HOUSE OF ASSEMBLY

Friday 13 May 1983

The SPEAKER (Hon. T.M. McRae) took the Chair at 10.30 a.m. and read prayers.

PETITIONS: CASINO

Petitions signed by 1 040 residents of South Australia praying that the House reject the proposal to establish a casino in South Australia were presented by the Hons. R.K. Abbott, H. Allison, W.E. Chapman, T.H. Hemmings, and Michael Wilson, Mrs Appleby, and Messrs Ashenden, Evans, Klunder, and Trainer.

Petitions received.

A petition signed by 58 residents of South Australia praying that the House reject the proposal to legalise casino gambling in South Australia; establish a moratorium on all forms of gambling; and request the Federal Government to set up a committee to study the social effects of gambling was presented by Mr Gunn.

Petition received.

PETITION: FLOOD RELIEF APPEAL

A petition signed by 2 798 residents of South Australia praying that the House urge the Government to allocate an additional $2 000 000 to the District Council of Angaston Chairman's Flood Relief Appeal was presented by the Hon. E.R. Goldsworthy.

Petition received.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Environment and Planning (Hon. D.J. Hopgood)—

Pursuant to Statute—

Planning Act, 1982—Crown Development Reports by South Australian Planning Commission on—

i. Proposed development at Mount Barker South Primary School.

ii. Proposed erection of a transportable classroom at Jamestown High School.

iii. Amalgamation and disposal of allotments in the hundred of Wonoka.

By the Minister of Mines and Energy (Hon. R.G. Payne)—

Pursuant to Statute—

i. South Australian Energy Council—Report, 1981-82.

By the Minister of Community Welfare (Hon. G.J. Crafter)—

Pursuant to Statute—

i. Corporate Affairs Commission—Report, 1981-82.

ii. Commissioner for Equal Opportunity—Report 1981-82.

QUESTION TIME

BANKS MERGER

Mr OLSEN: Has the Premier taken any action to bring about a merger of the operations of the two State banking institutions? If he has, when does the Premier intend to make a public announcement on the proposal? In my Address in Reply speech in this House in March I advocated a merger of the State Bank and the Savings Bank of South Australia to form a South Australian banking corporation.

In doing so, I pointed out that there is no longer a bank with its head office in Adelaide which offers a range of services in complete sympathy with the local scene. A South Australian banking corporation structured along the lines proposed would be able to provide a full range of banking and related financial services for the benefit of all South Australians. Decisions relating to financial requirements of some of the larger employers in South Australia would be expedited in Adelaide by decision makers well versed on the local scene.

I am informed that, following my proposal, the Premier called the chairmen of both banks to his office to discuss the possibility of a merger. I also understand that a merger announcement could be made as early as next week. Can the Premier give the House any information about this matter?

The Hon. J.C. BANNON: I rather thought that the Leader must have had a member of my staff provide the speech notes for the Address in Reply speech that he made in March, because he repeated things that I have been saying for some two years. Indeed, Labor Party policy before the last election placed great stress on the more efficient operation of State financial operations. From 1979 my Party has constantly drawn attention to the fact that the loss of the Bank of Adelaide meant that South Australia did not have a major headquarters bank operating here, and that left a gap in our financial strength. That gap had to be filled.

The loss of the Bank of Adelaide, which was avoidable but for the appalling way in which it was handled by the Tonkin Government, meant that alternatives had to be found. Those alternatives relate to a number of areas: first, I refer to the strengthening of our own financial institutions (two State banks, S.G.I.C., and the various investment funds that are available); secondly, the attempt to ensure that we have a money market operating in South Australia, that we have merchant banking facilities here and the partnership between the Savings Bank of South Australia and Credite Commercial de France (that operation is under way); and, thirdly, if further licences are to be offered by the Commonwealth Government (and former Treasurer Howard announced that that would occur following the Campbell Committee Report), Adelaide should secure the headquarters of at least one of the banks that may be offered such a licence.

A number of negotiations have taken place; in fact, at least two foreign banks, if granted a licence to operate full banking services in Australia, will locate their headquarters in Adelaide. A lot depends on the final decision that is taken at national level. I now turn to the Leader's particular point. As he says, for some time now it has been clear that the State banking system has much greater potential than its current efficient operations suggest. There is scope for expansion, particularly linking it into a network of State banks in other States.

In Opposition I had considerable discussions with a number of interested interstate parties, including the State Bank of New South Wales which has embarked on a vigorous expansion and development programme with great effect in that State. Our policy specifically referred to a much closer integration of the two banks and their operations. We stopped short of actually declaring mergers or amalgamations because of its commercial sensitivity. That is something that has never concerned the Opposition, which is quite happy to blunder into these areas without much regard for the consequences. In fact, I understand that the Leader's irresponsibility in this matter extends to sending letters to branch managers of the various banks telling them of a great speech

he made, without acknowledging my contribution in some of the speeches that I made in Opposition (from which he borrowed his ideas). The Leader has sent these letters around saying that he thought that his suggestion was a great idea.

I welcome the support of the Opposition. When the first tentative steps were made to try and do something in terms of a closer relationship under the previous Dunstan Government, the appalling performance of the Opposition at that time and its criticisms created a situation that could have endangered the financial viability of our State banking system.

The Hon. Peter Duncan: They did it deliberately.

The SPEAKER: Order!

The Hon. J.C. BANNON: It will be an interesting history indeed, when it is finally written. I will not accept a rerun of that type of behaviour. I suggest to the Opposition that, while the Government welcomes its support for a closer integration between the banking system, it should also co-operate with us to ensure that it is done with a maximum commercial advantage to the State and not in a way that would be either disturbing or destructive.

In fact, the announced election policy of ensuring a much closer integrated relationship with the banks has been in train since our election. I had discussions with the chairmen of both banks as early as December last year, well before the Leader made his welcome speech ('welcome' in the sense that he supported some sort of policy). A steering committee has been established, work is going on, but we are operating in a vital and sensitive commercial area. Announcements will be made at appropriate times. Work that is to be done will be done in full consultation with the banks, the financial sector and their employees. All I can say at this stage is that any announcements are premature, but yes, we are working on the implementation of our election policy.

INSTANT MINI-BINGO

Mr MAX BROWN: Will the Minister of Recreation and Sport examine current regulations concerning the running of the minor lottery called 'Instant Mini-Bingo', particularly in respect of the manual handling of sales of tickets by clubs, associations and charitable organisations and, particularly, whether some alternative method of sale might be envisaged? This type of small lottery has become an important one and a good money spinner for the organisations to which I have referred. The matter that concerns me is the area open to human error where the financial return can vary quite significantly. I am quick to point out that these tickets are sold when quite often the seller is under extreme selling strain (such as in the case of a barmaid) and cannot or should not be held responsible for errors that might occur. I wonder whether some alternative, such as a machine, should be considered.

The Hon. J.W. SLATER: I appreciate the question from the member for Whyalla, who takes special interest in these matters. I point out that the turnover for small lotteries in 12 months is about $37 000 000. It is an extensive operation and a good one for sporting clubs and other organisations in their endeavours to assist their clubs. The point the honourable member has made regarding dispensing (and I think he is referring specifically to what are called 'instant bingo tickets') is that instant bingo involves a cash prize. The regulations presently preclude the use of a machine to dispense a cash prize. Machines must dispense a prize of goods rather than cash. The problem is that, if we have a vending machine to dispense cash prizes, in the minds of many people that is the first step towards poker machines.

Nevertheless, I am prepared to consider this matter.We want to assist clubs in their endeavours to keep up their returns from small lotteries. I know from personal experience that there is some difficulty in selling tickets manually over the bar, but I must consider carefully a dispensing machine that pays out a cash prize. Beer ticket machines are different because they do not dispense a cash prize but mainly beer or such goods. I will get my officers to consider this matter and I will bring back a full report.

BANKS MERGER

The Hon. B.C. EASTICK: What action has the Premier taken to ensure that a merger of the State banking institutions will provide a greater range of financial services for small businesses in South Australia, and will he also advise what steps have been taken to ensure that the Government agency operations are kept as a separate function of a merged bank?

Due to the historical development of the two banks, they differ in the nature and size of their lending arrangements. The Savings Bank has traditionally lent for housing and to local and semi-government authorities—other types of lending have been indtroduced over the past couple of years. The State Bank was originally an agency for administering Government policies. Lending in many cases has not been on a strictly commercial basis. (There is no criticism of that; it is a statement of fact).

A merged bank, therefore, would have two functions: to operate as a full service trading and savings bank, and to carry out certain Government agency operations. If there was any chance that the bank's funds were to be used to subsidize special Government programmes, there would be a loss through diversion of funds away from, for example, small business operations. Also, if the bank were to use its own funds to support Government agency operations, this would reduce the return on funds and thereby the ability to compete for deposits in the market place. This problem could be overcome if the Act for the merged bank made it quite clear that the two functions were to be kept separate.

Having regard to two statements made by the Premier in answer to the Leader's question (that it was necessary to take action in the name of greater efficiency and that it was necessary to have maximum commercial advantage), the possibility does exist if those two desirable features were to submerge the traditional roles that the two banks play in the best interests of the South Australian community.

The Hon. J.C. BANNON: The banks have performed separate but related functions. The Savings Bank of South Australia, over the last few years particularly (and there have been amendments to its Act to allow it to do this), has greatly expanded its range of lending. It is very competitive in the market place for a whole range of banking services not offered previously by a bank at that level. It has been very innovative, and that is something to be welcomed. Of course, its success in the market place has proved that.

The State Bank has performed the role largely of a rural bank. Much of its lending and much of its operations centre around its origins. It was established in the 1890s in the wake of the dreadful depression which particularly hit the primary and rural sectors. Of course, it had a very prominent role to play again in the 1930s under similar circumstances. The bulk of its clientele has centred around those rural communities and it has performed that function very well. Some of its Government agency activities have operated on a separate accounting basis; where the State Bank is the vehicle for particular types of housing loans, and for receipt of Commonwealth moneys (for instance, for public housing and whatever), that is separately accounted for.

Under whatever changed relationships, whether in the form of a merged bank or in a more closely integrated State banking system, obviously those functions would continue. The idea would be to extend the range of functions, services

and ability to finance and to not in any way chop off or circumscribe facilities and services being offered currently. Of course, a revolution in banking has been going on over the last few years. In order to remain competitive and viable, and particularly to fill the gap left by the Bank of Adelaide, our two State banks are being required to respond. Obviously the most efficient way of doing that it is what the Government has under active examination.

STEWART COMMITTEE

Mr WHITTEN: Does the Minister of Mines and Energy agree that the recently announced Stewart Committee on electrical generation needs is stacked with proponents of nuclear power? In the *Advertiser* of 7 May an article, under the heading 'Nuclear Stacking, M.L.C.', containing statements attributed to Mr Gilfillan, M.L.C., stated:

A State Government committee appointed to advise on South Australia's electricity generation choices was stacked with proponents of nuclear power, Australian Democrat, M.L.C., Mr Gilfillan, said yesterday.

'It lacks anyone to represent energy conservation or alternative energy sources,' he said. 'The committee should have wider terms of reference and should consider gas, solar, and wind power.' The five-man committee is led by Mr E.B. Stewart, who is credited with planning and developing brown coal deposits in the Latrobe Valley.

The Hon. R.G. PAYNE: I thank the honourable member for the question and for the opportunity to dispel a vague possibility only that may be put into the minds of any member of this Chamber by such a ridiculous assumption.

The Hon. E.R. Goldsworthy: Do you mean Gilfillan?

The Hon. R.G. PAYNE: Yes, the Hon. Mr Gilfillan, who made that statement. I am sure that the Deputy Leader, who is the former Minister of Mines and Energy, would certainly not be under that impression. Perhaps one of the most pungent comments I could make in relation to the article would be to point out that the *Advertiser* reporter who wrote the article did not seem to be in any such doubt, because one of the highlight points he made, as the member for Price stated, was that the committee would be led by a Chairman who was credited with planning and developing brown coal deposits in the Latrobe Valley. It could be that Mr Gilfillan has chosen to make these statements because Mr Stewart has been and is a member of the Federal Government Uranium Advisory Committee. However, I would have thought that, because the committee will consider future electricity generating options in the short term (which is the task that was given to the Stewart Committee), it would not automatically follow that it would consider the setting up of a nuclear facility.

However, Mr Gilfillan also stated that there did not seem to be a range of options open to the committee in its considering the provision of the 250 megawatts or so of electrical power generation that might be needed in South Australia from 1989 to 1996. Even a cursory examination of the terms of reference as stated in the release that was made in relation to the committee would show that the first four options clearly refer to local coal resources.

In conclusion, I would not have thought that one could necessarily say that Mr Ron Barnes, the State Under Treasurer, is a nuclear proponent, or whatever Mr Gilfillan was trying to argue.

The committee has been set up by the Government and has been asked to undertake an important task, in a short time, in the interests of all South Australians. I am quite confident that it will be able to do that. The members of the committee, from Mr Stewart to Mr Leon Sykes (the Deputy General Manager of ETSA), and the expertise they will bring to the task will provide the necessary answers for South Australia. I have no doubt whatsoever that it is ludicrous to suggest that that group comprises a nuclear stack.

MOSCOW VISIT

The Hon. E.R. GOLDSWORTHY: Did the Deputy Premier, or an agent acting on his behalf and with his knowledge, make contact earlier this year with Mr David Combe to seek a visit to Moscow and, if so, why and what was Mr Combe's response?

Members interjecting:

The SPEAKER: Order!

The Hon. E.R. GOLDSWORTHY: I have been reliably informed that earlier this year Mr David Combe told the Soviet Diplomat (Mr Valeriy Ivanov) that the Deputy Premier was seeking an invitation to visit the Soviet Union. As a result, Mr Ivanov made contact with the Deputy Premier's office the day before the Federal Government ordered his expulsion from Australia. The Deputy Premier revealed in an article in the *Advertiser* of April 26, that Mr Ivanov had contacted his office, and I understand that from reading the release that came from the Deputy Premier or his office. In that article the Deputy Premier also stated that he had raised the question of invitations to Russia with a Labor Party contact.

The Hon. J.D. WRIGHT: I have been wondering when this question would come from the Deputy Leader of the Opposition. I actually thought that I would get it last week, and I thought that it would come from the Deputy Leader of the Opposition. That is the sort of question that he likes to ask.

Members interjecting:

The SPEAKER: Order! In particular, I ask the Deputy Leader of the Opposition to come to order. I made it quite clear while the question was being asked that I wanted silence, and I want silence while the question is being answered.

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. WRIGHT: I made no secret of the fact that it was suggested to me why I had not been to the Soviet Union. I made the point that I did not think that I would be allowed into the nation because I had never been asked. A lot of other people around Australia have been asked to do trips from time to time.

The comment that I made about seeking a trip was evidently relayed to Mr Ivanov, who came to Adelaide, and, in my view, in quite a sloppy manner tried to contact the Deputy Premier of the State after he got here. It seems to me that, without any prior attempt being made to make an appointment, it was a very sloppy way of doing business. If he did not run his embassy any better than that, I am afraid that he would not have been a very good spy.

Nevertheless, he rang my office: I make no denial about that. It was one of the weeks when I was unfortunate enough to be sick. He said that he had no prior appointment. My staff said that he could not see me and asked what it was about. He would not tell them. However, I then noticed in the press the next day that he announced that he was here for two specific reasons. One of those reasons was to address a Liberal Party function somewhere over here.

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. WRIGHT: Of course, the second and less important of those things was to arrange some sort of trip for me if I went overseas to Russia.

VEGETATION CLEARANCE

Mr KLUNDER: Will the Minister for Environment and Planning indicate what steps the Government is taking to ensure full and proper dissemination of information concerning the newly gazetted regulations to control vegetation clearance? Will he comment on the call by the United Farmers and Stockowners Organisation for Government compensation where vegetation clearance is not permitted?

The Hon. D.J. HOPGOOD: It is important that there be full dissemination of information in relation to this matter in order to correct any misleading impressions that might be about that there is some moritorium on clearance, and also to ensure that people do not inadvertently breach the law out of ignorance.

Apart from the obvious publicity surrounding the gazettal of the regulation yesterday, we are taking further steps. I do not know whether the advertisement was in the *Advertiser* this morning. If it was not, I guess that it will be there tomorrow morning and there will be a similar advertisement in the *Sunday Mail.* There will be official notices in all the country newspapers and the *Stock Journal.* The booklet, copies of which have been sent to all honourable members, is are also being sent out through the *Stock Journal* which, I understand, has a circulation in excess of 25 000.

In addition, the officers of the department are available for people to ring. I understand that there have been quite a few calls this morning, all, without exception, being straightforward requests for information as to the way in which the system will operate, which indicates to me that people are seeing the innovation as being a sensible one which, perhaps, should have been embarked on some years ago.

There is no provision in the Planning Act for compensation; nor will I be recommending to the Government that any such amendment to the legislaton should be attempted. Let me simply explain that the effect of the regulation is to make clearance a development along the lines of the other forms of development which are controlled in the Planning Act which, of course, was introduced by the previous Government, and a person who is either granted approval under certain conditions or is denied approval is in no different position from any other person who has a proposition for any other sort of development and finds himself or herself in that position.

Mr Evans: What if the person has planted the tree or bush themselves? That is an area of doubt where a tree or bush has been planted by a human being, for the purpose of using it some time in the future.

The Hon. D.J. HOPGOOD: As I understand, that is covered in the exemptions in the booklet. Perhaps the honourable member and I can discuss that a little more closely, and I can certainly get that information for the honourable member and for the House. Demolition of heritage buildings and prohibitions against that sort of development, if we can call it that, various forms of development of the hills face zone and proposals for industrial development are matters that have historically been controlled by the planning legislation without any sort of suggestion that there should be compensation. In other words, since there is no automatic right of development, there is no right to compensation.

One of the things that I would anticipate, of course, is that as a result of the new controls there will almost certainly be an increase in the number of applications for heritage agreement, and that is something that we would welcome. Our capacity, of course, to be able to treat all of those will be constrained somewhat by the normal financial constraints, but a good deal of assistance is available under those provisions— assistance for fencing off stands of vegetation and relief from council rates. That would seem to me to be as far as this Government should take the matter.

SOVIET UNION VISIT

The Hon. D.C. BROWN: I ask the Deputy Premier, subsequent to the question of the Deputy Leader of the Opposition: who was the Labor Party contact referred to by the Deputy Premier in the *Advertiser* article of 26 April in which the Deputy Premier revealed that he had been invited to the Soviet Union by Mr Ivanov? In particular, was the Labor Party contact Mr David Combe? With your concurrence, Sir, and that of the House, I explain my question.

The Hon. J.D. Wright: Explain why you want to know, too.

The Hon. D.C. BROWN: I think that it is the right of this House to know.

The Hon. H. Allison: Explain why you are not going to tell us, Jack.

The Hon. E.R. Goldsworthy: That is more like it. Explain why you are so sensitive.

The SPEAKER: Order! As I understand it, the honourable member is seeking leave of the House and of me to explain his question.

The Hon. D.C. BROWN: Yes. I point out in explaining my question that this House has a right to know who that person was, especially as it involved the Deputy Premier of this State. In the *Advertiser* report of 26 April, the Deputy Premier is quoted as follows:

> I've always been of the opinion that the Soviet Union has been somewhat taboo to me. I have never had an invitation but plenty of people I know have got them.

The report then goes on to say:

> Mr Wright said he had mentioned this to a Labor Party contact and he presumed he must have told the Soviet Embassy.

I think I should also clear up the matter just raised in answer to the previous question answered by the Deputy Premier in which he said that Mr Ivanov—

The SPEAKER: Order! I hope that this is part of the explanation and not the beginning of a debate.

The Hon. D.C. BROWN: I assure you, Sir, that it is not a debate, but I think it is important that I place on record the facts surrounding Mr Ivanov's appearance at a Liberal Party meeting.

The SPEAKER: Order! I rule that out of order; that is a comment.

The Hon. D.C. BROWN: Obviously we will have to deal with that elsewhere. However, the newspaper report that Mr Ivanov was invited was wrong. I ask this question of the Deputy Premier because I believe that—

The Hon. E.R. Goldsworthy: The newspaper had it right; the Deputy Premier had it wrong.

The Hon. D.C. BROWN: The Deputy Premier had it wrong. I ask that the Deputy Premier reveal who that Labor Party contact was and, in particular, to say 'yes' or 'no' as to whether it was Mr David Combe.

The Hon. J.D. WRIGHT: I am not clear in my own mind (I am not trying to dodge this question, and I will not)—

Members interjecting:

The Hon. J.D. WRIGHT: No, I am not trying to dodge questions: all members opposite have known me for 12 years, and they know that I do not tell lies to the House, nor do I mislead it, like members opposite.

Mr LEWIS: On a point of order, Mr Speaker. As I understand it, the Deputy Premier says that he does not tell lies: no-one on this side of the House said that he did. However, he imputed that I, together with other members on this side of the House, do tell lies. As that is an unpar-

liamentary allegation, I ask that you insist that the Deputy Premier withdraw it and apologise to the House.

Members interjecting:

The SPEAKER: Order, please, while I deal with this matter. I understand that the point of order is directed to the assertion by the Deputy Premier that some members (I cannot remember whether it was some members or a member)—

Members interjecting:

The SPEAKER: Order! I take it that the assertion by the Deputy Premier is that members opposite had misled the House or did mislead the House—whatever the grammar, I uphold the point of order: it is unparliamentary, and I ask the Deputy Premier to withdraw that remark.

The Hon. J.D. WRIGHT: If the honourable member is offended by it, I will withdraw it.

The SPEAKER: No, it is more than that: it is that I am offended by it. It is unparliamentary, so I ask the member to withdraw.

The Hon. J.D. WRIGHT: I withdraw it, Mr Speaker, on your recommendation.

The SPEAKER: Thank you.

The Hon. J.D. WRIGHT: I reiterate that I have never misled this House, nor have I told lies to this House, and I do not intend to do so now. I place on record the fact that I do not think that it is the business of the Opposition in regard to who offers me a trip overseas, or whether or not I was offered a trip.

The Hon. E.R. Goldsworthy interjecting:

The Hon. J.D. WRIGHT: Just a moment: the honourable member has been overseas plenty of times, and I never questioned his right to go, where he has been, or what he has done. To the best of my knowledge, I do not know what Mr Ivanov wanted to offer me, because I did not contact him, nor did he contact me. I have never met Mr Ivanov, nor has Mr Ivanov spoken to me on the telephone. I want to relate the facts to members of the House so that members will be very clear about this.

The Hon. Jennifer Adamson: Who was your contact?

The SPEAKER: Order!

The Hon. J.D. WRIGHT: I will tell the honourable member who the contact was. If honourable members are patient they will find out. I was invited by the Party Secretary in Adelaide, Mr Chris Schacht, to join with him and two or three other people, whom I did not know (one of whom was David Combe), to attend a lunch on or about 1 February this year. During the course of that lunch everyone raised the fact that David Combe had just returned from overseas, and, more importantly, that he had been to the Soviet Union, so he said. He asked me whether or not I had been to the Soviet Union, and I said, 'No', and that nor had I ever been invited to attend that country, and that I thought that they must have the marble in on me, or words to that effect. However, in regard to Mr Chipp's comments made the other morning, I point out that not only he but also plenty of Liberals, Democrat and Labor people have been to the Soviet Union. I certainly do not see anything wrong with going to the Soviet Union.

I am sure that members in this House have been to the Soviet Union. I have not been there. As I understand it, Mr Combe made the point that he had just come back from the Soviet Union and asked me when I intended going overseas. I said that it would not be until next year. He asked whether, if arrangements could be made to go to the Soviet Union, I would go, and I said that most certainly I would. That was the extent of the conversation. I am not sure whether or not he then went back to the Embassy and I do not know whether or not he positively spoke to Mr Ivanov. However, it is obvious that he spoke to someone in the Embassy who passed on the information to Mr Ivanov. Maybe he spoke personally to Mr Ivanov—I do not know—but he did pass on that information. The Embassy then said, 'The Deputy Premier is going overseas some time next year; we will extend the invitation to him to go to the Soviet Union.' That invitation has been extended to many politicians in Australia over the years.

FOOTBALL PARK

Mr HAMILTON: Can the Minister of Recreation and Sport say whether there has been any development in the long-running saga of the lighting of Football Park and whether this matter is likely to be resolved in the near future? Many new constituents have taken up residence in the Albert Park electorate, in particular in the West Lakes area and more specifically in the Delfin Island and Island Point areas. The current population in the West Lakes area is about 14 500 people. I have received numerous inquiries, both in my electorate office and through door-knocking, as to the current situation involving the lighting of Football Park.

The Hon. J.W. SLATER: As the member for Albert Park has correctly said, it is a long-running saga. I would hope that the parties, namely, West Lakes Limited and the South Australian National Football League, can reach a compromise on the lighting of Football Park. The member for Albert Park is probably aware of court proceedings and an injunction which was considered in February of this year. Justice Zelling requested the parties to endeavour to resolve their differences and to report back to him. I understand that negotiations and discussions are taking place between those two parties and that the situation will be resolved to the satisfaction of both parties and in the interests of the South Australian sporting public.

Members interjecting:

The Hon. J.W. SLATER: I hope it will be resolved. A multiplicity of problems have existed. First, we had a royal commission. We then had three years of a Liberal Government which during that period fumbled the ball. We are trying to help both parties come to an agreement. The major area of disagreement is the height of the towers and the intensity of the lights. They are the matters on which we hope that some compromise can be reached. I believe that an area of compromise exists: it depends on the goodwill of both parties as to whether a further compromise can be reached. I say 'further compromise' because I believe that in certain respects a compromise has already been reached.

It is important that Football Park be utilised to its fullest extent, and lighting is needed to ensure that. I hope that the parties, when they go back to Justice Zelling (I think at the beginning of June), will have arrived at a compromise satisfactory to both West Lakes Limited and the people they represent (the residents of West Lakes to whom the member for Albert Park has referred) and the Football League itself. As Minister and speaking on behalf of the Government, I indicate that we will do everything possible to ensure that that occurs.

BANKS MERGER

The Hon. H. ALLISON: Will the Premier say whether he has had any discussions with the Australian Bank Employees Union in relation to a possible merger between the Savings Bank of South Australia and the State Bank of South Australia and, if so, what issues were discussed and what was the outcome of those discussions? The merger of any two institutions can initially produce staff and courier uncertainties, and in this case there are also differences in

fringe benefits and retirement benefits between the banks. I therefore ask the Premier to ensure that these issues will be canvassed in full with the bank employees union.

The Hon. J.C. BANNON: I certainly welcome the member's concern for the interests of unions. It shows a very fine change of heart on the part of the Opposition, which is usually prepared to steamroll over them in such cases. That question is really along the lines of teaching a grandmother to suck eggs.

Of course, in terms of our election policy on the closer integration of services and changed relationships of the banks, I have corresponded with the unions involved which naturally will be involved in any process of change. Their interests will be looked after, and we are not going to ride roughshod over them. However, as I say, I welcome the new-found sensitivity and interest in the role of the unions in this matter. I hope it continues and goes into other fields of activity as well.

BIRKENHEAD BRIDGE

Mr PETERSON: Can the Minister of Transport say whether the Birkenhead bridge is safe and whether there are any plans for its replacement? Prior to the last State election great concern was expressed by a candidate for the seat of Semaphore about the safety of persons using this bridge. At that time the candidate stated that a new bridge was needed.

This matter has been raised with me by many constituents who are interested in the facts and require clarification as to the safety of that structure. They desire to know whether there is a replacement policy or whether the claims made at that time were purely a political-posturing exercise that has caused much unnecessary concern among many elderly people in the electorate.

The Hon. R.K. ABBOTT: Over the past few months a detailed inspection of the Birkenhead bridge has been carried out by Highways Department engineers. Overall, they found the bridge to be in good condition, but some minor works are necessary. I think one of the difficulties with the Birkenhead bridge is the amount of traffic that crosses it and the blocking of one lane that is necessary to enable that work to be carried out. However, that situation will be relieved when the extension of Grand Junction Road and Bower Road will be completed in the future, diverting much of the traffic going on to LeFevre Peninsula. Much more maintenance work can be carried out on the Birkenhead bridge when that road is opened.

Over the past few weeks, the member for Semaphore would have noticed some minor maintenance work being carried out. This involved replacing some reinforcement edging on the static part of the bridge where it meets the moving spans. A programme of repainting will be scheduled over the next five years, and while formwork is in place for this project, other minor repairs will also be carried out. The decking of the bridge, however, is in need of replacement. The timber decking, which is the second decking since the bridge was commissioned in the early 1940s, is approaching the end of its expected life span. Engineers are also completing design work on a suitable replacement deck over the next two years or so. The Government has no programme for replacing the Birkenhead bridge at this stage.

CHIEF SECRETARY

Mr BECKER: Did the Chief Secretary recently conduct an interview with a newspaper reporter in the presence of a person known to this House? That person has been questioned by the police in relation to certain offences alleged to have been committed at a western suburbs supermarket. If so, did the interview occur before a final decision was taken by the police on whether or not they should proceed with this matter?

The Hon. G.F. KENEALLY: I am not too sure about the point that the honourable member is making. I point out to the honourable member that I have numerous conversations with newspaper reporters, just as I expect that he does, too. I also have numerous conversations with newspaper reporters in the presence of other people. As I have said, I am not too sure about the honourable member's point. If the honourable member would clarify his point I may be able to give him more information. I am a bit amazed at the honourable member's question.

Mr Becker: Interjections are out of order.

