and timely delivery of goods to schools and hospitals, not only in the metropolitan area but also in country regions. A number of significant occupational health and safety and logistical issues at the existing warehouse site necessitated a relocation of the business. The relocation has played a major role in delivering the benefits of a central supply operation. Work conditions are vastly improved, helping our people to work more effectively, which in turn creates benefits for our clients.

The insourcing of the warehouse has provided opportunities for 22 redeployees. The relocation created significantly improved working and safety conditions for Supply SA employees. It has improved delivery of services to the public sector and the community, in particular those organisations such as regional customers and public benevolent institutions that could otherwise be disadvantaged, and has resulted in a considerable financial improvement in the Supply SA operation. I was very pleased to officially open the new site last week and I was delighted that the local member for West Torrens was there with me, with a number of his constituents. I thank them very much for their support for this project.

ESSENTIAL SERVICES COMMISSION

The Hon. W.A. MATTHEW (Bright): My question is again to the Minister for Energy. Is the minister satisfied that South Australians are receiving value from the highly paid staff working in the Essential Services Commission, at least one of whom is paid $50 000 a year more than the Premier? The Essential Services Commission's latest annual report shows that there are 23 staff employed, six of whom earn more than $140 000 per year, with one of them earning more than $260 000 per year, at a time when electricity and gas prices are increasing.

The Hon. P.F. CONLON (Minister for Energy): I am absolutely satisfied that South Australia is getting better value

from its regulator than they are getting from their shadow minister for electricity. I can absolutely guarantee that; I am absolutely satisfied with that.

Members interjecting:

The Hon. P.F. CONLON: I know they do not like each other on that side, but one of the people we put on the commission is the former Liberal treasurer, Stephen Baker. What do you have to do to satisfy these people?

The Hon. W.A. Matthew: You have to bring electricity prices down. That is what you have to do.

The Hon. P.F. CONLON: What those opposite are talking about is they are going to blame everyone for electricity prices except themselves, when everyone in South Australia knows who is to blame—them. That is why they are at 61 per cent in a two-party preferred—

Mr Koutsantonis: We are.

The Hon. P.F. CONLON: That is why we are. That is why they are languishing; that is why the shadow minister will not be here in a short time.

I am satisfied with this general proposition. I point out that the budget of the Essential Services Commission is not, in fact, approved by me but is approved by the Treasurer. I point out a couple of things to the opposition: first, if they want to criticise the commissioners, they should do it directly; they should not try to do it by the back door. Second, it is a proposition wrong in principle—

An honourable member interjecting:

The Hon. P.F. CONLON: We know the preference for that. It is wrong in principle if they believe, which I assume they believe, that the commission is not doing a good enough job. It is wrong in principle to say that they want to get better commissioners by paying them less. That is simply a nonsense. As I say, the Deputy Premier is responsible for setting that budget. He may have a view, if the member has the wit to ask him. I will say this: I am absolutely satisfied that we are getting more value there than we are getting in here from him.

TRAVEL COMPENSATION FUND BOARD

Mrs HALL (Morialta): My question is to the Minister for Consumer Affairs. Will the minister request that the Travel Compensation Fund board extend the period of consultation for travel industry participants to consider the significant and costly proposed recommendations relating to increased fees and other changes to the fund? I have received correspondence from the travel industry expressing concern that the recommendations of the board of the Travel Compensation Fund are to be finalised at the November board meeting following an industry consultation of two weeks. The recommendations will be made in response to the Future Funding Working Group report that was requested by state and ACT consumer affairs ministers. All licensed travel agents are required by legislation to participate in and contribute to the Travel Compensation Fund, which monitors the financial performance of agents and compensates consumers if agents fail to account for moneys paid for travel arrangements.

The Hon. K.A. MAYWALD (Minister for Consumer Affairs): I am unaware of the issue that the member has raised. I will take the question on notice and get back to her with an informed answer.

GRIEVANCE DEBATE

ELECTRICITY, DISCONNECTIONS

The Hon. W.A. MATTHEW (Bright): Today during question time the minister, through the asking of three questions from this side, had an opportunity to put on the record his way forward for South Australians. He had an opportunity to put on the record what he and his government have done to reduce the electricity price increases that they, through their maladministration, have caused. But what we saw from the minister was the usual huff, puff, bluster, bravado and denigration and, as usual, absolutely no answer to the questions that were asked of him.

The minister was asked three very straightforward questions to which South Australians would like answers. He was asked what action he had taken to reduce the number of disconnections that are occurring in South Australia. In just the last 12 months we have seen 13 720 South Australian households disconnected from their electricity supply because they cannot pay their electricity bills. That is an increase of 167 per cent.

Mr Williams interjecting:

The Hon. W.A. MATTHEW: As my colleague the member for MacKillop interjected, they promised that they would fix it. On the first day of the last state election campaign the Deputy Premier said, 'If you want cheaper electricity, you vote for a Mike Rann Labor government.' That is what they said they would do. From 1 January 2003—it does not matter what spin the Minister for Energy tries to put on it—the price of electricity rose by 32 per cent. That is an indisputable fact; that is what happened. It rose by 32 per cent for summer peak and it went up by a lesser amount for winter peak; overall, it rose by approximately 24 per cent. Contrast that to Victoria.

The minister tries to play the good old privatisation card, which is a bit rich, because the first electricity privatiser in South Australia was the Labor Party. The Labor Party privatised Torrens Island Power Station; the Labor Party put the private sector into Hallett; and the Labor Party privatised the South Australian Gas Company. So, it was the privatiser of energy. The Liberal Party simply completed the task.

An honourable member interjecting:

The Hon. W.A. MATTHEW: It was forced to. The fact is that people are having their electricity disconnected, and today the only thing this minister was able to tell us is that he has had a meeting a few weeks ago. He had a meeting when he received a tip-off that the annual report that is being released today by the Essential Services Commission (its fifth annual performance report) will reveal that 13 720 South Australian households and 1 660 businesses have had their electricity disconnected.

Then the minister was asked what he is doing to bring down prices. In Victoria, where they have a privatised market very similar to ours, they have been given a price guarantee to the end of 2007. Victorian households have been told that in real terms their electricity prices are going down by about 5.6 per cent. That is what their energy minister has been able to provide them. That is what Premier Bracks has announced to Victorians. That is what is happening with privatisation there. Not only will Victorians be paying less than they are today and, in fact, less than they were in 2003 but also they were already paying far less than South Australians do.

And why is that? It is because this Labor government bungled the entrance to the market. They allowed AGL to increase their prices by 32 per cent, whereas in Victoria, when the Bracks government was asked for a 15 per cent increase by AGL, they were told, 'Absolutely no way,' and they got a 4.7 per cent increase.

Finally, we find that this whole debacle is being administered by staff who are paid obscene amounts. Six staff in the Essential Services Commission are being paid more than $140 000 a year and, of those, one is earning more than $260 000 a year. Ironically, the top six salaried staff in the South Australian Essential Services Commission earn more than the top seven staff in the Victorian Essential Services Commission, and in Victoria they have been far more successful. The electricity situation in this state is a disgrace, a Labor disgrace, a Labor broken promise and another Labor untruth.

PARLIAMENT HOUSE

Ms BREUER (Giles): Today I want to talk about a problem that we could have developing in this place. At Monday's Environment, Resources and Development (ERD) Committee meeting, witnesses were held up by a failure in technology with the Hansard system. The recording system was apparently not working. I am not sure of the technicalities, but it was a little embarrassing. However, this is a fact of life, and I am certainly not having a go at anyone. But, it promoted some discussion amongst my colleagues on the ERD Committee about the apparent trend that is happening, so we hear, in this place to recruit Hansard staff, who are very good typists and able to type very well from tapes but do not have the old skills that were common in shorthand typists, etc. Well, so be it; we move on in time and we do not have a major problem with that.

However, I do want to comment on this. Where are the skills from the past that were so important in this area? In this respect, I refer to the shorthand skills and those incredible little machines on which the reporters work. I am not sure what they are called, but the reporters use their unique skills on them, as well as using other skills that shorthand typists in the past had to be able to take dictation and listen to what was happening. They were very important skills. Once upon a time you could not get a job in this place unless you had superb skills in this area. Certainly, in the court system it was the same.

I take this opportunity to pay tribute to the Hansard staff in this place because without them, as we discovered on Monday in our ERD Committee meeting, everything stops until they are available. The Hansard staff in this place work incredibly long hours because, whatever we are doing, they are always here at least half an hour after we have finished. They certainly work under very high pressure, and it is interesting to listen to the different styles of various MPs in this place—and I am sure that the member for Morphett has given Hansard staff some headaches in the past with the amazing speed at which he speaks.

An honourable member: Challenges.

Ms BREUER: Yes, challenges, I think, is the word, as my colleague next door to me says. There are various MPs' styles to which the members of the Hansard staff have to learn to adapt. They do an extremely good job. Some of the Hansard staff seem to have been here forever, and I am sure that they feel that they have been! I do not think we should be devaluing the skills of these people. It is very important in this place that those skills are maintained, and I certainly want to say thank you to all the Hansard staff. I hope that we can resolve this problem should it recur in the future. I often wonder what would happen if everything broke down. If there was a power breakdown, how would we maintain the operations of this place?

I now want to refer to another issue relating to this place. The other day when I pulled up out the front of Parliament House, I felt a little concerned about the lack of flowers and the lack of colour at the front of the building. I suppose this reflects recent trips that I have had in my electorate way up north, where the areas have been absolutely abundant with wildflowers. The different colours there—the purples, the reds, the blues and the yellows—are just amazing. Out the front it looks nice; it is very neat and clean and there are some lovely bushes out there, but I really do think that we could have some flowers there. I thought that surely we could put out there some Sturt peas—our state emblem. They are looking wonderful at the moment. Pigface looks beautiful, and it comes in different colours, or perhaps we could plant native daisies. There are a number of flowers we could put out there to highlight them in the front of our building, and it would make such a difference on North Terrace and give us some colour in this place.

The third issue relating to Parliament House that I have wanted to talk about for some time is that I have some concern about security in this place and, particularly, in the back entrance. Centre Hall, at this stage, I think we can say is reasonably secure. With the security staff who work there it is a vast improvement on when we first came into this place a number of years ago. I remember that incident when we had somebody break into the chamber and walk down through the chamber, which was a bit of a shock for everyone. Since then, of course, we have had issues like the terrible murder of Margaret Tobin, and we have been made to realise how vulnerable we are in this place. So, I am glad to see that we have had an upgrade in Centre Hall.

However, I believe that the back entrance is not supervised. I believe that a metal detector is there; however, my understanding is that people go through all the time, the metal detector goes off, and it is not attended. I urge whoever is concerned to have a look at this, because if somebody comes in there it would be very easy for them to get around this place and come into the chamber or to walk into people's offices or find us anywhere in the building. I ask that we look at that area of security; perhaps we need to put cameras there or perhaps we need more barriers. It may cost. We may have to employ extra staff. But what price is security?

TRAVEL COMPENSATION FUND

Mrs HALL (Morialta): Following on from the question earlier today on the Travel Compensation Fund, I want to bring to the attention of the house a very concerning situation that has developed and, yet again, is going to threaten and damage the very important tourism and travel industry of our state. Travel agents in South Australia are in very serious danger of suffering under the imposition of very wide-ranging changes to the financial provisions of the Travel Compensation Fund. Licensed travel agents throughout this country are required by corresponding state laws, and in South Australia it is the Travel Agents Act, to participate in and contribute to this very significant fund. It monitors the financial performance of travel agents and provides compensation to those

involved when agents have not been able to account for moneys paid for travel arrangements.

Therefore, following the collapse of Ansett and Traveland, state and ACT ministers of consumer affairs requested the Travel Compensation Fund to investigate how future claims could be meant by the TCF without financial assistance from the federal and state governments. Subsequently, the TCF established the Future Funding Working Group to develop proposals to achieve this objective, which is all very fine and honourable. Following extensive consultation with the state ministers, the TCF trustees have prepared a series of recommendations in response to this original request, and they have to be put to the board for ratification.

Some of the recommendations include increases in annual renewal fees by $150 per head office and per branch. Provisions to require branches to pay the same amount of $7 430 as head offices in the form of a contribution fee for new operations, whereas branches previously paid under 20 per cent of the head office fee. Another recommendation puts a requirement on all participants with turnovers of up to $1.5 million to maintain capital resources greater than $25 000, whereas the current arrangements require participants with turnovers of less than $750 000 to provide minimum capital of $10 000 and those with $750 000 to $1.5 million to provide $20 000 of capital. There is the abandonment of a requirement for audit certificates but only on the condition that agents set up trust accounts or provide bank guarantees. That is just a snapshot of some of the recommendations that are going to impact very significantly on the travel agents of this state.

In addition to the concerns about the recommendations, the most serious concern the industry has is that the board of the TCF has given the participants in this scheme a time frame that is utterly unrealistic. They read about it in their newsletter dated 26 October, and they were told that their submissions had to be in in two weeks so that the board could finalise the decision and the recommendations to come through from the ministers. I am sure that every member in this house would understand that to make an assessment on some material that had been provided and get your recommendations and endorsements or otherwise back in to a board in just under two weeks is utterly unrealistic. When you read the copy of 26 October it says:

> The board will now seek input from the major travel industry participants and welcomes feedback from individual travel agencies on the proposals by mid-November, so that the fund can finalise its recommendations at the November board meeting.

As I said earlier, two weeks to respond to such major and significant alterations to the scheme is just ridiculous. Some of the agents say that they had received no prior notification on the deliberations, prior to reading it in the newsletter. I think it is extremely important and I hope that the minister uses her power to ask the TCF to extend it by at least one month, because they are coming into one of their busiest periods of the calendar and to expect them to, first, assess and, secondly, get their recommendations in with Christmas one month away and then the busy period of January really troubles me. This industry is so significant in this state and it has been given so little care and attention.

MEDICAL BOARD

Ms BEDFORD (Florey): The issue I raise today is the adequacy of funding to the Medical Board of South Australia to allow it to appropriately carry out its functions under the act, to ensure the highest level of expertise and accountability of medical practitioners in this state. Shortly after my election, I was approached by constituents about concerns they held over a police and Coroner's investigation into the death of their son. The parents of Peter Wilson, who died at Crystal Brook in December 1989, were among the very first electors from Florey to seek my assistance. Through a friend, I had already been briefed on anomalies held by some involved in the Keogh case, and in connection with that matter I was able to lend further assistance to the Wilsons.

During 1998, I came to know Mr Robert Sheehan, who had become concerned over findings surrounding the death of Anna-Jane Cheney and the subsequent legal proceedings against Keogh. There were then common concerns over the conduct of autopsies in these and other matters that were being raised with me. All the deaths had occurred during the period when Dr Colin Manock was Director of Forensic Pathology for the State of South Australia, and in two of the cases Dr Manock had conducted the autopsies. I offered assistance to Mr Sheehan to help in his attempts to investigate circumstances and evidence and in his approaches to the various agencies involved, as they had become non-productive.

Questions were being raised about the appropriateness of the appointment of Dr Manock as Director of Forensic Pathology, and I sought information from the Medical Board of South Australia regarding the registration of Dr Manock. The information requested was not forthcoming. My question remains how the Medical Board approved Dr Manock's registration as a medical practitioner in South Australia. Dr Manock commenced practice in the field of forensic pathology immediately upon his arrival in South Australia on 2 December 1968, until some time in 1995. The checking of information available through various sources suggests that Dr Manock had been appointed to the position of Director of Forensic Pathology for the State of South Australia without any proof of formal, accredited training in pathology.

My request to the Medical Board to provide the details of the required proofs for registration of Dr Manock continue, and Mr Sheehan has represented me at a meeting with the Chairman of the Medical Board where he and the Chairman were advised by the Registrar that the Medical Board did not have any documented proof of Dr Manock's training, nor of any UK medical registration, and had only recently obtained a copy of Dr Manock's degree from Leeds University.

Concurrent with my actions, a complaint about Dr Manock was lodged with the Medical Board of South Australia on behalf of Henry Keough. An inquiry into the complaint was eventually agreed, and as of Friday 5 November 2004 the Complaints Committee of the Medical Board had retired to consider the evidence given. I believe this is still the position.

It has become apparent from the inquiry into the complaint laid that my initial concerns over Dr Manock's registration have some justification, and it is of concern to me (from reports since made to me) that the Medical Board may not have the capacity to investigate the matter fully, or that it may not be able to carry out the level of further investigation into the evidence that Dr Manock presented about his UK training and registration that the situation warrants.

This leaves the Wilsons and their quest to establish the facts surrounding the death of their son still waiting, as they have done for the years preceding their contact with me and the years that, unfortunately, they have waited since. It is sincerely hoped by all involved that these matters, related as they are by forensic evidence, will soon be progressed.

Without fearless probing and ensuring that all questions are answered fully by those in authority (whom we trust to discharge their duties without any indication of reticence to disclose), I fear that the justice system on which we rely to treat each of us in the same fair manner will be harmed—and surely this is the last thing that anyone wants.

HOSPITALS, WUDINNA

Mrs PENFOLD (Flinders): People come to my office as a last resort after having tried and, in their view, failed to be heard by the appropriate bodies. When this is the case, I believe it is my place not to canvass opinions and make judgments on who is right or who is wrong but to direct people to where they may be heard. When the complex issues at Wudinna were brought to my attention, I rang the Chairman of the Mid West Board, Mr Terry Mullan, on 25 August to ask him to ensure that the board did not sack Dr Piet DeToit as he would be protected under the Whistleblowers Protection Act. At this time, the Chairman told me some of his views. However, they made no difference to the arm's length process that I understood had been entered into.

I had previously spoken with the Chairman in April 2004 regarding the closure of the birthing unit at Wudinna at that time. As the minister, the Department of Health and the appropriate boards had already been approached by those who had contacted me, and as the alleged concerns were of a serious nature, I had moved to have the issues investigated by the Health Ombudsman and the Commissioner for Equal Opportunity. These bodies are independent of the health department, the local health services and their voluntary boards. When the Ombudsman decided to await the outcome of the clinical review of the Wudinna Hospital (instigated by the Mid West Health Board), I asked the minister by letter dated 12 October 2004 (which I personally handed to her and discussed with her on that day in Parliament House) to stand aside three people whom I considered would compromise the independence of the review; to widen the terms of reference; and to have independent reviewers who were not employed by the health department or well known to the parties to the review.

I spoke again with the minister briefly the next day when I handed her a constituent's letter. In both discussions, I advised her that the concerns were not just a personality problem of the Wudinna doctor. It was after this time that one of the two reviewers originally chosen was replaced. The replacement is still employed by the health department and is well known to the head of regional health. The other, a doctor from a private practice, also lectures at the Flinders University Rural Clinic School and is likely to be well known by the head of regional health and also the CEOs of the two health services involved.

The guidelines have not been broadened, and I believe the proposed current two-day clinical review involving only GPs, clinical staff and administrative staff (contingent on the review team agreeing to this)—and that will not be advertised or open to the public—will be totally inadequate. I am still concerned that even these reviewers could be constrained about what they believe they can report in case it might upset the department and the Minister for Health.

Even I have had concerns about this issue as there are 10 hospitals and several health services on Eyre Peninsula that are already feeling the strain of funding cuts, with the reduction in surgery (or cessation of it) and closing of birthing units. However, if people cannot come to their local member of parliament without fear or favour, where can they go, particularly when they have written to the relevant authorities, the board, the minister and even the President of the AMA because they have had no response?

Taking my concern into parliament has been a last resort on my part and not done lightly, as I am well aware of the considerable amount of stress on everyone involved. However, after trying to keep the matters non-political, I believe it is the only way in which I can ensure that a proper investigation of all the issues is undertaken.

The Mid West Health Board has written to me inviting me to visit them so that they can give their side of the story. However, I will not be meeting them until this matter has been properly dealt with. They must give their side of the story to the reviewers, to the Ombudsman and to the Commissioner for Equal Opportunity at the appropriate times. I ask that the people in the Wudinna district continue to write to the minister (sending a copy to me) to support the quest for a full investigation by people who are independent of the Department of Health.

This is not a political issue, it is one of natural justice. I believe that if the issues had been dealt with properly in the first place it would never have caused the problems and, certainly, I would never have felt compelled to air it in parliament. Too often I have seen important issues brought up by ordinary people and given a shallow response by the government or a department with the result that their concerns are not investigated adequately and no changes are made where change is needed. The Wudinna Hospital is, I believe, at risk of being just such a case.

In the time that I have left I want to clarify a few issues on the record. First, only three mums attended the Wudinna Hospital's birthing unit meeting, this being attributed to a lack of interest. On the ABC today, Suzanne Waters said:

> I ran around the town, talked to a lot of expectant mothers. No-one knew the meeting was on. They heard a rumour that there was going to be a meeting but there was no specific date given. I have just had one mum ring me. She said she wasn't even given a letter.

Time expired.

TECHNICAL COLLEGES

Mr O'BRIEN (Napier): Yesterday in a grievance debate I raised concerns about the very practical aspects of the federal government's Australian technical colleges proposal. These difficulties are listed as, first, the impact of withdrawing 300 high-performing students in years 11 and 12 from a small number of high schools. This has particular impact in the Whyalla-Port Augusta area, where one of these colleges is designated to be located. On a rough calculation, there would probably not be 300 year 11 high school students across Whyalla and Port Augusta to be withdrawn. In that area in particular I have concerns that we would not find the 300 placements for the school-based apprenticeships.

The second problem that has emerged is the inadequacy of the amount of money that has been allocated, particularly for green-site development if we are looking at skill-based development above the very basic. I do not believe that we will be able to put in place a new stand-alone facility either within the Adelaide metropolitan area or the Whyalla-Port Augusta area that will be able to give young people the high level technical skills that are currently in short supply.

We also have the problem of school-based apprenticeships; the fact that no legal structure is currently in existence to support either casual or part-time employment as a basis

for apprenticeships. We also have the aversion of employers to employing apprentices on a one or two day a week basis. My own experience with apprentices is that it takes so long to get them up to speed to understand the basic requirements in running a business that having a young person around one day a week over an eight-month period is next to useless. We also have a problem with the ideological impact of the employment conditions that are being introduced.

We know that we have a shortage of trade teachers. I believe that this will be a real impediment to drawing from a very narrow group of individuals.

An honourable member interjecting:

Mr O'BRIEN: No, I am being positive about this. There is great public support for this initiative as a way of addressing high youth unemployment and low school retention rates. It also has great business support in terms of addressing existing and forecast skills shortages. Members of this house should know that the biggest current and future impediment to growth in this state is the lack of skilled people. It has reached the stage that we are seeking skilled trades people from overseas to come to South Australia to underpin economic growth, particularly with respect to our industries in the northern suburbs.

This is an initiative that should be supported despite the practical difficulties implicit in the proposal—those that I have outlined. I believe that there should be state government involvement in this program for the following reasons: first, it should be TAFE based to give young people in high schools access to the high cost technologies that are located only within the TAFE system. It should be situated in an area of high skill shortage and high youth unemployment. For that reason I believe that the Adelaide facility should go into the northern suburbs. True, I have a vested interest, but I think it is a very logical placement.

However, a further reason for state government involvement is geographic accessibility. If we do not think through the placement of this facility, and if it is placed in an area which is not accessible to the wider metropolitan area, four or five high schools and probably one private school will find a great bleeding out of their years 11 and 12 students; and it will impact on their viability as stand-alone educational institutions. I believe that the state government should buy into this in order to ensure that the whole metropolitan area gets access to this facility. That issue will have to be addressed, either by location, close to a railway line—

Time expired.

ROAD TRAFFIC (DRUG TESTS) AMENDMENT BILL

Mr VENNING (Schubert) obtained leave and introduced a bill for an act to amend the Road Traffic Act 1961. Read a first time.

Mr VENNING: I move: I move:

That this bill be now read a second time.

This bill seeks to increase the amount of surveillance of drug affected drivers on South Australian roads. For too long, we have largely ignored our duty to protect South Australian drivers from drug affected drivers, but now the need for action is quite clear.

This bill comes in the wake of the Victorian government passing a similar bill last December which is set to come into effect before Christmas this year. In 2003, 31 per cent of drivers killed in Victoria tested positive to drugs other than alcohol, and I believe the figures are the same or even worse here in South Australia.

Research shows that a driver who has recently consumed THC (that is, the active component in cannabis) or methamphetamines (in other words, speed) is at the same risk of having a crash as a driver with a blood alcohol content above 0.05. Unlike alcohol breath testing, there is no need for a threshold. We have put much work into looking for this threshold but, while it is deemed safe to drive an automobile with very little alcohol in your blood, the same cannot be said for drug users. Any driver under the influence of drugs is a threat to him or herself and to other road users.

The evidence for this is clear. THC impairs mental functions and reduces attention and concentration on the driving task. THC significantly increases crash risk and affects driving even when there are no outward signs of impairment. Methamphetamines increase risk taking and aggression and are often used by drivers to temporarily allow them to continue to drive even though they are too tired to do so safely.

This brings to light the use of drugs by our truck drivers. I have personally witnessed this as a young person. Truck drivers have been using what we call 'beans' for years. That is a very dangerous practice. I am glad to say it is not so widely practised today but, still, truck drivers take their beans so they are able to get their rig home. They are out there dog tired and should not be driving because they are under the effects of these drugs. That has been a common practice for decades.

Saliva tests are used because they are easy to collect and can be screened using a quick, easy and accurate method to detect the presence of THC and speed. Most roadside saliva tests can be conducted through the driver's window, similar to the way in which preliminary breath tests for alcohol are currently conducted.

Saliva screening is an accurate and reliable method for detecting the recent consumption of methamphetamines (or speed) and THC, the active component of cannabis. All saliva drug screening devices will be required to meet rigorous standards of accuracy. Before any charges can be laid, the presence of THC or methamphetamine in the saliva sample must be confirmed by laboratory testing.

Random roadside saliva testing for illicit drugs will take longer than random breath tests for alcohol. For drivers who have not recently consumed illicit drugs, only one saliva test will be required, and this will take approximately five minutes. For drivers who return a positive result to the initial saliva test, the total time to complete the process could take up to approximately 30 minutes.

The consumption of THC will be detected for several hours after use. The actual time after consumption that THC will be detected depends on the THC strength of the cannabis used, and on the driver's metabolism and also smoking technique. Drivers who may have inactive THC residue in their bodies from use in previous days or even weeks will not be detected.

Speed may be detected for approximately 24 hours after use. These drugs can affect the ability of a driver to safely control his or her car for at least this period of time. Extremely large doses, other drugs taken at the same time and

differences in individual metabolism may affect the duration of the effects of these drugs.

With this bill comes a great opportunity to confirm the bipartisan anti-drugs stance of this parliament. We have heard much rhetoric about drugs and their effect on the community, and this government has put out a drugs paper, as did the previous one. When it comes to this issue, they have been very soft. For many years we have been taught about the dangers of driving while under the influence of alcohol and other drugs. Every driver knows the obligation they have to others on the road to drive without drinking excessively beforehand. Drivers know that if they are caught drink driving they will lose their licence, and even go to gaol, and have all the hassles of getting their licence back again. However, the effects that alcohol can have on a driver are relatively minor when compared to the various illicit drugs that some people in society choose to take, for whatever unfortunate reason.

We have outlawed drugs because of their effect on the person taking them and on society in general. Unfortunately, and as we all know, some people do not conform to our laws and choose to take illegal and illicit drugs. Despite our best efforts, illegal and dangerous drugs are something that we cannot sweep under the carpet. This extends to doing our best in keeping people under the influence of prohibited substances off our roads.

While it is illegal to take drugs and, therefore, illegal to drive with drugs in one's system, such outlawing is totally ineffective when there is little or no surveillance. The amount of surveillance is insufficient, with little done to educate the public about the dangers of driving under the influence of what they call 'soft' and 'hard' drugs. It is quite distressing, and demonstrates a lack of effective regulation, to see that there is no effective scrutiny of drivers who are under the influence of any illicit drugs. We need a system that discourages users of prohibited drugs from driving when high on the substance. We need to deter people in the same way that people have been put off drink driving.

We can administer such tests with relative efficiency through the current RBT operations, which should allow us to avoid any new drug testing programs becoming huge financial burdens. It is believed, from statistics gained from research at Swinburne University, that people who smoke marijuana shortly before driving are at an almost seven times higher risk of being involved in a fatal crash than a drug-free driver. We owe it to all drivers to make sure that these people stay off the road while they are affected. More importantly, our biggest obligation is to the general public and road users. We should be able to provide a drug-free roadway for all drivers—after all, it might be your loved one who is the victim.

We know that a driver may be legal at a level of 0.04 on the breathalyser but, if the driver had four or five joints of marijuana, we know that the combination of the two can have a dramatic effect. We are said to be the drug capital of Australia. Is it just coincidental that we also have the highest road toll per capita? I do not know the answer, but I believe that we should do all we can to find out. I can see only a positive response coming from our consideration of drug testing drivers. Life is too fragile, and driving too dangerous, to allow 'drug drivers' to add to the variables of life-threatening risks that all drivers must contend with as soon as they enter a road. I ask that the parliament approach this matter in a bipartisan manner: there is no room for debate of a political nature here.

This is the third time that I have raised this matter in this house: the first was two years ago. The government defeated this measure on both occasions. I was pleased to hear mention of this issue in the Governor's opening speech when she opened this parliament on 14 September 2004. Nine weeks have passed since that time, and there has been no sign of any legislation. I have checked with parliamentary counsel, and nothing has been done about this. When I mentioned this matter on radio two weeks ago, I thought that would spur the government into action. But nothing has happened. So, as I promised, I am doing it now.

A lot of work has gone into preparing this bill for the parliament. Each time we have seen that it has become even more serious, and we have put in a big effort this time. This bill is quite comprehensive and very professional. I want to thank parliamentary counsel for the effort they put in on my behalf—and, hopefully, parliament's behalf—and also my staff. I seek leave to insert the explanation of the clauses in *Hansard* without my reading them. I urge the house to support this bill.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Road Traffic Act 1961*

3—Amendment of section 47A—Interpretation

This clause amends section 47A of the principal Act by inserts definitions of terms used in the amendments effected by this Bill.

4—Insertion of section 47BA—Driving under influence

This clause inserts a new section 47BA into the principal Act. The proposed section creates an offence of a person driving a motor vehicle, or attempting to put a motor vehicle in motion, whilst there is a prescribed drug in the person's blood. A prescribed drug is defined as being a substance declared by the regulations to be a prescribed drug, and will include substances such as cannabis, opiates and amphetamines.

