LEGISLATIVE COUNCIL

Thursday 8 June 1995

The PRESIDENT (Hon. Peter Dunn) took the Chair at 2.15 p.m. and read prayers.

INDUSTRIAL AND EMPLOYEE RELATIONS (MISCELLANEOUS PROVISIONS) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General): I move:

That the sitting of the Council be not suspended during the continuation of the conference on the Bill.

Motion carried.

PORT ADELAIDE GIRLS HIGH SCHOOL

A petition signed by 2 813 residents of South Australia, praying that the Council urge the State Government to reverse the unreasonable and discriminatory decision taken by the Hon. Rob Lucas, Minister for Education and Children's Services, to close Port Adelaide Girls' High School and instead secure the appointment of a tenured Principal and the provision of resources appropriate to this school's special needs, was presented by the Hon. Carolyn Pickles.

Petition received.

HINDMARSH ISLAND BRIDGE

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I seek leave to table a ministerial statement made this afternoon by the Premier in another place on the subject of the Hindmarsh Island bridge.

Leave granted.

STATE CHEMISTRY LABORATORIES

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I seek leave to table a ministerial statement made this afternoon by the Deputy Premier and Treasurer in another place on the subject of the State Chemistry Laboratories.

Leave granted.

TEOH HIGH COURT DECISION

The Hon. K.T. GRIFFIN: I seek leave to make a ministerial statement on the subject of the High Court decision in *Teoh's* case.

Leave granted.

The Hon. K.T. GRIFFIN: This statement is to clarify the South Australian Government's position following the recent High Court decision in *Minister of Immigration and Ethnic Affairs v. Teoh*, a judgment delivered on 7 April 1995. That decision concerned the way in which administrative decisions are made by the Commonwealth under the Migration Act, but could have implications for the way in which the provisions of a treaty may operate in Australian law generally.

Prior to the *Teoh* decision, it was clearly established that treaties entered into by the Commonwealth Government did not form part of Australia's domestic law unless and until they had been so incorporated by legislation, and could not give rise to rights and obligations unless they were so enacted into law.

The High Court in *Teoh* reaffirmed that provisions of treaties do not form part of Australian law unless they have been incorporated by legislation. However, the court held that merely ratifying a treaty could give rise to a legitimate expectation that Government decision-makers would make decisions consistently with the treaty. Indeed, the provisions of the treaty could apply even where a person affected by the decision did not raise or even know about the treaty in question.

This was the case in *Teoh* itself, where the court decided that there was a legitimate expectation that the decision-maker under the Migration Act would take the relevant article of the convention on the rights of the child into account in coming to a decision not to give resident status, notwithstanding that the applicant did not know about the convention and the decision-maker did not raise it.

It may be that only a small number of the approximately 920 treaties to which Australia is currently a party could provide a source for an expectation of the kind found by the High Court to arise in *Teoh*. However, this can be established only as individual cases come to be litigated. In the meantime, the High Court decision gives little if any guidance on how decision-makers are to determine which of those treaty provisions will be relevant and to what decisions the treaty might be relevant, which creates a great deal of uncertainty about Government activity. Such uncertainty is undesirable.

The High Court in *Teoh* foreshadowed that actions such as the making of this ministerial statement would occur. In a joint judgment, the then Chief Justice Mason and Justice Deane acknowledged that the expectation in question can be displaced by statutory or executive indications to the contrary. The court acknowledged that it was open to a Government to make a statement about the effect that the obligations undertaken in international law by reason of treaty ratification are intended to have in the domestic law of Australia.

I now make such a clear and express statement. I state, on behalf of the South Australian Government, that the entering into or ratification of a treaty by the Commonwealth Government is not a reason for raising any expectation that any South Australian Government decision-maker will act in accordance with the treaty. It is not legitimate for the purpose of applying Australian law to expect that the provisions of a treaty not incorporated by valid Commonwealth legislation, and in some instances South Australian legislation, should be applied or even adverted to by decision makers. Any expectation that may arise does not provide a ground for review of a decision. This is so both for existing treaties and for future treaties that Australia may join.

The Government will consider legislating to reinforce this statement and put beyond any doubt the status of these unlegislated international obligations. I note that on 10 May 1995 the Minister for Foreign Affairs and the Federal Attorney-General made a joint statement in very similar terms to the statement I am making. It should also be made clear that any action taken by the Commonwealth in entering into or ratifying a treaty does not necessarily have the support of the South Australian Government.

SCHOOL SERVICE OFFICERS

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question about school service officer positions.

Leave granted.

The Hon. CAROLYN PICKLES: On 1 June, Budget day, a minute was faxed to the principals of all schools in South Australia to inform them of how 250 school service officer jobs would be cut from the system. This minute was signed by Ms Marilyn Sleath, Director of Personnel, and counter-signed by the department's new Chief Executive, Mr Denis Ralph. Members will be interested in some of the advice conveyed to the principals. I will quote a few pieces from the minute, as follows:

> As announced in the 1995-96 DECS budget, a new SSO formula has been determined. This will take effect from the beginning of the 1996 school year.

It goes on to say:

> These two decisions will reduce the allocation of SSO staff to schools by about 250 FTEs. Further information is that it is difficult to be specific about the individual impact on schools as it will depend on the nature of the student enrolment across the school year and on the number of teachers. The following should therefore be regarded as indicative only. Principals should be able determine the impact on their own schools using local knowledge.
>
> 1. A high school with 45 teaches, 33 hour reduction per week;
> 2. An area school with 23 teachers, 16 hour reduction per week
> 3. A primary school with 16 teachers, 11 hour reduction per week; and
> 4. A junior primary with 12 teachers, 10 hour reduction per week.

Further, the minute states:

> As a result of the new formula principals are advised that in relation to permanent positions and temporary positions to be filled until 12 April 1996, which were recently advertised in the Notice of Vacancies, these appointments will now only proceed on a temporary basis until 22 December 1995. Please convey this information to all applicants.

There was no consultation with staff and no reference to normal industrial negotiating processes that should apply when making such a significant decision, no discussion with school service officers, and no enterprise bargaining. The staff concerned were not even advised of the decision. The minute did not even ask the principals to convey the information to the school service officers. This highlights the Minister's confrontational approach to industrial processes. My questions to the Minister are: why was the proposal to reduce SSO positions not referred for enterprise bargaining? Why did the Minister's department fail to inform the staff concerned of his decision?

The Hon. R.I. LUCAS: That is nonsense!

An honourable member interjecting:

The Hon. R.I. LUCAS: As most of the questions are, that's right.

The PRESIDENT: Order!

The Hon. R.I. LUCAS: On the day the decision was taken, every work site in South Australia was notified of the Government's decision, as the honourable member has indicated, by the Chief Executive Officer of the department. As line managers, the principals spoke to school service officers and teachers that afternoon and indicated the detail of the Government's decision. It is nonsense to suggest that on the day this decision was taken the Chief Executive Officer—indeed, the Minister—could personally telephone 4 000 or 5 000 full-time and part-time school service officers throughout the State to say, 'The decision has been taken this afternoon; we would like to advise you personally.'

The Hon. Anne Levy interjecting:

The Hon. R.I. LUCAS: Again, it is nonsense to suggest, by way of interjection, that 250 school service officers will be sacked. They will not be sacked; they will be offered targeted separation packages or positions that will not be filled. I have already answered the other parts of the honourable member's question in response to earlier questions from the honourable member.

PORTS CORPORATION

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Transport a question about the sale of the Ports Corporation grain belts.

Leave granted.

The Hon. R.R. ROBERTS: Grain belts in South Australia are quite topical at the moment, especially given the fires we have had at Port Adelaide and the extensive damage that has occurred. I was rather hoping to hear a ministerial statement today about the effects of what has happened down there and how it will effect grain handling, the belts and the employment of those people in the port. However, the Minister may wish to address that at another time. My immediate concern—and I am not sure whether members are aware of this—is that the Government, through the Assets Management Task Force, is in the process of evaluating the sale of grain belts or bulk grain handling plants located at Thevenard, Port Lincoln, Port Pirie, Wallaroo, Port Giles and Port Adelaide.

The Government has appointed a committee with a farmers' representative on it to advise the Assets Management Task Force of the sale of these plants. The South Australian Farmers' Federation has lobbied the task force, and various Ministers, including the Minister for Transport, I understand, with a view that the grain belt should be sold to South Australian Cooperative Bulk Handling Limited, a company owned by grain growers in South Australia. The Farmers' Federation has expressed some concern that, in recent times, a couple of Government Ministers involved in the sale process have indicated their preference would be for the grain belts to be sold to the highest bidder.

That would normally be in line with the usual process of asset disposal in South Australia. However, without wishing to pre-empt any decision, it is obvious that there are many benefits from retaining ownership of these facilities in South Australia, including the retention of local employment in the abovementioned towns and cities, and there no doubt would be many benefits to our farming communities if our own company, Cooperative Bulk Handling Proprietary Limited, were able to operate the facilities on behalf of its members. In some instances, community interests override the need for a quick buck.

I have had some concerns in respect of this matter before. Indeed, whilst in Government I took up this matter of the sale and control of the belts with the Hon. Mr Gregory. It was his view that those facilities generated important income for the maintenance of port facilities, jetties and navigational equipment in South Australian waters. I have a personal preference for retaining these belts and facilities in the hands of the Government. However, my questions are:

1. Will the Minister assure the Council and the farming community of South Australia that she will fight to ensure that these important facilities stay in the hands of South Australia; if not, why not?

2. Will the Minister also assure the Council that she is not one of the two Government Ministers referred to by the South Australian Farmers' Federation who have stated that they are interested only in getting the highest price for the facilities regardless of where the money comes from?

3. If the belts are sold to anyone, what taxes, charges or levies will be imposed to cover the cost of port maintenance and navigational aids in South Australian waters?

The Hon. DIANA LAIDLAW: The honourable member has asked several important questions. I point out, first, that in the 1993 Labor State Budget an indication was given that the Government of the day favoured the sale of these assets, which the honourable member has now indicated that, personally, he would prefer to remain in Government hands. So, in 1993, the Labor Party indicated that the assets should be sold.

The Hon. R.R. Roberts interjecting:

The Hon. DIANA LAIDLAW: I am just indicating that that was the view. I understand that there was a rider attached that there had to be some negotiations with the work force. Notwithstanding that rider, the basic policy of the Labor Party Government was quite clear, and that was the sale of these assets. I am interested in the honourable member's personal view, because he would have been a member of the Labor Party at that time. Regarding the sale of assets, I assure the honourable member that, notwithstanding his statement, it is not the usual—and I emphasise 'not the usual'—process for the Government simply to sell any State asset to the highest bidder. In all instances, a variety of factors are taken into account.

Regarding the sale of the grain belts, I assure the honourable member that, again, a combination of factors will be assessed. One of those will be the price bid, and another will be economic development benefits for the State. The SACBH and grain growers generally should be aware that this reference to economic development would, in my view, give the SACBH pretty good running in terms of winning this tender, but that is up to the SACBH. If it wants to guarantee that, it must prove its case in terms of both economic development and price. I assure the honourable member that this matter has been widely discussed amongst Government members, many of whom represent country areas. They know of the anxiety and enthusiasm amongst their constituents regarding the future of these assets.

I confirm also that the Government would not be prepared to simply guarantee to the SACBH that it would be granted these belts, at any price, and notwithstanding the development benefits to the State. It is important, in all instances of the sale of Government assets, that the Government can confirm to taxpayers that it has been diligent, taking into account other factors, in gaining the best possible price for the sale of that asset and anything less would be irresponsible. It also would set a precedent, in terms of the integrity of the whole process of sale of assets, and I do not think any honourable member in this Council, or in the other place, would wish to bring into question the integrity of this process. I confirm that South Australia is the only State in the nation where the Government owns these bulk loading facilities. In every other State they are in private hands, generally in grain growers hands, and so that possibly would set another precedent or argument that the SACBH could use in this instance.

Finally, in terms of the fire in the SACBH silos the other evening, it was a traumatic incident. It has been confirmed to me that there was no damage done to the belts, so there is no cost to be picked up by the Ports Corporation and no insurance claims to be made for which the Government would be responsible and have to handle. It is, nevertheless, of considerable concern to the Government because it would wish grain that has not been damaged to be exported and to make room for new grain in the forthcoming harvest season. We have to clear the stocks, therefore barging at another port or another area nearby at the best possible cost are the options that are being explored at the moment.

The Hon. R.R. ROBERTS: I ask a supplementary question. I had one other point that the Minister did not address, namely: was she one of the Ministers, referred to by Mr Alan Glover in his press release, who favoured the highest price bid being successful?

The Hon. DIANA LAIDLAW: Of course not, because, as I have argued, there is no deal that is done or terms set, in terms of the sale of Government assets, that solely considers the highest bidder. So Mr Glover is on the wrong track there. He knows that. That has been stressed to him several times. He may not care to listen, but that is the fact.

BLACKWOOD FOREST RESERVE

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for the Environment and Natural Resources, a question about Blackwood Forest Reserve land.

Leave granted.

The Hon. T.G. ROBERTS: There is a degree of nervousness in the Adelaide hills, as I have indicated in previous questions to this Council, in relation to parcels of land that are either owned by the State or local government. The nervousness is that communities believe that cash-strapped councils will try to sell those parcels of land for development, rather than maintain them for local community use with green belting and recreation and ecotourism programs—

The Hon. A.J. Redford: Community facilities?

The Hon. T.G. ROBERTS: Well, if they are integrated into land use programs that the communities believe ought to exist, then that is up to the Government to make those balanced decisions.

The Hon. R.I. Lucas: You might even support that.

The Hon. T.G. ROBERTS: I am supporting the position on behalf of the constituents who have contacted me who believe that the land in question could be used as open space.

The Hon. A.J. Redford: And community facilities.

The Hon. T.G. ROBERTS: Well, if the community facilities complement the uses, as indicated by the local community, then I am sure it is up to the Government to convince those communities that it is in their best interests. At the moment there is a discussion going on between the interim committee that was set up, and I must congratulate the Government for setting up a process that does encourage and involve broad based consultation with the local community.

As we all know, it is not just the process that is set up but also the outcome that determines whether a solution is acceptable to all or whether the economic rationalist argument that is pursued by some succeeds at the expense of what is in the best interests of the local community. The interim committee, which has been meeting with the people who were commissioned to do the report, has indicated to me and to the Minister that it is quite happy with the way the negotiations have been handled. Although the odd complaint has been made about reporting procedures and information transfer, generally the negotiations have proceeded in a constructive way.

Since 1986, the land has been rezoned by Mitcham council from 'special uses' to 'institutional'. The edges of the forest have been thinned to satisfy bushfire prevention criteria and

the land contains a significant area of *pinus radiata* and there are remnant vegetation areas. Successive State Governments, in conjunction with the relevant councils, have come to recognise their metropolitan planning responsibilities in regard to the Sturt River and the Sturt River linear park. In the Mitcham Hills/Coromandel Valley area, Mitcham and Happy Valley councils have set about formally recognising and consolidating the Sturt River linear park from Shepherd's Court to, and including, the Frank Smith Park. Likewise, another major unit has recently been added to the linear park where the Sturt River runs through Craigburn Farm downstream of Horners Bridge.

Successive State Ministers and Mitcham council have been on notice informally from the community since 1986 that some areas are overdue for recognition for formal incorporation into the Sturt River linear park system. The State Government has refused Mitcham council's most recent offer of $1.2 million for the Blackwood Forest and farm. The offer has been withdrawn and the Government has decided to proceed towards the sale of the property. In the interim, the Minister for the Environment and Natural Resources has set up a comprehensive community consultation process. A steering committee, under the management of consultant Peter Jensen Urban Planning and Design, has investigated and now recommended to the Minister the terms of reference for the public consultation. The committee itself unanimously agreed that the community's first choice would be to keep the land as public open space.

That history of the negotiations is formally set out in an explanation to the petition that was signed by 3 000 people. In a reply to a letter from Mr Piotto, one of the organisers of the Blackwood Forest Interim Committee, the Minister stated:

> In considering this response—

that is, the response to the request made by the interim committee—

> I suggest that the land is surplus to Government requirements and, as such, the Government has a responsibility to the community as a whole to ensure that the Crown receives a fair return from the land. Beyond this, I am very interested in listening to your ideas and suggestions as to how the land can be better utilised.

That says it all. If the Government is to maximise its return in the private market for the value of the land, it is clear that the offer which was made, and subsequently withdrawn, was not enough and that the land will probably be put on the open market for developers to make bids. There is another problem in the Blackwood area in relation to infrastructure support for the Craigburn Farm development. There appears to be a major push for development in that area, so it is easy to see why Blackwood residents would like to maintain the Blackwood Forest and reserve in perpetuity as open space. My questions are:

1. Has the Government reached a decision on its preferred option for the Blackwood Forest reserve and land at Hawthorndene?

2. Will the petitioners' preferred position be accepted as the recommendation?

3. Regardless of the preferred position, what will be the form and nature of the clean-up of the contaminated area within the reserve?

The Hon. DIANA LAIDLAW: I will refer those questions to my colleague in another place and bring back a reply. In the meantime, I can advise the honourable member that I recently visited this site with the local member, the member for Davenport, Mr Evans.

An honourable member: A very good local member!

The Hon. DIANA LAIDLAW: He is very active, and certainly—

An honourable member: A hard worker.

The Hon. DIANA LAIDLAW: Yes, a hard worker. What else are honourable members offering?

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: He is a man of courage, an active enthusiast and a great local member. Those are just a few of the comments that describe the member for Davenport.

I went with the honourable member one morning a few Saturdays ago to look at a number of road-related issues. The Blackwood forest reserve area was one of the areas that I was asked to inspect in terms of roadworks. The local member has a grand plan which I understand even the honourable member who asked the question thinks may well meet many community interests in the area ranging from the needs of older people to schools and the possibility of two schools in the area, to a variety of housing types on large blocks. However, all those would be dependent on roadworks in the area.

I understand that the consultant engaged by the Minister for the Environment and Natural Resources has, in turn, engaged a traffic consultant to consider the issues. They look positive according to the report that I received last night. In terms of the further detail, I will obtain an answer, as indicated, from the Minister. In the meantime, I commend the local member on his grand plan which meets many unmet community needs at the present time.

GEPPS CROSS SPORTS PARK

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Housing, Urban Development and Local Government Relations, a question in relation to a development plan amendment to Sports Park.

Leave granted.

The Hon. M.J. ELLIOTT: Enfield council was advised on Tuesday night that the State Government had rezoned and sold about one fifth of the Gepps Cross Sports Park site to Woolworths to house a warehouse and distribution centre. I have been told that the people who advised the council on the deal were Phil Smith of the Development Assessment Commission, who originally approved the Collex waste treatment plant also in the council area, and Andrew Scott of the Department of Premier and Cabinet. They advised the council that 20 hectares in the north-west corner of the site were sold for $2 million and that stage 1 of the development was a *fait accompli* about which the council could do nothing.

The council was told that a planned amendment allowed by ministerial discretion would go to the Governor today. It was the first the council knew about the development. The Government says that the $2 million for land will end up going back into sport. However, there are some in the Enfield area who suggest that the market value of the land is about $6 million.

Heavy vehicle access to the new development is another area of concern with roads to the new depot surrounding not only residential land but also a school. Some people in the area have found it extraordinary that no other site is available and that negotiations for the continued use of the company's existing sites could not succeed.

This development also cuts into one of the final few areas of open space in the northern metropolitan area. There is

concern that the initial development of this land could lead to further encroachment on land set aside for sporting facilities.

Today's *Advertiser* newspaper carries a public notice about the rezoning in line with the Development Act. My questions to the Minister are:

1. Why did the Government use the ministerial discretion rather than going through normal planning processes for the development?

2. Why did the Government fail to consult with the local community and the local council before making the decision?

The Hon. R.R. Roberts interjecting:

The Hon. M.J. ELLIOTT: That's right, badly.

3. What is the real value of the land, and was market value paid for it?

4. Will the Government ensure that the remainder of the land is safeguarded for recreational use? If so, how?

The Hon. DIANA LAIDLAW: I will refer the honourable member's question to the Minister and bring back a reply.

NURSING HOMES

In reply to **Hon. BERNICE PFITZNER** (4 April).

The Hon. DIANA LAIDLAW: The Minister for Health has provided the following information.

1. Statements of the Standards Monitoring Team visits made to the nursing home in question prior to November 1994 are available from the Department for Human Services and Health on request.

2. The Commonwealth Standards Monitoring Team is required to follow a monitoring process (see response 3) which involves at least two visits and the preparation and publication of a statement relating to the satisfaction of the standards outcomes by the nursing home.

The Commonwealth Standards Monitoring Team would have discussed their concerns about the unmet standards with the management of the nursing home in question and may have visited on numerous occasions to monitor what strategies were being adopted to address concerns. The management would have been advised of the Commonwealth's intention to take action if standards continued not to be met.

The timeframe involved for action to meet standards is the responsibility of the management of the nursing home in question.

3. The Commonwealth does not have procedures for the licensing of nursing homes; nursing homes are required to be approved by the Commonwealth and the Commonwealth has the power to withdraw approval in serious cases of compromise of care.

Prior to the operation of the Supported Residential Facilities Act, local Government had the responsibility for the licensing of nursing homes and directors of nursing under the provisions of the Health Act. These provisions have been repealed from 10 March 1995.

The Commonwealth process of monitoring the standards of care for nursing homes is as follows:

- Nursing homes are given 24 hours notice prior to the monitoring visit; visits may be unannounced where serious complaints exist;
- The basic elements of the process focus on the outcome for the resident and involve
  - An initial visit by a team of Commonwealth officers: information gathering focuses on the resident and his/her experiences; satisfaction with the standards is assessed by the team.
  - A visit for the discussion of findings and presentation of standards satisfaction levels.
  - A statement based on the discussion visit is prepared; the statement addresses each of the standards outcomes objectives and satisfaction with the standards is rated as 'Met', 'Action Required' or 'Urgent Action'.
  - Negotiation of action to be taken occurs after the statement has been received by the care managers who are expected to develop means of addressing areas of non-satisfaction of standards.
  - A follow-up to ensure concerns have been addressed occurs; this may involve several visits. Legal remedies may be considered where serious and persistent non-satisfaction of standards occurs.
  - The statement is issued to the proprietor and is published 30 days following its receipt by the proprietor.

4. The Commonwealth Standards Monitoring Team will visit each facility on average every 2 to 2½ years.

The level of contact by the Standards Monitoring Team varies according to the type of issues raised, the level of concern about issues raised and the efficient use of resources.