The SPEAKER: Order! I do not wish to interfere with the honourable member's right to ask a question. I suspect that his question is delicately poised somewhere between the *sub judice* rule and the potential for an allegation of interference by the Minister. I certainly took a keen interest in the way that the honourable member phrased his question. I ask the Minister to refrain from requesting further information, if there are problems similar to those I have mentioned. The member will have to either frame his question far more accurately to enable the Minister to answer or he will have to allow the Chair to rule.

The Hon. E.R. Goldsworthy: That's up to the Minister.

The SPEAKER: Order! I am not interfering with the process; I am ensuring that Standing Orders are upheld. Alternatively, the honourable member could approach the Minister in private.

The Hon. G.F. KENEALLY: I point out to the honourable member that I have numerous conversations with various people, the police and with reporters. As any Chief Secretary would know, any conversations that I have with these people are referred to the police and, therefore, there would be no impropriety in my actions. My conversations with people are conducted with the full knowledge of the police. That should answer the honourable member's questions.

SCHUTZENFEST

Mr FERGUSON: Can the Minister of Tourism provide the House with any information about a report that the Schutzenfest may be moved from Hahndorf to Semaphore? The Schutzenfest has become associated with Hahndorf and the German type festival held in that town is a tourist attraction which attracts many interstate visitors to South Australia. In fact, it can be considered as one of the highlights of South Australia's tourist programme. It is widely considered that it would be a great pity if the association between Hahndorf and the Schutzenfest was discontinued.

The Hon. G.F. KENEALLY: It has been brought to my attention that there has been a discussion about moving the Schutzenfest festival from Hahndorf to Semaphore. Whilst that might bring some joy to the member for Semaphore and the member for Price, as Minister of Tourism I have some reservations. This matter has not been brought to my attention. I checked with the Travel Centre this morning and it has not received an official approach about this matter, either. However, I am not sure whether that is necessary, because this is a matter for the German Association, which conducts the Schutzenfest.

I am aware that the logistics of running this festival year by year become more difficult. I suppose I would represent the general view of people in South Australia and all over Australia who have been to the Schutzenfest, and to Hahndorf, in saying that there is an association between the

Schutzenfest and Hahndorf, which is a historical German village in the Adelaide Hills in the middle of South Australia. It is an important tourist destination. The local economy benefits enormously from that festival. I do not think that many people understand the impact that such festivals have on local communities and economies, and on the State economy.

I am willing to offer what assistance we can from the Travel Centre to assist the Schutzenfest organising committee to maintain its presence in Hahndorf or in a similar Adelaide Hills location that has direct German links, because this is an important German festival and this is an important and historical region of South Australia. I find it difficult to imagine the Schutzenfest taking place anywhere other than Hahndorf. I am prepared to express that view by providing what assistance we can from the Travel Centre to the organising committee to assist it in overcoming some of its logistical problems. These problems might be with traffic or the area within the Hahndorf township itself, or there could be other problems.

The Hon. J.W. Slater: Or the oval.

The Hon. G.F. KENEALLY: As the Minister points out, the oval is a problem. If it is within the wit of the committee and the Travel Centre to come up jointly with a resolution to this problem, and if it is within the resources of the committee and the State department we would be anxious to help come up with the answer to this problem. I believe every person in South Australia would appreciate the Schutzenfest's remaining at Hahndorf, because the relationship is quite obvious. This is an important and traditional festival in South Australia. If we start meddling with it we will lose some of that tradition. I understand the problems that the German Association has with this festival. I am not critical of it, because these problems are quite extreme. We are anxious to assist them if they see fit to seek our assistance.

COMPENSATION

The Hon. D.C. WOTTON: Will the Minister for Environment and Planning reconsider compensation for land owners who have purchased properties for the express purpose of legitimate primary production prior to the introducion of the regulation brought down yesterday? The Minister indicated, in answer to a previous question today, that the Government will not be providing compensation for people affected by the aforementioned regulation. The former Government achieved much in the retention of native vegetation through the introduction of the voluntary heritage agreement scheme referred to today by the Minister. There are landowners who have purchased land at high cost which is covered with native vegetation and who may not now obtain approval to clear that land so as to proceed with legitimate primary production. Hence my question concerning the need for compensation for people who have purchased such properties for legitimate primary production prior to the introduction of this regulation.

The Hon. D.J. HOPGOOD: No, the Government will not. I do not think that the question properly takes account of the flexibilities in the system. If we are talking about a particular landowner, there is no way of predicting at this stage what attitude the planning committee will take to his or her application to clear.

The honourable member will have had a chance to read the booklet by now. He would have noted the general form in which that application should take place and he would be aware, as the former Minister, that the commission may well grant approval or may grant approval with certain conditions or modifications of what has been placed before it. I again make the point—

The Hon. D.C. Wotton: But there are people who are going to be seriously affected.

The Hon. D.J. HOPGOOD: Planning always does that. I again make the point—

The Hon. D.C. Wotton: This is an extension in planning, you have to agree with that?

The Hon. D.J. HOPGOOD: There was a time when the declaration of the Hills face zone was an extension in planning when people had purchased properties in what subsequently became a Hills face zone assuming that the controls that were to be exercised in that area would be no different in kind from those that were generally exercised in the metropolitan area and in townships. The effect of the introduction of the concept of the Hills face zone was, of course, to put on more stringent controls and to potentially (and this is what the honourable member and I are talking about) produce a situation in which people may not be able to do with their property what they want to be able to do. One can multiply those examples. All the time there are movements of zoning occurring, and particularly in the metropolitan area there has been a recent move on the part of—

The Hon. D.C. Wotton: We are not talking about the metropolitan area.

The SPEAKER: Order! The honourable member for Murray has already whipped in three supplementary questions, I think that enough is enough.

The Hon. D.J. HOPGOOD: We are talking about the whole of the planning system, and I do not want to discriminate in relation to that matter. There has been a tendency on the part of local government recently to down zone (or alter the zoning from residential 2 to residential 1) in the metropolitan area. I think the honourable member opposite shares some of my concerns about that trend. Given that it occurs and it is continuing to occur, and occurs in the legal sense quite properly under the legislation, the effect of that is to somewhat constrain the capacity of the owner of an allotment as to the sort of development that can occur on it. In terms of the new system, the primary producer is in no different situation.

TEACHER NUMBERS

Ms LENEHAN: Can the Minister of Education inform the House whether the number of senior staff in secondary schools, particularly in the metropolitan area, is well over the number established by the staffing formula? On 17 March the member for Mount Gambier told the House that during the Government's time it acquired some 40 senior staff over the formula and that the present Minister of Education could now absorb these into the secondary teaching system to help cope with increased enrolments in secondary schools.

The Hon. LYNN ARNOLD: This matter was raised by the member for Mount Gambier some weeks ago. There was a clear implication that in fact there were 40 senior staff positions that could be used—

Mr Mathwin interjecting:

The SPEAKER: Order! I call the honourable member for Glenelg to order.

The Hon. LYNN ARNOLD: —to cope with increased enrolments. In fact, that situation I clearly have to refer to the department for comment, becauses it raises some suggestions about the numbers of teachers in the secondary system. If the member for Glenelg would look at the exact nature of his question—

The SPEAKER: Order! I hope the Minister is not going to reply to what has been said by way of interjection.

The Hon. LYNN ARNOLD: Certainly not, but I suggest that the 700 schools in the various parts of South Australia have a large number of classes and a large number of subject areas. If the member for Glenelg were to do some simple mathematical calculations as to the number of those classes and subject areas, he would find there is considerable time involved in collating those subjects and class areas.

Mr Mathwin interjecting:

The SPEAKER: Order!

The Hon. LYNN ARNOLD: The matter raised by the member for Mount Gambier in his statement to the House on this matter is only very partially true. Certainly in years past the system has been running over the senior establishment and, in fact, the member for Mount Gambier is quite correct that it ran over establishment during the years of his Government. That does not mean that the number of full-time equivalent teachers in the system is over establishment (in fact, the number most certainly is not), but rather that more of those within the approved head count were at a senior level than the strict application of staffing formulae would allow. The previous Government carried an over establishment of senior staff for its own reasons and was seemingly quite happy to do so.

The senior over-establishment figure for 1982 was in fact 20 and not 40, as indicated by the member for Mount Gambier, and this has been reduced in this year to 10. The potential for saving, if one were to try to readjust that and take the extra salary that a senior earns over what a classroom position teacher earns, would not, of course, involve those full 10 positions. It is the salary difference for those 10 positions, amounting to some $70 000, or the equivalent of three full-time equivalent teachers. Thus we have whittled it down from 40 to three.

Thus, the allegation made by the member for Mount Gambier that the past over-establishment of seniors would be available to meet increasing enrolment just does not apply. It does not involve 40 positions—it involves only three positions. What does the honourable member propose should happen to the 10 seniors who would generate those three incomes? Is he proposing that they summarily be taken off the list and reduced to classroom status? I hope he is not suggesting that, because that has not been the practice in the education system in this State in years gone by. It was not the practice of the honourable member as the former Minister, and I certainly do not intend that.

APPROPRIATION BILL (No. 1)

Returned from the Legislative Council without amendment.

SUPPLY BILL (No. 1)

Returned from the Legislative Council without amendment.

SITTINGS AND BUSINESS

The Hon. J.D. WRIGHT (Deputy Premier): I move:

That the House at its rising adjourn until Tuesday 31 May at 11 a.m.

Motion carried.

STATUTES AMENDMENT (FLOOD MANAGEMENT) BILL

The Hon. J.W. SLATER (Minister of Water Resources) obtained leave and introduced a Bill for an Act to amend the Local Government Act, 1934-1982, and the Water Resources Act, 1976-1981. Read a first time.

The Hon. J.W. SLATER: I move:

That this Bill be now read a second time.

Very substantial areas of towns and cities of South Australia are subject to some risk of flooding. For some areas the chance of significant inundation is quite remote and the level of risk to life and property is acceptable. In addition, the area within the River Torrens valley in the eastern suburbs and those within the low lying flood plain of that river which hitherto were subject to unacceptable risks of flooding will be, after completion of the River Torrens flood mitigation scheme, protected from the effects of all floods up to a flood of one in 200 years magnitude, an acceptable level of protection for residential areas.

However, in spite of this scheme and the progress with a number of others under the stormwater drainage subsidy scheme, there remain areas which are subject to unacceptable levels of risk to life and property. Parts of the urban area through which First, Third and Fourth Creeks run are examples. Prior to the floods of June 1981, there was only a limited appreciation of the significant flood risks in this area. The responsible councils are now endeavouring to evaluate the problem, but this work is hampered by the lack of reliable information. This and a number of other experiences over the past few years have shown that there are a number of urban areas which are subject to unacceptable levels of flood risk, but for which there is only a general indication of the magnitude of the risks to life and property. There are other areas about which nothing is known at all.

A reliable estimate of the average annual costs of flood damage, in dollar terms, cannot be made, therefore. According to one estimate, however, potential average damages for South Australian urban areas, after completion of the Torrens River scheme, may well still exceed $5 000 000 per annum. South Australia appears to be unique among the Australian States in not having systematic arrangements for the identification of flood risks. Unless this is remedied it is likely that unacceptable risks and costs will continue to be borne by the community in perpetuity. In fact, the risks and costs are likely to increase because, without knowledge of the level of flood risks, there is nothing on which to base development controls to prevent inappropriate new development in high risk areas.

There have been attempts in the past to come to grips with this situation. The major floods which occurred prior to 1940 caused considerable damage, in spite of the fact that development in the flooded areas was very much less than now. These floods stimulated *ad hoc* attempts to cope with the problems and their causes, but it was not until 1964 that an attempt was made to deal with the metropolitan problem as a whole. In July of that year, the then Premier convened a meeting of metropolitan council representatives to discuss the need for concerted action by the Government and councils. Following a series of discussions, draft legislation was prepared in 1966 for the establishment of a Metropolitan Floodwaters Control Board with wide-ranging powers over council drainage schemes. The proposed legislation, however, met with considerable opposition from the councils. Subsequently, the Highways Department undertook a preliminary survey, on behalf of the Government, on the main drainage needs and costs within the metropolitan area. Following the survey, the Government decided that the responsibility for the preparation and implementation of drainage schemes should be with councils, either individually or, when necessary, as joint authorities. In 1967, the Government introduced the Stormwater Drainage Subsidy Scheme. Under this Scheme, in its present form, drainage works receive a 50 per cent State subsidy providing

certain requirements are met. The majority of main drainage works are now constructed under this scheme.

A re-awakening in the appreciation of the magnitude of the urban flooding problem occurred as a result of investigations in respect of the Torrens River initiated by the Government in 1974. As a result, work is now proceeding on the approved River Torrens Flood Mitigation Scheme, but this scheme is designed to alleviate flooding problems on the floodplain of that river only. It will not, therefore, deal with other urban flood risks such as parts of the tributary creeks to the Torrens River or the numerous other flood risk areas, known and unknown, in the metropolitan area and other country towns. Following incidences of flooding in developed areas of the Mount Lofty Ranges and in metropolitan Adelaide, and representations from affected local Government bodies and the Local Government Association, a Joint State and Local Government Committee was established with terms of reference to:

Consider the adequacy or otherwise of legislation and related policies for the management of floods affecting or likely to affect urban areas of the State, and for the minimisation of risks to life and property due to flooding.

Report, with recommendations, to the Ministers of Local Government, Transport, Environment and Planning, and Water Resources by the end of January 1982.

In undertaking its task, the committee has the considerable advantage of having available to it expertise and experience from the State and Local Government. This expertise and experience was available by virtue of its membership being drawn from all areas of government with a concern for flood management, from two councils which have been faced with a wide range of flooding problems and from the Local Government Association of South Australia. This gave the committee a unique perspective not duplicated in previous attempts to come to terms with the urban flooding problem. I seek leave to have the remainder of the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Remainder of Explanation of Bill

It came to the conclusion that there are gaps in policies and functions and deficiencies in legislation which, if remedied, would lead to improved protection of the community. The committee further concluded that the flood risks faced by the community are sufficiently severe to warrant the implementation of appropriate remedies as a high priority task. This Bill gives effect to those recommendations of the Joint Committee which sought appropriate legislation:

to provide local government bodies with powers to discharge effectively their responsibilities for the management and mitigation of floods, for floodplain and general watercourse management and for the provision and maintenance of drainage works.

to accord the Minister of Water Resources powers to prepare and issue flow forecasts and flood predictions and to provide appropriate indemnification of the Minister.

This Bill thus clearly establishes far greater power and authority for Local Government in the fields of water course and flood management, and the necessary responsibility for the State Government to identify flood risks and prepare flood risk maps on which Local Government may base its planning. The need for these powers and responsibilities was again demonstrated by the recent flood event in the Barossa Valley.

The Government carefully considered submissions from the Local Government Association which contended that, those watercourse and flood management responsibilities which are being vested in councils, should be included in the Local Government Act. The association policy is to seek to have all council powers included in that Act wherever possible. Where appropriate, the State Government takes action to vest particular powers or responsibilities of councils in the Local Government Act. However, where wider issues are involved it is usual to legislate on the basis of function rather than by tier of Government. The Health, Planning and Building Acts are examples of this principle.

This Bill has been drafted in accordance with this principle, by consolidating watercourse and flood management provisions within the Water Resources Act, on the basis that:

The Water Resources Act was enacted to consolidate and co-ordinate all water resources management, and it is important that such management continue to be properly co-ordinated.

It is in the public interest to ensure that all water resource management, which includes watercourse management and the management of a flooding water resource, is embodied within the same legislation, particularly when it is noted that all responsibility for the quality aspects of water resource management will remain with the State Government by virtue of provision of the Water Resources Act.

Because the Water Resources Act vests the right to the use and flow and to the control of all waters of the State in the Crown, it is logical for that Act to provide for the delegation of the exercise of all or part of those rights, as may be specified in the Act, to councils.

Consequential on the amendments proposed for the Water Resources Act, there was a need to amend the vesting provisions of that Act to take account of the fact that the exercise of certain of the rights conferred on the Crown will not be limited to the Minister only. The opportuntiy was also taken to clarify the effect of the enactment of the Water Resources Act on common law riparian rights.

Clauses 1, 2, 3 and 4 are formal. Clause 5 strikes out from the arrangement section of the Local Government Act the heading to Part XXXV. Clause 6 provides for the transposition of a provision that is presently in Part XXXV of the Act. The retention of this provision, but in another Part of the Act, appears appropriate. Clause 7 provides for the repeal of Part XXXV of the Local Government Act. Division I deals with the protection and maintenance of watercourses. This Division will not, however, apply to Proclaimed Watercourses, which are specifically provided for elsewhere. Clause 8 is formal. Clause 9 amends the arrangement section of the Water Resources Act. Clause 10 defines 'appropriate authority' to mean a council in respect of all watercourses within its area that are not vested in some other public authority, and to mean a public authority in respect of all watercourses under its control. Definitions of 'council' and 'obstruction' are provided. Clause 11 repeals and re-enacts section 6 of the Water Resources Act. The purpose of the amendment is to make it clear that riparian rights in respect of watercourses (other than proclaimed watercourses) continue to exist subject to the supereminent rights of the Crown to the use and control of the waters. Clause 12 amends a heading.

Clause 13 enacts a new Part IIIA of the principal Act which deals with watercourses and flood management. Division I deals with the protection and maintenance of watercourses, but, by the proposed new section 40a, will not apply to proclaimed watercourses. New section 40b makes it an offence for a person to deposit anything in a watercourse, obstruct a watercourse, alter the course of a watercourse, or remove materials from the bed or banks of a watercourse or otherwise interfere with a watercourse, unless authorised to do so by the appropriate authority. An author-

isation may be given subject to conditions, and where the authorisation relates to the removal of rock, sand or soil from the bed or banks of the watercourse, the appropriate authority can require payment of reasonable consideration. New section 40c empowers the appropriate authority in relation to a watercourse to require the owner of land through which the watercourse passes to carry out specified work for the removal of obstructions from the watercourse, for making good damage to the watercourse or otherwise maintaining the watercourse in good condition. An owner who fails to comply with a notice under the section is guilty of an offence. New section 40d empowers the authority itself to carry out such work. Where the owner had failed to act in pursuance of a notice under the previous section, the costs incurred by the authority in carrying out the work may be recovered from that owner.

Division II deals with flood management. New section 40e provides for the preparation of flood risk maps. New section 40f empowers the Minister to publish forecasts of the rate of flow and assessments of the likelihood of flooding in respect of a watercourse. New section 40g exempts the Crown or a council from any liability in respect of the contents of, or any omission from, a map forecast or assessment published under the preceding sections. New section 40i gives emergency powers to councils where danger to life or property is imminent as a result of floods. Where a person suffers loss as a result of a council's actions under this section, he has a right to reasonable compensation from the council. A council's emergency powers under this section are excluded by a declaration of a state of disaster applicable to the council's area.

Clause 14 amends section 64 of the principal Act which relates to appeals. The amendments enable appeals to be made against decisions under the new provisions, but not including the provision relating to emergency powers during floods. Clause 15 inserts a provision in section 70 of the principal Act to empower the Minister to undertake work considered necessary for the prevention or mitigation of floods. Clause 16 gives councils and public authorities the right to appoint authorised officers for the purposes of administering new Part IIIA. Clause 17 is a consequential amendment. Clause 18 provides that either the Minister or a council, where appropriate, may consent to a prosecution for an offence under Part IIIA.

The Hon. P.B. ARNOLD secured the adjournment of the debate.

EVIDENCE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 11 May. Page 1590.)

The Hon. D.C. WOTTON (Murray): I want to speak briefly on this matter. The matter of unsworn statements, is one of considerable concern to me. My colleague, the member for Mount Gambier, has already quite clearly pointed out the policy of the Liberal Party in regard to this matter. In fact, the debate in another place has certainly emphasised the concern that we as a Party have on the retention of the unsworn statement. The Liberal Party policy with respect to the right of an accused person to make an unsworn statement from the dock without being liable to cross-examination is quite clear and unequivocal. It has been our policy for some time, and in fact since well before the 1979 election, and if we look at that and contrast it with the change in policies of the present Labor Government we recognise that in 1979 its policy was to abolish the unsworn statement and now, for some unknown reason, it has changed its tack and it is now not its policy to abolish the unsworn statement.

In Government and in Opposition, the Liberal Party attempted to abolish the unsworn statement. The present Labor Government has made a few cosmetic changes or a little bit of window dressing to this legislation in the Upper House. I am sure that that is how the public sees the action of the present Government, because I am certainly aware, if the Government is not, of the concern that is being expressed about this matter and the lack of action on the part of the Government in this important matter. So it is no good saying that it has made significant changes, because it has not. It is cosmetic at the outset.

My colleagues in another place unsuccessfully attempted to amend the Bill. It will be our intention to try to amend the Bill in this place, but I will not go into this matter further at this stage. The efforts of the Liberal Party Opposition in the Upper House were defeated, of course, with the aid of the Australian Democrats, who have joined the Government in this matter in opposing the abolition of the unsworn statement. So, we now find ourselves with a Bill that comes down from another place that has provided a very weak option, to say the least. The Bill that is before us, as it comes into the House of Assembly, retains the unsworn statement and that, of course, means that an accused person is not held to account for his or her statements or actions.

There has been much public comment about this matter, as I said earlier. There have been a number of letters to the editor; a number of articles have been written by various people. I want later to particularly refer to the call on the part of the South Australian Police Force to have the unsworn statement abolished, but before I do I want to refer to one of many letters that have been written to the editors of the major newspapers in the State. The one to which I refer is written by Anne-Marie Mykyta, of St Peters, to the editor of the *Advertiser* under the heading, 'Use and abuse of unsworn statements'. I quote:

> Sir—Many sound reasons have been put forward for the abolition of the unsworn statement, but perhaps I may comment on this from a personal point of view. During the trial of James Miller for the so-called Truro murders, I sat in court and heard him give an unsworn statement in which he tried to destroy the reputations of the murdered girls as if this was some kind of defence for his actions.
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> He maligned my daughter and his words were given wide publicity, and there was nothing I could do about it. If there were civil liberties involved, they were certainly not mine, nor my family's. The pain of this period was unbearable. For the Worrall family also, I felt pity. Their son was unable to answer for himself, and yet Miller used his unsworn statement, on which he could not be questioned, to throw the whole blame on to Christopher Worrall.
>
> What concerns me the most, however, are cases where the victim is still alive. I have spoken to a number of women who have been raped and assaulted, and they have told me that the most damaging aspect of the experience is the apparent freedom of the accused to abuse them further through the unsworn statement.
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> The accused has the protection of the court while making allegations which need not be proved, while the victims are most rigorously questioned.
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> We know rationally that the accused is not speaking on oath but, as I know from experience, everything that is said in a courtroom seems significant, and will be reported. The modification introduced by this Government is not enough to correct the abuses of the unsworn statement.

I am sure that all of us in this Chamber would recognise that the person who wrote that letter is speaking from the heart and that she is a person who has had incredible experience in this matter and is very much aware of the problems associated with the position in which we now find ourselves, in that the Government, at least until this point of time, has not been prepared to abolish the unsworn statement. Perhaps when the Minister replies he might like

to make reference to some of the points raised in that letter to the Editor. The Bill before us provides for the retention of the unsworn statement, which means, as was pointed out in the letter that I read out, that the accused is not held to account for his or her statements and actions.

I want to express my disgust in the attitude of the Chief Secretary and the Minister responsible for the police in this State in regard to this matter. I have referred to this subject on two or three different occasions, and I want to refer to it again because it is an important part of this legislation. The Chief Secretary as Minister responsible for the South Australian Police Force has shown quite clearly in connection with this matter how far out of step he is with the Police Force in South Australia. I know that the Chief Secretary recognises the strong feelings of the South Australian Police Force in regard to the unsworn statement.

Mr Groom: You really don't understand what it is all about, do you?

The Hon. D.C. WOTTON: Yes, I do understand; I know exactly what the situation is, and I would suggest that the member who has just made that point should recognise the concerns that are being expressed by the public, who also understand the situation in which that they now find themselves.

Mr Mathwin: Get away from the mercenary attitude.

The SPEAKER: Order! The whole House will get on better, as will the three gentlemen who are now having a discussion quite contrary to Standing Orders of the House, if members make contributions to the debate at the appropriate time so that we will all be able to understand what they are saying.

The Hon. D.C. WOTTON: The Police Association and individual members of the force have certainly made their feelings known. The Police Association has made its opinion known publicly, and I know that other members have taken up the matter personally with the Chief Secretary. I want to refer particularly to an article that appeared in the *Advertiser* not very long ago. Under the heading 'Police hit at court "lies" ', it states:

Police have attacked the Government for allowing some court defendants to 'continue the most dreadful improprieties' against officers. The Police Association says Government support for unsworn statements will continue to allow 'vicious and barefaced lies' about its members and witnesses.

The report continues:

The attack follows the defeat in Parliament of an Opposition move to remove the right of the accused in a jury trial to make an unsworn statement. The Government has legislation in Parliament to amend the Evidence Act to reform the use of unsworn statements but not to abolish them.

Police Association secretary Mr Dan Brophy said yesterday unsworn statements were now used by defendants to villify prosecutors and their witnesses. 'The defendants know their statements cannot be tested by cross-examination. Not only can a statement not be rebutted but the defendant also escapes the charge of perjury,' he said.

The association believed the Government's amendments created further procedural problems and extended the scope of the unsworn statement. 'At the present time unsworn statements are not permitted to be made in Magistrates Courts, but are confined to Local, District, Criminal and Supreme Courts,' said Mr Brophy. The dubious value of unsworn statements was recognised by most Australian States. He understood this right did not exist in Western Australia, Queensland or New Zealand and was under review in Victoria and the Northern Territory. 'The Police Federation has pointed out to all State Attorneys-General that unsworn statements are used by people who have nothing to lose and everything to gain. This results in a jury being given a completely false impression and consequent newspaper articles based upon a lie,' he said. The association's attack follows continuing controversy over the Government's amendments since they were detailed in Parliament two weeks ago.

So, the Police Association has made its point very clearly in that article. The Chief Secretary must be aware of that. I should have thought that, as a result of that position being made quite clear, he would seek further advice from the Police Commissioner. It was for that reason that I asked the Chief Secretary a question in this House, as follows:

In the light of concern being expressed publicly by many people and organisations in the community, including the Police Association, in regard to the Government's refusal to abolish the right of an accused person to make an unsworn statement, will the Chief Secretary inform the House whether he or the Government has sought or been provided with advice from the Police Commissioner on this important matter? If so, what was that advice and what action has the Government taken in regard to that advice?

With that question having been asked, I would have thought that it might provide the opportunity for the Chief Secretary to indicate how he felt personally about this matter and also to express concern and support for the South Australian Police Force in its strong stand on the matter. In fact, the answer provided by the Chief Secretary was that he would obtain from his colleague the Attorney-General the information that I was seeking and bring down a report on the matter. That makes the whole thing quite ridiculous. Of course, he has not brought down a report, and it is not at all likely that he would have brought down a report before this matter was debated and the vote taken in the House today. It is quite obvious that the Chief Secretary is refusing to stand up and support the views of the South Australian Police Force. He is the Minister responsible for that force.

It is recognised that the South Australian Police Force is one of the—if not the—finest in Australia. It needs, on matters like this, for its representative in Government to stand up and support it. The Chief Secretary has failed to do so. I hope that the Chief Secretary takes the opportunity to explain his lack of action in regard to the matter and that he will bring down a report. I am not interested in hearing the views of the Attorney-General on the matter. I know that he is the Minister responsible for the legislation, but I am not asking the Attorney-General to provide me or this House with his views. I am asking the Chief Secretary to indicate how he stands on this issue and why he has not been prepared to support the South Australian Police Force.

If the Minister does support the Government's stand on this Bill, I charge him, when he brings down that report (I would have hoped that he would be involved in this debate today), to explain to the House and, in particular, to the South Australian Police Force, as well as to me as the Opposition spokesman on police matters, how he can ignore the strong views of the police and refuse to abolish the unsworn statement. I support the second reading, in the hope that the Government will make the significant changes needed when amendments are introduced in Committee. Again, and in closing, I object strongly to the fact that the Government has not been prepared to abolish the unsworn statement.

Mr MATHWIN (Glenelg): I oppose this Bill and, in the limited time allowed to me, I will put the views of my Party. When it was voted into Government in 1979, the Liberal Party was given a mandate for the complete abolition of the unsworn statement; of that there is no doubt. We brought a Bill into the Parliament on two occasions, but it was defeated in the Upper House because of an alliance between the Labor Party and the Democrats.

What I cannot understand is the attitude to this Bill of the female members of the Labor Party. Those members are generally outspoken on women's affairs, especially in the Upper House (the Hons Anne Levy and Barbara Wiese). As those members have been through this exercise more than once, I cannot understand how they can support this measure. I can understand to a certain extent, although it does worry me, the attitude of the Labor Party to this obnoxious provision involving the unsworn statement. No

doubt Caucus discussed this matter and in those discussions the lawyers present were able to influence the other members into thinking that this is not such a bad provision.

It worries me how the female members of the Labor Party can support this measure, especially as, now that it is in Government, the Labor Party has four female members in Parliament, two in this place and two in the other place, who obviously support the Labor Party's policy on this matter. I do not know how they can condone the present situation, knowing what it involves. Obviously, those members who have connections with the legal profession know what is involved.

In fact, a member of my family is involved in the legal profession. With due respect to that profession, I believe that its main consideration is mercenary. After all, the unsworn statement is usually written by a defendant's legal adviser to be read by the defendant. From where I stand, I believe that the power of those members of the Labor Party who are legal practitioners has pressured Caucus into supporting this measure. I am worried that members of the Government have not spoken during this debate (although the Minister of Community Welfare will reply because he introduced the Bill), because it makes for a one-sided situation.