The proposed section also sets out penalties for an offence against the section, with increasing penalties for subsequent offences committed within 5 years of the original offence including fines and disqualification of licence. Further, the proposed provision sets out procedural matters relating to penalties. The approach adopted in relation to penalties under the provision is consistent with that relating to drink-driving.

5—Insertion of section 47EB

This clause inserts a new section 47EB into the principal Act. The proposed section enables a member of the police force to require a person to submit to an oral fluid analysis, which will initially be in the form of a swab test, if the member has required, or may require, a person to submit to an alcotest or breath analysis under section 47E of the principal Act. Such an analysis may be done either in addition to, or instead of, the alcotest or breath analysis.

An oral fluid analysis must be commenced within 2 hours of the event that gave rise to the belief referred to in section 47E(1), that being a belief on reasonable grounds that a person, while driving a motor vehicle or attempting to put a motor vehicle in motion—

- has committed an offence of a prescribed class of which the driving of a vehicle is an element; or
- has behaved in a manner that indicates that his or her ability to drive the motor vehicle is impaired; or
- has been involved in an accident.

The proposed section also sets out procedural matters relating to the carrying out of an oral fluid analysis, and creates an offence of refusing or failing to comply with reasonable directions of a police officer in relation to a requirement to submit to an analysis. The procedural matters, along with defences to an offence under proposed subsection (6) and the limitation of other defences, are consistent with the approach in relation to the procedures etc to be adopted in relation to an alcotest or breath analysis under section 47E.

6—Amendment of section 47F—Police to facilitate blood test at request of incapacitated person etc
This clause amends section 47F of the principal Act to provide that where a person fails to comply with a requirement or direction in relation to an oral fluid analysis under proposed section 47EB on medical or physical grounds, the police must do the things currently required by section 47F (in relation to a requirement under section 47E) to facilitate the taking of a blood sample from the person.
7—Amendment of section 47FA—Police to provide transport assistance for blood tests in certain circumstances outside Metropolitan Adelaide
This clause amends section 47FA of the principal Act to include an oral fluid analysis under this measure in the procedural matters contemplated by the provision relating to the provision of transport for the purposes of a blood test under the Act in certain circumstances.
8—Amendment of section 47FB—Blood tests by nurses where breath analysis or oral fluid analysis taken outside Metropolitan Adelaide
This clause amends section 47FB of the principal Act to include an oral fluid analysis under this measure in the procedural matters contemplated by the provision relating to the taking of a sample of blood by nurses in certain circumstances.
9—Amendment of section 47G—Evidence etc
This clause amends section 47G of the principal Act by inserting a number of evidentiary and procedural provisions relating to this measure.
In particular, the clause provides for a similar system of evidence by means of certification relating to aspects of oral fluid analysis, consistent with the approach currently taken in relation to alcotests and breath analysis etc.
10—Insertion of section 47GB
This clause inserts a new section 47GB into the principal Act. The provision relates to the situation arising when a defendant has consumed a drug between last driving etc a motor vehicle and the performance of the oral fluid analysis. The provision provides that, in the case of an oral fluid analysis required as a result of an accident, the defendant, if he or she has complied with the requirements of the principal Act in relation to the accident, and provided that the prescribed drug was not consumed during the above period, may be found not guilty of the offence charged. The defendant may, however, have committed an offence under the *Controlled Substances Act 1984* for which he or she may be prosecuted.
The provision also provides for a similar result where the defendant was, or may have been, required to submit to an alcotest under section 47E(2a) (that is, a driver approaching a breath testing station, or a driver driving during a prescribed period such as, for example, school holidays), provided the prescribed drug was not consumed in the vicinity of the breath testing station during the period between last driving etc a motor vehicle and the performance of the oral fluid analysis.
This proposed section is consistent with section 47GA of the principal Act, which deals with similar conduct in relation to alcohol consumption after driving.
11—Amendment of section 47H—Approval of apparatus for the purposes of breath analysis, alcotests and oral fluid analysis
This clause amends section 47H of the principal Act to enable the approval of apparatus of a specified kind for the purpose of conducting oral fluid analysis.
12—Amendment of section 47I—Compulsory blood tests
This clause makes amendments to section 47I of the principal Act to enable the testing of blood compulsorily taken under that section to include testing for the presence of a prescribed drug.
13—Amendment of section 47IA—Certain offenders to attend lectures
This clause amends section 47J of the principal Act to include offences created by proposed section 47BA(1) and 47EB(6) in the definition of ***prescribed first or second offence***.
14—Amendment of section 47J—Recurrent offenders
This clause amends section 47J of the principal Act to include offences created by proposed section 47BA(1) and 47EB(6) in the definition of ***prescribed offence***.
Schedule 1—Related amendment
Part 1—Preliminary
1—Amendment provisions
This clause is formal.
Part 2—Amendment of *Criminal Law (Forensic Procedures) Act 1998*
2—Amendment of section 5—Non-application of Act to certain procedures
This clause makes a consequential amendment to the *Criminal Law (Forensic Procedures) Act 1998* providing that that Act does not apply to the taking of an oral fluid sample for the purposes of proposed section 47EB of the *Road Traffic Act 1961*.

Mrs GERAGHTY secured the adjournment of the debate.

ECONOMIC AND FINANCE COMMITTEE: REAL ESTATE INDUSTRY INDEMNITY FUND

Ms THOMPSON (Reynell): I move:

That the 50th report of the committee, entitled 'Real Estate Industry Indemnity Fund' be noted.

I am pleased to present to the house the 50th report of the Economic and Finance Committee. The Real Estate Industry Agent Indemnity Fund is created under both the Land Agents Act 1994 and the Conveyancers Act 1994. The fund is primarily raised by collecting the interest accrued by agent and conveyancer trust accounts and is administered according to these acts by the Commissioner for Consumer Affairs. The purposes of the fund are to provide certain funding to professional development activities within the real estate industry and, more significantly, to pay claims resulting from defalcations by land agents or conveyancers.

The committee's inquiry investigated the fund and received witnesses and submissions from industry bodies, individuals and the commissioner on two occasions. As a result of the inquiry, the committee identified five main areas on which it made comments and recommendations. The most significant aspect of the fund's operation identified by the committee was the way in which the Office of Consumer and Business Affairs (OCBA) administered claims made as a result of agent defalcation. The committee was of the opinion that OCBA applied a policy of using the fund as a last resort option, which required claimants to pursue often lengthy, expensive and futile legal action against agents, the cost of which is not recoverable from the fund, to demonstrate their exhaustion of other avenues of redress before admitting access to the fund.

The committee considered that the administration of the fund in this way, while not inconsistent with the authority provided by the act, was not in keeping with the purpose of an indemnity fund established to protect consumers from the financial and associated expenses of being defalcated. The committee put alternative models of evaluating payment eligibility to the commissioner, which sought to move the onus from requiring a claimant to pursue certain prescribed action to a consideration of a claimant's capacity to pursue alternative action given the context of the case. The committee also identified perceived inconsistencies of advice and information during the processing of their claim by OCBA, which caused confusion and/or anxiety to claimants.

In relation to these matters, the committee made the following recommendations. The committee recommended that the minister consider replacing the test applied by the commission that a claimant should exhaust all other avenues before the claim be processed with a prudent self-funded litigant test as applied by the Legal Services Commission. The minister is also asked to consider whether the act should

be amended so as to enable reasonable legal costs accrued by a claimant as a direct result of a direction by the fund manager to be recoverable along with the principal sum; also, a mandated case management process in which claimants are regularly informed as to the progress and handling of their claim, and regular performance audits of the fund's administration by the Auditor-General's office.

The other main issue considered by the committee was the way in which OCBA provides monies from the fund to professional development activities within the real estate industry. The committee received evidence and submissions from the Real Estate Institute of South Australia and the Australian Institute of Conveyancers, as well as the commissioner. In the course of its inquiry the committee observed that the relationship between OCBA and the professional bodies has been marked by disagreements over funding levels and the activities for which funding is provided. The agreements under which funding has been given have often taken some time to complete, resulting in delays in funds being released and the professional bodies being forced to make up the shortfall from their own, often stretched, resources. The terms of these agreements have also been contentious with OCBA adopting a narrower view than the professional bodies with regard to activities eligible for funding.

In essence, the committee observed that the disagreements between OCBA and the bodies have grown out of fundamental differences in philosophy between the two groups over the purpose of the fund, and the extent to which professional development should be subsidised from it. The committee had some sympathy for the industry position but remained of the opinion that overall staff development was a responsibility of the industry and one for which they received credit through the taxation system in any case, and that only accredited real estate professionals and activities should be supported to any extent by the fund. Accordingly, the committee recommends to the minister that a memorandum of understanding be developed between the Office of Consumer and Business Affairs, the Real Estate Institute of SA, and the Australian Institute of Conveyancers covering the following issues:

- the aims, calculation and delivery of assistance from the fund;
- the process for the provision of financial assistance by the Office of Consumer and Business Affairs to the Real Estate Institute of South Australia, and the Australian Institute of Conveyancers;
- enumeration and simplification of eligible funded activities, time lines for funding provision and grievance procedures.

With regard to other issues of note, the committee received submissions from the society of auctioneers and appraisers arguing for financial assistance from the fund. The society argued that their members operated in the real estate industry and, as a result of the final report of the real estate working party, was embarking on developing and providing professional development training for its members in the real estate field. Apart from these activities, the society also identified the fact that trust accounts maintained by their members contributed to the fund.

The committee, accordingly, recommends to the minister that consideration be given to providing professional development funding to the Society of Auctioneers and Appraisers for prescribed and approved real estate industry activities. Further submissions were put to the committee by the AIC arguing that the fund should be split into two, with one fund covering conveyancers and the other real estate agents. The rationale of this argument was that such an arrangement would insulate both groups from being adversely affected by a major—

Mr Venning interjecting:

The ACTING SPEAKER (Ms Bedford): Order! They have made inquiries, member for Schubert, and apparently they have been approved.

The Hon. K.O. Foley: By whom?

The ACTING SPEAKER: By the Speaker, who apparently knows about it.

The Hon. I.F. Evans: On whose behalf are the photos being taken and for what purpose are they going to be used?

The ACTING SPEAKER: We established that it was for an active photo of parliament with people in the chamber, because the only one on record is of the empty chamber.

The Hon. I.F. Evans: So, it is for a leaflet about the parliament, is it?

The ACTING SPEAKER: They are representatives from Business SA. We asked as soon as he stood up and I was told by the Clerk. So I have to presume that that is in order if the Speaker has approved it. The member for Reynell.

Ms THOMPSON: As I said, further submissions were put to the committee by the AIC arguing that the fund should be split into two with one fund covering conveyancers and the other real estate agents. The rationale of this argument was that such an arrangement would insulate both groups from being adversely affected by a major drain on the fund as a result of a large claim made against the other. REISA was not in favour of this submission and the committee, whilst not convinced at this time, considered the idea to be worthy of further investigation. Accordingly, the committee recommends that the minister further examine splitting the fund as proposed by the Australian Institute of Conveyancers.

A final topic considered by the AIC submission was that OCBA employ a full-time spot auditor, paid for by the fund to perform random audits on agents and conveyancers. The committee considered this an unnecessary duplication of a process that, by and large, already exists through the current audit arrangements.

This was a fairly lengthy inquiry, during which time the committee heard a range of evidence about the operation of the Real Estate Indemnity Fund. In summary, we heard that it is often very difficult for people who have legitimate claims against the fund to realise those claims. They complained of a lack of information, a lack of clarity about the hurdles that they had to overcome and, generally, a feeling that trying to make a claim against the fund added to the burden that they were already carrying as a result of the defalcation.

The committee endeavoured to identify ways that this burden could be relieved while, at the same time, recognising the importance of not allowing the fund to be used very lightly so that action available to claimants was not taken in a way that it might be able to be. We heard evidence from one witness who, it seemed to me, had been put in a very difficult situation in the actions that he was being required to take by the administrators of the fund. However, I was pleased that our conversations with the Commissioner seemed to lead to his sympathetic consideration of a more claimant-focused manner of processing claims on the fund. I commend the report to the house.

Mr RAU (Enfield): I endorse all the comments made by the member for Reynell. I think this is a very positive step forward and a very good piece of work, if I might immodestly

say so on behalf of the Economic and Finance Committee. It was clear to us, through the evidence that we received, that the fund has been administered in such a way as to make it very difficult for many unquestionably legitimate claimants to take advantage of the fund for the purpose for which it was originally established.

It also became very clear to us that the guidelines being imposed by the Office of Consumer and Business Affairs, whilst arguably relevant to the statutory criteria, were certainly an advancement upon the statutory criteria. I was certainly very pleased to see that the Commissioner for Consumer Affairs was prepared to accept an alternative way of viewing these claims that might, in fact, be fairer. As mentioned by the member for Reynell, the formulation of a reasonable self-funding litigant was suggested as applies in the Legal Services Commission, and that was actually accepted by the Commissioner for Consumer Affairs.

For members who were not involved, I inform them that, until the present time, a person wishing to make a claim on the fund has had to jump over an extremely high hurdle in order to have access to moneys. Part of that high hurdle has involved people in being put to the expense and trouble of litigating causes themselves, even in circumstances where no prudent person properly advised by a lawyer would ever take that course of action because it is simply too risky or too expensive or because the prospects of recovery are so small having regard to the expense to be outlaid that no sensible person would ever do it. Nonetheless people were being expected to do that.

I think that the committee has done a good job in examining this question and in recommending that a more practical, sensible approach be taken, namely, that the only real test should be whether a prudent person in the position of the applicant to the fund would be expected to be off chasing these moneys themselves, rather than going to the fund to try to get some sort of satisfaction. I think that would be a substantial change for the better. We need to also bear in mind that, in the case of a claimant who does have a successful claim against the fund, if the claim is any good, that claim is subrogated to the fund in any event and they can take it up; so, it is not as if the claim is lost.

For all those reasons, I strongly endorse the remarks made by the chair of the committee, the member for Reynell. I hope that the parliament reads this report with interest, and I also hope that the Attorney gives favourable consideration to the recommendations made in the report.

The Hon. I.F. EVANS (Davenport): I assume that it would be the Minister for Consumer Affairs, rather than the Attorney, who will consider the recommendations in the report, because the now minister was a member of the committee when these terms of reference were first moved. I was pleased to move the terms of reference. It is unusual for us to be speaking about a report of the Economic and Finance Committee, because we do not often get a report to come to the parliament. However, we will keep chipping away.

I support the comments made by the members for Reynell and Enfield in relation to this report. The committee discovered a number of issues of concern in the fund following the submissions from the various industry associations. In particular, one of the claimants from the member for Enfield's own electorate gave an enlightening example of how the fund was being administered in a more complex way than it needs to be.

Certainly, I support the comments made by the member for Enfield in relation to the test being applied by the commission being changed to a prudent self-funded litigant test. I support that recommendation because, as the house knows, I had a strong interest in the Growden's matter, which was behind the moving of this particular reference to the committee. The number of people who told me that they simply could not afford to chase every rabbit down the burrow as was being requested of them, because they had already lost all their money in the investment, anyway, and to bring it back to a prudent self-funded litigant test I think brings more balance to what the commission will ask future claimants to do. I think that is the right balance in the way that the fund should be administered.

The other issue I will touch on, because the members for Reynell and Enfield have covered all the recommendations which the opposition supports anyway, relates to the Institute of Conveyancers. Their president, Peter Long, suggested, on behalf of his association, that the fund should be split into a conveyancing-based fund and a real estate industry-based fund. I have some sympathy for that proposal, on the basis that it does separate the two industries into their own risk category, so the conveyancers' part of the fund would be subject to risk only if there is fraud or misadventure by conveyancers, and the real estate side of the fund would obviously be limited to what happens in the real estate industry. I have some sympathy for that principle. It seems unusual that the conveyancers would be contributing to a fund that may be claimed against because of misadventure by real estate agents, and vice versa.

Ultimately, the committee did not agree with the Conveyancing Institute's submission in that regard, although it did have some sympathy for it. Hopefully, the minister will have a good look at these recommendations. We think they will tidy up the administration of the act and will prevent future claimants having to go through what some of my constituents and some of the member for Enfield's constituents have gone through in trying to claim from the fund. I recommend the report to the house.

Mr HAMILTON-SMITH (Waite): I was not a member of the committee when the term of reference was adopted and, having become a member in September, caught the tail end of it. I think it is an example of the committee doing some good work that, if the recommendations are agreed to by the government, will be a constructive step forward for the fund and for all those with an interest in it. I want to commend the member for Davenport for his efforts over the Growden's matter, which was a major victory on behalf of all those who were victims of that collapse. I also commend the Treasurer for coming to the party in the end, albeit reluctantly, and agreeing to part with some money to help the victims of that fraud.

There are some good and sound recommendations in the report and I commend it to the house. I would just make the observation, which I made in the last parliament, that the presentation of our reports and the resourcing of committees generally could be enhanced. I know from past experience that witnesses have often expressed a view that, compared to Senate committees or House of Representatives committees, say, the state parliamentary committees do seem under-resourced and perhaps not as serious an undertaking as appearing before a federal parliamentary committee.

I think that is a shame, because with the right resources, not only for the preparation of reports but for their publica-

tion and dissemination around the state and around the country, we could actually make a better contribution to public life, rather than using the stapled together, A4-page, photocopied format that tends to be the substance of most of our reports. I hope that the committee is more active over the coming 18 months and produces more such reports. It can if the government lets it, because I think we do have a contribution to make, and this report is an example of that.

Motion carried.

SOCIAL DEVELOPMENT COMMITTEE: POSTNATAL DEPRESSION

Mr SNELLING (Playford): I move:

That the 20th report of the committee, entitled Postnatal Depression Inquiry, be noted.

Postnatal depression is a significant public health issue that affects some 10 to 20 per cent of women after childbirth. The inquiry heard many stories from women about the devastating impact of postnatal depression and how the illness often left them feeling isolated and severely debilitated. The symptoms experienced by women who suffer from the illness can include anxiety, despair, physical and emotional exhaustion, appetite and sleep difficulties. We heard about the significant flow-on effect of postnatal depression and its impact on the entire family.

The inquiry heard a great deal of evidence about how the negative effects of postnatal depression can greatly affect the partners of women suffering from it. We learnt that if the illness is not detected early and appropriately treated it can profoundly affect the long-term emotional, social and behavioural development of children.

Sadly, the very reason this inquiry was instigated was because of the tragic death that occurred when a young mother suffering from postnatal depression took her own life. Clearly, the implications of not addressing postnatal depression can be devastating. I thank the member for Florey for bringing this matter to the attention of the house when she moved that this inquiry be established. On behalf of the committee I would like to extend my thanks to the many individuals and organisations that provided evidence to this inquiry.

In particular, the committee wants to put on record its gratitude to the women who spoke directly of their personal and often painful experiences of postnatal depression. We know that this is never an easy thing to do. Their stories served to place an important human dimension on this inquiry, and we sincerely thank them for their contribution. The committee was informed that discussing the issue of postnatal depression is often fraught with problems. Not only has there been a lack of consistency in how the term has been defined but also there has been debate about its time of onset in the postnatal period.

Added to these problems, the media has at times mistakenly referred to postnatal depression as 'the baby blues'. Nevertheless, the committee was given the following working definition of postnatal depression:

(a) lowering of mood in the 12 months after childbirth, with the lowering of mood lasting for at least two weeks and leading to significant distress for the woman, her infant and her family.

The duration of postnatal depression is never constant and is dependent upon many variables, for instance, individual circumstances and the timeliness of treatment provided. Different studies have shown the duration may vary from several weeks to many months for less severe cases, and may persist for years in women suffering from more severe episodes. The committee heard evidence from the husband of one woman who had been suffering from postnatal depression for 2½ years.

Many of the submissions presented to the committee argued that there is no known cause for the onset of the illness. Rather, a number of risk factors may have greater influence than others in explaining the onset of postnatal depression. The committee was told that women who have a history of clinical depression are far more likely to suffer postnatal depression. We learnt that women who were depressed during pregnancy have much greater chance of suffering postnatal depression.

Evidence provided to the committee indicated that women who are experiencing relationship difficulties may be at greater risk of developing postnatal depression. The committee heard stories about how partners of women suffering postnatal depression have a desire to assist and be supportive, but often feel ill-equipped to do so. Unfortunately, the committee heard many stories of women who were given little or no support whilst pregnant.

The committee was told that postnatal depression is particularly a disease of social isolation. The committee heard that changing demographic trends and family compositions may result in reduced access to extended support structures and contribute to the social exclusion experienced by some women and their newborns. The committee heard much evidence about the value of social and practical support and the need for women who have given birth to establish strong supportive networks to reduce the likelihood of postnatal depression. These are just some of the risk factors. It is important to remember that risk does not denote cause. However, it is important that we continue to research factors further to determine the extent to which certain factors may contribute to the problem and, in doing so, enable us to obtain a better understanding of this illness and help us to work towards its prevention.

The inquiry was also told of the increasing medicalisation of birth that has seen a shift away from individualised care. We heard stories from women about how they did not feel that they were properly informed, or appropriately supported, during the birth. The inquiry heard about how society tends to romanticise motherhood. Women who, for all sorts of reasons, do not meet the impossible standards set by society often feel a sense of guilt and failure.

The inquiry heard about how some women felt they were pressured to leave hospital after childbirth when they did not feel quite ready. We heard various viewpoints about length of hospital stay. The key theme that emerged from the evidence was the need for proper support to be available in the community.

Much debate was generated during the inquiry about caesarean sections and the role they may play in the development of postnatal depression. Some witnesses argued strongly that the current status of caesarean sections performed in South Australia was too high and that there was a strong link between this form of medical intervention and postnatal depression. Others argued that the caesarean section rate is reasonable and the link between this form of surgical intervention and postnatal depression is tenuous. The inquiry found the evidence by no means conclusive on this issue. As always, the committee was keen to hear a diversity of opinions, believing that they are all important and serve to stimulate further discussion on significant health issues such as postnatal depression.

While on this issue, it was pleasing to hear that South Australia has recently received grant funding from the National Health and Medical Research Council to conduct research on vaginal and caesarean births, as well as for undertaking research into postnatal development and neurodevelopment in children.

The inquiry found that current services and programs for postnatal depression tend to be fragmented and operate under significant pressure. Women suffering from severe postnatal depression requiring hospital treatment are often placed on waiting lists. The inquiry also heard that specialist postnatal depression support in the community is lacking.

During the inquiry, Aboriginal women, women living in rural communities and women from culturally and linguistically diverse backgrounds were identified as having additional needs requiring specific focus. Evidence shows that the peri-natal and infant mortality rates are considerably worse for Aboriginal births compared to the rest of the community. The committee is keen to see these specific groups afforded greater priority and therefore has put forward a number of strategies to ensure better service responsiveness to these groups.

The role of midwifery services was also examined during the inquiry. The benefits of midwifery programs were discussed in a number of submissions. Particular reference was made to the continuity of care that such a model provides from pregnancy to birth through to the postnatal stage. The inquiry heard evidence about the Northern Women's Community Midwifery program, a government-funded model of midwifery care that is part of the Northern Metropolitan Community Health Service. It commenced in 1998 and is the only community-based midwifery program in this state. The program is located at Elizabeth and targets young women, Aboriginal women and socioeconomically disadvantaged women who reside in the northern suburbs, specifically the local government areas of Playford, Salisbury and Tea Tree Gully.

Similar to the community-based midwifery program, the inquiry heard about the midwifery group practice at the Women's and Children's Hospital which enables a woman to have a primary midwife involved in her maternity care and in the early weeks of the postnatal period.

The committee heard about the valuable work of Helen Mayo House in supporting those women and their families who require in-patient care for more severe cases of postnatal depression. We heard about how the public and private hospital systems also play an important role in treating women suffering from this illness.

The important contribution of the role of the Peri-natal Psychiatry Service was discussed. The critically important role of general practitioners was raised, particularly given the fact that they are often a woman's first point of contact with the health system.

Other initiatives such as those provided by Child and Youth Health were also discussed, including the role of Torrens House, Parent Helpline and the recent roll-out of the universal home visiting program. We heard about specific programs such as the Mothercarer program and the Parenting Network program, both of which provide more intensive emotional and practical support to women and their families after the birth of a baby.

All these programs and services have an important place as part of a range of initiatives to assist women and their families. However, the committee is keen to see improved service coordination and integration. The committee also heard about other programs and initiatives operating interstate and overseas. Looking at how other states and overseas jurisdictions manage this issue is always useful and allows us to learn and improve the way in which we do things.

In total, the committee has put forward 22 recommendations in a range of areas aimed at improving services to women and their families. The report calls for:

- early detection and intervention which focuses on the particular needs of the woman;
- better service and program coordination; and
- increased focus on professional training of all health care providers involved in antenatal and postnatal care. It was disturbing to hear that, despite the fact that pregnancy and childbirth are times when most women have regular contact with the health system, postnatal depression often remains undetected by a range of health professionals.
- increased community awareness of postnatal depression and greater understanding of the pressures and stresses faced by new mothers;
- better community-based approaches ensuring that follow-up care is available in the community; and
- better ways of addressing in-patient demand.

In putting forward recommendations, the committee was mindful that they needed to be realistic, meaningful and placed within the context of increasingly tight fiscal resources. Wherever possible, these recommendations seek to build on existing structures and resources. The committee believes that many of the recommendations could be implemented with minimal cost using existing resources and current infrastructure. Furthermore—

Mr Goldsworthy interjecting:

Mr SNELLING: I am surprised that the member for Kavel would be so flippant about a serious issue. The Social Development Committee has spent many months examining this issue, which affects many women in a profound way. I am appalled that the member for Kavel could be so flippant about such a serious issue. Perhaps the honourable member should seek the advice of the member sitting next to him (the member for Hartley) and he might learn something. I continue.

Furthermore, the committee believes that those recommendations that will require some outlay of financial resources in the short term would reduce costs in the long term and provide significant benefits for women, their families and the broader community.

The committee acknowledges that a number of initiatives have been implemented to assist new mothers and their babies, but we need to do more. Pregnancy, child birth and the postnatal period are times when most women have regular structured contact with an array of health professionals. These frequent encounters with health care professionals, ranging from contact with obstetric and maternity services to general practitioners through to child health services, present us with perfect opportunities to improve the early detection, intervention and treatment of postnatal depression.

Although child birth can be an exciting, rewarding and positive experience for some women, it can also be a time of increased susceptibility to a number of serious psychiatric illnesses. As mentioned, the psychological and physical effects of postnatal depression are significant, and if left untreated can often signal the start of serious long-term problems.

This inquiry has provided an opportunity to improve the quality of care that women and their babies receive, particularly during the postnatal phase. Importantly, it needs to be

stated that, with appropriate support and treatment, most women recover completely from postnatal depression.

The committee acknowledges that there are significant challenges in addressing maternal health care, but our state's relatively low birth rate (of around 17 500 births per annum) should put the issue of postnatal depression well within our capacity to better manage it. There is no room for complacency on this issue. Having a child is a major life-changing event, and although it can bring much happiness it can also be a very difficult time for many women (and their husbands, I might say). Placing greater value on parenting and supporting women and their families in both practical and emotional ways is the key to their future health and wellbeing, and that of the entire community. I commend the report to the house.

Mr GOLDSWORTHY (Kavel): I seek leave to make a personal explanation.

The ACTING SPEAKER (Ms Bedford): Can we finish this item of business first, please?

Mr Goldsworthy interjecting:

The ACTING SPEAKER: That is my advice.

Mr SCALZI (Hartley): I, too, wish to make a contribution on this very important reference to the Social Development Committee on postnatal depression. As the member for Playford has clearly outlined, this condition afflicts a significant proportion of women. The honourable member said about 10 to 20 per cent (or one in five) women were affected in the first year after child birth. The condition affects not only women but also their spouses, partners, other siblings and, indeed, the community. Ultimately, it is something for which, as a community, we must take responsibility given the nature of the illness and its capacity to affect so many people's lives. Unless the issue is addressed by us as a community, we will suffer the consequences.

The inquiry heard what women went through. As the member for Playford said, one husband said that his wife had been affected by postnatal depression for more than 2½ years. One can only imagine what that family has experienced. We must take responsibility for the support of young families in general. Given the number of women suffering postnatal depression, we must ensure that the right services are in place to support women going through this difficult period in their lives.

As the member for Playford said, if the right support is given at the time that can have a beneficial effect not only in the short term but also in the long term, when the future lives of not only the mothers but also the children are affected in a positive way. I, too, would like to commend the member for Florey for bringing this reference to the Social Development Committee, because we have had the opportunity to investigate this very important issue. As I said, the benefits of early detection—as with any illness—are well known.

The services given to women who suffer postnatal depression must be coordinated. We must ensure that services are delivered to remote and rural communities. We must ensure also that we have specific culturally sensitive programs to address the needs of the indigenous population and women from diverse cultural backgrounds. As members would be aware, given that migration patterns have changed, we have people from diverse groups. I was surprised during the inquiry to find that we did not always have interpretive services for women from diverse backgrounds.

I think it is important that we address the specific needs of women in rural areas, the indigenous population and women from culturally diverse backgrounds. It is no good having services that cannot be accessed by the general population or a population that cannot access it in the 'normal' means. If we need to put services in specific languages, then we must do so.

The committee looked at the high rate of caesarean sections and the supposed link to this in postnatal depression. There is no clear evidence about this. Nevertheless, it is important that we look at these issues, as South Australia has one of the highest rates of caesarean sections in the country. The community should be involved in the recommendations to the Minister for Health through the health deliverers to ensure that these women are supported.

There is no doubt that in the modern era childbirth can be an isolating experience, but it can also be one of the most enriching experiences possible. Those of us who are fortunate enough to be parents know how enriching that experience is. I cannot speak from the point of view of a woman—and I would not dare to do so.

An honourable member interjecting:

Mr SCALZI: I do not know about the pain. I assure members that I shared in the responsibility of changing nappies during the night. I know the member for Waite can relate to that, as he has been fortunate enough to have had that experience very recently. Raising children in the modern world and in a modern society in an urban setting such as Australia can be an isolating experience, which places great difficulties, first, on the woman and, secondly, on the spouse, the partner and, indeed, other siblings.

The evidence to the committee suggested that in a village situation there is support. Support is not always material support, but the fact that the extended family can support an individual through this time can make things a lot easier. Unfortunately, we do not have that experience in modern society so we must ensure that we have proper delivery.

