## HOUSE OF ASSEMBLY

Wednesday 21 March 1984

**The SPEAKER (Hon. T.M. McRae)** took the Chair at 11.45 a.m. and read prayers.

### PETITION: ADULT VIDEO CASSETTES

A petition signed by 70 residents of South Australia praying that the House urge the Government to clarify and standardise the laws on the sale and hire of adult video cassettes was presented by Mr Meier.

Petition received.

### NOARLUNGA HEALTH VILLAGE

**The SPEAKER** laid on the table the following report by the Parliamentary Standing Committee on Public Works, together with minutes of evidence:

Noarlunga Health Village.

Ordered that report be printed.

## QUESTION TIME

### RAILWAY STATION REDEVELOPMENT

**Mr OLSEN:** Why does the Premier continue to mislead Parliament about a massive bungle in the principles of agreement for the Adelaide railway station redevelopment which locks the Government into providing a $43.5 million guarantee related to the international hotel? The principles of agreement tabled by the Government before the Authority, which were suppressed by the Government, and which I have but which the Premier refuses to release, commit the Government to guarantee to the Superannuation Fund a minimum return of $43.5 million investment in the international hotel unless a casino is developed on the project site.

The principles of agreement define the project site. The railway station building is specifically excluded from that site. The secret agreement defines the site on which the casino must be located if the Government guarantee is to lapse, and specifically excludes the Adelaide railway station building. I will quote from the secret agreement suppressed by the Government, the only section to be released by the Authority, which states:

> No such warranty by South Australia shall be given if a casino is established by or for the body at any place in the site.

That means that the agreement, as it stands, still commits the taxpayers of South Australia to the guarantee because the casino will not be on the project site. Clearly there has been a massive bungle by the Premier. The Premier has misled the Parliament and the people of South Australia by stating that the guarantee no longer applies.

**The Hon. J.C. BANNON:** I would have thought, after yesterday, that we would have had an end to this scurrilous nonsense and this attempt to knock the project which is really making a bit of a laughing stock of South Australian politics, to investors such as a major Japanese construction company that has decided to invest some $50 million in this State, such as a well-respected South Australian engineering firm, which the previous Government commissioned to do something about this project, plus a whole lot of other people involved in it. If there is a conspiracy then indeed there have to be conspirators. I noticed yesterday that in using that allegation, which was publicised, the Leader was very careful in his choice of words. I think that we ought to correct the record. It was suggested yesterday that he had alleged there was a conspiracy: no such thing. He did not have the guts to do that! What he did say was 'It has been put to me that there is a conspiracy' or words to that effect. I would like to state again that a conspiracy needs conspirators. Is it the Government, is it Kumagai, is it Pak-Poy, or is it all of them? I would most particularly like to know who put it to the Leader of the Opposition—he did not think of it himself, it was put to him. Was it put to him by someone involved in the project? Was it put to him by someone with a commercial axe to grind? The public has a right to know that. It has a right to know the source of the Leader's information in order to judge whether it is valid.

*Members interjecting:*

**The SPEAKER:** Order!

**Mr Olsen:** The document signed by you, that's the source.

**The Hon. J.C. BANNON:** I will come to that.

**The SPEAKER:** The questioning which began yesterday and recommenced today is very serious. Indeed, I intimated yesterday that I took at least the innuendo that the Government, the Premier, or both had been involved in a conspiracy of some sort to pervert the cause of justice. Obviously, at least some reasonable people in the community took that meaning in the same way that I did. The Leader's question was heard in silence. It is a very serious question, and I ask that the Premier's answer be heard in silence. If it is not, then I regret that I will have to take the appropriate action.

**The Hon. J.C. BANNON:** The point that I was making was that allegations of conspiracy put to the Leader depend very largely for any kind of validity and consideration on the source of such allegations. I suggest that the Leader reveal the source of them so that we know precisely who is putting these things to him and what their vested interests are. It is interesting that, in his question today, which I am coming to, particularly following his pathetic appearance last night on television where, faced outside this Parliament with the need to justify and explain who was in the conspiracy and where he received the information from, he backed away (and backed away very sharply indeed), he has dropped the word 'conspiracy' and replaced it with the words 'massive bungling'.

That is a very interesting nuance and change of tack by the Opposition. Let me put the facts before the House, clearly and succinctly. First, in Tokyo I signed an agreement that was neither secret nor suppressed. In fact, I have outlined the major provisions of that document to the House.