No doubt, if any member of the Government spoke, it would be a lawyer. They would be the only members of the Government to speak to this important Bill. I point out that, in the main, women suffer most in this area, through victimisation, particularly in rape cases. It is rather disgusting that the Labor Party has been persuaded by its lawyer members to protect the retention of the unsworn statement; I refer to the Minister of Community Welfare and possibly (because there is a breaming up by a certain member) the member for Hartley—

Mr Groom: Is your philosophy to plead guilty and throw yourself on the mercy of the court?

Mr MATHWIN: From that remark, it is quite obvious that the member for Hartley is going to speak in this debate. No doubt he will use his best legal jargon, which will at least give us some insight into the powers of his eloquence. No doubt, he used that power in the Labor Caucus room to convince members, including the four female members, about the worth of the unsworn statement.

The Hon. D.C. Wotton: It's remarkable how the women seem to have changed their minds.

Mr MATHWIN: It is indeed. However, it shows how members of the Labor Party are not permitted to have a conscience vote.

Mr Groom: Are you voting according to your conscience?

Mr MATHWIN: I did yesterday on the Casino Bill, which is more than members of the Government were allowed to do.

The ACTING SPEAKER (Mr Mayes): Order! I ask the honourable member not to stray from the Bill.

Mr MATHWIN: As I have said, a similar Bill was introduced by the Liberal Government on two occasions but, following a 'holy alliance' between the Labor Party and the Australian Democrats, they were defeated—strange bedfellows, indeed! The last occasion on which a similar Bill was debated in another place a select committee was established comprising only Labor members. That committee sat for a long period (and I will inform the House of the length of those sittings in a moment). I urge all members, particularly the female members, to read not only the select committee's report, although it is important, but also the evidence presented to it.

What is important with all these committee reports, particularly select committees, is the reading of the report. It is important, and may be imperative, to read the report, but it is more important to look, mammoth as the task may be, at the evidence put before the committee. I would be surprised if any member of this House, other than the Minister of Community Welfare, has read the evidence given to the unsworn statements select committee.

The Hon. D.C. Wotton: I have read it.

Mr MATHWIN: The member for Murray has read the evidence, too. If he had told me, we could have read it together and taken half the time. This is a problem with all select committees, as well as the one into the establishment of a casino. The main information on that matter was contained in the five volumes of evidence. I suppose that it is demanding to ask members to read those five volumes of evidence. However, I suggest that all members of this Parliament read the evidence given to the select committee relating to unsworn statements. It would do members good and it would certainly do a bit of good if the female members of this Parliament read it.

The unsworn statement in cases of rape, generally, should be struck from the Statute books. There is no doubt that the unsworn statement was introduced originally to protect illiterate people. In the early 1800s in England the defendant in a case was not even allowed to speak. That condition ought to have been altered, and it has been. Defendants then were given the right to read, or have somebody read for them, an unsworn statement. This right has not been altered in a number of countries since that time. However, a number of countries have got rid of that right. This matter has been off and on for a few years in the United Kingdom and is close to being struck off the Statute books.

The situation in South Australia is different again. I have gone into courts to gain experience about them. I have attended rape cases where I have watched with interest to see what the situation has been relating to the unsworn statement. Therefore, I know what I am talking about. I am not talking about unsworn statements as a professional legal person, who must have a bias in this matter. I am talking about this as a layman who has been to court to look at and assess the existing situation. I attended a pack rape case and was disgusted at the way things turned out. I went there mainly to give moral support to the girl victim. I have seen since how she has suffered and will suffer for many years in relation to that offence.

The select committee that was set up in the Upper House was a Labor Party select committee—it had no Liberal members on it. Liberal Party members were asked to go on that committee but refused because they felt it was Liberal Party policy to dispose of the unsworn statement. They felt that they had a mandate to do that. That committee first met in 1980. Looking at pages 34 and 36 of the report one can see that there were a number of applications to extend that time of that committee. The committee met on Tuesday 4 November 1980 and it was proposed that the committee bring up its report, after an extension of time, on Wednesday 26 November; it met then and extended the time to Wednesday 4 March 1982, and it again met and extended the time to bring up the report to 10 June. When the committee did meet on 10 June an extension of time was applied for to 30 June, but the final report was brought up on 10 June.

The use of the unsworn statement by accused persons in cases of sexual attacks and rape is shocking. It allows an enormous scope for the experienced criminal who has already been up on a number of charges (perhaps even rape and sexual offences). Such persons use this method to abuse the victim; it is often used in this way. As I said earlier, I am quite sure that the Government members who will speak on this issue will be legal representatives, and I am sure that they will admit that lawyers write out the statements for their clients to read out in open court.

Mr Groom: That's not true.

Mr MATHWIN: They have the opportunity to denegrade the woman or girl who happens to be the victim and neither the victim nor his or her counsel has any right to cross-examine the accused who is making an unsworn statement. I understand that the member for Hartley said that it is not true that the lawyers write these statements—

Mr Groom: We write them on instructions.

Mr MATHWIN: They are written on instruction from the lawyer's client. Obviously, the honourable member does me an injustice if he thinks that I am saying that lawyers stimulate the situation by writing out these unsworn statements without being asked to do so. The general rule is that such evidence is inadmissible as evidence of the truth of what is asserted. The basic reason for that rule is that that type of evidence cannot be tested by cross-examination. Accused persons who make unsworn statements are more able to tell lies than they would be if they were giving evidence on oath. The accused can suggest, as is often the case, that the unfortunate victim at the time of the offence—whether it be a rape offence or another type of an offence—can often be accused (whether the victim is a young girl, an old woman, a grandmother or even a decent married woman) of welcoming her attacker. I have heard of cases such as that. We hear a lot about the Mitchell Report. In respect to the unsworn statement, at page 130, it states:

> We recommend that the right of the accused person to make an unsworn statement be abolished.

The Mitchell Committee was not a one-person committee. It was chaired by Justice Mitchell, C.B.E., LL.B.(Adelaide). The members were Professor Colin Howard, LL.B., LL.M. (London); Ph.D.(Adelaide), LL.D(Melbourne); Professor Hearn, Professor of Law, University of Melbourne (and he should know what he is talking about); and Mr David Biles, B.A., B.Ed.(Melbourne), M.A.(Latrobe), Assistant Director (Research) at the Australian Institute of Criminology, Canberra. The Mitchell Committee was not a lightweight committee: the members were of very high standing and certainly knew what they were talking about. The New South Wales discussion paper on unsworn statements of accused persons of 1980 stated (page 20):

> It is a significant departure—and the only one—from a system based on the principles of evidence and examination and cross-examination. It allows the professional criminal to lie without the appropriate test applied to other witnesses, to introduce irrelevancies and in other ways . . .

That is quite definite. I hope that some members opposite have read that paper. In a publication entitled 'The unsworn statement in criminal trials', published in Melbourne in 1981 by the Law Reform Commissioner of Victoria (Report No. 11) at page 14 it is stated:

> In England the right to make an unsworn statement was specifically preserved by the Criminal Evidence Act of 1898. Its abolition was recommended by the English Criminal Law Revision Committee in 1972. This recommendation was allied with other recommendations generally making inroads into the right to silence and the opposition was such that it has not been accepted by the Parliament and the 1898 Act remains in full force. However, the recent royal commission inquiring into the investigation and prosecution of criminal offences in England and Wales has recommended that the right to make an unsworn statement be abolished, although so far no Parliamentary attitude to the recommendation has emerged.

It was recommended not that the unsworn statement be softened but that it be abolished. A number of people gave evidence to the committee. I will not read all of the evidence, but I will raise some points to support my outlook in relation to the Labor Lawyers. Ms Ann O'Grady appeared before the committee on behalf of the Labor Lawyers Society. Because the Labor Party is in office, no doubt the only people who will speak on this matter will be the Labor Lawyers. At page 89 of the evidence, it was stated:

> The simple situation is that Labor Lawyers oppose the abolition of unsworn statements because we believe that it will deprive the accused of a right that has grown up historically, and the fact that it has grown up historically as an aberration should not necessarily mean that it now does not exist as a right. We believe that people who want to abolish it should give good reasons for doing so, rather than the reverse, that persons who want it retained should have to give reasons, especially as so far no good reasons have been advanced for abolition.

No doubt, that is why members of the Labor Party who support this, of course, must support the Labor Lawyers' submission. Ms O'Grady continued:

> I have read the Mitchell Report. All those authorities are very heavy, but I think that people are still not convinced that there are reasons for abolition.

What a thing to say—that the people of South Australia are not convinced. She continues:

> One has to remember, also, the unsworn statement is not evidence. Juries are advised of that. They then weigh that fact. From the evidence we have on rape trials, they appear not to be particularly impressed by the fact that an accused makes use of an unsworn statement . . .

So much for that lady. Time is getting on, and I will have to get on with the rest of my remarks. I wish to refer to a letter from the Victims of Crime Service. I recently received a letter from that group (as a member, of course, I receive one letter every so often) in relation to the unsworn statement. It states:

> I hope you all were able to read that good letter from Althea's husband, Dr Brian Walker, to the *Advertiser*, and more recently that poignant note from our President, Annemarie. An old friend from the Northern Territory Police, Gordon Birt, also wrote, and the *Advertiser* also printed something from me. I've had discussions with the S.A. Police Association who are equally disturbed at the Government's decision.

So much for the Chief Secretary who, I take it, will not be speaking on this Bill. The letter continues:

> I was in Parliament House when the new amendments were passed in the Legislative Council with the aid of the Democrats. The Attorney-General (Mr Sumner) did admit there was opposition in the community, and that as a result he would not be extending the privilege to the magistrates' courts. In fairness, the Attorney-General, has pruned down 'the open slather' (his words) so that now prosecutors can bring witnessess to disprove claims made in the unsworn statement that is, if the detectives responsible, at very short notice, can identify, locate and manage to bring to court someone who can contradict whatever the accused might dream up to put in his statement. As the former Attorney-General, Trevor Griffin, pointed out, the traditional way of testing truthfulness in British courts has been by counsel for either side questioning each other's witnesses. To exclude the accused person can mean that the court may never discover the truth of what actually happened, because often there were only two people involved, the victim and the offender, and the victim may be dead and therefore not able to contradict the claims of the accused. Sometimes there are witnesses still alive, but who are too frightened to make themselves known to the police.
>
> What has upset me most in the current discussions has been the absence of any reference to the adverse effect the procedure of the unsworn statement has on the victim's and the community's perception of the fairness of the court system. The Government has concentrated its concern on the 'rights' and welfare of the accused, and neglected to equally emphasise the needs of the community and the victims.

I agree with that. The letter continues:

> There are others equally guilty of the same approach.

It goes on to relate a report that appeared in the *Advertiser* recently in relation to the unsworn statement. The letter continues:

> Brian Walker and I believe there is too much at stake to meekly surrender at this point. One big difficulty of course, is that the professionals at the actual work face, that is, the prosecutors, both police and Crown, must confine their views to strictly Public Service channels. VOCS can meet the need for a community voice for victims and for those unable to comment freely.

That means that the Victims of Crime organisation, which has many hundreds of members, feels that it is quite wrong that the unsworn statement is not struck out. I would have liked to hear from the female members of this House, the

members for Mawson and Brighton, particularly. Why have they not got up in this House and said something on behalf of the female members of the community? I am more than surprised that they have had nothing to say on it. The member for Coles, of course, will get up on this side of the House and put forward the attitude of the female members of society, but it disappoints me intensely that it is quite obvious that the members for Mawson and Brighton—

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

Mr GROOM (Hartley): I make it quite clear from the outset that I support the second reading of this Bill, and also the retention of unsworn statements in the law.

An honourable member: Shame!

Mr GROOM: In answer to the honourable member, I have every sympathy for the victims of crime.

Mr Mathwin: I would think so, or your wife would leave you.

Mr GROOM: For the benefit of the member for Glenelg, there is an intermediate process, and that is the proving of guilt. Simply because I support the retention of unsworn statements, which is part of that intermediate process, it does not follow that I have no sympathy for victims of crime. Quite the contrary! Once guilt is proven, that is it, subject to the rights of appeal, of course. That is our traditional common law system of justice.

There are very good reasons for the retention of unsworn statements with adequate safeguards. The honourable member obviously may never have represented people in the courts and seen the delicate balances that prevail. Often, it can be the most ridiculous passages of evidence that can lead to a person's acquittal or conviction. In practical terms, if one takes away the right to make an unsworn statement, what one really is doing is reversing the onus of proof. I know that that is not the case in strict legal terms, but if people are unable to make unsworn statements and remain silent and juries do not hear them, juries do not really comprehend the full nature of that. What will simply occur is that juries in a practical sense will expect every defendant to give evidence on oath. That may well finally tip the burden of proof.

Currently, the burden of proof in criminal matters is beyond all reasonable doubt, but if a jury does not hear from a person, if a person does not give evidence on oath and remains silent and there is no right to make an unsworn statement, that very fact may weigh in jurors' minds, even though there may be very strong evidence to suggest that a person ought to be acquitted. People will simply ask themselves, 'Why didn't the accused give evidence?' Traditionally—and for very good reasons—the onus of proof is on the Crown throughout in criminal trials and remains beyond reasonable doubt. At the conclusion of the Crown case, if there is not adequate proof beyond reasonable doubt, a defendant ought not be put in a position that some disability may bring about his conviction when that person is innocent.

Honourable members may not fully appreciate the problems that people with disabilities face with our system of law. It has been put to me by my colleagues in the legal profession that some tribal Aborigines do not have the same language concepts that we have.

Mr Mathwin: They have got legal representation.

Mr GROOM: They may well have legal representation, but if they are forced to give evidence on oath many, particularly tribal Aborigines, may be simply put in the position of convicting themselves because of their appearance and their difficulties with the English language, even though there may not be sufficient evidence to bring about a conviction, but just their very appearance and the problems that that presents.

Look at the situation in regard to Rupert Max Stuart, where the trial judge exercised his discretion and refused to permit an unsworn statement. It would have been impossible for Rupert Max Stuart, because of his disabilities, to handle sworn evidence: he wanted to give an unsworn statement. The trial judge refused to allow someone to read the unsworn statement for him due to Stuart's inability to read English, so the net effect was that Stuart had to remain silent. I am not suggesting that he was not justly convicted or anything like that. I am simply illustrating the fact that there are people within the community with disabilities.

It has been put to me by my colleagues in the legal profession who have represented many tribal Aborigines that such people do not have the same language concepts that we have. For example, if we go to the shop and are asked, 'Why did you go to the shop?', we know what is meant and can answer that question. However, many tribal Aborigines do not have that sort of concept; they do not have the concept of why they did something—they just did it. So, if a juror hears a tribal Aboriginal stuttering over a question about why he did something, the juror cannot understand that that tribal Aborigine has very great difficulty in appreciating that concept, because it is not in their own culture and language. There are other people with disabilities: try representing a person who is deaf and dumb: how will those persons give evidence on oath?

The Hon. Jennifer Adamson interjecting:

Mr Mathwin: I think you are going too far there.

Mr GROOM: All right, I will not use that example if it upsets the member for Coles.

The DEPUTY SPEAKER: Order! The honourable member for Glenelg has just finished his speech, I understand.

Mr GROOM: Rights and privileges are there to protect all people and to be administered evenly: if you take away the right to an unsworn statement you will be putting a person who is deaf and dumb, who commits a crime, in that very position of not being able to handle themselves in cross-examination, because of the tremendous barrier that is built up. However, an unsworn statement at least gives them the opportunity to have a provision for saying something.

Mr Mathwin: The jury will be able to assess that.

Mr GROOM: It is not only those people: that was an example at the highest level. There are other intermediate levels of people with a disability. For example, there are handicapped people who just have a specific speech impediment or some specific disability or some mental retardation problem, but who are not so bad that they can never have an intention to commit a crime. You are really forcing those people with disabilities to give evidence and bolster a Crown case, when in some instances the Crown has really had a very weak case against them: you are putting such people in a position of convicting themselves.

It is principally for those reasons that I support the retention of unsworn statements. It is certainly true that in the past there have been problems in sexual cases, principally rape cases. What the Bill does is tighten up unsworn statements in that situation. I refer to the provisions in the Bill: in regard to clause 3, the second reading explanation states:

> Clause 3 inserts a new section 18a in the principal Act which affirms the right to make an unsworn statement but prohibits assertions in the unsworn statement which would be inadmissible if given as evidence on oath; affirms that evidence may be given in rebuttal and provides that evidence of character and previous convictions may be given if in the unsworn statement the defendant makes assertions establishing his own good character or makes imputations on the character of the prosecutor or witnesses for the prosecution—

which includes the victim, of course—

which would subject him to cross-examination on character if such evidence had been given on oath.

That must really answer the objections in relation to sexual cases. If you give an unsworn statement you cannot cast aspersions upon the character of witnesses or assassinate the character of witnesses, which includes the victims; it is there because there have been problems in sexual cases. It does not follow that therefore you must impose the abolition of unsworn statements in respect to other areas of the law where perhaps the problems have not reached that intensity. But, of course, the prosecution, the police, support the abolition of unsworn statements, and for very good reasons: they are on that side of the fence and they want to tighten up the situation.

Mr Mathwin: Is that why your side of the fence supports retaining it?

Mr GROOM: It is true that I have spent the past 10 years representing defendants, and I have seen the dilemmas and impediments that affect innocent people.

Members interjecting:

The DEPUTY SPEAKER: Order! Interjections are out of order. The member for Hartley should not take notice of them.

Mr GROOM: The legal practitioner's duty is to act in accordance with his client's instructions. The judge and jury are there to determine the truth of the matter. However, the defence lawyer is there to receive instructions from his client and present his client's case and instructions to the court. He is not there to determine whether or not his client is being truthful: that is for the judge and jury.

That is perhaps the dilemma in which the member for Mount Gambier finds himself. He does not realise that defendants have rights which are to be counter-balanced against the rights of the prosecution. I have seen this process in operation from both sides. I was a prosecution lawyer at the welfare department for four years and have therefore acted for both sides in this argument. For the past 10 years I have been a defence lawyer. Good reasons exist why people's rights need to be preserved.

The new clause 3 is an admirable compromise in that it retains the right to give an unsworn statement and imposes very firm checks on it. I am saying this out of sincerity and not because I want to protect guilty people—quite the reverse. Those people get their just deserts.

The Hon. Jennifer Adamson: Not always.

Mr GROOM: That is often due to other problems such as a lack of proof.

The Hon. Jennifer Adamson interjecting:

Mr GROOM: Do not be mistaken about the effects of unsworn statements in a general sense. Juries do prefer defendants to give sworn evidence. If one gives an unsworn statement, it reflects on that person and has some impact. People ask themselves, in an ordinary simple way, why that person did not give evidence on oath if the person gives an unsworn statement. In practical terms, it counts against that person.

Members interjecting:

The SPEAKER: Order!

Mr GROOM: I am seeking to ensure that the rights of people with disabilities are protected. That includes not only Aborigines but also people who are disabled through speech impediment, handicaps or who are suffering varying difficulties as well as the ultimate situation of being deaf and dumb. I commend the second reading to honourable members and intend to vote for the Bill.

The Hon. JENNIFER ADAMSON (Coles): I support the second reading of this Bill, only for the reason that it will enable the Opposition to move an amendment in accordance with our policy to abolish the unsworn statement. I feel very strongly about this matter, as do women who have informed themselves on the issue, particularly women who have been the victims of crime and, in effect, the victims of the unsworn statement.

The member for Hartley has spoken as one would expect a defence lawyer to speak. I appreciated the point he made in respect of those people who are not articulate or who believe that, in the presence of a court and in an alien culture (namely, Aborigines) or other such disadvantage, the unsworn statement can assist them.

Mr Groom: That is only one example.

The Hon. JENNIFER ADAMSON: The member for Hartley says that that is only one example. In taking account of exceptional examples, the member for Hartley is overlooking great principles. It is the great principles to which I wish to address myself. The Mitchell Criminal Law and Penal Methods Reform Committee in South Australia, in its Third Report on Court Procedure and Evidence, spoke of its objection to the retention of the unsworn statement, as follows:

> We do not think that the fact that the statement is made without the sanctity of the oath is important. We do not regard it as within our terms of reference to recommend abolition of the oath for witnesses in criminal proceedings because, if it were to be abolished, the abolition should relate to witnesses in all court proceedings.
>
> We point out, however, that there is a strong body of opinion that the oath should be abandoned but that the penalties for the giving of false evidence should not be affected thereby.

The report then goes on to make the argument which is the argument upon which the Opposition bases its case. It continues:

> The major objection to the unsworn statement is that its maker is not subject to cross-examination. There is no method of testing its veracity except by opposing it to the evidence of witnesses who have been called to give evidence and have been cross-examined. The accused is in danger of conviction and of suffering a penalty and the witnesses are not. Nevertheless it must be a most unedifying spectacle for a jury to see and listen to a young girl, the prosecutrix in a charge of rape, being stringently cross-examined and subsequently to hear the accused merely read a statement giving his version of what happened without being exposed to any questioning at all.

The committee then went on to make recommendation 735 with respect to the unsworn statement, as follows:

> *(a)* We recommend that the right of an accused person to make an unsworn statement be abolished.
>
> *(b)* We recommend that s. 18 vi *(b)* of the Evidence Act, 1929-1974, be amended by striking out the words 'or the nature or conduct of the defence is such as to involve imputations on the character of the prosecutor or the witnesses for the prosecution'.

I find it extraordinary that the Government in this instance and the Labor Party in Opposition in previous instances, abetted by the Australian Democrats, should disregard the clearly reasoned arguments and recommendations of the Mitchell committee on this topic. Admittedly, some of the committee's recommendations have been and are being implemented in law, but the principal one which rests on a matter of principle is not. I repeat the undertaking given by our spokesman in this House and the shadow Attorney-General (Hon. Trevor Griffin), that upon election to office we will reintroduce legislation to abolish the unsworn statement.

Of course, most defence lawyers find the unsworn statement useful because, if they are aware of their client's guilt, they do not have to advise that client to give sworn evidence denying the offence. One would expect the member for Hartley as a defence lawyer to wish for the unsworn statement to continue to be used but, if one looks at the experience of other countries, one can see that the unsworn statement has been abolished and there has been no miscarriage of justice whatever in respect of those people with disabilities to whom the honourable member referred.

I was interested to hear him speak about deaf mutes and their needs. One could easily research the records and find plenty of articulate rapists who have used the unsworn statement to their great advantage and have thereby escaped conviction.

The unsworn statement was abolished in New Zealand in 1966. It does not exist in Scotland, Canada or the United States, and its abolition has been recommended by an English criminal law committee, namely, the Criminal Law Revision Committee in its fourteenth report on evidence which was published in June 1972. Paragraph 104 of that report states:

> We are strongly of opinion that the right to make an unsworn statement about the facts instead of giving evidence on oath or affirmation should be abolished. Whatever justification there may have been for preserving the right in 1898...

I believe that right in English common law goes back to the Star Chamber. The report continues:

> ...we think that nowadays the accused, if he gives evidence, should do so in the same way as other witnesses and be subject to cross-examination. It is not in the interests of justice that the accused should have the advantages, for what they may be worth, mentioned in paragraph 103.

Those advantages relate to matters raised by the member for Hartley. The member for Hartley said that legal practitioners have a responsibility to their clients. That is certainly true, and every member of the House would wish to see that responsibility upheld. However, Parliament has a responsibility to the community. That responsibility, if properly exercised in 1983, should result in the abolition of the unsworn statement.

It is clear that the community at large wants the unsworn statement abolished. Those people who have been victims of crime and have had the experience in the courts of seeing a defendant get off scotfree, largely and often because of the unsworn statement, want it abolished. Of course, the police also want it abolished. For their part, members of the Police Force have seen their evidence maligned under the guise of the unsworn statement and their character denigrated under the cloak of security of the unsworn statement.

It is relatively easy to speak about injustice or unequal justice. However, there is little point in doing so unless one appreciates the effects of injustice not only on the victims of crime but also on the community at large. A letter to the Editor of the *Advertiser* of 9 April 1983 from Mrs Anne Marie Mykyta, who was the mother of one of the Truro victims, states:

> Many sound reasons have been put forward for the abolition of the unsworn statement, but perhaps I may comment on this from a personal point of view. During the trial of James Miller for the so-called Truro murders, I sat in court and heard him give an unsworn statement in which he tried to destroy the reputations of the murdered girls as if this was some kind of defence for his actions.
>
> He maligned my daughter, and his words were given wide publicity, and there was nothing I could do about it. If there were civil liberties involved, they were certainly not mine, nor my family's. The pain of this period was unbearable.
>
> I have spoken to a number of women who have been raped and assaulted, and they have told me that the most damaging aspect of the experience is the apparent freedom of the accused to abuse them further through the unsworn statement.

I know that this Bill goes some way towards ensuring that that does not occur in the future. Nevertheless, the fact that an accused has the right to make an unsworn statement and not be subject to cross-examination embodies, in my mind, injustice.

When there is injustice, it is not only the victim of crime who suffers. The fact that the victim of the crime feels and has experienced that justice does not apply to him or her has a ripple effect that flows throughout the whole community. The sense of burning injustice and indignation felt by many women (I have spoken to some of those women) who have been the victims of crime and who have heard unsworn statements read by defendants, or by someone on their behalf in the court, has generated in those women such bitterness, indignation and cynicism that its effects must flow through to the community.

Those women are not islands: they are surrounded by families who are equally indignant, cynical and bitter. Those families lose faith in the system in which we have all been brought up and educated to believe. When you destroy in the community, even a small section of the community, that faith in justice you destroy the whole foundation of what makes our society equal, free and worth living in. The feelings, amounting to passion in those people, of bitterness, sow seeds which grow, develop and act as a canker in our community.

The feeling of hopelessness and apathy which pervades, obviously, the Police Force at one point, and equally obviously families in this community at another is, in my opinion, an inherent danger to all that is worth while in our community. When you have a community that fully understands that if wrong is done there will be opportunity (and equal opportunity) for redress, you have a community that feels secure because it feels that fair play will be done on behalf of all. That sense of security that should come from a sense that justice is being done and being seen to be done is undermined in South Australia by the continued existence of the right of an accused to make an unsworn statement and not be subject to cross-examination.

In a letter to the Editor of the *Advertiser* on 4 April 1983 Mr Ray Whitrod, Executive Officer of the Victims of Crime Service, Adelaide, said:

> Judicial scholars have long emphasised the crucial importance of a high degree of public confidence in the efficiency and fairness of the criminal justice system. This degree of confidence is even more essential in our troubled times as the number of crime victims increases daily.

I know that the Minister representing the Attorney-General must be conscious of the fact that, when damage is done to one individual who then ceases to believe in justice, damage is done to society as a whole. The effects are cumulative—they are self-perpetuating.

If we, as individuals and citizens of this State, can say to our families, children and associates, and can stand on public platforms and say, that if crime is committed justice will be done, and can say that in the full knowledge that the law will exercise every avenue to achieve justice, I think we can rightly be said to be strengthening our society. As long as the unsworn statement remains we cannot do that, and it is therefore a blot on the law in South Australia, and a blot on justice.

Certainly, the law does not represent justice: it simply represents an attempt to achieve justice, and it is important that people understand the difference between the two, because many people do not. If we can amend this Bill so that it abolishes the unsworn statement, I believe that we will be going a long way towards improving the system of justice in South Australia in establishing a climate for fair play. I also venture to say that those who have suffered in the past, particularly those women who have suffered, from the effect of the unsworn statement will feel a sense of renewed hope and confidence in the judicial system and the law of this State, and that will be to the betterment of South Australia as a whole.

[Sitting suspended from 1 to 2 p.m.]

Mr PETERSON (Semaphore): Not being trained in the law, the legal area has at times caused me many problems in comprehending what it is all about. Sworn and unsworn statements have certainly caused me concern in the way that they have been applied in courts. As has been mentioned

by previous speakers, some people have been treated very shabbily and in a disgusting manner. I do not believe that it was within the powers of the court to do anything about it because of the rules that applied at the time.

Sexual offences have been quoted and, in particular, the case of one woman who was subjected at times to disgraceful accusations without any recourse. There was not much defence in it. I considered voting against this Bill, because it concerns me that that practice will continue.

I have listened to the member for Coles speaking about accused persons and their lawyers advising them to make an unsworn statement because of the lack of control and responsibility on that statement. That is valid. An observation was made that in an unsworn statement it is possible to have an articulate rapist prepare a convincing case without any responsibility on him and without his being subjected to cross-examination. The member for Glenelg, in his inimitable style, quoted cases where victims of crimes were dealt with in a totally unacceptable manner. That is so. The member for Murray also made some very good points in his speech. One has to look at the evolution of law as it is today. It was not that long ago when the accused person had no right to give evidence at all. There was a presumption that he was guilty in the eyes of the law.

Mr Mathwin: That was in the 1800s.

The SPEAKER: Order!

Mr PETERSON: It was not so long ago that the law was that a person could be hung for things that today would not even be considered of great moment. Today, there are actually three options an accused person can take: first, he can say nothing and allow justice to take its course (hopefully in his favour); secondly, he can make an unsworn statement which is not subject to cross-examination; or, thirdly, he can give evidence on oath (or affirmation as the case may be). If an accused person takes the third choice he is subjected to cross-examination.

The unsworn statement is usually but not always prepared by the counsel of the accused. It is usually prepared in a business-like manner. Because an unsworn statement is not subject to cross-examination it is open to much abuse. It can be used to tear down the character of the victim in many cases. This is a problem as we see it. It is presumed that the genuine person will always give evidence on oath because that person is doing the right thing by the law and honesty is the best policy. It has also been more than the rule that the more suspect people usually make an unsworn statement. Those unsworn statements are usually made so that the accused person can avoid cross-examination. It is not true that all people who make an unsworn statement are trying to avoid cross-examination, but it can be assumed that that is so. Dr Bray made a very good speech a couple of years ago, and anyone who speaks in this debate without having referred to that speech is talking from a grey area.