The first recommendation to the Minister for Health was for community awareness, and to liaise with relevant government and non-government agencies to consider innovative methods to promote community awareness of postnatal depression. That is essential because there is a lot of ignorance out there. Secondly, we must have support for partners and other family members. Having children is an experience that should not be left just to the woman. Obviously, men cannot give birth to children, but they can do their part to nurture them and to give support to women. There should be continued research into this area. Unless we have proper research, how can we address the problems we face?

We should look at hospital discharge, and education and training to ensure that the relevant health bodies do deliver. We were pleased to hear that all newborn babies are visited by Child and Youth Services. It is important to do that. Of course, we should address the additional needs of women to work out strategies. There should be choice of how women have children, and support should be appropriate to their individual needs and cultural perspective.

Ms THOMPSON secured the adjournment of the debate.

MEMBER'S REMARKS

Mr GOLDSWORTHY (Kavel): I seek leave to make a personal explanation.

Leave granted.

Mr GOLDSWORTHY: During this debate, the member for Playford alleged, in terms of the interjection I made, that

I was being flippant, was not taking the issue seriously and was without compassion in relation to this issue. That is totally incorrect. My interjection was merely to encourage the member for Playford to speak up, because I had difficulty in hearing him.

Members interjecting:

Mr GOLDSWORTHY: He was speaking at a very low level, and I was merely encouraging him to speak up. Female members of my family—

Ms THOMPSON: I rise on a point of order, sir. The member for Kavel is moving into debate. This is beyond a personal explanation.

The ACTING SPEAKER (Ms Bedford): We have heard the point that the member for Kavel wishes to raise.

Mr GOLDSWORTHY: Am I allowed to continue my remarks, Madam Acting Speaker?

The ACTING SPEAKER: Is there more to add, member for Kavel?

Mr GOLDSWORTHY: Just another sentence or two.

Ms Thompson: Is it debate?

Mr GOLDSWORTHY: Well, that is not for me to determine.

The ACTING SPEAKER: Order! The chair will adjudicate on the debate, if there is debate.

Mr GOLDSWORTHY: I merely want to correct the member for Playford's assertion. I was taking the matter very seriously. Members of my family have suffered from postnatal depression.

Ms RANKINE: On a point of order, it was certainly my recollection that the member for Kavel did not ask for the member for Playford to speak louder. Rather, he implied that he was being boring and not entertaining enough.

Mr Goldsworthy interjecting:

Ms Rankine: You said 'boring'.

The ACTING SPEAKER: Order! I believe we have covered that. Mr Clerk, our next item—

Ms Thompson interjecting:

Mr GOLDSWORTHY: I rise on a point of order, Madam Acting Speaker: the member for Reynell used extremely unparliamentary language in referring to me as a smart-arse. I ask her to withdraw and apologise unreservedly.

Members interjecting:

The ACTING SPEAKER: Order! It is unparliamentary.

Ms THOMPSON: If that is what the member for Kavel heard, I withdraw—

Members interjecting:

The ACTING SPEAKER: Order! This is all getting a little out of hand. Can we move on to the next item please. The member for Reynell has withdrawn. We must continue with the business.

Mrs REDMOND: It was not withdrawn and apologised for on the record of *Hansard*, Madam Acting Speaker.

Ms THOMPSON: Madam Acting Speaker, I indicated quite clearly for Hansard to hear that if that was what the member for Kavel heard, I withdraw.

The ACTING SPEAKER: That is right.

Mrs REDMOND: On a point of order, that is not an unreserved withdrawal and apology, on the basis that the member for Reynell asserts that, if it was what the member for Kavel heard. It was not just what the member for Kavel heard: it was what the member for Reynell said.

Members interjecting:

The ACTING SPEAKER: Order! I am satisfied it has been recorded in *Hansard* that the offending word has been withdrawn. We would like to continue with the next item of business.

SELECT COMMITTEE ON NURSING EDUCATION AND TRAINING

Ms THOMPSON (Reynell): I move:

That the time for bringing up the report of the select committee be extended until Wednesday 9 February 2005.

Motion carried.

PARLIAMENTARY COMMITTEE ON OCCUPATIONAL SAFETY, REHABILITATION AND COMPENSATION

Adjourned debate on motion of Mr Caica:

That the seventh report of the committee, entitled the Occupational Health, Safety and Welfare (SafeWork SA) Amendment Bill, be noted.

(Continued from 10 November. Page 829.)

Mrs REDMOND (Heysen): I wanted to make a few brief comments on this report as I was a member of the Occupational Safety, Rehabilitation and Compensation Committee. The member for Colton and the member for Mitchell have already made some comments on this report a week or so ago. They were members of the committee who were part of the majority report, while the Hon. Angus Redford in another place and I produced a minority report in relation to the proposed SafeWork SA bill.

So I wanted to put on the record a bit of the thinking of the minority of the members on this bill. The matters about which we are not in dispute have already been fairly canvassed, and I do not wish to go over the matters already spoken of at some length, particularly by the member for Colton. Could I say in support of the comments of the member for Colton that this committee is, I think, the only unpaid standing committee of the parliament. It is a committee that has done quite a lot of work. We were meeting virtually weekly, taking evidence from a range of people and delving into both this bill and the WorkCover governance bill in some depth. All the committee members put in a lot of effort. Unfortunately, towards the end of our meetings on this bill, I was unable to attend a number of the meetings.

I would like to say just a few things about the SafeWork SA bill. The legislation creates an organisation to be known as SafeWork SA. It removes some of the responsibility for occupational health and safety issues from WorkCover to Workplace Services. SafeWork SA is a new creation, and its basic aim is to be an advisory committee. It will have 11 members, but nine are appointed by the minister, and it is at the discretion and under the direction and control of the minister. However, it is important to note that it will just be an advisory body.

Mr Hanna: No authority at all.

Mrs REDMOND: No. There are a number of issues that the minority (that is, the Hon. Angus Redford in another place and I) had with the bill as it is proposed. The first of those, I guess, was the idea of transferring funds, property and staff from WorkCover to this new institution called SafeWork SA. What will happen is that just over 100 of the 380 staff currently with WorkCover will move over and, of the $45 million that WorkCover receives annually after its payment of claims, about 25 per cent—something between $12 million and $14 million—will be transferred over to the

new organisation. A due diligence was done with respect to that transfer, which I think private consultants, in fact, were engaged to conduct. They raised some questions about the potential impact on the remaining WorkCover functions; the potential for some key staff who were getting fairly senior to decide that they did not really want a transfer and perhaps taking a retirement package; and the potential that key embedded activities might be rendered ineffective in both organisations.

Given all those concerns, and the fact that there was never really any response in terms of WorkCover's position (because, strangely enough, the current board did not want to come and give evidence to the committee, so we never found out what its position was), and in the absence of any specific evidence that these changes would lead to an improvement in occupational health and safety outcomes for this state, and given the potential for damage to what we already have, it seemed to me and to the other minority member that perhaps this was not a justifiable change.

The second area in which we had some difficulty was that of imposing a duty on employers and self-employed people to ensure that third parties were safe from injury and risks to health while that other person—that third party—was at the workplace.

The recommendations that led to this legislation, of course, came about because of the Stanley report, in which it was recommended that the term (and it was in the existing act) 'avoid adversely affecting the health and safety' be changed to 'ensure the health and safety', so that it would place a positive rather than a negative onus. Quite apart from the fact that that could lead to some difficulties in prosecution, what ultimately ended up coming into this act, I think, went further than that. It required an employer or a self-employed person to ensure, as far as reasonably practicable, that third parties are safe from injury and health risks where the third party is at the workplace or where they are in a situation where he or she could be adversely affected through an act or omission occurring in connection with the work of the employer or self-employed person.

It does not take much imagination, of course, to recognise that this could have far-reaching implications, particularly, for instance, with respect to people doing home renovations and such, in terms of the potential for third parties to visit such a site and for other things to happen whilst a third party was visiting the site.

The next concern related to the obligation being imposed on employers to keep information and records relating to occupational health and safety training that was undertaken by employees, and tied to that were a few new rules about the prescription of people who were entitled to have time off to undertake occupational health and safety training. The legislation proposes that there be a health and safety representative, and that that person be entitled to take time off work for occupational health and safety training approved by SafeWork SA and be elected under section 28 of the act. There is a provision that, where an employer has 10 or fewer employees and does not pay a supplementary levy (and the supplementary levy would relate to companies where there has been an increase in the levy because of dangerous workplaces, and so on), employees are not entitled to take the time off unless it is only reasonable time off. However, there is still the fact that 10 employees do not make it a very large workplace, and we suggested that it would be more appropriate to include workplaces within that lessened obligation where there are 20 or fewer employees.

The health and safety representative is also entitled to have his or her expenses paid or reimbursed, to take such time off work as is reasonably necessary to perform his or her functions and to full pay and reasonable expenses. As I said earlier, there is the obligation that sits alongside that for the employer to keep records relating to the training of the employees.

The minority of the committee felt that, in the absence of any evidence that this provision would lead to an improvement in occupational health and safety outcomes, this was imposing a significant cost on small businesses in terms of meeting their compliance obligations and, therefore, we did not support these things. In fact, we generally support the need for training in occupational health and safety but we feel that, as I said, those obligations should not be so heavy on employers who employ fewer than 20 people. However, at that stage, the committee had not seen what the regulations would look like as to what would be reasonable time off, what the expenses would be, and so on. There was also no provision for credit to be given to employers for existing occupational health and safety programs. So, there was a real lack of flexibility.

In my last minute I will not get through everything that I want to say, but I just want to mention the issue of bullying. Although we all accept that bullying has become an increasing problem, we believe that there is a need to include some sort of definition of bullying. However, the new legislation does not define bullying or abuse at work. Although the government indicated its intention to review this provision after 12 months there was no clause to that effect in the bill. We also wondered about the need to include more provision for conciliating things rather than simply referring them to the Industrial Commission for decision.

Motion carried.

CONSTITUTION (BASIC DEMOCRATIC PRINCIPLES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 10 November. Page 829.)

Mr HANNA (Mitchell): I speak in support of the bill. The Greens take a very strong stand in favour of more democratic processes, including in this place and, quite clearly, that is what this bill sets out to do. It is not unworkable—apparently it works in Germany without any great problem, and we should do it here.

Mrs GERAGHTY secured the adjournment of the debate.

PARENTAL RESPONSIBILITY BILL

Adjourned debate on second reading.

(Continued from 10 November. Page 830.)

Mr HANNA (Mitchell): It would be wonderful if all of the parents in our community took the appropriate responsibility for their children. Many don't. That is a sad fact, but I am not sure that we can remedy that problem by making laws which punish parents, and therefore I find it difficult to support this measure.

Mr MEIER (Goyder): Thank you very much Madam Acting Speaker. I rise to speak in favour of this bill and I suspect that the government members will be in favour of it, too, because the government made it very clear when they

sought to come into power that they would be strong on law and order, and things have got to be done to try and curb the rash of continual child offences that we are seeing across our communities here in South Australia. One of the latest ones was reported recently of 10 year old children stealing cars. I think most of them were in the northern suburbs or that area, not that I am wishing to identify any particular area—but from memory it was—they could have been in other suburbs as well. And I thought to myself, 'How on earth could that possibly be happening?' Number one, why are these children unsupervised for extended periods of time; number two, how is it that they are sufficiently well trained and familiar with being able to not only drive a car, or technically drive a car, but also to be able to break into a car and seek to steal it? In fact, these young people must have been trained by someone, and I suspect that they may have been trained by adults, and it could well be that they may even have been trained by their own parents.

We have got to do something to stop these young offenders increasing in numbers. Basically, there is very little that the law can do to make life tough for them at present. Whilst they can be interviewed and apprehended, I do not believe that they can be kept in custody, and it would be a long, drawn out process probably occurring over several offences before any restraint was put on these children. So, we have to think of a way of tackling the situation for these very young offenders and, I believe, that it comes back to the parents. Some might argue it comes back to the school but, if my memory serves me correctly, one or more of the offenders stole cars mid-afternoon when school would have been in. It means that they are not even at school, so I guess the school cannot take all responsibility there; they probably were truants from school. Parents may wish to blame schools but parents often have to look at themselves in the first instance.

I know the counter argument to this, and that is, 'Look, it is too tough on parents if they have a naturally rebellious child,' but I believe that that sort of thing can be taken into account. I will not deny that there may be a need to modify some of the particular clauses in this bill if it is felt that it is a bit too harsh on parents. However, it is the right track to go down. I have just mentioned an example that was highlighted recently, but I could highlight local examples as well. One that I know of relates to a caravan park in my area where young people (and I assume that they would be in the age group of 10 to 15) have, on a multitude of occasions, walked alongside an iron fence adjacent to a caravan park and taken great pleasure in making a heck of a racket with an iron bar, and this is not even the middle of the night, but 2 or 3 in the morning.

Mr Hanna: So you're going to fine the parents are you?

Mr MEIER: Yes. Number one, why would 10 to 15 year old kids be out at 2 or 3 in the morning? If they are out it means that their parents are irresponsible.

Mr Hanna: Their parents might be out looking for them.

Mr MEIER: I think that would be taken into account by any magistrate and certainly would be considered in relation to whether or not the parent should suffer a penalty as a result of their child's misdemeanour in the first instance. However, I would suggest the example that I am giving from my own electorate that parents have no idea where their kids are; they probably do not even know that they are out wandering the streets. Maybe the parents are still out themselves and saying that the kids have to look after themselves. Something has to be done to stop those people. Some might argue, 'Let the police handle it,' but I have already indicated that the police would handle it because it would be the first thing they would do. Again, we cannot just sit back and say, 'Too bad; it is the society we live in. Ten year-olds are going to do that sort of thing'—

Ms Rankine: Why do we always just punish? Why is the only resolution punishment?

Mr MEIER: That is a very good interjection. Perhaps I, too, had wondered why we always seek to punish.

Mr Hanna: Why isn't it the parental education bill?

The ACTING SPEAKER (Ms Bedford): Order! The member for Goyder's remarks must continue.

Ms Rankine interjecting:

The ACTING SPEAKER: Order!

Mr MEIER: I will get back to the further examples that I was going to raise not only the point that kids are out at night causing significant disturbance to the community but also the incidence of graffiti, which is an issue that continues to upset me greatly. It can be argued that some of them are not in the 10 to 15 year age group, although I am fairly certain that many of them are, and we seem to have made only slight progress in tackling the problem. My personal approach has been basically the same as that which occurs in Singapore. In fact, when I was in Singapore some years ago I had a chat with the police.

Mr Hanna: It is called corporal punishment, isn't it?

Mr MEIER: Exactly; spot on. As the member for Mitchell says, corporal punishment, and it works exceptionally well. They have basically got rid of graffiti in Singapore. You look at our streets and see great problems. It appears that the incident of corporal punishment needs to occur only once in most cases, and that is it. The offender has learnt his lesson in almost every case. Our society seems to say that we are happy to accept those misdemeanours and that we are happy for things to continue to go from bad to worse. My worry always is what is the extent of 'worse'?

I was speaking with a senior police officer recently in relation to theft of cars. The police officer said, 'Are you aware, Mr Meier, that in South Africa now every new car in South Africa must have a GPS system in it. It is compulsory?' That GPS system is wired up so that it can connect back to a central headquarters for a twofold purpose, because of carjacking and car theft. In fact, apparently if people get off the track occasionally into an undesirable side street, they can either press a button or ring and say, 'Help! I don't know how to get out of this section of the city.' The operator, at police headquarters or wherever, can direct them around the streets and get them back into a safe situation. Unfortunately, that is the end product if we do not take action with our young offenders.

Again, I think it comes back to the parents, so we have to tackle the problem. The member for Stuart is certainly on the right track in seeking to undertake that. I know that the member for Stuart has had many problems in the Port Augusta area, because I have heard about them on the radio. I do not know the situation there at all, but I am often very concerned at the number of reports. Some of them have literally been attacks on elderly citizens of 70 to 80-plus years of age, and, again, they are young offenders. So, someone has to be responsible. Schools can only do so much. Government agencies that help to look after children can only do so much. It is the parents who must take responsibility.

If the member for Mitchell says that we should bring in education programs, that is fine. I am happy to look at it. Almost certainly I would say that it would have my support,

but nothing seems to be coming forward. Perhaps the education programs that currently exist are not working or they are not working to the extent that we would like them to work. If it is necessary to go down this track, we will have to do so. I believe it will certainly be of assistance in my electorate.

Mr SCALZI (Hartley): I would like to make a brief contribution to the debate on this bill. I have noticed that this type of bill tends to polarise members' responses. I think that to just dismiss an approach of parental responsibility is to ignore the reality that there is a problem. I am very much aware that the member for Stuart has come across many serious problems of young offenders of 10 to 12 years of age. Indeed, we only have to look at the newspapers to know the number of young drivers who have been caught by the police.

As the member for Mitchell said, if parents were responsible and they had irresponsible children, the problem could be dealt with. The reality is that the issues here are very complex, and I do not think we can just deal with the problems by having criminal liability on parents of children who commit an offence.

Nevertheless, we have to look at this serious issue. We have to ask ourselves as a society why it is that we are having young offenders. In other words, we have to really look at community responsibility. It is not just the parents of these children. I believe that education should play an important role in dealing with this problem. I note that clause 5, 'Removal of children from public places' provides:

> (b) subject to subsection (3), remove the child from the public place and—
>
> (i) take the child to his or her carer's residence; or
>
> (ii) if it is not reasonably practicable to take the child to that residence or the officer believes that it would not be in the child's best interests to do so—take him or her to a place of safety (not being a police station). . .

So, there are some reasonable measures in this bill as well, and we cannot dismiss the fact that, if there is a child of 10 to 12 years of age out at 1 o'clock or 2 o'clock in the morning, measures have to be taken to ensure that that child is brought to safety. If they cannot be brought to safety in their home, then we as a community have a responsibility to find alternatives so that that child is assured of safety. It is our community responsibility. But I do not see that just being tough is going to deal with the problem.

Indeed, we are finding out that the Premier's tough push on law and order is not dealing with the problems in our community. It might be good for the Premier to say that he is being tough on law and order but the evidence suggests that it is not working. Crime prevention strategies might have a better effect than being tough. Whilst I concede that the member for Stuart is trying to deal with a serious problem, and I know that in his electorate he has knowledge of those serious problems and is trying to address them, I do not believe that we can dismiss this bill.

As I have just said by quoting that section of removing children from a public place and bringing them to safety, the member for Stuart has intentions of not only protecting the community from the offenders but the bill in itself is making sure that the child is brought to safety. That aspect of the bill I commend, but I have difficulty in supporting fining parents. You just cannot fine parents always. You cannot find them and, if you do, things are not going to be just fine. We must look for more creative alternatives to a community problem.

Mrs GERAGHTY secured the adjournment of the debate.

ENVIRONMENT PROTECTION (PLASTIC SHOPPING BAGS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 10 November. Page 831.)

Mr GOLDSWORTHY (Kavel): Over the last several weeks, with the government initiative of Zero Waste SA the government has been awarding some grants moneys to local government in the pursuit of reducing the use of shopping bags generally in the community. It was my pleasure to present a cheque to the District Council of Mount Barker some two months ago for it to use to promote this initiative, and just this week, on Monday morning, I presented a cheque to the Adelaide Hills Council for $11 000 for it to undertake a similar initiative. I have had some involvement in a fairly minor way with the initiatives that the District Council of Mount Barker has looked to roll out.

Members interjecting:

The ACTING SPEAKER: Order!

Mr GOLDSWORTHY: I take some objection to the interjections of the members for Torrens and Wright, that they are actually looking at this issue with some flippancy. Zero Waste SA was an initiative of this current state Labor government. So, if Labor members opposite want to denigrate an initiative of their own government, good on them, go right ahead and criticise your own government. I am sure the Minister for Environment and Conservation will be very happy with your attitude towards Zero Waste and the initiatives being rolled to reduce the use of plastic shopping bags in the general community. We on this side of the house support it. We think it is a good thing that the use of plastic shopping bags is reduced. As I said, I have been very happy to become involved in the rolling out of that initiative in my electorate of Kavel and to help it along.

The District Council of Mount Barker held a competition for children. The theme of the competition was how the reduction of plastic shopping bags could benefit the environment. I, along with the mayor and another person—I think it was a senior journalist from the local newspaper, *The Courier*—were the judges of that competition. From memory, a number of entries were received in the category for children under seven years of age and a number of entries were received in the category for children aged between seven and 14 years of age. We had great pleasure in judging that competition. I am pleased to advise the house that the level of entries was outstanding. We were very happy to judge that competition and award first, second and third prize for each category. Following the competition, a public display of the winning entries was set up in one of the major shopping precincts—

Mrs Geraghty: Which one?

Mr GOLDSWORTHY: The Bi-Lo shopping centre.

Mrs Geraghty: Whereabouts?

Mr GOLDSWORTHY: In Mount Barker.

Mrs Geraghty: It's a good shopping centre, that one.

Mr GOLDSWORTHY: It is a very good shopping centre; I am glad the member for Torrens agrees with me. I know that she and her husband own some property, if not on the edge of my electorate, close by in the electorate of the member for Hammond. I would—

Mrs Geraghty: The member for Hammond's electorate.

Mr GOLDSWORTHY: Very good. I could understand therefore that the member for Torrens might well go to Mount Barker and do some shopping in the Bi-Lo shopping

centre. Anyway, I do not want to digress unnecessarily. I come back to the substance of my contribution; that is, the public display by the District Council of Mount Barker of the three winning entries from each category (that is, six winning entries in total) in the Bi-Lo shopping centre in Mount Barker. Members of the public were able to bring in a number of plastic shopping bags and exchange them for an environmentally friendly shopping bag which had been made on behalf of the council from recyclable material. Plastic shopping bags were exchanged (which arguably are environmentally unfriendly) for a larger shopping bag.

I know that members would be aware of the calico style bags which you can use for your shopping week in and week out. As I said at the beginning of the week, I had the pleasure of presenting a cheque to the Adelaide Hills Council for $11 000 to roll out a similar initiative. I had a very good conversation with the mayor, the CEO and some of the staff of the council who are directly involved in environmental issues. They are going to undertake a launch with some of the primary school children in the Adelaide Hills Council area, and I certainly look forward to being part of that.

This is an important issue. I have not made a final decision on whether I will support the bill of the member for Mitchell. Obviously he has significant concerns about environmental issues being the member for the Greens in the lower house. Obviously he is the first member in the House of Assembly for the Greens Party—and we do not necessarily need to go into the history of that, the reasons behind his joining the Greens Party. He obviously has his own—

The ACTING SPEAKER: Back to shopping bags.

Mr GOLDSWORTHY: Indeed, Madam Acting Speaker, he may well have a number of environmentally friendly shopping bags—I would be surprised if he did not, being a member of the Greens Party. I would imagine that, if the local council through Zero Wast SA conducted a similar initiative in his electorate, he would go to the shopping centre with a number of his own plastic shopping bags and exchange it for an environmentally friendly shopping bag. I have been happy to make a contribution to the house this afternoon and I look forward to hearing the contribution of other members.

Mr BRINDAL (Unley): I am minded that Jesus was a man who always told contemporary parables, and if he were alive today the quote he might have used is: what doth it profit a man if he retains his plastic bag but loses his soul? Or it could be: what does it profit a man if he discards his plastic bag and also loses his soul? Either would be applicable to this legislation, because in contemporary society in the third millennium the issue of plastic bags is a profound one for the environment, and the member for Mitchell—

Mr Scalzi: The gospel according to Mark!

Mr BRINDAL: Well, I wish the member for Hartley would follow the gospel according to St Mark a bit more often and he would err a bit less frequently in this house. The member for Mitchell—

Mr Hanna: Is there no end to your righteousness?

Mr BRINDAL: No, never.

The ACTING SPEAKER: Does the chair need to protect the member for Unley? Do you require protection or are you able to continue?

Mr BRINDAL: Yes, I do, Madam Acting Speaker—copious.

Mr Hanna: I accept your correction, Madam Acting Speaker!

Mr BRINDAL: I think there is a good quote: go away and sin no more, is there not, Madam Acting Speaker? The member for Mitchell—

Mr Hanna: I thought your quote was: go away and do it again. I remember.

Mr BRINDAL: The member for Mitchell is to be commended for introducing this initiative to the house, because it is an important initiative. All jokes aside, it is a major contemporary issue facing western society as we enter the third millennium. I would say two things: first, I invite the member for Mitchell to contemplate whether it is possible to go any further, because we all know the curse of the ubiquitous bag from Coles-Myer or Woolworths. Every member in this house who has done any shopping in the last couple of years will realise that they do not give you one bag, they give you about 53 bags. They put all the dairy in one, all the detergents in another—

Mrs Geraghty: Carry a recycle bag.

Mr BRINDAL: Yes. The honourable member says to carry around a recycle bag, but that is a comparatively recent event. The point is that two years ago you would go to a supermarket and you would come away with five or six bags. I wonder, though, whether the member for Mitchell has also contemplated in any way addressing the concurrent issue of packaging, because not only do we get a number of plastic bags from the supermarket but inside those bags generally is everything double wrapped. You can buy apples and some produce loose, but it is increasingly rare. Even in Woolworths you can take the choice of the loose carrots at X per kilogram or the super special where the carrots are cheaper, but they are carefully wrapped in polythene. The pre-packaged—

Mr Koutsantonis: How would you know? Does your man do your shopping for you?

Mr BRINDAL: Does what?

Mr Koutsantonis: Do you send someone to do your shopping for you and they tell you this?

Mr BRINDAL: I generally do the shopping for my wife. We are an equal household; we share burdens. It would assist the member for West Torrens—instead of doing what he does all night every night—if he did things like shopping because—

The ACTING SPEAKER: Order! Are we still dealing with shopping bags?

Mr BRINDAL: Yes; we are still on bags—it increases your capacity to contribute to these debates. The point is that everything within the bag you get from Coles-Myer and Woolworths is wrapped and pre-packed. I am quite sure that members opposite (especially those who do the shopping) would be aware that when you come home and you start to off-load things, put them in the freezer and peel away the wrappers and everything you end up with an entire pile of garbage before you have produced any waste from anything you have consumed. It is pure waste from the point of view that it is designed solely for presentation and at a cost. I put to every member in this house that I have never known Coles-Myer to pay for anything, and the manufacturers do not produce it for nothing. So, guess what? Apart from the environmental damage it does, we all pay for the privilege of their pre-wrapping everything we get. But when it relates to the environment—and this is why I invite the member for Mitchell to contemplate whether this bill goes quite far enough (as laudatory as it is)—some plastics are much less biodegradable than others.

I do not have the wisdom of the Speaker because, I am sure, he could tell members all the chemical names, but I

know that, for instance, shopping bags are a classification of plastic that very slowly biodegrades, as are some of the wrapping plastics that are used. Whereas with some plastics you can at least put them into the environment and ultraviolet light will make them brittle and they will disintegrate in some sort of reasonable time frame, some other plastics are virtually permanent. They will last either on the surface, in the water or under the ground for a long time.

Where ever they end up they are a problem. Under the ground they can trap waters and affect watertables—maybe not one at a time but in great numbers they can. In the water environment they can do enormous damage not only to our infrastructure—SA Water's pipes and filters and all sorts of things which they can clog very easily—but also in the sewerage where you need gross pollutant traps to extract them; as well as in the marine environment itself where they can have an effect on our aquatic life. In all those situations plastic is not an enhancer of the environment: it is something that is environmentally damaging.

In so far as the member for Mitchell seeks by this measure to redress a situation, he is to be applauded. I know that you, Madam Acting Speaker, take an interest in your schools, and I am sure that you will attest with me that, even if the member for Mitchell is not applauded in this house for his passion on the issue, every primary school kid in this state—and, I think, every secondary school kid in this state—would stand up and call the parliament stupid for not at least considering the measure.

If the children in our schools can understand the damage these materials can do and are doing in the environment, then this parliament should be quick, if nothing else, to learn a lesson from our kids. Maybe, just maybe, there is one good use for plastic; and it involves the Labor Party. A very prominent ex-member of the Labor Party—who, I believe, may be associated with Madam Acting Chair—got hold of a very good patent to turn some of these diabolical plastics into a thing called OmniPol. I have seen some of them and they are very good. I hope that one day that technology proves to be successful and commercially viable, because it is the one good thing I know that can be done with these hideous plastics. It turns them into something useful and durable and something which we can use in many forms in the environment.

It is interesting. Everyone who goes shopping will comment almost monthly on how people are taking fewer plastic bags; people are going into Bunnings—I see this just about every weekend—and most people will walk away and say, 'No, I don't want a plastic bag, thank you.' Other people will buy the recycling bag. I am tempted to say that Bunnings and Coles Myer are onto an absolute winner because most people I know forget their recycling bags. They must have 150 recycling bags at home, because, every week, they will not take the plastic, but they will spend 50¢ on a recycling bag, which probably costs Coles Myer 20¢; they are probably making an outrageous profit and laughing all the way to the bank, I suspect. Those sorts of companies rarely lose.

Having said that, and having dared to expose my green side, I do commend the member for Mitchell for his initiative. I hope that the government looks at it seriously. Like some other members here—and I am sure some members of the government—I am not sure quite what to do, but I will follow the debate with interest and hope there is a good outcome.

Mr VENNING (Schubert): The issue of plastic shopping bags is one with which I have been dealing for some years. I was chairman of the ERD Committee, and we considered a reference in relation to waste management in South Australia. I commend the member for Mitchell for introducing this bill. At every opportunity I will agree with the member for Mitchell because he is a good member and a member with some courage.

Mr Brindal interjecting:

Mr VENNING: I was an outstanding chair, the member for Unley says. I agree with the member on that issue! I think the member for Mitchell needs to be commended for introducing this bill, because we all know that we are lazy, and this practice of grabbing hold of a convenient plastic bag at a supermarket checkout is so easy, but it causes big problems. I think the big problem started with the advent of the new super lightweight plastic bag. They break and it is very difficult to use them a second time. They tear and often the goods drop out into the car park. Because they have broken, they then have to be thrown away. I am a firm believer that plastic bags can be very good, if they are strong enough to be reused; but they are not strong so they get thrown away. They could and should be recycled.