The Standards Monitoring Team will respond immediately to complaints. In situations where the Commonwealth have serious concerns about the quality of care outcomes for residents, visits may occur on a daily basis and may occur at any time of the day and without notice.

The Advisory Committee agreed that the Commonwealth monitoring of outcome standards for residents is adequate and recommended to the Minister for Health that an exemption be conferred for Commonwealth subsidised nursing homes and aged care hostels on this basis.

The Advisory Committee will review the operation of this exemption on an ongoing basis.

5. The following information is provided as background.

The advisory committee has expressed concern about the inaccuracy of reporting regarding its deliberations and regarding the operation of the Supported Residential Facilities Act 1992.

Firstly, the monitoring of outcome standards in nursing homes has been the responsibility of the Commonwealth Department for Human Services and Health since 1987: the introduction of the Supported Residential Facilities Act did not bring about the delegation of this responsibility. Local government had responsibility for the licensing of nursing homes prior to the introduction of the Supported Residential Facilities Act and the associated repeal of the Health Act, and continue to have responsibility for the licensing of facilities covered by the new State legislation: Commonwealth subsidised nursing homes and aged care hostels are exempt from the provisions of the Supported Residential Facilities Act. Licensing has never been a requirement of the standards outcomes approach and the Commonwealth does not intend to institute alternative arrangements for licensing now that local government no longer has a legal framework for the issue of licences.

Secondly, the advisory committee has no evidence to suggest that the standards of care for nursing homes have deteriorated since the passing of the Supported Residential Facilities Act. However, there has been debate in the advisory committee about the relative merits of the Commonwealth's monitoring processes and reliance on 'word-of-mouth' reporting mechanisms, as compared to the legal requirements for monitoring and ensuring compliance with standards, as adopted by the State with the passing of the Supported Residential Facilities Act.

The failure of the nursing home in question to meet Commonwealth standards outcomes is not related to any discussions that may have taken place regarding the exemption from the Supported Residential Facilities Act for Commonwealth subsidised nursing homes and aged care hostels, or any questions raised regarding the responsibility for the licensing of exempted facilities.

HINDMARSH ISLAND BRIDGE

The Hon. BARBARA WIESE: I seek leave to make a brief explanation before asking the Attorney-General a question about the Hindmarsh Island bridge inquiry.

Leave granted.

The Hon. BARBARA WIESE: This morning the Premier announced that the—

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: This morning the Premier announced that the Government will initiate an inquiry into claims that women's business associated with the ban on the construction of the Hindmarsh Island bridge has been fabricated. The inquiry will have the powers of a royal commission and the terms of reference and other details of the inquiry will be finalised by Cabinet next week. The Government claims that its motive for establishing an inquiry is to prevent further damage being done to Aboriginal interests and communities and to the cause of reconciliation. My questions to the Attorney are—

Members interjecting:

The Hon. BARBARA WIESE: Shut up, Ron.

The PRESIDENT: Order!

Members interjecting:

The Hon. BARBARA WIESE: Just be quiet and listen to the questions, will you.

The PRESIDENT: This is sounding like Playschool.

The Hon. BARBARA WIESE: You shut up too, Legh. My questions are:

1. How can the Government justify this self-styled role as protector of Aboriginal interests (a) in view of the actions of the Minister for Aboriginal Affairs in promising to stop the bridge when in Opposition and then his authorising the destruction of sites of significance to allow the bridge to proceed when in Government and (b) the role played by his Federal Liberal colleague, the member for Barker, in distributing with gay abandon copies of secret women's business documents to the media and others a few months ago?

2. Does the Attorney expect the inquiry to involve the Federal Minister for Aboriginal and Torres Strait Islander Affairs and, if so, does he foresee any constitutional impediments?

3. Is it the intention of the Government to appoint a woman to head the inquiry and to ensure that all counsel assisting and staff are women in view of the sensitivity of the Aboriginal women's business in question?

4. Will the inquiry have access—

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: Will the inquiry have access to the Jacobs inquiry report which the Government has declined to make publicly available to date?

5. When can I expect a reply to the questions I asked on 14 and 15 March as to whether the Attorney or other Ministers received copies of the Aboriginal women's secret papers wrongfully obtained by the Federal member for Barker?

The Hon. K.T. GRIFFIN: As the Minister for Transport said—

Members interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN:—a lot of the problems here started way before the 1993 State election, and the Hon. Barbara Wiese as Minister for Transport was very much involved in the setting of the scene for the real disaster which has followed.

I will take the questions in a different order. In relation to the questions of 14 and 15 March, my recollection is that I inquired of a number of Ministers, none of whom had received any of these papers.

The Hon. Barbara Wiese: You have not informed the Parliament of that.

The Hon. K.T. GRIFFIN: No; it is outstanding, and I will ensure that it is remedied. I indicated when the question was first asked that I certainly had not received them and that I was not aware that any person in the Attorney-General's Department had had access to those papers. However, I will follow up that answer and bring back an appropriate reply.

In asking her first question, the Hon. Barbara Wiese made the assertion that Mr Ian McLachlan had been distributing copies of the papers far and wide. As I recollect it, Mr McLachlan denied having circulated those papers, and I think that the Hon. Ms Wiese should get her facts right before she makes that assertion, which is quite damaging to Mr McLachlan.

In terms of the inquiry, the Government has taken the view that so many statements and counter-statements have been made about the issues relating to women's business in the Aboriginal community that it was in fact time to endeavour to put that issue to rest once and for all. Whilst one could have had an inquiry without any of the powers of a royal commission, and remembering that we had been suggesting to the Commonwealth publicly over a period of time that it ought to have an appropriate independent inquiry and that it had not reacted favourably to that, we felt that we should establish an inquiry which had the powers of a royal commission to look specifically at the issue which seems to be creating such controversy and so much tension. That is certainly the intention of the Government in establishing this inquiry.

The terms of reference have not yet been finalised, as the Premier has indicated, and we would expect to have that resolved next week. The question of who may comprise the royal commission again has not yet been resolved. We are certainly sensitive to the point made by the Hon. Barbara Wiese; we are not insensitive to the issue of gender of the person who should be appointed to conduct the inquiry, but we have made no decision about that up to the present time.

The issue in terms of staff has not yet been resolved, either. We felt it was important to put on the public record that the issue had been of such controversy and had caused such tensions and divisions within the South Australian community—not just within the Aboriginal community but within the wider South Australian community—that someone had to take some action to resolve it.

We believe that a truly independent inquiry will be able to do that, remembering that the action in the High Court is an action relating to process—whether the Federal Minister for Aboriginal Affairs followed the right procedures. It is not about the merits of the case: it is about procedures. We do not expect a decision from the Federal Court until I think some time in September, and we have indicated publicly that certainly we do not believe it is appropriate for any inquiry to seek to transgress the particular jurisdiction of the Federal Court.

It is also recognised that there are issues of a Commonwealth nature that this inquiry is not able to address because of constitutional limitations.

The Hon. Barbara Wiese: But they are central to the issue.

The Hon. K.T. GRIFFIN: Mr Tickner is not central to the issue. Whether or not he acted in accordance with the law by following proper process in making his determination is an issue before the Federal Court. The merits are not in issue before the Federal Court. We are not interested in calling Mr Tickner, because that is irrelevant to the deliberations which we believe are important, and they are to determine what is the basis upon which assertions have been made that there is women's business in the Lower Murray region which resulted in the making of an order which prevented that development opportunity. That is the issue.

The Hon. Barbara Wiese: You should have been happy that the Federal Government stopped it. That is what you were campaigning for.

The Hon. K.T. GRIFFIN: We were not campaigning for that.

The Hon. Barbara Wiese interjecting:

The Hon. K.T. GRIFFIN: Rubbish!

Members interjecting:

The PRESIDENT: Are we all happy?

The Hon. K.T. GRIFFIN: I am happy; I am delirious.

The PRESIDENT: Order! It would be very nice if I could hear what the Attorney had to say.

The Hon. K.T. GRIFFIN: Therefore, in answer to question 2, it is certainly not the intention of the Government that he will be required to give evidence, but in the Premier's letter to the Commonwealth we have invited the Federal Minister for Aboriginal Affairs to participate in this inquiry and that is an issue that I would expect him to—

The Hon. R.R. Roberts: It's a stunt. You know damn well he does not have to—

The Hon. K.T. GRIFFIN: It is not a stunt. I just said that he does not have to participate. If the Hon. Mr Ron Roberts opened his ears and listened to what I had to say, he would remember that I said that it is not the intention of the Government to go after Mr Tickner. It is not the intention of the Government to require him to give evidence. Constitutionally I have acknowledged that there is significant doubt as to whether or not that could be achieved in any event. I am saying that we have invited him to participate so that, if he would like to make a contribution, he is welcome to do so. He can have discussions with us and we are happy to endeavour to accommodate his wishes in respect of this issue.

In respect of the fourth question, which is the last remaining question, on whether the inquiry will have access to the Jacobs report, that is really a matter for the inquiry once the formalities have been established.

The Hon. T.G. ROBERTS: By way of supplementary question, the Attorney indicated in his reply that Mr Tickner had been invited to participate. If Mr Tickner was invited to participate, was he invited to make suggestions about the terms of reference and will any other Federal Liberal members be invited to make suggestions about the terms of reference for the inquiry?

The Hon. K.T. GRIFFIN: So far as I am aware no Federal Liberal members have been involved in any way in talking about the terms of reference, an inquiry or whatever. The letter which the Premier wrote—I do not have a copy but I have seen it—invited Mr Tickner to participate. We indicated what the essence and the terms of reference would be (not in specific legal terms but the essence of what we were seeking to have the inquiry investigate) and obviously with the invitation we have given to Mr Tickner, if he wishes to make representations to us and accept some shared responsibility, he is welcome to do so. It is a matter for Mr Tickner. We have told him what we will do. He got the letter before it became public, as a matter of courtesy, and if he wishes to participate in endeavouring to resolve this issue, the invitation is there for him to do so.

MINING LICENCE

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Attorney-General, representing the Minister for Mines and Energy, a question about a private mine licence.

Leave granted.

The Hon. L.H. DAVIS: In 1968 Don and Denise Bradey purchased 50 acres of land in the hundred of Yatala not far from Golden Grove. It was an idyllic spot. The Bradeys intended to sell the land as part of their preparation for retirement. This land was effectively the Bradeys' superannuation. About five to six acres of this land were subject to a mineral lease, but unbeknown to them on 12 December 1972 the Department of Mines received an application from PGH Bricks for a private mine on the Bradeys' land. A private mine licence gave the possessor of the licence a right to mine in perpetuity. This incredible and indefinite right was not surprisingly removed from the statute books after only two or three years.

On 26 January 1973 the department obtained a copy of the title of the Bradeys' land which was registered in the name D.C. & D.S. Bradey Pty Ltd, together with the registration of a mortgage to the Bank of New South Wales. On 5 April 1973 there was a report from a mines inspector—a Mr R. Matthews—saying that he had visited the property on 28 March 1973 and had spoken to Mr Bradey. Mr Matthews suggested in a report subsequently that PGH should apply for a private mine licence over the whole property and not just the six acres in the extractive mining lease No. 49. It appeared that PGH in late 1972 had been happy to apply for only part of EML49, but following Mr Matthews's suggestions did apply for a private mine licence over the whole of the Bradeys' property.

On 23 October 1973 there was a letter from the Director of Mines to the Minister of Mines stating, in part:

> The land tenure has been checked and there is no objection to the granting of the application.

On 7 November 1973 a letter from the Director of Mines to the Crown Solicitor stated that an authority had been given for the private mine by the occupier, E.E. Hean. On 29 November 1973 the South Australian Government *Gazette* confirmed a private mine licence covering all the Bradey property, but the truth was otherwise. The department had, since 26 January 1973, had a copy of the title showing D.C. & D.S. Bradey Pty Ltd as registered proprietors of the land, together with the Bank of New South Wales as mortgagor.

Although the Director of Mines on two occasions claimed there had been no objection to the granting of a private mine licence to PGH, the fact was that Bradeys, as registered proprietors of the land, had never been approached. Instead, the Mines Department had used a letter written in 1958 by Mrs Hean, a previous owner of the land, and in correspondence to the Crown Solicitor the department claimed her to be the occupier. Inspector Matthews had interviewed Mr Bradey on the property eight months earlier and clearly knew him to be the occupier. Importantly, PGH also knew Mrs Hean was not the occupier because it purchased land about five years earlier from the Berrys and the Berrys had purchased the land from Mrs Hean and some years later sold out to the Bradeys. In fact, Mrs Hean had not been the owner for at least 11 years at the time the Mines Department represented her to be the occupier in its letter to the Crown Solicitor of November 1973.

I also understand that there were other examples when the Department of Mines granted private mines without the owners being aware of what had happened. There was an example in Murray Bridge and also at Highbury where a church and a complete subdivision were completed without knowledge of private mine licences. I am told that even councils and the Department of Housing and Urban Development are unaware of the existence of private mine licences. The Bradeys only found out in April 1995 that PGH had private mine rights over the whole of their property—some 22 years after the rights were first granted.

This fact only came to light because the Bradeys had placed their property on the market for sale. They set a price

of $600 000 and had a number of serious buyers. An offer came from a brick company, which advised the Bradeys of the existence of the private mine licence. That is how they found out for the first time. The Bradeys had thought that they had freehold title with value. They had maintained and improved the property and paid rates and insurance since 1968.

The Bradeys now have a property which is unsaleable. They are hostages to PGH on a property rendered valueless by this private mine licence. The Bradeys' own land which PGH does not want to mine and will not buy and on which it will not give up its private mine licence. No domestic or rural buyer will be interested because of the mine licence and no other miner can use it because the mine licence belongs to PGH.

The Bradeys, who have been involved in small business and farming, had based their future on realising the market value for their Golden Grove property. They had gone into debt to purchase a property at Victor Harbor, based on a reasonable sale of the Golden Grove farm. An amount of $6 000 has already been spent advertising what is now an unsaleable property. It is fortunate that the property has not sold in the sense that the Bradeys could have been subject to legal action by a purchaser for non-disclosure of the private mine licence. The Bradeys have been in contact—

Members interjecting:

The Hon. L.H. DAVIS: It is interesting that the Opposition does not seem to have any concern about people. They are out on a campaign trying to find out what people think. How extraordinary! They are letter boxing to show that they care.

The Hon. J.C. Irwin: Labor listens!

The Hon. L.H. DAVIS: I hope Labor listens. Here is a first-hand opportunity to put its policy into practice: Labor listens. The Bradeys have been in contact with PGH to see whether it would give up its private mine licence. To date, PGH has refused to do so. PGH is a subsidiary of one of Australia's largest companies, CSR Limited. PGH has made clear that it has no interest in mining the property, because it has sufficient reserves of raw material for at least 80 years. The reason why PGH does not want to give up its private mine licence is that another brick company has indicated it wants to buy the land.

PGH has, over the past five weeks, been contacted by the Bradeys by phone. The Bradeys have also gone to PGH to discuss the matter. The Bradeys land agent and lawyer have also been in contact with PGH. To date, PGH has not changed its position. PGH has refused to give ground, even though Mr Bradey has explained that for 22 years he has not known about the private mine licence. Quite clearly, both the Bradeys and the bank of New South Wales would have strongly objected to the granting of a private mine licence if they had been given the opportunity to know about it.

From a close inspection of the files, it seems obvious to the Bradeys that PGH knew from the start that the Bradeys never gave consent and never would have consented to the private mine licence. How the Department of Mines came to assure the Crown Solicitor that the occupier had given consent is another story. What is important to the Bradeys now is that their future has been destroyed by PGH's refusal to give ground on this issue. As they are presented, the facts clearly show an injustice has been done to the Bradeys. PGH may have a legal right to the private mine licence, but this was obtained in 1973 without the Bradeys' consent. At that time, PGH knew that the Bradeys were not the owners of the property. My question to the Minister is: will the Department of Mines and Energy discuss this matter with PGH bricks and endeavour to find a solution which will satisfy the Bradeys and correct a situation which should never have occurred?

The PRESIDENT: Order! Before I call on the Attorney-General, I remind the honourable member that there was considerable opinion right through that question. It was a very long question which could have quite reasonably been put into our Wednesday's Matters of Interest. I remind all members that those sorts of questions would be best used on a Wednesday. I ask that, when members put together their questions, they not put opinion in them.

The Hon. K.T. GRIFFIN: I will refer the questions to the Minister for Mines and Energy and bring back a reply.

BOATING

The Hon. G. WEATHERILL: I seek leave to make a brief explanation before asking the Minister for Transport a question about recreational vessels.

Leave granted.

The Hon. G. WEATHERILL: On 1 June 1995, the Minister put out a release on the State budget 1995-96. It states that the Minister this year has put aside $250 000 for the development and maintenance of boating facilities along the coastal and island waters. In the *Advertiser* it was reported—and it is also reported in a media release—that small vessel owners will have to pay a levy to make up this amount of money. The *Advertiser* anticipated that it would be $25 each small vessel. It is not clear whether the *Advertiser* has got it right, because the Minister has not actually decided what that amount of money will be. In this report, she has talked about recreational vessels and is looking at commercial vessels also in relation to this amount of money, whatever that amount might be.

There are 50 000 small vessels in South Australia and, if the *Advertiser* is correct and they are charged $25 each, that is roughly $1.25 million. The amount of money the Minister is prepared to spend this year is only about 20 per cent of that sum, yet this will be an ongoing levy, as I understand it. Would this involve people with small vessels under 3.1 metres in length, which are powered by an engine capable of developing not more than five horsepower? Currently these people register their vessels and pay $18 as a one-off payment. If the *Advertiser* is correct about the amount of $25, those people would be paying the $18 plus $25 for the rest of the time that they have that vessel. Is this a fundraiser for the State Government to get it more revenue, or will all this money be spent on improvements for small vessel owners? What will the levy be on recreational boats?

The Hon. DIANA LAIDLAW: I thank the honourable member for his question. I can certainly assure him, and all who may have made or will make representations to him on this matter, that the funds, both the $250 000 allocated this year and any moneys raised through the levy from recreational boats or commercial fishing vessels, will be dedicated for the improvement, maintenance and development of boating facilities in this State, either the Murray River, inland waters or all coastal waters. So, it is a dedicated fund for that purpose. Whether it is an ongoing fund is something that the Government will consider in terms of all the boating needs around the State. The Boating Facilities Advisory Committee, which has been established and which comprises local government recreational boating representatives and others,

will be making that assessment of needs around the State. On the basis of need for maintenance and development, we will then know for how many years this levy will apply.

The honourable member may recall that this levy issue was first proposed by his Government back in 1993 with the Harbors and Navigation Bill. At that time, the Liberal Party, in Opposition, supported the move by the Hon. Barbara Wiese in introducing this facility. The honourable member, as Minister, had a lot of discussions with the Boating Industry Council and the Recreational Boating Council, among others. They urged her—and the Liberal Party agreed—that a levy would help to update, maintain and improve these facilities which were extraordinarily important but which had been progressively ignored over time by the Government. I hope there is still that sort of bipartisan support for this levy proposal.

The Boating Facilities Advisory Committee has made a recommendation to me of $25 for a recreational boating levy. I have not yet approved that, and I will not until I have seen the recommendation in relation to the commercial fishing vessel levy. There is ongoing discussion on that matter, because we looked at a levy proposal that would offset the mooring fee that applies for many commercial fishing boats at present at the four harbors at which the department charges a fee at present. We are providing $250 000 this year. It is half the sum that we promised in our policy—

The PRESIDENT: Order! I remind the Minister of the time.

The Hon. DIANA LAIDLAW: I will finish the answer to the honourable member in person.

HISTORY TRUST OF SOUTH AUSTRALIA (LEASING OF PROPERTY) AMENDMENT BILL

The Hon. DIANA LAIDLAW (Minister for Transport) obtained leave and introduced a Bill for an Act to amend the History Trust of South Australia Act 1981. Read a first time.

The Hon. DIANA LAIDLAW: I move:

That this Bill be now read a second time.

This Bill amends the History Trust of South Australia Act 1981 by providing that, with the consent of the Minister and on terms and conditions approved by the Minister, the trust may make the constitutional museum, better known as Old Parliament House, available for the purposes of the Parliament.

Members may recall that on 11 May this year the Government outlined a grand plan whereby, after 56 long years, the Parliament would resume occupation of Old Parliament House. This move involves an understanding that the appropriate Minister will, on behalf of the Parliament, lease all but the restaurant area of Old Parliament House to help overcome the longstanding shortage of committee rooms and office space within Parliament House. The move also addresses the current costs associated with the leasing of space for the same purposes in other buildings along North Terrace.

Old Parliament House will not be closed to the public. While the occupier will change and the temporary exhibition program will close, the history and nature of the building remains intact for all to see and enjoy. The public will continue to have access to Old Parliament House. The original House of Assembly chamber will continue to be open to the public and, even when it and other areas of the building are being used for committee meetings, it is rare, as members know, for such meetings to be closed to the general public. Also, the old Parliamentary Library will become the base for the education services of both old and new Parliament Houses, in turn providing a far superior facility for all groups visiting both or either building. In this space, or the area now used for the shop, there will be an exhibition interpreting the State's constitutional history and the heritage significance of the site.

The Hon. Carolyn Pickles: Where will your office be?

The Hon. DIANA LAIDLAW: I assume that my office will be where it is now and that it will be there for a long time, and the Government sector will be on the first floor of this building. The Board of the History Trust of South Australia has expressed its willingness to sign an instrument endorsing the lease of Old Parliament House to the Parliament provided that a suitable permanent home for the trust can be found and provided there is no financial penalty for the trust. The Government has agreed to these terms.

Initially, it was proposed that the State History Centre would move to the old Police Barracks and part of the Armoury Building—this remains an option, but not the preferred option. Now, both the Government and the trust consider that Edmund Wright House would provide a suitable, permanent base for the History Trust with both the directorate and the State History Centre relocating to Edmund Wright House, subject to resolution of the various issues associated with the occupancy of this heritage building. I should add that this decision has the resounding support of the History Trust.

Since its inception in 1981, the History Trust directorate has occupied space in the Institute Building. However, for some years this tenancy has been tenuous because the Libraries Board, which owns the Institute Building, has been keen to reoccupy the space. Indeed, the primary reason for the recent restoration of the interior of the Institute Building has been to enable the State Library to generate income from the hire of facilities and to help overcome space constraints. The relocation of the History Trust Directorate to Edmund Wright House would address both these issues, and it has the support of both the State Library Board and the History Trust Board.