Mr Mathwin interjecting:

The SPEAKER: Order!

Mr PETERSON: Dr Bray stated that there are two very prominent areas where the unsworn statement as it is now is a real problem. One area relates to Aborigines: very few Aborigines understand the white man's law; they are tongue-tied and afraid of the law.

Mr Hamilton interjecting:

Mr PETERSON: I said there were two groups. The other group is migrants.

Mr Mathwin: I am a migrant.

The SPEAKER: Order!

Mr PETERSON: The honourable member might be ignorant of the law. This was reflected in the direct post war period. Many migrants still have not assimilated fully into our community. Some migrants still have not learned English. Their experiences prior to coming to this country gave them a fear of any legal process and of any figure of the law, whether the court system or the police. They cannot cope with the system at all. Dr Bray referred to these two groups.

The terrible situation that has evolved in relation to sex cases has been referred to: in many cases, the character of a girl is destroyed. In one case the jury (and I do not denigrate the jury) did not know that the prosecutor was trying to destroy the character of the girl involved. They were not sure of the evidence. As we know, some people get away with crimes because of the set-up of the unsworn statement. I investigated this matter pretty deeply and I was convinced that the changes that are proposed make the law much more workable. Some people have difficulty in standing up in front of other people, especially during a court case. Some members of this place cannot speak without notes, and I am one of those at times.

Mr Mathwin: I am a bit worried about it myself.

The SPEAKER: Order! The member for Semaphore does not need the assistance of the member for Glenelg.

Mr PETERSON: I believe that this Bill is a major step; it will improve the situation, because the unsworn statement will be subject to the same rules as the sworn statement. It will introduce parameters on what can or cannot be said, and it will give people some protection. I intended to vote against the Bill, but I have spoken to people who know, and I think that it is worth a try, as the same conditions that apply to a sworn statement would be applied to an unsworn statement. I support the Bill.

The Hon. G.J. CRAFTER (Minister of Community Welfare): I thank honourable members who have contributed to the debate. This subject is well known to members and has been debated in another place at great length over a long period. Obviously, it has been the subject of debate in Party forums and in the community, and members have been involved in that. The member for Semaphore stated that this was a technical and legal matter and that it had given him some difficulty. I would not like him or other members to be deterred from debating matters such as this, because it is important that they be debated and that the related facts be understood by the community at large.

I think that it is important to clarify some of the comments made in debate, although, I will not speak at length because, as I said, I think that this matter is well known and the stands of the respective political Parties are also well known. Indeed, to that extent it is an idealogical approach where we differ on this matter. It is also where we take the law at this time in the evolution of the criminal law in this State and, indeed, in other places that use our British criminal justice system.

First, I would like to comment on the remarks made about the Mitchell Committee and its recommendations. The member for Coles placed some weight on the recommendation of the Mitchell Committee with respect to abolition. However, I point out that the honourable member did not tell the House of a further recommendation of the Mitchell Committee; in fact, the committee was obviously at odds about this issue and brought down two recommendations. I acknowledge that its first one was for abolition. However, the report states:

> We recommend that, if the right to make an unsworn statement be retained, what is contained in the unsworn statement should be capable of being rebutted by evidence for the Crown in all cases in which it could be so rebutted if given in evidence by or on behalf of the accused.

Of course, that is precisely what is contained in this measure before the House. Therefore, what the Government is doing and, indeed, what it attempted to do in Opposition, is the alternative recommended by the Mitchell Committee should

a Government not decide to abolish outright the unsworn statement.

Mr Mathwin: Are you suggesting that the committee wanted two bob each way?

The SPEAKER: Order!

The Hon. G.J. CRAFTER: No, I do not want to reflect on the committee. It is certainly an eminent committee indeed. However, it raised the possibility of an alternative to abolition. That is the course that has been chosen. I would also say that in the last decade there has been considerable advance, for example, in the rights of women who appear as prosecutrixes before the courts. I refer to the third report. I think that it was in the middle-1970s (July 1975) that this report was presented to the Government.

I suggest that there has been some shift in community attitudes with respect to these matters, and that is why I think that the recommendations of the select committee in the Legislative Council cannot go unheeded. That committee was formed to review this matter and to take evidence on it.

With respect to the comments made earlier by the member for Murray about the attitude of the Police Association in this State, I have made some preliminary inquiries. It does not appear that the Police Association gave evidence to the select committee. I do not know why. However, I have been assured that, in the preparation of its most recent piece of legislation, the Government carried out consultation with the Police Association. I am not trying to say that it agreed with this measure. However, there was indeed consultation with the Police Association, and I think that members can be assured that its views were heard and understood by the Government, although, obviously they were not all followed.

Mr Mathwin: Did the committee write to the Police Association?

The Hon. G.J. CRAFTER: I do not know whether or not the select committee wrote to it. However, it is like every other group in the community which would have read the public advertisements in the newspapers and the like. If they have a strong interest in matters that come before the House or, in particular, any select committees, then they are free to make those comments known to these committees. The views of that committee were not merely the views of the Government Party as it exists now but were also the views of the Australian Democrats, who formed the majority in the Legislative Council: in the previous Administration as in the current Administration. The Government which currently occupies these benches went to the public (if we are talking about a mandate) on this proposal and was duly elected and now seeks to implement it.

Mr Mathwin: It was not in their policy.

The Hon. G.J. CRAFTER: There has been considerable public debate on this matter. That was known as part of the platform of the Labor Party. The member for Glenelg raised the matter of women's rights. In so seeking to advance the cause of women, he decided to attack the women who are members of this Chamber, which I thought was a strange tactic for him to use. He can be assured that the view of women was very strongly advanced on that select committee. I would refer the honourable member, if he has not already read them, to the speeches, particularly of the Hon. Ms Levy, in the various debates on this measure.

It is not true to say that the problems confronted by women, particularly the unfortunate women who are asked to appear in harrowing trials relating to sexual offences, will be overcome or, indeed, their position rectified in some way by the total abolition of the unsworn statement.

Mr Mathwin interjecting:

The Hon. G.J. CRAFTER: I am not sure about that. The honourable member should read those speeches more carefully and see that perhaps it is not just what is being dealt with in this measure; there are other matters, the other sections of the Evidence Act, in particular, which need to be looked at as well. With some of the practices which previous Parliaments have thought they might overcome it has not worked, as I understand it, to the extent that we had hoped, and there is a need, in my view, perhaps for further reform of the law of evidence, and in other areas of our criminal justice system.

I might say to the member for Glenelg, who has chosen to champion the rights of women, that we really need to look at some of the fundamental issues that exist in our community that put women in such an inferior position—not just in the courts, but in so many circumstances in the community. I recall talking to an elderly constituent, who is in her 80s, and who has been very active in women's organisations throughout her life. She has a very famous husband—a doctor— who has also championed the rights of the under-privileged in our community. She said to me that we can write whatever laws we like and make whatever changes we like to our system of criminal justice, but we will not overcome the prevalence of rapes and sexual offences until we change prevailing community attitudes, and that is the attitude of many men to women in particular.

The Hon. Jennifer Adamson interjecting:

The Hon. G.J. CRAFTER: That is right, and senses of self respect and understanding of others in the community. Those words ring true in my mind as what we are seeking here is a device in the Evidence Act to overcome a deep-rooted problem in our community; so there is a limit to the weight to which we can place on this sort of law reform to overcome the problems that have been expressed by members opposite and on this side of the Chamber as their concern. We are all concerned about that, but we will not overcome these problems simply by devices to the techniques used in bringing evidence before our criminal courts. That helps in some way. The member for Glenelg has talked about going to the courts to listen to the trials, but it is a much broader inquiry, I might suggest with respect, that the honourable member needs to carry out to get that grasp of how we need to bring about change in our community.

Mr Mathwin interjecting:

The SPEAKER: I hope that the member for Glenelg will cease making speeches from his chair.

The Hon. G.J. CRAFTER: I also must defend the legal profession, as an inactive member of it. The member for Glenelg said that in the main or in part they had a mercenary attitude (if I can use his words), as portrayed before the select committee in wanting retention of the unsworn statement.

I would hope that the honourable member would see fit to limit that attitude of the profession, because I think, if it does exist, it exists only in a very minor way. There are many members of the legal profession who act in the criminal courts for people who are being increasingly disadvantaged, and who, in fact, have entered into a life of criminality because of environmental conditions and, indeed, health conditions as well. There is a lot of sympathy for developing structures within the courts that will in fact protect people so that they get a fair hearing—

Mr Mathwin: I agree with that.

The Hon. G.J. CRAFTER: —ensuring that the confidence of the community is of paramount importance so that the community as a whole and the people who go before the courts will know that they will receive a fair hearing. The Evidence Act is designed to make sure that there are rules (as we have Standing Orders in this Chamber) before the courts so that people get a fair hearing. We need to be very careful to ensure that those rules are in good working order and that that confidence of the community is maintained. Often it is the lawyers themselves, the practitioners, who

are before those courts who are the ones best able to speak, because they are there defending the rights of people: to take away their liberty in the criminal courts—and that would be the end result—would mean a substantial deprivation of the rights of members of the community. I believe that we need to tackle this issue in a very unemotional way. I would put a great deal of weight on the attitude of the legal profession to this matter.

Briefly, the member for Hartley raised what is, I suppose, the fundamental concern of the Government in advancing this issue; that is, to protect the rights of those people who are in some way disadvantaged as well. He referred to the handicapped, to Aborigines, and the like. Once again I would say to honourable members that not too great a weight should be placed on this aspect of the matter. It is a fundamental problem that exists with this class of person before the courts: they have many problems indeed in receiving justice, and this is one way in which they can be assisted. As I said, I do not put so much weight on that aspect to think that it would bring about a new set of rights for these people. It is much more complex than that, but this is one way in which those people can be assisted. My colleague, the member for Hartley referred to the Stuart case and to the lingering doubts and to the books that have been written about that particular case: it has been said that an accused person before the courts was denied the right even to give an unsworn statement. Eventually at law he chose to remain mute in those circumstances. This is a complex area; it has many underlying problems. It is being tackled by the work of the Australian Law Reform Commission with respect to their customary law considerations. There are so many areas of complexity that must be brought together to tackle this problem.

Therefore, I think that such an argument needs to be placed in its proper context, although it is a very real one, and one to which the member for Semaphore alluded when he talked of the statements that were made by the former Chief Justice, Dr Bray. Indeed, that was a very compelling argument, a very persuasive argument that he advanced in the speech that he made and, indeed, in the evidence that he gave to the select committee.

The member for Coles and some other members referred to the views of the organisation known as Victims of Crime. Indeed, the member for Murray referred to a constituent of mine, whom I know very well. In fact, I attended the launching of her book which contains comment on these sorts of problems. The Government is well aware of the splendid work that is done by the Victims of Crime organisation, and of the great trauma and tragedy that families such as that to which the member for Murray referred have gone through. I must say that to believe that total abolition of the unsworn statement would overcome those problems is not seeing this problem through to the conclusion that we would want to reach. I think they are hanging their case on a very thin strand indeed which, if tugged too heavily, may pull down a much bigger section of that fabric.

Mr Mathwin interjecting:

The Hon. G.J. CRAFTER: I agree. I am saying that this has all been debated in terms of an unsworn statement or no unsworn statement. What the Government proposes, as a result of the inquiries to which I have referred, is another course of action, namely, to bring the evidence given in an unsworn statement into a similar position as sworn evidence. I suggest to members that they wait to see, over a period of years, how this pans out in practice in our courts. I am confident that many of the fears expressed today and over the years by members will be overcome to a large extent by this exercise. I do so in saying that there are other aspects of the law of evidence which also need looking at. We cannot pin too much faith on overcoming this problem by the simple amendments we have before us today.

The other point made by the member for Semaphore was in regard to the power to overcome some of the problems. The Government freely admits that there have been problems in the courts over recent years although they may have abated recently, as was stated by the member for Mount Gambier. In the early years there was a high use of unsworn statements in the higher criminal courts which was of great concern in the legal profession as well as in the community. However, there have been rules of court where these matters could have been attended to but, by judicial process and decision taking, they have not been. That is why legislation is required, and the Attorney-General in another place has said that he intends to write to the professional associations (namely, the Bar Association and the Law Society) to ask them to bring down ethical rules in respect to who writes out an unsworn statement and what it contains. I believe the ethical rules in existence in Victoria are far superior to those presently existing in this State.

From this exercise I would hope that a better system for the presentation of accurate evidence before our courts will emanate, so that checks and balances will provide that the evidence can be tested; thereby, the sort of problems to which the member for Coles referred, especially in regard to sexual cases, will not occur. Strong rights will exist for the prosecution to ensure that what is before the courts and what is presented to the jury will be as accurate as possible in the circumstances of our criminal courts.

In conclusion, I refer to the remark of the former Chief Justice, Dr Bray. He said that jurors are not fools. The great strength of our criminal justice system is the jury system. We cannot put it over the 12 people who comprise the jury. We are talking today about the way in which we get the evidence on which the jury considers a person's guilt or innocence. It may be a middle-road course and may not satisfy the needs of those in our community who are demanding a law and order stance in this matter, but I believe it respects fundamental rights of people who are brought before the courts. It tries to bring about a much more honest system of placing evidence before the courts. It will bring down checks and balances on the legal profession if there have been problems in the past. I commend the Bill to members.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Evidence by accused persons and their spouses.'

The Hon. H. ALLISON: I move:

Clause 2, page 1, line 29—Leave out 'subsection (2)' and substitute 'subsection (3)'.

In effect, this amendment is virtually restoring this Bill to the status that similar legislation held when these matters were brought before the House by the previous Liberal Government. The intention of the amendment is to completely abolish the use in evidence of the unsworn statement. It has been the Liberal Party's long-held contention that unsworn statements should not be used in South Australian courts just as that contention is held in other countries and states in the world.

I must express some surprise at the strong opposition that was expressed a little earlier by the member for Hartley and to roundly question the motives behind his address. The honourable member did state that he had a vested interest in the retention of the unsworn statement and admitted that as a legal practitioner he had worked extensively as a defence lawyer. The honourable member said that when he represented his clients his aim was to use the law to the best advantage of his client. Whilst I should not express

surprise that a lawyer has every intention of using the law to the best advantage, that is, after all, why loopholes in the law are so critical to the legal profession and why we take such pains to make sure that the laws that we enact contain as few loopholes as possible, nevertheless, I must express some surprise and regret at the inference that it is better for us to perpetuate this piece of legislation than to do what is essentially the task of Parliaments and of the courts, that is, to elicit the truth of a situation.

That surely is the one thing of paramount importance in courts around the world—to establish the truth behind any allegations. The South Australian Police Association spokesman, Mr Brophy, has expressed his association's dissent with what is happening in South Australia's courts.

The Hon. D.C. Wotton: And I very strongly support that.

The Hon. H. ALLISON: I believe the honourable member has quoted from the statements made by Mr Brophy on behalf of the Police Association. I draw attention to the fact that the member for Hartley pointed out that the police were on one side of the fence. Perhaps I should refer to statements made by Mr S.I. Miller, Chief Commissioner of the Victorian Police Department, who in 1980 at a Victorian symposium on policing in the 1980s said, *inter alia*:

> The criminal justice system should be involved in a search for truth rather than a search for proof. It is just as much a miscarriage of justice for a guilty man to be acquitted as for an innocent man to be convicted.

It is that search for the truth that we believe would be aided by the abolition of the unsworn evidence statement.

The question whether an accused would be sorely disadvantaged by the abolition of the unsworn evidence statement can also be further examined by other statements that were made in the article which referred to Mr Miller's comments and which is contained in the *Australian and New Zealand Journal of Criminology*, March 1983, Volume 16, No. 1. It points out that the police, when bringing forward cases, have undergone a lengthy system of checks and balances so that there is a good chance that the person who is brought before the courts is guilty. Mr Miller said in his statement at the symposium that there was a 50/50 chance already of acquittal, even after that long system of checks and balances had been gone through.

Perhaps the Committee is interested in the brief step by step description of what he says happens. In his article, Mr Peter A. Sallmann states:

> The background to the police complaint about the acquittal rate [that is, a 50/50 acquittal rate] is clearly based in the idea that most people who are presented for trial are, in fact, guilty. The legal system, of course, for very good and well established reasons presumes otherwise.

I have no argument with that. I remind the Committee that Mr Miller referred to a 50/50 chance of acquittal. That is borne out by the figures in the County Court of Victoria in relation to the acquittal rate between the years 1972 and 1980.

In 1972, the acquittal rate was 50.1 per cent, in 1973 it was 50.6 per cent, in 1974 it was 48.4 per cent, in 1975 it was 46.3 per cent, in 1975 and 1976 it was 46.3 per cent, in 1977 it was 47.2 per cent, in 1978 it was 41.2 per cent, in 1979 it was 46.4 per cent, and in 1980 it was 42.3 per cent. Therefore, the Victorian Police Commissioner was not too far out when he referred to a 50/50 acquittal rate. Page 34 of Mr Sallmann's report continues:

> The police generally maintain that they do not charge and proceed against a person whom they do not believe to be factually, if not legally, guilty. There is normally an initial decision made by a police officer to proceed. This decision is then scrutinised by a superior officer to ensure that there is a *prima facie* basis for the case. Often, the next step, especially in indictable cases, is that trained police prosecutors examine the brief to satisfy themselves that there is a good case. The next hurdle is a committal hearing at which the accused is legally represented in the great majority of cases. Once a decision is made by a magistrate to commit the case is forwarded to Law Department officials who submit it to further examination with a view to preparation for trial. The matter is then presented for trial. Mr Miller says, 'This system of checks and controls militates against the possibility of an accused person being presented for trial on a charge which is not supported by the evidence.'

I believe that is the great strength of our judicial system. When a case gets to trial, there is a high probability that it has reached that stage based on sound reasons and because the defendant has a case to answer. Later in his report, Mr Sallmann states:

> The great mass of criminal cases are dealt with in the lower courts. Of those who plead not guilty generally over 80 per cent are convicted. This is an extremely high 'success' rate indeed.

I am not trying to delay the Committee's proceedings in any way; I am simply pointing out that since 1977, to my memory, the Liberal Party has been at great pains to bring the issue of the abolition of the unsworn statement to Parliament year by year.

The fears expressed by the Minister of Community Welfare, who is in charge of the Bill, and the member for Hartley, who spoke strongly from his personal interest in defence cases, related to a small proportion of people who are brought to trial. I believe that that fear is diminishingly worthy of defence. I say 'diminishingly' because the number of acquittals in Victoria involving the use of the unsworn statement has reduced quite dramatically.

I believe that a comparison between the comments made by the Mitchell Committee in the 1970s and the current position shows that there has been an equally dramatic reduction in South Australia, too, in relation to the number of cases where unsworn statements are made and, similar to the Victorian situation, in relation to the number of acquittals where people have chosen to make an unsworn statement as the basis of their defence.

The Peter Sallmann Report at page 38 of the *Australian-New Zealand Journal of Criminology* states that the rate of acquittals where an unsworn statement was made was as follows: 38 per cent in 1977; 27 per cent in 1978; 38 per cent in 1979; and 25 per cent in 1980. The rate of acquittals where defendants gave sworn evidence was as follows: 45 per cent in 1977; 36 per cent in 1978; 39 per cent in 1979; and 49 per cent in 1980. That is a small cross-section of years, but there has been a sharp decline in acquittals involving unsworn statements and a slight increase in those involving sworn statements. The success rate for defendants making no statement, either sworn or unsworn, was: 42 per cent in 1977; 43 per cent in 1978; 39 per cent in 1979; and 27 per cent in 1980.

I hope that members on this side, in supporting (as I know they will) the abolition of the unsworn statement and supporting my amendment, will take considerable pride in the fact that, since the Liberal Party has been taking a keen interest in the abolition of the unsworn statement (whether this is directly or indirectly attributable to what we have been doing), there has been quite a salient reduction in the success rate (that is, in the number of acquittals of people making unsworn statements)—a sharp decline—in the number of people choosing to make unsworn statements. From 1977 to 1983, I believe that, largely because we have been bringing this matter before the general public; because a large number of interested public organisations have been taking up the cudgels on behalf of the victims of crime who have suffered from character assassination and personal denigration from the accused in the dock making unsubstantiated, unsworn statements; because of our having brought this matter generally to the public's notice; because jurors are members of the public who have these recollections in mind when adjudicating on cases; because of responsible groups such as the Mitchell Committee and people like

former Chief Justice Bray, who has said that juries are not fools, with which we agree; and because people within the legal profession have increasingly had these matters brought to their attention there is a much wider recognition publicly (whatever may be the legal opinions of defence lawyers) that anyone going into court to make an unsworn statement not subjected to cross-examination will virtually get away with this denigration and with attacking the prosecutor, and the prosecutrix, in sexual assault and rape. This is impinging much more on the public conscience and we believe that we should continue to bring this and other such matters before the House. I hope that members of the committee will see fit to support this amendment, although I suspect that I may be kicking against the wind in this, the fourth quarter of the game.

The CHAIRMAN: Will the honourable member for Mount Gambier clarify whether he is moving one amendment and will be moving the second one as a consequential amendment, or is he moving both amendments?

The Hon. H. ALLISON: I believe that if the first amendment fails there will be little purpose in my pursuing the second amendment, because it will be quite obvious that the Minister's mind is made up. Having moved the amendment, I do not believe that there is any necessity for me to speak to the matter again.

The CHAIRMAN: We are dealing with the first amendment.

The Hon. G.J. CRAFTER: It will come as no surprise to the member for Mount Gambier or his colleagues that the Government does not accept this amendment. In fact, the explanation given by the honourable member gives some support to the stand the Government has taken on this matter, because the statistics (as little as there are available) indicate an improvement in the way in which this matter is being dealt with before the courts.

This is a matter of the evolution of the rule before the courts, and I suggest that the proposal being advanced by the Opposition is taking a sledgehammer to the law of evidence as we know it. The honourable member referred quite extensively to the reported comments of the Commissioner of Police in Victoria. A recent inquiry into the unsworn statement was conducted in Victoria by Sir John Minogue, who I think is the Law Reform Commissioner in that State. He made a recommendation similar to that which influenced the select committee of another place. I think there is a counter-argument to that which has been advanced by Mr Miller in that State. I caution the House in placing too much weight on the advice solely of the police. Their advice obviously is important: they are involved in court proceedings, but their evidence (remembering that their job is to bring about successful prosecutions) must be balanced by the evidence given to this committee by the judges, lawyers and, indeed, the public generally.

Whilst the honourable members referred to the comments made by the Police Force, I think that we should add some balance to those comments and include the contrary arguments advanced by very eminent judicial officers, by the legal profession and by members of the public, all of whom want to see justice done in our courts. Do not let it be said that I am saying that any one group would not want to see justice done in our courts. If there is a breakdown in the system, it detracts from the role of all those people involved in the criminal justice system.

The arguments against this have been well debated now for a long period, and it is on the weight of evidence that the Government has before it that it believes that the course of action proposed is the most suitable in the circumstances and opposes the amendment for that reason.

The Hon. JENNIFER ADAMSON: I support the amendment, the principle substance of which is that a person charged with an offence is not entitled at his trial to make an unsworn statement a fact in his defence. I reiterate what I said in the second reading debate: the Opposition believes that the accused should not be given access to any device which enables him to be relieved of the requirement to be cross-examined. That, to us, is the heart of the matter. It is the cross-examination which enables the jury to hear evidence, which in turn enables the jury to get at the truth of the matter. That, to our minds, is what justice is, or should be, about. I emphasise that, by failing to recognise this, the Government is allowing to be perpetuated a situation which is affecting the community's view of justice in this State.

It is all very well for the Minister to say that juries can be relied upon, as a general rule, to identify the character of a person, to recognise the truth and, in fact, to see beyond the simple words that are uttered in an unsworn statement. The reality is that juries, like all of us, tend to place great value on every word that is said in court, just as value is placed on every word that is said in Parliament. There is a tendency on the part of those in court, be they members of juries, the accused, or the prosecutor, to place great value on the evidence, whether sworn or unsworn. Because of the respect that we afford the courts, as a general rule it is difficult to believe that people will deliberately use untruths in order to advance their case in a court.

That being the case, and notwithstanding the figures that the member for Mount Gambier has cited about the apparent decline in value of the unsworn statement, it is necessary that the unsworn statement be abolished if we are to enable the courts to really get at the truth. It is a very interesting comment in this long-running debate that the unsworn statement in South Australia appears, on the basis of the statistics given, to be largely discredited. That alone should convince the Government that its abolition is necessary. The arguments have been put again and again.

I am a great believer in the cause of justice being pursued until its specific goals are achieved. I am convinced that before the end of this decade the unsworn statement will be abolished in South Australia. People who want the unsworn statement abolished are unswerving in their dedication to its abolition. The Liberal Party in Parliament represents those people, and we will continue to fight for the abolition of the unsworn statement and to do whatever is necessary to rouse public awareness, and that means the awareness of juries and members of the public to the unsatisfactory nature of this statement—and we will win.

The Hon. D.C. WOTTON: Very briefly, I add my support to what has already been said by the member for Mount Gambier and the member for Coles in relation to this amendment. I do not intend to repeat what I said in the second reading debate in relation to this Bill, but I reiterate that I give my strong support to the police in this State, who have come out very strongly in favour of the abolition of the unsworn statement. I have had discussions with members of the South Australian Police Force, and I know how the police feel generally about this matter. I know of the immense problems they are facing in this area.

I am extremely disappointed that the Minister responsible for the police in this State, the Chief Secretary, has not been able to make his influence known or to convince his colleagues of the need to support the police in this regard and to have the unsworn statement abolished. This will be a very sad day, because of the lack of action by the Chief Secretary. I strongly support this amendment.

Mr MATHWIN: I support the amendment, and I am disappointed that the Minister will not accept it. No doubt, he is more fluent with this situation than I am. This is a very old law: originally, it was to protect the illiterate.

However, he along with the member for Hartley explained that they were worried and concerned about the people who

are deaf and dumb and the like. If they were placed in that situation, surely the jury and the court would realise that. That would be outstanding: there would be no need to state the fact; the court would take that into account.

Of course, the Minister also knows that the Mitchell Committee gave two alternatives. He was suggesting that the Mitchell Committee came down with two answers and had one each way on it. Nevertheless, the point remains that it was very strong in the view that the unsworn statement should be abolished. The Police Association, the women's associations, the victims, and the Victims of Crime Service want it abolished. Yet, the Government is standing firm saying, 'No, we don't want to abolish it. We want to dress it up and make it a bit better and we will see how it goes.' What about the victims in the meantime? What about their problems?

With due respect to the Government, I believe that it is placing far more credence and sympathy on the accused than on the victims. I think that it is about time it got its facts straight. It is about time it said that the victims have a problem and the victims are the ones to whom we ought to be giving some protection.

The Minister said that there has to be a balance in assessment and that the lawyers believe that it ought to be fair. If we are to have a balance, then we can balance up the lawyers with the police: then one has a balance. Therefore, one takes those two out and assesses it from there on.

The Hon. Jennifer Adamson: The community.

Mr MATHWIN: That is right, one is left with the community. That is the responsibility of every member of this House, irrespective of which side of the House they stand: they have a responsibility to the community. The Minister (and I say this quite genuinely) is an honest person. Being an honest person, he would know that the community wants the unsworn statement abolished: it wants it wiped out altogether.

In his reply to a question about whether the select committee (which was a one-Party committee in the Upper House) had approached the Police Association, the Minister did not know whether that was so. That is the duty of a select committee because it is there as a collector of evidence. That is its job: to collect evidence, and from that evidence to bring forth a report to the House. In so doing, if it finds that there are groups within the areas that it is investigating which have not come forward, it is its job and duty to approach those associations and ask them to give evidence. In fact, it can demand them to give evidence to the committee.

Perhaps the committee did not get evidence and relied on the advertisements which appeared in the paper. Perhaps that was not picked up by the Police Association or the association did not wish to come in. Let us be honest about it: whatever happens and whatever committees are sitting, the Police Department is always reluctant, to a certain extent, to come in and give evidence.

I remember well when we were gathering evidence about the casino, we approached the Police Department twice to send in representatives to give evidence. We deemed it our duty to do that. I believe that the select committee did not do that. The member for Mount Gambier mentioned that the unsworn statement is not being used as often now as it used to be: it is being used less in the courts.

It has been through the persistence of the members, particularly on my side of the House, and me over the years which has led to the fact that it has been used less and less in the courts. There is no doubt about that. That is proof positive that something more has to be done than just dressing it up a bit. That is not good enough. The matter is far too serious for that, and I am upset that the Minister has not seen fit to accept the amendment as put forward by the member for Mount Gambier. In case anybody is in doubt, I support the amendments.

The Committee divided on the amendment:

Ayes (18)—Mrs Adamson, Messrs Allison (teller), Ashenden, Baker, Becker, Blacker, D.C. Brown, Eastick, Evans, Goldsworthy, Gunn, Lewis, Mathwin, Meier, Olsen, Rodda, Wilson, and Wotton.

Noes (23)—Mr Abbott, Mrs Appleby, Messrs L.M.F. Arnold, Bannon, Crafter (teller), Duncan, Ferguson, Gregory, Groom, Hamilton, Hopgood, Keneally, and Klunder, Ms Lenehan, Messrs McRae, Mayes, Payne, Peterson, Plunkett, Slater, Trainer, Whitten, and Wright.

Majority of 5 for the Noes.

Amendment thus negatived; clause passed.