I believe the big stores should have recycling bins so that we could take back our old bags and stick them in a bale; they could then be collected, compressed and taken away. What else do we do with them? It is difficult because if one throws them in a bin at home it causes problems. The trouble is that they tear. We throw them in the bin and they are out of sight, but we all know where they end up: they end up in a landfill. In the city most of them go into a bale fill. To some extent, they are restricted but some do break down in the bale. However, some do not break down and they are there for many years. They do not break down and they are not recyclable.

I refer to the reference of the ERD Committee on waste management, which showed, quite clearly, the problems that plastic bags cause in the landfill. Members need only go to Wingfield, as well as to some country landfills, to see that they are just put into the landfill and left there for a day or two days before they are covered. In the meantime, the plastic bags blow in the wind. If there is a slight breeze they just up and lift. We have the trash fences to try to control the litter around these dumps but, if there is a slight breeze, the plastic bags go over the top and onto adjoining farmland.

There is no greater curse to a farmer than plastic bags, particularly when cutting hay. When selling export hay, there is nothing worse than a piece of plastic hanging out of the bale of hay. What a pain it is to have to get off the machine to pick up these plastic bags that are raked into the straw with everything else. Also, when reaping a crop they can be sitting on the crop and they can block the fingers on the teeth of the machine. Many a day have I cursed these plastic bags and thought that I would never use them again.

Some of these bags do break down very easily and some are recyclable; but, worse, some are neither and we ought to ban them as soon as possible. They cannot be recycled and, if they do not break down, they are public enemy No. 1. They are a real problem in the landfill. The cost to the community of these bags is absolutely huge. I know of one particular case at Kapunda.

Time expired.

Debate adjourned.

MOTOR VEHICLES (FEES) AMENDMENT BILL

The Hon. K.O. FOLEY (Deputy Premier) obtained leave and introduced a bill for an act to amend the Motor Vehicles Act 1959. Read a first time.

The Hon. K.O. FOLEY: I move:

That this bill be now read a second time.

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

Leave granted.

This Bill amends the *Motor Vehicles Act 1959* to enable the Registrar of Motor Vehicles to deal with small underpayments, overpayments and refunds relating to licensing and registration transactions and change of record status.

The Act requires fees prescribed by the regulations to be paid for the registration of motor vehicles (including motor bikes and trailers), the issue of driver's licences and learner's permits and other registration and licensing transactions.

The Department of Transport and Urban Planning has for a number of years implemented a practice of administrative convenience, that is, where small overpayments and refunds or small amounts have been due, usually as a result of a change in concession status, the fees have not repaid or recovery pursued. This practice was in place because it is not cost-effective to repay small overpayments, refund small amounts or pursue small balances due. In many cases a refund or repayment of a small amount would result in the client receiving a cheque for an amount of money less than the cost of the cheque and postage.

The Auditor-General in his report for the year ended 30 June 2003 noted this practice of administrative convenience and accepted that where the amount of money involved is 'small', administrative convenience would suggest that the cost of arranging a refund would outweigh the refund being made. However, the Auditor-General was of the view that unless provided for in legislation, relevant agencies are obliged to refund overpayments and pursue underpayments.

While the Act and regulations made under the Act do provide the Registrar with some discretion relating to refunds and underpayments of prescribed fees, the discretion does not currently extend to all registration and licensing transactions where underpayments, overpayments and refunds can occur.

The Bill—

(a) empowers the Registrar to withhold repayment of a fee that has been overpaid (up to a prescribed amount) unless the person who paid the fee demands a refund; and

(b) empowers the Governor to make regulations providing that the Registrar is not required—

(i) to make a refund where the refundable amount does not exceed the prescribed amount; or

(ii) to recover a fee where the amount unpaid does not exceed the prescribed amount.

It is intended that the prescribed amount be $3 in all cases.

I commend the Bill to the House.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Motor Vehicles Act 1959*

3—Insertion of section 138C

138C—Refund of overpayments

Proposed section 138C empowers the Registrar to refuse to make a refund of an overpaid amount that does not exceed the prescribed amount unless the person who made the payment demands a refund.

4—Amendment of section 145—Regulations

This clause amends section 145 to empower the Governor to make regulations that allow the Registrar to refuse to make a refund where the amount refundable does not exceed the prescribed amount or to not recover a fee where the amount unpaid does not exceed the prescribed amount.

The Hon. I.F. EVANS secured the adjournment of the debate.

STATUTES AMENDMENT (MISCELLANEOUS SUPERANNUATION MEASURES No. 2) BILL

Adjourned debate on second reading.

(Continued from 25 October. Page 505.)

The Hon. I.F. EVANS (Davenport): We are entering the debate on Statutes Amendment (Miscellaneous Superannuation Measures No. 2) Bill. The opposition has been briefed by the Treasurer's officers, and we thank those officers for that briefing. The bill seeks to simply tidy up some of the superannuation matters as a result of the co-contribution scheme introduced at the federal level.

The opposition understands that some of these super schemes, such as the police scheme, the southern state superannuation scheme and those dealt with by the Superannuation Act 1988, do not allow the co-contribution payment to be paid by the Australian Taxation Office because those acts say that only employers and employees can make contributions to those funds.

This bill simply contains the necessary amendments so that the ATO can make payments, and the co-contribution system can therefore be facilitated for those people covered under the various acts. It also contains some technical amendments to the Judges' Pensions Act 1971 and the Police Act 1998. We are advised that there are about 30 000 state government employees who will receive a co-contribution in the next year and that it will grow significantly after that. Therefore, it is necessary to move the amendments so that the ATO can make the co-contribution as part of the administration of the scheme.

We understand that the first co-contributions are expected to be received in December 2004. We understand also that, as the state pension scheme and the state lump sum scheme are closed schemes and do not have accumulation style accounts for voluntary member contributions with no impact on the employer benefits payable under the scheme, it is proposed that the co-contribution money received for a member of either of these schemes be transferred to their Triple S Scheme.

Three technical amendments are also covered by this bill. One of them, to the Police Act 1998, simply updates the reference to superannuation legislation. The second technical amendment simply clarifies the definition of 'salary' for superannuation purposes for commissioned police officers appointed on a fixed term total employment cost contract, with a total remuneration package value. The third technical amendment addresses the potential difficulty that might arise in relation to the wording of a provision in most of the superannuation acts dealing with the splitting of interests under the Family Law Act 1975.

The opposition has read this second reading speech and been briefed on it. We think the second reading speech gives an accurate reflection of what the bill intends to do. We support the bill and have no need to go to the committee stage.

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

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

CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) (TYPES OF CLASSIFICATIONS) AMENDMENT BILL

The Hon. M.J. ATKINSON (Attorney-General) obtained leave and introduced a bill for an act to amend the Classification (Publications, Films and Computer Games) Act 1995. Read a first time.

The Hon. M.J. ATKINSON: I move:

That this bill be now read a second time.

Our present law requires that both films and computer games must be classified before they go on sale. There is one set of categories and symbols for films and another for games. Research results published by the Office of Film and Literature Classification in March this year, however, suggest that, whereas most people are familiar with the film classifications, many have only a superficial idea of the classifications that apply to computer games. Parents who took part in the study often reported that, although they took classification into account in choosing films for their children, they made little use of the classifications in choosing computer games. This was despite expressions of concern about what children are exposed to in computer games.

A consumer warning system works best if it is easy for the public to recognise and apply. It therefore needs to be as simple as possible. Accordingly, censorship ministers decided that it may assist the public, and parents in particular, if, instead of having two different sets of classifications, the familiar categories and symbols applicable to films were also applied to computer games.

Earlier this year, therefore, the commonwealth amended the Classification (Publications, Films and Computer Games) Act 1995 so that the same categories now apply to both films and games. Computer games classified in future will bear the same labels as films of the same classification. Parents are more likely to recognise and understand these labels, so they should be better able to select suitable games for their children. I seek leave to insert the balance of my remarks into *Hansard* without reading them aloud.

Leave granted.

It is important to point out two things, however. First, Ministers decided that there should not be an R category for computer games, as there is for films. Computer games are especially popular with children. Whereas a parent can, if in doubt, watch the film for himself, parents often lack the skill to examine a computer game in full. At the same time, parents are concerned about children being exposed to extremely violent or sexually-explicit material, such as might be found in an R film. In these circumstances, it has been decided that material higher than MA, if found in a computer game, will result in an RC classification, that is, the game will not be legal for sale.

Second, because computer games are interactive, with increasing levels of difficulty, rewards for certain results and a competitive element, their impact may be different from the impact of films, which are watched passively. It is important that this interactive aspect is weighed in the classification process. The classification guidelines provide for this, so it could be that the same content in a game might result in a higher classification than if that content were found in a film. Impact, which includes interactivity, will be taken into account. The adoption of a single system of labelling does not, therefore, connote a drop in classification standards for computer games.

As well as applying the same categories to films and games, the Commonwealth amendments slightly change the category titles to make clearer the distinction between advisory categorise and legally-restricted categories. The categories G, PG and M are not legally restricted. That is, even though an M classification means that the film is not recommended for anyone under 15, it is quite legal for such a person to see an M film. The M classification warns parents that the film may not be suitable for younger children, but it is left to parents to decide whether or not their children should see the film, and whether to watch it with them. The categories MA15+, R18+, X18+ and RC, on the other hand, are legally restricted. A child under 15 is not allowed into a cinema to see an MA15+ film unless accompanied by a parent or adult guardian. Likewise R films, as most people know, are legally restricted to adults only. Neither X nor RC films can be legally screened or sold in South Australia. To highlight this difference, under the Commonwealth amendments, advisory categories will be labelled with letters only: G, PG or M. The legally-restricted categories will be labelled with both letters and age descriptors: for example, MA15+ or R18+.

It is hoped that this will help parents distinguish, in particular, between M and MA, categories that are often confused. The Office of Film and Literature Classification's research showed that only 6% of the sample could correctly interpret the MA15+ symbol. There is a great difference between the content of these two categories. The M category contains material of moderate impact such that the film or game is not recommended for under-15s. About half of all cinema-release films are classified M. A film could, for instance, be classified M because it includes coarse language, even though it includes no violence, drug use or explicit sexual activity. The Australian film *The Dish*, a story about the 1969 moonshot, set at the satellite-tracking station at Parkes, is an example. The MA category, on the other hand, contains strong-impact material such that a person under 15 is not permitted by law to attend the film unless he has a parent or adult guardian present with him throughout. A film classified MA15+ may contain strong violence or confronting treatments of social problems. The New Zealand film *Once Were Warriors*, dealing with domestic violence and alcohol abuse in a Maori family, is an example. More recently, the film *Thirteen* was classified MA15+. That film, as Members may know, dealt in a confronting manner with the themes of peer pressure and intergenerational conflict. It depicted young teenagers engaging in drug use, self-mutilation, sexual activity and petty crime. Parents need to be aware of the difference between the two categories.

The Commonwealth amendments necessitate consequential amendments to State and Territory enforcement Acts. That is the purpose of this Bill. The Bill renames the film and computer game categories to match the amended Commonwealth Act. This is necessary because, in general, items are classified by the Commonwealth authority, the Classification Board, and those classifications apply in South Australia by force of our Act. Unless the classifications match, enforcement will be problematic.

The transitional provisions under both the Commonwealth and State laws provide that material already classified will be treated as having been classified in the relevant new category. For instance, a computer game now classified G8+ will be treated as if it had always been classified PG. This is necessary to avoid creating an enforcement loophole. It is not intended, however, that retailers should have to relabel all the stock now lawfully on their shelves. The intention is that the old labels can remain. Thus, there will be no need to change the G8+ label. The Government understands that this will be achieved through the process of fixing the required markings by the national Director under the Commonwealth Act.

The Bill, in combination with the recent Commonwealth amendments, should make it easier for parents to identify suitable films and games for their children. In the case of games, the poorly-recognised separate classifications for games will be replaced with the familiar classifications for films, which nearly everyone recognises. In the case of both films and games, the new categories more clearly emphasise the difference between advisory categories and legally-restricted material. In this day and age, anything that helps parents to make informed choices about what their children see and play must be beneficial.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Classification (Publications, Films and Computer Games) Act 1995*

4—31

The clauses in this Part make amendments to the Act that are for the purpose only of changing certain of the types of classifications for films and computer games. The changes relate to the current classification types "MA", "R" and "X" for films and the current classification types "G (8+)", "M (15+)" and "MA (15+)" for computer games. The changes are shown in the following tables:

TABLE

Film classifications

Column 1 Item	Column 2 Former type of classification	Column 3 New type of classification
1	MA	MA 15+
2	R	R 18+
3	X	X 18+

TABLE

Computer game classifications

Column 1 Item	Column 2 Former type of classification	Column 3 New type of classification
1	G (8+)	PG
2	M (15+)	M
3	MA (15+)	MA 15+

A provision is also added to section 15 of the Act (which sets out all the classification types) to make it clear that the words "General", "Parental Guidance", "Mature", "Mature Accompanied", "Restricted" and "Classification Refused" are descriptive only and not part of the classification.

Part 3—Transitional provisions

32—Application of Act

This clause makes it clear that the amendments only operate for future actions and do not affect the prior interpretation of the Act.

33—Conversion of certain pre-commencement classifications to equivalent new classifications

This clause ensures that classifications assigned to films or computer games before the commencement of the measure are, on that commencement, to be taken to be the new classifications in accordance with the tables set out above.

The Hon. I.F. EVANS secured the adjournment of the debate.

OATHS (ABOLITION OF PROCLAIMED MANAGERS) AMENDMENT BILL

The Hon. M.J. ATKINSON (Attorney-General) obtained leave and introduced a bill for an act to amend the Oaths Act 1936; and to make a related amendment to the Evidence (Affidavits) Act 1928. Read a first time.

The Hon. M.J. ATKINSON: I move:

That this bill be now read a second time.

The bill is intended to accompany the Justices of the Peace Bill 2004 (the introduction of which I shall move in a moment). Proclaimed managers and proclaimed police officers are appointed under section 33 of the Oaths Act 1936. In past years, this section also referred to proclaimed postmasters. Section 33 was amended in 1998 to remove proclaimed postmasters.

Legislation allowing for the appointment of 'proclaimed bank managers' was introduced in 1913 because at that time, in country towns, some justices of the peace were either unavailable or too busy hearing criminal matters. In contrast, the local bank manager was thought to be easily accessible, and a person who was likely to know, and be known by, most members of the public in the vicinity. This is no longer true. In fact, some authorised deposit-taking institutions no longer have employees who fit the statutory description of 'a person appointed to be in charge of the head office or a branch office in the state'.

Because the Justices of the Peace Bill 2004 imposes new forms of regulation on justices of the peace, it would be inappropriate to permit remaining proclaimed managers to continue to have responsibilities similar to the responsibilities of justices of the peace without a similar level of accountability.

All financial institutions which employ proclaimed managers were consulted on this matter. From the few responses received, it was apparent that most banks did not recognise the risk of conflict of interest. The responses revealed that few, if any, proclaimed managers were available after hours, or to assist persons who were not customers of their bank. However, some banks noted that, if proclaimed managers were abolished, the individuals concerned could apply to become justices of the peace.

Therefore, this bill provides for the repeal of the relevant provisions in the Oaths Act. It includes transitional provisions to permit proclaimed managers to apply to become justices of the peace by 1 January 2007. I commend the bill to members, and I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

Part 1 and Part 2 of this measure will come into operation on assent.

Part 3 and Schedule 1 of this measure will come into operation on 1 January 2007.

3—Amendment provisions

This is the usual interpretation provision for an amending measure.

Part 2—Amendment of *Oaths Act 1936* to take effect immediately

4—Amendment of section 33—Appointment of persons to take declarations and attest instruments

These amendments provide that, despite current subsection (1) of section 33, after the commencement of this amendment, the Governor may not appoint a manager to take declarations and attest the execution of instruments. All such appointments that have not earlier been terminated will terminate on 31 December 2006.

Part 3—Amendment of *Oaths Act 1936* to take effect on 1 January 2007

5—Amendment of heading to Part 5

This amendment is consequential on the implementation of the policy to cease appointing persons to be proclaimed managers.

6—Amendment of section 32—Interpretation

This amendment proposes to remove the definitions of ***manager*** and ***proclaimed manager*** and is consequential.

7 to 9—Amendment of sections 33 to 35

The proposed amendments to sections 32 to 35 are consequential and remove references to managers.

Schedule 1—Related amendments of *Evidence (Affidavits) Act 1928*

1—Amendment of section 2A—Power of members of police force to take affidavits

This proposed amendment is consequential on the cessation of appointing proclaimed managers under the *Oaths Act 1936*.

The Hon. I.F. EVANS secured the adjournment of the debate.

JUSTICES OF THE PEACE BILL

The Hon. M.J. ATKINSON (Attorney-General) obtained leave and introduced a bill for an act to provide for the appointment of justices of the peace; to repeal the Justices of the Peace Act 1991; and to make related amendments to various other acts. Read a first time.

The Hon. M.J. ATKINSON: I move:

That this bill be now read a second time.

The office of justice of the peace dates back to the late twelfth century in Britain. It has been recognised in Australia since the arrival of the first fleet in 1788. In most Australian jurisdictions, justices customarily played a role that is similar to that filled today by magistrates. Their judicial functions have waned over time, corresponding to the growth of a professional magistracy. Today justices of the peace mainly witness the signing of official documents, including affidavits, and take declarations. There are more than 9 000 justices

of the peace in South Australia. Their powers and duties are found scattered through many acts but there are no statutory provisions that specify the criteria for appointment or permit conditions to be imposed on appointments. There are no provisions to limit the tenure of a JP to require training or the observance of behavioural rules, or to confer immunity on justices for honest acts or omissions. There is not even any statutory mechanism that requires justices of the peace to keep their contact details up to date. The bill deals with each of those matters. I seek leave to have the remainder of the explanation inserted in *Hansard* without my reading it.

Leave granted.

Review of Justices of the Peace

In 1999, the then Attorney-General, the Hon. K.T. Griffin, MLC asked the Attorney-General's Department to examine the selection, support, training and administration of justices of the peace.

The Department's *Review of Justices of the Peace*, containing 41 recommendations, was completed in May, 2001 and tabled in Parliament on 7 June, 2001. At that time, the Hon. Mr Griffin, MLC invited public comment. The Hon. Mr Griffin, MLC also established a Ministerial Implementation Committee that considered public responses to the report and conducted a survey of all justices of the peace.

The Ministerial Implementation Committee conducted further research, including a survey of J.P.'s. The Committee delivered its report in September, 2002. In its Implementation Report, the Committee made dozens of recommendations. Some of the recommendations, of a strategic and operational nature, have been or are being carried out by the Attorney-General's Department. Others require a legislative response.

Applicant eligibility and ineligibility

At present, the *Justices of the Peace Act 1991* provides only that the Governor may appoint "suitable persons" as justices of the peace. The existing criteria for appointment are contained only in departmental policies, not legislative instruments. There is no authorisation in the Act for these policies.

It ought to be clear to all how justices of the peace are chosen, and why some applications are refused. The primary criteria for appointment ought to be set out in the Act. Therefore, the Bill provides that an applicant must be:

- over 18 years of age;
- an Australian citizen resident in South Australia; and
- of good character.

As part of the process of determining whether an applicant is "of good character", the Department routinely seeks advice from the Commissioner of Police on the person's criminal history (if any). The Bill includes both an obligation on the Attorney-General to continue to seek, and an obligation on the Commissioner of Police to continue to provide, this information.

To enable flexibility, provision has been made in the Bill to permit eligibility criteria of secondary importance to be contained within regulations. These criteria might include prescribed standards of education, knowledge, skills, community involvement, or employment in a particular occupation where a J.P.'s services are required. In future, certain training may be specified.

Further, it may also be appropriate (as has been the historical practice) that to avoid conflicts of interest, persons engaged in certain occupations ought not be permitted to become justices of the peace. The Bill permits the Governor to make regulations on these matters.

Code of Conduct

Occasionally, the Attorney-General receives complaints about justices of the peace who have behaved in an inappropriate manner. Although new justices of the peace receive a document titled *Instructions to Justices of the Peace Issued Under Authority of the Attorney-General*, these instructions are only "for the guidance" of the new J.P. and cannot be enforced. The Bill provides that a code of conduct may be referred to or incorporated in the regulations. Such a code would advise justices of the peace about the nature of their responsibilities, and the behaviour that is expected of them.

Ex officio Justices of the Peace

Section 58(3) of the *Local Government Act 1999* provides that:

> (3) The principal member of a council is, ex officio, a Justice of the Peace (unless removed from the office of Justice by the Governor).

There is some tension between this provision and the requirements of the Bill. For example, the principal member of a council (the mayor or chairperson) might not wish to comply with all aspects of the proposed code of conduct, nor wish to have his or her name and after-hours telephone number published by the Attorney-General.

Therefore, the Bill deletes this provision from the *Local Government Act 1999* and replaces it with a scheme under which the principal member of each council is entitled to be appointed as a justice, on application. If a principal member so applies, he or she would remain a justice while maintaining that elected office. The same provisions apply to Members of Parliament.

Special Justices

The *Justices of the Peace Act 1991* already provides for the appointment of a justice "to be a special justice". However, neither the role nor the required qualifications of a special justice is specified in the Act.

The Bill provides that only a justice who has completed a course of training approved by the Attorney-General, after consultation with the Chief Justice, may be appointed as a special justice.

The Government intends that special justices will be trained for particular judicial functions within the Magistrates Court and Youth Court. The Ministerial Implementation Committee and the Chief Magistrate have proposed various categories of special justice, who could hear:

- traffic matters, especially in rural and remote areas;
- adoption matters in the Youth Court;
- applications under the Bail Act;
- matters in the Nunga Court, perhaps assisting a Magistrate; and
- reviews of expiation enforcement orders.

Conditions of appointment

Many Acts confer authority on justices to exercise quasi-judicial powers. For example:

- Section 15 of the *Magistrates Court Act 1991* provides that a justice may issue summonses and warrants on behalf of the Court;
- Section 52(4) of the *Controlled Substances Act 1984* provides that a justice may issue a search warrant for the purposes of that section;
- Sections 13(3), 32(1), 32(3)(a), 34, 36, and 39 of the *Impounding Act 1920* permit a justice to make orders about impounded cattle;
- Rule 41.04 of the *Magistrates Court Rules*, made pursuant to the *Magistrates Court Act 1991*, provides that a Justice of the Peace may vary or extend any bond, recognisance or undertaking ordered by the Court.

Some of these powers are exercised by court clerks or registrars who are also justices of the peace. However, there are more than 9 000 justices of the peace in South Australia, and any one of them is authorised to exercise the powers in these provisions, in addition to their more common functions of attesting signatures on documents.

It is preferable that quasi-judicial powers such as these should be exercised only if the particular justice concerned has received special training for that purpose, or has otherwise gained the necessary expertise through experience.

Therefore, the Bill provides that the appointment of each justice shall be on conditions to be determined by the Governor, and that these conditions may limit the powers exercisable by the justice under other Acts.

Conditions of appointment would also impose obligations on justices to advise the Attorney-General in writing:

- of any change of name, address or telephone number;
- if they are found guilty or convicted of any offence.

For special justices, conditions of appointment may specify a particular jurisdiction in which the justice has been trained to sit.

Five-year tenure

The Implementation Report recommended, and the Bill provides for, maximum five-year terms of appointment for justices of the peace. The purpose of limited tenure is to:

- assist the Attorney-General keep the justices of the peace Roll up to date;
- indicate continued willingness by justices of the peace to fill the role; and
- monitor and enforce training or professional development requirements, if any.

J.P. (Retired) category

Justices of the peace who do not wish to continue the required duties should be entitled to have their previous service acknowledged. Therefore, the Bill provides that any J.P. who chooses to resign or not to re-apply after a prescribed period of service should be entitled to use the post-nominal title J.P. (Retired). This right should be subject to compliance with specified provisions of the code of conduct, preventing any commercial use or misuse of the title. Any former J.P. who abused this right would risk being stripped of the title and it would be an offence to use the title falsely.

Publication of the Roll

It is sometimes difficult for persons seeking the services of a J.P. to find one nearby. The Bill provides that the J.P. Roll must be publicly available. The Roll does not and will not exist in printed form, because it is updated on an almost-daily basis. Therefore, the Attorney-General's Department is proposing to set up a website that will provide constant access to up-to-date contact information for all serving justices of the peace.

Immunity

There have been suggestions in the past that a J.P. might be sued for incorrectly witnessing a document. The Government is not aware of any occasion when this has actually occurred, nor is it clear that a cause of action could lie against a J.P. for acting incorrectly. A protection in the previous *Justices Act 1921* was repealed in 1991, and replaced with provisions in the *Magistrates Act 1983* that protect persons "exercising the jurisdiction of the Court." This would not apply to the majority of justices of the peace. The Bill provides that justices of the peace should not be held personally liable for an act or omission in good faith. There are similar provisions in the equivalent legislation in Queensland and Victoria.

Discipline

At present, the only form of discipline envisaged by the *Justices of the Peace Act 1991* is removal from office. The practice of successive Attorneys-General has been to recommend the use of the powers in section 6 very rarely. As part of this reform, the Bill provides that the Governor's discretion to remove a J.P. should be defined more clearly.

Many statutes contain provisions about how persons may be removed by the Governor from statutory offices, and the way such offices become vacant without a decision of the Governor. The provisions in this Bill are consistent with those other statutes. The Bill also provides for suspension, for up to two years, either for a J.P. who does not deserve to be removed from office, or in some cases, at the J.P.'s own request.

Offences

The Bill increases penalties for the offence of holding out. The maximum penalty for falsely claiming to be a justice of the peace will rise from $8 000 to $10 000 or imprisonment for two years.

Transitional provisions

The Bill provides a mechanism that will enable the Attorney-General's Department to gradually introduce a five-year tenure for justices of the peace. It provides that all justices of the peace will continue in office, pending a series of determinations from the Attorney-General at regular intervals that will permit indefinite appointments to end.

It is envisaged that over a five-year period, all serving justices of the peace will be offered the choice of applying for appointment under these new provisions, or accepting retirement from the role.

Amendment of other Acts

Many Acts define a court to include a justice of the peace, or two justices. The policy embodied in the Bill is that only a special justice (not any other J.P.) may undertake bench duties, and that a special justice, when acting as a court, should not have the power to impose a term of imprisonment. The Bill's amendments to the:

- *Adoption Act 1988*
- *Administration and Probate Act 1919*
- *Bail Act 1985*
- *Correctional Services Act 1982*
- *Criminal Law Consolidation Act 1935*
- *Debtors Act 1936*
- *Drugs Act 1908*
- *Family and Community Services Act 1972*
- *Impounding Act 1920*
- *Landlord and Tenant Act 1936*
- *Lottery and Gaming Act 1936*
- *Magistrates Court Act 1991*
- *Real Property Act 1886*
- *Renmark Irrigation Trust Act 1936*, and the
- *Youth Court Act 1993*

are only for the purpose of giving effect to this policy, or to repeal obsolete related provisions.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

1—Short title

2—Commencement

These clauses are formal.

3—Interaction of this Act with other Acts

This clause provides that a reference in any other Act to a justice and the exercise of an official power by the justice under that Act is to be read as a reference only to a justice who is, under the conditions of his or her appointment, able to exercise that official power.

4—Interpretation

This clause contains definitions of words and phrases for the purposes of this measure.

5—Appointment of suitable persons as justices

This clause provides that suitable persons are to be appointed as justices by the Governor on the recommendation of the Attorney-General for a term not exceeding 5 years and on conditions determined by the Governor and specified in the instrument of appointment. Such an appointment will be by notice in the Gazette.

Conditions of appointment may include conditions specifying or limiting the official powers that a justice may exercise.

The Attorney-General must provide the Commissioner of Police with a copy of applications for appointment and the Commissioner must provide the Attorney-General with information about an applicant's criminal history (if any) to assist the Attorney-General in determining the applicant's suitability for appointment.

6—Appointment of persons occupying certain offices as justices

This clause provides that the Governor must, on application by a Member of Parliament or the principal member of a council, by notice in the Gazette, appoint the Member of Parliament or principal member of a council to be a justice.

The appointment of such a justice will be appointed on conditions determined by the Governor and specified in the instrument of appointment for the term.

7—Justices must take oath before exercising official powers

This clause provides that a justice may not exercise official powers until after having taking the required oaths under the *Oaths Act 1936* before a Supreme or District Court Judge or a Magistrate.

8—Special justices

A justice may be appointed as a special justice by the Governor on the recommendation of the Attorney-General, on conditions determined by the Governor and specified in the instrument of appointment for the term during which the special justice holds office as a justice. The Attorney-General will not recommend such an appointment unless satisfied that the justice has successfully completed training approved by the Chief Justice, is suitable to be so appointed and meets any prescribed requirements. A special justice is entitled to such remuneration as may be determined by the Governor for the performance of judicial duties.

9—Tenure of office

This clause provides for when a person will cease to hold office as a justice.

10—Justice may apply for suspension of official duties for personal reasons

This clause provides that the Governor may, on application by a justice, suspend the justice from office for a specified period or until further notice (but not in any event for a period exceeding 2 years) if satisfied that there are personal reasons, such as illness or prolonged absence from the State, for so doing.

11—Disciplinary action and removal of justices from office

This clause provides that the Governor may take disciplinary action against a justice who breaches, or fails to comply with, a condition of his or her appointment (whether as a justice or special justice) or who breaches,

or fails to comply with, a prescribed provision of a code of conduct.

If the Governor is satisfied that there is proper cause for taking disciplinary action against a justice, the Governor may do one or more of the following:

(a) reprimand the justice;

(b) impose conditions or further conditions on the justice's appointment;

(c) suspend the justice from office for a specified period or until the fulfilment of stipulated conditions or until further notice (but not in any event for a period exceeding 2 years).

If a justice—

(a) is mentally or physically incapable of carrying out official functions satisfactorily; or

(b) is convicted of an offence that, in the opinion of the Governor, shows the convicted person to be unfit to hold office as a justice; or

(c) is bankrupt or applies to take the benefit of a law for the relief of bankrupt or insolvent debtors; or

(d) should, in the Governor's opinion, be removed from office for any other reason,

the Governor may remove the justice from office.

A person who has been removed from office may not apply for reappointment as a justice for a period of 5 years from the date of removal or such longer period as may be specified by the Governor in the notice of removal.

12—Disciplinary action—retired justices

This clause provides that the Governor may take disciplinary action against a retired justice who breaches, or fails to comply with, a prescribed provision of a code of conduct that applies to retired justices, including reprimanding the person and prohibiting the person from designating him/herself as a retired justice.