The Hon. Carolyn Pickles interjecting:

The Hon. DIANA LAIDLAW: Sometimes the honourable member forgets that she is not in Government. In order to put all the foregoing arrangements into effect, the History Trust must be in a position to lease Old Parliament House. This Bill provides for this to occur with the consent of the Minister and on terms and conditions approved by the Minister. Further, for the information of members—

The Hon. Carolyn Pickles interjecting:

The Hon. DIANA LAIDLAW: Well, it is before the Council. What more to you want? It is before the Council now so that you can make a judgment.

The PRESIDENT: Order! I suggest that the Minister ignore the interjections.

The Hon. DIANA LAIDLAW: Do not debate it; I understand, Mr President. The honourable member should reflect on the statement I made earlier that the History Trust Board, the Libraries Board and others, which I will highlight later, support these moves. Further, for the information of members, I can confirm that a condition of ministerial approval for the proposed leasing to the Parliament will be that a significant museum function is retained, with the public

continuing to have access to the historic parts of Old Parliament House, together with improved education services for both old and new Parliament House.

Finally, the Government recognises the important role played by Old Parliament House in pioneering new approaches to museum practices in Australia and in leading the way in audio-visual displays. However, the number of visitors has fallen substantially in recent years. I can advise that, in particular, average weekend attendances—and this was a matter of some concern to the Hon. Ms Levy yesterday—over the past nine months have averaged 40 on Saturday and 52 on Sunday.

The Hon. Anne Levy: And 500 last Sunday.

The Hon. DIANA LAIDLAW: That is when it was free. I advise the honourable member, if she does not recall, that she was either the Minister or a member of the Government which introduced the fees.

The Hon. Anne Levy: No, I wasn't.

The Hon. DIANA LAIDLAW: A member of the Government.

The Hon. Anne Levy: No, I wasn't.

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: A member of the Labor Party, and it was her Government that introduced the fees.

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: And she did not remove them, if she is now suggesting that that should be the case—

The Hon. Anne Levy: Neither have you.

The Hon. DIANA LAIDLAW: No, because we have made other decisions. History Trust attendances for the past nine months—and I understand for longer, but those are the latest figures that I have—average 40 on Saturday and 52 on Sunday, which in anyone's language is not a resounding success. This matter has been of ongoing concern to the History Trust, and that should not be surprising to any member. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

The provisions of the Bill are as follows:

Clause 1: Short title

This clause is formal.

Clause 2: Amendment of s. 15—The constitutional museum and other historic premises

This amendment relates to the use and availability of the constitutional museum. Section 15(1) of the Act places the constitutional museum ('Old Parliament House') under the care, control and management of the History Trust of South Australia. Subsection (3) of that section provides that land placed under the care, control and management of the Trust must be administered by the Trust in accordance with the provisions of the Act. Advice has been received that these provisions would prevent the Trust from making the constitutional museum available for purposes outside the scope of the Act (including for purposes associated with the Parliament). Accordingly, the amendment will make specific provision so as to allow the Trust, with the consent of the Minister, to make the constitutional museum available for the purposes of the Parliament, on terms and conditions approved by the Minister.

The Hon. ANNE LEVY: In moving that this debate be now adjourned, I will refrain from debating comments, unlike the Minister.

The PRESIDENT: Order!

The Hon. ANNE LEVY secured the adjournment of the debate.

The Hon. G. WEATHERILL: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

SGIC (SALE) BILL

Adjourned debate on second reading.

(Continued from 7 June. Page 2145.)

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I thank members for their contribution to the second reading debate and for the Leader of the Opposition's indication of support for the legislation that has been introduced. There is to be an amendment in the Committee stages of the debate which, I understand, has been discussed by officers connected either to the Treasurer or to the Attorney-General, or both, with the Labor Party and the Australian Democrats and we can further discuss that particular amendment during the Committee stage.

Bill read a second time.

In Committee.

Clauses 1 to 29 passed.

Clause 30—'Transfer of assets and liabilities to other authorities.'

The Hon. R.I. LUCAS: I will move the amendments standing in the Attorney-General's name and provide explanations to them. I move:

Page 17, lines 4 to 5—Leave out all words in the clause after 'proclamation' in line 4 and insert—

(a) transfer assets and liabilities of SGIC or an SGIC subsidiary, or assets and liabilities of a trust administered by SGIC or an SGIC subsidiary, to an authority or person nominated in the proclamation; or

(b) establish a scheme (a rectification scheme) for the rectification of irregularities (or possible irregularities) in the administration of a trust, or the exercise of fiduciary duties, by SGIC or an SGIC subsidiary.

The amendment makes provision for the transfer of assets and liabilities of SGIC, or an SGIC subsidiary, to another person or body. This is to provide flexibility in the proposed restructuring of SGIC. The amendment is also intended to cover the situation where, during the due diligence of SGIC, or any of its subsidiaries, it is discovered that there has been an irregularity in the administration of the trust or in the performance of a fiduciary duty; for example, by an underpayment of some sort of another. In that situation a rectification scheme may be proclaimed. Such a scheme can confer rights on certain persons, for example, rights to be paid in accordance with the scheme.

The scheme can also make provision to exclude rights, for example, where a person has received a payment in accordance with the scheme and such a person would not then have a further right to sue in respect of the irregularity. The scheme can also provide for the continuation or transfer of existing legal rights that might otherwise be extinguished or affected by the scheme, such as rights which a subsidiary might have to claim against third parties or insurers. The overall effect of the proposed amendment, in so far as it deals with rectification schemes, is to provide a mechanism to resolve irregularities which is fair and simple whilst, at the same time, providing certainty to a purchaser that any irregularities have been resolved and ensuring that any claims that can be made against third parties are not extinguished. I am indebted to my colleague the Attorney-General and his officers for that fulsome explanation of that quite clear amendment.

The Hon. CAROLYN PICKLES: The Opposition supports the amendment.

Amendment carried.

The Hon. R.I. LUCAS: I move:

Page 17, after line 5—Insert:

(2) A proclamation transferring assets and liabilities may fix terms and conditions of transfer (which may include provision for the payment of money or the giving of other consideration).

(3) A rectification scheme—

(a) confers rights on persons affected by the irregularities (or possible irregularities) to which the scheme relates, and on other persons (if any) to whom the scheme is expressed to apply, in accordance with the terms and conditions of the scheme; and

(b) varies or excludes, as provided by the terms and conditions of the scheme, other rights of persons for whose benefit the trust or the fiduciary duties exist or existed in respect of the irregularities (or possible irregularities) to which the scheme relates.

(4) The terms and conditions of a transfer or rectification scheme under this section are enforceable as if the proclamation making the transfer or establishing the scheme were a deed binding on all persons to whom it is expressed to apply.

It is a consequential part of the same amendment.

The Hon. CAROLYN PICKLES: The Opposition supports the amendment.

Amendment carried; clause as amended passed.

Clause 31—'Payment to be made to Consolidated Account.'

The Hon. M.J. ELLIOTT: It is not in relation to clause 31, but it is just an opportunity to ask a question of the Minister. I forewarned him earlier today that there was one matter I wanted to raise while this SGIC Bill was before us, and I have spoken privately with the Treasurer, but it is important that the question is answered on the record. I received correspondence—unfortunately, I failed to bring it into the Chamber with me, but it was fairly straightforward—which had taken place between the Treasurer and constituents on the issue of the privatisation of SGIC. The question that was asked of the Treasurer was: what would happen to the Government guarantee in relation to investments, life insurance policies and those sorts of things, because many people had invested in debentures, had bought policies, whatever, because there was a Government guarantee? If one reads the Act, one can see that that Government guarantee is removed—wound back in a fairly short time frame. With the Treasurer previously giving an undertaking that there would be an ongoing guarantee—this is what was said in the letter—I would ask the Minister to respond to the apparent anomaly between the correspondence that transpired and what the legislation provides.

The Hon. R.I. LUCAS: Not having a copy of the correspondence before me, it is difficult to respond, and the honourable member has indicated that he has not brought his copy of the correspondence to the Chamber, either. However, I am advised that there was some correspondence which, in broad terms, indicated that the guarantee would continue after the date. One can argue that, if the guarantee is to continue after the date, in the negotiations the Government has, in effect, established limits, depending on the various investments, some in terms of five years and others, such as term life investments, for nine years. So, it is to continue after the date for specified periods.

The Treasurer's position is that, when negotiating these positions during this process, one must be realistic. The Treasurer's view is that most of the investments will turn over in the periods that have been discussed, that is, five years and nine years. I am advised that the regulations of a body called the Insurance and Superannuation Commission will continue to protect the interests of investors, even after those periods have elapsed.

The Hon. M.J. Elliott: Are you saying that they act as a full guarantee in any case?

The Hon. R.I. LUCAS: I do not think they act as a full guarantee. I am advised that the regulations that guide its operations serve to continue to provide some protection for their interests. I am advised that the guidelines relating to the operation of the Insurance and Superannuation Commission will be much more stringent in terms of ensuring, in lay person's terms, proper conduct of insurance companies in terms of their investments. The commission can, in effect, stop business trading; it can make directions in relation to investments; and it has an ongoing monitoring role in terms of the operations of these companies.

In broad terms, the commission is much more stringent and can be much more restrictive in terms of its directions and controls, with the broad overall goal being to ensure that the companies operate responsibly and in the interests of those who invest in them. As the honourable member knows, I am not an expert in this area, but I guess that the changes have been borne out of the major concerns that developed throughout the 1980s in respect of the operations of some companies and the views of Governments that clearly there needed to be tighter controls in this broad area.

The Hon. M.J. ELLIOTT: Although I did not bring the letters with me, I recall that they were very short, running only to a couple of sentences, and were not complex. My reading of them was that there was no qualification—simply that the Government guarantee would continue, and there was no suggestion that it would cut out at any stage. For the record, I note that that is what the letters said. I am not sure whether the Treasurer wrote to many people in those terms, but a couple of people believe that they have a certain assurance, and that has not shown up in the legislation.

Clause passed.

Remaining clauses (32 to 36), schedules and title passed.

Bill read a third time and passed.

ROAD TRAFFIC (SMALL-WHEELED VEHICLES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 7 June. Page 2125.)

The Hon. SANDRA KANCK: This Bill seeks to lift the ban on the use of small-wheeled vehicles which we more commonly know as roller skates, skateboards and roller blades by classifying their users as pedestrians and thereby permitting them on footpaths as well as some minor roads during daylight hours.

The approach taken by the Government in this legislation is inclusionary; that is, all places are fair game unless they are excluded. The Bill establishes a code of conduct for small-wheeled vehicles and requires that their users comply with other regulations relating to bicycles such as the compulsory wearing of helmets.

The current system, where the law fails to recognise, let alone sanction, the use of these forms of transport or recreation is unworkable, and the Democrats welcome the opportunity to engage in a sensible debate about reform of the law in this area.

Basically, young people who use these vehicles are breaking the law if they go outside their own front gates on them. That is just plain stupid given that it is decades since roller skates were invented. The Democrats have sympathy with the users of roller blades, skateboards and roller

skates—users who are predominantly young people—and parents who let their children use them knowing that their use is illegal in many instances.

When my son was younger using first roller skates, then a skateboard and, more lately, roller blades, I was always concerned that no matter where he used them he was effectively breaking the law. This is not a comfortable position for any parent to be in. However, my observations are that our law enforcers generally do not attempt to police the current law because it is so stupid. That makes it easier on the parents, but it means that the small minority of irresponsible roller bladers are not pulled up.

The need for parents to know not only that their children are observing the law but also that their children are safe points to the need to set aside dedicated areas, not just shared areas with pedestrians or motorists. It also points to a need for the Government to create more areas such as the linear park, where the users of small-wheeled vehicles can travel safely. The Bill's approach, particularly through clause 7, is to sanction the use of small-wheeled vehicles subject to exclusion. Clause 7 allows that to be done by regulation or by use of a traffic control device. With regard to the first method, I would be very interested to hear from the Minister what areas the Government is considering excluding by regulation, or even to see a draft copy of regulations. I consider that some areas would be out of bounds everywhere in the State, for example, within a certain distance of hospitals, nursing homes, aged care hostels, etc.

In relation to the second method, I am told that a traffic control device includes a restriction sign, so it would allow local councils to erect signs saying that a particular place is not available for the use of small-wheeled vehicles. I am concerned that local councils might take the opportunity to put up signs which ban the use of such vehicles in an entire local council area, and I am considering the introduction of an amendment which would require every street, lane, walkway or shopping mall to have a sign erected if they want to go down that path. The cost of doing that would be a significant inhibitor to those bodies which might consider a blanket ban.

The Hon. M.S. Feleppa: $90 each.

The Hon. SANDRA KANCK: That is right. The Local Government Association told me that they cost $90 each. As I mentioned, there are some areas, such as the linear park, which appear to be very sensible places for the use of small-wheeled vehicles. I would be concerned if local councils took action to declare them out of bounds. Does the Minister consider that the Bill has adequate powers to prevent that happening?

I have been lobbied by the Local Government Association, which is very concerned about the cost of putting up signs to ban roller blades from any area not covered by the Bill which, incidentally, I estimate to be 90 per cent of non-privately owned land in urban areas. The association has argued to me that it would prefer an exclusionary rather than an inclusionary approach.

The Democrats are concerned about the legal impact on local councils, particularly in relation to nonfeasance and misfeasance liability. We seek further clarification from the Government on this matter. Councils would be much more comfortable if they could be guaranteed limited liability.

In her second reading speech, the Minister acknowledged this, but seemed content with the legal opinion given to her, it would appear by Crown Law. The LGA has received a different opinion and, in its meeting with me, it referred to a court case which was brought against the Ridley-Truro council by a driver who was paralysed as a result of a car accident in which the camber of a corner was partially responsible for the car overturning.

The LGA made the point to me that, in an increasingly litigious society, lawyers look around to find another party they can join to a case, particularly if someone sustains major injury, and local government appears to be a particularly good target. It fears that, as a result of accidents which might occur, for example, a roller blader tripping and falling because two paving stones are at different heights, the injured party would look for someone to sue, and local government is likely to be it.

I suspect that that could happen today without the Bill being passed, but I imagine that a court case might have greater legitimacy if the law says that it was okay for that person to be riding on that particular footpath. So, I ask the Minister to look again at this question of limited liability before we get to the Committee stage.

There is a considerable amount of concern, particularly among our elderly citizens, about the safety aspect of small-wheeled vehicles—particularly roller blades—being used on their footpaths. However, I have been heartened to find out that the groups representing them on the working party, including the Australian Retired Persons' Association, the Officer of the Commissioner for the Ageing and the South Australian Council on the Ageing, supported the drafting of this legislation. I am also assured by interstate research which indicated no observable increase in reported hospital casualties involving small-wheeled vehicles following the passage of similar legislation in other States.

I have received letters and telephone calls from elderly people who fear being knocked over by roller bladers, but the point is that that potential problem exists now outside the law. While the elderly are quite vocal with their concerns, young children and teenagers would be mostly unaware that this legislation is in the Parliament, and virtually no-one is representing their point of view or that of their parents.

I believe that it will be better to get laws in place so that there is a workable system which our police officers would be willing to enforce. Local government staff might also need to be given powers to enforce these laws, and I would appreciate some feedback from the Minister about that.

I think that most young people will continue to use these vehicles responsibly. It would be unfair to penalise the many thousands of young people in this State because there are a few irresponsible ones. We should take this opportunity to get in place a workable system which would encourage even the irresponsible users to become more responsible, even if for no other reason than they know there is a great likelihood that they will be caught. Putting this practice in a legal context would, for instance, allow safety measures legitimately to be taught in primary schools.

I think that this Bill falls into the 'hasten slowly' category of treatment. I support the second reading, but I think we must get it right and, if that is going to take time, I think that we should give it the necessary time.

The Hon. M.S. FELEPPA secured the adjournment of the debate.

SOUTH AUSTRALIAN HEALTH SERVICES BILL

Adjourned debate on second reading.

(Continued from 30 May. Page 2006.)

The Hon. BARBARA WIESE: On behalf of the Opposition, I support the second reading of this Bill. I indicate that the Opposition is in favour of constructive reform of the health system, but only after full consultation and debate. We acknowledge that the current system and the Act have been in operation now for some 20 years and that there is some need for revision and for change. We accept that the Government has a mandate to replace the Health Commission with a department and to introduce regional organisations, and accept also that the Minister requires some increased powers to provide better coordination of health services. However, this Government does not have a mandate to claim unfettered powers to do what it likes with the people and the community assets which make up our health system.

As we all know, very few people in the health sector had the opportunity to see the Bill before it was introduced in another place. However, during the past few weeks, thanks to the Opposition shadow Minister, they have now had the opportunity to study the legislation. I believe that without exception the people in the health sector who have looked at this legislation are alarmed at what they see because the Government has not simply settled for sensible reform: it has tipped the balance to an extreme position.

The Bill seeks to change the entire administrative structure of the health system by abolishing the Health Commission and disarming any dissenting voice to the massive cost cutting which is about to occur within the hospital system. This started with last year's State budget and has continued this year with another $45 million worth of cuts, and that is after receiving an additional $75 million from the Federal Government. The Bill will give the Minister power to close or amalgamate any hospital or health service at will and without reason; to determine the number of beds in any hospital, which will allow the Minister to decide on the basis of political expediency rather than community need; and to keep the most fundamental planning document which outlines policy strategies and guidelines secret and able to be changed without any public consultation or approval from Parliament.

The Bill enables the Minister to dissolve hospital boards, to sack all or any members of a hospital board of directors and to remove Health Commission staff from security of tender by placing a good number of them on contract employment. It enables the Minister to expropriate hospital assets by closing down country hospitals and handing over the building and equipment to any 'appropriate community organisation' or public body. However much the Minister may seek to assure the public that it is not his intention to abuse these absolute and unqualified powers given to him under this Bill, it is a fact that these powers exist in the Bill and may be used at any time in the future if he or some successive Minister wishes to do so.

This is a Bill with far reaching ramifications. One country hospital chief executive summed up the legislation by saying, 'It is the most rampant, centralist piece of legislation I've ever seen.' Others in the health sector and members of the public who have been on the receiving end of the way the current Minister operates are saying, 'We don't trust him to exercise these wide ranging powers responsibly, and we want some safeguards built in.' People have seen the way this Minister has denied any community consultation prior to the amalgamation of the Lyell McEwin Hospital, for example, and prior to the privatisation of the Modbury Hospital, and they are saying, 'We do not want that to occur in the future.' Community health facilities are just that: they belong to the community, and the community has a right to be consulted before changes are made to our public health system.

The Opposition has been consulting extensively with the public and it has encouraged discussion. We intend to move a series of amendments to build in the safeguards that people are looking for. We fear, as people in the health sector do, that the Minister wants this legislation passed quickly so that he can impose further funding cuts at a rapid rate, free from any interference from independent hospital boards. If this legislation is not amended, this will leave the community powerless to prevent the mayhem in the health sector that is about to begin.

Apart from the total lack of checks and balances on the Minister's powers under the new Bill, the Opposition believes there are many other deficiencies with the legislation. There is a total lack of consultative processes in the management of hospitals and the health system. While the Minister gives himself and his chief executive the powers to intervene in every aspect of hospital and health service management, there is no requirement for consultation with boards and local communities in the exercise of these powers. The Bill does not guarantee that major undertakings given by the Minister to the health sector in discussions leading up to this Bill will be implemented. We are left with the 'trust me' approach, and the Minister's track record on honouring promises to this date—some 18 months since he assumed the mantle—is not good.

The right of the Minister to dissolve hospitals—especially country hospitals—and dispose of their assets without the consent of the local communities and boards that may have raised the funds to provide the assets in the first place is unacceptable. The Bill does not provide adequate accountability by the Minister, his new department and chief executive to Parliament and the public. Neither does it provide adequate accountability from private sector contractors whom the Minister is intent on drawing into the public health system in large numbers to perform a wide range of functions, including running public hospitals.

The Bill is silent on access and equity objectives, and the requirement of high quality health care comes a poor second to the economic and efficiency considerations required of health units. The Bill lacks adequate legislative protection for the existing employees of the system.

The Hon. Diana Laidlaw: Can you just confirm whether that is the nature of the amendments that you will be moving?

The Hon. BARBARA WIESE: I will go on to talk about that, but certainly we will be addressing these sorts of things by way of amendment.

The Hon. Diana Laidlaw interjecting:

The Hon. BARBARA WIESE: Both, actually. There is no mention in the Bill of advisory committees which are provided for in the Health Commission Act. Aboriginal health is not mentioned in the Bill, with the exception of a reference which was included by way of Opposition amendment in another place. There is no provision for a body to deal with health complaints, a requirement under the Commonwealth State Medicare agreement. The Minister has said that it is not necessary to make reference to complaints handling in this Bill because it is covered in the Medicare agreement. The fact is that he has done nothing about implementing this requirement.

Having been exposed to the ignorance and indifference on this particular matter that exists within the Health Commission itself, I am certainly convinced that the legislation

should require some mechanism for complaints handling to ensure that something is actually done about it, because, quite frankly, there does not seem to be very much commitment to making it happen. The interests of health consumers generally are ignored in the Bill. It is almost as though patients get in the way of running our hospitals.

Following wide consultation on the Bill we are more than ever convinced that extensive amendments are required to overcome these deficiencies and, unless substantial change is made, the Opposition cannot ultimately support the Bill. The Bill is so far from acceptable that it is almost at the stage where it ought to be withdrawn and redrafted. In fact the dilemma that we have faced during these past few weeks since we first sighted the Bill is to decide to what extent it is possible to amend it rather than completely re-writing it. The reaction from many in the health units who will be affected by the legislation and who have been examining the Bill is one of shock at the unfettered powers now given to the Minister, horror that the guarantees provided by the Minister have not been enshrined in the Bill, anger at the speed with which the Bill is being forced through Parliament, and fear for the future of the community assets now under the control of local hospital boards.

The Hon. Diana Laidlaw: That was produced in March. It has been around since March and April.

The Hon. BARBARA WIESE: The end of March; that is correct.

The Hon. Diana Laidlaw: We have not pushed it this past fortnight.

The Hon. BARBARA WIESE: But the point has to be made that when you are undertaking a complete reorganisation of the health system, which is such a huge and complex system, it is not the sort of thing that you can expect relevant people to be able to get their minds around and to understand within the space of four or five weeks. Any Minister who was concerned to have community support for changes as extensive as these would have embarked upon a very detailed consultation process with people in the health sector even before a Bill was even drafted. The Minister certainly may have and should have had ideas about what he might want to implement, but he should have been talking to people in the health sector for months before he brought a Bill into this place.