*Members interjecting:*

**The Hon. J.C. BANNON:** Major portions of it were placed before the Casino Supervisory Authority, yet the Leader tells us today that he has a copy of it. If he has a copy, what is his concern? I have said, to finalise the point about whether it is secret or suppressed, that at the time when we bring in an enabling Bill in regard to this project all those documents will be supplied in the appropriate way, as Parliament would expect. Also, I remind the Leader of the Opposition, as I reminded him yesterday, that on the occasion of the Hilton Hotel agreement not only were the heads of agreement not signed at the time that we were asked to pass an Act but they were never brought into this House, and my request to the then Premier to receive a copy of the heads of agreement was never complied with.

I am not going to treat the Leader of the Opposition in the same way as the previous Premier treated me. I have given an undertaking that the full document will be tabled. It does not matter whether it is, because the Leader has it. So, what are these hypocritical crocodile tears about not

knowing the facts? In Tokyo I signed that agreement a clause in which gives first right to lease to the ASER Property Trust, which consists of Kumagai Gumi Company Limited, a well respected major world-class construction company which has made its first major project in Australia here in South Australia. If they had read of the Leader's outburst yesterday, company executives would probably be scratching their heads and wondering whether they had made the right decision. However, I think that they are sensible enough to realise how unrepresentative were the statements of the Leader.

The Kumagai Gumi Company Limited and the South Australian Superannuation Investment Trust was given the first right to lease on a fair rent basis the Adelaide railway station building. Clearly, this is part of the the agreement. Parliament passed a Bill allowing a casino, and I point out that all the discussions—all the negotiations—were on the basis that casino considerations should not be seen as crucial or fundamental to the project, and I will reinforce that point in a moment. Parliament then passed their Bill. It was obvious that the investors in the railway station would wish to see the casino as part of their development.

*Members interjecting:*

**The Hon. J.C. BANNON:** There is a good reason for that, historically based. Just wait—you will get the facts. I am amazed to hear the member for Torrens daring to lift his voice in interjection on this matter, because he knows the facts and was involved in negotiations under the previous Government. That clause ensures that, if a casino was to be placed within the railway station development (that decision was the decision of the Casino Supervisory Authority and not that of the Government), if the Authority made that decision, it was logical that it should be integrated with the hotel and convention proposals. It has always been conceived on that basis. It is logical and in line with casino and hotel developments all over the world. Indeed, it was identical with what the previous Government was proposing when it attempted to get this project abortively (as it proved to be) off the ground.

The next stage of this process was that the Casino Supervisory Authority met, held public hearings and, after some deliberations, determined that the casino would be situated in the railway building. Those hearings were public. Its reasons are public, fully argued and set down. Certainly, the Government had a position before that Authority. Indeed, it supported the railway station project because of the enormous importance to the State of that development and because the location would also bring a direct financial benefit to South Australian taxpayers. We would have been irresponsible to sit back and twiddle our thumbs. On the contrary, my Government believes in attempting to make its point and its views clear. Documents were also publicly tabled confirming that the STA would lease sections of the railway building to the ASER Property Trust.

So, there was nothing secret. It was done publicly before an authority which was, supposedly, in the innuendo given yesterday, part of the 'conspiracy', an authority comprising a retired judge, a retired Auditor-General, and a former distinguished public servant. Are they part of the conspiracy? Are they included in the deal mentioned by the Leader? I would like to see the Leader make that allegation. Regardless of whatever the various contenders for a casino licence think of the Casino Act, that is the law under which they must operate. If the Hilton Hotel group had been successful in its application, exactly the same situation would have applied: it would have control of the premises and would have proceeded to develop those premises. It would have had to bid for the operator's licence in contention with anyone else interested in obtaining that licence. That is the way that the law stands. There is no difference between that situation, the APT and the ASER project, or any other group or any other premises determined by the authority. That would be the situation.

The two transactions are quite separate and distinguishable. The ASER Investment Trust is in the situation made clear at page 313 of the transcript. In selectively releasing a page of the transcript of the inquiry, the Opposition was trying to make quite sure that it would totally mislead people. Page 405 of the transcript was released and quoted; page 406 was not referred to, nor was page 313. Those pages are important because on each one the representatives of the investment trust who were seeking an operator's licence on the ASER site made it quite clear that they would have to accept the decision of the authority as to an operator. If in fact another operator was chosen, the development trust itself would have to sublease the premises to the operator. If they did not, there would be no casino, and it would lay open.

**The Hon. Michael Wilson:** They had the right to sublet it.

**The Hon. J.C. BANNON:** They had no such right, and they have given—

*Members interjecting:*

**THE SPEAKER:** Order! Only one question is to be asked at a time. There is not to be a mixture of a football barracking session and a kind of Perry Mason illegitimate cross-examination.

**The Hon. J.C. BANNON:** I will try to make this as brief as possible, because this knocking of the project has been going on for too long. I would like to finally dispose of the puerile attempt by the Opposition to talk it down. I have made the point and made the situation quite clear as to the difference between the property trust and its lease over the premises and the operator of the Casino. The record clearly states that any sublease will be granted to the appropriate operator. That disposes of that aspect of the argument.