13—Roll of justices

This clause provides that the Attorney-General must maintain a roll of justices.

14—Use of titles and descriptions

This clause provides for the use of titles and descriptions with a person's name or signature.

15—Immunity of justices

This clause provides that no civil or criminal liability attaches to a justice for an honest act or omission in carrying out or purportedly carrying out official functions.

16—Offence to hold out etc

This clause provides for various offences. It is an offence (carrying a penalty of $10 000 or 2 years imprisonment) for a person who is not a justice or special justice to—

(a) hold himself or herself out as a justice or special justice; or

(b) permit another person to do so; or

(c) use letters, a title or description that implies that the person is a justice or special justice.

The same penalty would apply for a person convicted of holding out another as a justice or special justice if that other person is not actually a justice. or special justice

Similarly, a person must not use "JP (Retired)" together with his/her name/signature unless the person served as a justice for at least the prescribed period, was not removed from office and has not been prohibited from using the title. The penalty for such an offence is a fine of $2 500.

17—Regulations

This clause provides that the Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this measure, including require justices, special justices or retired justices to comply with a code of conduct.

Schedule 1—Repeal and transitional provisions

This Schedule provides for the repeal of the *Justices of the Peace Act 1991*.

Subject to this measure, a person holding office as a justice immediately before the commencement of this clause will continue in office from that commencement until the end of the period prescribed by the Minister by notice in the Gazette in relation to that justice. A justice continuing in office may apply for reappointment as a justice in accordance with the measure.

Schedule 2—Related amendments

This Schedule contains amendments to various Acts that relate to the passage of this measure.

The Hon. I.F. EVANS secured the adjournment of the debate.

ACTS INTERPRETATION (GENDER BALANCE) AMENDMENT BILL

The Hon. S.W. KEY (Minister for the Status of Women) obtained leave and introduced a bill for an act to amend the Acts Interpretation Act 1915. Read a first time.

The Hon. S.W. KEY: I move:

That this bill be now read a second time.

The bill seeks to improve gender balance on boards, committees and other bodies created under legislation. While women make up 51 per cent of the state's population and 45 per cent of the state's paid work force, they currently comprise only 32 per cent of the membership of government boards and committees. The government is determined to address this imbalance and has made a commitment in the South Australian Strategic Plan to increase the number of women on all state government boards and committees to an average of 50 per cent by June 2006. This bill is one step in that process, providing for gender specific requirements for nominations to statutory boards and committees. It amends the Acts Interpretation Act 1915 so that legislation will be taken to require bodies such as community, industry and professional organisations, nominating persons for the appointment as members of statutory bodies, to nominate at least one man and one woman and, as far as practicable, to nominate equal numbers of men and women.

This will give ministers greater flexibility in their efforts to achieve equal gender representation when selecting persons for appointment to boards and committees. Merit based selection processes will still apply, but the government will be given the opportunity to select from a wider range, and a more diverse range, of qualified candidates. The government is asking the community, industry and professional bodies to look to the many qualified women as potential candidates to represent their interests in government board and committee roles.

The Council for Women will continue to work with government agencies to identify strategies to address any imbalance in specific portfolios and to develop strategies to increase the quality, quantity and diversity of the pool of qualified potential board members and, therefore, the quality of boardroom decision making. It is well documented that the worst decision making in board rooms comes from 'groupthink' where there is no dissenting voice or alternative opinion.

The under-representation by women in public life is not limited to government boards and committees but is evident across the leadership and decision making areas. By introducing this bill, the government is taking the lead in addressing existing inequalities for women. I commend the bill to members.

The Hon. G.M. GUNN secured the adjournment of the debate.

INDUSTRIAL LAW REFORM (FAIR WORK) BILL

In committee.

(Continued from 23 November. Page 1024.)

Clause 48 as amended passed.

Clause 49.

The Hon. I.F. EVANS: This clause gives the minister the opportunity to introduce compliance notices into the industrial relations regime. This would give inspectors the capacity to issue what is in effect an expiation notice. If it is not paid, it goes through the normal process. Other penalties include the maximum penalty of $3 250. We do not support the concept of compliance notices; that would just be the industrial equivalent of speed cameras. It would be a revenue raiser for the government. Many businesses will simply pay the $325 expiation fee, rather than contest it, because it would be too costly to contest it through the system both in staff time and other business resources. So, we do not support the introduction of compliance notices, as outlined in the bill.

Clause passed.

Clause 50.

The Hon. I.F. EVANS: This clause amends section 105, which deals with interpretation. This introduces the concept of a host employer, which ultimately deals with the unfair dismissal provision, and I will speak to that principle in relation to this clause. It essentially allows a host employer to be joined to action for an unfair dismissal claim, even though they are not the employer of the person lodging the claim. In effect, you could have two employers responsible for the one unfair dismissal. This is a direct attack on the labour hire industry by the government. We know that the union movement does not like the labour hire industry, for reasons we have outlined previously during this debate.

This provision introduces the concept of a host employer of the labour hire employee. The host employer can be subject to an unfair dismissal claim if the employee has performed work for the host employer for a continuous period of six months or more or for two or more periods which, when considered together, total a period of six months or more over a period of nine months. The employee is required, in the performance of the work, to have been wholly or substantially subject to the control of the host employer.

Being a host employer will not affect any obligation of another person as employer. The host employer can be joined to an unfair dismissal claim, and remedies, ultimately including reemployment, can be ordered against the host employer. That raises some interesting concepts.

We believe that the case for this provision simply has not been made out at any stage during the consultation process or the debate during this bill. The disadvantages certainly outweigh any potential benefits for the workers. This will create business uncertainty. The host employer would not necessarily know the length of service or particular identities of persons provided by the labour hire organisation, yet they could find themselves subjected to obligations over and above those contemplated or agreed to.

The host employer will not have control over the labour hire organisation's internal disciplinary policy, nor will the host employer know whether or not a labour hire company can provide a worker with alternative work. The proposal could also have wider operation. The business community has raised with us an example where, on a large building or mining project, there may be a principal company which engages numerous contractors to carry out work. That principal company may find itself the subject of litigation and obligations concerning the contractor's employees. So, we have a real problem with this provision. We do not see why host employers should be liable for the unfair dismissal when the decision is made by the actual employer, not the host employer. It is a direct attack on the labour hire industry, and we simply do not support the proposal.

The Hon. M.J. WRIGHT: I do not share the views of the shadow minister. This is not a direct attack on labour hire, but what—

The Hon. I.F. Evans: That is the line that every briefing starts with.

The Hon. M.J. WRIGHT: It is not, actually. Come and have a look. Generally speaking, when labour hire workers are sent out to work for a client of the labour hire company, the labour hire company effectively delegates its powers of control and direction in a practical day-to-day sense to its client—that is, the host employer. It is common for labour hire workers to have relatively long-term engagements, sometimes for years—that is not always the case, but it can be—with a particular host employer when the role of the labour hire company in a practical day-to-day sense is simply as paymaster. It is the host employer—the client of the labour hire company—who is performing what have always been recognised as fundamental parts of the employee's role of day-to-day control and direction of the work in their employment.

However, if the host employer does something unfair that results in the dismissal of the worker, there is no capacity for that to be addressed under the existing provisions. I would have thought that, where those circumstances occur, it is simply there to provide that capacity for an application for an unfair dismissal. The reality is that the labour hire means two parties split the traditional employer's responsibilities between them, and the provision recognises that. Splitting control away from the traditional employer strips workers of their rights to fair treatment.

There is no accountability for host employers if they do the wrong thing. That is simply not fair for labour hire workers; they deserve some justice in the system. When the employment arrangements are organised in that fashion, it would seem only fair to me for there to be an opportunity with those circumstances in place for an application for an unfair dismissal. Labour hire workers deserve to have the same rights in practice, not just in theory, when we are applying unfair dismissal. There would be time limitations on many supplies—six months to see if the employee should be kept on. To describe this as an attack on labour hire is simply not the case. I think that this sets out some protection for those people in this arrangement when the reality is that the labour hire means that two parties split the traditional employer's responsibilities between them.

Where you have a situation, as I described it, where the role of the labour hire company in a practical day-to-day sense is simply as paymaster, you have to look at what happens beyond that. It is the host employer, the client of the labour hire company, who is performing what have always been recognised as fundamental parts of the employer's role, that is, the day-to-day control and direction of the worker in their employment. When that situation occurs, those people working in that situation should be able to apply for unfair dismissal.

The committee divided on the clause:

AYES (20)

Atkinson, M. J.	Bedford, F. E.
Breuer, L. R.	Caica, P.
Foley, K. O.	Geraghty, R. K.
Hanna, K.	Hill, J. D.
Key, S. W.	Koutsantonis, T.
Lomax-Smith, J. D.	O'Brien, M. F.

AYES (cont.)	
Rankine, J. M.	Rann, M. D.
Rau, J. R.	Snelling, J. J.
Stevens, L.	Thompson, M. G.
Weatherill, J. W.	Wright, M. J. (teller)
NOES (20)	
Brindal, M. K.	Brokenshire, R. L.
Buckby, M. R.	Chapman, V. A.
Evans, I. F. (teller)	Goldsworthy, R. M.
Gunn, G. M.	Hall, J. L.
Hamilton-Smith, M. L. J.	Kotz, D. C.
Lewis, I. P.	Matthew, W. A.
Maywald, K. A.	McEwen, R. J.
McFetridge, D.	Meier, E. J.
Penfold, E. M.	Scalzi, G.
Venning, I. H.	Williams, M. R.
PAIR(S)	
Conlon, P. F.	Kerin, R. G.
White, P. L.	Brown, D. C.
Ciccarello, V.	Redmond, I. M.

The CHAIRMAN: There are 20 ayes and 20 noes. I was asking the minister in relation to federal law that may be coming in. I make the point that I have no deal with anyone on any of these things. People should know me by now.

Members interjecting:

The CHAIRMAN: Order! Members should not reflect on the vote of a member of the house. Anyone who knows me should know that I have no deals with anyone on anything. This issue relates to the question of the host employer, and at the moment I believe there is a loophole in that, with the use of hire companies, a person engaged under the umbrella of a hire company has no recourse in many aspects of industrial matters, and I think it is fair and reasonable that they should, so I support that clause as it stands.

Clause thus passed.

Clause 51.

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

Page 31, after line 1—

Insert:

Section 105A(1)—delete subsection (1) and substitute:

(a) a non-award employee whose remuneration immediately before the dismissal took effect is $66 200 (indexed) or more a year; or

(b) an employee who—

(i) was, at the relevant time, employed in a small business; and

(ii) has, at the relevant time, been employed in the business on a regular and systematic basis for less than 12 months.

The relevant time is, if notice of dismissal is given, the time the notice is given and, if not, the time the dismissal takes effect.

A small business is the business of an employer who, at the relevant time, employs less than 20 employees in the business (disregarding casual employees who are not employed on a regular and systematic basis). However, if an employer or a group of associated employers divide a business in which 20 or more employees are employed into a number of separate businesses, a business resulting from the division is not to be regarded as a small business even though less than 20 employees are employed in the business.

This amendment deals with trying to exempt small businesses from the provisions of the unfair dismissal regime for the first 12 months of an employee's service. A small business is defined as a business that employs fewer than 20 employees. This essentially mirrors what the federal government has tried to do on approximately 42 occasions through the federal parliament, and, as yet, has been unsuccessful, but come 1 July next year, I sense it is in with a chance.

If the federal government get its provisions through the more friendly Senate come 1 July next year and if it uses the incorporations power, then about 80 to 85 per cent of South Australian businesses would be covered, anyway. It seems a nonsense to us that 85 per cent of small business would have this protection, but not the other 15 per cent. We have moved this principle a number of times in this chamber and have been beaten every time. We think it is a disincentive to employers to have hanging over their head the regime of unfair dismissals for the first 12 months of an employee's employment. If our amendment is carried, we think there would be far more incentive for an employer to take on a new employee. This is all about, first, protecting small businesses in that first 12 months; and, secondly, trying to generate more employment through the small business community having more confidence to employ people within their business because this provision is there.

We know that this is a very popular measure within the small business community. We surveyed the 67 500 businesses throughout the South Australian community, and this was one of the most popular and most well-supported provisions in the survey. The vast majority (well over 90 per cent—it was closer to 95 per cent) of the businesses that responded indicated that this particular provision had their support. The parliament has an opportunity to assist small business and, indeed, assist workers, because more employment will be generated because of this provision. We know that the federal government will get this provision through.

It would be a disappointing vote if the parliament decided, knowing that 85 per cent of small businesses will be covered under the federal regime, to leave the other 15 per cent of South Australian businesses hanging under what would still be a pretty restrictive set of regulations if the minister gets his way. We would be seeking the parliament's support to assist small business and employment by supporting this amendment.

The Hon. M.J. WRIGHT: The opposition is correct about one thing; that is, it has served this up and it has lost previously, and the reason it has lost is that this is bad policy. What the opposition is proposing is that employees working for small businesses (that is, businesses which have fewer than 20 employees) will have no rights under unfair dismissal for the first 12 months. How is that the right policy position? Why should it be that, if you are working for a small business rather than any other business that employs more than 20 employees, you are not going to have any jurisdiction for the first 12 months when it comes to unfair dismissal. There is no logic to that policy provision, nor is there any justice with that policy provision.

The opposition is attempting to dress this up under the cloak that this will create jobs—it will be the great panacea. Jobs are important—no-one hides behind that. However, the reason that they dress it up is that, quite plainly, if the opposition had its way there would be no unfair dismissal laws. This is what they present as good, sound policy. All it does is discriminate against those people who work in small businesses with fewer than 20 employees for their first 12 months of employment. There is no logic to the policy position. It is dressed up the way it is for deliberate political reasons, and there is no justice to the policy position. The government strongly rejects the innuendo and the position put forward by the opposition. As I said, if the opposition had its way, there would be no unfair dismissal under any situation.

The Hon. I.F. EVANS: Mr Chairman, I ask you to look at the *Hansard* overnight and see whether the minister has been honest with the committee, because we have not moved an amendment that gets rid of unfair dismissal laws per se. In fact, we leave them there for businesses that have employed someone for longer than 12 months. The minister has just told this committee twice on this occasion that, if the Liberal Party had its way, there would be no unfair dismissals per se—and that is absolutely an untruth. It is a deliberate misrepresentation of the amendment, and it is a deliberate misrepresentation of the provisions put into the existing act by the previous government. The chairman can look at the comments overnight to see whether the minister wishes to come back to correct the record.

We are moving this because the small business community has put its hands up for at least a decade saying, 'When will the parliament wake up? It is holding back employment.' Day after day we get drivel from members opposite about how this government is concerned about economic development. If members opposite asked the Economic Development Board about this bill, they would tell them that it is a dud. If you go to the Small Business Advisory Committee about this bill it will tell you that it is a dud. The government should look at the submission that its own Small Business Advisory Committee put to the minister. If members go to any small business association and talk about unfair dismissal, people will say that it prohibits employment. When will the parliament wake up that this provision is about generating employment so that more families can have more income in their pocket and have independent financial security? That is what it is about. Of course it delivers some benefit to the small business community. There are 80 000 of them out there, and why should we not be supporting them?

Mr HANNA: Relevant to this debate, I would like to read an article from the *Financial Review* of the weekend of 20 and 21 November 2004. An article written by Bill Robbins and Gerry Voll (senior lecturers in industrial relations at the Albury campus of the Charles Sturt University) states:

After failing on 42 occasions to convince a hostile Senate to exempt the employees of most small businesses from unfair dismissal provisions, the new Howard government will rush its bill into parliament in just over a week. Is the exemption of small businesses from these provisions a good thing and is it justified? The grounds cited include that the current procedures are clumsy, expensive, hostile to employers and that unfair dismissal provisions inhibit jobs growth. We claim that none of these assertions appears to be informed by any reliable or significant research. It is incredible a government should rely on apparently minimal research to justify a change to employment law that would affect nearly 40 per cent of the work force.

We conducted a survey of all small businesses in Albury/Wodonga in mid 2003. In one of the largest surveys of small businesses on this matter, we received responses from 594 individual enterprises representing a response rate of 22 per cent. The Albury/Wodonga regional economy is extremely similar to national industry patterns and broad extrapolations are more than valid. We found 79 per cent of small businesses had knowledge of the unfair dismissal law while 40 per cent had formal provisions for dealing with the dismissal of employees. Only 17 per cent of respondents had terminated an employee in the past five years and, even more importantly, only 2.9 per cent had a first-hand experience of unfair dismissal claims.

Of small businesses that had experienced an unfair dismissal claim 52.90 per cent represented themselves, suggesting the process is not overly complex or legalistic, and 60 per cent were satisfied with the outcome and said the cost of defending claims was not alarming either in hours involved, cost of proceedings or cost of compensation. This challenges the government's assertion that current procedures are cumbersome and costly or should be replaced with civil law proceedings. Forty eight per cent of respondents thought the unfair dismissal law was unfair to small business but, when asked whether they supported the government's reform agenda, 38 per cent did not think small business should be exempted while 37 per cent did and 21 per cent were undecided.

As to the government's job growth claims, the survey results are unambiguous. Workload and economic conditions were the overwhelming reasons for hiring or not hiring and only 5.5 per cent of respondents cited unfair dismissal provisions as a factor. The government can extrapolate job loss figures, but it does so on only the most simplistic of calculations. The disparity between the survey results and the government's claims highlights the explicitly ideological nature of its industrial relation reform agenda. The only thing this survey confirms for the government is that many small businesses have been made to fear unfair dismissal claims.

Of course, the remarks there pertaining to the Howard government apply equally to the Liberal opposition right now.

Mr HAMILTON-SMITH: I am a little astonished at the minister's response to my colleague's amendment, because it typifies—

The Hon. M.J. Atkinson interjecting:

Mr HAMILTON-SMITH: The Attorney interjects—

The CHAIRMAN: The Attorney is out of order to interject and he is out of his seat. He is trying out all the seats.

Mr HAMILTON-SMITH: Well, it is out of order to interject, and I hope that you, sir, will be very tough on the Attorney—another one who has probably never created a job. Have you ever created a job, Attorney?

The CHAIRMAN: Order! The member for Waite will address the clause.

Mr HAMILTON-SMITH: If the Attorney had run a small business, this is what he would understand. He would understand that he had probably mortgaged the family home. He would understand that he had taken considerable risks. He would understand that he had put basically everything on the line. He might not also have had the benefit of the education—

Members interjecting:

Mr HAMILTON-SMITH: —yes, goodbye Attorney—that he has had. He might be an ordinary Australian who has had the courage to gather themselves up and start a small business—bargain everything. He would not have the knowledge of industrial law; and he would not have the knowledge of this act and the regulations that would flow from it. He would not know a lot about unfair dismissal. In fact, the whole concept of unfair dismissal to them might be a little daunting. That person would probably have quite a deal of commonsense. They would know what is right and wrong, and they would operate in terms of some fundamental principles of a fair go and what is reasonable, much of which is encompassed in the parent act. However, that person would not understand all the intricacies about three written warnings, about proper process in respect of dealing with employees—

Mr Hanna interjecting:

Mr HAMILTON-SMITH: Another lawyer is contributing. That is great for the lawyers. I love lawyers. You have been at university for six years learning all about this stuff. Last night we had the intellectual giant, the member for Cheltenham (an industrial lawyer), lecture us all about industrial law. I hope he is listening. I hope that he comes down to the chamber. I have a few little kisses on the check I would like to give him after last night's performance. I hope that he drops what he is doing and rushes down. I cannot wait for him to get here. I have had a few phone calls today.

People think they are very smart and very smug because they have spent years in the union being a delegate, or

because they have spent years as an industrial lawyer. They know all the intricacies of dismissal. They love representing the downtrodden employee in the commission against a small business employer; for example, people who run a hairdressing salon or a little mixed business—people who run some little enterprise for whom $1 000 a month might be the difference between making a profit or making nothing that month. For them a $2 000, $3 000 or $4 000 unfair dismissal claim could be the end of their business.

It can even be worse: it can be the end of their livelihood and the end of their home. It can break up their marriage. It can cause a lot of grief. The minister is laughing away. He is chuckling away. He does not understand, from an employer's point of view, what we are even dealing with here in terms of a small business. It was not like that in the Education Department—or wherever it was; that big enterprise in which you were involved—was it, minister?

The Hon. M.J. Wright interjecting:

The CHAIRMAN: Order! The minister is out of order.

Mr HAMILTON-SMITH: If you consulted with small business, you might understand why this amendment is so important. For a small business, the thought of being caught up in a protracted dispute—

The Hon. M.J. Wright interjecting:

The CHAIRMAN: Order! The minister is out of order and he has already been advised of that. Members should concentrate on the amendment before us.

Mr HAMILTON-SMITH: I am concentrating on new subsection 1(b), the amendment put by my colleague. Being drawn into an unfair dismissal case, with counsel or a union official representing the employee, compels the small business person, quite often, to get at least an advocate, probably a lawyer, to assist them. There is $1 000 straight-away by the time you brief the lawyer and get him or her to come to sit with you in the commission while you go through the process; and that is only if you have to appear at the commission once. It could be more than $1 000: it could $2 000 just for legal advice. I know that people do not have to have representation in the commission. A small business person who runs a hairdressing salon or a small enterprise can come along on their own. That's great—unless an experienced advocate from the union, who is sitting there with the employee, has been through this 100 times before and is ready to skewer you. Unless one of the commissioners from a union background, who is sympathetic—

Mr Hanna interjecting:

Mr HAMILTON-SMITH: Well, as a matter of fact I have had a bit of experience with that. I think they try not to be biased, but I think, invariably, the flavour of the proceedings at a commission is inevitably influenced by the background of the commissioner. If he or she is from a business background or from a union background, of course that influences their judgment. As members know, most of these proceedings are heard by one or other of the commissioners. Advocates and lawyers will say to you as a small business person, 'Bad luck, you have Commissioner X and that may mean it is harder on you than it would be if you had Commissioner Y.' That is just the way it is. It can work either way.

An honourable member: Come on!

Mr HAMILTON-SMITH: Have any members of the government been in the commission and been through this process? For a small business, it can be quite daunting. That is why we need to support the member for Davenport's amendment. If you are employing less than 20 people you should be exempt. For the first 12 months there is a period when the employee and the employer need to familiarise themselves with each other. The first 12 months of employment is a testing period. The employee is deciding whether he really wants to work for this employer; and the employer is deciding whether or not this employee is a really good fit with his or her business. It is a trial period, in a sense. Most contracts already provide for a three month trial period. A 12 month period, however, still remains an important introductory step before that employment becomes full-time. Once unfair dismissal comes in, it effectively means that the employer feels under pressure to make that position permanent.

For all those reasons, the government should support the member for Davenport's amendment. Quite apart from the fact that it is worth so doing simply to uphold the state system, if the government does not support the member for Davenport's amendment, employers will simply say, in six months, 'I'm going to the federal award.' The government knows what will happen: the federal government will change the federal jurisdiction. If members opposite want to see the end of the state system, the government should continue with the way it is going.

The member for Colton is smiling and chuckling. I say to the member for Colton that the Metropolitan Fire Service is not a small business. Have you run a small business? Have you been an employee in a small business?

Mr Caica interjecting:

Mr HAMILTON-SMITH: Good; then you must have some knowledge of this.

The CHAIRMAN: Order! The member for Waite should address the amendment.

Mr HAMILTON-SMITH: It is a totally different view. What we are seeing tonight is the beginning of the end for the state award system and the state industrial system. Employers will fly to the federal system once these unfair dismissal provisions and protections for small business are introduced. I urge the minister to reconsider the member for Davenport's amendment. I know the union movement will not like it. The small business employee community is generally not highly unionised. Of course, quite often, when an issue of unfair dismissal arises, it is an encouragement for an employee to go to the union for advice. It encourages union membership. That is why we are here. That is why we are resisting this particular amendment. I urge the minister, rather than being dismissive, to give it a fair go and consider supporting it.

The Hon. M.J. WRIGHT: I have reconsidered, and after the contribution from the member for Waite I am even more opposed to it.

The Hon. G.M. GUNN: Obviously, Mr Chairman, you will give this very serious consideration. We are aware that in the past you have talked favourably in relation to the need to protect, enhance and promote small business. This parliament in a few moments will be put to the test: whether it supports small business; whether it wants to see it progress; whether we want to see commonsense prevail. If members have ever been in the position of employing people and having actually to make the business pay, having to deal with the bank manager, then they will know that the amendment moved by the member for Davenport is not only patently sensible but also in the long-term interests of small business.

Unless one has been in that position where one has had employees who are difficult and do not want to contribute, particularly where there are only a few employees, one would not know that they can bring havoc upon the business and bring about its demise. At the end of the day most small

employers are not experts in industrial law. They do not have the skills to understand all the machinations of the member for Mitchell's friends in the legal profession, who in many cases are very willing to take these cases and keep them going because the longer they go the better it is and they can dip their hands a bit further into people's pockets.

Mr Hanna: I can recommend you to a better lawyer than that.

The Hon. G.M. GUNN: Can I say to the honourable member that I have had some interesting experiences with members of the legal profession, and even Labor lawyers have been very helpful to me. They perhaps provide their services far cheaper than some of those well-known establishments.

The CHAIRMAN: Order! The member for Stuart is straying from the amendment. We will be here all night if we canvass the merits of lawyers.

The Hon. G.M. GUNN: The member for Stuart would not want to stray from this measure because it is going to be significant to the direction of South Australia. The Premier was born again today (and we want to see him born again on this issue) because he has become a supporter of Roxby, when he tried to stop it. Born again; we have seen Lazarus on the road to Damascus today.

Mrs GERAGHTY: I rise on a point of order: I think that the member for Stuart is defying your ruling, Mr Chairman, and is straying very far from the debate at hand.

The CHAIRMAN: The member for Stuart enjoys being in here but I think he is straying from the particular amendment before the committee. He should come back to it.

The Hon. G.M. GUNN: Mr Chairman, I was trying to make the comparison that here we have the Labor Party with an entrenched position. In 1981 they had an entrenched position, and today the Premier overturned that.

Members interjecting:

The Hon. G.M. GUNN: He did somersaults because he talked about a 'mirage in the desert'. We want to see him overturn and have another change of policy, which is in the long-term interests of the people in this state. For heaven's sake, if the minister actually thinks that this legislation will leave this parliament with these provisions in it—if through some unfortunate quake it does—then we all know what is going to happen. Has the minister taken into consideration the federal government move to put in similar provisions? The minister's advisers and those who are jazzing the minister up to go down this track are single-mindedly going to take him to the barrier, even though the barrier is going to come to a dead end. Surely you do not want to create all that confusion, because we all know that if it does not happen before 1 July next year, within a few days there will be legislation put fairly rapidly through the federal parliament and all this will be swept aside.

Mrs Geraghty interjecting:

The Hon. G.M. GUNN: We are looking forward to the contribution of the honourable member for Torrens. It is no good interjecting. As I told you last night, you should read yesterday's *Australian* because it indicates that you have lost those blue collar people. They realise that you are in the 1970s; you are not in the year 2004—

The CHAIRMAN: The member for Stuart is definitely out of order now.

The Hon. G.M. GUNN: But I have been provoked by the Government Whip. I have been provoked and I am a shy fellow when I get on my feet.

The CHAIRMAN: Order! The chair has more power than the Government Whip.

The Hon. G.M. GUNN: I sometimes wonder that.

The CHAIRMAN: The member for Stuart needs to focus on the amendment.

The Hon. G.M. GUNN: In conclusion—

The Hon. D.C. Kotz interjecting:

The Hon. G.M. GUNN: My colleague is trying to encourage me. It takes a fair bit to get me on my feet. I have to work on myself over dinner to get in the right frame of mind, because it is quite stressful in this place—and I haven't been here long!

The member for Davenport, in a most reasoned and thoughtful address to this committee, put forward a logical amendment, which everyone knows will help that sector of the economy that employs lots of people. They do not have the resources to employ high-powered industrial officers, so therefore they are at great disadvantage. There are few people who actually want to terminate people's employment. They do not really want to do it, but there are cases where they have no alternative, unfortunately, and then to be faced with these particular provisions they are in a no win situation. If they get a lawyer or they are confronted with paying up an amount of money which is going to be cheaper than legal fees, they have to pay. So they cannot win.

Therefore, Mr Chairman, you have the opportunity to make your mark in this chamber: to go down and support small business so that you can become their champion, their guiding light. They will look towards you in the future and say, 'The member for Fisher did the right thing. He is a great supporter and he has helped us go forward.' So we are looking forward to your judgment.

Mr HAMILTON-SMITH: The minister has not commented on the second part of the member for Davenport's amendment. My colleague has very eloquently addressed the first part of the member for Davenport's amendment which deals with the exclusion of people employed in a small business. But the other part of the member for Davenport's amendment is that people should be included if at the relevant time they have been employed in a business on a regular and systematic basis for less than 12 months. I think this actually goes beyond just small business. It gets to the issue of what is a reasonable period before an unfair dismissal provision should be enacted. The minister might have the view that an employer should know within a day that, 'Yes, this is the employee for me'; he might have the view that it should be a week; or he might have the view that it should be three months.

The member for Davenport has the view that it should be 12 months, and I agree with him. I think a period of working together closely is required before you can be certain that this is going to be a long-term employer and employee relationship. That is another reason why a little grace should be given to employers in regard to unfair dismissal provisions. As the member for Davenport said, we are not against the concept of unfair dismissal provisions. Clearly, employers who unfairly dismiss should be brought to account. This amendment is simply asking the government to be reasonable. It sounds as though the minister does not want to be reasonable.

The Hon. M.J. WRIGHT: I am not sure why the member for Waite needs to get up and speak on behalf of the member for Davenport, because the member for Davenport can speak quite well for himself. The member for Waite does not speak well on his own behalf, and he does not speak well when he tries to speak on behalf of someone else. What we are seeking

is that people be treated fairly. There is a stark choice here. If one wants to support dismissals with no reason, no rationality and no fairness, one supports the opposition's amendment. If one believes in people being treated fairly, one does not support the opposition's amendment.

Mr WILLIAMS: I ask the minister and the members of the government to imagine for a small moment that they live in the real world (if that is possible for them), that they have a real job (and this might be a great leap for those on the other side) and that they are responsible for providing other people with a real job. I know it is difficult for members on the other side of the house, because none of them has ever experienced the situation where they have had the responsibility of providing for another man or woman and their family.