Remaining clauses (3 to 5) and title passed.

The Hon. G.J. CRAFTER (Minister of Community Welfare): I move:

That this Bill be now read a third time.

The Hon. JENNIFER ADAMSON (Coles): The Bill as it comes out of Committee is certainly an improvement on the existing Evidence Act, the most notable improvement being that no longer will the defendant be able to place any imputations on the character of the prosecutor or the witnesses for the prosecution. In that regard, the misery which many women have experienced in appearing in court as victims of rape will no longer occur. At least that is much to the advantage of justice in South Australia. Again I reiterate at the third reading stage the Opposition's support for the abolition of the unsworn statement and its firm belief that when that occurs the course of justice in South Australia will be much better served.

Bill read a third time and passed.

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 29 March. Page 707.)

The Hon. H. ALLISON (Mount Gambier): Pardon my apparent surprise at being asked to stand on this matter, but the Opposition was not aware that the Bill would be taken out of sequence; we were under the impression that Bills were to be considered in the sequence in which they are printed on the green Notice Paper. The Opposition does not mind, but we would have liked two minutes notice. I express the Opposition's support for this measure. The Act containing a provision for removing suicide from the criminal Statutes was in fact introduced into the Upper House in 1982 by the then Attorney-General (Hon. K.T. Griffin).

It was reintroduced in that place as a private member's Bill, again by the former Attorney-General, and has now reached this place having been adopted by the Government as Government business. I commend the Government for that decision. It is a very important piece of legislation and one which has been adopted in many countries around the world. I support the Bill although in one area an amendment was moved to the original Bill put forward by the Hon. K.T. Griffin wherein the present Attorney-General suggested that attempted manslaughter should be defined within this legislation. Volume 11 of Criminal Law Evidence and Procedure, paragraph 1161, under the heading 'Manslaughter in general', states:

Manslaughter differs from murder only in relation to the mental element necessary to support the charge. Manslaughter may be classified as voluntary or involuntary, the distinction being that in cases of voluntary manslaughter a person may be convicted of the offence notwithstanding that he may have the *mens rea* of murder. Voluntary manslaughter take the forms of (1) killing under provocation, (2) killing by a person who, by reason of

abnormality of mind, suffers from diminished responsibility; and (3) killing in pursuance of a suicide pact. Involuntary manslaughter is committed (1) where death results from an unlawful act which any reasonable person would recognise as likely to expose another to the risk of injury; and (2) where death is caused by gross negligence.

Paragraph 1163 of that volume, under the heading 'Provocation: defence to murder charge', states:

Provocation may reduce a charge of murder to one of manslaughter. It consists of something done which would cause in any reasonable person, and actually causes in the defendant, a sudden and temporary loss of self-control, making him so subject to passion that he is not the master of his mind. Where on a charge of murder there is evidence on which the jury can find that the person charged was provoked, whether by things done or said, to lose his self-control, the question whether the provocation was enough to make a reasonable man do as he did must be left to be determined by the jury. In determining that question the jury must take into account everything both done and said according to the effect which, in the jury's opinion, it would have on a reasonable man.

Extending these two definitions from Criminal Law Evidence and Procedure, Volume 11, I refer to the Criminal Law Journal, Vol 7, No. 1 for February 1983 from the Law Book Company Limited (Australian Volume) which on page 44 in the chapter headed 'Provocation, Attempted Murder and Wounding with Intent to Murder' by Paul Fairall states:

In modern times English courts have rejected provocation as relevant to the crimes of malicious wounding and attempted murder. This is consistent with the obiter dictum falling from Viscount Simon in *Holmes v. D.P.P.* that in the cases of crimes other than murder 'provocation does not alter the nature of the offence at all: but it is allowed for in the sentence'. However, this approach has not been followed uniformly in other parts of the Commonwealth.

I am quoting selectively so as not to burden the House with substantial reports on cases which have been the subject of consideration. On page 45 it is stated:

However, the Federal Court expressed a preference (obiter) for Pape J.'s decision, which was said to accord with:

'principles which require the existence of the special intent in murder before allowing the operation of provocation to reduce murder to manslaughter'.

On page 46 the following is stated:

Recent South Australian decisions have generally favoured allowing provocation as a defence to attempted murder.

I am quoting this material reasonably extensively because there has been some dispute over the years as to whether we should be introducing the offence of attempted murder by definition into the South Australian courts, and of course in the debate in another place, where the attempted murder clause was introduced by the Attorney-General, it was not opposed by the former Attorney-General, the Hon. Mr Griffin. These arguments were not propounded, although on occasions some of the persons to whom I shall shortly refer were briefly alluded to. I thought it worth while from the point of view of members of the Opposition to consider whether or not the offence of attempted murder has been more extensively used in South Australia. The report continues:

The argument is short and simple. A person is not guilty of attempting to commit a particular crime if the culmination of the attempt would not amount to the full crime. This well-established doctrine of legal impossibility entails the availability of provocation on a charge of attempted murder. If, by reason of provocation, D's conduct would not amount to murder if death ensued, he cannot be convicted of attempted murder if the victim survives. Under such circumstances, the appropriate verdict would be manslaughter, although whether such a crime exists is a matter for speculation.

The report also contains the following footnote:

Percy Dalton (London) Ltd (1949) Birkett J.: 'Steps on the way to the commission of what would be a crime if the acts were completed, may amount to attempts to commit that crime, to which, unless interrupted, they would have led; but steps on the way to the doing of something which is thereafter done, and which is no crime, cannot be regarded as attempts to commit a crime.' Zelling J. put the matter more broadly in *Duvivier*: 'One can only attempt an offence where the act if completed would have amounted to the full crime.'

To return to page 46 of the report, it states:

A major purpose of the criminal law is to provide an effective deterrent against crimes of violence. As society evolves, a greater degree of self-control may be expected of all citizens. Therefore, any extension of the defence of provocation—

I defined 'provocation' a little earlier along with manslaughter—

should be carefully considered. It is true that the moral blame attaching to a person acting under provocation is slightly diminished, and the question arises whether, in the absence of a mandatory sentence, provocation should be allowed as a complete defence or as a matter to be taken into account in fixing the sentence

On page 47 the report states:

There is still a large difference in the public mind between murder and manslaughter, which finds an analogue in the suggested distinction between attempted murder and attempted manslaughter. One consequence of allowing provocation as a defence to attempted murder is that greater vigilance will be called for in framing the charges against the defendant. In *Duvivier* Zelling J. observed that any 'technical difficulties' arising might be met by charging attempted manslaughter or unlawful wounding in the alternative. Because the evidence of provocation may not be revealed until the trial it may be expected that in the future such alternative charges will be laid as a matter of course.

I had not intended to address myself to this matter at such length, having heard the comparative ease with which the former Attorney-General and the present Attorney-General in another place dismissed any debate on the introduction of the offence of attempted manslaughter, which is really, as Wells J. said, a contradiction in terms. One should not be able to attempt such a thing as manslaughter, which is quite clearly defined in the criminal law as more of an accidental result than an attempt to murder. Nevertheless, in view of the fact that the member for Mitcham has discussed this matter at length with the former Attorney-General and will be moving an amendment, I simply raise this issue to explain why I have taken the matter relatively lightly. I do have doubts as to whether we should be calling the new charge 'attempted manslaughter,' but I have not been able to think of a better alternative. I have listened with great interest to the matters raised in the debate by the member for Mitcham, although I do not consider it to be of such import that it should divide the House.

Mr BAKER (Mitcham): The member for Mount Gambier has covered my area of concern. Like the member for Mount Gambier, I rise on a technicality. I congratulate the Government and my colleague, the Hon. Mr Griffin, for their actions in this area. I think the changes are most humane and that they have been required for some time. I believe that the changes are infinitely sensible and are consistent with the public view on this matter. As the member for Mount Gambier rightly pointed out, there is a technical difficulty in relation to clause 3, and I will be moving an appropriate amendment in Committee.

In my part-time study of the law, I have appreciated the derivation of this issue over a long time. Murder and manslaughter, and they are clearly defined in the mind of the law and in the minds of the people. The member for Mount Gambier took some time to read extracts from determinations in relation to manslaughter. As he quite rightly pointed out, it is an anachronism that we still have a charge of attempted manslaughter. It is a technical point. I believe that the legislation will be improved if my amendment is taken on board. I believe that we should try to be consistent with our law and that we should try to adhere to the sound principles that have existed since before I was born.

The Hon. G.J. CRAFTER (Minister of Community Welfare): I thank honourable members for their contributions to this debate. I found their comments of interest. In some ways this is a matter of lawyer's law. In fact, it is a matter

of semantics—the sort of arguments that arise in judge's chambers at morning tea. There is concern that we should bring about some consistency. I assure honourable members that considerable thought has been given to matters in this area.

I think the former Attorney-General, the Hon. Mr Griffin, was a member of the Law Reform Committee in 1970 which first recommended that these changes should take place. Whatever the Government's decision is in relation to matters such as this, and whatever the complexion of future Governments, I am sure that debate in this area will continue over the years.

However, the substantive thrust of this measure is as the member for Mitcham said—to abolish the offence of suicide. I am sure that all honourable members welcome that. In that respect it has taken the law out of another era. I think this move can only bring about a much happier situation for the afflicted people who suffer in this way or whose families and those to whom they are close suffer as a result of the inappropriateness of the present law. I thank honourable members for their support and trust that the Bill will achieve what is intended in the community.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clauses 3—'Attempted manslaughter.'

Mr BAKER: I move:

Page 3—

Line 10—Leave out 'the felony of attempted manslaughter' and insert 'a felony and liable to be imprisoned for a term not exceeding twelve years'.

Lines 11 and 12—Leave out subclause (2).

Line 15—Leave out 'attempted manslaughter' and insert 'the offence provided for by subsection (1)'.

Line 17—Leave out 'attempted manslaughter' and insert 'that other offence'.

I wish to make two points about my amendments. The first, which was raised when we were debating this Bill at the second reading stage, relates to the change in the law that I do not think is in the best interest of the law, namely, the creation of the offence of attempted manslaughter. This matter has been canvassed thoroughly.

Secondly, we now have a heterogeneous thing called 'attempted manslaughter'. If one looks through various Acts, one finds that in most cases crimes are fairly well defined. There are stealing charges and a whole range of offences and, when one reads those charges one is well aware of what has happened in the circumstances. By changing this Act in this way it is fairly homogeneous. It may be that the amount varies or the amount of damage to a person varies. In this case, we are talking about a fairly heterogeneous body which covers a number of areas and which does not explain what the charge is.

I would prefer new section 270ab to be stated in the form of the amendment. If it did, when a person was charged he would be charged with the actual offence that he had committed. To attempt to manslaughter would not be the primary charge—it would be the actual circumstances of the crime concerned, and the person would be prosecuted under new section 270ab of the Criminal Law Consolidation Act.

From my observation of the law, the offence of manslaughter should remain unviolated, as it has for many years. We would then be able, in both the court and penalty phases, describe the crime that had actually occurred. I recommend my amendments to the House, but indicate that I have no intention to divide on this matter.

The Hon. G.J. CRAFTER: I thank the honourable member for his interest. However, the Government does not support his amendments. Obviously, the honourable member's part-time study of the law is at an advanced stage, with his reference to the Criminal Law Consolidation Act. This is a matter of semantics, as he has said. The member for Mount Gambier has said that this has not met with the approval of law officers in the other place and those learned in the law including Parliamentary Counsel.

Parliamentary Counsel does have a specific role to advise Government and members in precisely these sorts of areas. His advice was to use the form of wording found in this legislation. It might not be as precise as some judges and others learned in the law would like, which is the view that the member for Mitcham is advancing. I am sure that it would have been the view of one of his predecessors, Mr Justice Millhouse, who would no doubt have advanced his opinion in a colourful way and would have had stacks of volumes on this desk from which to quote. However, the Government has chosen this wording, and I think it is true to say that that has met with the approval of the former Attorney-General. We do not therefore see any need to change these words.

Amendment negatived; clause passed.

Clause 4 and title passed.

Bill read a third time and passed.

STATUTES AMENDMENT (COMMERCIAL TRIBUNAL—CREDIT JURISDICTION) BILL

Adjourned debate on second reading.

(Continued from 30 March. Page 798.)

The Hon. H. ALLISON (Mount Gambier): I support this Bill which is an improvement on the 1982 Bill introduced by the previous Government. Clause 5 deals with powers of the Commercial Registrar. Clause 7 ensures that the tribunal now has power to deal with frivolous, vexatious or improperly presented matters—this was omitted from the principal Act. Clause 9 provides for the issuing of a certificate of judgment for a money sum where that has been ordered by the tribunal and for registration in the local court. This was specifically referred to in clause 9 (3). While the tribunal can make its own rules, there is now also provision for regulations and that removes some of my earlier concern. This Bill has the support of the former Attorney-General who was responsible for its prior introduction in 1982. The Opposition supports this legislation.

The Hon. G.J. CRAFTER (Minister of Community Welfare): I thank the Opposition for its support of this measure.

Bill read a second time.

In Committee.

Clauses 1 to 6 passed.

The Hon. JENNIFER ADAMSON: I rise on a point of order, Mr Chairman. This is a Government Bill and I have not heard a Government member called 'Aye' to any of those clauses.

Mr Klunder: I did, on each occasion.

Members interjecting:

The CHAIRMAN: Order! There is no point of order.

Clauses 7 to 9 passed.

Clause 10—'Repeal of sections 34 to 36 and substitution of new sections.'

Mr BAKER: I did have an amendment drawn on this clause. Having taken further advice, I will not move it. I invite the Committee to look at new section 36 (10). I am dissatisfied with new subsection (10) and note the words 'in his employment'. I believe that we should cover the case of a credit provider who, in good faith, takes all reasonable action to prevent an employee from transgressing. It has been explained to me that a number of Acts provide a bland statement that a person shall be guilty if an employee does something, although no Acts have been named. I am assured

by my colleague in the Upper House that this is the most appropriate power in regard to a tribunal.

In regard to all actions, whether disciplinary or criminal, there should be an interpretation that a person is not responsible for the acts of other people if he has taken proper action to prevent such acts. This subsection blandly says that, if an employee acts specifically outside an employer's instructions, there shall be proper cause for disciplinary action. We know that the tribunal will consider each case on its merits and certainly it would not bring forward an action against a credit provider who has acted properly. However, I still believe that in principle the law should show that, where a person has taken due care, he should not automatically be deemed guilty (and that is what this subsection provides) for the act of an employee.

I am dissatisfied with new subsection (10). I have taken further advice and I understand that my amendment will not be supported in the Upper House. As the Bill has already passed in that place, it is not worth while pursuing this amendment. However, I believe that the law should provide protection for people who have consistently acted in good faith. I say that for the record. On other occasions I may be more dogmatic about what is provided in legislation, but in this case I merely make the point to which I referred.

The Hon. G.J. CRAFTER: The member for Mitcham raised this matter with me some time ago and today advised me of the discussion he had with his colleague on this matter. I sought further information from the appropriate Minister, which I trust will be of interest to members, particularly to the member for Mitcham. I have been advised that disciplinary action in the hands of the tribunal is unlike offences that come before the courts. Where a court is satisfied that an offence has been established, it is obliged to proceed further. However, where a tribunal finds that one of the acts, omissions or circumstances referred to in the clause has occurred, it still has a discretion as to whether it should proceed to exercise the powers conferred on it.

In exercising that discretion, the tribunal would obviously take into account all relevant circumstances, including those referred to in the thrust of the amendment which the honourable member discussed with me and which he now does not seek to move. One of the reasons for entrusting these matters to a specialist tribunal rather than to the courts is so that these matters can be dealt with more flexibly and in a more discretionary manner. I point out that the tribunal has industry representation on it, and this ensures that, when exercising its jurisdiction, the tribunal takes into account the usual practices in the industry and acts in accordance with the generally accepted standards in the industry.

Since this Act commenced in 1973, the tribunal has been empowered to impose disciplinary action if the credit provider or any person acting on the authority or upon the instructions of the credit provider has been guilty of certain conduct. The proposed amendment that the member for Mitcham had in mind has not been in the Act and has never been found to be necessary as a result of the work of the tribunal. The existing provision has caused no difficulty whatsoever during the past 10 years in that regard.

Remaining clauses (11 to 23) and title passed.

Bill read a third time and passed.

COMMERCIAL TRIBUNAL ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 30 March. Page 800.)

The Hon. JENNIFER ADAMSON (Coles): The setting up of the commercial tribunal was an initiative of the previous Liberal Government. The Commercial Tribunal Act was passed during the last Parliament. In order to bring it into operation, it was necessary to pass special Acts to transfer jurisdiction. The Liberal Government did not have time to get to this point, and the Statutes Amendment (Commercial Tribunal—Credit Jurisdiction) Bill represents the first transference of jurisdiction which commences to bring the tribunal into operation. The Bill is thus the next step in implementing our Government's initiative and the Opposition supports it.

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

CONSUMER TRANSACTIONS ACT AMENDMENT BILL (No. 3)

Adjourned debate on second reading.

(Continued from 30 March. Page 800.)

The Hon. H. ALLISON (Mount Gambier): The Opposition supports this Bill, which is complementary to the Second Hand Motor Vehicles Bill, which is also before us.

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

HIGHWAYS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 6 May. Page 1279.)

The Hon. D.C. BROWN (Davenport): The effect of the Highways Act Amendment Bill is to transfer a greater proportion of the Highways Fund under section 32 of the Highways Act away from the dedicated purpose for which it is currently used—for road works—to the road safety programme of the Police Department. This is not a new measure in using these funds for that purpose. Under the Liberal Government that was the practice, and under the Liberal Government the percentage from the Highways Fund that was transferred was increased from 6 per cent to 9.8 per cent in two steps: first in 1980, and then in 1982.

The effect is that there is less money available for roadworks, road maintenance, and road construction, and a smaller contribution has to be paid to the Police Department from the revenue side of the Budget, because more of the costs of running the Police Department will be paid for by the Highways Fund. Under the measure that we have before us it is proposed to lift the current percentage transfer from the Highways Department from 9.8 per cent to 12 per cent. One other aspect of the legislation is that it will make the provision retrospective from now back to 1 July 1982.

I want to comment on both of those proposals. I understand that increasing the percentage transfer from 9.8 per cent to 12 per cent will decrease the contribution to the road safety programme of the Police Department by approximately $1 000 000. At present apparently a figure on the basis of 9.8 per cent would mean a transfer of $4 770 000, whereas on the basis of 12 per cent it would mean a transfer of $5 724 000. Therefore, we would now have $1 000 000 less for road construction and maintenance in South Australia and $1 000 000 more for the road safety programme of the Police Department. Therefore, the revenue Budget of the State will have less demand placed on it to meet the costs of the Police Department.

It is quite obvious that this is simply a technique being adopted by the present Government in an attempt to improve

its rather disastrous budgetary position at present and it has gone off and found $1 000 000 to help its revenue Budget. I would be the last to vote against this measure, because it was a practice adopted by previous Governments. However, I simply express grave concern at the announcement in the second reading explanation that it is the intention of the Government to lift its contribution to the road safety programme of the Police Department from 50 per cent of the running costs to 75 per cent of the costs. That would mean that it is the intention of the present Government to lift it from the present level of 12 per cent to about 18 per cent of the road safety programme. I indicate that I believe that it would be the intention of my Party to oppose any such drastic reallocation of funds from the Highways Department.

South Australia has a back-log of road works. I know that the Minister is aware of that, because I keep writing to the Minister pointing out certain roads which require work to be done very urgently. For example, the Old Belair Road, which is in my area, should have been resurfaced 20 years ago. It is now in a deplorable state. It must be the busiest road in the worst condition in the metropolitan area. I could refer to many other examples of road programmes not proceeding at the rate at which they should, due to lack of funds. The work on the widening of Anzac Highway is getting a dribble of funds over a three-year period, once the reconstruction of Emerson crossing has been completed.

Mr Gunn interjecting:

The Hon. D.C. BROWN: I have written to the Minister about some of the roads on Eyre Peninsula; so many of the roads there are unsealed or in a deplorable condition. I do not intend to use this time to simply go through and list all the roads in the metropolitan area or country areas that urgently require upgrading. I know that there are literally hundreds of requests being made for improvements to roads that are quite inadequate. For there to be not only this present erosion of the Highways Fund but an intention as announced by the Government that such erosion will increase very significantly, means that the contribution from the Highways Fund will have increased from 6 per cent to about 18 per cent over a period of about five years. That is a three-fold increase, which on a quick calculation means that the Police Department will be getting about $9 000 000 from the Highways Fund for revenue purposes and that the State road programme will be $9 000 000 worse off.

It is no wonder the Royal Automobile Association put out a press release earlier this week strongly condemning the Government for its present move. I believe it criticised the Government for two reasons: first, for the transfer of funds from the Highways Fund to the Police Department; and, secondly, for the retrospective nature of this measure. I will come to that shortly. I indicate to the Minister that it is not our intention to oppose or vote against the Bill but if he introduces further Bills, we will look at them carefully. If the backlog of roadworks in this State continues, we are likely to strongly object to any further increase in the percentage allocation.

The other aspect is the retrospective nature of the legislation. Again, I point out to the House that, on two occasions, the Liberal Government introduced legislation and on both occasions it contained a small retrospective provision. On both occasions a period of about three months was at stake but the measures were introduced early in the financial year as part of the overall Budget strategy. However, we find here that, in the middle of the year (mid-May) and almost at the end of the financial year, the Government is going back and trying to make the legislation retrospective to July 1982—in other words, retrospective for 10½ months. It is obvious that, if such a move was going to be made, it should have been part of Budget planning. There was no mention of it when the Budget was introduced in this House. Therefore, I believe that it is morally wrong to go back and make legislation retrospective, especially at the end of the financial year. If it was at the beginning of the financial year I would not object as it is part of the planning of finance for that year. It is obvious that the Highways Fund has $1 000 000 surplus this year, which means that certain roadworks scheduled for this year have not proceeded.

I hope that the Minister of Water Resources is not distracting the Minister of Transport, as I want important information from him when he is replying. What part of the road programme which was announced for this year and which should have proceeded has not proceeded? From where has the $1 000 000 come that is now available for the road safety programme for the Police Department? Will the Minister therefore give an indication of what works are scheduled for the 1982-83 financial year which have not progressed this financial year? That is all I intend to say on this measure and I would appreciate that information from the Minister. I will be supporting the legislation with the reservations I have expressed to the House.

The Hon. R.K. ABBOTT (Minister of Transport): I thank the member for Davenport for his contribution and thank the Opposition for supporting the measure. I say at the outset that I agree with many of the comments and remarks made by the member for Davenport. When this measure came to my attention I voiced a number of concerns along the lines expressed by the member for Davenport. The honourable member mentioned that, according to his calculations, this measure could cost the Highways Department a further $1 000 000. I understand that that figure is nearer $800 000 than $1 000 000.

I agree that that is a considerable sum. It is necessary to adjust section 32 (I) *(m)* of the Highways Act so that the contribution to the Police Department for its work in road safety will not be diminished. When this measure was first introduced in 1970 or 1971, it was designed to create a reimbursement of 75 per cent for the work that the Police Department does in the area of road safety and road traffic.

The purpose of this Bill is to increase that contribution from 10.8 per cent to 12 per cent, with a view of establishing that 75 per cent, which was the original intention. This measure will increase it to only about 50 per cent. The Highways Department had budgeted this financial year for a contribution of only $5 200 000, which represented 10.8 per cent of motor registration fees. However, it is understood that the previous Budget Review Committee directed the contribution rate to be set at 12 per cent from 1 July 1982. Regrettably, that decision of the committee does not seem to have been passed on to the Highways Department, and that has been recognised and acknowledged by the Treasury.

If the contribution rate is left unchanged at 9.8 per cent, only 41 per cent of the costs in 1982 will be recovered. The effect of this Bill will be that 50 per cent of the costs incurred by the Police Department in providing these services in the current financial year will be covered, and that is a step towards restoring the position to what it was in 1971, when 75 per cent of the costs was recovered.

The level of police services contribution was 6 per cent when this measure was enacted in 1971. It rose to 7.5 per cent, which was provided for by Bill No. 10 of 1980, which was assented to on 3 April 1980 and became effective from 1 October 1979. It was further increased to 9.8 per cent in Bill No. 6 of 1982, which was assented to on 25 February 1982 and became effective on 1 July 1981. The 12 per cent provided by the current amendment takes effect from 1 July 1982. To indicate the amounts, I have the figures for 1980 to 1982 only. Gross motor registration fees received amounted to $44 400 000, of which the police services con-

tribution was 9.8 per cent; this meant that $4 355 000 was contributed to the Police Department.

The original amounts budgeted in 1982-83, according to the schedule of proposed works, show that the gross motor registration fees were $48 650 000, of which the police services contribution was 9.8 per cent, or $4 770 000, an increase of $415 000. The revised amount budgeted in the 1982-83 schedule of proposed works subsequent to the meeting of the Budget Review Committee was $47 700 000 as gross motor registration receipts, of which 10.8 per cent would be a contribution for police services, amounting to $5 155 000, or an increase of $800 000.

So, 12 per cent of gross motor vehicle registration contributions amounting to $47 700 000 should have resulted in $5 724 000 being contributed to the Police Department. The increase over the 1982-83 Budget will amount to $569 000. The honourable member asked what road measure would be dropped to enable the Highways Department to make up for that loss. I am unable to provide an answer. I agree with the honourable member's comment that funding for roads has been diminishing, especially under the local Road Grants Act. In fact, it has been dropping considerably over a number of years.

My predecessor made a lot of noises about those cutbacks, and I have commented about that matter, too. Studies are being conducted at the moment, and it will be some time next year before we are able to put a stronger argument to the Commonwealth Government to lift the percentage of funds available to South Australia for road building under the various Acts.

The Hon. Michael Wilson: It's disgraceful that the Commonwealth doesn't give us our rightful share.

The Hon. R.K. ABBOTT: I agree with the member for Torrens—it is disgraceful that the Commonwealth has been cutting back on road funding for South Australia.

The Hon. Michael Wilson: Since 1972.

The Hon. R.K. ABBOTT: Yes, since 1972, but I think a greater drop occurred in 1976. I thank the Opposition for its support.

The Hon. D.C. Brown: Which road programmes will suffer?

The Hon. R.K. ABBOTT: Whilst the honourable member was talking to his colleague, I said that I was unable to specify which roadworks will suffer.

The Hon. D.C. Brown: Will you provide that information later?

The Hon. R.K. ABBOTT: I undertake to obtain that information and provide it to the honourable member.

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

RACING ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.

(Continued from 21 April. Page 1003.)

The Hon. MICHAEL WILSON (Torrens): At the outset I must say that I am a little disappointed that the Government has seemed unable to get its act into gear in the past week or two.

The Hon. J.W. Slater: Not again.

The Hon. MICHAEL WILSON: The Minister interjects 'Not again' and he is quite correct. The problem is that I saw a programme listing at least 17 or 18 Bills to be dealt with this week.

The Hon. E.R. Goldsworthy: It would have been more than that. There were 17 on Tuesday.

The Hon. MICHAEL WILSON: The Deputy Premier tells me that there were more than that. The Racing Act Amendment Bill did not appear on that programme. It is fortunate for the Minister, and for me, that I happened to have my file with me today when I found this on the Notice Paper. I do not mention this in a carping way.

The Hon. J.W. Slater: It was inadvertently left off the Notice Paper.

The Hon. MICHAEL WILSON: As the Minister said in his second reading explanation, this Bill seeks to allow the introduction of self-service totalizator ticket-issuing machines in South Australia. The Totalizator Agency Board, according to the Minister, has been considering this matter for many months, although I was not aware of that, when I was Minister. No doubt those considerations have come to fruition in the past few months.

The self-tote terminal is a self-service ticket-issuing machine involving a simple method of operation and designed for selling only. I must emphasise that the machine will not pay out: all winning tickets must be cashed at T.A.B. agencies. The Minister said in his second reading explanation that the machine will be introduced on a trial basis for up to six months (I will come back to that in a moment) and after that period a review of its effectiveness and profitability (which I will also mention in a moment) will be undertaken and a report submitted; if it is then intended to introduce the machines on a wider scale, the report will go to Cabinet for approval.

The Bill provides a condition that all premises where it is proposed to install self-tote terminals must be approved by the Minister and that (very importantly) in considering that approval he shall have regard to the proximity of the premises to places of public worship, schools, and so on. The Minister stated that the benefits flowing from this machine, if successful, would be increased revenue to the T.A.B. (and hence to the racing industry and the Treasury), and intimated that there might well be a reduction in S.P. betting.

It seems to me that the Minister has not consulted as widely as he should have on this Bill. If he has, his consultation is not evident in his second reading explanation. Before I turn to the question of consultation, however, I point out that this is a conscience issue in the Liberal Party, and all members, once again, will be voting as their conscience decrees, as has occurred frequently over the past two or three days. I have consulted with various organisations in the community on this Bill and, in particular, with the South Australian Jockey Club (I do not say that the Minister has not consulted with that club) the Trotting Control Board, Greyhound Racing Control Board, Adelaide Greyhound Racing Club, South Australian Trotting Club and the South Australian Bookmakers League. I have also consulted with the Catholic Family Welfare Bureau, the Anglican Social Welfare Committee and the social justice section of the Uniting Church. I found in those consultations that almost all the racing organisations support this measure or, at least, have no objection to it, especially as it is intended to be on a trial basis.