The problem that we have now as Parliamentarians is that we are to trying to amend an unsatisfactory piece of legislation to accommodate the needs and views of vast numbers of people in the health system and it should not have been done that way. The Minister should have been undertaking the consultation. He and his officers should have been explaining to people what sort of changes the Government was contemplating implementing so that they may have had the opportunity to comment and have their views taken into consideration before drafting rather than now during the course of Parliamentary debate. It is a quite unsatisfactory way of dealing with issues in a system as big and as complicated as is the health system.

The Hon. J.F. Stefani interjecting:

The Hon. BARBARA WIESE: I do not think that is at all correct. The Hon. Mr Stefani indicates that that is the way things happened under Labor. That is not correct and I point out to him that it was a Labor Government that established the Bright inquiry into the health system 20 years ago, which led to the last redrafting of health legislation. That inquiry represented a major consultation with stakeholders in the health sector and led to the drafting of legislation which then came to the Parliament. So, do not tell me that we were not about consultation because that was exactly the hallmark of our Government in this area. If the current Minister followed the pattern established by our Government, he would not have the sort of problems that he has currently in the health sector with this Bill and with the other measures he is taking.

The health sector has pointed out to the Opposition—and I am sure to other Parties in this place—that the Bill simply does not deal with health issues. It does not, for example, define health, which is extraordinary for a Bill that is supposed to cover the health sector and the objectives that the Government may have for the health of the community of South Australia. The Bill does not provide any sort of commitment to better health care, or certainly the commitment is insufficient without some mention of a commitment to health promotion, which is absent from the Bill.

The Bill is silent on giving an emphasis to primary health care. The people in the health sector say that, by centralising more powers to the Government, it runs counter to primary health care principles. Overall, health professionals find it rather offensive that the Bill concentrates primarily on financial management issues and overlooks health considerations almost completely. This Bill contains the most radical changes to the health system in 20 years. It has deserved greater scrutiny and discussion than the Government has allowed.

I reaffirm the Opposition's commitment to the continuation and preservation of the public health system and repeat that we will seek to amend this Bill to ensure that the drive for reform does not ignore or discard the desirable attributes of the existing system. In addition, we will seek to build in the important principles of accountability and community participation, both of which are essential to the health and well-being of the community and the health system itself. I shall have more to say about these important issues in Committee.

The Hon. SANDRA KANCK: I support the second reading of the South Australian Health Services Bill but wonder perhaps, in the light of the recent budget cuts, whether we ought not to be amending the title to 'South Australian Health Disservices Bill'. The Government quite openly states that it is not its intention that this Bill should have anything to say about health outcomes but that it is merely an administrative tool to streamline the workings of health units, whether public or private. If it was simply a matter of Government streamlining administrative arrangements, the Democrats could probably support such a Bill outright. However, the Government's role in the provision of health services has to be a whole lot more than just merely outlining some administrative functions for health units.

This Government appears to be mostly interested in the commercial side of health and not in positive health outcomes for all South Australians, which is unacceptable to the Democrats. It is the responsibility of the Government to ensure that good health outcomes are available to all South Australians. It is not possible to speak of health outcomes without having something to say about social equity, and it is very difficult to work towards social equity without consulting the community. This is where this Bill fails drastically. The Democrats are very concerned about a number of matters in this Bill, in particular the concentration of power and lack of Government accountability.

When the Bill was first introduced in the Lower House late last March many people who work in the health area

expressed alarm to us at the increased power and control of the Minister and the chief executive and the lack of consultation with the community. Moreover, given the greater pressure on the health budget and indeed the Government's insistence on reducing the amount of money spent on health, it becomes more and more important that community members play a large role in determining health priorities and their own health requirements.

In the second reading speech the Minister stated that South Australia needs an effective system to respond to change. Given that all the changes to the health system in the past 18 months have been primarily to reduce funding, this statement is cause for concern. Will this Bill make it easier and quicker to reduce funding? The Minister's second reading speech identified the following health challenges facing the Government: first, financial realities; secondly, ageing population and sufferers of long-term illnesses; thirdly, inequitable distribution of health resources; fourthly, high costs of health technology; and, fifthly, asset upgrading. However, it is difficult to see how this Bill and the Government's shift toward greater private involvement in our health system adequately address any of the challenges.

I will now address each of these challenges identified by the Government and defy the Government's Bill to adequately address these matters. The first challenge, the Government says, that faces our health system is financial realities. The Democrats have no argument with a commitment to reduce State debt, but handing over our public hospitals to the private-for-profit sector to apparently reduce State debt will not guarantee our State's health requirements and it would be intellectually dishonest to suggest so. Private-for-profit hospitals provide profitable health care to those who can afford to pay. With the wealth disparity growing between rich and poor, a shift toward private health care at the expense of public hospitals can only mean fewer services available to the increasing number of poor South Australians.

Privatisation results in a reduction of jobs in the health services industry because this is precisely where the major savings are made. The way the Modbury Hospital has become more profitable is to reduce the level of staff providing care. Privatisation divides society between the haves and the have-nots, causing the society of the 1990s to become increasingly dysfunctional.

The Government says that the second challenge facing us is the ageing population and the sufferers of long term illnesses. As is well documented by the Health Commission, Australians are living longer, which results in an increase in health costs. Ironically, the use of new and expensive medical technology, including drugs, increases people's expectations to live and chances of living longer, which in turn increases costs for the provision of health services. This phenomenon is occurring irrespective of whether our health care is private or public. However, there is much evidence, for example, the Evatt Foundation, but also many others, which shows that in the long run a private-for-profit sector makes health care more expensive. They are primarily interested in the money making side of health, as they are answerable firstly to their shareholders. Because private firms have no interest in funding the non-profitable preventive focused primary health care system—after all, they profit from ill health—it is essential that the Government have in place an effective strategy for primary health care. Such a strategy will make health care cheaper overall.

The third challenge nominated by the Government was the inequitable distribution of health resources. It is ironic that the Government on the one hand identifies inequitable distribution of health resources as a challenge and then moves towards privatisation of some hospitals. In the United States, 35 million people out of a population of 250 million people, that is, 14 per cent, have no access to health care, and a further 60 million, that is, 24 per cent, are not fully insured. The total number of US citizens who have either no access or inadequate access to health services comprise 38 per cent of the population. Should someone in that 38 per cent fall sick with a long term illness such as cancer they have no alternative but to sell off their home to pay for continued health care. Now that we have begun the trek down the privatisation path, I fear that we will see a similar trend here. Just what the Government plans to do in response to the challenge of the inequitable distribution of health resources is still unclear, and this Bill sheds no light on the matter.

The fourth challenge was the high cost of health technology. There are two ways to survive as humans: first, we can live in healthy environments, eat healthy foods and pursue healthy life-styles or, secondly, we can be reckless in the design of our cities so that poisonous car emissions can damage our lungs, allowing high pressure advertising to seduce us into eating fat-laden foods and leading sedentary lifestyles, then resorting ultimately to drugs and other technology to reduce the resulting conditions such as asthma attacks and coronary disease. Humans are supposedly an intelligent race. If we do not want to rely on technology to stay healthy, we can avoid it, provided Governments do not get the public addicted to the techno fix.

Health experts warn us about the hazards of car emissions, including the harmful impact that lead has on our children, and the impact that the carbon dioxide has on the greenhouse effect. So what have our Governments done? The State Government is funding the construction of the southern expressway, and the Federal Government is funding construction of a tunnel through the Adelaide Hills, which can only encourage onto the roads more cars with their negative health impacts. Our Governments have had viable and affordable alternatives for better health outcomes in these two instances but has chosen to go down the path which leads to greater dependence on technology in order to survive in such an unhealthy environment.

This leads me to a discussion on the important role of community health. We are all aware of the old adage that prevention is better than cure. With respect to community health, there is the added bonus of prevention is cheaper than cure. Yet despite the important role that community health plays in providing preventive health, community health centres, including women's health centres, have been forced to amalgamate and operate with reduced funding. Given their important role and already scant budgets, it is hard to believe that this Government is serious about health.

As our societies become more knowledgeable and expect-and some even demand—technological advancements in medical treatment, we as a community will have to pay for it. But while the pressure for more technology exists as a reality, the Government should not disregard the importance of preventing ill health in the first place. Policy makers would be naive to disregard the cost savings that the community health sector provides through preventive health programs. Recently, this Government forced an amalgamation of a number of community health centres which are both diverse in the types of services that they provide and are geographically spread. I would now like to share with members the view of the community health centres who were involved in

one such amalgamation. This is what they had to say on the matter in a letter to the Health Minister:

> It is with great reluctance that the board of directors of the Inner Southern Community Health Service accept the current moves to establish a central community health service, comprising present Inner Southern, Port Adelaide, Eastern and Parks Community Health Services and Dale Street Women's Community Health Centre.

As an aside, I observe how little community of interest all those groups would have. The letter continues:

> We believe that the size and complexity of the proposed new service will be detrimental to:
>
> 1. The implementation of the principles of primary health care, especially those relating to community participation and locality based planning.
> 2. The identity of health professionals with a specific locality.
> 3. Maximising opportunities for effective and efficient use of resources to promote health with individuals and local communities.
> 4. It is anticipated that the service will be costly to establish and maintain, with a bureaucracy that will be significantly larger than that of the current services.
>
> The board of directors agree, with reluctance, to accept the process, given that there appears to be no alternative which will safeguard some future for community health but urge those involved in the process to attempt to overcome the above problems as far as possible.

The fifth challenge the Government mentions is asset upgrading, as follows:

> Asset upgrading is a consistent cost in the provision of health care.

However, the former Government failed to keep our public hospital assets upgraded and thus our State is facing a larger bill today. But this bill does nothing to address this issue, as it has failed to address all five foregoing health related challenges facing the Government.

I would now like to speak in more detail about the concerns the Democrats have with particular aspects of this Bill. First, the lack of vision for better health outcomes for all South Australians. Apart from the savage health cuts being imposed on our State's health system, a reduction of $60 million over two years, the Government appears to have no vision with respect to the provision of health services in this State. In particular, public hospitals have had to bear the brunt of many changes, such as casemix funding, contestability, regionalisation, and the introduction of the purchaser/provider model, and at no stage has it been made clear to health service providers what the end result might look like.

Whilst efficiencies are important in making savings to taxpayers, the shift towards the purchaser/provider model will not necessarily produce sound health outcomes brought on by these efficiencies, despite the glowing recommendations in the Minister's second reading speech. It has not been a triumphant success in either Great Britain or New Zealand. Under a perfect or classic market situation, it is the consumer who benefits from competition on the basis that a number of players in the market keeps prices at both a fair and competitive level. However, under the purchaser/provider model, the consumer, that is the patient, will not be the purchaser of services but rather the commodity. The Health Department will be the monopoly purchaser and will buy health service from health providers on behalf of the consumer, that is, South Australians.

Consumers will have to accept the type of service, including quality and price, that is purchased by the health department. Because of the pressure to keep down prices for health service providers, the quality will undoubtedly have to be lower. Under such a system the consumer, in fact, becomes a commodity that is being bargained for between the health department and health providers. The patient is not making a consumer choice like a buyer in a market but is the commodity that is being traded.

The second concern of the Democrats is the power and control of the Minister. As I said earlier, the major concern that health providers have raised with us is the power of the Minister and chief executives over the boards of community and public hospitals. Community health centres and rural hospitals, in particular, are concerned at this imbalance of power in decision making. Although the Minister currently has the power to reduce the number of boards and amalgamate hospitals, the wording in this Bill enables such action to be taken with complete ease, because there is neither consultation nor accountability in the process.

Our third concern is the lack of community consultation. The Government claims that one of the effects of regionalisation will be to improve community consultation. It is intended that each region will be given a pool of money and will have to decide for itself how the community will spend those funds, ranging from primary health care funding to funding its local hospital. This is, in fact, not community consultation; this is just a way in which the Government can reduce health expenditure and/or planning and palm off the political flack to those regional bodies. For example, a community health centre might be critical of the health Minister for not providing adequate funds to their local health centre, but the Minister could pass the buck and tell them to take up the fight with their regional decision making body. It is the role of central Government to plan—I stress with community consultation—both short and long-term health requirements for the entire State, and it has the resources to do this. Such planning must include a mix of providing short-term hospital health care as well as adequate funding to community health centres in order to keep people healthy so that they do not get sick.

Regional decision making bodies will not have the administrative and policy back-up which might be necessary to decide the balance between these two. This Bill will reduce the level of community consultation and, in fact, as the Hon. Ms Wiese has observed, the way in which this Bill was introduced is a reflection of the Government's lack of commitment to consultation. The Democrats believe that this Bill should have been circulating in the community in draft form six months before it was introduced to Parliament. My office received many telephone calls and faxes when the Bill was introduced because, first, there was no consultation and, secondly, the new system as set out in the Bill does not allow for boards to have input into the design of their health unit; rather, they are to accept decisions from the Minister and the CEO. Furthermore, if these orders are not adhered to the board can be sacked.

Our fourth concern is privatisation. The Government openly states that the main purpose of the Bill is to streamline administrative arrangements of health services and that, quite rightly, it does not have anything to say about health policy or strategy. Given this fact and given that this Government has taken upon itself to sell off our public assets rather than manage them, many people have become very wary about what the Government's real agenda under this Bill might be.

Concern No. 5 is the new funding arrangements. A number of methods are being used by the Government to make health services more 'efficient'. These include the purchaser/provider system, contestability and the threat to privatise public hospitals. Under the purchaser/provider system, service providers will have to bid for the price of

their work. Care workers in the community health sector are extremely concerned about the impact that such a system might have on both the level of care for patients and employment conditions of care workers. Experience of the change to a free enterprise system of health services in New Zealand has shown that there are impacts on service delivery. For instance, a worker might tender for a particular job, say, giving an elderly woman a shower at home. On average, the time of the job might be 15 minutes, and the care worker makes the tender on that basis but, if the elderly woman happens to slip whilst showering, the care worker has two choices: either the care worker rushes the job irrespective of the trauma that the woman might be suffering from the fall or the care worker stays and comforts that woman in his or her own time. If the former is chosen, the quality of care for that woman is reduced considerably; if the latter is chosen, the worker is disadvantaged industrially.

Although the Democrats have many concerns about this Bill, it does provide a rare opportunity to produce a health Bill which provides the Government with a framework to ensure good health outcomes for all South Australians, and the Democrats' amendments will take advantage of this opportunity. The Democrats propose that the Government establish a council at State level to advise the Government on health priorities. It is proposed that this council be comprised of seven members who are nominated from peak bodies ranging from the AMA to the Hospital and Health Services Association, the UTLC and SACOSS. The council is to have a number of functions, but most importantly it is to advise the Government on policies, strategies and guidelines for health service delivery in this State.

To assist the council in the performance of its functions, the council would establish four consultative committees. At this stage I propose that they be in the areas of hospitals, community health, women's health and rural health. The Government intends that the new health department establish regional advisory panels. However, this is not formally recognised nor guaranteed as it is not included in the Bill. However, my amendments will formalise these community forums. In accordance with the Commonwealth-State Medicare Agreement, South Australia is compelled to set up a complaints authority. However, neither the former Labor Government nor the current Liberal Government has done this. An independent complaints authority is crucial for keeping a record of complaints levied against hospitals and individual doctors as this acts as a check for consumers when they decide on which hospital or doctor to use. It also acts as a guide to the Government to decide whether hospital licences should be continued or whether doctors should be allowed to continue practising. My amendments, if passed, would ensure that such an authority is set up and would apply to private as well as public health units.

In conclusion, the Government's Bill is very scant on ensuring good health outcomes for all South Australians, but the Democrats have accepted the challenge to alter the Bill so that the new health department will be able to provide quality health care. The Democrats support the second reading.

The Hon. J.F. STEFANI secured the adjournment of the debate.

SITTINGS AND BUSINESS

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I move:

That the Council at its rising adjourn until Tuesday 4 July at 2.15 p.m.

In moving this motion, I want to take the opportunity to pay tribute to 21 years of service by Mr Arthur Kasehagen, former Head Messenger for the Legislative Council. On behalf of Government members in this Chamber I thank Arthur for his service to members and the institution of the Legislative Council. I want publicly, as I know do other members, to thank Arthur for what has been almost a lifetime of service to members and, as I said, the institution of the Legislative Council.

I was not in the State on Arthur's final day, when, I know, a small presentation was made to him. I was interstate at a ministerial conference, and I was very sorry that I was unable to be here at least to pay some small tribute to Arthur on behalf of Government members on that day. I know Arthur, with his generosity, would understand that some members were unable to be there, and I am sure he would understand the reasons why I was, and some other members were, unable to share part of that last day with him.

I understand that most other long serving staff members have had reasonable size farewells, I suppose is the best way of putting it, but, as was typical of Arthur, he absolutely insisted that he did not want a farewell where all members and staff were invited. Those members who have known Arthur over the years will know that that is typical of him. He may have been a touch embarrassed by all the attention that might have been bestowed upon him and, in his own way, he preferred to bow out as quietly as he could.

Well, Arthur cannot get away that easily, and, as I said, we want to take the opportunity this afternoon whilst we have a break in the proceedings to allow some members to place on the public record our respect for Arthur and for the work that he undertook.

The Clerk has been kind enough to give me a little bit of background on Arthur, who was a bit of a mystery to some of us in terms of his own background. We always new him as Arthur, but I must admit it was about 15 years before I knew his surname. That was only because at one time I happened to be running around the Torrens River in the Corporate Cup and this person—

An honourable member interjecting:

The Hon. R.I. LUCAS: No, it wasn't Arthur. This person went scooting past me, and I happened to see this person in Arthur's office later, and it was Arthur's daughter, who is, evidently, a long distance runner of some renown.

The Hon. R.R. Roberts: Just because she beat you doesn't mean much.

The Hon. R.I. LUCAS: As the Hon. Ron Roberts said, just because she beats me does not mean much, and I must concede that. In terms of long-term running ability that is certainly correct. However, I suspect that she might even have beaten the Hon. Ron Roberts, which would be no mean feat. It was only on that occasion, which is as I said only a few years ago now, that I knew Arthur's surname. He has always been known as 'Arthur' to everybody. This afternoon I was saying to one of the members of the Legislative Council that we were going to have a tribute to Arthur Kasehagen, and there was a blank look. I was asked, 'Who is Arthur Kasehagen?', to which I replied, 'Arthur', because he was

always known to us in that way. For different reasons, people such as Madonna, Cher and others have been known by just one name, and Arthur was known just as 'Arthur'—for different reasons, Arthur, when you read this!

As members will know, my parliamentary association has been only since 1982, or 13 years, but my involvement in politics goes back to 1973, and my association therefore with the institution of Parliament goes back those 22 years now, and Arthur evidently served for some 21 years, I am told. As I said, I can always remember the only familiar face, the only constant in all that time, perhaps with the exception of the Clerk (I am not sure) has been Arthur. That friendly, smiling—

The Hon. Barbara Wiese interjecting:

The Hon. R.I. LUCAS: Not quite that long. I think the Hon. Barbara Wiese was 1975.

The Hon. Barbara Wiese: I started working here in 1975.

The Hon. R.I. LUCAS: Well, there is another constant around Parliament House. That smiling face in the corner office was unfailingly friendly in all those 20-odd years that I have had contact with Arthur, and I have never once heard him raise his voice or lose his temper. I am sure we could all understand that on many occasions he would have had some right to get a little bit short tempered with some of us for keeping him here all hours of the night and making a whole series of requests, perhaps at short notice. However, I can never remember honestly an occasion where I saw him lose his temper. Perhaps Arthur had a dog to which he went home each night and kicked and on which he took out his frustrations, although I understand that his dog is called Toby and he does not do that sort of thing. But, whatever was involved, it was always a constant feature of Arthur's work. In this respect, I refer to his friendliness towards everybody: staff, members and visitors to Parliament House.

I had not realised that Arthur started his work in the House of Assembly in his early days and then was promoted, obviously, to the Legislative Council in terms of working as a messenger here. Prior to working in the Parliament as an institution, I am told that Arthur worked as a wool classer with Elders, but he has had 21 years or so working in the Parliament.

Again, I think one of the constant features of my recollections over the 20 years or so is that Arthur seems to be someone who has never changed. I am not sure whether or not the Hon. Barbara Wiese thinks she has changed over those 20 years.

The Hon. Barbara Wiese: Not at all.

The Hon. R.I. LUCAS: Not at all, she says. I will accept that, being a gentleman. I must say that I have changed a fair bit in 20 years, and I think that especially when I look at the old photographs. However, when one looks at Arthur and recalls him, one realises that he really did not change.

An honourable member interjecting:

The Hon. R.I. LUCAS: The Hon. Ron Roberts is correct: 20 years ago I had long, flowing black locks down to my shoulders before I started work—

The Hon. R.R. Roberts interjecting:

The Hon. R.I. LUCAS: My daughter, Hannah, saw a photo of her father a couple of weeks ago—university vintage 1972 and long flowing black locks down to the shoulders and a fringe—

An honourable member interjecting:

The Hon. R.I. LUCAS: Casually tossed the hair back.

The Hon. Sandra Kanck: What about a caftan?

The Hon. R.I. LUCAS: No, no caftan. I wasn't a Democrat. I was a Labor voter at that time but I was not a Democrat. We have all changed in those 20 years, but with the fond remembrances of Arthur one realises that he does not seem to have changed at all in those 20 years. I know I speak on behalf of all previous Liberal Party members, if I can put it that way, who served in Government and in Opposition, and I have never heard one of them on any occasion indicate a concern or a major concern in terms of the way in which Arthur operated or about the work he did in the Legislative Council. Indeed, he treated everybody in such a friendly way.

I am sure that Arthur will get the opportunity to have one last look at the *Hansard*. I think the Clerk will organise to send a copy of this tribute to him. On behalf of all those members, I pay a tribute to you, Arthur, and thank you for your long history of service to the Legislative Council. I wish you a long and healthy retirement.

The Hon. R.R. ROBERTS: I rise to support the motion. I did have the opportunity at Arthur's farewell to make a small contribution in relation to the high regard in which Arthur was held by members of the Labor Party. Indeed, in his contribution the Leader of the Government said that Arthur did not want to have a big farewell; he did not want to have everybody there. However, I am pleased to say that, despite that, most of his friends and work colleagues in the Parliament did avail themselves of the opportunity to have a social gathering with Arthur in the Legislative Council lounge.