We know that a large number of employees in this state and this nation rely on someone to provide them with a job to ensure that the food lands on their dinner table at night and that their children are housed and clothed. But it is very difficult for the members over there to imagine it. I want them to imagine that they running a small business—two or three people or five or 10 people—and that things are going along pretty well. I ask them to imagine that, as some of my colleagues have said, they have the family home mortgaged and they have borrowed every cent they can; they do not own a damn thing—their motor car or home—and they are living on tenterhooks day and night. That is the way in which a lot of employers who are providing employment for a large number of people in our community are living on a daily basis.

So, things are going along fairly well in their business and they make a decision to put on a new employee, because they have received another order and the business is expanding a little. They only have a small business, with a small number of employees. The new employee comes into their work site and is performing the work reasonably well—there is not a problem with that—but there is a personality problem; they are causing untold problems in the existing work force for no other reason than that there is a personality clash.

When you have a small business and a small group of people, not only do they have to work together, but for the business to operate they also have to get along together. The employer may not pick this up in the first month or so in the probationary period. But it might come to pass six months down the track that the whole business will be destroyed, all the employees will lose their job and the business proprietor will lose literally the shirt off their back because they cannot afford to say to the new employee 'Sorry, things aren't working out.' That is what this is about.

Small business employers cannot afford to dismiss someone if things are working out. They have already invested heavily in taking on a new employee and they do not go around dismissing people for the fun of it, because they are contributing to the business. Why would they do that? Why would a small business operator dismiss someone unfairly for the fun of it? They would only do it if it was necessary for the survival of the business and to continue to provide employment for those other people in that business.

I find it absolutely absurd that an employer who is providing a living in a small business situation does not have the option of saying to his employees, 'Look, sorry, we've got a round peg here and we've only actually got a square hole.' That often happens, but it does not mean that the person necessarily is not fit for work per se. It may only mean that they do not fit into that particular work site and that group of workers. Why would this government want to jeopardise that whole business because the small business operator made the mistake of not being able to understand the personality of the person they took on at the interview and had not been able to pick up the vibes that were happening in the workplace in the first couple of months? Why would it jeopardise the whole business? It is not as though that person has been thrown on the scrap heap.

The fact is that this is about the very survival of small business. I am not suggesting that the world is full of unscrupulous employees and that there are no unscrupulous employers—just as I would hope that the minister and the members of the government are not suggesting that the world is the converse of that. But what I can say is that, when someone is dismissed from a small business, for whatever reason, and they decide that they will put in a claim for unfair dismissal, it is virtually automatic that the business finds it cheaper to pay out the $4 000, $5 000 or $6 000 and get rid of the matter. That is the cheapest option for the business proprietor.

Quite often that is enough to affect the cash flow of the business, and enough to unsettle the continuing employment of the rest of the people in that business but, worse than that, even if that is not the case, if the business survives this unfair impost, how long will it be before that employer is game to dip the toe in the water again? How long before that employer—who is in the position of saying, 'I can put on another employee and create another job'—how long before they are going to go out and do that?

Members opposite continually wail about the casualisation of the Australian work force. This is what has caused it. The casualisation of the Australian work force has happened because business proprietors are not game to put on full-time permanent staff because of the potential costs to their business. So, if the minister will not reconsider his position, I certainly hope, as my colleague the member for Stuart has pleaded, that you consider long and hard your particular position, because the way it is going it is probably going to come down to your particular vote. But this is about employment, and it is about underpinning small business which, after all, is such a big portion of the employer sector of this state. This is about underpinning that, it is about employment, and it has got nothing to do with pulling unscrupulous employers into line.

The Hon. J.D. LOMAX-SMITH: The matter of exempting small business is, I think, put in a context of unreasonable hysteria about how small businesses operate. I have run small businesses, and large businesses, and if they operate properly with proper HR practices, performance review, and proper employment contracts you do not get into this problem. To suggest that something magical happens below 20 or above 20 is absolute nonsense because everybody deserves to be treated fairly. It is like saying that some criminal activity is only relevant in some circumstances. I particularly resent the assertion that nobody on this side has actually ever had a mortgage or borrowed money to run a business. Many of us have, many of us have employed, many of us have created wealth, and, having done that, we understand that staff respond particularly well to being treated well, and this bill is about fairness—something that the people over the other side of this room may not understand.

The committee divided on the amendment:

AYES (20)

Brindal, M. K.	Brokenshire, R. L.
Buckby, M. R.	Chapman, V. A.

AYES (cont.)

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

NOES (20)

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.	Wright, M. J. (teller)

PAIR(S)

Brown, D. C.	Conlon, P. F.
Kerin, R. G.	White, P. L.
Redmond, I. M.	Weatherill, J. W.

The CHAIRMAN: There being 20 ayes and 20 noes, I wish to make some comments before indicating the way I will vote.

The Hon. W.A. Matthew interjecting:

The CHAIRMAN: Order, the member for Bright! The issue is not completely black and white. I am in an unusual situation in that I am not in here courtesy of the union movement or of the business movement: I am an independent person representing my electorate. This issue has not been presented to me by small business in my electorate as an issue of great concern to them. As I said, earlier this week—

Mr Venning interjecting:

The CHAIRMAN: Order, the member for Schubert! Most of my family are either in business or farming, or activities like that. They have not made the case to me. The only situation that I am aware of is of a friend who had a medium-sized business who had one case of unfair dismissal for which he decided to pay out about $3 000 to $5 000. The reality is that, if this were so onerous, we would not have the highest level of employment that we have had for many years. The case has not been made why, if this is so onerous, we are getting such high levels of employment.

Another point is that the federal government intends to move on this shortly—that is the only indication I have. I am also advised that, under the current arrangements, it is possible for an employer to take someone on as a casual for six months to try them out, and then have a further six months as a trial period, in effect, getting 12 months to assess the employee. This issue needs some well considered reform, not a knee-jerk reaction based on fear without a demonstration of fact. I have not seen evidence to suggest that this amendment in this format is justified. It has been put to me that if you had a situation (and this is where I think reform is needed) where someone is taken on and works for a short period of time—say it is a woman, and she is sexually assaulted, which is unacceptable even in a minor way—that person has no real comeback.

An honourable member: What about a man?

The CHAIRMAN: The same would apply to a male as well. The point is has been—

Mr BRINDAL: I rise on a point of order. I am sorry, Mr Chairman, I know that we have just had a vote and that you are entitled to exercise your vote. I have some guests waiting for me. Am I entitled to leave at this point? I came to vote, Mr Chairman, not to listen to you speak.

The CHAIRMAN: For the benefit of the member for Unley, I will be brief. I have said repeatedly that only a small percentage are bad employers. I would like to see this matter tidied up in terms of a reform proposal which takes into account the fact that there are a small number of employees who abuse this process. I think it is very small, just as there is a small number of employers who abuse it. However, I do not think that the amendment with which we are presented here, and which is more of a hammer to crack a nut, is justified. I therefore cast my vote for the noes.

Amendment thus negatived.

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

Page 31, lines 2 to 4—

Leave out all words in these lines

This amendment seeks to add a qualification to section 105A(4) which deals with unfair dismissals. The current act states that if a contract provides for employment for a specified period or for a specified task, this part—that being the unfair dismissal section of the act—does not apply to the termination of the employment at the end of the specified period, or on completion of the specified task. In layman's terms, if you have a contract for a specified time period—three, six or 12 months, for example—or a specified task, when that is completed, they cannot sue you for unfair dismissal. That seems a reasonable position.

However, the minister seeks to insert a cute little clause. The minister seeks to insert into the act after the words 'completion of specified period or the completion of the specified task' the words 'unless the employee has, on the basis of the employer's conduct, a reasonable expectation of continuing employment by the employer'. That means that they mutually agree to sign a contract for a specified period or a specified task, and the employee can then monitor the employer's conduct, and if the employee forms the view in his/her mind that the employer's conduct indicates that there is a reasonable expectation by the employee that the employment might continue, even though the contract was limited by time or the nature of the task, they ultimately can sue for unfair dismissal.

The question comes down to what the employee believed, because the clause that the minister wishes to insert says 'unless the employee has, on the basis of the employer's conduct'. So, the employee goes in and says, 'Well, Mr Commissioner, I did form a reasonable expectation, because the employer did (a), (b) or (c).' What that does is weaken the provision. It makes it far easier for employers who do use contracts for specified periods or tasks to be sued for unfair dismissal, and the opposition does not support it.

The Hon. M.J. WRIGHT: If the employer has been clear with the employee that their employment is only for the fixed term or task and it comes to an end in accordance with that, that is fair. However, if through the conduct by the employer the employee has reasonably come to expect that the employment will continue, the employee, for example, may not look for other employment to take up at the end of the term or the task, pass up other employment opportunities that come to their attention, or make their personal arrangements on the basis of the representation or conduct by the employer.

If this were to arise, obviously they would have to make their case and the commission would listen to the argument and make a judgment. If the employee's reasonable expectation based on conduct by the employer does not come to pass, they may be severely or unfairly disadvantaged. In our view, they should be able to at least argue their case.

The committee divided on the amendment:

AYES (20)

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

NOES (20)

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.	Wright, M. J. (teller)

PAIR(S)

Kerin, R. G.	White, P. L.
Brown, D. C.	Conlon, P. F.
Redmond, I. M.	Weatherill, J. W.

The CHAIRMAN: There being 20 ayes and 20 noes, it comes down to the casting vote of the chair—and I will be brief because the member for Unley is probably waiting to have dessert. Under this provision the commission (the independent umpire) would have to rule that, on the basis of the employer's conduct, there was a reasonable expectation. So, the commission would take that into account. It is not a mandatory provision. I cast my vote for the noes.

Amendment thus negatived; clause passed.

Clause 52.

The Hon. I.F. EVANS: I do have an amendment to this clause but, from the way in which I read it, it is a consequential motion on a previous amendment which I have lost. Mr Chairman, I will not retest that principle, given that you have voted against me on that principle already.

The CHAIRMAN: I will be guided by the member for Davenport in relation to subclause (2).

Mr HANNA: I move:

Page 31—

Line 37—Delete 'after subsection (4) insert' and substitute: delete subsection (4) and substitute

After line 37—Insert:

(4) No fee may be imposed with respect to an application for relief under this part.

This is a very minor amendment. The legislation currently provides for a fee to be set by regulation in respect of unfair dismissal applications. I am very mindful that these applications, generally speaking, are made when a person has just lost their job and are hardest hit financially. These amendments specify that no fee may be imposed with respect to an application for relief under this part. It simply confirms the current situation, because no fee has been proscribed by regulation. This is not changing anything in actual fact, but it is ensuring that a future government will not create a prohibitive fee for that type of relief.

The Hon. M.J. WRIGHT: We support these amendments. The member for Mitchell is correct; it is a minor amendment. There are no regulations establishing fees under this regulation-making power and the government has no plans to introduce any, and, as such, we are happy to support the amendment.

Amendments carried.

Mr HAMILTON-SMITH: This clause deals with proceedings. I ask a question with regard to host employers which is covered under subclause (2). New section (106)(5)(a) provides that a host employer may be included as a party to the proceedings in an application to the commission for relief under this part. It is about the issue of host employers. I know we have touched on this earlier. Could the minister clarify the following for me? When an employee brings a matter forward, first of all to the outworking agency or to the labour hire company and that is unsuccessful (or whatever), and then seeks to bring the matter to the host employer, under this new section can both parties be brought before the commission simultaneously? How do the mechanics of the proceedings work regarding an employee seeking to have his or her grievance addressed with these two categories of employer?

The Hon. M.J. WRIGHT: Both the host employer and the labour hire company could be brought simultaneously.

Mr HAMILTON-SMITH: Does the minister understand that means that, if both parties can be arraigned in the first instance, both parties have to perhaps then get advice, go to the expense of getting legal counsel and so on; whereas, if the employee could take it up in the first instance with the labour hire company (which, after all, is their principal employer) and have their matter dealt with and resolved at that point, and perhaps leave the host employer out of it, that would be a better situation than having both parties arraigned before the employees' advocate at once and their both having to go to the expense of appearing? Is that not a disincentive to employment and perhaps a weakness in this particular clause?

The Hon. M.J. WRIGHT: We have had this debate, and I have already made the point that, under this arrangement, they are splitting up the traditional employment relationship. The example that was given by the member for Waite, that is, the requirement for both the host employer and the labour hire company to have legal representation is not necessarily the case. They may choose to have legal representation at that stage but, also, they may choose not to.

Clause as amended passed.

Clause 53.

The CHAIRMAN: The member for Davenport is indicating opposition to the clause but not moving an amendment per se?

The Hon. I.F. EVANS: Yes, that is right.

The CHAIRMAN: Does the member for Davenport wish to speak to the clause? He does not have to; it is not mandatory.

The Hon. I.F. EVANS: I know that it is not mandatory, but I think that the conciliation conference to which it refers might be. Will the minister explain why he is moving this amendment, and what is the effect of it?

The Hon. M.J. WRIGHT: Clause 53 of the bill, together with clause 62, proposes to expand compulsory conciliation beyond the unfair dismissal area into underpayment of wages disputes and potentially to other areas by way of rules of the

court or commission, or by regulation. We believe that compulsory conciliation has been very successful in the unfair dismissal area, and underpayment of wages disputes would benefit greatly from adopting the same process. We are suggesting that the conciliation component that currently exists for unfair dismissal be broadened out.

The Hon. I.F. EVANS: And that is the exact reason why we are not supporting it. We do not see that the compulsory conciliation conference should be broadened to cover those other matters. We think it should be restricted to dealing with the unfair dismissal matters with which it currently deals. The reasons the minister outlined as to why he wants to do it are the very reasons why we do not want to do it. We want to see them kept as a narrow instrument, not a broadened instrument.

Clause passed.

Clause 54.

The Hon. I.F. EVANS: I indicate that I am not proceeding with my amendment No. 35. However, I will move a different amendment which appears on sheet 29(11) and which is amendment No. 5 standing in my name. I move:

Page 32, lines 16 to 19—
Delete subclause (2) and substitute:
(2) Section 108—after subsection (2) insert:
(2a) In addition, in deciding whether a dismissal was harsh, unjust or unreasonable, the Commission may have regard to the fact that the WorkCover Corporation of South Australia, or a review authority acting under the Workers Rehabilitation and Compensation Act 1986, has found that the employer has failed to comply with an obligation under section 58B or 58C of the Workers Rehabilitation and Compensation Act 1986 (if relevant).

We move this amendment because clause 54 in the minister's bill seeks to introduce a subclause (4), which provides:

If the employer has failed to comply with an obligation under section 58B or 58C of the Workers Rehabilitation and Compensation Act 1986, the dismissal is harsh, unjust or unreasonable.

That is unqualified—for any reason. If the employer fails to comply with a single obligation under those two sections of the Workers Rehabilitation and Compensation Act, the dismissal is automatic—no judgment to be made. It is automatically harsh, unjust or unreasonable. Even if my amendment gets up we will be voting against this clause because we believe that, in principle, it is wrong. Our amendment is an attempt to soften the poison. If we cannot defeat the whole clause, can we make the clause a little less painful for those unfortunate businesses that, on some occasions, will be caught by this clause?

We say that even if the minister wants the Industrial Commission to make judgments about breaches of the workers comp act (which is what this provision gives the commission the power to do), the only power of the commission should be to have regard to the fact that sections 58B and 58C of the workers comp act have been breached, and then it can make a judgment about whether it had anything at all to do with the unfair dismissal and whether the unfair dismissal is harsh, unjust or unreasonable.

The minister simply wants to say, 'If you fail to meet those obligations under sections 58B or 58C of the workers comp act, it does not matter what the circumstances are, the dismissal is harsh, unjust unreasonable.' That situation is unpalatable both to the opposition and to me. It is unfair on the business. One of these provisions is about giving WorkCover at least 28 days notice. If you believe the minister's amendment, if some enthusiastic employer sends the notice early they automatically get a harsh, unjust or unreasonable dismissal because they have not met the obligation. It is as simple as that.

The minister will stand up and say that is wrong. The minister's adviser has just told him that what I said is wrong, so that is what the minister will say. The reality is that all our legal advice suggests that is the implication of what the minister is putting before the house. There are a number of principles in this matter. Should the commission be involved in judging breaches of the Workers Rehabilitation and Compensation Act? What has a breach of the Workers Rehabilitation and Compensation Act got to do with an unfair dismissal claim anyway? Why should it be automatic? Why should the merits of the argument not be heard before the commission?

If one is going to be taken to commission on an unfair dismissal, why should the merits of the case not be heard by the commission? Our amendment at least gives an opportunity for the merits of the case about a breach of sections 58B and 58C to be considered by the commission. They can have regard to it and then make a judgment. We are opposed to the amendment in its current form. Even if we win our amendment, we will still vote against the clause because our preferred option is to delete this clause, even in our amended form, from the bill altogether.

The Hon. M.J. WRIGHT: This amendment would mean that, even if it was completely obvious to the commission that the law had been breached, they could not take account of it unless WorkCover had made a formal judgment about it. Why members opposite would want to go down that path, I do not know. The amendment suggests that if the dismissal is against the law, that is okay. Sections 58B and 58C are fairly fundamental.

I must pick up the shadow minister's comment—I do not know whether he was trying to joke with us, or whatever—but section 58C provides for at least 28 days. If a worker has suffered a compensable disability, the employer from whose employment the disability arose must not terminate the worker's employment without first giving the corporation and the worker at least 28 days' notice of the proposed termination.

The Hon. I.F. EVANS: If someone gives only 15 days' notice, have they breached that provision of the Workers Rehabilitation and Compensation Act?

The Hon. M.J. WRIGHT: Of course they have.

The Hon. I.F. EVANS: If they give only 26 days' notice, have they breached that provision of the Workers Rehabilitation and Compensation Act?

The Hon. M.J. WRIGHT: Of course they have. If they give 27 days' they have breached it, as well.

The Hon. I.F. EVANS: Well, there's my point!

The Hon. M.J. WRIGHT: No, you said it the other way earlier.

The Hon. I.F. EVANS: There's my point!

The Hon. M.J. WRIGHT: I haven't finished.

The CHAIRMAN: Order! One at a time. The minister.

The Hon. M.J. WRIGHT: Your point was going the other way; not less than 28 days. You were going beyond when you gave your example.

The Hon. I.F. EVANS: There is the point. What the government is about to vote on is that if some enthusiastic employer gives the notice on the 27th day, not the 28th day, the unfair dismissal is automatically harsh, unjust and unreasonable. It is automatic because they were one day out

under the act. That is the nonsense of the provision. That is why our amendment, which allows argument on the merits of the case, is at least a better form of poison for business than what the minister is proposing.

The Hon. M.J. WRIGHT: If it is 27 days it is unlawful. It is as simple as that. The commission would obviously take account of circumstances.

The Hon. I.F. Evans interjecting:

The Hon. M.J. WRIGHT: Yes, but the remedy would take account of the circumstances. If it was 27 days, it would be unlawful, but the commission would view that differently from two days.

The committee divided on the amendment:

AYES (20)

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

NOES (20)

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.	Wright, M. J.

PAIR(S)

Brown, D. C.	Conlon, P. F.
Kerin, R. G.	Weatherill, J. W.
Redmond, I. M.	White, P. L.

The CHAIRMAN: There being 20 ayes and 20 noes, the chair has the casting vote again. I believe this amendment moved by the member for Davenport raises an important concern about whether the 28 day rule, and so on, is draconian. I would seek the minister's assurance that he will have a look at this matter between houses to make sure that there is no unfairness in terms of that notification in respect of workers' rehabilitation and compensation. On that basis and if that assurance is given, I cast my vote for the noes.

Amendment thus negatived.

Mr BRINDAL: On a point of order, Mr Chairman: you ask a question of the minister which I do not think the minister necessarily answered. So how can you cast your vote?

The CHAIRMAN: That is a matter between the chair and the minister. But if the minister wants to get his bill processed in due course, he might think about that.

Clause passed.

Clause 55.

Mr HANNA: I move:

Page 32, after line 26—Insert:

(1a) Section 109—after subsection (3) insert:

(3a) The Commission may, in addition to any other order that it may determine to make under this section, order the employer to pay to the applicant an amount in the nature of punitive damages if the Commission is satisfied that the employer's actions justify such an award.

(3b) An award under subsection (3a) must not exceed 6 months remuneration at the rate applicable to the dismissed employee immediately before the dismissal took effect, or the indexed amount that applies under subsection (3), whichever is the greater (and such an award will not be taken to be compensation for the purposes of a preceding subsection).

This amendment would allow the commission in an unfair dismissal matter to award punitive damages above and beyond any amount paid as a result of compensation for the unfair dismissal. Punitive damages could be called punishment damages in a more common language. Essentially, it is to penalise employers who behave reprehensibly in the context of dismissing someone.

It is best if I give the committee an example. One example when I was acting full time as a lawyer was the case of a chicken shop owner who sexually interfered with a young woman employee. When she went to complain, he said, 'Well, that is it. I am going to sack you if you say anything about it,' and he did dismiss her. That was a case where she would be eligible for compensation for the unfair dismissal. But I am saying that, for a person in that situation who had not been employed for long, the compensation would be a matter of weeks of wages only by way of compensation. There would be a number of cases like that where it would be warranted to punish the employer for reprehensible behaviour.

I have suggested that there should be a cap of six months, which is equivalent to the current cap in wages equivalent in compensation. So potentially a longstanding employee who is the subject of particularly abusive, reprehensible behaviour by an employer could get up to 12 months compensation and damages if this were to proceed. It will not be used very often. The case law on punitive damages in common law cases suggests that it is rarely used. But there might be those cases where our society wants to send a strong message to employers who behave especially badly. That is the purpose of this amendment.

The Hon. M.J. WRIGHT: The government does not support this amendment. The advice I have received is that punitive damages are not generally a feature of Australian law and I am not convinced that this is the way to go. The general approach to compensation in unfair dismissal cases has been to try to compensate the person for the identifiable loss that they have sustained and have not been able to mitigate rather than determining to punish the employer. I understand that this is the approach taken in our civil law in a whole range of areas, and I am not convinced of the arguments that have been made.

The committee divided on the amendment:

AYES (3)

Hanna, K. (teller)	McFetridge, D.
Williams, M. R.	

NOES (37)

Atkinson, M. J.	Bedford, F. E.
Breuer, L. R.	Brindal, M. K.
Brokenshire, R. L.	Buckby, M. R.
Caica, P.	Chapman, V. A.
Ciccarello, V.	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.	Key, S. W.

NOES (cont.)

Kotz, D. C.	Koutsantonis, T.
Lewis, I. P.	Lomax-Smith, J. D.
Matthew, W. A.	Maywald, K. A.
McEwen, R. J.	Meier, E. J.
O'Brien, M. F.	Penfold, E. M.
Rankine, J. M.	Rann, M. D.
Rau, J. R.	Scalzi, G.
Snelling, J. J.	Stevens, L.
Thompson, M. G.	Venning, I. H.
Wright, M. J. (teller)	

Majority of 34 for the noes.

Amendment thus negatived.

The Hon. I.F. EVANS: Mr Chairman, amendment No. 36 standing in my name deals with the matter of unfair dismissal and host employers. Regrettably, you voted against me on that matter and I have no need to proceed with this amendment.

The CHAIRMAN: Before putting clause 55, I ask the minister to have a look at subsection (1) between houses, because it has been put to me, and I think it is a reasonable matter to look at, as to whether or not there is an unfair or unbalanced bias towards re-employment. I ask the minister to look at that between houses.

Clause passed.

New clause 55A.

Mr HANNA: I move:

Page 32, after line 32—Insert:
55A—Amendment of section 110—Costs
Section 110(2)—delete subsection(2)

I move an amendment in relation to the costs regime in respect of unfair dismissal claims. That is dealt with in section 110 of the Industrial and Employee Relations Act. I need to refer quite specifically to the current subsections (1) and (2) of that section. Subsection 110(1) says that:

> If an application under this part proceeds to hearing, and the commission is satisfied that a party to the proceedings clearly acted unreasonably in failing to discontinue or settle the matter before the hearing concluded, the commission may, on the application of the other party to the proceedings, make an order for costs, including, if relevant, the cost of representation against the party.

I pause to observe that that costs rule applies to both parties. So, if either party acts unreasonably in failing to discontinue or settle a matter then they run the risk of getting a costs order against them. That is fair enough. That is exactly what we would want to do to promote early and reasonable settlement of claims. Employers want that and workers want that. I have no problem with that; none of us do. Subsection (2) of section 110 says:

> If an employee discontinues proceedings under this part more than 14 days after the conclusion of the conference of the parties, the commission may, on the application of the employer, make an order for costs including, if relevant, the costs of representation against the employee if the commission is satisfied that the employee has acted unreasonably.

I observe that that applies solely in respect of employees as far as a penalty is concerned. I am suggesting that the costs regime should apply to both parties in an equivalent way, so I do not believe that employers have any prerogative over what is reasonable, nor should they have any benefit in terms of the costs penalties in terms of unfair dismissal claims. So, my amendment deletes subsection 110(2). That will leave us with the ability of the commission to make a costs order against either party if they act unreasonably in failing to settle or discontinue the matter. So, there is still plenty of clout there for employers if they believe that the employee should have discontinued because it was a bogus claim, because it was just there to annoy them, or whatever. So, I am leaving in that facility for employers to go to the commission and say, 'This employee is unreasonable. We want a costs order.' All I am saying is that the language of the section should be equal as regards employers' and employees' rights.

The Hon. M.J. WRIGHT: This section deals essentially with the circumstance where there is a unilateral discontinuance, which will essentially be where there is no settlement before a trial commences. Section 110(1) deals with costs and circumstances where the matter proceeds to a trial. Some protection is needed in this area against the circumstance where an employer incurs considerable costs preparing for a trial and there is then, unreasonably, a discontinuance more than 14 days after the conclusion of the conference. You have 14 days to discontinue without any risk, and I think that that is a fair period, and if you go beyond that—it has got to cut both ways. I am not convinced that section 110(2) should be deleted.

The Hon. I.F. EVANS: The minister summed it up well, and on this occasion we agree with the minister in the spirit of bipartisanship.

Mr HAMILTON-SMITH: I support the comment of my honourable friend, the member for Davenport, but I want to add something. I think that the member proposing this amendment needs to stop and think about the circumstances of such claims. Invariably they are initiated by the employee. The employers generally do not initiate unfair dismissal actions and, in bringing these matters forward, they are often brought forward with the support of, and guidance of, the union officials aiding the employee. The employer is drawn into a situation where he incurs considerable costs. If, ultimately, the case finds against the employer, the employer suffers a penalty and often that can be a very expensive penalty. But if the commission finds against the employee, the employee, generally speaking, walks away, and the employer is left to carry the costs of having to defend him or herself from what the commission has found to be an unwarranted claim.

I say to the member, it is very interesting in some workplaces where, if you get an unfair dismissal and it is for one reason or another successful—keeping in mind that it could be purely procedural issues about the process of the dismissal. It could have been quite terrible acts by the employee; it could have been theft or all sorts of reckless behaviour, but if the process that was followed in warning the person and dismissing the person was not accurate, then the employer can still find themselves in a situation where they have to pay. There are some notable examples where people have been found literally taking money out of the till but because there was no policy in place that said, 'Thou shalt not steal from the till' various commissions have found no case for unfair dismissal. There was another very notable case of a forklift driver driving a forklift in New South Wales under the influence of drugs. He was dismissed; there was no drug policy. For all of these reasons the employer finishes up carrying the can.

The member wants to take away this provision, which provides for a case where the employee might realise, once he has proceeded with the matter, that he really does not have a case, that it is a situation where he or she has come forward with a nonsense claim for unfair dismissal and he or she decides to withdraw it, more than 14 days after the conclusion of the conference. In those circumstances, there should be

some cost jurisdiction. I cannot follow the logic of the member in wanting to extend that to the employer. Why on earth would the employer want to discontinue the proceedings more than 14 days after the conclusion of the conference of the parties. I just do not think that the member has thought this through. I commend the minister and the government for having the good sense to resist this amendment. I agree with the member for Davenport.

New clause negatived.

Clause 56 passed.

New clause 56A.

The Hon. I.F. EVANS: I have amendment No. 37 standing in my name. Regrettably, on another vote I have lost the principle of bargaining agents' fees being prevented and, therefore, I will not be proceeding with this amendment.

Mr HANNA: I will move the amendment in my name on workplace surveillance devices in an amended form. As it is drafted it consists of two separate parts. The first part concerns workplace surveillance devices which I wish to proceed with. It creates a new section 56A. I will not proceed with the second part dealing with unfair contracts which creates a new section 56B. That subject matter was the subject of a debate some long nights ago and I lost that point. The Labor government did not want to adopt an unfair contract review regime. I wish to move my amendment in the amended form so that it deals solely with workplace surveillance devices and, therefore, I move:

Page 32, after line 40—Insert:
56A—Insertion of new Part
After section 114 insert:
Part 8—Workplace surveillance devices
114A—Workplace surveillance devices
(1) An employer must not—
(a) use a listening device (or cause such a device to be used) that records or monitors the conversations of an employee of the employer in the employee's workplace; or
(b) use a visual surveillance device (or cause such a device to be used) that observes, records visually or monitors the activities of an employee of the employer in the employee's workplace; or
(c) use an electronic device (or cause such a device to be used) that allows an employer to read emails received by an employee of the employer in the employee's workplace without opening the emails at a workstation where they would normally be opened by the employee,
unless the employer has notified the employee, in the manner prescribed by the regulations, of the installation or use of the device.
Maximum penalty: $5 000.
(2) Subsection (1) does not apply in any circumstances prescribed by the regulations for the purposes of this section.
(3) In this section—
listening device means an electronic or mechanical device capable of being used to record or monitor conversation or words spoken to or by a person;
visual surveillance device means an electronic or mechanical device capable of being used to observe or record visually (whether for still or moving pictures) a person or place.

The purpose of the amendment is to bring some regulation to surveillance in the workplace. Currently it is almost completely unregulated. In New South Wales the Labor government saw fit to impose some regulation, particularly in relation to visual surveillance devices. Members will note that I have included visual and audio surveillance. I have also included monitoring the emails which an employee has access to during the course of his or her work. Essentially, it is not necessarily to stop employers spying on employees because there are going to be some good reasons for that. Everyone recognises that. An example which springs to mind is a camera above a till, whether it be in a hotel or a shop, in order to detect pilfering from the till. Another example is the principal of a school wanting to inspect what emails or web sites are being examined by the staff to see if there is any connotation of child pornography or paedophile links. Obviously, that is something that we would want the relevant employers to be able to have a look at.