I now refer to the hypocrisy of members opposite—an appalling and cynical hypocrisy. I have already referred to the fact that the previous Government was working on a similar much smaller scale development in relation to the railway station. Indeed, in my second reading speech I gave credit to the former Minister of Transport for the work that had been done on that project, particularly when the Pak-Poy group was negotiating with certain Malaysian interests. That deal fell through, but we were able to pick it up in a different and larger form with the Kumagai Gumi consortium. I am now going back through the history to the origin of this project. On coming into office I was specifically asked whether we were able to continue on with our negotiations under the approvals given by the former Government and whether we would honour the terms of the agreement. We looked at the terms of negotiation and said, 'Yes, we will honour the Premier of South Australia's undertakings as set out in a letter as to certain concessions that would be offered in relation to this project.' Among those concessions was the possibility of negotiating on the railway station in relation to the marble hall itself. Indeed, the brief prepared by the State Transport Authority for the development in October 1981 made it clear that the development area extended to the eastern side of the railway station buildings.

I might add that a number of groups tendered for development following release of that brief. The Pak-Poy group, which is now part of this conspiracy, it appears, was the successful tenderer with the previous Government. I am not in the business of releasing Cabinet submissions of the previous Government, but I certainly believe that relevant information, particularly when those on the opposite side have misrepresented the position, should be placed before the House.

I would be surprised if the Leader, who was in the Cabinet at the time, was not able to cast his mind back to 22 March, and certainly the member for Torrens, who signed the submission in, could not remember that it said, in part:

> The convention centre cannot stand alone. The concept requires both the convention and entertainment centres to be viable. Although a casino was not called for in the brief there is an underlying assumption that Marble Hall is an ideal location for such a facility. The possibility of a casino being located elsewhere in the city, metropolitan area or near country could not encourage investors.

I will also tell the House that, when my Government came to office, draft heads of agreement had been drawn up for discussion with a number of investors, with the approval of the previous Government, which actually included direct reference to their being given rights to a casino if a casino in fact was developed. I instructed that it was not to be part of any agreement that my Government signed and, in fact, that clause was deleted from the heads of agreement with the Malaysian interests. They are the facts.

I will say that one clause in those agreements which we did keep was worded virtually identically with the one that is now causing the Leader of the Opposition so many problems. In other words, we made it so that, if the developers had an opportunity for a casino, they would have to run the gamut of the Authority if they were to get it. The most distressing aspect of this business (and I am sorry to detain the House in Question Time so long on it) is the damage it might do to South Australia's standing in the eyes of investors.

*Members interjecting:*

**The SPEAKER:** Order! Will honourable members please calm themselves.

**The Hon. J.C. BANNON:** On Monday and Tuesday the World President of the Hyatt International Hotel Group, running five star hotels, was here to announce a major new hotel project. Last week, senior executives of the Kumagai Gumi Company visited me to discuss progress on the project and any changes that might be developed in the light of the Casino Authority's decision. What do they read in the press? Do they see the Opposition getting up and welcoming the Hyatt interest in South Australia and the statements made by Mr Chorengel that he believes that this project can in fact do enormous amounts for tourism in South Australia, that he will put a marketing and promotion mechanism at our disposal world wide, through a hotel group that has some hundreds of thousands staying in its hotels world wide at any one time?

Did we get congratulations from the Opposition, bearing in mind how the Opposition had been working before Christmas? The scuttle-butting that it was running was that no-one was interested in the project; we could not get a hotel company to be interested. Indeed, there were 10 there, and if for whatever reason the Hyatt Company did not go ahead, there are many others on the waiting list. I can assure honourable members that this project has been eagerly sought. However, I do not seek to convince Opposition members of that, because they choose not to be convinced. On that day, did we hear the Opposition congratulating us on that? Not a bit of it. They read in their paper this rumour, innuendo, allegations of conspiracy. What sort of confidence is that going to create? I am telling Mr Chorengel that we in South Australia are a very sophisticated community, that we have fine infra-structure and great developments. He then reads that the Opposition wants to knock this project and that there is a big conspiracy.

*Members interjecting:*

**The SPEAKER:** Order! I ask the Leader and Deputy Leader to come to order and to calm themselves.

**The Hon. J.C. BANNON:** Anyone who has had any dealings with or interest in the Japanese knows the care, the assessment, and the preparation with which they approach any investment. Once they make a commitment they deliver—they do their job. We now have such a company. An hour or so ago I met another large delegation, headed by the Industrial Bank of Japan, an investment mission here. They are meeting in an atmosphere where a major Japanese company, making its first big construction and investment commitment in Adelaide, South Australia, is listening to a carping, cavilling Opposition saying, 'It can't happen here, we're small time'. It made me embarrassed to be a South Australian and made me look a fool in front of Mr Chorengel, who could see that we have all the elements of a classic hick town. It is time that that sort of thing stopped.