I, too, have some fond memories of Arthur. I came to this place as a result of a casual vacancy when the Hon. Dr Cornwall resigned. Most members of Parliament often complain that after the election they get very little orientation about even the geography of Parliament House. I came into this place as a result of a casual vacancy, and I was met at the door by this very courteous and very friendly man, Arthur. I was escorted down to the room that I had been told had been especially kept for me. I wandered down the corridors and was ensconced in what used to be half of the old toilet block. This was somewhat of a shock. There was a desk and a fridge, and there you go! I remember being met by Arthur, and I was impressed by his friendly nature. He was a very obliging man. Nothing was too much trouble. He was also a trustworthy person, and his honesty was never questioned.

From time to time we, as members of Parliament, come into possession of sensitive material which is left in offices and around the place, and we are concerned for the security of those documents. However, there has never been a problem with Arthur. In fact, one could trust Arthur with one's life. He was diligent in respect of his duties; he was exceptionally efficient at his job; and, most of all, he was a likeable character. One of his most endearing qualities was his modesty, for he was a very modest man.

Arthur tells me that he is looking forward to a holiday on Norfolk Island. On the day of his farewell party, on behalf of my colleagues I wished him *bon voyage*. I also wished him the very best of health because, in the past couple of years, he had a few health problems. As an indication of the warm affection in which Arthur is held by members of the Labor Party, I must tell the Council that there was a spontaneous whip-round for flowers for him when he was in hospital.

Let *Hansard* show that we in the Opposition extend our best wishes to Arthur and his family. There is always a welcome mat for Arthur at the door of the Labor Party members of this Parliament. We hope to have the pleasure of

his company for many years and wish him and his family good health.

The Hon. SANDRA KANCK: I knew that at some time this year Arthur intended to retire, but I did not know exactly when. It seemed to be way off in the distance, but while I was gallivanting around other States looking at prostitutes he decided to leave. As a result, I did not have an opportunity to say farewell.

An honourable member: It wasn't in disgust.

The Hon. SANDRA KANCK: No, I am sure it was not. There is a saying that is sometimes used too loosely, when a man is described as being one of nature's gentlemen. In Arthur's case, it really applies. He was a gentle man. That was his outstanding characteristic. I have been coming into this place off and on for about 15 years, either as a staffer, a member of the public or, lately, as a member. It really did not matter in which of those guises I appeared: Arthur treated me the same, with the same respect. He did not differentiate and say that one person was better than another. He had a genuine respect for human beings, and it showed in almost every bone of his body.

Arthur will be greatly missed from this place. I sent him a card once I ascertained that he had snuck away, and it was typical of him to leave in such a quiet way. However, I place on record the Democrats' wishes for him to have a wonderful, wonderful retirement.

Motion carried.

STAMP DUTIES (MARKETABLE SECURITIES) AMENDMENT BILL

Received from the House of Assembly and read a first time.

The Hon. R.I. LUCAS (Minister for Education and Children's Services): 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 contains two measures.

Firstly the Bill would reduce the rate of stamp duty payable on the transfer of listed marketable securities (on and off exchange) from:

- 0.6 per cent to 0.3 per cent for off-market transfers (given that the purchaser bears fully the duty liability);
- 0.3 per cent to 0.15 percent for on-market transfers (given that stamp duty on these transactions is payable by both the buyer and the seller).

Secondly the Bill would strengthen the stamp duty provisions relating to marketable securities to discourage transfers being relocated to lower duty jurisdictions.

This follows the action to reduce rates initiated by Queensland and subsequent announcements in the other major jurisdictions to match the Queensland action.

The direct cost in terms of stamp duty forgone is estimated to be $4 million per annum but the State faced a loss of revenue anyway if it did not match the other State's lower rates.

The decision to halve the duty rate on these transfers will ensure that South Australia's sharebrokers' business will not be disadvantaged by Queensland's action.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides that the Bill is to be taken to have come into operation on 1 July 1995.

Clause 3: Amendment of s.90B—Application of Division

This clause amends section 90B of the principal Act by inserting a new nexus provision in relation to the sale or purchase of marketable securities by or through a dealer. Currently stamp duty is payable in South Australia if the transaction is made by or through a South Australian dealer, and this remains as the primary nexus under the proposed amendments. New paragraph *(a)*, however, provides that stamp duty will also be payable in South Australia if the transaction occurs through a dealer in a prescribed place and the security is a marketable security of a relevant company (ie. a South Australian registered company or a foreign company with its registered office in South Australia) or a unit of a unit trust scheme with its principal register in South Australia.

This section is also consequentially amended to include two new subsections providing that certain transactions are or will be taken to be sales or purchases made by or through a South Australian dealer or a dealer in a prescribed place. The new subsections are simply recast versions of provisions that are currently contained in section 90C, the only difference being that the new versions would apply to both South Australian dealers and dealers in prescribed places (in line with the new nexus provision).

Clause 4: Amendment of s. 90C—Records of sales and purchases of marketable securities

Section 90C is consequentially amended so that it refers to "dealers" generally and not just to "South Australian" dealers (because under the new alternative nexus these provisions may be required to apply to dealers from a prescribed place).

Clause 5: Amendment of s. 90D—Returns to be lodged and duty paid

Section 90D is consequentially amended to refer to South Australian dealers and dealers in a prescribed place.

Clause 6: Amendment of s. 90E—Endorsement of instrument of transfer as to payment of duty

Section 90E is consequentially amended so that it refers to "dealers" generally and not just to "South Australian" dealers.

Clause 7: Amendment of s. 90F—Power of dealer to recover duty paid by him

Section 90F is consequentially amended so that it refers to "dealers" generally and not just to "South Australian" dealers.

Clause 8: Amendment of s. 90G—Transactions in South Australian Marketable securities on the Stock Exchange of the United Kingdom and Ireland

This clause amends subsection (6)*(e)* of section 90G of the principal Act so that it refers to South Australian dealers and dealers in a prescribed place.

Clause 9: Amendment of schedule 2

This clause makes a number of amendments to schedule 2 of the principal Act as follows:

- the rate of duty for conveyances on sale of listed marketable securities is halved;
- the rate of duty on an SCH-regulated transfer (within the meaning of Division 3 of Part 3A) of marketable securities operating as a voluntary disposition *inter vivos* is halved;
- the provision relating to returns by dealers is amended so that it refers to dealers generally and not just to South Australian dealers (because under the new alternative nexus these provisions may be required to apply to dealers from a prescribed place) and the rate of duty paid by dealers under a return is halved;
- the rate of duty payable on a return under section 90G (which deals with transactions in South Australian marketable securities on the stock exchange of the United Kingdom and Ireland) is halved;
- item 24 of the general exemptions is amended so that it refers to dealers generally and not just to South Australian dealers.

The Hon. R.R. ROBERTS secured the adjournment of the debate.

[Sitting suspended from 4.58 to 8.15 p.m.]

SHOP TRADING HOURS (MISCELLANEOUS) AMENDMENT BILL

In Committee.

(Continued from 7 June. Page 2143.)

Clause 3—'Interpretation.'

The Hon. K.T. GRIFFIN: I think it is important in the light of the long period that has elapsed since we dealt with

this issue in Committee that I indicate, as I think everyone suspected, that there were some discussions particularly involving the Minister for Industrial Affairs, the Australian Democrats and the Small Retailers Association. Those discussions were directed very largely towards endeavouring to ascertain whether or not there was some framework within which there could be an agreement that this Bill, even in an amended form and particularly allowing Sunday trading, could be passed by this Council and ultimately by the Parliament.

I am pleased to say that there has been an arrangement reached which will enable the legislation to be passed with Sunday trading included in it. Notwithstanding that, there are some issues that the Government has undertaken to address—some by way of amendment and some by way of undertaking—which will perhaps lead to other legislation at a later stage. The general framework of the agreement which has been reached is best reflected in a letter which has been written this evening by the Minister for Industrial Affairs to Mr Jeff Brook, who is the President of the Small Retailers Association, and I propose to read that into *Hansard* for the purposes of the record. The letter states:

Dear Jeff

I confirm the following position on behalf of the Government in relation to the Shop Trading Hours (Miscellaneous) Amendment Bill 1995.

Retail Shop Leases

1. Date of Operation—Government agrees to proclaim the Retail Shop Leases Act 1995 to apply to all retail leases entered into on or after 30 June 1995. The Government confirms that the current discussions on related issues by the Retail Shop Leases Advisory group will continue.

2. Written notice of non-renewal—Government agrees to legislate to require a lessor to provide written reasons for the non-renewal of a retail lease, where requested by a retail tenant. Written reasons shall not in themselves give rise to legal action other than where the vexatious conduct provision (section 75) in the Retail Shop Leases Act 1995 may otherwise have had application.

3. Parliamentary Select Committee—Government agrees to establish a joint House parliamentary select committee into retail shop leasing issues to report on legislative reform within six months on any issues relevant to retail shop tenancies, including the following matters raised by the Small Retailers Association:

- Rights and obligations at the end of lease
- Harsh and unreasonable rental terms
- Rights and obligations of relocations and refits

Legislative action will be taken by the Government following receipt of the select committee's report giving due regard to its recommendations in relation to retail shop leases. The committee report and any legislative action will occur within six months of the establishment of the committee.

Trading Hours

4. Weekly limit in Adelaide—Government agrees to amend its Bill to provide a maximum limit on total number of trading hours for non-exempt retailers in Adelaide city. Prior to implementing this limit by regulation the Government is willing to consult the retail industry, as a matter of urgency, through the Ministerial Advisory Committee (Item 9) and provide the industry with the opportunity to provide advice on this limit. The three year moratorium period referred to in Item 7 will not apply to this regulation.

5. Voluntary trade—The Government agrees to amend its Bill to provide that no retailer in Adelaide city can be forced to trade on Sunday.

6. Voluntary work—Government agrees to amend its Bill to provide that no employee in Adelaide city shops can be forced to work on Sundays and if necessary support variations in retail awards.

7. Moratorium on further changes—Government's position is to support a three year moratorium on further permanent extension to shopping hours in Adelaide city and suburbs, with industry given reasonable notice of any future changes of not less than 12 months. The extent of reasonable notice in any particular case will be referred to the Ministerial Advisory Committee (Item 9) for advice. It should be noted that the Small Retailers Association this afternoon maintained its stance for a four year moratorium, which is not agreed by the Government.

Other Matters

8. Rundle Mall Committee—Government agrees to support representation by Small Retailers Association on Rundle Mall Committee.

9. Advisory Committee—Government agrees to establish a standing ministerial retail advisory committee to report and recommend on retail industry matters including trading hours reform, planning laws and other related matters. The Government confirms that the Minister does not exercise a voting power on this advisory committee as it is advisory to the Minister. Membership of this committee will include members of retail associations including two representatives of the Retail Traders Association, two representatives of the Small Retailers Association and two representatives of the Shop Union (SDA). Consultants on specific issues will be co-opted as required.

10. Planning laws—Government agrees to involve Small Retailers Association in consultation on any planning law, policy issues as they affect retail and shopping centre development.

11. Consultancy funding—Government agrees to examine with all major retail organisations funding options for consultancy work relating to small retail issues.

Yours sincerely, Graham Ingerson, Minister for Industrial Affairs.

It is important to recognise that this letter reflects the outcome of very extensive and substantial negotiations by the Minister. There are, of course, compromises from both the Government and the retailers. In consequence of the negotiations, the Government recognises that these compromises had to be made in order to achieve the legislation which it seeks to have passed through the Parliament.

The Hon. M.J. ELLIOTT: I rise to respond to the reading in of the terms of the agreement that the Minister made with the representatives of the Small Retailers Association. It has certainly been a very tortuous process which nearly broke down terminally four or five times today. It is unfortunate that the underpinning of all that was on a question of trust. That really was the position, and it was often breaking down over wording and what the wording meant, what were the Minister's real motivations, and so on.

It would also be fair to say that, whilst the Government feels that it has given a great deal, I know from talking with the Small Retailers Association people afterwards that they indeed feel that the very fact that there is Sunday trading in the city means that they have given a great deal in itself, and that is also true of many of the people who work on Sundays. While it is true that a number do so voluntarily and some prefer it, a number are also doing it even though they would prefer not to. And, all for the public convenience, other people are being asked to make a sacrifice.

When it became apparent that public opinion had moved significantly (I will not go into that in much more depth right now as that was certainly canvassed in the second reading stage), I made plain that I believed that there is a large number of negatives in Sunday trading. I have not changed that view and I said so during the second reading debate. I formed the view that, as public opinion has moved, one needs to recognise that and be responsive to it.

The Hon. T. Crothers: How do you know that public opinion has moved?

The Hon. M.J. ELLIOTT: I can tell the honourable member that I did not rely on the polls in the *Advertiser*.

The Hon. T. Crothers interjecting:

The Hon. M.J. ELLIOTT: If the honourable member listened to my second reading speech, he would find that I discussed it then.

An honourable member interjecting:

The Hon. M.J. ELLIOTT: That is right: people have audiences of all types. Recognising that there had been a real

movement in public opinion—and in a democracy one has to recognise that—

The Hon. T. Crothers: If it is true.

The Hon. M.J. ELLIOTT: Yes, if it is true, and one has to make a judgment whether it is or is not, and that is the position in which we all find ourselves. Some of us may exercise it and some of us may not. I spoke with both the Small Retailers Associations and the SDA. Early on I posed the question, recognising that there are clear negatives for its members in relation to Sunday trading—

The Hon. T. Crothers interjecting:

The Hon. M.J. ELLIOTT: That is right. I asked what could possibly be done to relieve it. The SDA told me that, essentially, nothing could be done to ameliorate the effects of Sunday trading. It told me that, so far as it could negotiate within its awards and enterprise agreements, the association had negotiated everything possible, and if Sunday trading came there would be negatives and that legislatively virtually nothing more was possible.

I was told that, and the few things that are possible are shown within the package. I realise that they are not huge, and I assure members that I do not get great comfort from that. The fact was that very little could be done legislatively, and I sought to do what little could be done. It became apparent today during discussions that the weekly limit had some potential for negative impact that had not previously been recognised. I spoke with the Secretary of the SDA only shortly before coming into the Chamber and said to him that, if the impact of that weekly limit will be of significant detriment to his members, given that it will ultimately be controlled by regulation, I will be talking very closely with him about that, because that was not the intention when the weekly limit was being discussed. It was being discussed in a quite different context. I gave assurances to the Secretary on that matter beforehand.

He has also expressed some concern about the wording of some amendments that have gone on file in relation to that. I know the Attorney has already had them redrafted because, when the matter was raised with me earlier, I took it up with the Government and said that it appears that its drafting had not done what it was supposed to do. It has now been redrafted and I have asked that it be passed to the SDA representatives so they can look at it to ensure that this drafting does not create the impact they were concerned about.

In relation to the SRA, it has been extremely difficult. It was promised at election time that certain things would not happen. Not only was that promise reneged on without any consultation but it was not done by parliamentary process: it was done by a process that later turned out to be totally illegal. The Minister should have been aware at the time that it was illegal.

The Hon. T. Crothers: You are not supporting that process.

The Hon. M.J. ELLIOTT: No, we are not supporting that process, because we are in the Parliament. The SDA has proved one important thing to the Government, namely that, if it tries again to do something in relation to this Act—

Members interjecting:

The Hon. M.J. ELLIOTT: To summarise the agreement that was reached between the SRA and the Government, it certainly had hoped for and wanted a lot more. There is no doubt that the biggest single issue confronting it is the question of retail shop leases; it has been a festering sore for many years. We sought to tackle it last year in this Parliament through legislation. It is quite clear from the feedback that is coming in that the SRA feels that a great deal needs to be done and that this issue is at least as big as, if not bigger than, the issue of trading hours itself. It feels that, if it had a level playing field and were not abused by landlords so frequently, it would be in a position to involve itself in genuine competition, which is ultimately to everybody's benefit. I guess I will have the opportunity to go back to these matters relating to amendments in more particular detail during Committee.

The Hon. T. CROTHERS: I have a question with respect to the letter that was read into *Hansard* by the Attorney. In particular, it is that section of the—

The Hon. R.I. Lucas interjecting:

The Hon. T. CROTHERS: It seems to me that you and the Democrats have taken over the parliamentary democracy, so who am I to question who is taking over what? My question, if the Leader will allow me to ask it, is in relation to that element of the letter that states that any employee who is approached, subject to an enterprise agreeing to an award to work on Sunday, provided they have not promised the employer to work on the Sunday, will be permitted not to work on the Sunday.

If that person does that, complies with the contents of the letter that was read by the Attorney into *Hansard*, and then is victimised by the shopkeeper, what enforcement provisions are there to ensure that that person is not victimised for his beliefs? I ran across a whole gamut of people such as Jehovah's Witnesses and Seventh Day Adventist whose beliefs will not allow them to work on Sunday. If they are dismissed, I realise that there are rights of redress through the harsh or unfair dismissal section of the Industrial Code. However, if the person is going to be squeezed and victimised—and I know how it is done, because I was at the coalface of industrial affairs—what provisions are there to give your letter teeth to ensure that that does not happen?

The Hon. K.T. GRIFFIN: I am not quite sure that I follow the honourable member's question but, where there is an industrial agreement or an enterprise agreement, then there seems to be no difficulty. I gather that the honourable member is suggesting that, if there is no industrial agreement or enterprise agreement and someone chooses not to work—

The Hon. T. CROTHERS: If you have enterprise agreements that are silent with respect to that; it does not follow that there are provisions in them that cover working on Sunday, or indeed industrial awards. That does not follow. That is where you make your mistake. That is not tuned to your letter. How do you prevent people from being victimised, where there is no protection contained in the clause that you read into *Hansard*? Those things do exist. You adviser might be able to tell you that I am right on that.

The Hon. R.R. ROBERTS: This is one of the most outrageous processes that we have seen for a long time. I cannot remember a charade like this, unless I go back as far as the gaming machines issue, where we sat around for hours. The difference then is that on occasion we were dealing with a man of some principle and some integrity, who was prepared to stand there and fight.

Members interjecting:

The CHAIRMAN: Order!

The Hon. R.R. ROBERTS: We had someone with principle and someone with bottle. This deal has been brokered by someone who is an empty bottle. They have come in here with this pathetic attempt to try to sell this poison package and justify what they have been doing. During the rhetoric of this debate we heard how this is the

day when the lights would be on in Adelaide but nobody would be home. Quite clearly, this is the day when the lights go out for small business in South Australia. Those who were associated with this deal have ratted on small business in South Australia, and they deserve to be condemned.

I take this opportunity to apologise to my colleagues. They warned me that the people involved in this deal would cave in. To my eternal shame, I said, 'I have faith that the Democrats will stick on this occasion because we have here the most blatant broken promise of all time.' When we had the Public Sector Management Bill, I said, 'The Democrats stuck because they said that the Government had made a promise and it ought to be held to that promise.' On this occasion my colleagues have been proven right and I have been proven wrong.

We have had three or four lots of leaked information about what will happen. This deal does nothing for small business. It will be to the eternal shame of the Small Retailers Association for signing off on this deal. They have been used as an excuse to break the promise.

The Hon. M.J. Elliott: You don't even know what's in it.

The Hon. R.R. ROBERTS: You're dead right. This poison package was not broken with our involvement, and I am pleased that we have had nothing to do with it. This package will do nothing for small business. By 12 o'clock tomorrow there will be two Small Retailers Associations, because this deal does nothing for small business. This deal means that small businessmen in South Australia who have been working seven days a week to try to make ends meet will have to work seven and a half days a week.

This deal will not be confined to Rundle Mall; it will not be confined to the central business district. This Minister never learns. He has four thumbs: he cannot handle anything. He has made the same mistake on this occasion as he made on the steps of Parliament House before the last election. He made a promise not to extend Sunday trading, and he has put it in writing again. If he thinks this deal will hold up for three years—I do not want to be too critical because I have to observe parliamentary protocols—he is unbelievably naive. It will not last. This Government is very foolish, because it has taught the big retailers in the suburban areas how to go about putting on the public pressure. In the past couple of weeks it has shown them what they need to do to get the Democrats to capitulate. They now know what to do to get public opinion on their side. When these provisions are implemented in the central business district, on my reading they will stipulate 60 hours from which the hours will be picked, and it will not even be confined to the present provisions of the Act.

The Hon. M.J. Elliott: It is not in there.

The Hon. R.R. ROBERTS: It is not in the present Act with respect to Sunday trading. There will be 60 hours and they will be able to pick the best hours. If anyone thinks that those people in Westfield and Arndale will not put the pressure on, they are mistaken. They have knocked off Friday night shopping in the suburbs, which shows that they do not care about people there.

I am advised that the Retail Traders Association was prepared to do a deal with the Small Retailers Association, and they have blown it. I have some experience in this area. I reside in an area where shopping is open slather. A couple of years ago a proposal was put forward that another major retailer would start up in Port Pirie. When that decision was made, the majors operating in Port Pirie—Coles and Woolworths—knew that they would have to get more market share. They started shopping, as they were perfectly entitled to, for 24 hours a day.

Members interjecting:

The CHAIRMAN: Order! Members on my right will cease interjecting.

The Hon. Anne Levy: Throw them out!

The CHAIRMAN: And on my left.

The Hon. R.R. ROBERTS: They were trading for 24 hours a day and the small traders, just as the small traders and the small retailers will be in this case, were absolutely beside themselves. They presented themselves at the office of the member for Stuart, for whom I was doing some work on that day, and they expressed their absolute horror at what was happening in their district. They wanted to be designated a prescribed shopping district. They approached the council, as they were required to do under the Act, to try to have Port Pirie designated as a prescribed shopping district. They were required under the Act to consult—just as this Government is required to consult if it wants to extend shopping hours in the central business district—and they ran a petition. The small businessmen in Port Pirie ran a petition, and after one week they had 800 signatures.

The major retailers are not fools: they ran their own petition, and in two days they had 5 000 signatures—5 000 personally written signatures with names and addresses. There was none of this rubbish, these concocted surveys which this Government has trotted out and which have been pushed along by the *Advertiser*. I think there has been collusion between the Government and the *Advertiser*, because the Minister told the Shop Distributive and Allied Employees' Union that a survey would be conducted in the *Advertiser* every day and that they would get bigger and bigger. When the big retailers in the suburban stores start their campaigns, they will not have samples of 200 signatures, they will knock on the Minister's door with petitions carrying tens of thousands of signatures. Another group of people, the small retailers in the suburbs, will come under pressure, because they know what will be the inevitable result of this.

The large retailers have started down the yellow brick road towards deregulation. That is what this will lead to; that is where we are going. This is the day on which deregulation of shopping hours comes to South Australia. That is what this is all about. All you heroes and business consultants, those people who champion small business year after year with that tired rhetoric that we have heard—how you are always behind the engine room—you have sold them out, you have sold small business down the drain. We will see the ruination of small business because of this dirty deal that members opposite have produced.