This amendment creates an obligation for the employer to give notice in broad terms to the employee about the type of surveillance that takes place in that workplace. The manner of the notice to be given to employees is to be set by regulation; so, if this is passed, it is reliant on the good faith of the government to introduce appropriate regulations. Let us say that in a hotel or a department store where there is a camera over the till to stop internal theft, when an employee gets a job at that place, the regulations might say that they are given a notice which states, 'We have visual surveillance over the points where cash is stored or transported in our premises.' Fine; if the employee takes the job, they know what is involved in broad terms, so they cop it or they do not take the job. They can make a choice, but at least they are not going to be spied on surreptitiously. That is what I find objectionable because of the privacy implications.

Similarly, in the other example I gave of a school, on the first day on the job a new teacher might be given a notice that states: 'In this school the principal, or someone in the education department, will have access to the emails that you use on school premises—which, of course, can be done technologically—and therefore it is your lookout. If you are into anything corrupt or deviant you can expect to be found out.' The teacher who takes the job at that school has a choice of whether they put up with that or not. What I object to is a prurient observation of employees in any of these ways.

One example is cameras in changing rooms where uniforms are changed into or out of, ostensibly to see that goods are not concealed on the way out of the premises. But, of course, some very revealing footage can be obtained and viewed pruriently by the employer. I am not saying that that should be completely banned, because one could imagine situations where that level of scrutiny is required, but at the very least the employees should have the knowledge that this type of surveillance can take place in that particular workplace. That gives them the choice, and I would have thought that the Liberal Party would support that on the basis of individual choice.

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.

Motion carried.

The Hon. I.F. EVANS: I move to amend Mr Hanna's amendment as follows:

Proposed new section 114A(1)
Delete ', in the manner prescribed by the regulations,'

We would support the member for Mitchell's amendment if the provisions he proposes about surveillance were drafted

in such a way that the surveillance notification to the employee was of a general nature. In other words, if the employer said in a written notice to the employee that the company has a policy of surveillance, we would support the member for Mitchell's concept. We have no problem with the employee being notified and no problem with the employer having surveillance. It is then up to the employee or other people in the business to decide whether they want to take the risk of theft, given the surveillance policy.

The problem we have with the member for Mitchell's amendment is that the advice to us is that it provides for specific notification of the surveillance. In other words, it provides for notification of the employee that this till, that store room, this door is under surveillance, so the employee therefore knows which part of the premises were not under surveillance. That was the advice given to us in relation to the member for Mitchell's amendment, so we seek to move amendments to modify it so that the advice to the employee is in writing but general in nature. We support that principle but cannot support the current wording of the member for Mitchell's amendment.

Mr HAMILTON-SMITH: I support the amendment just moved by my honourable friend. I experienced in Sydney a case where a particular firm was in the business of packaging liquor and alcohol and it had a very high pilfering rate. It knew that stock was going missing but did not quite know what the problem was. In fact, someone turned up from the local pub and said to the owners of the business, 'You've got a problem with pilfering.' They said, 'We know that, but how do you know?' He said, 'I was just offered some of your alcohol down at the local pub out of the boot of a car.'

To cut a long story short, the company engaged the services of a surveillance company. The company did not have established surveillance devices but it hired this company to conduct an investigation to find out where the pilfering was occurring. They observed the production line and, after a period of time, identified those employees who were pilfering on the production line and the appropriate actions were taken to remedy those problems. Those people were dismissed and processes begun to deal with the issue. What this amendment will do in the form presented by the member for Mitchell is either prevent businesses like that that have a problem from engaging such services or require them to go round and notify everyone to watch out,' Stop pilfering: we're on to you; we're getting someone in to conduct surveillance to find out where the problem is.'

Basically, we are interfering with the ability of a business to protect its enterprise, not to mention the other issues raised about surveillance that is required anyway for safety reasons or just general efficiency reasons in the workplace, where they just need to film a production line to remain abreast of bottlenecks etc. and all the issues of whether or not that will then need to be used only for that purpose and not for surveillance, and so on. There are a lot of practical, red tape reasons why this amendment should not proceed. If we accept the member for Davenport's amendment that employees can be notified in a very general sense that this sort of thing might go on, it makes it easy for employers to notify people.

If we do not do that but accept the more complex process, we are just adding layers of red tape. Businesses need the ability to protect their enterprises from theft and from misdemeanour, and they also have a right, if there is unlawful or inappropriate activity going on at their work site, to find out who is responsible and, not only for their business but for the safety of their own workers and for the protection of everyone, identify those who are at fault and take action to get them out of the work place so that the cloud is not hanging over everyone else, and so that all this sort of difficulty, when there is theft going on, does not touch everyone; that it touches only those who are guilty and responsible. We will not catch these people if we agree to the amendment put forward by the member for Mitchell without accepting the member for Davenport's amendment. For that reason, I urge the minister and the committee to support it.

The Hon. M.J. WRIGHT: I will speak very briefly because the shadow minister keeps talking to me about 10.17. I am not too sure which night he is talking about but, unlike the member for Waite, I will give him an outside chance of getting there, although I think this is an extremely long shot. The shadow minister has already foreshadowed the government's intentions. Surveillance issues are of increasing concern to the community and it is appropriate to take that into account.

We support the proposition put forward by the member for Mitchell. I will not go into the details of the amendments to which the shadow minister has spoken. As he has rightly said, he has used one as a test case, but, generally speaking, we would say that the amendments weaken the proposition put forward by the member for Mitchell and we will not be supporting the amendments from the opposition. However, we will be supporting the amendment from the member for Mitchell.

The Hon. G.M. GUNN: I would like to say something in relation to the member for Mitchell's amendment. I will give an example of what happens. An employee in my electorate running a small business suspected that pilfering was taking place and tried to be observant but, because the nature of the business meant that he and other people could not be at the front counter all the time, they were not able to ascertain the problem. So, one weekend they had security people install a video system. A person was observed, apprehended and charged with very serious charges. Without the ability to install that particular video system to record what was taking place, they would not have been able to apprehend this person who had stolen considerable amounts of jewellery and money from this business.

Another important aspect is that, if that person is warned, they will not stay there. They will move on to the next employer and that employer has a strong possibility of being the second victim of this sort of behaviour. It was very important that the person was caught and convicted so that, in the future, she would not get a position in that sort of employment where trust was a very important part of the employment contract.

I have grave concerns about the amendment put forward by the member for Mitchell if it will prevent an employer installing surveillance equipment to catch people who are carrying out criminal acts. You cannot tell them because they will not do it; they will move on.

Mr HANNA: I do not know how much plainer I could have said in speaking to the amendment earlier that this amendment will not stop or hinder surveillance of employees. In the situation described by the member for Stuart, that employer would still be able to go ahead with the surveillance that took place.

Mr HAMILTON-SMITH: I am not concerned whether or not the member for Mitchell or the minister answers this question. What happens if an employer has surveillance fitted anyway for monitoring the production line, for example, and detects theft and uses that surveillance information (I am

assuming for the moment that this becomes part of the bill) to launch a prosecution or an unfair dismissal without having notified the guilty employee of the fact that he will use that electronic surveillance? It might have already been in place or he may simply not have been aware of the provisions in the act, or he might have had someone install it without realising that he was contravening the act in doing so.

Would that then mean that a conviction or that unfair dismissal process would be quashed should it go to the commission, even though there is irrefutable evidence, shall we say as a result of that electronic surveillance, that that person was literally taking the money out of the till and putting it in their pocket (or stealing the jewellery, as my friend the member for Stuart has mentioned)? Would it mean that the commission was bound to reject that unfair dismissal claim; or that a court, if it involved a prosecution for theft, might be bound to reject the proposition because that person was not notified that surveillance would be used?

Mr HANNA: Usually unlawfully obtained evidence is excluded as evidence in our courts, but do bear in mind that the commission is not strictly bound by the rules of evidence. There will be a determination in each case on its merits, I would expect. However, I am sure the member for Waite does not want to encourage unlawful surveillance. Although we are all concerned about crime in this place, we are also concerned about privacy to some extent as well, and we would not want to encourage unlawful surveillance. That is why, in the example given by the member for Waite, the employer should ensure that he or she does the right thing and gives the notice prescribed by regulations; and that would prevent any risk of the evidence being thrown out for the reason that the member for Waite suggests. If the employer does the right thing, the concern raised by the member for Waite will be completely covered; it will not be a problem.

Hon. I.F. Evans' amendment to Mr Hanna's amendment negatived; Mr Hanna's amendment carried; clause as amended passed.

Clause 57.

The Hon. G.M. GUNN: I move:

Page 33, after line 30—
Insert:
(6a) Section 140(3)—after paragraph (a) insert:
(ab) address offensive language to an employer or an employee; or
(6b) Section 140(3)—after paragraph (b) insert:
(c) use or threaten to use force in relation to an employer, an employee or any other person.

This amendment is consequential on the amendment I moved to clause 21, which is a related matter. This amendment needs no explanation. It is a reasonable suggestion to ensure that people are treated fairly.

The ACTING CHAIRMAN: I put the question. Those in favour say aye, against no. The noes have it.

The Hon. G.M. GUNN: Hang on, divide!

The ACTING CHAIRMAN: A division is required.

The Hon. M.J. WRIGHT: Is this the amendment relating to fines against union officials?

The ACTING CHAIRMAN: No, this amendment addresses offensive language.

The Hon. M.J. WRIGHT: It is not consequential.

The Hon. G.M. GUNN: If you have one you must have the other.

The Hon. M.J. WRIGHT: It is hardly consequential.

The ACTING CHAIRMAN: We are dealing with amendment No. 2 on amendment sheet number 29(1) moved by the member for Stuart, which amends clause 57, page 33. Are we all clear?

The Hon. M.J. WRIGHT: I want to speak against this amendment. I did not realise that the member for Stuart—very good member that he is—was trying to make a suggestion that this amendment was consequential, because it is not that. The earlier amendment moved by the honourable member related to inspectors. This amendment relates to fines against union officials. I know that the member for Stuart has some cynicism towards inspectors, but I also know that he shares a great passion for union officials.

The honourable member can hardly describe this amendment as consequential. The government opposes this amendment. Section 140(3) of the existing act (which we do not propose to change), provides:

A person exercising powers under this section must not—
(a) harass an employer or employee; or
(b) hinder or obstruct and employee in carrying out a duty of employment.
Maximum penalty: $5 000.
(4) If the Commission is of the opinion that a person has abused powers under this section, the Commission may withdraw the relevant powers.

We believe that this is quite adequate and that the proposed amendment is simply not necessary. It is not consequential: it is dealing with another group of people. We have taken some liberty because of the high regard in which we hold the member for Stuart, but I would not want him to present similar arguments against union officials with whom I know he has worked constructively over 30 years.

The Hon. G.M. GUNN: I thank the minister for his kind comments in relation to me.

The Hon. M.J. Wright interjecting:

The Hon. G.M. GUNN: Certainly. All I say to the minister is that the amendment makes it very clear that people cannot address offensive language to an employer or an employee, or use or threaten to use force in relation to either of those people. It appears to me to be a fairly reasonable amendment and, clearly, protects people. This amendment would protect small employers. Large employers employing industrial officers and other people skilled in these sorts of things are not the people who will be intimidated.

The small employer who is suddenly confronted with these people is in no way in a position to be on an equal footing. It appears to me that this suggestion gives them protection against overbearing people who will be far more familiar with, first, the provisions of these various acts of parliament and, secondly, would be more up front. I therefore believe that this is a fair and reasonable suggestion in relation to ensuring that people are treated equally.

The Hon. R.B. SUCH: I was supportive of the first part of the member for Stuart's amendment, which is a standard provision and which he has inserted in many bills. My understanding is that this is almost identical to what is already in the act, which states:

A person exercising powers under this section—

which would include union officials—

must not—
(a) harass an employer or employee; or
(b) hinder or obstruct and employee in carrying out a duty of employment.
Maximum penalty $5 000.
(4) If the Commission is of the view that a person has abused powers under this section, the Commission may withdraw the relevant powers.

The member for Stuart is proposing a slightly different format to that which is already in the act. That is the observation that I make.

The ACTING CHAIRMAN: Before putting this question, I point out that, in his enthusiasm, the member for Stuart did jump two other amendments, and that, with the support of the chamber, I intend to go back to those amendments.

Amendment negatived.

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

Page 33, lines 2 to 6—
Delete subclause (1)

This amendment seeks to delete clause 57(1). The provision that we seek to delete itself seeks to delete from the act the following:

'if authorised to do so by an award or enterprise agreement, enter an employer's premises at which one or more members of the association are employed'

and substitute:

enter any workplace of which one or more members, or potential members, of the association work

We seek to delete that whole subclause, which means that the status quo would remain; in other words, union officials would be able to enter premises, only if authorised to do so by an award or enterprise agreement, at which one or more members of the association or union are employed. Essentially, we want to retain the current provisions. We do not believe a sufficient case has been made as to why this provision needs to be amended in the manner proposed by the minister. If the award or enterprise bargaining agreement gives authority under the act, then they can enter if one member of the union is employed at the site. We think that is reasonable. The minister's provision is trying to broaden it so that they can enter any work site at any time.

We will be moving a second amendment in relation to potential members of unions. We will come to that as a separate amendment. We do not see why the government wishes to delete these words from the act. We think the right balance is already achieved in the act; it has worked well. No-one has lobbied us, except the union movement, to say, 'We need these provisions.' There has been no complaint to our knowledge. We would argue that the act currently reflects the right balance. Therefore, we are moving the amendment to retain the status quo.

The Hon. M.J. WRIGHT: Under the existing law an official of an association of employees may, if authorised to do so by an award or enterprise agreement, enter an employer's premises at which one or more members of the association are employed. The official must give reasonable notice to do so. Generally, that has been put by the shadow minister. Currently, there is no right of entry where there is no award or enterprise agreement. Why do workers who are not covered by an award or agreement not have those entitlements? Why should workers who have fewer entitlements than the rest of the work force have less opportunity to improve their position through contact with trade unions? We make the point in a different way but with a similar example in respect of what we were debating earlier about minimum standards and the rationale of coverage by those covered by an award or an enterprise agreement. We make a similar point here, that is, those rights should exist also for those workers who are not covered by an award or an enterprise agreement.

This may be an appropriate time to indicate that the government will be supporting the amendment by the member for Fisher to insert proposed new subsection (2c). The proposal in the bill, as amended by the member for Fisher's amendment, is to the effect that union officials have a right of entry in respect of their members on the giving of reasonable notice in writing, usually 24 hours, and in respect of workplaces where there are no members in the circumstances set out in the member for Fisher's amendment, which essentially means that the right is exercised in the presence of an inspector if requested by the employer or the official.

The shadow minister made reference to another amendment. I am sure there will be an opportunity to speak in more detail about that amendment, so that is probably enough for now.

Mr HAMILTON-SMITH: I am intrigued by the minister's position in relation to this amendment moved by my colleague. I have heard the minister on a number of occasions pontificate to the house about how industrial matters are matters which should be agreed between employers and employees and which should be incorporated in the awards.

The minister has not mentioned that he seeks to delete the words 'if authorised to do so by an award or enterprise agreement'. He has picked up the issue of those employees who are not covered by an award or enterprise agreement. My understanding is that not every award or enterprise agreement provides for right of access, or, if it does provide for right of access, there are differences between awards as to what rules apply in respect of that right of access. Lo and behold, that has been agreed between the employers and the employees in negotiating their award. When the minister was defending the government's position on shop trading hours, he made a very strong point that legislation should not be introduced to run over what should rightly be agreed between employers and employees when they negotiate their award or enterprise bargain, did he not? I think that was his position: that is, if it has been agreed between employers and employees and put in their award or enterprise bargain, well, it is sacrosanct; why would we have a law that runs over that agreement between the parties?

Now, however, the minister is bringing before us an amendment which does precisely that. He is saying, 'Forget about what you have agreed to, employers and employees, in the context of each award or enterprise agreement you have entered into. We know better; we are going to delete that completely; and we are going to impose on top of you an act of parliament that says that you are to arrange your affairs differently.'

I just ask the minister—I am not trying to be supercilious here; I am seeking consistency—how different is this from the position that he took on shop trading hours where he was insistent that an act should not interfere with the award or enterprise bargain agreed to by the parties?

The Hon. M.J. WRIGHT: It might be easier if I told the member again why we are doing what we are doing, although the member will not agree with that. We make the point, as we made the point earlier in regard to minimum standards, that some disadvantaged workers have little or in some cases no bargaining power. They are not covered by awards or enterprise bargaining agreements. Why should those people not have this opportunity, just as other people covered by awards or enterprise agreements have those opportunities?

There is probably a philosophical divide between us. I am not sure we will ever breach that gap, because we say that this

bill is largely about fairness for all workers. We appreciate that you do not agree with that but we cannot help you in that regard. The point that we make is that we put this in the bill because we think this is worth while for all members of the work force, whether they are covered by an award or an enterprise agreement or not.

Mr HAMILTON-SMITH: With respect to the minister, I do not think he has answered my question. He has gone back to the issue of this clause being necessary for workers not covered by an award. I will come to that in a moment. If employers and employees have negotiated an award where they are both satisfied with the powers of entry, the minister's view on the record time and again is that that is sacrosanct and that an act of parliament should not overrun it. It is not for the parliament to tell employers and employees how to do their business. However, in this specific clause he is directly overriding those mutually agreed arrangements between the parties. Could he just address that specific question that I asked him before I come back to the issue of those employees not picked up by awards or agreements.

The Hon. M.J. WRIGHT: I have tried to make the point all through this debate that members on this side believe in minimum standards—and this is another example of that. It does not matter which way I say it, you are not going to agree with it. I acknowledge that; I realise that; I do not agree with it; but that is what this debate is about. We have a position of minimum standards. A large part of the ethos of this bill is fairness for all workers. We believe in that.

We on this side believe that, whether you are covered by an award or enterprise agreement or not, there should be fairness across the system. That is why we argue for minimum standards. That is why we argue for right of entry, whether you are covered by an award or an enterprise agreement or whether you are not. We want to give a leg up to those people who are most disadvantaged in the work force because we believe in rights for all workers, not just a certain portion of the work force.

Mr HAMILTON-SMITH: I am very touched by the minister's philosophical rendition of the rights of workers and what the Labor Party stands for. I notice on reading *The Australian* that it does not quite seem that the federal Labor Party understands many of the points the minister just raised.

The minister mentioned standards. To me it sounds like there are two standards. When the opposition put forward a proposition to introduce a law to affect enterprise agreements or awards in the context of shop trading hours, that was wrong. But when the minister wants to introduce a bit of legislation to run over awards or enterprise agreements, that is right. It just seems to me that that is a double standard. But I can see we are not going to make progress on that so I take the minister's point.

Let me return to the point the minister has consistently repeated about wanting to pick up those not covered by awards or agreements. What the minister does here—my friend the member for Davenport will touch on this in a moment—is talk about the right to enter the workplace in which one or more members, or potential members, of an association work. The minister is going to extend the great right of union entry to persons not covered by an award. He seems to regard the right of union access to the workplace against the wishes of the employer and possibly against the wishes of the employees—because the terms 'or potential members' virtually open it up to any work site in the state—as being paramount. It does not matter what the employers and employers may want; they are going to get this wonderful right, courtesy of the Labor Party, thrust down their throats, whether they like it or not: the union is coming in, get out of the way.

I accept the principle the minister has espoused that the government would like to extend rights and benefits to people. But I hardly think every employer or every employee in South Australia would agree with the minister that having union officials enter the work place where any potential worker might be would necessarily be welcomed. He would probably disagree with me on that; he would probably argue: how could anyone in their right mind not want the unions bursting into their workplace? However, he might be surprised to find, given that union membership is less than 20 per cent of the work force, that some might not welcome that.

The Hon. M.J. WRIGHT: We appreciate your views. We know that you do not like unions. We know that you do not have a place for them. That has been riddled through your contributions for the past 20-plus hours. We know the member's views: they are well and truly on the record. He has made his point clear. It is well known that he does not like unions, that he does not see a place for them and that he does not value them in the arrangements we are discussing. We are well aware of that.

Mr HAMILTON-SMITH: The minister has just presumed to put words into my mouth. In fact, he is wrong: I quite value the role of unions. I think that unions have a very important place in the work force to represent their members. I think that people join a union because they seek and need, and want and deserve, support from that union. I think that unions have a valuable role to play, and I agree with the freedom of choice of anyone to join any association or union they wish to. I might also add that unions contribute significantly to the quality of debate in this nation about industrial relations and are part of the leadership with respect to those issues. I think the minister is quite wrong to presume to know my views on this matter, and he has misunderstood the points that I have raised.

What I am putting to the minister, and what he does not want to answer (I do not suppose I really expect one), is that I also believe that people should not be compelled to join or deal with an association against their wishes. I do not think that any association, whether it be a union, a political party or an employer association, should be given the right, through an act of this parliament, to force its way into any workplace against the wishes of the people who work there. That is the only point I am making. I am not devaluing the role of the union movement. I have had very fruitful and productive dealings with unions as an employer and in other respects, and I know how constructive and helpful they can be. But I think that, in regard to this clause and this part of the bill, we simply will not agree: I take the minister's point.

The committee divided on the amendment:

AYES (20)

Brindal, M. K.	Buckby, M. R.
Chapman, V. A.	Evans, I. F. (teller)
Goldsworthy, R. M.	Gunn, G. M.
Hall, J. L.	Hamilton-Smith, M. L. J.
Kotz, D. C.	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 (20)

Atkinson, M. J.	Bedford, F. E.

NOES (cont.)

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.	Wright, M. J. (teller)

PAIR(S)

Kerin, R. G.	White, P. L.
Brown, D. C.	Conlon, P. F.
Brokenshire, R. L.	Weatherill, J. W.

The CHAIRMAN: There are 20 ayes and 20 noes. I had some serious concerns about this clause particularly in relation to where there were no union members, and I foreshadowed an amendment, which is 29(9). The government has agreed to accept that. It provides that where there is no union member the official or the employer can request—and the inspector must be provided within 48 hours, to ensure that there is no union official appearing alone at that particular workplace. I regard that as a significant protection and, on that basis, I support the government.

An honourable member interjecting:

The CHAIRMAN: It is, and members should have a look at it. I give my casting vote for the noes.

Amendment thus negatived.

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

Page 33, line 5—Delete ", or potential members,"

This is a clause where the unions now want to get access to any workplace in the state, even where there are potential union members—not just union members but potential union members. One would assume that they would interpret that as meaning anyone that still has breath in them would be a potential union member. We assume that they will not go to the depths of despair that the Labor Party has previously when dead people were involved in delegate entitlements. We remember the famous case where some of the branch memberships were corrupted by people who had been dead for some time. So, we assume that it does not cover those people, and we assume that they actually have to be with us to be considered a potential member.

Naturally, the opposition totally opposes this. It means that the unions will be able to go into a workplace where there are no existing members of the registered association or the union and peddle their wares, because the union thinks that there might be a potential member. All this clause will do is get the smart employer and the smart employee, who want to get on with their business without being hounded by union officials, to sign a letter to say, 'I do not want to join a union,' so that when the union official knocks on the door and says, 'Mr Employer, I want to inspect your business,' the employer will say, 'I have got 20 employees, here are 20 letters from my employees, they don't want to join a union, go away.' And that is exactly what I will be telling employees to do because I believe that that will cover the position that they are no longer potential union members.

I will ask the minister to confirm that, that if that procedure is undertaken then the workplace will be excluded from union visitation, assuming that there is no member of the registered association there. It is a nonsense to suggest that unions should be able to go into worksites where there are no union members to peddle their wares. If the unions want to increase their membership there are plenty of other ways that they can do it without harassing people going about their work. If people want to join a union, they know where they are, they know that they are on South Terrace, they know where they can contact the union, they can apply for a membership form, they can go to their web site, and there are lots of ways that they can contact the union without being disturbed during their working hours. So, it is a nonsense—

The Hon. S.W. Key interjecting:

The Hon. I.F. EVANS: They have shifted, have they?

The Hon. S.W. Key interjecting:

The Hon. I.F. EVANS: They are about to shift. There you go. Obviously some of the non-unionists found them. So, they are going to allow the unions to go into any workplace, even if they are a potential member. I could speak for hours on this. I do not intend to. We totally oppose this particular provision and we have moved the amendment to take out the words 'or potential members' so that at least they are restricted to only visiting worksites where at least one member of the union is employed.

The Hon. M.J. WRIGHT: As I said previously when I made my main contribution on the earlier amendment by the shadow minister, there would be another opportunity, so I will not run through the same arguments that have been made previously. I will simply make the point: why should non-union members not have the opportunity to be informed of any conclusions reached as a result of union officials inspecting the workplace? They may have entitlements which they are not being paid and which can be identified by an official. Quite simply they should be able to be informed in that way. The member made some reference to deceased people and so forth. At one stage I thought he was talking about the Liberal Party pre-selections, but that is obviously a different topic for a different time.

The Hon. W.A. MATTHEW: I support the amendment moved by my colleague, the member for Davenport. Members on this side of the house are well aware of the activities that occurred under the former labor government. It is almost a case of deja vu seeing some of these tactics come back again through legislation into this place. I full well remember the situation that prevailed at the time of the last labor government, a situation that had to be changed, that they now seek to change back again, sir. I am sure that you, too, would remember the situation that occurred where we had policy of preference to unionists and employment, and it got to the stage where there were numerous questions raised in this house. One particular contribution that comes to mind was made by a former colleague when he asked a question of the Hon. Bob Gregory the then Labor minister for labour. My former colleague asked:

Is the Minister of Labour aware that the government's policy of preference to unionists in employment is being interpreted to include contracts for the supply of goods to businesses and development projects?

That was a most startling allegation in this house at the time; a number of my colleagues would remember it. Not only was it a Labor government with a policy preference for unionists, but it was also intruding into the supply of goods to businesses and development projects in our state. My former colleague went on the ask the minister the following:

Will he say whether such action is consistent with the Government's policy and, if it is not, will he use his influence to remove this obstruction in the case of a major city development and give an assurance that such impediments to free trade and agreements are not repeated to the detriment of South Australian companies?

My former colleague was championing this issue on behalf of non-trade unionists. That member stood in this house and was determined that the former Labor government was not, through its preference to unionists, going to disrupt activity. I was very impressed with this member's contribution. He went on to give a particular example. He said to the minister:

> As a result of union interpretation of this preference policy, the supply of almost $100 000 worth of furnishings by a South Australian small business to the multi-million dollar Hindley Apartments projects has been threatened by the Federated Furnishings Trades Union. The union has taken this action on the grounds that the small business supplier is a non-unionised manufacturer. As a result, there is the possibility these furnishings will be supplied instead by a Victorian company, which has a unionised work force.

Members of this house will remember the result of this sort of legislation that we have before us again tonight. Here was my former colleague in this house pointing out that, as a result of the unionised activity that had prevailed under the Labor government through legislation such as that before us tonight and, as a result of the preference to trade unionists and the fact that they were leaning on companies that did not have non-unionised work forces, we need that sort of championing in this house tonight. Well, sir, the former colleague that I quote is you, the member for Fisher. I found that to be a fabulous contribution made in this house on 25 October 1990 which, for your records, sir, was on page 1435. I believe that that was a worthy contribution to this debate for these very things will happen again, and clauses such as this amendment that have put forward by the member for Davenport tonight are here to ensure that the very things you so stridently opposed in this parliament when Labor was in before do not happen again. I put these to the house and to you for your consideration.

The CHAIRMAN: I would like to respond to the member for Bright because he is talking about a totally different issue. The member for Bright is talking about preference to unionists whereas this is about access to a workplace. It is a totally different issue. Access—

Members interjecting:

The CHAIRMAN: Order! Access—

Members interjecting:

The CHAIRMAN: Order! The chair is entitled to have a say. The member has accused me of a double standard: it is no double standard. I remind the member for Bright and others who need to know that in the party room people are picked to give a question, whether or not they agree with it. Let me just remind the member for Bright and others—

Members interjecting:

The CHAIRMAN: All right; you want to open it up. I will raise the issue of the State Bank. The member for Bright has made an accusation against the chair and the Chairman is entitled to defend himself. The issue relating to the State Bank for which—

Mr HAMILTON-SMITH: I rise on a point of order.

The CHAIRMAN: No; the chair can have a say. You are trying to silence the chair.

Mr HAMILTON-SMITH: Point of order.

The CHAIRMAN: No; sit down. I am not recognising you because the member for Bright has made an allegation against me which I am responding to. I will hear your point of order when I have responded.

Mr HAMILTON-SMITH: Mr Chair—

The CHAIRMAN: No; sit down. I will hear you when you let me have my say.

Mr HAMILTON-SMITH: Mr Chair—

The CHAIRMAN: I am not going to hear you until I have had a chance to respond. The member for Bright has made an inaccurate accusation against me, suggesting that I am supporting preference to unionists: I am not. I will hear your point of order when I have finished. I am not supporting preference to unionists: I am supporting access to a workplace by a union official under certain conditions in my foreshadowed amendment—end of story.

Mr HAMILTON-SMITH: Mr Chair, you have accused the member for Bright—

The CHAIRMAN: What is the point of order?

Mr HAMILTON-SMITH: —of making an accusation. I do not think that he has made an accusation.

The CHAIRMAN: He has.

Mr HAMILTON-SMITH: I think that your comment should be withdrawn, sir. He has not made an accusation: he has simply repeated into *Hansard*—

The CHAIRMAN: No; the chair was accused of favouring preference to unionists in this committee. I do not favour that; I never have. I am supporting access to a workplace under certain conditions. The member for Bright is trying to distort this issue, and I totally reject his accusation. I point out that members in parties ask questions when they are asked to ask a question.

The Hon. W.A. MATTHEW: I rise on a point of order, sir. You have imputed improper motives of my behalf. That is not the case. I simply quoted your words, and I invite you to look at the *Hansard* record which will record precisely what I have said tonight, and you will find that you have imputed improper motives on my part. I simply implored you to consider your past comments.

Members interjecting:

The CHAIRMAN: Order! I am not disputing the matter that you read out. I am saying that they are two different issues. One is preference to unionism; another one is access to the workplace.

The Hon. D.C. Kotz interjecting:

The CHAIRMAN: I have been attacked by a member and I have a right to respond when I have been falsely accused. I have been drawn into debate and the chair has a right to respond.