I have answered the question directly and the facts are as stated. I hope, in taking all this time in setting out those facts, that I have made it quite clear and disposed of the matter once and for all. I throw out the challenge that I threw out last year: how about the Opposition's standing up and getting behind this project and helping us develop the confidence of investors, and not making them the object of allegations of conspiracy and frightening them away?

## DRIVERS LICENCES

**Mr FERGUSON:** Will the Minister of Transport inform the House whether his Department has given any consideration to closing the loophole by which people who have failed driving tests in Australia can receive licences from an Asian country and then, after a period of time, receive an Australian licence? A constituent has reported to me that it is possible for people in Australia who have failed a driving test to receive a licence in an Asian country, for example, Singapore, Indonesia, Hong Kong or the Philippines, for the cost of about $4 Australian if they visit those countries. After keeping that licence for about 12 months they apply for an Australian licence, with success. I understand that the situation in South Australia is that anyone with an Asian licence may apply for a South Australian licence but must have a written test. However, I understand they are not obliged to have a driving test.

**The Hon. R.K. ABBOTT:** I thank the honourable member for his question and also for the prior notification which enabled me to obtain the reply. The Motor Vehicles Act provides for the Registrar of Motor Vehicles to be satisfied as to the overall competency of a person before issuing a driver's licence. All States and Territories of Australia recognise licences from most countries, provided the licensing authority is satisfied that the practical driving examination procedures of that country are comparable to those in operation throughout Australia.

In South Australia a written examination on the road rules is necessary for licence holders from both interstate and overseas. Exemption from a practical examination will be granted upon production of an overseas licence which is current or has expired for less than three months. If a driving examination is failed there is a legislative requirement to wait 14 clear days before the examination may once again be undertaken. The Motor Registration Division would recommend that professional tuition be sought if a driver is identified as having difficulty in passing the test.

There are no obvious problems with this approach and it would appear to be an expensive and time-consuming exercise to obtain an overseas licence in order to evade a practical driving test. It is quite significant that Great Britain recently has announced that it will recognise drivers licences issued in Australia, Singapore and Hong Kong on the same reciprocal basis as of 1 June 1984.

## RAILWAY STATION REDEVELOPMENT

**The Hon. E.R. GOLDSWORTHY:** Does the $43.5 million Government guarantee on the hotel now lapse as a result of the casino being placed in the railway station building?

**The Hon. J.C. BANNON:** That was one of the conditions of the agreement. If the casino was so located, the Government's obligation to stand by the guarantee lapsed.

## BON VOYAGE

**Mr MAYES:** Will the Minister of Community Welfare, representing the Minister of Consumer Affairs, urgently investigate the business practice of the organisation calling itself 'Bon Voyage' to ascertain whether or not this organisation is offering the public a value-for-money scheme? If it is in breach of the Consumer Protection Act, will the Minister raise with the Federal Minister for Telecommunications what action can be taken by Telecom to penalise and restrict organisations applying improper business practice by Telecom modes of communication? I was contacted by telephone by the organisation calling itself 'Bon Voyage', and I was asked whether I would be prepared to dine out at least once a month. I was asked—

**Mr Becker:** You can't afford it!

**Mr MAYES:** That is what I said. I was then offered a free dinner at leading Adelaide restaurants if I was prepared to report back to the organisation on the quality of food and service in those restaurants. The interviewer mentioned that at a small cost a guidebook was available to assist me in determining Adelaide's leading restaurants. I was asked whether I would be prepared to meet one of the company's representatives, which I did, and after that interview I was offered the guide book. However, I found that very few restaurants participate in the scheme. Will the Minister investigate this matter urgently?

**The Hon. G.J. CRAFTER:** I thank the honourable member for his question and the points he has brought to the attention of the House. I will have the information referred to the Minister of Consumer Affairs for his urgent attention.

## RAILWAY STATION REDEVELOPMENT

**The Hon. MICHAEL WILSON:** In view of the Premier's answer to the Deputy Leader, does he agree that the definition of the railway station development site as contained in the principles of agreement at page 1 excludes the railway station building, so that, therefore, the Government will not be absolved from its guarantee under the agreement? The definition of the site as contained in the principles of agreement is as follows:

> That area of land bounded on the west by the Morphett Street bridge, on the south by North Terrace, on the east by lands held by, vested in or applied for the purposes of the Constitutional Museum and the Adelaide Festival Centre Trust, and on the north by land held by the Adelaide Festival Centre Trust and by the westward extension of the southern boundary of part 656, Hundred of Adelaide, but excluding the Adelaide Railway Station building (which area of land is here and after referred to as the site).