There is no integrity in this package. I am appalled that, on this occasion, having made such a strong commitment to small business in South Australia, the Democrats have decided to duck and weave and get out from under. The Australian Labor Party will not rat on small business in South Australia, and it will not rat on the thousands of workers who work in retail shops in South Australia. A survey was done recently about politicians—and we did not rate too highly. After this little performance, all politicians will not rate very highly, but there is one group of politicians that will rate lower than even the 'Paedophilia' Party, because the small business people who hung their flag on the Democrats' mast have been let down badly. It is a great disappointment to me that after all the rhetoric, all the TV and other media cover-

age, at the last minute, the only way we can get out of this with this fairies at the bottom of the garden routine is to pin it on the Small Retailers' Association.

The Small Retailers Association has been beaten about the head and body for the past two days. I am kind enough to admit that they were beaten into submission. They have been duped, in my opinion. But what they have to do is go back and face those small businesses in South Australia that relied on them to do a deal. The deal has done nothing for small business and has opened the flood gates for large retailers in South Australia to prosper. I confidently predict that there will be open slather shopping in the suburbs. I have no faith whatsoever in this document that has been written, because the same promises were given before the last election. They were broken, and I have no reason to believe that these will be kept either.

The CHAIRMAN: Order! The honourable member was clearly out of order. We have a question before the Chair. However, I let him proceed because he had started.

The Hon. K.T. GRIFFIN: The answer to the question of the Hon. Mr Crothers is that, if there is victimisation, if there is some complaint, then it is possible, as I understand it, for action to be taken before the Industrial Relations Court or the Industrial Commission in order to have an order made which protects the worker, even in the absence of an enterprise agreement or industrial agreement.

The Hon. Anne Levy: Who takes the action?

The Hon. K.T. GRIFFIN: It can be the worker, a representative of the worker or the trade union.

The Hon. Anne Levy: The Government?

The Hon. K.T. GRIFFIN: I suppose it could be the Government. You have the Employee Ombudsman who has some very wide-ranging powers, particularly in relation to the protection of workers. I do not have the Industrial Relations Act at my fingertips, but that is my recollection.

The Hon. T. Crothers: I certainly wanted it on the record. You have answered the question.

The Hon. K.T. GRIFFIN: That is my recollection of what should happen. The Hon. Ron Roberts has locked himself out of any participation in this debate because he came with a one-track mind. He was opposed absolutely. That happened in the debate in relation to workers compensation earlier this year. He avoided any involvement because he locked himself out of it: there was nowhere to move. In relation to shop trading hours, he said, 'We are opposed to it'; his Party said, 'We are opposed to it.'

What is the Government meant to do, seeking to ensure that the best is achieved for South Australia, if the Opposition has a position which is immovable, both publicly and privately? We have to talk to someone if we are going to ensure that our legislation gets through. So, we talked to the Australian Democrats. I will not make any comment on the role of the Australian Democrats except to say that there were consultations. I can remember back to 1986 when the Workers Rehabilitation and Compensation Bill was before the Parliament. I do not think the Hon. Mr Elliott was in the Chamber then, but his former colleague the Hon. Mr Gilfillan was in the Chamber. The Liberal Party was in Opposition and the Labor Party was in Government. As I recollect, that Bill did not go to a deadlock conference. All the deals and negotiations were done behind closed doors between the then Labor Administration and the Australian Democrats.

The Hon. Mr Roberts also referred particularly to a glaring example of negotiation, pushing and shoving, when the Labor Party was putting pressure on its own members to ensure that the gaming machines legislation passed. It was putting pressure on behind closed doors.

The Hon. R.R. Roberts: And he didn't rat! He got his own way.

The Hon. K.T. GRIFFIN: Who was that?

The Hon. R.R. Roberts: The Hon. Mr Feleppa.

The Hon. K.T. GRIFFIN: I did not make any observation as to who it was. I was just referring to the behaviour of the then ALP Government members. The fact is that governments of any political persuasion are entitled to negotiate to try to get an agreement on legislation which a Government believes is important. The Opposition may not like it, and it does not matter whether it is Labor, Liberal or whatever: if they do not like it, they can say so in the Parliament. That is part of a democratic system.

The honourable member opposite is entitled to criticise if he wants to, but I would suggest there is no foundation in the criticism. It is an age old practice of endeavouring to get legislation through both Houses of the Parliament, and that is what we have endeavoured to do. I hope that after we have been through this Committee stage there will be a package which comes out of this Committee and out of this Parliament that will enable Sunday shop trading to occur in the city and provide some other protections which have been acknowledged.

The Hon. Mr Roberts said, 'The ALP does not rat on small business.' I do not whether it rats or it does not rat; the fact is that it does not represent small business and its behaviour, both as a Party and by its supporters, has frequently demonstrated that it is not on the side of small business. One only has to go back to the 1980s and the State Bank debacle, and all those other examples of profligate Government, to demonstrate the impact it had on small business and on ordinary citizens of South Australia.

The Hon. R.R. Roberts: There will be one on every small business in South Australia.

The Hon. K.T. GRIFFIN: Well, that's all right. I bet the honourable member there's not, because small business recognises that this Government is about stability; it is about progress; it is about providing opportunities; and it is about encouraging people to get out and do their own thing, to make a profit if they wish to do so and to expand. That is the whole thrust of this Government, and the previous Labor administration quite clearly demonstrated that it was in the doldrums and had been there for many years.

The Hon. T. CROTHERS: Let me say in response to some of the comments made by the Attorney that we, on this side, as we did in the past when in government, recognise that Governments will negotiate with the Democrats or with us or whomever. There is no axe to grind from our side on that. I would not want that to muddy the waters of the substance of the debate. I want to make that clear.

The Democrats and our parliamentary institutions are as entitled as any other political Party within the framework of this Parliament to negotiate in respect of what they believe is a fit and proper thing. However, when considering that, one has to set that on the scales of balance against very public promises and statements that were made about representatives of political Parties. It is that which will form the basis, in the final analysis, of how the public will judge this Bill that now stands in front of the Parliament. I am, however, reminded that even the Almighty rested on the seventh day. He rested on the seventh day—

The Hon. R.I. Lucas: Your members don't.

The Hon. T. CROTHERS: Well, I said the Almighty and, as good as our members are, you can take it from me that they fall a little bit short of the Almighty.

The Hon. R.I. Lucas interjecting:

The Hon. T. CROTHERS: If you keep interjecting, I will give you some tutorials which might broaden, heighten, lengthen and deepen your obvious lack of understanding that you espouse when you make statements in respect of interjections of that nature. I do not wish to become embroiled in matters that are interjectory, as that would detract from the substance of the matter that is now before us. I say to the Hon. Mr Lucas, the present Leader of the Government in this Council, and to any other people who want to listen, that I am the one person in this Council who has had experience in respect of the service industry changing hours. I was a paid official of the Liquor Trade Union. There were various extensions of hours—

The Hon. R.I. Lucas interjecting:

The Hon. T. CROTHERS: I second that—from 6 o'clock through to 10 o'clock, and then from 10 o'clock the core hours were extended up to 17 hours, and then came Sunday trading. Much has been said about how this shift by the Government in respect of retail trading, groceries and other services will be much fuelled relative to the dollar amounts expended in this State by the tourism it will attract. I went home in a taxi the other night with a driver who had happened to take the Leader of the Democrats home the night before. The taxi driver asked me, 'Do you know Mr Elliott?' I said, 'I do—why?' He said, 'When he was in my taxi last night he asked me whether I thought Sunday trading would make any difference in respect of Adelaide being a more attractive place for tourists.' I said, 'What did you tell him?' He said, 'I told him "No". When I pick up tourists from the Hyatt or from any of the other major accommodation hotels and motels in the metropolitan area and the immediate environs of Adelaide they want me to take them down to the Bay or up to the Barossa Valley.'

The Hon. L.H. Davis interjecting:

The Hon. T. CROTHERS: We have heard Mr Davis often whining about the Barossa Valley, just as he continues to whine in this debate. However, I point out that extended trading in the hotel industry has led to a situation where 70 per cent of that industry is now so unstable that it has led to hotels completely closing or changing hands with such rapidity that the Licensing Court has difficulty keeping up with it.

The Hon. R.I. Lucas interjecting:

The Hon. T. CROTHERS: Why don't you stop interjecting for a start. It has changed the patterns of trade. We had a means of monitoring the level of trade, and we found that the three breweries, which were the only places that made beer in South Australia, produced not one additional litre of beer, as I recall, as a consequence of the extension of trading hours in hotels and restaurants. However, it changed the percentage of keg beer being sold in any given week through the taps in hotels from 60 per cent to 40 per cent. That occurred not in the bottle shops— which could handle 500 dozen or 600 dozen bottles of beer (and a carton of beer would hold 36 schooners or more, as you would know, Mr President)—but in the labour intensive area of the hotels. The packaged beer element in the hotel and brewing industry went from 40 per cent to 60 per cent.

The Hon. R.I. Lucas interjecting:

The Hon. T. CROTHERS: There are now 100 people working at the South Australian Brewing Company, and prior to extended trading hours in hotels there were some 650. I do not know what that tells you: it tells me a thing or too, but then I might be a little more understanding than some of the Government members opposite. That is what it did: it utterly changed the pattern of trade. It changed it in such a manner that not one additional skerrick of tourism was generated within that industry.

An honourable member interjecting:

The Hon. T. CROTHERS: As the honourable would know, hotels have always been open on Sunday because of the accommodation they offer. Obviously the honourable member has forgotten that when he so foolishly interjects about our members working on Sunday. They have always worked on Sunday, because that is the nature of the accommodation industry. It is not just the liquor industry, Mr Lucas: it is liquor and accommodation. I do wish that when you interject you could at least relate enough facts to show us that you have a better understanding than that which you have just exhibited. The substance of the debate is important, not the interjections.

As a Government member (I think it was Mr Flower Power) said today, 'Shoot the messenger but address the message.' That is what I am endeavouring to do. I have made the point that that is what will happen. The Hon. Mr Elliott, the Leader of the Democrats in this place, is entitled to come to any arrangement or deal that he likes to make, but he must also understand that, if he is wrong, he and the Democrats who are associated with him will also be responsible for a possible electoral backlash. The election is just far enough away to let us assess whether or not Sunday trading will be the success that the Government has touted. It will not be because, as the hub of a wheel has spokes radiating out, the volume of trade that is currently conducted in the suburbs will be jammed into the square mile of Adelaide or into the hub of the wheel.

The Hon. L.H. Davis: This sounds like the Hour of Power.

The Hon. T. CROTHERS: You have never been beyond Bowden, and the hell you wouldn't know. The trade will not be increased, but the pattern will be changed. It is nothing for supermarkets, in particular, to be closed 12 months, two years or three years after they were opened because it means nothing to them, and in many cases it is a tax write-off. However, the supermarket chains will start to wind down their operations in the outer suburbs. There is only so much money to be spent by the population of South Australia on their weekly or fortnightly shopping.

The Small Retailers Association is an excuse for an association and, if I were a member of it, I would have handed in my resignation half an hour ago when I learnt the nature of the deal and its contents. It is my view, having read the contents of this letter, that the association has sold its members down the drain, and it deserves all the ordure that I am certain will flow from that. More importantly, the Government has ensured that the wrath of the small traders will be upon them come next election time, and many thousands of them are scattered around every electorate, safe and marginal, that the Government holds. I am sure there will be elements amongst them who will be so incensed—

The Hon. L.H. Davis: Do you want me to take up the collection?

The Hon. T. CROTHERS: Well—

The Hon. Anne Levy: It is shorter than your question today.

The Hon. T. CROTHERS: Absolutely. I thought I was in church, too. They will ensure that the members in marginal electorates, particularly, are constantly and repeatedly reminded of an experiment which, in two years, will have been proved to fail. That is what will happen. It is all in *Hansard*. It is on the record, and the promises that were made by the political Parties which are in collusion and in opposition to the Labor Party are on the videotapes of television shows. The Labor Party's stand on this issue is one of inordinate principle. It is a belief in what we are espousing in respect of the success or failure of the Government's measure, which it appears will get through. Let me tell the Government that it has made one of its first and perhaps worst misjudgments. I could be wrong about that, but I put on record that that is my point of view.

The Hon. Diana Laidlaw interjecting:

The Hon. T. CROTHERS: I point out to the Hon. Ms Laidlaw that I said that every member of Parliament of whatever political or philosophical persuasion is entitled to have a point of view, and I am sure that the honourable member will agree with that. I could be wrong—after all Cain did kill Abel—but I do not think so, because the experience I have had in another service industry clearly shows me that I am not. You will change the pattern of trade. You will fling it into the city to the detriment of the small storekeeper and to the detriment of the medium to large independent supermarkets. You will create a monopoly that will enable people who control supermarkets not to trade at competitive prices. You run the risk of creating a monopoly that will enable them to charge for their goods and services those prices that they think the market will bear. I do not want to say a great deal more.

The Hon. M.J. Elliott: Your gallery's gone.

The Hon. T. CROTHERS: I don't care if the gallery's gone; it's on *Hansard*, and that will be my gallery closer to the appropriate time when the public will once again consider this issue, in the light of this Bill, and having had a more than fair trial run out where it happens in the goods and services sector of the community. I think it is a shame.

The Hon. Diana Laidlaw: Are you going to speak for as long as this on each clause?

The Hon. T. CROTHERS: What question are you directing at me by your interjection?

The Hon. Diana Laidlaw: I am just saying that there are 12 or 15 clauses.

The Hon. T. CROTHERS: But what is the purpose of your interjection?

The Hon. Diana Laidlaw: I just don't want to be here until 3 o'clock in the morning.

The Hon. T. CROTHERS: You may well be, and if you keep interjecting it might be five or six in the morning.

The Hon. Diana Laidlaw interjecting:

The Hon. T. CROTHERS: I remind the honourable member that her interjections are keeping me on my feet now.

The CHAIRMAN: Order! I suggest that the honourable member address his questions through the Chair and not have private conversations across the floor of the Chamber.

The Hon. T. CROTHERS: I thank you, Sir, for pulling the interjectors as well as me into gear in respect of this matter and affording me your protection. I want to conclude by saying—

The Hon. R.D. Lawson interjecting:

The Hon. T. CROTHERS: There goes that 'queasy' fellow on my left: what is his name?

The Hon. R.I. Lucas: Rumpole!

The Hon. T. CROTHERS: Yes, the QC—'queasy.' There he goes, giggling and tittering like a boy of 14 in his usual puerile fashion. Members opposite have made a mistake. They have made a number of mistakes in respect of this matter, but this is their biggest mistake, and I hope that in the new Parliament, when I come back and we have switched sides, I will be able to stand up in my Address in Reply and yet again demonstrate how foolish they have been in not adopting a position that has been constant at all times. It has been said before and I say it again: members opposite have advanced more positions in respect of this matter than there are positions laid down in the *Kama Sutra*.

The Hon. K.T. GRIFFIN: My understanding is that this amendment is consequential on a subsequent amendment on notice by the Hon. Mr Ron Roberts, which seeks to oppose Sunday trading in the Adelaide city centre. The paragraph in the Bill is consequential. It will permit shops to trade without being in breach of the Act, which provides that shops must be closed on public holidays. It does clarify the situation with regard to Sundays, which are considered to be public holidays under the Holidays Act 1910. The provision will allow shops in the central shopping district to trade on a Sunday. At present no designated public holiday falls on a Sunday. Where the actual day falls on a Sunday, that is, Christmas, New Year, Anzac Day, Australia Day and Proclamation Day, the holiday is transferred to the following Monday. I suggest that we use this particular provision as the basis for the substantive debate on whether or not there should be Sunday trading. This will enable us to have the substantive debate, deal with this even though it is consequential, and then when we get to the major provision we need not repeat the debate.

The Hon. R.R. ROBERTS: I wish to explain what we are trying to do with this definition of public holiday, which seeks to exclude Sunday. The problem with this will come into consideration further down the track when the Government seeks to extend shopping beyond the publicly stated intention. I refer to new subsection (5b) after paragraph (d) where it talks about shopping and provides:

> . . . on a Sunday or public holiday (but not on Good Friday or Christmas Day)

The Government seeks to remove from the existing Act Easter Sunday and Anzac Day and, when we get to that clause, we will be seeking to ensure that those days remain holidays for the purpose of this Act. What the amendment talks about on the Sunday means that we take Sunday out of the Holidays Act. We have asserted that will result in people working normal hours or ordinary trading days being forced to work ordinary hours on a Sunday. When this matter was discussed in another place the Minister gave an explanation by saying that the SDA award provides that anyone who works on a Sunday gets a specific rate.

However, with the advent of enterprise bargaining, if it is recognised by this Bill that Sunday becomes an ordinary day and is not a holiday, then we need to look at the provision. I refer to discussions with colleagues around Parliament House, although it is not my practice to name members to whom I have spoken, because many members of the Liberal Party in discussions with me have said, 'We have to do away with penalty rates on Sundays.' This amendment works towards that end and I believe, if we are genuine about Sunday and genuine about keeping the rates of pay as they are on a Sunday, there is no need whatsoever to remove this provision. Therefore, I call on the Committee to reject the Government's proposition and to support the Opposition's amendment.

The Hon. K.T. GRIFFIN: We seek to leave this clause in the Bill and it is not related to the issue of penalty rates. It may be that somewhere down the track Sunday, regardless of whether or not it is a public holiday, is regarded as another trading day, either in enterprise agreements or awards, and may come to be regarded as no different for remuneration purposes from any ordinary week day. However, that is a matter for the Industrial Relations Commission, and there are a number of awards where the provision is made specifically in relation to penalty rates, not for work on a public holiday where Sunday is regarded as a public holiday, but on a Sunday specifically. There is also provision of course for holidays in some awards, but this amendment in the Bill is not related to that particular issue. Nor is it specifically related to the policy issue which we address under subclause (5b) on page 4 which refers specifically to opening hours. That is an issue we can address at that point. As I have said, this amendment relates to a consequential change dependent upon the provision relating to Sunday trading in the city.

The Hon. M.J. ELLIOTT: I cannot say that I fully understand what the Government is trying to achieve with this initial subclause in this particular Bill, and I would invite the Minister to give a clearer explanation as to what it is that the Government is trying to achieve.

The CHAIRMAN: I point out to the Hon. Mr Elliott that we are dealing with the Hon. Ron Roberts's amendment which relates to line 12. As I understand it the Attorney has asked that we debate the Sunday trading issue at this point, even though the relevant clause will be introduced later.

The Hon. K.T. GRIFFIN: In relation to Mr Elliott's question, a public holiday means a day that is designated as a public holiday by or under the Holidays Act and it does not include a Sunday. The Holidays Act 1910 states that Sunday is a public holiday. There is a provision in the principle Act which states that it is unlawful to trade in certain circumstances on a public holiday, and that includes a Sunday. So we have to change the definition to ensure that trading on a Sunday is permitted. My advice is that this change does no more than facilitate Sunday trading in the city, and is consequential upon that change which comes later in clause 5, which deals with the trading hours on a Sunday.

The Hon. M.J. ELLIOTT: I noted what the Hon. Mr Roberts said in his contribution, although it seemed to me that he did not actually say that this amendment would cause the consequences that he predicted: he just said that, if we do this, some other time some other amendments might be moved to other Acts or other things might happen.

The Hon. R.R. Roberts interjecting:

The Hon. M.J. ELLIOTT: No; let us be sensible about this. This clause either does or does not have an effect. If there is a direct detrimental effect of this clause I want to know about it as distinct from an inference that, as a consequence of passing this clause, you may pass some other clauses in other Bills at another time.

The Hon. R.R. Roberts interjecting:

The Hon. M.J. ELLIOTT: I heard what you said about penalty rates. That question of penalty rates was raised on one occasion very early on when I was talking to the SRA and I said that it was not on the agenda and it disappeared. If the purpose of this was to knock out penalty rates I would oppose it but, if that is not the effect of it, I want to know whether or not it does in reality have a detrimental effect.

The Hon. R.R. ROBERTS: It is specified clearly, and it has been explained by the Attorney-General. The reason this matter was included in the Bill by the Government was to in fact give it facility for Sunday trading without opening up the Holidays Act and doing the thing properly. This is a short circuit of doing the Holidays Act.

The Attorney-General is right. We must consider both these clauses with Sunday trading. It is quite clear that the Democrats have made a decision in respect of Sunday trading. If one looks at the amendments that have been lodged with respect to trading hours—and I do not know whether or not it was as a result of my outburst in my initial response with respect to—

The Hon. M.J. Elliott: No, it was about 20 minutes before.

The Hon. R.R. ROBERTS: —Sunday trading—it is quite clear that the deal has been done. If we are to have Sunday trading, I do not see that a great deal of mileage will be made going over the arguments which have been so clearly put in the past. It is no use resurrecting and quoting the promises that were made. It is clear that the deal has been done on Sunday trading and therefore, given the Hon. Mr Griffin's explanation, quite clearly this alteration is linked to the Sunday trading hours in that Bill. It comes down to whether or not you are opposed to Sunday trading in the central business district. I suppose that is really the question we must determine.

The Hon. M.J. ELLIOTT: The reason I pursued it further was that, in the first contribution made by the Hon. Ron Roberts, there seemed to be an inference that this could have had an effect on penalty rates and, if it did, I wanted to know about that, because I would have supported the amendment and opposed the original clause. It does not have that effect at all: it really is an amendment just anticipating later amendments in relation to Sunday trading. For that reason, I would be opposing the amendment. The question of Christmas Day and Easter Sunday are to be covered later. I certainly do not believe that either Christmas Day or Easter Sunday should be trading days.

Amendment negatived; clause passed.

Clause 4—'Certificate as to exempt shop.'

The Hon. R.R. ROBERTS: I move:

Page 2, lines 32 to 37 and page 3, lines 1 to 4—Leave out this clause and substitute the following:

Repeal of s.5

4. Section 5 of the principal Act is repealed.

This matter has been canvassed previously and the Labor Party's position has been put quite clearly. This amendment deals with section 5 in the Act, which is the section that has caused many of the problems for the Government. It is the section that was used to implement these unlawful exemptions that were granted and overturned by the court. The Government seeks to make adjustments to the section. However, the Opposition would seek to repeal section 5 of the principal Act.