Mr HAMILTON-SMITH: I rise on a point of order. Should you not vacate the chair if you wish to participate in debate or, if you feel you have been impugned, should you not vacate the chair, hand the chair over and participate in the debate so that you can have your say? You are participating in debate and entering into an argument with a member from the chair.

The CHAIRMAN: Order! I just point out to the member for Waite that it is a long-standing practice in parliaments that the chair should not be drawn into a debate but, when the chair is attacked, the chair has a right to respond. That is a fair and reasonable approach. Does the member for Hartley have a point of order?

Mr SCALZI: No, Mr Chair, I wanted to make a contribution. I was up to make a contribution when you responded to the member for Bright. I feel that I was on my feet to make a contribution and should have been given an opportunity to do so.

The CHAIRMAN: The member for Hartley has the call now.

An honourable member: Hurry up!

Mr SCALZI: I find it offensive, 'hurry up'. This is an important issue and I stand here as a paid-up member of a union and a Liberal member, and I believe in freedom of

association and I will fight hard for freedom of association. Equally, I believe that you should not have the freedom to enter a workplace unless—

Ms Rankine: What have you got to hide?

Mr SCALZI: I beg your pardon?

The CHAIRMAN: Order! The member for Hartley has the call.

Mr SCALZI: I ask the member for Wright to withdraw that.

The CHAIRMAN: It is not unparliamentary. People are getting drawn into frivolous objections.

Mr SCALZI: The member for Wright just said that I have got something to hide: I have nothing to hide. I am a proud member of the Australian Education Union and I have remained a member of the union because I believe in freedom of association, and I will continue to defend that right of freedom of association. Equally, I believe that a union should not have the right to enter a workplace unless it is invited to enter that workplace. It is a simple, basic freedom to do so. I will defend the unions, and I think the language that just attacks unions and attacks employers has to stop.

To say that a union, if it is not invited to be in a workplace, should have access under certain conditions, I think is wrong, and that is why I am supporting the member for Davenport. I am not anti-union and I think that the debate that has gone on is getting out of hand and not in its proper context.

Mr Hanna: You're just anti gay-union!

Mr SCALZI: I ask the member for Mitchell to withdraw that. I am not anti-gay.

Mr Hanna: 'Union', I said.

Mr SCALZI: I ask the member for Mitchell to withdraw.

The CHAIRMAN: That is not unparliamentary. It might be inappropriate and insensitive but it is not unparliamentary.

Mr SCALZI: I am not anti-gay. I am not anti-homosexual.

Ms Rankine: He said 'anti gay union.'

Mr SCALZI: Anti-gay unions: I do not know if their unions exist or not. But people are free to join any association and I will fight for their rights to do so.

The Hon. M.J. WRIGHT: Clearly, a different position exists between both sides of the house. We have made steady progress in working our way through this bill. If we continue to make steady progress, it may well be that we can finish this with some decorum before midnight tonight, which would probably be a good result for everyone. It may be an appropriate time for all of us on both sides of the house to take heed of that. We clearly have different positions. We have made our position. The opposition through the shadow minister has advocated the opposition's position and it may be an appropriate time to test it.

The Hon. W.A. MATTHEW: I am not too fussed whether the minister would like to finish this bill tonight or not. I am not too fussed whether he believes that the decorum in relation to this bill is changed or not. This is a very important clause. This amendment put forward by my colleague effectively stops jackbooted trade unionists from stomping their way through the premises of decent small business people uninvited. This is about a basic freedom and a basic liberty. This is about the very difference between the Labor and the Liberal Parties, the very difference between the rights that we uphold and the rights that the Labor Party and its union mates wish to trample.

I, like the member for Hartley and others of my colleagues, support the right of people to voluntarily belong to a trade union. I support that strongly. Indeed, during my time as a member for parliament I have encouraged many people to join a trade union. Whether or not they join a trade union is their right, and if they decide not to belong to a trade union I, unlike some others, do not regard them as parasites. I believe that if they do not join the trade union they simply exercise their right. Unfortunately, there are those on the other side who would regard non-trade unionists as parasites, and that is what they say. Many of them call them parasites.

There are other people in this chamber who have also called non-trade unionists parasites, as the *Hansard* record shows. There are many other ways of being represented. For example, under our present enterprise bargaining system you can have a non-union representative, and there are many cases where non-union representatives have represented people. I am personally aware of some situations where the non-union representatives have made a far greater contribution to the negotiations than have the salaried union officials who have been there representing those others. The very firm difference between those in the Liberal Party and those in the Labor Party is that we support freedom of association. We support freedom of choice.

We support an individual's right to belong or not to belong to a union; to have a union representative representing them in industrial negotiations or to have another independent representing them. What we do not support is the unfettered right of union officials uninvited to be able to go to a place of employment. This is about a fundamental right and a fundamental freedom. I have always respected the member for Hartley because not only is he a protector of people's rights, freedoms and freedom of choice but also he is consistent, and consistency has always been a very important thing in debates such as this, particularly on matters of principle.

The Hon. I.F. EVANS: I am sorry to ask the minister this question again, but I asked during my contribution some time ago a question which was not answered. I want to check whether, if an employee gives a letter to his or her employer indicating they never want to join a union, that satisfies the test that the union cannot visit that workplace because there is no potential union member?

The Hon. M.J. WRIGHT: No, it does not; but reality would be that unions, like any other organisation, want to occupy their time and use their resources to the best of their ability, and they would take account of circumstances such as that.

The committee divided on the amendment:

AYES (20)

Brindal, M. K.	Buckby, M. R.
Chapman, V. A.	Evans, I. F. (teller)
Goldsworthy, R. M.	Gunn, G. M.
Hall, J. L.	Hamilton-Smith, M. L. J.
Kotz, D. C.	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 (20)

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.

NOES (cont.)

O'Brien, M. F.	Rankine, J. M.
Rann, M. D.	Rau, J. R.
Snelling, J. J.	Stevens, L.
Thompson, M. G.	Wright, M. J. (teller)

PAIR(S)

Kerin, R. G.	White, P. L.
Brown, D. C.	Conlon, P. F.
Brokenshire, R. L.	Weatherill, J. W.

The CHAIRMAN: There being 20 ayes and 20 noes, once again I draw members' attention to my amendment No. 2 which relates to how these provisions could work. I cast my vote for the noes.

Amendment thus negatived.

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

Page 33, lines 21 and 22—
Delete subclause (5) and substitute;
(5) Section 140(2)—delete 'the award' and substitute:
any relevant award

This amendment seeks to reinstate into the act the provision that, when union officials enter the work site, they must abide by any condition in the relevant award or enterprise bargaining agreement. It seems a nonsense to us that the employers and the employees must abide by the award and the agreement, but the good old union official does not have to abide by the award and agreement. Why is that? We argue that the status quo should remain. We seek to change the words to 'any relevant award'.

The Hon. M.J. WRIGHT: The government opposes the amendment. I have already argued my case about minimum standards across the system. I simply reiterate that point.

The Hon. I.F. EVANS: Minister, if there is no award covering the worker, this clause does not apply. It applies only to employees where there are awards or enterprise bargaining agreements. The minimum standard argument does not apply in relation to this clause.

The Hon. M.J. WRIGHT: I said, 'across the system'.

The committee divided on the amendment:

AYES (20)

Brindal, M. K.	Buckby, M. R.
Chapman, V. A.	Evans, I. F. (teller)
Goldsworthy, R. M.	Gunn, G. M.
Hall, J. L.	Hamilton-Smith, M. L. J.
Kotz, D. C.	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 (20)

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.	Wright, M. J. (teller)

PAIR(S)

Kerin, R. G.	White, P. L.
Brown, D. C.	Conlon, P. F.
Brokenshire, R. L.	Weatherill, J. W.

The CHAIRMAN: There being 20 ayes and 20 noes, I give my casting vote for the noes.

Amendment thus negatived.

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

Page 33, line 26—
Delete '24' and substitute:
48

We move this amendment in relation to the amount of notice needed for inspection. The transport industry has specifically requested this particular provision. By the very nature of the transport industry, quite often the employer is a long way from where the inspection may take place, and they will need more than 24 hours' notice to get back to their base, if you like. We argue that 48 hours is the appropriate time. The transport industry indicates to us that it would be fairer on them, so we specifically move this amendment on behalf of the transport industry, asking for 48 hours' notice, not 24 hours' notice.

The Hon. M.J. WRIGHT: I think the concerns of the member for Davenport would be picked up in new subsection (2a)(b), which provides:

a period of 24 hours notice will be taken to be reasonable unless some other period is reasonable in the circumstances of the particular case.

The argument that the member for Davenport has made is picked up by that wording, if in fact it is correct. I also make the point that 24 hours is quite reasonable notice. It is consistent with other jurisdictions that require the giving of notice. For example, the commonwealth and Western Australia require 24 hours' notice. I am advised by Workplace Services that 24 hours' notice is the most common time-base requirement in state awards.

Amendment negatived.

The Hon. R.B. SUCH: I move:

Page 33, after line 30—
Insert:
(2c) Despite a preceding subsection, if—
(a) an official of an association has given notice under subsection (2) in relation to a workplace where no member of that association works; and
(b) the official, or the employer, requests, in accordance with the regulations, that an inspector attend during the relevant inspection,
then an inspector must attend for the purposes of the inspection within 48 hours or within such longer period as may be determined by agreement between the official, the employer and an inspector (unless the request has been withdrawn).

This is a reasonable protection, if you like, in relation to union officials having access to a workplace, in particular where there is no member of the union. It requires that the employer or the official can request that an inspector attend for the purposes of the inspection, and the inspector must attend within 48 hours or such longer period as may be determined by agreement between the union official, the employer and the inspector. I think it is a reasonable proposition in order to allay some of the fears of some people in the business community that they will have union officials coming willy-nilly into their workplace, especially where there is no member of a union working.

The Hon. M.J. WRIGHT: We will be supporting this amendment. A reasonable approach has been put forward by the member for Fisher and the government is pleased to support it.

The Hon. I.F. EVANS: I make the observation that the member for Fisher is giving the employer the double dose. The employee will be able to invite not only the union

inspector to come in to pedal their wares to the business but also the industrial inspector at the same time. In other provisions, we have expanded the powers of the industrial inspector; they are far broader than originally in the act. What the member will do to the small business is actually give the employee the right, where there is no union member, to invite both in; and that will create issues for the employer.

The reality is that the member for Fisher has voted on every occasion with the government. There might be one occasion when he has not. I think he has voted on every occasion with the government, so I realise the member for Fisher will win in relation to this particular provision. I do not think this provision gives any comfort at all to the small business sector. All it does is simply provide a mechanism for access for the union movement into the small business community where there is no union representation or presence at present. One has to ask why one would want to do that to the small business community? The member for Fisher has his reasons. I note that the 48 hour period is the notice under this clause, which the minister is supporting, but I believe the provision will harm the small business community. I do not see a need for it.

The industrial inspector already has the power to go in under the expanded provisions, because the member for Fisher has supported the provision that provides for the industrial inspector to go in, where there is not even a complaint; and they can go in without notice and stay as long as they want. That is the power the member for Fisher has assisted in delivering to the industrial inspector. Now the industrial inspector can be accompanied by a union official. Does that mean the union official gains the same rights of entry as the industrial inspector? Does it mean that the industrial inspector gains the same rights of entry as the union official? Whose right of entry provisions take precedence in relation to that clause? I am not sure. This gives union officials greater access to the small business community. That is something the small business community has indicated to us that it does not want. We will be opposing it.

The Hon. R.B. SUCH: In response to the point about supporting the bill, I point out that things do not come before the house on which I may have had some influence. Therefore, while it can be seen in terms of what is done in here, what is done elsewhere cannot be recorded here, so I make that observation. The voting record does not indicate the full extent or the changes that may have occurred that otherwise would not have occurred without my involvement.

In terms of this specific amendment, I believe it gives protection to the employer. If you are going to have an union official come in—it is expressed in neutral terms—the employer can request an inspector to attend.

The Hon. G.M. Gunn: What about representatives from employer associations?

The Hon. R.B. SUCH: Nothing stops them coming in as well. They can request as well. The point is that if you are going to have an union official coming in, especially where you have no union members working, I think it does give a safeguard. That is the reason I am moving it. It is not likely to be a common occurrence but, in order to diminish the risk of any untoward activity or behaviour, I think it gives a very real protection for both the union official and the employer. Either one can request—and likewise the employer association. I reject the claim by the member for Davenport that this is somehow structured one way. It is not. It is actually designed to lessen the concern of people in business in regard to union officials accessing a workplace.

The Hon. I.F. EVANS: I apologise to the member for Fisher in one respect. I think I said in my contribution that the employee could request. On reading subclause (b), I note 'the official or the employer can request'—

The Hon. R.B. SUCH: Of an association.

The Hon. I.F. EVANS: So one assumes that the union official can request the inspector to come in, so not the employee. But the union official can invite an inspector in to tag team the employer at the same time, so that point still is relevant. Can the member for Fisher explain this to me: what power does the industrial inspector have over the union official while at the site? The industrial inspector can seek certain things from the employer. But what influence at all does the industrial inspector have over the union official?

The Hon. R.B. SUCH: The inspector is not there to control the union official. This amendment is to ensure that whatever happens is done in accordance with proper practices and what would be expected under the bill. The inspector is not there as a sort of controller over the employer, the union official or the employer association official; he is there to ensure that whatever takes place is done in accordance with the provisions of the act. He is not there as a police officer. Rather than having the union official giving rise to angst by the employer, this is designed to do the exact opposite: to take out that sense of angst, if there is any, and to facilitate proper and reasonable investigation of any matter. I just see it as a useful provision. It is designed to be neutral in respect of employer associations, unions or the employer as well.

The Hon. I.F. EVANS: With due respect to the member for Fisher, if the industrial inspector has no jurisdiction over the union official, what is the benefit to the employer in inviting the industrial inspector in? Given that the member for Fisher has already supported previous amendments that give the union official carte blanche to enter anywhere, if the industrial inspector has no jurisdiction over the union official, no power or capacity whatsoever to influence the behaviour of the union official, can he give me one benefit of a small business inviting the industrial inspector in at the same time?

All the industrial inspector has is some jurisdiction over the employer and the employer's records, but he has no jurisdiction over what the union official does. So there is no benefit to the employer in inviting in the industrial inspector as some answer to curtailing an overzealous union official. They have no jurisdiction over them.

The Hon. R.B. SUCH: I think the member for Davenport misunderstands, because he used the term can the inspector 'control' the union official. I took that to mean acting like a police officer in respect of whether a union official is overzealous or whatever. I am not suggesting that it is the role of the inspector to be a de facto police officer.

It has been expressed to me that some employers would be apprehensive about a union official coming in to look at things and that one way of easing that potential tension, mistrust or whatever would be to have someone who has obligations under the act to do certain things and to be able to undertake certain things—to have that person present.

In relation to my amendment, the first few words say 'despite a preceding subsection', so it is a qualification in respect of what has gone before. The advice I have had is that this will ease concerns amongst employers in particular.

Mr Venning interjecting:

The Hon. R.B. SUCH: I get advice from a range of areas. But I am saying I have moved this amendment in order to ease concerns raised by people who are within the employer category. I point out that this amendment has not come as a

request from the trade union movement, and the government was not all that keen initially to even consider it. But I believe it does ease some of those concerns that employers have expressed, and it relates to those matters that we decided upon earlier. That is why I indicated this amendment: because I think it does help to ease those concerns, particularly for a workplace where there is no union member. The union movement has not asked me to do this, and the government did not ask me to do it. I am doing it off my own bat. The government was reluctant to entertain it.

The Hon. M.J. WRIGHT: I do not want to add to this debate unnecessarily, but I feel obliged to make a further comment, if the member for Fisher does not mind, because I am the minister, obviously, through the Executive Director of Workplace Services, who has responsibility for the inspectorate. Some of the things that the inspectors could do in this situation (and it would not in any way necessarily be limited to this, and the member for Fisher has touched on some of it) about which the shadow minister has asked is provide advice; they could witness anything—if anything untoward were to occur, obviously, they could witness that. They could provide objective, impartial advice if it was required. So, there would be those roles. As I said, it is not limited to that, but within the powers of the inspectorate they are just some of the things they could do.

Amendment carried.

The ACTING CHAIRMAN (Ms Thompson): Are there any further amendments to clause 57?

The Hon. I.F. EVANS: No, but I just want to indicate that clause 57(7) deals with the Christian fellowship known as the Brethren. We will be voting against all of clause 57, but I wish to indicate to the house that we do not in any way, in voting against that clause, indicate a vote against clause 57(7). Unfortunately, it is locked into the whole clause. So, we are voting against the clause as amended due to the amendments moved by the member for Fisher and the other arguments that we have put. But *Hansard* should record that we are not opposed in any way, shape or form—we strongly support, in fact—clause 57(7). When the voices are recorded in this matter, it should be borne in mind that we do not oppose that subclause.

The Hon. M.J. WRIGHT: I would like to acknowledge the comments that have been made by the shadow minister. I appreciate them. I would also like to acknowledge the representation that has been made to us by the Christian fellowship known as the Brethren. Members may be aware that they have been here for pretty much all of the debate, I think, not just tonight.

Clause as amended passed.

Clauses 58 to 60 passed.

Clause 61.

The Hon. I.F. EVANS: I oppose this clause, which deals with the nature of relief. Under the act, the court or commission has a discretion to give any form of relief authorised by this act irrespective of the form of the relief sought by the parties. The minister seeks to insert 'the nature of any application that has been made and irrespective of'. So, it would read:

> The court or the commission has a discretion to give any form of relief authorised by this act irrespective of the nature of any application that has been made and irrespective of the form of relief sought by the parties.

What that essentially means is that a person could roll up to the commission to argue one case based on the nature of relief sought and suddenly find that they could have to argue a number of other matters in regard to the nature of relief. We think that the act as it stands is correct. When a person goes to the commission they know what is confronting them. We should not have the system that is suggested by the minister. We believe that a respondent should only have to deal with the claim made against them rather than having to anticipate all potential claims, when they are not given notice of those claims.

The Hon. M.J. WRIGHT: I will also speak briefly, in the spirit of bipartisanship. I want to highlight that the proposal in the bill is to give the court and commission some clarity and flexibility in terms of the remedies that can be ordered. It is possible that, when dealing with a dispute notification, for example, having begun to hear the matter, the commission may form the view that it is more appropriately dealt with as an unfair dismissal. That is just one example. It would seem fair to us that, having begun those proceedings, if in fact, as a result of hearing evidence, the commission drew it to the attention of the parties that the application was not in line with an unfair dismissal, for example, it would be more appropriate to be handled as such. In those circumstances, natural justice would, of course, be provided to the parties with respect to these matters. That seems to me to be a sensible approach.

Clause passed.

Clause 62.

Mr HANNA: In relation to amendment No. 12 in my name, I am not proceeding with that because it was consequential on my amendment regarding casual employees.

The Hon. I.F. EVANS: It is unclear whether the increased conciliation requirements will result in a greater number of vexatious applicants withdrawing their applications during or soon after conciliation, or increased applications with the view to extracting a settlement payment conciliation. What this provision does is add in an extra provision in relation to applications in regards to conciliation conferences. Rather than being limited to monetary claims or claims for relief against unfair dismissal they will now be able to have proceedings on any other proceeding to which it is extended by regulation by the rule of the court of the commission. So it is a far broader provision in relation to conciliation conferences, and again we think the current form or the narrower form of this provision is the preferred option, and we will be voting against the provision.

The Hon. M.J. WRIGHT: We have largely already had this debate so I do not need to dwell on it. I simply make the following points: clause 53 of the bill, together with clause 62 propose to expand compulsory conciliation beyond the unfair dismissal area into underpayment of wages, disputes, and potentially to other areas as has been highlighted by the shadow minister. We believe strongly that compulsory conciliation has been very successful in the jurisdiction where it has currently operated, so there is no reason why it would not also be successful in other jurisdictions.

Compulsory conciliation has actually served the parties well and I think that is a very worthwhile area to broaden. Clear guidance is given to the court and to the commission about what matters are to be dealt with in the preliminary assessment of the merits and recommendations. Recommendations like exploring the possibility of hearing matters together if they are to proceed to trial, have resource and efficiency benefits for stakeholders and the government. So, I believe that compulsory conciliation in many cases actually has served us very well, and I am confident that it would do

so if we were successful with this in other areas as well just like it has been successful in unfair dismissal.

Clause passed.

New clause 62A.

Mr HANNA: I move:

Page 36, after line 39—Insert:

62A—Amendment of section 167—Extension of time

Section 167—after subsection (2) insert:

(3) Subject to subsection (2) insert: if—

(a) a person commences proceedings before the Commonwealth Commission or a court of the Commonwealth in relation to an industrial matter; and

(b) the proceedings are dismissed or discontinued on the ground of lack of jurisdiction, or on the ground that the proceedings should have been brought under this Act instead of under Commonwealth law; and

(c) the person applies to bring proceedings before the Court or the Commission under this Act in relation to the same (or substantially the same) matter within 21 days after the earlier proceedings are dismissed or discontinued, the Court or Commission (as the case requires) must, if relevant, on application under this subsection, extend any time limitation that would otherwise apply to the proceedings unless the Court or Commission determines that there are good and cogent reasons for not doing so.

This could be considered a somewhat technical provision but it is going to be very important for some workers. At the moment, for historical reasons, there is a fair degree of confusion about whether the federal jurisdiction or the state jurisdiction applies in some matters. This can occur because there are different awards that might apply in a particular work place or for particular work and in these cases a worker who is dismissed may, upon advice, and with a sincere belief, go to the federal jurisdiction for relief only to find that if it is discontinued they may be out of time in the state jurisdiction. There are, of course, strict time limits in the state jurisdiction for unfair dismissals and it would obviously be unjust to preclude people from remedy because of that.

I want to make it absolutely clear that if a person goes to the commonwealth and find themselves without remedy because in the federal jurisdiction they are ruled to be wanting jurisdiction, then they should be able to go to the state jurisdiction without any question being asked. It is not really giving the worker any additional remedy. It is simply giving them a fair go if, for whatever reason, they have backed the wrong horse in terms of which jurisdiction they go to first. So, it is a very reasonable and modest amendment. It is simply to overcome one of the consequences of the historical mess of our industrial laws, state and federal.

The Hon. M.J. WRIGHT: The government is happy to accept this sensible amendment. Generally speaking, the member for Mitchell has described it well and I do not need to go back over. Generally speaking, if you make a wrong application to the federal commission and court, and you get gonged out as such and told that you should have applied to the state jurisdiction, then you have got 21 days to make that application to the state jurisdiction. This would seem a perfectly sensible approach and I am sorry that I did not think of it myself.

New clause inserted.

Clauses 63 to 69 passed.

New clause 69A.

The Hon. M.J. WRIGHT: I move:

Page 37, after line 36—Insert:

69A—Amendment of section 208—Procedure on appeal

Section 208(3)(c)—delete 'Commissioner' wherever occurring and substitute in each case:

member of the Commission

At the moment when the Full Commission is considering a matter on appeal it can direct the commissioner to furnish a report on a specified matter. The commissioner to whom the direction is given must, after making the necessary investigations, furnish a report accordingly. This means that a deputy president or potentially the president cannot be directed to undertake such a report. That is just silly. We propose the amendment which gives the full commission the flexibility to seek a report from any member. It is consistent with clause 63 of the bill.

New clause inserted.

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

New clause, page 37, after line 36—

Insert:

69A—Insertion of section 230A

After section 230 insert:

230A—Affiliation of registered associations with political parties

(1) If a registered association is affiliated with a registered political party, then the following provisions will apply:

(a) a member of the association cannot be—

(i) taken to be a member of the political party; or

(ii) taken into account for the purposes of—

(A) determining the representation or other entitlements of the association; or

(B) determining the voting entitlements of any person representing the association,

at a meeting of the political party, or at any conference or convention held by the political party,

unless the member has provided to the association a written authorisation under which the member agrees to be recognised as being associated with that political party by virtue of being a member of the association (and such a member will then be a ***recognised member*** for the purposes of this subsection while the authorisation remains in force);

(b) a person is not eligible to represent the association under any rule or determination of the political party unless the person is a recognised member selected at an election where the only persons eligible to vote are recognised members;

(c) any fee payable on account of the association being affiliated with the political party must be paid by the recognised members (and must not be payable by any other member of the association) and, if the fee is calculated (in whole or part) on a *per capita* basis, must only take into account recognised members.

(2) A person may, by written notice furnished to the registered association, revoke an authorisation previously given by him or her under subsection (1).

(3) Any rule or determination of a registered association or a registered political party that is inconsistent with subsection (1) is void and of no effect to the extent of the inconsistency.

(4) The regulations may establish a scheme to regulate the collection or payment of any fee under subsection (1)(c).

(5) To avoid doubt, nothing in this section prevents a member of a registered association being a member of a registered political party on application by the member in his or her own right.

(6) For the purposes of this section, a registered association is affiliated with a registered political party if—

(a) the registered association is a member of the political party; or
(b) the rules of the registered association or the rules of the political party provide for any other form of affiliation with the political party.

(7) In this section—
registered political party means a political party registered under Part 6 of the *Electoral Act 1985*.

This seeks to bring provisions into the bill so that only those members of a registered association (a union) indicate in writing to the union that they want their union membership to be counted for delegates' entitlements if the union affiliates with any political party. Only those members who have indicated in writing to the union that they want their memberships to count towards their union's involvement in the political party will actually be counted. This means that if you have a union with 10 000 members, and only 2 000 of them indicated in writing that they wanted their membership to be counted for union involvement, it will mean that the union will get fewer delegates' entitlements than they currently do where they have 10 000 members.

This is an important principle. This will actually be a benefit to the union movement. I am trying to do the union movement a favour here, because some people would love to join the union movement but, because they do not want their membership to be counted for partisan purposes, they are reluctant to join the union. This gives the union an opportunity to have two classes of membership. Those members who wish to join the union, but not be involved in partisan politics or have their membership counted as being involved in partisan politics, then become involved and have their membership considered for involvement as part of the partisan politics.

This also provides that only those members who have indicated a wish to be involved in the union and in partisan politics would be able to be used for calculations for delegate entitlements in the affiliated political party, and be able to vote or be a delegate in the affiliated political party. If the political party to which they are affiliated sets a per capita fee, that is paid directly by the union member and not through the central union fund. That makes far more transparent the whole process of union membership and their relationship with the affiliated political party. And, it gives the individual union member a choice.

If I join a union—and I do not wish to; it is not likely; I have never been a member of one—why should someone else decide that my union membership fee is going to be used for the calculation of delegates' and other entitlements for a political party that I have never wished to support. It may well be that the union chooses to affiliate with the Democrats or another political party that forms in the future. It does not necessarily have to be the Labor Party. Who knows what happens in politics? Why should an individual have no choice in the matter when they join a union and their membership is automatically used for the calculation of delegates' entitlements and other matters inside a political party which they may never support.

A lot of people would like the services of a union but not have their membership used to support a political party in which they have no common interest and no wish to support. This provision, while it may make it difficult for a political party, will certainly tidy up the internal workings of the political party, because only those unions with legitimate members who wish to be involved in the partisan process would get the delegates' entitlements.

Also, as far as the union member is concerned, it gives them a democratic choice and, therefore, the unions actually have another tool to market. They can market a membership which is a non-partisan membership, so this would be a benefit to the union movement, not a disadvantage. I encourage honourable members to support this provision, as I believe it provides some benefits for all three parties involved—the union member, the union itself, and the political party to which it affiliates.

The Hon. M.J. WRIGHT: This is a very interesting amendment that has been brought forward by the shadow minister. I note some of the comments that he has made. I am not sure whether he has had the opportunity to discuss this with the union movement. He probably has, because I know he has been very strong on consultation as we have worked our way through this bill seeking, on a regular basis, to know what consultation the government has undertaken through the course of the formation of this bill. I am hopeful that he is a man of his word and that he has consulted with the trade union movement about an amendment of this nature. He may wish to share that with us. This is simply unnecessary. I have been advised that these provisions are not in place anywhere else in Australia at a state or federal level.

If this has the groundswell and the significance that the shadow minister attaches to it, it does not seem to have reached any other state around Australia. At this stage I have not been advised of the reaction of the trade union movement, so I am not sure whether the shadow minister has taken the opportunity to consult on this, as I would expect him to with an amendment of this nature. We have taken consultation very seriously, as the shadow minister kindly acknowledges with a nod of his head. He has been very generous in his commendation of the government in some important areas that were identified and addressed in the formation of the consolidated bill as we moved from the draft bill, so I am sure he would have undertaken the required consultation.

Mr HANNA: The history of the union movement vis-a-vis political parties is interesting and relevant to this amendment. Of course, 100 years ago the Labor Party in South Australia and nationally was considered, quite rightly, an extension of the trade union movement, hence the interests of labour, as we used to call working people in the old language. Of course, these days things have changed and the Labor Party, as we have seen over the past three weeks, seeks to drive a line through the middle. New Labor seeks to be friends with business and the workers, and we have seen that a number of provisions over the past few weeks that would have helped tip the balance towards working people have been rejected by the Labor government.

I can therefore understand the thinking behind the member for Davenport's bringing this amendment to us. It seeks to further split the trade union movement from the political party with which it has hitherto been identified, that is, the Labor Party. In a sense, that is a process that is happening every day as workers vote with their feet anyway, through lower union membership. The member for Davenport ironically says that this will help unions because those thousands of people who want to join a union without supporting a political party, namely the Labor Party, will be able to do so with a clear conscience, knowing that neither their money nor their votes are going towards the Labor Party. I am not as confident as the minister in terms of consultation.

I have consulted with the union movement, at least a fraction of it, in the short time available, and the unions do

not want it. It seems to me that trade unions themselves want to reserve the right to be able to give their financial or other support to the political party of their choice, whether it be the Labor Party in the future or anyone else. After all, what is wrong with that? If trade unions want to maintain that right, why should they not? That brings us to a very important point: that the amendment itself may be unconstitutional, because there is an implication in our national constitution that says there must be a certain freedom in political discourse and political arrangements around the country, and the trade union movement is a part of that whole political complex.

So, I am not sure that it would even be constitutional to prevent trade unions from aligning themselves in this way with the Labor Party. I cannot vote for it, because of the reasons I have outlined.

Progress reported; committee to sit again.

ADJOURNMENT

At 11.59 p.m. the house adjourned until Thursday 24 November at 10.30 a.m.