**The Hon. J.C. BANNON:** I only stand by what I said before. In fact, the casino—

**The Hon. Michael Wilson:** We are entitled to know that.

**The Hon. J.C. BANNON:** I simply stand by what I said before.

## WHEAT ASTHMA

**Mr HAMILTON:** I direct a question to the Minister of Education, representing the Minister of Agriculture in another place.

*Members interjecting:*

**The SPEAKER:** Order! I cannot hear the honourable member.

**Mr HAMILTON:** On the 8 February edition of the ABC programme *Countrywide* I viewed with some concern a report on wheat asthma. The report said that 40 per cent of workers in the wheat silos in Gulargambone in New South Wales were suffering from wheat asthma brought about by the wheat dust in the air at harvest time. The programme also stated that neither the farmer organisations nor the Australian Wheat Board was prepared to fund a research project into the problem with the Australian Workers Union. What steps are being taken in South Australia to address this problem and this health risk for workers in the wheat industry?

**The Hon. LYNN ARNOLD:** I am aware of the very serious issues which the member for Albert Park raises. Indeed, they are a matter of concern. I noticed the *Countrywide* programme and I am certain that many other members in the House would have done so as well. Of course, that programme referred to a situation in New South Wales and requests from a New South Wales union to New South Wales organisations to try and get together on a research project. However, the problems would also exist anywhere where wheat is being harvested and delivered to a silo, and I would only hope that organisations in South Australia would take a serious approach to this and would be prepared to sit down and talk together in arriving at some sort of solution, because many people who deal with the handling of wheat would be affected by it.

The percentage quoted of those who are suffering from wheat asthma would not be just those working at a silo: they would be those working in transporting the wheat to the silo, and the like. So, one may say that there is a vested interest in all those who handle the product to be concerned about the effects of wheat asthma on some of their colleagues. I would hope that all the organisations would want to co-operate to achieve some research solution to this. Of course, a great deal of research goes into wheat breeding, and that has been essential in keeping Australia as a world leader in wheat variety and in helping our exports maintain their very high levels.

In fact—I just momentarily digress—it has been a very sound indication of the level of technology and technological investment that the primary sector has been prepared to undertake in this country for decade upon decade. Very often we talk about technological change and we do not realise that in primary industry we have some prime examples of the application of new and changing technologies, but I digressed. One of the points—

*The Hon. Ted Chapman interjecting:*

**The Hon. LYNN ARNOLD:** The member for Alexandra mentions the fact that primary producers pay a significant part of the costs involved in much of that, and that is certainly true. However, I suppose that we would have to acknowledge that research programmes on breeding of better wheat varieties to date have not concentrated on such aspects as wheat asthma, and maybe this is an area that should be considered because of the number of people who are being concerned and the way in which they are being affected by it. I am certainly very happy to refer this question to my colleague the Minister of Agriculture in another place for a report on what research would be possible into this question and to bring down a reply to the member for Albert Park as soon as possible.

## RAILWAY STATION REDEVELOPMENT

**The Hon. JENNIFER ADAMSON:** Why did the Premier tell the House on 27 October last year that he had insisted during the Government's negotiations with the railway station developers that any agreement be drawn up without regard to the possibility of the casino being located within the development? In the *Advertiser* this morning, the Premier has admitted that a clause was included in the secret Tokyo agreement to enable the developers to seek a casino licence.

This admission conflicts entirely with the Ministerial statement to the House on 27 October. It is now clear that a clause was specifically included in the principles of agreement because of the desire of the developers to operate a casino, a clause which has given the developers a major advantage over other applicants to operate the casino in the railway station building.

**The Hon. J.C. BANNON:** First, I will comment. The process is to be done in accordance with the law as laid down by this Parliament under the control of the Casino Supervisory Authority. Therefore, any question of advantage or disadvantage would have to be argued before that authority, and then the subsequent issuing of a licence will go through the Lotteries Commission. So, let me correct that point first about this question of substantial advantage. Let me also remind the House again that under the previous Government's proposals the idea was that the whole thing, lock, stock and barrel (and this is before a casino was even in the offing and, I suspect, before the members of the then Premier's Party had been told of the proposals to try and get a casino Bill through), would be a total part of the project, and the operator's licence would go to the developer of the project, come what may.

Our position is very different indeed and I stand by precisely what I said, that the project itself should not go ahead on the basis that a casino is fundamental to that project. The heads of agreement were signed, if one likes, in the alternative. As I explained to the House on that occasion and on a number of occasions since, the locating of a casino as part of that project confers some very specific benefits on the State.