I have received a letter from the South Australian Bookmakers League, and the Minister knows quite well, discussions have taken place in the past between the present Government and the league. The letter, written by the Chairman (Mr Webster) states:

> I refer to your letter of 2 May 1983 and advise the following:
>
> 1. Our league has never been an objector to T.A.B., provided T.A.B. did the job it was designed to do that is, cause the disappearance of illegal betting. If that had eventuated, the racing industry would be much healthier, and we are part of the industry. The overall performance and the returns to racing from T.A.B. since its introduction have been disappointing.
>
> 2. The major racing clubs, which were prominent supporters of the introduction of T.A.B., were strong opponents of after-race payouts. Unfortunately your Government introduced after-race payouts, which in our opinion proved to be the biggest factor in reduced course attendances. This applies throughout Australia. So

the damage has already been done, and we feel that T.A.B. machines will have little impact on the current position.

Our league does not agree that the proposed arrangement will reduce starting-price betting, since illegal bookmakers will inevitably be prepared to offer a premium to bettors above the T.A.B. dividend. It seems unlikely that all winning tickets will initially be cashed at T.A.B. agencies. We feel this facility will be freely available in premises where these machines are installed.

The Minister may care to answer some of those points when he replies or in the Committee debate. I am certainly not in a position to answer them, but it is important to note that the Bookmakers League, which is the only racing organisation that I consulted, disagrees in some respects with this legislation. Although this installation is intended only as a trial, the league does not mention that fact. It really does add more weight to the sort of amendment I hope to move if such consideration can take place before the Parliament actually gives the Government the freedom to go ahead and approves these machines for use widely in the community.

The Hon. J.W. Slater: Can you give me a copy of the letter?

The Hon. MICHAEL WILSON: I shall be pleased to. I now draw attention to the correspondence I have received from the churches. I do not know whether the Minister consulted the churches on this issue, but when he replies I hope he will tell us whether he did so. I do not intend to read into *Hansard* the full text of all the letters, but I shall be happy to supply copies to the Minister if he wishes. However, I shall quote some paragraphs from these letters. I received a letter from Father O'Neill, of the Catholic Family Welfare Bureau, as follows:

Dear Mr Wilson, I have studied the Racing Act Amendment Bill and thank you for drawing it to my attention—

this is one of the reasons why I am not sure whether the Minister has consulted the public as widely as perhaps he should have—

The provision of a self-service betting ticket machine in itself is of no great consequence. However, what is of consequence is the active role of Government in promoting gambling. Moderate gambling, like moderate drinking, can be a form of recreation. It would be reprehensible for a Government to maximise the number of drinking outlets in order to stimulate the industry and benefit from revenue. I am not aware of any difficulty on the part of the betting public in placing bets, so a claim for the new service on the basis of need is untenable.

That is a very important point, and he goes on to say:

Illegal starting-price betting is unlikely to be hit as much if it takes place where there are facilities already for legal betting. These are my thoughts on the Bill.

I also received a letter from Father Morrow, Director of the Anglican Social Welfare Committee, which states in part:

At first perusal it would seem rather innocuous and my initial reaction was to say, 'Well we have extensive gambling facilities and this is only a very minute addition'.

Reflection on the question, however, has me quite worried. I believe that this is one of the most objectionable forms of gambling ever proposed. It has the classic conditioning elements, for example, random rewards for specific behaviour, that is, occasional wins for putting coins in a machine. The young who are most susceptible to such conditioning will have ready access, and, as can be seen from the pinball mentality, we are likely to have plenty of customers. It is rather a crude form of one arm banditry and lacking any form of even pseudo-sophistication like a casino.

I will not read the rest of the letter: I do not want to spend the whole of my time reading letters. That letter gives the Minister an idea of the reaction of the Anglican Social Welfare Committee.

Mr Hamilton: Do you agree with that?

The Hon. MICHAEL WILSON: I am not saying that I agree entirely with what Father Morrow says, but it is important that what Father Morrow and the other ministers say is put before this House. I hope that the honourable member accepts that. If I do not put those views to the House, who will? That is why I put forward those views, and I shall continue to do so. The Rev. Dr Geoffrey Scott, Executive Officer, Social Justice Committee, Uniting Church, posed some questions, as follows:

Who has requested the introduction of totalisator machines?

I think the Minister can answer that. Dr Scott also asked:

What are likely total benefits and cost?

It may be that we will not ascertain that until we reach the end of the trial period. It was further asked:

Where will they be introduced? What is meant by a trial basis for up to six months?

It was also stated:

So far as I am aware there has been no public request for such facilities. Indeed, it seems clear from the 'report' accompanying the Bill that the request comes from the Totalizator Agency Board.

This measure has nothing to do with community well-being. It is proposed in the interests of the T.A.B. and the racing codes! The report which refers to the opinion of the Totalizator Agency Board makes it quite clear that this is another instance of the Government having to take action to attempt to increase the profitability of that agency! I believe it is quite reasonable to assume that it is from this 'interest' that the request comes.

That is an important point, and it should be read into *Hansard*. Dr Scott then refers to other matters (and I will ensure that the Minister has a copy of this letter) and poses a number of questions, some of which I will put to the Minister in the Committee. He asks:

Where will they be introduced? The only information is that they will be situated where T.A.B. facilities are currently not available. Where is that? In hotels, theatres, shopping malls? The Bill suggests that they will not be near churches or schools! What provision is made so that children do not have access to the T.A.B. tickets? No assurance is given that minors will be prevented from purchasing the tickets which presumably will be located wherever people gather.

I will refer to that matter later. It is further stated:

Previously, gambling was not thrust upon the public. Those who wanted to gamble went to a place where such action took place, now gambling will intrude into many more places of our common life.

In the last two paragraphs of his letter he finally states:

My overall reaction is that this is a piece of proposed legislation that represents a sectional interest, without due regard to the social and economic consequences. Further the piece of proposed legislation is an unashamed attempt to further increase the gambling dollar by thrusting the facilities for gambling before the public. It represents an intrusion of the interests of a section into the common life of the whole community.

I have to say that I do not necessarily agree with everything that I have read out from all those letters, as I mentioned when the member for Albert Park interjected. However, I believe that the fears of the churches are serious enough that an amendment to this legislation is required to see that the Minister carries it out for only a trial period. Then, having evaluated the trial period, he should be prepared to bring it back to this House so that we can then question the Minister on the efficacy, or otherwise, of this legislation over the trial period. At the same time we can take into account not only the profitability of the trial period (which the Minister mentioned in his second reading explanation) but also what are the social effects of the installation of these self-tote machines.

Of course, one of the main social effects will be the effect it has on people in the community under the age of 18 years. We know that the Racing Act itself prohibits people under the age of 18 years from placing a bet with the Totalizator Agency Board. There is nothing in this Bill about people under the age of 18 years. It was certainly brought up in Dr Scott's letter. However, the Racing Act itself prohibits people under the age of 18 years from placing a bet with the T.A.B.

However, what concerns me is this: if the Minister intends (and he can deal with this in some detail) to place these machines not only in hotels, for instance, where there would be some supervision of the machines, but also, say at sporting

events which could possibly take place in the open air, what supervision of the machines would there be to see that minors do not use the machines? I assume that the Minister does not want minors to have access to these machines. I would be grateful if he would tell me if I am correct in that assumption. However, I assume that that is what he wishes. It is an important point and one that should not be overlooked.

I do not intend to say much more at this stage other than to say that it is a conscience issue with the Liberal Party. I will certainly support the second reading to see how the Minister responds to an amendment that I intend to move. I ask that the Minister tries to answer some of those questions that I put to him in the second reading debate, not the least important being with whom he consulted in bringing this legislation before the House.

Mr EVANS (Fisher): I merely wish to speak briefly on this subject. I am concerned about the proposal. The first concern I have is that I believe that we have had a tendency in recent times towards more and more forms of gambling and ease of gambling for the public, but not only that: I do not think that that is as serious as the advertising and publicity of gambling, where people are encouraged to take a chance of getting themselves out of financial difficulties by buying a lottery ticket, instant lottery tickets, going to the T.A.B., and now to a poker machine type of T.A.B. which is proposed in the hotels.

I know that there is no instant cash from the proposal that the Minister has now before the House. If it ever becomes operative, the idea of the self-service T.A.B. machine is that people will be able to buy a ticket and, if it is a winning ticket, they will have to take it along to a T.A.B. agency to collect.

In it, I wonder how big the operation will be when the T.A.B., going by the Minister's second reading explanation, or the hotel, will have to supply somebody who will have to keep surveillance over the machine all the time. The second reading explanation states that a person or persons will be involved in keeping a watch on the machines. That might be the proprietor or an employee of the hotel; I do not know who it is intended to be.

Of course, we all know that a significant number of people under the age of 18 already intrude into that licensed area. In certain parts they can go lawfully with their families; in other parts they cannot, although they cannot consume alcohol in any part of the licensed premises. But, it is not limited to licensed premises. These machines can be put into shopping centres, where it becomes much more difficult to police their use. We have never been given a clear indication that machines will go only into hotels; at one stage, some publicity was given that they were going into major shopping centres and like places.

I wonder what the effect will be on licensed clubs, for example, if hotels have them and licensed clubs do not. I doubt whether the clientele in the majority of licensed clubs would be numerous enough to support such a proposition.

The other point is that the machines are not to be put in hotels that may be near a T.A.B. agency, a school, a church or some similar facility that could cause some community concern. If there is nothing wrong with them we should not really say that there is a concern about putting them near a church or a school or such facilities. I can understand why they should not be near a T.A.B. agency. But if the Government of the day felt that there was nothing wrong with such machines why have a provision that they cannot be near a church? Usually, when churches are operating, on a Sunday the races and the T.A.B. are not operating. I ask why the concern if there is nothing wrong with them. Is it just an image, a public face-saving sort of thing? One must toss that around to try to assess why the Minister makes that statement on behalf of the Government.

If hotels are going to compete, as they have to, for clientele, and if one hotel has the facility of selling tickets for gambling on T.A.B. and another one is prohibited because it is too close to the T.A.B. agency (but it might be only half or three-quarters of a mile down the road), or a school or church, and so on, the one with the legal gambling facility is more likely to attract the gambler as a client. The hotel nearer the church or school cannot compete on the same basis. So, one hotel has the advantage automatically by legislation; we are legislating to help one section of the hotel industry but not the other.

The argument is that the installation of these machines might do away with some of the S.P. betting. I do not think that I can be accused of betting with an S.P. bookmaker, so I am not sure how it operates, but I always visualise that if somebody lodged a bet with an S.P. bookie and had a win, they could collect the cash virtually at any time, in particular, if the S.P. bookie is operating in person in the building, and not by telephone.

The Hon. J. W. Slater: Don't be so innocent, Stan.

Mr EVANS: I am just saying that I believe that that is how it could work, and that I am innocent in that field, strange as it may seem to the member on the other side. In that area I can claim that I do not have much knowledge. If the cash is readily available at the hotel, is the person who wants to bet and make use of his money likely to put the money into the T.A.B. machine and collect at some T.A.B. agency later or to use the S.P. bookie who is operating around the corner? I do not think that it would have much effect on the S.P. bookie. I may be wrong because, as I said, it is one area about which I cannot claim to have any knowledge.

This opinion stems only from what I have read or been told. What about the Hotels Association? What consultation did the Minister have with that organisation? From what I pick up on the grapevine, I believe that the T.A.B. was the first organisation to start promoting the idea that it would be good to have these machines. I am not sure whether the T.A.B. contacted the Hotels Association initially, or whether the Minister or his department did. I have picked up on the grapevine that—

The Hon. J.W. Slater: There are a lot of things on the grapevine; they are not always true.

Mr EVANS: The Minister might tell me what I want to know, because until now he has not told us what consultation took place with the various organisations. The Premier claims that this will be a Government of consultation.

The Hon. B.C. Eastick: Perhaps it is similar to the consultation that took place on the drainage proposal.

Mr EVANS: I have heard about that, but I cannot talk about it now. I understand that some very minor contact was made, and that there was a form of agreement or understanding that a machine might be placed in one hotel only to see how it operates which would enable the Minister's officers to do a survey of how the machine operates within that establishment. That is all the consultation that occurred. The matter did not ever go back to the general members of the A.H.A. I have checked with a few members of that association who have not heard about this and who say that there had been no consultation with them. I do not know whether it went to the committee of the A.H.A. Did the proposal go to the Retail Traders Association? If the machine is to be used in shops, was that organisation consulted? Was the Police Department consulted about any difficulties that they might have in policing this operation if it were to operate within shopping centres and such places, or even in hotels? Whose responsibility is it if under-age people participate in that gambling activity? I believe that that respon-

sibility will fall back to the Police Department. What consultation was there with the Police Department?

I am not thrilled with the proposition. In particular, I say that licensed clubs would be adversely affected. The Licensing Act has been amended over the years to benefit hotels to the detriment of licensed clubs: this will be another move in the direction of providing an opportunity to take trade away from licensed clubs. Therefore, I am not a supporter of the proposition, and I want the Minister to give us more information about this. We require an indication of the effect that these machines have had in other States, if in fact they have been established, or the effect of any similar machines that may have been established in other States, such as T.A.B. direct agencies or similar operations within hotels. This House should be given that information. I believe that this is a major shift from the normal operations of the T.A.B., and for the reasons that I have expressed I indicate that I have grave doubts about this proposal and that I oppose it.

Mr PETERSON (Semaphore): I have not received a copy of the amendment from the honourable member responsible who, I notice, is not even in the Chamber at the moment. Despite the scurrilous accusations made by the member for Light the other day about my association with the Parties, I do not receive copies of all documentation! I am totally alone, I have now had handed to me a copy of the amendment, so I now have my own copy, which will enable me to speak to the amendment as well. However, I must be careful in saying that I received a copy of the amendment from the Labor Party Whip.

It is obvious that the reason for this legislation is the allegation that currently $100 000 000 or so is taken from the total gambling pool by the S.P. bookies. By referring to the reports of the various codes, and from listening to evidence that has been given from representatives of the various codes, one can ascertain that each area is in difficulty, even though they all believe (and it is true) that the distribution of the funds from the T.A.B. revenue is fair. However, it is just not enough. In the 1981-82 report of the T.A.B. a statement was made, as follows:

> Illegal Betting:
> It was noted in the last annual report that changes to penalties for illegal betting although increased, were still inadequate. The situation is further compounded by the apparent reluctance of the courts to utilise such penalties as are available. One such instance was the subject of a successful appeal by the Attorney-General during the year. The continuance of illegal betting deprives both the codes and the Government of needed income.

That is obviously the reason for it rather than any great concern for anything else although I do not think that is necessarily a bad thing. Worries concerning the effect of this measure have been mentioned by the member for Torrens.

The Hon. Michael Wilson interjecting:

Mr PETERSON: I do not have the letters from which the member for Torrens has quoted. As an independent member, such information is denied to a man in my position.

Members interjecting:

Mr PETERSON: I have now been provided with the letter by the Opposition Whip. Although my attitude may seem odd when compared to my stance in a recent debate, I am concerned about the machines. I am not against the machines, the T.A.B. or casino gambling. However, I am concerned about the proliferation of such machines in the community. Access by minors was mentioned by previous speakers. It is a valid point. I do not think one member here has frequented any public place where bingo machines and so on are available to the public and has not seen a minor using such a machine. If such machines are not administered correctly, they can be used by minors.

The Hon. B.C. Eastick interjecting:

Mr PETERSON: I am coming to that point. I have seen minors go to the bar in a hotel and buy bingo tickets.

Mr Hamilton: I wonder what the member for Light thinks about under-age people going into hotels.

Mr PETERSON: Under-age people should not go into hotels but they are often there with their parents and do buy the tickets. It seems that the machines, with no specification as to where they should go, could go into general stores in the country or even in wine stores. I hope that the Minister will clarify the situation.

I assume that the person who has the machine on their property would be on a commission. Maybe the Minister could clarify that point also. The more money that person can get through the machine, the better off they will be financially. That aspect worries me because, if he or she happens to be a person who does not care from where the funds come, the machine could be used by minors. Many children are hooked on slot machines and video machines. Therefore, these machines will hold no fears for them. Minors can now use machines better than we can. I tried to play space invaders with my son the other day but lost 30 000 invaders before he lost one and that was a fluke. The machines hold no fears, and the children will learn to use them quickly.

Money is also no problem to minors. If we go to Downtown and witness the money that flows through that facility, we will see that very young children have a great deal of money in their possession. I know not from where they get it but they do have it. They are not frightened to spend it and if they have access to those machines I believe they will spend it on them. The member for Fisher mentioned gambling machines. We are now in a sophisticated society and people want more from society. I have no specific objection to the machines as such—only where they are situated and how they are administered.

One point in particular does concern me and that is in relation to pay-outs. After-race pay-outs at T.A.B. premises were introduced only a short while ago. This has proved to be a great success, but I believe that with the introduction of these new machines we will be depriving the investor of a facility that was granted to him at T.A.B. locations only recently. At the moment, a person can place a bet and collect the winnings a short time afterwards, but with these new machines the investor will have to visit a T.A.B. at some time to collect the winnings. The point I am making is that the T.A.B. will still have to be used.

Mr Hamilton: It might be convenient to use the machine and then go to the T.A.B.

Mr PETERSON: Perhaps we should not have introduced after-race pay-outs. New section 61 (3) deals with the proximity of these machines to certain premises, but I believe that if it is true that these machines will not cause harm it will not matter where they are placed. It has been said that the introduction of these machines will make a difference to licensed clubs, but I cannot understand that. I believe that people who now bet at the T.A.B. facilities will continue to do so.

I believe the legislation should come before us again after a short period of trial. I have now received a copy of the amendment which, if carried, will mean that the legislation will have to come back for assessment. I think that is fair.

Overall, I am a bit doubtful about this Bill. In the second reading explanation it was said that the terminals will not have a detrimental effect on the employment at the T.A.B., but over the past few years for one reason or another employment opportunities at the T.A.B. have decreased considerably and that concerns me greatly. I do not quite understand what is meant by the following statement:

Since the T.A.B. will require a person or persons to be responsible for the terminals in each of the locations selected which will be under constant supervision [it does not say by whom], the problem of illegal under-age betting is not likely to occur.

I am sure the Minister will explain that to me when he responds later. I have no objections to the machines as such because I believe they will provide a needed facility, but I am concerned about the provision for a review of the legislation.

I would like the Minister to state who will pay for the original installations, how many machines will be required for the initial experiment, and some further idea of where they will go, because that seems to be a little vague at this stage. I believe we need a definite period of review for this legislation. I support the Bill to the second reading stage, but future support will depend on the acceptance of the amendment.

Mr BAKER (Mitcham): When the Minister originally put the proposition to me and we discussed it in the corridor I had not really had a chance to think about it and I could not give a response as to how I felt about it at that stage. As the member for Torrens has mentioned, there are 30 Bills on the Notice Paper, so I have not been able to research this as much as I would normally like to do. Now that I have had a chance to think about this matter, I do not believe it will benefit anyone. I have developed that hypothesis based on a number of points of view.

Mr Hamilton: Not even for the manufacturers of the machines?

Mr BAKER: Perhaps for the manufacturers of the machines, but they will probably be imported from interstate or overseas. I make the point that the $100 000 000 estimate of earnings from S.P. betting, which is one of the major reasons for the use of these machines, seems to be an overly exaggerated estimate when one considers how much the T.A.B. puts through. I cannot comment—I do not know how many people use S.P. betting facilities. However, from my limited knowledge that seems to be an extraordinary amount. I refer to the S.P. betting situation and what is occurring in that area. The volume of S.P. betting is highest in country areas where there is no ready accessibility to T.A.B. facilities. All members would be aware of that.

A lot of people in the country like to have a wager but do not have ready access to betting facilities unless they have a T.A.B. betting account, which is expensive to operate. Under this legislation those people will still have to find a betting shop to cash in their tickets. We are not helping individuals in remote areas or those who are some distance from a betting facility.

In relation to the metropolitan area, we have S.P. bookmaking in two forms: first, where the S.P. operator is present, normally in a hotel and occasionally at sporting events; and, secondly, the telephone system. Both of those areas will not be affected by this Bill. The telephone system operates on a cash credit type basis. People use that facility because they can use their telephone at home and have a credit with the operator. One or two, but not many, have been caught in recent years. Those people would certainly not use these machines.

The second type is the person who is present at a venue such as a hotel or an event where he might think that people would like to have a wager (the Bay Sheffield comes to mind in that context). In that situation, betting is conducted 'on the nod' for the payment of cash or immediate return, and credit facilities are also available. Once again, the people involved in that type of betting would not necessarily avail themselves of the facility outlined in the Bill. The service that they receive from the S.P. bookmaker is somewhat different to that available from these machines.

Human behaviour suggests that S.P. bookmaking will not be affected in any way by providing devices in various places around Adelaide. We have a large number of T.A.B. agencies and most of them are readily accessible. If this system is brought in, there will be a shift of patronage from those people who normally use T.A.B. facilities (and we have already discussed the loss of employment in the T.A.B. because of mechanisation and various other things) to a hotel where they can drink and bet.

I am worried that it will be impossible to test whether the system has been successful at the end of six months. To test whether this facility is successful, we would have to make the machines readily available and gauge how many people use the money in preference to S.P. operators. It will be a straight transfer of money. I would like members to think about that. We will not be changing the habits of those people who operate the S.P. mechanism as it is today. I think the Minister is well aware of the types of people who indulge in S.P. betting.

The Hon. J.W. Slater: How would I be aware? I don't know who indulges in S.P. betting.

Mr BAKER: The Chief Secretary is Minister in charge of the police. I presume that a report has been forwarded to the Minister of Recreation and Sport on the proliferation of S.P. betting and the ways in which people use that betting facility and why. S.P. bookmaking has been with us since time immemorial. If we are to set up a mechanism to assist in discouraging that practice and reduce the amount of S.P. bookmaking (with all its evils such as the non-payment of taxes, and so on), we should be assured that the mechanism we use will be successful. I have heard nothing which suggests that this mechanism will be successful. One has only to think about the scale of this problem and about human nature to know that that will not happen.

What will happen is that there will be a shift and there will be no way of proving the hypothesis after the six months because, if one suddenly finds an upturn in machine usage, one will not know where it has come from. I can guarantee where it will come from—it will be from those people who normally use T.A.B. facilities. There have been expressions of concern about the under 18 age group and these machines. Everybody has expressed that concern about this legislation and how, if one wants to police it properly, there would have to be somebody at each machine at all times. That is not practical or economical.

This legislation has not been thought through. If in six months time one said that the machines had taken a certain volume of money one could not test that the machines had been successful.

There is also the question of what racing broadcasts have to be provided to meet the demand and a whole lot of other things that have not been addressed. I cannot accept this legislation because I do not think it will be economical.

The Hon. J.W. SLATER (Minister of Recreation and Sport): I indicate to the members who have spoken that probably the most successful operation in South Australia over a number of years, an operation which has had substantial impact on the three racing industry codes, has been the T.A.B. It employs 11 000 people, casually, part-time or full-time and thus provides that opportunity for employment. If it were not for the T.A.B., the racing industry in South Australia would not exist. Please understand that this is a trial period only. This legislation is merely proposing to extend the facilities of the T.A.B.

There are three avenues of betting with the TAB. The Totalizator Agency Board, sub-agents located in all sorts of business premises such as delicatessens and other places throughout the country and metropolitan areas, and the telephone account, which involves 25 per cent of T.A.B.

betting. All we are doing is endeavouring to extend this service to those people who wish to have an investment on the races. I do not see this as a great debate. The T.A.B. will just be doing a trial in a few locations to assess whether or not these machines are successful.

The Hon. Michael Wilson: There is nothing in the legislation that restricts this to being a trial.

The Hon. J.W. SLATER: I think I made it clear in my second reading speech that this will be anything from a three-month to a six-month trial. There might not be anything in the legislation about this, but, when the success or otherwise of these machines is assessed after that trial period, if they do not appear to be likely to be a success, the T.A.B. will not continue with them. As to the letter from the South Australian Bookmakers League, I am sure that the member for Torrens does not totally agree with it, and nor do I. The letter states:

> Our league has never been an objector to T.A.B. provided T.A.B. did the job it was designed to do, that is, cause the disappearance of illegal betting.

I take issue with that. I think that the T.A.B., in the first place, came into being not for that purpose specifically, although that may have been part of the purpose. T.A.B. certainly provides an opportunity for people to invest legally, but other factors are involved. T.A.B. is doing a good job, and I can recall the member for Torrens, when he was Minister, praising its activities. Without T.A.B., the racing industry would be in a disastrous situation. The letter further states:

> The major racing clubs, which were prominent supporters of the introduction of T.A.B., were strong opponents of after-race pay-outs.

That has been proved wrong, because after-race pay-outs have been a success. I supported it at that time, and I still support it: it has been a good innovation as far as T.A.B. is concerned. It provides an additional service for the punter. Other innovations have been introduced by T.A.B., one being that it is now possible to place a bet five minutes before a race. All these innovations have taken place over a period to improve that facility for the public. If we do not improve that facility, people will make greater use of S.P. bookmakers. Although one can only guess how much turnover is involved in S.P. betting, we do know that it is significant, amounting possibly to $100 000 000. We know that from time to time people are apprehended for S.P. betting, and there have been a few cases in court just recently. I am not claiming that Easybet, as it is known (the self-tote), will eliminate S.P. bookmakers: it will not, although in the right places it may minimise the effect of S.P. bookmaking. With the illegality of S.P. bookmaking, none of that money is returned to the racing industry or to the Government, and I think it is important that we take every step (and this is only a small step) to minimise that situation as much as possible. This is a trial whereby we may be able to minimise, although unfortunately not eliminate, S.P. bookmaking. In the letter received by the member for Torrens from the Bookmakers League, I cannot quite follow the meaning of the following sentence in the last paragraph:

> It seems unlikely that all winning tickets will initially be cashed at T.A.B. agencies.

I point out to the Bookmakers League and to the House that with Easybet there will be no other way in which one can collect. Money must be collected from T.A.B. agencies. The letter concludes:

> We feel this facility will be freely available in premises where these machines are installed.

I cannot follow that reasoning. All winning tickets will be paid out at T.A.B. agencies: there is no other way. For the information of members, I point out that the machines are portable and must therefore be secured and kept under constant surveillance, because no doubt at times they will hold a substantial sum. The machines will not be left without supervision. The terminals will be installed in locations where they can be under constant supervision. If a machine is placed in a hotel, it will be placed in a position where it is in constant view of the licensee or his employees.

The member for Fisher referred to shopping centres: if a unit is to be installed in a shopping centre, it will be installed in a specific shop, and it will be in constant view of the person or persons who conduct the business. I do not see any difficulty in regard to supervision.

I have also been asked about locations and consultation. I have been informed that there were extensive discussions between the T.A.B. and the Australian Hotels Association, and a trial period was agreed. It is intended that the machines be installed in at least one or two hotels, but the locations have not been finally decided and other suggestions may be made. There must be Ministerial approval in regard to locations. The T.A.B. has made suggestions, some of which I am not particularly happy about, and I have asked the T.A.B. to re-think the matter. For instance, it was suggested that a machine be installed in the Highways Department building at Walkerville. I do not agree with that: machines should not be installed in Government buildings.

I see that the member for Mitcham is smiling: perhaps he is indicating that there is an S.P. bookmaker on the Highways Department premises, but I am not aware of that. We must be very careful about where these machines are located. There is nothing sinister or underhand in relation to the installation of these machines. They are an extension of the service that is already afforded by the T.A.B. I refer now to the proposed amendment.

The Hon. Michael Wilson: We can deal with that in Committee.

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

The Hon. J.W. SLATER: It has been suggested that this should be sunset legislation and that, after a trial period, the matter should be reassessed. The intention was to reassess the issue, and I have no objectgion to that. I believe that the situation should be reassessed before the measure is introduced on a regular basis, to see whether the situation that the T.A.B. suggests will come about does, in fact, eventuate.

Indeed, it is to ensure that some of the problems indicated by members who have spoken this afternoon do not take place. Of course, one of those relates to under-age betting. The member for Semaphore made a point about children playing space invaders in fun parlours and amusement places. I believe that that is quite different to this machine because, first, one has to have at least some knowledge of racing anyway, because one has to be able to use the machine and know the racing situation, just as if one goes into a T.A.B., marks a card and then puts it into a machine. It is all computerised. This will be an extension of the computerised operation.

The Hon. Michael Wilson interjecting:

The Hon. J.W. SLATER: I do not know whether the honourable member has ever been into a T.A.B. However, one must mark the card 'race 1' or 'race 2' (or whatever it might be), and put it into a computerised machine. The machine prints the ticket. One pays one's money, gets the ticket and collects.

The Hon. Michael Wilson: If you get a winner.

The Hon. J.W. SLATER: Indeed. However, in this case the same thing will occur, except that persons working in the agency will not be there to accept the money: it is accepted automatically. Therefore, it is not a great divergence from what happens at present: it is very similar to what happens at present.

Mr Evans: Will it create unemployment?

The Hon. J.W. SLATER: No, it will not create any unemployment as far as I am aware. We will put in perhaps two to five machines. That reminds me of another question that was asked during the second reading debate in regard to who would be eligible to apply for the use of the machines, and whether there was any cost involved. First, let me make this point: Australian Totalizator Limited is prepared to make the machines available to the T.A.B. for six months on trial at no cost. At the conclusion of that trial, if it is believed that it ought to continue, a contract with the person who is a proprietor of the establishment will be made by tender. They will receive a sub-agency commission, the same as it presently applies to a sub-agency in a deli or anywhere else. That will be the situation in regard to the agents who will be the proprietor of the establishment.

I repeat: this is not a great innovation in that sense as far as gambling is concerned; it is only an extension of the current situation.