The Government's Bill tries to overcome the position in which the Government finds itself with respect to the High Court decision, whereby it can use partial exemptions under section 5 of the principal Act. As the Committee may be aware, the High Court ruled that, under section 5, one could not be, in effect, a little bit pregnant: either you are or you are not exempt. That was the ruling of the High Court. The Government granted partial exemptions with respect to the trading hours under which one traded, not a total exemption. The Opposition asserts that section 5 of the principal Act, given these changes, is no longer required, because the Government's amendment to clause 5 relating to section 13

of the principal Act allows for all the circumstances to which the High Court refers.

In fact, should a special event be held, if we happened to keep the Grand Prix or host another significant function, under section 13 of the Act the Government could, by proclamation, grant trading rights on a Sunday for periods of up to one month. Having checked the Act, I believe that facility exists to proclaim a district of shops or particular shops under section 13. So, the Minister is still free to issue such proclamations under section 13 as provided for in the Government's Bill for special events, even for only one day, for example, an anniversary of a significant store or something to do with a particular district. That can be catered for by the issue of a proclamation with respect to section 13.

It simply attempts to regain section 5 of the principal Act as amended in the Bill and allow the Government further licence to issue certificates for any reason and to do so in whole or in part. For those reasons we think that, given the misuse by the Government of section 5 to date, in trying to circumvent the Parliament last year in particular, it would be best done away with altogether. We see that no violence would be done to special events or special occasions from time to time where the Government by proclamation can still grant periods of up to a month with special trading conditions. For those reasons, and given these further changes to section 13, I do not see that section 5 is absolutely necessary and therefore move for its removal.

The Hon. K.T. GRIFFIN: The Government opposes the amendment. What the Hon. Ron Roberts says is incorrect. The High Court has laid down clear views on the way in which certificates can be used. This is not an attempt to circumvent the High Court but an attempt to recognise that decision and make some modifications which would allow minor alterations. The Hon. Ron Roberts says that section 13(9) can be used to grant some exemptions. That subsection relates to a shopping district or part thereof, so if you had an individual store for which an exemption was required for a particular purpose, such as a David Jones or Myer fashion show, you would have to declare that shop to be a shopping district and you would not be able, on my advice, to do that easily.

There are occasions where you need to give *ad hoc* exemptions. Maybe there is a store or centre opening, a charity or special customer promotion (for example, for store card holders), store openings for staff, fashion parades and other events such as warehouse sales. Potentially, local area event exemptions could be granted to coincide with local festivals, which are generally in country regions. As the Hon. Mr Roberts says, the Grand Prix is one such event in the Adelaide city. It is the Government's firm view and its advice that it needs clause 4 in the Bill to allow certificates to be available for those sorts of purposes. Section 13(9) will not be available for those purposes: it is as simple as that. There is no intention to circumvent the High Court. We are not stupid. We have recognised the High Court decision.

The Hon. R.R. Roberts interjecting:

The Hon. K.T. GRIFFIN: The High Court did not say we were stupid. The High Court said that we could not do what we purported to do—action which the previous Government had undertaken on many occasions. So, let us not talk about stupidity. The fact is that the High Court ruled, notwithstanding the advice which had been given by the Crown Solicitor to successive Ministers, that what was finally done could not lawfully be done. This Bill recognises that, and clause 4 of this the Bill seeks to do what I have indicated and for the purposes which I have indicated.

The Hon. M.J. ELLIOTT: I wish to avoid protracted debate, but I find it interesting that the Opposition is seeking to repeal section 5 when probably 95 of all the exemptions it granted while it was in Government would have been under section 5. Section 5 was never a problem when the previous Government used it, which must have been hundreds, if not thousands, of times. That section was used as frequently as that and apparently it was okay. There is some question about how it might be used. I certainly took the view from the very beginning that what the Government had done with respect to Sunday trading was illegal. The High Court has clarified that and, as a consequence, section 5 and the way it is used is clearly constrained now; I guess it always was, legally, but it had not been tested. By its determination the High Court has made the intent of section 5 quite plain, and it certainly did not allow what the Government did in relation to CBD. The Government would have to use section 13 to do anything of a similar nature again. That is quite plain from the High Court ruling. I am trying to find out precisely what it is that is worrying the Opposition about section 5 that did not worry it for the 10 or more years that it was in Government and was using the legislation—using that clause.

The Hon. R.R. ROBERTS: In the past we have canvassed these arguments in debate about why section 5 certificates were used, and other arguments for changing section 13 have been put. On many of the issues, especially those concerned with the central business district and shifting a district, there is now a clear determination by the High Court that, to proclaim a district beyond a month, certain procedures need to be undertaken. We have gone through all that and the Government has introduced other alterations, which will be discussed in time. The Attorney-General says that our interpretation of what can occur under section 13 applies only to districts.

Section 13(1) (closing times for shops) provides, 'subject to this section, the closing time for a shop situated within the central shopping district or any other shopping district or part of a shopping district to which this subsection applies by virtue of proclamation under the subsection'—and it talks about opening hours. Quite clearly, it provides for a shopping district or any other shopping district or part of a shopping district, which can refer to a shop. Subsection (9) provides that the Governor may, by proclamation, authorise the opening of shops during the hours specified in the proclamation when it would otherwise be unlawful to open those shops. A proclamation under subsection (9) may relate to shops generally or to a specified shop or to a specified class of shop.

I would seek clarification as to why my interpretation is not right and why that section cannot do what has traditionally been achieved by using section 5. We used that section when we could not get agreement from the then Opposition to change the legislation to implement those changes to classes of shops, which have now been clearly determined; we have changed the definition to pick up hairdressers, hardware stores and furniture stores. Most of those concerns which were addressed by the use of section 5 certificate by the previous Government have now been changed in one way or another.

What I am saying to the Hon. Mr Elliott is that most of the reasons why it was necessary to use section 5 have been fixed by specific definitions or movements in other areas, and now we see no reason in having both arms of this section because,

as I said, those concerns have been addressed elsewhere. Section 13 gives the Government the facility to overcome the specific argument that was put in another place by the Minister, in that exemptions could not be given for special events in special stores.

The Hon. K.T. GRIFFIN: I acknowledge that I was incorrect; I am sorry I was wrong about that. In relation to clause 13, they are proclamations. The honourable member must surely realise that what a proclamation requires is a Cabinet submission. It goes to Cabinet, goes to the Governor in Council, and then the proclamation is made in the *Government Gazette*, a much more complicated procedure. If it is just an exemption—

The Hon. R.R. Roberts interjecting:

The Hon. K.T. GRIFFIN: It is much more complicated. Ministerial exemptions, as the Hon. Mr Elliott said, were used by the previous Government on many occasions for the sorts of things that I indicated. Back in 1993 they were used for store or centre openings. Do you want to have an exemption granted by the Governor going through the Cabinet and Executive Council process, for something which might only involve two or three hours? It may involve longer, it may involve a shorter period of time. It seems to me that that is bureaucracy run mad. The previous Government was content to use it. There are restrictions on it to prevent it from being used, and it seems to me that really what the honourable member is suggesting is, 'Let's go over the top and bind up the whole system with red tape.'

The Hon. R.R. ROBERTS: This is an astounding course of events. The accusation has been made that section 5 has been misused in the past. The Government is critical. The Hon. Mr Elliott has made comment that it has been misused in the past. Last year in November we had debate about parliamentary scrutiny and about how these measures were rushed through. Because of the actions—not of the previous Government but of this Government by the misuse of section 5 of the Act—the majority view of this Parliament determined that it ought to be done by regulation, and it would require 14 sitting days to knock the regulation out. The Attorney said, 'It's a long and extrapolated process.' It is a process of about a week. With regard to a special event, if it is a celebration of 150 years since the opening of a store, the decision is not made the day or the week before, or even the month before the event. Such decisions are made 12 months out. There is no facility. I would have thought that I would get support from the Government, and from the Opposition, because of its harping criticism of what we did with section 5 when in Government. We can take that right out of the equation and reduce the amount of work.

The Hon. K.T. Griffin interjecting:

The Hon. R.R. ROBERTS: You were harping. It is clear that this clause has no further work to do and can no longer be abused by this or a future Government. What will be required is the Governor will only need to be convinced that it is a worthy cause. It is matter of a week in relation to something which is celebrating 150 years. This is a very sensible proposition.

The Hon. K.T. GRIFFIN: There are still valid certificates under that section.

The Hon. R.R. Roberts: Then proclaim them.

The Hon. K.T. GRIFFIN: If you are suggesting that we should go back and do it all again, that is nonsense.

The Hon. R.R. Roberts: It will take a week, or even two days, and it's fixed.

The Hon. M.J. ELLIOTT: I said earlier that it had not caused any problems until the recent one. The recent problem has shown that that cannot be done without having problems with the High Court, so that cannot be done again. Can the honourable member bring forward any other examples of abuses which are different from the one that the High Court found to be illegal? I am not aware of any. The previous Labor Government used it for 12 years without any apparent difficulties. I will not be supporting the amendment. I note that the amendments do not circumvent the High Court finding, although the High Court made some passing remarks not about whether we should be using section 5 or section 13, but about other circumstances surrounding the issuing of certificates. The new subsection (2a) simply seeks to address what was always the original intention of section 5.

Amendment negatived; clause passed.

Clause 5—'Hours during which shops may be open.'

The Hon. R.R. ROBERTS: I move:

Page 3, line 14—Leave out paragraph (d).

I think the indication in respect of the definitions clause clearly shows the result, but to keep faith with my constituents I move this amendment.

The Hon. K.T. GRIFFIN: I oppose the amendment. This follows the earlier debate in relation to clause 3 on Sunday trading. This is the key to the issues in dispute.

Amendment negatived.

The Hon. K.T. GRIFFIN: I move:

Page 3, after line 14—Insert subsections as follows:

(1a) Subject to subsections (1b) and (1c) and to any proclamation under subsection (12), a shop that is not an exempt shop and that is situated in the central shopping district may remain open in accordance with this section for a limited number of hours (to be prescribed by regulation) during any week (being the period from midnight on a Saturday to midnight on the following Saturday) and must then be closed for the rest of that week.

(1b) Subsection (1a) does not apply to a shop referred to in subsection (5b)

(1c) If a shopkeeper of a shop referred to in subsection (1a) is entitled to open the shop by virtue of a proclamation under subsection (9) during a period when it would otherwise be unlawful to open the shop, the hours that the shop is open during that period will not be counted for the purposes of subsection (1a).

The amendment deals with the issue of any limitation on the total number of hours each week that a shop that is not an exempt shop and that is situated within the central shopping district may remain open during any week. This is an area where the Hon. Ron Roberts suggested there was a limit of 60 hours. It is important to recognise that there is no limit at present: it will be fixed by regulation. As indicated in the letter from the Minister for Industrial Affairs to the Small Retailers Association, that matter will be the subject of discussion by the advisory committee. This amendment seeks to reflect that position. Subsections (1b) and (1c) relate to those shops to which new subsection (1a) does not apply. I think they are relatively straightforward.

The Hon. R.R. ROBERTS: I oppose this clause. I addressed this matter in my response to the report on the negotiations which the Attorney-General brought to this place. I see now that, since my initial criticism of the matter, this clause has been amended. It was subject to subsection (1), but as I understand it—and I still do not have the amended amendment in front of me—it is subject to the hours prescribed in section 13 regarding the opening and closing of shops on a Sunday. The Attorney-General has responded to my harsh criticism of this proposition, but I still indicate quite

clearly that this clause will open the Pandora's box and signal the end of small traders in South Australia, because it will allow big retailers to choose their most profitable hours. This will mean that small businesses in the central business district will have to open at the same time.

The Hon. M.J. Elliott interjecting:

The Hon. R.R. ROBERTS: Well, I will give the mover the opportunity. This proposition has been put forward repeatedly by the Retail Traders Association. It is something which the association has been trying to get for 10 years, but it has been resisted by the shop assistants' union. We have lent support to it, because it seeks to protect small business. In my earlier contribution—and I do not wish to go over it again—I said that the Opposition is appalled at the proposition, and it is at a loss as to why the Small Retailers' Association would sign off it. The Hon. Mr Elliott has expressed a desire to explain to me what he is trying to do, so I am all ears on this occasion.

The Hon. M.J. ELLIOTT: The reason this clause is attractive to small retailers is that it stems from their original proposal to have trading hours on Saturdays shortened. I think their original proposal was that trading hours on Saturdays be from 10 a.m. to 4 p.m., and they wanted trading hours on Friday to finish at least an hour earlier also—times when I understand they are not particularly busy. One of the big difficulties with Sunday trading is not just the fact that employees will work on an extra day but that employers will have to pay for those people to do so. So, they will have to cover an extra five hours of working time. They could see that if some of the busier times, such as the last hour on Saturday, the last hour on Friday night and the first hour on Saturday morning were to go, times when really they have no turnover, that could provide them with some savings which would compensate for the costs that would accrue on a Sunday. So, the small retailers wanted to have shorter hours at certain times and not just simply oppose Sundays.

So, the proposal grew from that. It was intended that one would find sufficient hours that would allow, first, the non-exempts to flex within the prescribed hours. They could not open outside the prescribed hours, but they could open within them. In fact, they would have a limited number of hours available. I guess the small retailers could see that, if the larger retailers flexed their hours a little and did not open all hours, they could have the opportunity to do the same. It would then create an opportunity for them to offset costs that had been created on Sundays. That has to be an economic advantage for them. The fact is that they do not have a choice. They will tell one to be open when their competitors are open because of questions of market share, even at times when the trading is relatively light. So, they did see potential for it.

I must add that the original proposal included a number of hours: it was fewer than 60. In fact, it was a Government person who pointed out that, if we get too low, we will create problems for workers because a number of workers are on agreements that they have to work 38 hours between Monday and Friday. I will not give the Government a lot of credit in this whole matter, but at least it did say, 'The hours you are trying to get are too short. You will have to allow people who have 38 hour Monday to Friday agreements to be able to work them.' That is why it was first agreed at 60 hours, and then it was thought, since a retail advisory committee is being set up (and that includes both traders and SDA representatives), that it would really be useful if they got around the table and thrashed the issues through and came up with a recommendation, and even that recommendation would still be subject to regulation, which means that it is still subject to the scrutiny of the Parliament.

So, this can only be described as enabling and, at least as the small retailers read it, it enables them to offset some costs which are being created by Sunday trading. If it achieves that for them, it is not a bad thing. It certainly was never intended among the people who discussed it over the past couple of days to be a penalty against shop workers or to be a way of increasing hours on the weekend at the expense of hours during the week and therefore force more of them to work weekends. That was never the intention. The number of hours was expanded and then simply removed because, once it was realised that was a problem, they sought to address it.

I think there were some over the top reactions previously. It is certainly true that the first draft of amendments did not achieve what was intended, but I do believe that this current draft makes it quite plain that one can only open in accordance with this section, which means that one cannot open outside the hours prescribed in section 5a(1). That is now quite clear. As to what the exact hours will be, the committee might decide to make it the total hours which are currently available. It might decide to try a 'suck it and see' approach, by simply cutting two hours off to start with and seeing what happens. It could measure the reaction and, because it is by regulation, it can be changed fairly easily if some unforeseen negative impacts are being created if that number of hours is cut back.

The Hon. R.R. ROBERTS: There has been some negotiation about the 60 hours and the 65 hours. I have in my possession a document which was part of the negotiating documentation, as I understand it. It refers to trading hours on page 2. Signed by Graham Ingerson, Minister for Industrial Affairs, it states:

> The Government had agreed to amend its Bill to provide a maximum limit on a total number of trading hours for non-exempt retailers in the Adelaide city. The Government believes that this figure should be 60 hours per week, although there is a logic in 65 hours per week, which reflects the provisions of the Retail Shop Leases Act 1995 which all groups in the retail industry have previously agreed.
>
> Prior to implementing this limit by regulation, the Government is willing to consult the retail industry as a matter of urgency through the Ministerial Advisory Committee (item 9) and provide the industry with an opportunity to provide advice on this limit.

Then it says:

> The three year moratorium period referred to in item 7 will not apply to this regulation.

Within that contribution it is clear that the retail participants have agreed to most of this, anyhow. So, when the SDA goes to the advisory committee, quite clearly it will be outvoted. We are far from being comfortable with that. I still reflect the concerns that I have, because I did point out in my contribution that this provision—the 60 hours or the 65 hours with the flexibility—is basically the proposition which has been promoted by the large retailers in South Australia for the past 10 years and which has been resisted because of the deleterious effect it will have on small businesses.

The Hon. M.J. ELLIOTT: I do not want to protract this, but the honourable member is putting an amazing interpretation upon early drafts. It almost seems to suggest that it would be a good idea not to show drafts. The Opposition talks about people going off and striking deals when drafts are being circulated—and it is getting hold of them so it has some idea of what is happening—and then it takes them and misconstrues them. The fact is that an early proposal in this case was for 55, 56. The Government made the point that we

must allow for workers who are trying to work Monday to Friday (38 hours), so the Government said that it has to go at least to 60. As I said, it is one place where I will give it some credit. So, the Opposition has to see the 60, in the Government's opinion, in that context. It was expanding it out, recognising that it was creating problems. Then it said that perhaps it needs to go to 65. So, the people who have been talking said, 'Well, it looks like there are some problems here. The best thing is to delete the numbers totally and to realise that it is a matter that needs to be consulted on further.' How the honourable member can take consultation material and construe it in the way he has is incredibly unfair and inaccurate.

Amendment carried.

The Hon. R.R. ROBERTS: I move:

Page 3, lines 18 and 19—Leave out paragraphs (a) and (b) and insert the following paragraphs:

(a) until 6 p.m. on a Monday, Tuesday and Wednesday; and

(b) until 9 p.m. on a Thursday and Friday; and.

This is something that has been put into practice over exactly the same period of time as illegal Sunday trading. We claim, quite honestly and openly, that it has always been our proposition: it is what we went to the election with. We did allow Friday night trading. All the arguments that the Government has put forward about people having the right to open if they want to do so and not to open if they do not want to do so in respect of Sundays, tourism and employment apply to this.

Quite clearly, the Government has said, 'Well, all the public support and opinion is shifting in favour of Sunday trading.' However, we have to look at the technique that was used here. The technique used to shift public opinion in respect of Sunday trading involved telling everybody in the suburbs that the Government would take away all the extra trading hours and shopping time they enjoyed before to shift public opinion in the suburbs and to give special advantage to large retailers in the central business district. There has never been any proper scrutiny of those people in suburbia or in metropolitan Adelaide in respect of Friday night shopping.

It comes down to market share. The Government wants to give all the advantages on Friday night and on Sunday to the central business district. That means that those people who want to shop in the retail stores will have to take a trip into the city where they will have to pay to park their car. Our position on this is consistent with our position on the Friday night issue. If there is any semblance of justice or decency in this Government that will add any fairness to its attitude on shopping hours, it ought to agree with the amendment. I call on the Hon. Mr Elliott to agree with this sensible amendment to allow Friday night shopping in the suburbs as well as in the city—not instead of but as well as.

The Hon. M.J. ELLIOTT: That was one of the most unfortunate loads of rubbish that I have heard in a long time—except for an earlier contribution by the honourable member. If the Hon. Ron Roberts had been to the mall on a Sunday and had been to Marion on a Friday night he would have noticed that the two are different. I went through several departments in a Myer store on a Friday night and spoke to people who had not had a customer all night. I did not understand the logic of the store being open but, nevertheless, it was. If you want to use arguments about consumer demand, there is no way known you can say that consumer demand was absolutely screaming down at Marion or anywhere else on Friday night in comparison with Sunday. The consumer demand is not there.

Earlier, the Hon. Mr Roberts was behaving as the champion of small business. If the member talked to small businesses and asked them what they thought about Friday nights in the suburbs, they would tell him that they are working Thursday and Friday nights and getting basically the same trade as they get just on Thursday. They are working an extra night and paying extra wages, but they are getting no benefit from it whatsoever. Again, they had no choice because once Coles and Woolworths opened up on a Friday night they had to follow.

Small business certainly did not want it. There are only two beneficiaries of Friday night trading: Coles and Woolworths. We have the champion of small retailers who has done an absolute flip-flop in only half an hour. The honourable member has contradicted everything he said earlier. The member will not find small businesses lining up and saying that they want an extra night in the suburbs—the member will not find that at all. The amendment is absolute nonsense and I will not support it.

The Hon. K.T. GRIFFIN: The Government opposes the amendment. As I interjected, this is an example of blatant hypocrisy. The champion of small business (the former Government) was supporting small business and was in bed with the unions and big business in catering to their demands for shopping on five week nights. It was quite incredible how unsuccessful that was. The Labor Party obviously still wants extended trading hours, and I think this amendment proves it. It is incredible that it does not have the courage to move an amendment to provide for five nights a week, given that its own members have said that Labor policy is the same as it was prior to the 1993 State election. We are opposed to the amendment for the obvious reason that Friday night shopping in the suburbs does not warrant support. We recognise that small businesses were the ones which suffered, as the Hon. Mr Elliott said, as a result of the previous Labor Government's extravagant wooing of big business.

Amendment negatived.

The Hon. R.R. ROBERTS: I move:

Page 4, lines 7 to 9—Leave out subsection (5a).

Although this matter has been decided, I have moved the amendment to maintain consistency.

The Hon. K.T. GRIFFIN: I oppose the amendment. It is consequential on an earlier amendment.

Amendment negatived.

The Hon. R.R. ROBERTS: I move:

Page 4, line 10—Leave out 'to subsection (5c) and'.

This relates to the 80 per cent rule. The subsection provides that people who are engaged in the sale of hardware, building materials, furniture or floor coverings ought to deal in those materials solely. The Opposition has another amendment in respect of subsection (5b), paragraphs (b) and (c), to allow for a store which is in the business of selling floor coverings and/or furniture to be engaged in the sale of both, not separately. The legislation as drafted by the Government uses the word 'or'. People seeking these exemptions ought to be wholly engaged in the sale of these products.

The Opposition has a further objection in respect of subsection (5b) as it relates to permitting shopping between 9 a.m. and 5 p.m. on a Sunday or public holiday but not on Good Friday or Christmas Day. We will seek to maintain the present provisions, which include Easter Sunday and Anzac

Day. This is in respect of the next couple of amendments: I am taking the opportunity to speak on them now.

The Hon. K.T. GRIFFIN: The amendment is opposed: it is largely consequential on a later amendment that relates to the 80 per cent rule. Without going into great detail, the argument that ought to be recognised is that we want to maintain what is basically the *status quo*—

The Hon. R.R. Roberts interjecting:

The Hon. K.T. GRIFFIN: It relates to a later amendment to delete new subsection (5c), which seeks to do away with the 80 per cent rule for specialist retailers. It would require the specialist retailers to sell 100 per cent of their goods in these specialist categories. The amendment would provide no flexibility for the specialist retailers to vary products within exempt ranges and ignores the reality that some hardware shops sell furniture products while some furniture shops sell hardware products; some furniture shops sell floor covering products, and some hardware shops sell automotive spare parts. The Labor Party amendment is really not consistent with the reality of trading in certain industry sectors, and I urge the Committee to reject the amendments on that basis.