*The Hon. Jennifer Adamson interjecting:*

**The Hon. J.C. BANNON:** Indeed, it confers benefits on the whole project as far as its tourist amenity is concerned, and I am still amazed that the so-called shadow Minister of Tourism, rapidly fading more every day as she lends herself to this ludicrous exercise, cannot understand the fundamental reasons why the Government— both her Government previously and this Government today—believed that it would be very useful to have the casino located there. So, I hope that we are not arguing about that and the Government's position.

My statement to the House is exactly as it stands, but we made the point throughout that because the law required the tribunal (the Authority) and nobody else, to grant the licence, then they would have to run the gamut of such authority. Therefore, if the project were to go ahead it would have to be viable and stand on its own feet without the casino. Indeed, that is precisely the basis on which those heads of agreement were signed.

More importantly, I remind the House again that I specifically deleted from an earlier head of agreement, the broad outline of which had been approved by the previous Government, to be put to Malaysian interests a reference to the casino, with a note that this was not part of the deal as far as the project was concerned. That attitude persisted in our negotiations with Tokyo. I can assure this House that, whether or not the Casino Authority had found that the casino was to be sited in the railway station, that railway station project—the hotel, the convention centre, the office blocks—would have gone ahead.

## OIL EXPLORATION

**Mr GREGORY:** Can the Minister of Mines and Energy provide the House with any information on the degree of interest shown by oil exploration companies in taking up land relinquished by Santos and Delhi as a condition of renewing the remainder of petroleum exploration licences 5 and 6 for a second five-year term?

**The Hon. R.G. PAYNE:** I am happy to say that I can. The relinquishment concerned of 52 000 square kilometres is virtually unexplored country and has attracted very considerable interest from oil explorers. When I announced the relinquishment and invited applications on 28 February, the Department of Mines and Energy circulated the information to approximately 60 companies. Since then, the Department has been contacted by 25 companies with requests for further information on the areas concerned, and further contacts are expected.

As a result of that high level of interest, the Department is making available a data package relevant to the areas. As no drilling and only minor seismic has been undertaken in these parts of the Pedirka and Arrowie sectors, much of the information being provided is regional in nature, but it is nonetheless quite comprehensive. The data package will be offered to interested explorers at a cost of $600. There is no doubt that the areas on offer have significant hydrocarbon potential, and the Department is confident that by the closing date of 29 June it will have received a number of firm applications for the acreage concerned.

## RAILWAY STATION REDEVELOPMENT

**The Hon. E.R. GOLDSWORTHY:** Will the Premier explain to the House how the $43.5 million Government guarantee on the hotel has lapsed and the document that he has signed excludes the railway station building from the defined site?

**The Hon. J.C. BANNON:** That was made clear in the proceedings before the Authority and, in fact, it is recorded at page 406 of the transcript, where this point was raised and Mr Pak-Poy indicated the understanding of the fact that the site included, for the purposes of that guarantee, the railway station building. That has since been confirmed, and there has been an exchange of letters on that. I do not understand what the Opposition is talking about.

## 12-METRE YACHT

**Mr PETERSON:** Is the Premier aware of the terms and conditions under which the proposed South Australian funded 12-metre yacht will be built, and, if so, will he inform the House of those conditions? I have been informed that part of the conditions require that some $600 000 be paid to Mr Alan Bond for the right to use the new Ben Lexcen design and, further, that the yacht is to be used as a test bed for the new design before Alan Bond's yacht is built. That means that when Bond builds his boat it will be an improvement on the one that we will have—a far better tuned boat. A further condition is that even if our boat beats the other contenders Mr Alan Bond will have the right to take over our boat and use it and sail it as his own. It has been put to me that because $1 million of public money and $2 million of expected private contributions is to be

spent on this project everyone concerned has the right to know how that money is used.

**The Hon. J.C. BANNON:** I thank the honourable member for his question. I noticed the statements that the honourable member made in the *News* that touched on this point, and his interest in the matter is welcome and desirable. Let me put this matter in perspective. In fact, the consortium that has been established to mount the South Australian challenge has acquired the rights to the Ben Lexcen design for a yacht a stage beyond *Australia II*. Just how good that yacht is will depend on how it trials and, indeed, on the quality of the crew, who will be drawn from South Australia, and how well they sail it. Obviously, Bond himself has in mind the idea of building a boat going beyond the standard of *Australia II* in order to mount his challenge. One of the conditions under which Government support will be given to this project is that if the South Australian boat is successful in the trials it will be the boat that will defend the America's Cup in Perth waters, the Royal Perth Yacht Club having the rights to this event. If the boat is to be any good, obviously it will have to be constructed to the highest and best standards. The design of the boat is crucial, as is getting the boat up and ready and built to the required standards. The best designs are those held under licence by Bond in Western Australia, and it has always been conceived that that is where the boat would be built.