I note with interest the comments made by the various Uniting Churches, Anglican Social Welfare Committee and others in regard to this Bill. I do not think that I need to say much except that perhaps they have misunderstood the intention of the Bill. Of course, I have also noted that they are really opposed to gambling *per se*. I do not think that I need to say any more than that. They see this as an extension of gambling. What it does is to perhaps create very limited opportunities in certain circumstances for people who normally bet anyway at a T.A.B. agency, or who may go to the races, the trotting or the greyhounds and have a bet.

It gives them the convenience, if they are at a sporting venue or at a hotel, to have an investment or a casual punt. It will not create a great proliferation of gambling in South Australia. We are setting up an additional convenience for the people of South Australia who desire to have a bet on the T.A.B.

The Committee divided on the second reading:

Ayes (24)—Mr Abbott, Mrs Appleby, Messrs L.M.F. Arnold, Bannon, M.J. Brown, Crafter, Duncan, Ferguson, Gregory, Groom, Hamilton, Hopgood, Keneally and Klunder, Ms Lenehan, Messrs Mayes, Payne, Peterson, Plunkett, Slater (teller), Trainer, Whitten, Wilson, and Wright.

Noes (14)—Mrs Adamson, Messrs Allison, Ashenden, Baker, Becker, Blacker, D.C. Brown, Eastick, Evans (teller), Goldsworthy, Lewis, Mathwin, Meier, and Rodda.

Pair—Aye—Mr Hemmings. No—Mr Olsen.

Majority of 10 for the Ayes.

Second reading thus carried.

In Committee.

Clause 1 passed.

Clause 2—'Interpretation.'

Mr BECKER: This clause defines an automatic totalizator betting machine. In regard to the definition of the machine, is the machine involved the Easybet machine that is manufactured by Automatic Totalizator Limited in Sydney?

The Hon. J.W. SLATER: Yes, it is the Easybet machine. It is an automatic betting machine manufactured by Australian Totalizator Limited (A.T.L.).

Clause passed.

Clause 3 passed.

Clause 4—'Premises for off-course totalizator betting.'

Mr BECKER: I take it that this is the clause that enables the Minister to select the premises for off-course totalizator betting machines. If that is so, I would like details of the number of machines and their location. Certainly, I support in principle the fact that they will not be located close to premises used as places of public worship, schools or other educational institutions. I refer the Minister to the Question on Notice that I asked of him. First, I understand that the Minister was in Sydney on 8 February 1983. In the *News* on 24 March 1983 there was a story headed 'Plan to combat S.P. bookies—T.A.B. machines for South Australian pubs and clubs' which stated:

> Punters in South Australian hotels, clubs and shopping centres could soon be betting with automatic vending machines.

The article was written by Mike Duffy, and one allegation was made to me that Mr Duffy was in Sydney with the Minister. I do not know whether that is so, although the Minister says that he was not: he says that he went on his own, so that is fair enough; I accept that. However, the Minister was influenced by Mr Duffy. The article further stated:

> The Recreation and Sport Minister, Mr Slater, said today that he was investigating the introduction of the new technology machines on a trial basis at selected sites throughout the State. Introduction of the T.A.B. machines called Easytote, is seen as the ultimate defence to S.P. bookmakers who are known to operate in bars in all major centres.

I have been assured by certain publicans, certainly those in the hotels in my electorate, that that is not quite correct. S.P. bookmakers do not operate in the hotels in my electorate.

Mr Evans interjecting:

Mr BECKER: They do not operate in the hotels in my electorate.

Members interjecting:

Mr BECKER: Well, because it would be illegal, and in the defence of publicans in my electorate, I point out that they abide by the law and will not tolerate S.P. bookmaking on their premises.

Members interjecting:

The CHAIRMAN: Order!

Mr Hamilton: How do you know?

Mr BECKER: Because I visit the people in my electorate.

Mr Hamilton: Are you there every day?

Mr BECKER: No, I am not there all the time.

The CHAIRMAN: Order! The honourable member must not get involved in answering interjections that are out of order.

Mr BECKER: I am sorry, I should not have transgressed. Due to the knowledge that I have of one hotel in my electorate which I have been associated with for many years, since before I became a member of Parliament, I assure you—

The CHAIRMAN: The honourable member should not make bold statements!

Mr BECKER: I can assure honourable members that there was never evidence of any S.P. bookmaking in the hotels in my electorate. I think it is fair that someone should defend that situation. The article in the *News* to which I referred continues as follows:

> The machines were used successfully in the Flemington carpark during the last Melbourne Cup Carnival. Mr Slater has had talks in Sydney with the company marketing the machine in Australia.

That was confirmed in answer to the Question on Notice that I asked him. The report further states:

> 'I am informed by the Crown Solicitor's Office that an amendment is necessary to the State's Racing Act,' he said. 'Draft legislation has been framed and I envisage introducing an amendment within the next two months. The machines would help combat S.P. bookmakers and give the T.A.B. a huge boost in its turnover. Sites would be selected to attract the casual punter.'

The last line of that article concerns me greatly. We can closely examine the history of gambling in this State. The Grants Commission has said to South Australian representatives over the years and also to Treasury officials that this State does not collect very much gambling tax per head of population when compared with other States. That makes it difficult for the South Australian Treasury or Government to argue a case for greater grants from the Federal Government. The Grants Commission for many years has been

reminding South Australians that we must attract more taxation per head of population from gambling.

In over a decade and a half we have had the establishment of lotteries, small lotteries from raffles and quiz competitions. We then went to instant cash, we are now to have a casino and, if this legislation goes through, we will have Easybet. No doubt exists that it will go through. Whilst this matter will be a conscience vote, as indicated in the second reading explanation, it will be along Party lines. It is interesting to note that not one back-bench Government member who came into this Parliament following the last State election has spoken on a conscience issue—either this or any other—in this Parliament.

The CHAIRMAN: Order! I point out to the honourable member that he is straying a little from the clause. Although it may have something to do with premises, it certainly has nothing to do with voting in this place.

Mr BECKER: I apologise, Mr Chairman. However, the article further states:

> Sites would be selected to attract the casual punter. But every consideration would be given to the question of increasing the temptation for younger people to gamble.

I do not think that that is quite correct. I do not think the Minister would say that every consideration would be given to increasing the temptation for young people to gamble. There is no example of that.

The Hon. J.W. Slater: I think it is a misprint.

Mr BECKER: Yes. The article continues:

> 'We would want to study the general effects and ramifications of this revolutionary type of T.A.B. agency,' he said. The machine was an instant success at Flemington. It has a 'note reader' which computes its value. An easy-to-follow facia allows punters to print out bets on a screen using similar numbers and letters to T.A.B. agency computer tickets.

The article continues:

> The Recreation and Sport Department, the T.A.B. and the South Australian branch of the Australian Hotels' Association have had preliminary discussions on Easytote. Mr W. T. Spurr, chief executive officer of the A.H.A., said today: 'We have agreed to a trial period with Easytote being installed at a few selected sites. 'The association envisages some problems if Easytote were to be accepted on a permanent basis. All large hotels, particularly in country areas, would want Easytote—but not all could have them. But the association sees great benefit from the concept of the machines in motels. Naturally, we are prepared to co-operate in any trial should the Government wish.'

That is fair enough. Mr Spurr would not make that statement unless it was considered and worthy of support. The Licensed Clubs Association informs me that it has not been considered for the trial period. I hope that the Minister can clarify this situation. I would like the Minister to give an assurance or a guarantee, if he wants my support for this clause, that the Licensed Clubs Association will be approached and asked to nominate a site. At the moment, I understand that the trial period will include the use of six machines: one will be at a hotel and the other five will be at selected supermarkets within the metropolitan area, such as Westfield Shopping Centres or Colonnades. I do not know which supermarkets will be selected—perhaps the Minister can tell the Committee about that.

I seek a guarantee from the Minister that the Licensed Clubs Association will be approached and asked to nominate a site. There are 1 200 licensed clubs in South Australia, but I would push for one of the two that I support—either the West Adelaide Football Club or the Glenelg Football Club. If this form of betting is to be introduced it should be flexible enough during the trial period to include Football Park, Adelaide Oval or some other area that will attract a large number of people on a given day. In other words, it should be flexible enough that from Saturday to Saturday the machines can be moved around. I would like the Minister to inform the Committee about that as well. I am seeking an absolute guarantee from the Minister that he will consider an application from the Licensed Clubs Association.

The Hon. J.W. SLATER: I am delighted to hear that the member for Hanson has a pure and unadulterated district. According to him, there is no s.p. betting in any of the hotels in his district.

Mr Groom: He's the biggest gambler there.

The Hon. J.W. SLATER: I am not suggesting that the member for Hanson would indulge in s.p. betting, but I did see him having a wager at the Bay Sheffield after I successfully introduced legislation to effect that facility late last year. The member for Hanson has asked a number of questions, and I hope that I have been able to pick them all up, despite all of the audible conversation in the Chamber.

The member for Hanson asked how many machines would be used. I am not quite sure, but up to a maximum of five machines will be used. A.T.L. is making the machines available to the T.A.B. at no cost on a three to six months trial basis as an experiment. The locations for the machines have not been finalised. As I have said, several locations have been suggested, but I do not agree with some of them. In relation to the honourable member's last question as to whether licensed clubs should have been considered, there is nothing to stop them from being included in the experiment. I am sure that if the licensed clubs discuss the matter with the T.A.B. they will be considered for one of these machines. We want to conduct the experiment in places where they will be of assistance.

I point out that the machines are flexible in that they are portable, as I mentioned before. However, the machines must be under constant surveillance by the person responsible for them. I point out that the installation of these machines is considered in relation to the proximity of the premises to places of public worship, schools, and other educational institutions, and so on. That provision is already in the Act in relation to T.A.B. agencies and sub-agencies. That provision is simply a repeat of the section in the Racing Act which must be taken into consideration when deciding on the location of T.A.B. agencies.

I answered the question that the honourable member put on notice about my trip to Sydney. I do not think that I can elaborate further on that answer. I was not accompanied on that trip by Mr Mike Duffy. As a matter of fact, I was in Sydney on matters pertaining to my other portfolio, water resources. It was suggested by the T.A.B. in South Australia that while there the opportunity should be taken to have a look at these machines so I made time available to do that. I went to the A.T.L. establishment in Sydney and had a look at the machines. One gets a better idea if one sees a thing on one's own and is able to make an assessment of it.

The other question the member for Hanson asked involved flexibility. These machines have to be in a location where there are a certain number of people. Some clubs open at varying hours. These machines must be put in a public place, hotel or club because most of the investments on the T.A.B. are made on a Saturday even though there are mid-week meetings. The establishment where they are put must be able to provide access on Saturdays between 10 a.m. and about 8 p.m. so that people can make their investments.

Mr BECKER: The Minister said that the licensed clubs, if they approach the T.A.B., might be considered for inclusion in this trial. I appreciate and accept that. New section 61 (2) states:

> The Board shall not provide for the installation of an automatic totalizator betting machine in any premises unless the premises and their location have been approved by the Minister.

The Minister must approve the location. Therefore, will he support the recommendation from the T.A.B. board to place a machine in a licensed club during this trial period?

The Hon. J.W. SLATER: I do not think that the honourable member need worry about that. The Act states that the Minister must give approval to decisions made by the T.A.B. about agencies and sub-agencies, and that is what happens at present. I do not want to unduly influence the T.A.B. decision so far as these locations are concerned. In other circumstances, sub-agencies and agencies require Ministerial approval. I would not want to interfere with the T.A.B.'s decision, but I think it should be considered. I will say no more than that. These discussions should take place between the club and the T.A.B. to assess whether the club is a suitable location. If I believe, as Minister, that it is a suitable location, then I will approve it.

Clause passed.

Clause 5—'Acceptance of, and payment on, off-course totalizator bets.'

The CHAIRMAN: Before the honourable member for Torrens moves his amendment to clause 5, I point out that there are two amendments; the Chair believes that the clerical adjustment should follow if the second amendment is agreed to.

The Hon. MICHAEL WILSON: I accept that and, therefore, I move:

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

and

(b) by inserting after subsection (1) the following subsection:

(1a) Notwithstanding the provisions of subsection (1), the Board shall not accept an off-course totalizator bet made by the operation of an automatic totalizator betting machine after the thirtieth day of June, 1984.

I reiterate that this measure is for a trial period only. I have grave reservations in supporting it, but I will support the third reading on the basis that this amendment is carried by the House because, although it has different wording to the usual sunset clause, it is a sunset clause. It will give the Minister 12 months in which to have this trial, to present a report to this Parliament and to reintroduce legislation if he wants to extend the scheme. I think there are enough grave reservations about this self-tote machine and its impact on the community—and I have mentioned already the fears of the churches. I am concerned, like they are, but I believe that the Minister should have the trial. If he accepts this amendment, I will support the third reading.

In supporting the third reading, it does not commit me to supporting the principle of these machines, unless I am convinced at the end of the trial period that it has been successful and that the socio-economic effects of these machines on the community has been given due consideration. I will be prepared to look at that when the measure comes before the House again.

The Hon. J.W. SLATER: I accept the amendment. I agree with the comments made by the member for Torrens. It was intended that an assessment would be made by Cabinet, but I am not unhappy about bringing it back before Parliament instead.

The CHAIRMAN: As previously stated, the Chair is regarding the first amendment as a clerical adjustment, which will be effected by the printer.

Amendment carried; clause 5 as amended passed.

Title passed.

Bill read a third time and passed.

INDUSTRIAL CONCILIATION AND ARBITRATION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 May. Page 1174.)

The Hon. E.R. GOLDSWORTHY (Kavel): This is an important Bill and, although the Opposition agrees with a number of the clauses, it opposes strongly what I consider to be one of the major clauses. We have had some legislation before the House which, in my view, is quite ill conceived; I think it would be ill conceived at the best of times but even more so in the present economic climate. The Bill does a number of things which, I think, are reasonably readily understood. If one compares the amendments to the principal Act, one sees that the initial clauses are simply to extend the range of authorities that are encompassed by the Bill.

I have a query about the clause which is inserted in relation to 'any person or body or persons'. I do not know quite what the Minister has in mind there, but no doubt he will explain that to us in Committee.

The Minister will not be surprised to know that the Opposition vehemently opposes clause 6, which strikes out those amendments which were carried in 1981 when the Liberal Government was seeking to come to terms with the enormous escalation in wages which was occurring in this State and which was, in our judgment, increasing unemployment at an alarming rate to the point that, as the Minister knows, South Australia was at the top of the tree of the mainland States in the unemployment stakes.

This is the section that the Bill seeks to strike out and replace with a far less precise provision. I will read it, because it is clear to any layman what the Liberal Government was about when it inserted these amendments. Section 146 (6) (2) of the Act states:

In deciding whether a proposed determination would be consistent with the public interest an industrial authority—

(a) shall consider the state of the economy of the State and the likely effects of the determination on that economy with particular reference to its likely effects on the level of employment and on inflation;

(b) shall give effect to principles enunciated by the Commonwealth Commission (as they apply from time to time) that flow from consideration by that Commission of the state of the national economy and the likely effects of determinations of that Commission on the national economy;

(c) where there is a nexus between the proposed determination and a determination of the Commonwealth Commission—shall consider the desirability of achieving or maintaining uniformity between rates of remuneration payable under the respective determinations;

I believe that even a layman would understand what the then Government was on about. The Minister's second reading explanation stated that that has not worked. There may be a number of reasons why, but I believe that the intent was clear. Any Government, including the previous Government, has a responsibility to give a lead in regard to the direction of determinations. I do not believe that an industrial tribunal should think that it can be entirely unfettered and divorced from the Government of the day. Its job is to interpret the law.

If there is some difficulty with the law, perhaps it should be amended, but it should not be thrown out simply because it is claimed that it is not working. I believe that the intent of paragraph *(a)*, is quite clear. Under paragraph *(a)* the commission is being advised that it must take account of certain factors.

The Hon. J.D. WRIGHT (Deputy Premier): I move:

That the time for moving the adjournment of the House be extended beyond 6 p.m.

The Hon. E.R. GOLDSWORTHY: It is abundantly clear even to a layman (and certainly it should be clear to the commission) what the previous Government was on about when it inserted those amendments. The commission must consider, in the public interest, the likely effects of its

determination on the level of employment and inflation. Anyone in his right mind would understand that they are the major issues that have been confronting Governments in this nation for a number of years. Both Liberal and Labor Governments understand that that is a major problem.

In fact, the Labor Party in its election campaign made much of employment levels in regard to the necessity of certain schemes to generate employment. In the carriage of those amendments in 1981, the Liberal Government wanted to ensure that the commission, in its judgment, took account of the effects of its judgment on the levels of employment in the State. We cannot have it all ways.

The Hon. J.D. Wright interjecting:

The ACTING SPEAKER: Order!

The Hon. E.R. GOLDSWORTHY: The Act refers to the state of the economy. I know that a lot has been said about the fact that it is very difficult to deal with such abstract concepts (I think that was the way it was described).

I do not think that this is an abstract concept, when one has to take cognisance of the level of unemployment and gauge the effect of the determination. How else will we come to grips with unemployment in terms of wage and salary increases? Unless people in work are prepared to accept moderation and, in effect, not keep up with full indexation (which is gone, anyway), the work will not be spread around: it is as simple as that. To suggest that improved conditions and a shorter working week will create employment is quite fallacious, because all that does is increase the unit cost of production. That means that industries are not competitive, certainly on the world scene, and there will be fewer jobs. Employers seek to cut costs and the way they cut costs is to reduce the labour cost which, of course, is the major component in most industries (certainly in the manufacturing industry).

I think that the intention is quite clear and that paragraph *(b)* is understandable. Earlier, the State Industrial Commission awarded a judgment in excess of the judgment made by the Federal Industrial Commission which, I think from memory, was 3.6 per cent in the national wage case. In its judgment, the State Industrial Commission awarded 4.5 per cent, and that puts strains on the economy. That judgment was severely criticised in some quarters, although not locally in particular. I am aware of an article by John Nieuwenhuysen, a reader in economics at the University of Melbourne, who enjoys a reputation for being a sound economist. However, he quite severely criticised the judgment of the South Australian Industrial Commission.

The Hon. J.D. Wright: Which judgment?

The Hon. E.R. GOLDSWORTHY: The judgment in relation to the 4.5 per cent, before these amendments came in. I would briefly like to quote some of the sentiments that he expressed. In fact, he goes as far as saying that that judgment helped to undermine wage-fixing principles and led to a complete breakdown in any semblance of wage indexation. This article, entitled 'The South Australian Industrial Commission and the demise of wage indexation', appeared in the *Journal of Industrial Relations* (December 1981), and it was a well argued critique of that judgment. It is a paper well worth reading, even if one does not accept everything he says, and the South Australian Commission certainly would not accept it because, in effect, it is highly critical of that decision. Amongst other things, he states:

> Wage arbitration decisions are always problematical. They are no doubt much easier to criticise than to make. But the SAIC decision seems weak, and the quality of its reasoning poor.

I do not want people to think that that is my view: it is the view of someone who is supposed to know something about it. The decision concerns us, because it awarded 4.5 per cent, as against 3.6 per cent, at a time when there was considerable escalation in general wage levels, and that was one of the major budgetary problems of the former Government as, indeed, members opposite know. This wage pause has been a real godsend to the South Australian Labor Government, because the pressure of increases was such that if, since the Labor Government was elected there had been wage determinations of the magnitude that we faced, it would have been in all sorts of trouble.

You would not be looking at a $200 000 000 deficit in three years time. It would have blown out even further than that, but the wages explosion during the life of the Liberal Government was one of the major problems that we had to wrestle with. So, that decision was a difficult one. This is what Nieuwenhuysen said:

> Most of the decision consists of a summary of economic evidence, with only brief references to the commission's choice among the alternative opinions given. The substance of the decision flows only partly from the evidence and the commission's chosen interpretation. Very little consideration is given to the possible consequences of the choice.

Bearing in mind the sense of amendments that the Liberal Party is moving which would thwart the attempts of the Government to clearly influence the thinking of the commission, one understands the sense of the amendments which the Liberal Government introduced. He continued:

> And the commission's strong condemnation of the Federal tribunal's view and policy is based on a criticism which could be applied equally to its own decision—

because the South Australian commission was critical of the Federal decision.—

> The following are the more obvious inconsistencies in the decision:
>
> In 'most certainly' accepting the importance of employee perceptions of fairness, the SAIC could in logic equally have followed the Federal tribunal or its own line. Indeed while trying to rectify one aspect of possible unfairness (i.e. the supposed decline in real award wages of a portion of those on South Australian State awards for one decision) the SAIC created other potential disequilibria or relative frictions such as. . .

Then he goes on to list those, commencing with:

> *(a)* between those on full and those on partial award indexation in South Australia; *(b)* between those on Federal and those on State awards in South Australia; and *(c)* between those in South Australia receiving the full index and those elsewhere on the lesser Federal award.

I shall not read all of these, but I suggest that Government members and the Minister get hold of this, because he argues very cogently, and is highly critical of that decision where, in effect, the judgment of the Commonwealth commission was cast aside. The third of his criticisms was as follows:

> An important inconsistency is the decision's apparent assessment of and reference to the standing and expertise of economist witnesses in the implications which they drew for the industrial relations consequences of various award wage outcomes. The decision commented pointedly (Reasons for Decision, p. 29) that Donovan 'expressly disclaimed detailed industrial relations knowledge and experience; and thus proffered views which were essentially those of the commercial economist given in the absence of such a background'. On the other hand, the decision (p. 23) noted approvingly Harcourt's view (based surely on a perception of industrial relations) which 'underlined the vital importance of the consensus of the workforce based upon a perceived fairness of any indexation package produced by the relevant arbitral tribunal'.

So it goes on. He says in the fifth criticism:

> Elsewhere the decision concluded that 'it is clear that whilst in general total costs (in South Australia) have overall tended to keep pace with those in other States, so also has it been the situation that average earnings growth has consistently been lower'.

These are the South Australian Commissioners speaking, and this is Nieuwenhuysen now:

> Yet the following figures for 1980 on comparative growth do not support this view—

that is the view of the South Australian Commissioners—

> (nor do those for 1974-75 to 1980.) It will be seen from table 1 that the South Australian figure was well above the 1980 national average, and was exceeded by only one State, Queensland.

After six fairly pointed criticisms of that decision, he concludes:

> The South Australian decision was only one reason for the collapse of the central wage indexation system. But the decision was symptomatic of the uncertainty, breakdown of consensus, and decline of 'substantial compliance' with the central guidelines in early 1981.

Then there is more of that. I make no apology for the fact that the Liberal Government brought in some amendments which I note from the second reading explanation have been criticised, but the intent within the legislation was perfectly clear. It was absolutely clear to the layman, and I would have thought that it was clear to the South Australian tribunal. In one case it led to one commissioner's taking note and not awarding any increase in one case. The commissioner cited this section in his judgment. So there we have the two extremes: it appeared that commissioners believed that it would not work and took no cognisance of it, and at the other extreme one commissioner ordered no increase on the strength of it. I would have thought that, if the verbiage was unsatisfactory, there may be minor amendments that could be made to the legislation. I think the intent of the provision is clear: I think that it was timely and that it is still timely.

I think to strike out that provision would place all that uncertainty into the legislation, which may occur, having regard to the amendments mooted. The operative word in the proposed amendment is 'may'. For example, the commission may take account of the Federal decision or a single commissioner may take account of the Full Commission here or he may not, which means that in terms of every amendment that the Minister is seeking to pass, any commissioner may go his own way regardless of what the Full Commission has done, and certainly regardless of what has happened in the Federal commission.

Certainly, it is bringing independence into the matter, but in my judgment it is independence gone mad when a single commissioner does not even have to take note of what the Full Commission here is advocating, let alone what the Commonwealth commission is advocating. I believe that that is an enormous step in the wrong direction. It is incumbent on the Government to give a lead. It is all very well for people to say that they assert their independence and that they are going to make judgments in the interests of fairness. It may be fair to the people in the work force, but is it fair to the people who are unemployed? Is it not a reasonable aspiration for a Government to try to do something for the unemployed and to try to create employment. Everyone acknowledges that there needs to be restraint.

During the debate on the Workers Compensation Act Amendment Bill I quoted what the Premier said at the economic summit. I intended to repeat his remarks, but I ask that members have a look at the report of the workers compensation debate wherein his comments are quoted. The Premier of South Australia said at the economic summit that the manufacturing industry needs a breathing space. Comments about restraint are always in terms of what is needed to improve employment prospects in South Australia. The Labor Party loves to paint the Liberals as being anti-worker although I point out that all of us have had to work for our living: it is not that we do not believe in giving people benefits but we do believe in common sense being applied to these matters. Even blind Freddie knows that we cannot go on increasing benefits without having a resulting increase in unemployment. I believe that a Government would be derelict in its duty if it did not give to industrial tribunals the sort of lead and direction which I believe is essential if we are to do anything about these major problems besetting the economy.

That is what clause 6 of the Bill is all about. Maybe there are some deficiencies in the present legislation, but that is no reason in my view for throwing it out and replacing it with all the uncertainty in the world. There is a whole range of opinion across the commission, no matter who the commissioners are and it will be provided that commissioners will be able to act independently and will not have to take notice of the Full Commission. I believe that writing all that uncertainty into the legislation will be an enormous step in the wrong direction. It runs counter to everything that has been said by the Premier in his public utterances to the business community and to the summit.

I believe that the section as it exists is entirely satisfactory. As a layman I can understand the provisions and I think that anyone in the community would be able to understand them. If the commissioners say that they cannot understand them, then let us tidy them up a bit and let us put them a bit more plainly. However, obviously one commissioner understood the provisions: he understood them so well that he granted no increase.

The Hon. D.C. Brown: That's right; there was no complaint there.

The Hon. E.R. GOLDSWORTHY: The public does not really know what goes on in this place; people know only what they might catch in a headline. But if the proposition was put to the public whether they thought that we should cut out the existing provisions, that the commission should take account of the state of the economy, and replace them with provisions providing that every commissioner can go his own way, that he does not have to take any notice of what the Commonwealth commission is doing or what his peers or the Full Commission is doing, I think I know what the general public, in all common sense would tell us to do.

That was a genuine attempt by a Liberal Government to come to terms with the wages explosion which was killing the State. If the commission has had trouble understanding it, I am sure we could have made it clearer and removed those areas which it said were difficult. By simply throwing it out and putting all the uncertainty in the world back into the Bill, I believe we are doing the wrong thing. Governments have a responsibility to give a lead, even to tribunals who love their independence. What does independence mean to a 17-year-old who cannot get a job? It is essential that tribunals take account of the state of the economy. Maybe it is a difficult concept but it should consider inflation and the employment situation. It is merely a plea for moderation.

What is Prime Minister Hawke on about? He is merely trying to ensure that wage rises will only be 4 per cent for the whole year. He is really after moderation. We have all this about consensus and that we all love one another. The only way he will come to terms with the nation is through moderation. If an independent tribunal wants to talk about fairness, equity and increases keeping pace with inflation, that is all fine and dandy for those in employment. However, it is not too good for those young people looking for a job, the unemployed and those who have been put off after being 25 years with a firm. I know plenty of people in that position. We strongly oppose clause 6. We have no major complaints about widening the scope of industrial authorities; we have no complaint about repealing the temporary Act; we have no complaint about the other provisions in the Bill; that is the only reason we are supporting it at the second reading. However, we certainly have plenty of complaints about clause 6.

The Hon. D.C. Brown: Has the Minister consulted the organisations?

The Hon. E.R. GOLDSWORTHY: I believe the Minister went to one employer group at the eleventh hour. As with the workers compensation legislation, the Government did

not go to IRAC, which is supposed to be the problem solving consensus authority, set up by the Government.

The Hon. J.D. Wright: It is not set up.

The Hon. E.R. GOLDSWORTHY: Why does this legislation have to be rushed through? Why is the need so pressing? Is the tribunal hamstrung? It is a promise to the comrades. So what!

The SPEAKER: Order! The Deputy Leader will come back to the clause. He is annoying me slightly.

The Hon. E.R. GOLDSWORTHY: It is all fine and dandy for the Labor Party to say that. Its platform at the last election was to set up IRAC.

The Hon. J.D. Wright interjecting:

The Hon. E.R. GOLDSWORTHY: Yes, I know. All these Bills will be pushed through before we consider them. Other promises are also being lumbered through. Maybe they are in the too hard basket for IRAC. What is the point of putting through tricky matters so quickly? It will be through the House before they have time to meet.

The SPEAKER: Order! I ask the Deputy Leader to come back to the Bill.

The Hon. E.R. GOLDSWORTHY: I am right on point. We have set up this brand new—

The SPEAKER: Order! It is not whether the point is valid. I am merely pointing out that the honourable gentleman is speaking to this Bill and not to another Bill before the other place.

The Hon. E.R. GOLDSWORTHY: I am saying that the Government set up IRAC—the big shining light to solve all industrial problems. The employers will now love the employee.

The Hon. J.D. Wright interjecting:

The SPEAKER: Order! I trust the Deputy Leader is not having a go at the Chair; he is going the right way about it.

The Hon. E.R. GOLDSWORTHY: Mr Speaker, I am cheerful and happy, and the last thing I want to do is to annoy the Chair. I am making what I believe is a valid point. The Labor Party made a series of election promises, one of which was the establishment of IRAC.

The Hon. J.D. Wright: Don't encourage his normal mood, Mr Speaker.

The Hon. E.R. GOLDSWORTHY: I am trying to be helpful, as I always am.

The SPEAKER: Order! If everyone is happy, I will not take exception, but I ask members to get back to the Bill.

The Hon. E.R. GOLDSWORTHY: Mr Speaker, the last thing I want is for you to be the only unhappy person in the Chamber. We have a shiny new committee set up, known as IRAC, in an attempt to achieve consensus, and now a major Bill is being pushed through with a minimum of consultation (in fact, no consultation with a lot of employer groups, I suggest) because it was an election promise.