The Hon. M.J. ELLIOTT: I must confess that I did not follow the explanation of the Hon. Ron Roberts as to precisely what he was trying to achieve. He talked about several amendments, and I note the later one about Easter Sunday. I referred earlier to the fact that I have the same concerns as the Opposition seemed to have there, but that is really a separate issue. With the amendment that is before us now, what is the Opposition trying to achieve?

The Hon. R.R. ROBERTS: What we are seeking to achieve is very difficult to understand, and I appreciate the Hon. Mr Elliott's confusion. Basically, we are opposed to the fact that these following clauses seek to introduce the 80 per cent rule, and we are seeking to remove the words 'to subsection (5c)' from (5b), page 4, and to introduce 'solely'. It relates to (5c) further down, which talks about the 80 per cent rule. Our objection is that there is an 80 per cent rule. They should be solely engaged and to achieve that end we need to go through the procedure that I am outlining by removing from (5b) the words 'to subsection (5c)' and insert 'solely' after 'which', which would mean that new subsection (5c) is struck out.

The Hon. M.J. ELLIOTT: Even if the Opposition were successful in getting its amendment up, as I understand it under the regulations these shops are being allowed to sell 20 per cent off target goods anyway.

The Hon. R.R. Roberts interjecting:

The Hon. M.J. ELLIOTT: And others, too. Hardware stores and others do not sell 20 per cent of target; in other words at least 80 per cent must be the goods in particular that they are selling. By defeating the amendment, I do not think the *status quo* is changed. This issue urgently needs clarification. I know that in the retail industry generally there is a great deal of concern generated by the fact that, whilst people accept for instance that a hardware store can be open on a Sunday, I can understand why the K Marts of this world get upset when hardware stores are selling electrical kettles, jugs and the like. This general allowance of 20 per cent has been allowed to go on for quite a while and has opened things up for abuse. This issue needs to be resolved and the Hon. Mr Roberts's amendment does not do anything about it at all because it is already happening under the regulations. Nothing is gained by the amendment, although I am open to be persuaded that there is something I have missed.

The Hon. R.R. ROBERTS: The Hon. Mr Elliott is absolutely right in his observation. I refer to petrol stations or Food Plus type operations. When those exemptions or licences, as they were then, were issued they were along similar lines. Multinationals in the petrol industry have utilised the opportunity and are now to be subject to a percentage required by regulation. It was an 80:20 rule when they started but since then, because of the opportunities afforded to petrol resellers or convenience petrol stores being able to operate 24 hours a day, they have had the opportunity to capture a great deal of the retail trade which normally, if the Targets, Woolworths and Westfields had been open, would have gone to that area of the market.

I might add that they have an unfair advantage in that by and large the prices in these organisations are about 30 per cent higher than you would pay at Target or K Mart. Quite clearly, the Hon. Mr Elliott is not attracted to this proposition. However, I point out to him that it is right and it is my view that, if you want to stop an abuse, you do not wait for the regulations. We could legislate on this occasion to do it and we ought to do it.

The Hon. M.J. ELLIOTT: I invited the Hon. Ron Roberts to indicate what new problems are being created and I do not think that he has demonstrated any. Certainly, I have acknowledged that the whole area—not just these provisions—is in need of urgent review and I hope that it will be on the agenda of the Retail Advisory Committee, because the lack of clarity in this area is unhealthy for the whole retail sector. I will not be supporting the amendment, because I do not think a case has been made out that a new problem is being created by these provisions.

Amendment negatived.

The Hon. R.R. ROBERTS: I move:

Page 4, line 19—Insert ', Easter Sunday, Anzac Day' after 'Good Friday'.

This is a subtle way of extending the trading hours, and provides that shops are able to open from 9 a.m. until 5 p.m. on a Sunday or a public holiday but not on Good Friday or Christmas Day. The Easter Sunday has been deleted, as has Anzac Day. If there is any one day in particular that ought to be treated with some respect it is Easter Sunday—with almost as much reverence as Anzac Day. The Opposition seeks to maintain the *status quo* and that would be in line with indications given earlier when the Hon. Mr Elliott said that he would be sticking with the *status quo*, and I ask for his support.

The Hon. M.J. ELLIOTT: I indicate, as I did earlier, that I will support this amendment.

The Hon. K.T. GRIFFIN: That is a matter of great disappointment because, for the first time since 1988, hardware shops will be closed on Easter Sunday. It is the biggest shopping day of the year for them. Whatever you might think about it in terms of its religious significance, it has been allowed since 1988. Let the Opposition and the Australian Democrats front up to the fact that they will close down hardware shops on days on which they have previously been allowed to trade. This is a significant change from the *status quo*. We have recognised as a Government that good Friday and Christmas Day ought no longer to be available for that purpose, but they are not the busiest days for hardware shops. However, Easter Sunday is a busy day and we take the view that the amendment ought to be roundly rejected for that reason.

The Hon. M.J. ELLIOTT: In the existing Act, section 13A(1)(e) provides that the shop may open from 10 a.m. to 4 p.m. on a Sunday or other public holiday except Good Friday, Easter Sunday, Anzac Day or Christmas Day. Will the Minister advise how that has been circumvented in the past seven years? Unless I have missed some other part of the section that overrides it, it would seem clear that they are not supposed to be open then.

The Hon. K.T. GRIFFIN: Since 1988, almost all hardware shops have not operated under section 13A of the principal Act. It is correct; section 13A does allow hardware shops to be open from 10 a.m. to 4 p.m. on Sunday or other public holiday, except Good Friday, Easter Sunday, Anzac Day or Christmas Day. Since 1988, the previous Labor Government issued—

The Hon. T. Crothers: And the present Liberal Government.

The Hon. K.T. GRIFFIN: We are not arguing about that. Since 1988, section 5 certificates have been issued to 120 hardware shops—they are unlimited, unregulated; they can trade any time—and to almost all the others, for extended hours between 9 a.m. and 5 p.m. on Sundays and public holidays. I have a certificate here from R.J. Gregory, MP.

The Hon. T. Crothers: In perpetuity?

The Hon. K.T. GRIFFIN: Let me read this certificate. I have one example by Mr R.J. Gregory, the Minister of Labour, to a hardware shop. The certificate provides that the Minister, pursuant to section 5, hereby issued this certificate of exemption to a shopkeeper in relation to a particular shop. This certificate is subject to the following restrictions and conditions: 1. The business carried on at the shop shall be solely or predominantly that of the retailing of hardware and building materials as defined in regulation 5 of the regulations under the Act; 2. Supplies, appliances and items listed in paragraphs (i) and (j) of subregulation (3) of regulation 5 of the regulations made under the Act must not constitute more than 20 per cent of total sales for any period comprising seven consecutive days. This exemption shall apply between the hours of 9 a.m. and 5 p.m. on Sundays and public holidays, for normal trading hours prescribed by the Act for non-exempt shops shall apply from Monday to Friday inclusive. It is important to reiterate that, although there is a specific provision in the Act under section 13A, this section has not been used to regulate hardware shops, because they have benefited from section 5 certificates of exemption, which have allowed quite longer trading hours than those specified in section 13A. As I said, there are 120 hardware shops that are totally deregulated. Furniture shops are in the same category, I am told. So, all we are saying is: exclude only Good Friday and Christmas Day, which have special significance. It narrows the focus of the certificate, but let us not accept the amendment for Easter Sunday and Anzac Day.

The Hon. M.J. ELLIOTT: When I spoke earlier I was certainly not aware of the Labor Government's previous 120 section 5 exemptions.

The Hon. K.T. Griffin: There were more than that: 120 were totally deregulated under section 5.

The Hon. M.J. ELLIOTT: Of course, I have read section 13A(1)(d), which was pretty clear. The Labor Party's amendments were certainly consistent with that, but totally inconsistent with everything it did while in Government, by the sound of it. I certainly had not been aware of those section 5 exemptions. I will re-evaluate my previous position somewhat, but I want to check whether, in light of the fact that quite a restructuring of these clauses is going on here, it is also true that large numbers of section 5 exemptions or some other forms of exemption were granted also to furniture stores, to floor covering stores and to motor vehicle parts and accessories stores.

The Hon. K.T. GRIFFIN: My information is that the answer to that is 'Yes'.

The Hon. M.J. Elliott: To all categories?

The Hon. K.T. GRIFFIN: Yes, that is the information with which I have been provided.

The Hon. M.J. ELLIOTT: I would like to clarify the matter further. In relation to the situation over the past seven years or thereabouts, the Government's proposal now is that only Good Friday and Christmas day be exempted. Were Anzac Day and Easter Sunday precluded from those exemptions, permits or whatever?

The Hon. K.T. GRIFFIN: Again, I am advised that they can trade any public holiday and Sunday, but as a matter of industry practice—

The Hon. R.R. Roberts: Well, what does it say in there?

The Hon. K.T. GRIFFIN: Well, that is a certificate.

The Hon. R.R. Roberts interjecting:

The Hon. K.T. GRIFFIN: This exemption certificate—and there are many of them; if you wish we can bring them all out—shall apply between the hours of 9 a.m. and 5 p.m. on Sundays and public holidays. Under the Holidays Act, Anzac Day is a public holiday. But, as a matter of industry practice, in the hardware area, for example, they do not open on Christmas day and Good Friday. What we are doing in our Bill is reflecting what is currently the practice within industry, so we are not depriving industry of something which has been in operation, although in theory it was available.

The Hon. M.J. ELLIOTT: In the light of the information that has been given, I have changed my position, recognising that the Labor Party had been guilty of the very sin which it said it was seeking to prevent.

The Hon. T. Crothers: What? You're saying two wrongs make a right?

The Hon. M.J. ELLIOTT: No, what I am saying is that for some seven years it appears that a practice—

Members interjecting:

The CHAIRMAN: Order! The Hon. Michael Elliott.

The Hon. M.J. ELLIOTT:—has been going on and has been accepted. In the circumstances, I will certainly not overturn it simply on a whim at this time of night.

The Hon. R.R. ROBERTS: It comes as no real surprise that, on reflection, the Hon. Mr Elliott has changed his mind. We really just have to analyse what is going on here. When in Opposition, members of the Government were absolutely condemning of the Labor Party for these section 5s. It then went in and used exactly the same technique to open the shops in Rundle Mall illegally. The Hon. Mr Elliott has condemned the practice. He has read from the legislation that was passed in Parliament; there were contributions from the Opposition—even the Democrats would not let it go—and they legislated. In the past Mr Elliott has been absolutely critical where regulation has been used to overcome legislation. This is his track record. Condemning the high moral ground is where he always comes from. So, here he is—

Members interjecting:

The CHAIRMAN: Order!

The Hon. R.R. ROBERTS: He always takes the high moral ground about how he will defend the legislative process—

Members interjecting:

The CHAIRMAN: Order!

The Hon. R.R. ROBERTS: Here again, he has jumped onto the band wagon, made his big statement, condemned regulations and condemned the process of giving exemptions. He comes back, here is the legislation, and what does he do? He now goes back and says, 'I'm going with the Government, so I may as well go with the Government on everything.'

This bunch of hypocrites, these people who claim to protect our morals on all these occasions—this high moral Party with regard to Easter Sunday, the most holy day in the calendar—said, 'Because the Labor Party used regulations, which we condemn roundly, we will seek refuge in that, despite what the legislation says', and despite the Hon. Mr Elliott's assertion that he will go with the *status quo*. Here is the *status quo* as it is supposed to be, as this lot over there claim it should be. We shall be dividing on this amendment. We want to see you hypocrites next time the churches write to you.

The CHAIRMAN: Order! It is getting late, the evening has passed the witching hour, and things are getting a bit scratchy. I suggest that members concentrate on the legislation rather than accuse one another as they are doing and use language a little more parliamentary.

The Committee divided on the amendment:

AYES (6)

Crothers, T.	Feleppa, M. S.
Levy, J. A. W.	Roberts, R. R.
Roberts, T. G. (teller)	Weatherill, G.

NOES (9)

Davis, L. H.	Elliott, M. J.
Griffin, K. T. (teller)	Irwin, J. C.
Kanck, S. M.	Laidlaw, D. V.
Lawson, R. D.	Lucas, R. I.
Stefani, J. F.	

Majority of 3 for the Noes.

Amendment thus negatived.

The Hon. R.R. ROBERTS: I move:

Page 4, lines 20 to 31—Leave out subsection (5c).

This amendment is consequential, and I move it although we have lost the substantive debate on this matter.

The Hon. K.T. GRIFFIN: This amendment is consequential, and I oppose it.

Amendment negatived; clause as amended passed.

Clause 6—'Repeal of section 13A.'

The Hon. K.T. GRIFFIN: I move:

Page 5, line 2—Leave out this line and insert—

6. Section 13A of the principal Act is repealed and the following section is substituted:

Restrictions relating to Sunday trading in the city.

13A. (1) Subject to subsection (2), a term of a retail shop lease or collateral agreement in respect of a shop situated in the central shopping district that requires the shop to be open on a Sunday is void to the extent of that requirement.

(2) Subsection (1) does not apply to a term of a retail shop lease or collateral agreement that has been authorised by an exemption granted under the Landlord and Tenant Act 1936 or the Retail Shop Leases Act 1995.

(3) Subject to an industrial agreement or an enterprise agreement to the contrary, a person who is employed in the business of a shop situated in the central shopping district is entitled to refuse to work at the shop on a particular Sunday unless he or she has agreed with the shopkeeper to work on that Sunday.

(4) In this section—

'collateral agreement' includes a guarantee under which the guarantor guarantees the performance of the obligations of a lessee under a retail shop lease;

'retail shop lease' has the same meaning as in the Retail Shop Leases Act 1995.

This amendment reflects yet again part of the package that was agreed by the Government. It reflects that the agreement that the term of a retail shop lease or collateral agreement for a shop in the central shopping district that requires a shop to be open on a Sunday is void. To the extent of that requirement, there is an exception in subclause (2).

The other substantive issue is that, subject to an industrial agreement or an enterprise agreement to the contrary, a person who is employed in the business of a shop situated in the central shopping district is entitled to refuse to work at the shop on a particular Sunday unless he or she has agreed with the shopkeeper to work on that Sunday. Again, that reflects part of the agreement which the Government has entered into.

The Hon. T. CROTHERS: If the Attorney finds, contrary to the advice that he has been given, that there is no way in which to enforce this provision, will he give the Committee a guarantee that in respect of victimisation which might arise from this provision he will be prepared to insert provisions which will provide, in effect, some teeth and power relative to ensuring that the fair play and equity which is intended here is upheld?

The Hon. K.T. GRIFFIN: All I can do is take that on notice and let the honourable member have a reply in due course.

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: All I can say is that I will have to take that on notice. I cannot give the honourable member an answer on the run.

The Hon. M.J. ELLIOTT: I rise to support the amendment and, in so doing, also note that the Government had agreed that, if the amendments here were not sufficient, it would support any necessary changes to the retail awards as well. It has said it will agree to that if it is necessary. In relation to retail shop leases, I think there are still some ways that pressure might be applied where this might not be covered. I would hope that further discussions in relation to retail shop leases that will continue might address that.

The Hon. R.R. ROBERTS: We see some value in this and will be supporting it.

Amendment carried; new clause inserted.

Remaining clauses (7 and 8) and title passed.

Bill recommitted.

Clause 3—'Interpretation'—reconsidered.

The Hon. K.T. GRIFFIN: I move:

Page 1, lines 20 and 21—Leave out paragraph (b) and insert paragraph as follows:

(b) by striking out 'three persons are physically present at any one time' from subparagraph (iii) of paragraph (a) of the definition of 'exempt shop' in subsection (1) and substituting 'five persons are physically present at any time outside normal trading hours'.

This is a package of amendments relating to exempt shops. Presently the law provides that the maximum number of employees may be three with respect to shops that are up to 200 square metres in area other than food shops, which can be up to 400 square metres. The Government has taken the view that there should be no restriction on the ability of small business to employ people in such shops. In the spirit of compromise, we have asked the Committee to reconsider it on the basis of an increase from three to five persons physically present at any time outside normal trading hours, and that that be the limit.

I need to point out that the limit of three creates a great deal of difficulty, particularly at busy times, whether they be on weekends or at special times of the year such as Christmas, where people might be stocking shelves or assisting at checkout counters if they are the 777-type supermarkets. The Government does not see why there ought to be a restriction. People ought to be able to make their own decisions about how many people they want to employ in a business. However, on the basis of the earlier rejection, we believe that an increase from three to five is not unreasonable and that it will enable a greater level of employment to be encouraged for those small businesses which want to make that choice. It is a matter of choice. It does not seem that any ill occurs as a result of allowing these small businesses to be able to make that choice.

The Hon. M.J. ELLIOTT: The reason we have this legislation and why we are handling it in such a hurry relates to the fact that the Government's attempt to have Sunday trading in the city was overturned. I understand why the haste is there, even though it was the Government's fault, but to include new matters of substance in legislation was inappropriate, anyway. This is certainly an issue of some substance, and it has not been one that I have spent any time on at all. I have had no opportunity to discuss with people in the community whether or not there are major consequences.

The Government at first had a real try on. It wanted to go from three to any number—sort of pick your limit. Without even exploring the issue in debate now, which I cannot do because I have not had a chance to go out and talk with people, that simply is not on at all. The arguments the Government has put, in general terms, are all over the place. Earlier tonight I did offer the Government a compromise of 4¼, which it would not come to—

The Hon. R.I. Lucas interjecting:

The Hon. M.J. ELLIOTT: Something like that. One of your backbenchers more like it.

The Hon. R.R. Roberts: He's not here.

The Hon. M.J. ELLIOTT: How do you know about whom I am talking? I have great difficulty in handling what is a side issue to the substantial issue that has been debated in haste over the past couple of weeks. If the Government wants to amend this I will accept four persons at this stage, but I will not go beyond that, and it will have to wait until next time the Act is amended before this is looked at again. There are other matters relating to clause 13 which need clarification anyway—the 80 per cent and that type of thing.

The Hon. K.T. GRIFFIN: I seek leave to amend my amendment as follows:

Delete the word 'five' and insert 'four'.

Leave granted; amendment amended.

The Hon. K.T. GRIFFIN: In doing that, I say that it is not a concession to the argument of the Hon. Mr Elliott. The Government's view is still that it should be unlimited and that business ought to be able to make its own decisions about who it shall or shall not employ and the numbers it employs. We do not want to pre-empt that argument by accepting this figure, but it is a small concession and we are prepared to take it.

The Hon. R.R. ROBERTS: The Opposition opposes the amendment. We put our argument last night and convinced the Committee of the Premier's recommendation in this area in 1982 (when he was the Minister for Labour) that three was in the best interests of small business and would protect small businesses. I was convinced by his overpowering argument and will support the *status quo*—which is three—because how could the Premier be wrong?

Amendment as amended carried.

The Hon. K.T. GRIFFIN: I move:

Page 2, lines 1 to 4—Leave out paragraph (e) and insert paragraph as follows:

(e) by striking out 'three persons are physically present at any one time' from sub-subparagraph B of subparagraph (ii) of paragraph (d) of the definition of 'exempt shop' in subsection (1) and substituting 'four persons are physically present at any time outside normal trading hours'.

The Hon. R.R. ROBERTS: I know everybody else is disappointed with the Premier, but I am sticking with him. We are opposed.

The Hon. M.J. ELLIOTT: I have not heard an explanation from the Minister as to what this amendment—

The Hon. K.T. Griffin: It is consequential.

The Hon. M.J. ELLIOTT: Consequential on what?

The Hon. K.T. GRIFFIN: I must confess that I presumed it was the same issue. The first one we dealt with concerned 200 square metres, and this one concerns 400 square metres.

The Hon. M.J. ELLIOTT: Does this talk about normal trading hours? It is certainly not consequential on those.

The Hon. K.T. GRIFFIN: My understanding was that there is an issue about the three persons physically present at any one time and whether that applied to all hours or just those hours outside normal trading times. There are two issues: one is the number from three employees up to four, and the other clarifies that, during normal hours, you can have as many employees as you like. The limit applies when you are outside normal trading hours.

The Hon. M.J. ELLIOTT: I can think of an example where this would be relevant. My local 777 store, for example, normally operates with three people at night, but I imagine during the day when they are stocking shelves and things like that that there might be a need for not only people serving behind the cash register but others to do the odd job that comes up. I had a feeling that I had heard there was something of an anomaly in that area, and to me it does make real sense.

Amendment carried.

The Hon. K.T. GRIFFIN: I move:

Page 2, after line 11—Insert paragraph as follows:

(ga) by inserting after the definition of 'motor spirit' in subsection (1) the following definition:

'normal trading hours' in relation to an exempt shop means the hours during which the shopkeeper would be entitled to open the shop under section 13 or under proclamation made under that section if the shop were not an exempt shop;.

This amendment is necessary for the purpose of interpreting the two previous amendments.

Amendment carried; clause as further amended passed.

The Hon. K.T. GRIFFIN (Attorney-General): I move:

That this Bill be now read a third time.

The Hon. R.R. ROBERTS: I indicate at this stage that I do not want to go over this again, and how these people have committed this terrible act tonight. The Opposition will oppose the Bill.

The Council divided on the third reading:

AYES (9)

Davis, L. H.	Elliott, M. J.
Griffin, K. T. (teller)	Irwin, J. C.
Kanck, S. M.	Laidlaw, D. V.
Lawson, R. D.	Lucas, R. I.

AYES (cont.)

Stefani, J. F.

NOES (6)

Crothers, T.	Feleppa, M. S.
Levy, J. A. W.	Roberts, R. R. (teller)
Roberts, T. G.	Weatherill, G.

PAIRS

Pfitzner, B. S. L.	Cameron, T. G.
Redford, A. J.	Pickles, C. A.
Schaefer, C. V.	Wiese, B. J.

Majority of 3 for the Ayes.

Third reading thus carried.

CRIMINAL LAW (UNDERCOVER OPERATIONS) BILL

Returned from the House of Assembly without amendment.

SGIC (SALE) BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments.

[Sitting suspended from 12.48 to 1.45 a.m.]

SHOP TRADING HOURS (MISCELLANEOUS) AMENDMENT BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments.

ADJOURNMENT

At 1.46 a.m. the Council adjourned until Tuesday 4 July at 2.15 p.m.