There are many areas in which there will be South Australian involvement. It should be borne in mind that the Government's support of this project, which is essentially a private venture, involves provision of a loan to those undertaking the venture. In cold, hard terms the Government is doing it on the basis that it believes that the money so spent in assisting the project in this way will yield far more dividends in terms of promotion of the State than it would if it were spent in a whole lot of other ways. Indeed, South Australia has already received publicity just talking about mounting a challenge. That sort of publicity cannot be bought with a million dollars worth of advertisements placed nationally and overseas, promoting South Australia. As a promotion of South Australia, as a symbol of this State, the venture will yield some very direct and tangible results both in terms of jobs and activity in South Australia. The Government's decision to be involved was based on that assessment.

We in South Australia are in a position where we must demonstrate a bit of flair, a bit of entrepreneurial ability, and we must get involved in these promotional activities. I was disappointed to see that someone had written to the paper today saying that we should not be involved in this yacht venture and that we should not be trying to attract the Grand Prix to Adelaide because they will not really add any value to the State.

Let me point out that in the case of the Grand Prix, for instance, there would be a 300 million world television audience focused on Adelaide and on the streets of Adelaide during that event. Further, thousands of people would come here for that event. The hundreds of journalists here would experience what we have and would write about it. The benefits are exponential, and the same applies with the way in which this challenge is being structured. The Government support is through a repayable loan and, equally important, it is conditional upon certain terms being met by the syndicate in terms of races being held in South Australia as well as other activity being generated in South Australia.

When considering that total equation, while of course it would be desirable to have the boat wholly built in South Australia, if such a boat built here will not be up to the design and specification to enable a real challenge to be mounted we would have a second-rater on our hands, unfortunately competing against Bond, who has had four challenges with the world's best team, as was demonstrated in Newport last year. We cannot develop that technology in South Australia overnight. In time we can, and indeed participation in this aspect of the challenge may help. No-one should regard it as purely a recreational and sporting venture, that the Government is kindly lending some assistance to: it is a hard-nosed and hard-core entrepreneurial commercial promotional decision—that is what it is all about.

## CASINO

**The Hon. MICHAEL WILSON:** Will the Premier state how the Government is freed of its warranty obligations to the Superannuation Fund when the Tokyo agreement states:

> No such warranty by South Australia shall be given if a casino is established by or for the body at any place in the site.

That site specifically excludes the railway station building.

**The Hon. J.C. BANNON:** I have just answered this question. The agreement has developed from the time that it was signed and the fact is that the guarantee applies. I have answered the question. The guarantee does not apply in this instance; that is agreed between the parties. Does the Opposition want any more than that? I have said it four times and I am not going to keep on saying it.

## TERTIARY STUDENTS INCOME SUPPORT SCHEME

**Ms LENEHAN:** Will the Minister of Education report to the Parliament on any action that he is taking in consultation with the Federal Minister for Education to overcome the existing anomalies and injustices of the present income support schemes for tertiary students? My question arises not only from recent articles in the press, including the excellent article in this morning's *Advertiser*, but also from personal representations which have been made to me by students, parents and the local CYSS group within my electorate. Concern was also expressed at the recent opening of the Noarlunga TAFE College that there were vacancies within certain technical areas specifically because young unemployed could not afford to participate in courses of eight hours per week or more because they would lose their unemployment benefits which they could not afford to do. It has been further put to me that the present situation involving the plethora of economic support schemes with their anomalous regulations is not only confusing and unjust but that resolution of this situation is now critical.

**The Hon. LYNN ARNOLD:** I thank the honourable member for her very important question, which I believe does need early resolution by the Federal and State Governments of Australia, to arrive at a system that offers adequate support to young people who want to undertake educational programmes, at whatever level of education that may be. Since coming into the Ministry I have on a number of occasions raised this issue with my colleagues in the other States of Australia and with the Federal Minister for Education, the most recent occasion being 10 days ago when I was with Senator Susan Ryan and the member for Mawson at the opening of the Noarlunga College of TAFE by the Federal Minister for Education. I discussed with her again the very great concern of the South Australian Government regarding this issue, and our earnest hopes that the discussions that will take place in the next few weeks will help bring some changes to the income support available for young people. I will recount how this issue has progressed since I joined the Ministry. Last year, when various student groups around South Australia raised anomalies with me, I

undertook to survey all student organisations in South Australia, asking them to bring to me the various issues that they thought pertinent in this regard. That occurred in the early part of last year and in fact I answered a question in this House indicating that I was doing that.