The Hon. D.C. Brown: There was no consultation at all. He simply threw them a screed.

The SPEAKER: Order!

The Hon. E.R. GOLDSWORTHY: What is the Government's priority? That is all I am questioning. This is a major Bill, and this is only one provision of that Bill, but it will affect the thinking of all industrial tribunals because they will all come under this legislation when the Bill is passed. This provision gives them enormous flexibility. I believe that the Government should be giving a lead, independent or not. If ever there was a Bill designed for mature consideration by IRAC, this is it. I could say many other things, but I think I have summarised my remarks. Although the Opposition supports the second reading, we will be vehemently opposing clause 6.

The Hon. J.D. WRIGHT (Minister of Labour): This is one of the happiest Friday evenings I have ever spent in Parliament—everyone is smiling and contented. However, this is a serious Bill.

The Hon. E.R. Goldsworthy: I am fair dinkum in what I said.

The SPEAKER: Order!

The Hon. J.D. WRIGHT: I will reply to the Deputy Leader by informing him that the Government's major concern in this legislation is to preserve the authority and autonomy of the South Australian Industrial Commission, without threatening the centralised system of wage fixation determined within the Federal arbitration arena.

The Hon. E.R. Goldsworthy: You're striking that out.

The Hon. J.D. WRIGHT: That is not true—we are replacing it with something else.

The Hon. E.R. Goldsworthy: They may take it out.

The Hon. J.D. WRIGHT: If the honourable member wants to talk about that, any single commer is always subject to appeal. I believe that single commissioners guard their situation zealously and will not leave themselves open, because they know that any of the employer or employee groups can appeal against their decisions to the Full Bench.

The Hon. E.R. Goldsworthy: Yes, but the Full Commission—

The SPEAKER: Order! I suggest that the discussion being held at the moment should be left to the Committee stages.

The Hon. J.D. WRIGHT: For the Deputy Leader's benefit, I will relate a bit of history about the performance of the South Australian Industrial Commission, and I think that even he may change his mind about this legislation. The South Australian Industrial Tribunal, consisting of either a single commissioner or the full bench, has never been a pacesetter; there may be one isolated situation that the honourable member could mention. I refer to a judgment in the 1975 December wage indexation case before the Full Commission. It was an important judgment, and I do not know whether the Deputy Leader went back that far in his research. The judgment states:

> In many areas, South Australian awards tend to be followers rather than leaders; and that there is accordingly a substantial 'lead' time, in the normal course, before events elsewhere crystallise to an extent which would trigger off a variation in South Australian award areas. This is a very different situation from that arising under a vast number of Federal awards which tend to be pacesetters.

If the Deputy Leader wants to read that, it is print 92 of 1975. The Full Bench further commented on that occasion that:

> . . . what may arise as apparent anomalies may well be differences in situations so characterised by jurisdiction of the Australian commission.

It is relatively true that this commission (and I believe it has a perfect right to do so) has always taken an independent stance. It is not the only commission in Australia that has done that—the Western Australian commission has done this (and I believe quite properly). I do not believe that the State commission should be fettered by stringent legislation similar to that which we are trying to amend at the moment. I believe that the commission should have its own responsibility and its own tasks and be allowed to move into areas with tight guidelines, without roping it in and choking it at the same time. If we agree to those circumstances, that we are going to rope them in and choke them into that situation, we may as well not have a commission. If that is what the honourable member wants, if he wants to destroy arbitration—

The Hon. E.R. Goldsworthy: That's nonsense.

The Hon. J.D. WRIGHT: That is not nonsense. We have the one centralised wage fixing agency in Melbourne or Canberra and, if we tie them in and do not give the States

the right to make decisions comparable to those decisions that meet their own situation—

The Hon. E.R. Goldsworthy interjecting:

The SPEAKER: Order! I think that the Chair has been very tolerant to date. However, I ask that matters appropriate to the Committee stage be left until that stage. The honourable Deputy Leader.

The Hon. J.D. WRIGHT: The State Commission said, further, in 1975:

> This is, of course, an approach which is a direct product of a situation in which South Australian rates tend to be followers and where there can often be a substantial time lag before they are adjusted following movements elsewhere which traditionally give birth to them.

That was the commission, under the current President, making it clear that, so far as the commission was concerned, the South Australian commission was, to a large extent (99.9 per cent, I say) a follower rather than a pacesetter.

One could give an example in this area. Let us look at standard conditions for overtime, the rates for which in State awards are usually double time after three hours, although Federal awards tend to provide double time after two hours. In most awards the State commission has not even caught up with the circumstances that apply Federally.

The South Australian commission recognised that certain problems could arise from the strict application of initial wage indexation guidelines set down by the Australian commission. For example, in 1975 the South Australian commission added provisions enabling first awards to be established recognising the existence of certain anomalies not specified by the Australian commission: for example, subordinate anomalies were a supervisor is paid less than his subordinate. The Australian Commission followed the South Australian commission's lead and set down similar guidelines to cover these situations. Because of the autonomy it had under the temporary provisions legislation, which I insisted went in and and replacing, now the State commission handed down guidelines as a further base for the successful application of indexation, thereby creating a healthy industrial relations climate in this State.

I put to the Deputy Leader, sincerely and honestly, that there is a situation in the example I have given which was not thought out and was never implemented by the Federal commission, but the State commission, because it had some right to extend beyond those guidelines and barriers, was able to overcome the simple situation that was not overcome federally, which was created by the State, and which was accepted federally.

If we continue on with the present legislation, no such right could be afforded to a State commission. It would be a tragedy if a State commission never had a right to depart where it thought it was possible, or to apply local conditions into such a decision. I cannot come to terms with that situation.

In May 1981, in the State wage case decision (which was also the last indexation decision) the commission awarded full indexation of the c.p.i. to State awards, whereas the Federal commission only awarded partial indexation. This was done by the State commission in an attempt to preserve the indexation system by awarding a fair amount and so discouraging unions from seeking increases outside the system. That is my belief and that is quite contrary to what the Deputy Leader said.

The Hon. E.R. Goldsworthy: It is contrary to what my knowledge is.

The Hon. J.D. WRIGHT: Because the Deputy Leader simply believed that that decision was one of the events which led to the finalisation of wage indexation. I do not believe that and I will not accept that. In the first instance, wage indexation was always a fragile parcel (everyone who has followed industrial relations knows that). Those were the words of His Honour Mr Justice Moore in 1975 or 1976 who had the responsibility in the first instance of picking up and handling the legislation which was introduced by Federal and State Governments to try and work out some reasonable method of payment, and that was the wage indexation system. It was always on the verge of collapse and I believe personally that Mr Justice Moore was one of the persons responsible for keeping it alive for the six years that he did. If it had not been for Mr Justice Moore and if it had not been for the right of State commissions around Australia to take into consideration their very own situations and apply them (generally speaking within the Federal guidelines), wage indexation would have been dislocated and abandoned long before it was. That was a bad thing. I am a firm believer in wage indexation and so is my Party. I want to restore it as quickly as I can. The Deputy Leader's statement (that this State commission was responsible for disbanding wage indexation because of the 1981 decision) is nothing short of tripe.

The State commission's fears about the dangers of continued partial indexation decisions were realised when the Australian commission soon after abandoned wage indexation because of the substantial wages drift that had occurred outside the system as workers attempted to preserve the real value of their wages. Following the collapse of wage indexation, very large 'catch up' increases were negotiated and were of such a magnitude that they led to the current wages pause. Had the Australian commission shown the same enlightened approach as our State commission the problems of recent years might well have been avoided.

That was the point that I was making earlier. I think that the State commission here should have been taken much more notice of and not been handicapped or handcuffed (the former Minister of Industrial Relations tried to do that). The extra 0.9 per cent granted by the State commission has since been absorbed by the increases in State awards that followed the demise of indexation.

The fear highlighted by the Deputy Leader in relation to the possibility (and that is about as high as I can put it) that the wage concepts in the South Australian arena were surpassing Federal awards and surpassing other State awards is not just true. There is no evidence of that. The only opinion that was expressed by the Deputy Leader was, of course, an opinion by a lecturer at the Melbourne University (a person I have never heard of). What he is saying is not true. I will give the Deputy Leader some figures about the seasonally adjusted male employees average weekly earnings. This gives the lie to the whole argument canvassed by the Deputy Leader.

The Hon. D.C. Brown: Is this average weekly earnings?

The Hon. J.D. WRIGHT: Yes.

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. WRIGHT: I will refer to the awards if the member for Davenport is patient. I can cite the awards as well. I will seek leave to insert the awards as I do not want to delay the House. The argument put forward by the Opposition in this arena (that, if amendments inserted by the previous Minister of Industrial Affairs are deleted, there will be an explosion of wages) is not true. The average weekly earnings of male employees in the September quarter of 1981 (when the previous Government implemented the new provisions of the Act), at the end of the period of inflation, were as follows: South Australia, $276.60; New South Wales, $305.20; Victoria, $303.70; Queensland, $288.70; Western Australia, $297.30.

The Hon. B.C. Eastick: Are you sure they are right?

The Hon. J.D. WRIGHT: Yes, I am positive they are right.

The Hon. B.C. Eastick: A late message has come in.

The Hon. J.D. WRIGHT: I am told now that they are award rates, not average weekly earnings.

The Hon. B.C. Eastick: I am only trying to help.

The Hon. J.D. WRIGHT: They are average weekly earnings.

Members interjecting:

The SPEAKER: Order! There are far too many interjections.

The Hon. J.D. WRIGHT: Average weekly earnings for Tasmania (which will probably shock everyone) were $290.10; and Northern Territory, $363.70, almost $100 a week more than the average here.

The Hon. E.R. Goldsworthy interjecting:

The Hon. J.D. WRIGHT: They are average weekly earnings. In Australia, the cycle that the previous Minister wanted to follow, the figure was $301.10, $35 ahead of South Australia.

The Hon. D.C. Brown: Rubbish!

The SPEAKER: Order! I have said at least twice and I do not intend to go on saying that these matters that are being canvassed across the floor should appropriately be canvassed in Committee. I call on the Minister.

The Hon. J.D. WRIGHT: The member for Davenport says that these figures are rubbish. I call on the honourable member to dispute the figures at any time he likes, because they are accurate. For the benefit of the Deputy Leader, I point out that there is no evidence to suggest that the practical effect of allowing the State commission to exercise a degree of autonomy has had adverse economic effects. In fact, there is every reason to believe that the State commission's responsible and reasoned approach has contributed to the excellent industrial relations record that this State can boast. I seek leave to insert in *Hansard* without my reading them tables of facts and figures, which are purely statistical.

Leave granted.

Wage and Salary Earners: Indexes of Weekly Award Rates of Pay
Adult Males, Federal and State Awards, States
Base: Weighted Average Minimum Weekly Award Rates, June 1976 = 100.0

	State Awards South Australia	Federal Awards South Australia
1976—		
June	100.0	100.0
1977—		
June	111.3	110.3
1978—		
June	119.0	117.8
1979—		
June	128.4	128.6
December	130.1	132.4
1980—		
March	136.6	139.0
June	137.2	140.1
September	144.7	146.2
December	145.9	146.5
1981—		
March	151.6	152.0
June	157.1	157.8
July	157.6	158.8
August	157.6	159.3
September	158.0	160.2
October	158.7	161.7
November	159.5	163.4
December	162.0	170.5
1982—		
January	165.5	172.9
February	168.2	175.2
March	170.0	175.5
April	172.5	177.3
May	173.2	177.6
June	176.3	183.4
July	178.6	184.6
August	179.3	186.8
September	181.1	187.2
October	182.0	187.7
November	182.4	188.2
December	182.5	188.2
1983—		
January	182.6	188.3

Source: Australian Bureau of Statistics

INDUSTRIAL DISPUTES RECORD

Except for 1975, South Australia lost fewer days per 1 000 employees due to strikes than any other State.

TABLE 4. INDUSTRIAL DISPUTES: STATES AND AUSTRALIA, WORKING DAYS LOST PER THOUSAND EMPLOYEES 1973 TO 1981

	N.S.W.	Vic.	Qld	S.A.	W.A.	Tas.	Australia(a)
All causes—							
1973	622	590	509	296	313	1 089	552
1974	1 462	1 757	807	686	656	672	1 273
1975	831	910	718	277	253	305	717
1976	827	1 051	638	323	623	464	773
1977	308	433	359	65	532	197	336
1978	555	346	536	172	473	261	434
1979	744	1 090	680	395	832	439	787
1979(b)	743	1 082	686	402	842	436	788
1980(b)	660	792	866	132	445	r659	650
1981(b)	1 028	865	624	320	552	456	800

(a) Includes the Northern Territory and the Australian Capital Territory. (b) Based on estimates from the labour force survey.
Source: Australian Bureau of Statistics Industrial Disputes Australia Year 1981. Cat. No. 6322-0

The Hon. J.D. WRIGHT: I want to deal with what Mr Frank Cawthorne in his report had to say about the amendment that was inserted by the previous Minister of Industrial Affairs.

The Hon. E.R. Goldsworthy: We read all of this in the second reading explanation.

The Hon. J.D. WRIGHT: The honourable member might have read it in the second reading explanation.

The Hon. D.C. BROWN: I rise on a point of order. I believe that there is a Standing Order that clearly provides that speeches cannot be repetitive. The Minister has been through all this in the second reading explanation, and I

wonder why he is repeating that explanation at the conclusion of the second reading debate.

The SPEAKER: There is no point of order: I cannot rule until I have heard in part what the Minister has to say.

The Hon. J.D. WRIGHT: The second reading explanation was given some time ago; thus I do not know whether the following remark was included. Mr Cawthorne was most critical in that section of his report to the Government. He commented that an examination of the substance of the amendments (the amendments brought in by the previous minister of Industrial Affairs) suggested that they might do little in practical terms, and that this was a widely held view in the industrial relations community.

The Hon. D.C. Brown: Refer to page 1172 of *Hansard.*

The SPEAKER: Order!

The Hon. J.D. WRIGHT: I merely wanted to reiterate that to try to get it through the ears and eyes of the former Minister of Industrial Relations who possibly has not yet read the report that he stole from me.

However, the final comment to which I want to refer is mostly about an interjection that the member for Davenport made as well, namely, that there was no consultation about this piece of legislation. There is a person now sitting in this Chamber (and I know that he cannot speak for himself) who was requested by me to go around to all the employer organisations and discuss with them their views about this piece of legislation. That is more than the former Minister ever did when he was Minister.

The Hon. D.C. Brown: That's like throwing wheat to the chickens.

The Hon. J.D. WRIGHT: It may be like throwing wheat to chickens; I do not know. Nevertheless, I paid the courtesy to all organisations, including IRAC, of taking this piece of legislation to IRAC, which discussed it. I am not suggesting that it was 100 per cent happy with it. I have never suggested that it has to be 100 per cent happy with it.

The Hon. D.C. Brown: They never had the chance.

The Hon. J.D. WRIGHT: That is not true. There were very long discussions.

The SPEAKER: Order! I have already given a ruling about these conversations.

The Hon. J.D. WRIGHT: I could go to the trouble of spelling it out in much more detail this late at night if I wanted to. I have a report from that officer of the Department of Labour. He was appointed not by me but by the previous Government. Therefore, that will give some indication to the honourble member, who has some doubts about this, about going along and talking to the people involved in this. The report is there if anyone wants to see it privately. I do not intend to belabour the question at this time of night. However, quite truthfully and sincerely, there was consultation about this Bill.

In fact, I have had no requests, apart from those employer representatives from IRAC, to discuss this matter with me. I have had no request from Mr Schrape, for example, or from the Employers Federation. If one can take silence as being an accepted situation, then I think that I am entitled to do so. They were contented with the fact that I deputed a very high ranking officer to go and talk to them. Therefore, to say that there was no consultation (as the member for Davenport has said) is just not fact. There has been consultation. I am not saying that it was acceptable consultation or that they agreed with it. Nevertheless, there was consultation, and there was a very sincere attempt to get this to IRAC, the unions and the employer organisations.

Bill read a second time.

In Committee.

Clauses 1 to 4 passed.

Clause 5—'Interpretation.'

The Hon. E.R. GOLDSWORTHY: As I said, the Opposition has no real complaint about the other clauses. One of the other matters addressed in the Bill was the *Moore v. Doyle* situation where we understand quite clearly that there was a need to extend that immunity. I wonder what the Minister had in mind, and I mentioned this briefly in my earlier remarks. Subclause *(d)* inserts new subsection (2), which provides:

> (2) The Governor may, by proclamation, declare any person, or body of persons, that has, pursuant to an Act or law, power to determine remuneration of working conditions . . .

The earlier part of that clause has broadened the scope of definitions to include the Public Service Board, the Public Service Arbitrator, the Local Government Officers Classification Board or any person, or body of persons, declared by proclamation under subclause (2) to be an industrial authority. There are really two parts: clause 5 *(g)* , which I have just read, and new subsection (2), which provides:

> The Governor may, by proclamation, declare any person, or body of persons, that has, pursuant to an Act or law, power to determine remuneration . . .

I wonder what the Minister has in mind in that.

The Hon. J.D. WRIGHT: Only that the clause really has a transferral of the Temporary Provisions Act, which takes that into consideration and picks up what the Temporary Provisions Act has said. It may be that someone is not covered under that provision, and this Bill merely does that.

Clause passed.

Clause 6—'Due regard to be had to certain general principles, etc.'

Mr BAKER: I did intend to put this amendment. Instead, I will deal with the principle. We have stayed here far too long. I make it quite clear from the start that I am totally opposed to clause 6 as reconstituted by the present Government. My proposed amendment took account of the fact that clause 6 would pass because of the numbers situation in this House. By moving an amendment, I was going to bring to the attention of the Minister and the policy officers concerned that for the first time in this Act—the Minister is not listening.

The CHAIRMAN: That does not matter.

Mr BAKER: For the first time we have created a one-for-one relationship between the Minister and the Industrial Commission. In section 36 and in other legislation people who can make approaches to the Commission in respect of awards have been defined. The provision in this line says that the Minister can apply to the commission to make a declaration in principle about whether it should or should not adopt a Commonwealth decision. I wanted to amend this clause because it is inconsistent with the contents of the Act and puts the Minister in a preferential position as far as the Act is concerned.

I am sure that the Minister does not intend it that way, but we have already seen the wages pause recently when the Government was very reticent to embrace the wages pause as a matter of policy in the past six months. In that situation the commission was left with no direction and nothing on which it could act because the Government was not willing to say, 'Look, we have some principles under which Commonwealth wages will certainly be operating over a period.

So there are two points there. One is that the Minister is in what I class a privileged position in respect of the Act, and that is very dangerous in any Act where we are talking of industrial relations and the relationship between the Minister and the tribunal. For that reason, I intended to move that amendment. I now will not move that amendment. I will take it to my people in the Upper House. I bring it to the Minister's attention; he may think of the principles contained therein between now and when the Bill goes to the other place. But, I will not move to amend the Bill because it gives some sort of legitimacy to this area; I believe we could have done far better to tune up the existing provision rather than amend the Act.

The Hon. J.D. WRIGHT: I understand that the member for Mitcham does not now intend to proceed with the amendment. As I did not receive these amendments until very late today, I have not really had the opportunity to examine them in detail. However, it seems that the honourable member's amendment may have some merit. Therefore, I shall study it over the next couple of weeks and, if I consider that it has any merit, I will recommend that it be accepted in another place.

The Hon. E.R. GOLDSWORTHY: I think that the amendment has merit, because it improves the clause that the Minister is seeking to insert in the legislation. Let me make clear that, even if amended, we are opposed to the clause. All it does is make a minor change, and it broadens the ability of people to trigger the commission into action, as opposed to only the Minister being able to do so. As I interpret the amendment, it simply includes employer groups and the union movement in those who are able to make an application that would lead to a consideration of the matter. That broadens the scope of the clause, but basically it does not alter its intention.

I made perfectly clear during my earlier remarks that the Opposition believes that by putting all this discretion back into section 146c we would be moving in the wrong direction. Even if there is some difficulty with the expression of the Government's view apropos the earlier amendments moved in 1981, I do not believe that that is a valid reason for scrapping them. I do not agree with the theory that Governments do not have responsibility in indicating a view to the commission in regard to its judgments, because ultimately the Government is responsible to the public of this State. It is all very well to set up industrial tribunals—

Mr Ferguson: We fought this out in the early 1900s.

Mr Lewis: Quiet!

The Hon. E.R. GOLDSWORTHY: Pardon, I did not hear that.

The CHAIRMAN: Order! The Deputy Leader is not even supposed to hear the honourable member, because interjections are out of order.

The Hon. E.R. GOLDSWORTHY: As I remarked earlier today, I will be putting in for this industrial deafness compensation, if the Government gets its Bill through, as I think many other people will be doing. Enormous discretion is being put back into industrial laws. It is all fine and dandy to set up industrial tribunals, but in times of crisis, particularly such as that which we are now experiencing (and I remind members opposite that 'crisis' is a word that appealed to them last year), I think it is incumbent on Government to indicate the sort of factors that are vital to the health of the economy. I do not intend to repeat everything that I said during the second reading debate, but I indicated that the Opposition certainly does not agree with this clause, and that we oppose it.

The Hon. D.C. BROWN: Because of time constraints, I did not speak during the second reading debate, but I certainly want to express my very strong opposition to clause 6 of the Bill. My views on this matter were well and truly advanced in 1981, when these arrangements were first introduced in this House. It was done at a time when the nation needed to exercise wage restraint. The benefit of that has been seen, and it is interesting to note that the views which we as a Government expressed, and which I expressed as Minister of that occasion, have not only now been recognised nationally but, in fact, have virtually been expressed in the final communique that came out of the economic summit, headed by a Labor Government.

It is interesting to see the conflict between the Bannon Government of South Australia and the Hawke Government nationally in terms of wage restraint and the impact that that will have on job opportunities and, in particular, the fact that, if wage increases occur in South Australia over and above what occurs nationally, the level of unemployment in South Australia will reduce substantially. No doubt exists that South Australia must maintain a lower wage structure than the other States.

I would like to pick up a number of points which the Speaker ruled I should comment on during the Committee stage and not the second reading stage. The first concerned a set of figures on average wages which the Minister read out. One realises that that depends almost entirely on the structure of the industry. The Minister highlighted it, because the average wage in Tasmania was so high compared to South Australia. South Australia's economy is largely dependent on manufacturing industry, whereas very significant components of the Tasmanian economy involves the mining industry, which has far higher awards and levels of pay than has the manufacturing industry. It has been proved beyond doubt that it is the structure of the industry that is important, rather than the level of pay under individual awards, in determining average wage. So, the figures which the Minister read out were totally irrelevant to the argument used on this Bill.

The next point is the issue of consultation. I did not say that the Government had handed amendments to certain employers and briefly talked to them about the amendments. The Minister did not bother to consult with employers. A difference exists between handing someone a document and using the Public Service in this way. I have a high regard for the public servants in that department: they served the Tonkin Government extremely well for three years and, having worked closely with them, I have a high respect for them. If there is to be consultation, and if the Minister believes that that should be further improved (as he obviously believes it should be in putting up the IRAC proposal), that consultation must take place with the Minister. He has admitted that there has been no consultation with him. He has sent off a public servant to do the job that he should be doing. Whilst getting a detailed report from the public servant involved—

The Hon. J.D. Wright: You ought to talk.

The Hon. D.C. BROWN: The Minister interjects. I am sure that the member for Florey will agree that on many occasions he sat around the conference table in the department and put his view on behalf of the United Trades and Labor Council. It is fair to say that the Tonkin Government consulted at Ministerial level with the trade unions and employers more than any other Government has done. We listened to their arguments, and at times it was a long and tedious procedure but we still listened to them.

I know that representatives from one large employer body came to me and showed me documentation that had been received. They were far from satisfied with the chance to express a viewpoint to the Minister. They said that they

were annoyed and embarrassed by the lack of opportunity to put their viewpoint to the Minister.

The Hon. J.D. Wright: Why did they go to you? Why didn't they go to the spokesman on industrial matters?

The Hon. D.C. BROWN: They happened to be seeing me on an entirely different matter. It was shortly after this Bill was introduced. When we finished talking about the other matter, they went on to say—

The Hon. J.D. Wright: Did they ask to see me?

The Hon. D.C. BROWN: As I understand it, one of the persons involved was at an IRAC meeting and expressed dissatisfaction with the interest shown by the Minister in anything said at that meeting. The Minister has not really consulted with the employers but claims that he has.

The whole future of this State's economy depends on maintaining a significantly lower wage structure. That does not mean that workers in this State are worse off than those in other States, because the cost of living is lower in South Australia. That is why I support the remarks of the Deputy Leader. The original Bill as passed in 1981 was a significant defence for this State's manufacturing industry. I am concerned that the Industrial Commission has shown that it is willing to show independence in a way that does not show understanding of the economic consequences on this State's economy.

I have always been concerned, particularly as Minister, that the Industrial Commission does not take account of the effects of its decisions on employment. The whole purpose of the 1981 Bill was an attempt to make the commission take more account of that fact. I am delighted to see that that has occurred on at least one or two occasions since those amendments were made in 1981. I particularly compliment those commissioners who took into account the specific powers that they were given under that legislation. I am disappointed that this Government is moving to delete those powers, and I will certainly oppose this clause.

The Hon. J.D. WRIGHT: I believe the honourable member has just made a second reading speech. I knew that the former Minister would want to get in somewhere and say a few words. I have answered everything he said in my reply to the second reading debate. The honourable member referred to the National Economic Summit communique. I am not sure whether the honourable member read the communique very well, because he made a fool of himself. Point 23 of the communique states:

> The centralised wage fixing principles developed by the Arbitration Commission should provide the framework for the operation of other wage-fixing tribunals in Australia, but the summit recognises the authority and autonomy of these tribunals.

This legislation simply recognises what the summit recommended to Australia.

Mr LEWIS: I cannot let the Minister's indifference to the real causes of unemployment pass without comment. The section to be amended by this clause clearly recognises the realities that exist in the real world. Members of the Government repeatedly argue, and I do not doubt their motives, that they have the best interests of the people in the community at heart when they argue for increased wages. Most members of the Government have a background of employment, or in that field, as advocates of increased wages.

More money in a worker's pay packet, in terms of folding money and coin, does not mean greater welfare and it does not result in a higher standard of living. People who believe that are fools. Anyone who knows the first thing about economics knows that the currency in any country is only worth as much as it can procure for the person who has it. Its real value is determined by factors of supply and demand. That cannot be changed by simply increasing the amount of money in a pay packet. It simply means that we will still have the same amount of goods and services being pursued by a greater amount of cash. Therefore, the goods and services will cost greater units of that cash. When the Industrial Commission hands out more wages, better conditions or whatever one calls the greater cost burden for extraneous things that do not produce productivity, I do not know whether they really are better in that sense—it is a subjective view.

Every time it hands those things out ignoring the economic realities of the world it is not really improving or advancing the lot of the man who works for a regular income each week; it is simply contributing to the inflated nature of the currency. The only way in which we can improve living standards is to produce more for less and to make sure that, as a country, we have more than our money can buy internally and that the cost of selling whatever it is we do well to anyone overseas who considers that the price is competative and the quality good enough is competitive with any other person or country making an offer in competition. I lament the fact and deplore the ignorance but do not question the nobility of members opposite when they support a proposition which simply removes the necessity for the industrial commission to face reality and bring these factors into account when making decisions about how much in the way of coin and notes goes into wage packets each week.

The Committee divided on the clause:.

Ayes (21)—Mr Abbott, Mrs Appleby, Messrs. L.M.F. Arnold, Bannon, Crafter, Duncan, Ferguson, Gregory, Groom, Hamilton, Hopgood, Keneally and Klunder, Ms Lenehan, Messrs McRae, Mayes, Plunkett, Slater, Trainer, Whitten, and Wright (teller).

Noes (13)—Mrs Adamson, Messrs Allison, Ashenden, Baker, Becker, D.C. Brown, Eastick, Evans, Goldsworthy (teller), Lewis, Mathwin, Rodda, and Wilson.

Pairs—(Ayes)—Messrs Hemmings and Peterson.

Noes—Messrs Blacker and Olsen.

Majority of 8 for the Ayes.

Clause thus passed.

Remaining clauses (7 to 9) and title passed.

Bill reported without amendment.

The Hon. J.D. WRIGHT (Minister of Labour): I move:

That this Bill be now read a third time.

The Hon. E.R. GOLDSWORTHY (Kavel): As the Bill comes out of the Committee, it is quite unacceptable to the Opposition, and we oppose the third reading.

The House divided on the third reading:.

Ayes (21)—Mr Abbott, Mrs Appleby, Messrs L.M.F. Arnold, Bannon, M.J. Brown, Crafter, Duncan, Ferguson, Gregory, Groom, Hamilton, Hopgood, Keneally, and Klunder, Ms Lenehan, Messrs Mayes, Plunkett, Slater, Trainer, Whitten, and Wright (teller).

Noes (13)—Mrs Adamson, Messrs Allison, Ashenden, Baker, Becker, D.C. Brown, Eastick, Evans, Goldsworthy (teller), Lewis, Mathwin, Rodda, and Wilson.

Pair—Aye—Mr Hemmings. No—Mr Olsen.

Majority of 8 for the Ayes.

Third reading thus carried.

The SPEAKER: Order! Members must leave the House in an orderly fashion. I cannot, as one famous member did, wish everyone a happy and holy weekend, but I wish everyone a happy and jolly weekend.

ADJOURNMENT

At 7.7 p.m. the House adjourned until Tuesday 31 May at 11 a.m.