In a sense, that was partly overtaken by events because the concern we were feeling in South Australia was mirrored elsewhere in Australia. The Commonwealth Government, as a result, called a meeting of Ministers responsible for youth matters in Canberra. The Deputy Premier and I went from South Australia to attend that conference in the latter part of last year. It is interesting that South Australia's concern was mirrored by the fact that two Ministers attended: one responsible for youth affairs (the Deputy Premier) and myself, who has the education input responsibility in that matter. Certainly that indicates how seriously we in South Australia treated the matter. The point we put strongly to that meeting of Ministers in Canberra was that something had to be done about rationalising the income support programmes that are available in this country. We pushed it very firmly from a South Australian point of view. Fortunately, the issue was picked up by the other States and by the Federal Government and it was agreed that there would be a study undertaken of income policy for youth support.

As a result there has been a paper prepared which is to be discussed at another meeting of Ministers responsible for youth matters to be held in Canberra in April, which will be in just a few weeks. We are hoping that out of that second conference we will be able to see some changes actually take place in regard to the youth support issue. It is a burning question. I appreciate the difficulties in which many young people find themselves. They just do not know in which category they are eligible for support.

Just for the want of almost extraneous factors on some occasions they become ineligible for certain levels of support and are therefore unable to take up the opportunity for further educational work. Certainly, I am glad that the member for Torrens concurs on this point as well. I hope that we are getting closer to the resolution of this very important issue. I am excited about the meeting in April and I know that the Deputy Premier is excited about it as well. We are looking forward to some effective changes taking place, certainly for the 1985 school academic year, if not earlier.

## RAILWAY STATION REDEVELOPMENT

**The Hon. B.C. EASTICK:** How does the Premier reconcile the statement he made yesterday, in answer to a question I asked, that Treasury was fully consulted about the principles of agreement for the ASER development before the Premier signed them, with evidence given to the Casino Supervisory Authority by the Director of Financial Policy in the State Treasury, Mr John Hill? Yesterday, the Premier told this House:

> Treasury was fully aware of all the provisions in the agreement and the financial obligations that were being entered into.

That agreement was signed in October. However, in his evidence to the Casino Supervisory Authority on 22 November Mr Hill said that he had not seen the principles of agreement and that to his knowledge Treasury was not consulted over the figures in the agreement.

**The Hon. J.C. BANNON:** That is a classic piece of misrepresentation—

*Members interjecting:*

**The Hon. J.C. BANNON:** —by the member for Light, both of the evidence that was given and of the fact of the matter. First, let me say that Mr Hill replied obviously totally accurately, as one is required to do in an examination at law under oath (I am not sure whether he was under oath, but I imagine he was when before the Authority). Even if he was not, I know Mr Hill would answer totally honestly and accurately. What he said does not confirm what the member for Light is attempting to imply. He was talking about his own personal knowledge as a particular Treasury officer. I will quote the words. The question was:

> Do you know whether Treasury was consulted?

*Members interjecting:*

**The Hon. J.C. BANNON:** Do you want to hear or not? How about shutting up and listening! I will quote again from the transcript. Really, this is the most childish performance on the part of a bankrupt Opposition: we are talking about a $140 million project and we have this trivial nonsense going on. It is absolutely outrageous but, at least for the benefit of those in the gallery who may have some interest in the facts, let me give the full facts. I know the Opposition is not interested, but let me give the facts for others who may be interested to have them on the record. I quote from the transcript the following question:

> Do you know whether Treasury was consulted over those figures?

Mr Hill then replied:

> Not to my knowledge, Mr Chairman. I should say—

and mark these words—

> that the Chairman of the South Australian Superannuation Fund Investment Trust is in fact the Public Actuary, who is an officer of the Treasury, so I do not want to mislead the Authority in that respect.

That is selective quoting. I now move to the question of Treasury's consultation. As Mr Hill said, it is true that the Public Actuary is a Treasury officer and was involved in a very detailed way with the financial workings. It is also true that the South Australian Superannuation Investment Trust, as part of developing the process, included a direct representative of Treasury. At that stage it was not Mr Hill, who has since taken a place on that body. At that time it was Mr Basil Kidd, who is a Treasury officer and was involved at all stages. The Under Treasurer was fully informed as to what was going on, and he can confirm that. Therefore, let us have no more of this nonsense and let us get on to some serious issues of the day.

## SPORTS INSTITUTE

**Mr PLUNKETT:** Can the Minister of Recreation and Sport inform the House of the role being played by the South Australian Sports Institute in providing specialist training for potential Olympians in South Australia? Recently I had an opportunity to inspect the CAE on Holbrooks Road, Underdale, which is in my district. I was very impressed with the work that is taking place in the training of sports men and women at that complex. I take this opportunity to congratulate the Director, Mike Nunan, and his assistants for the marvellous work that is being done with sports people.

**The Hon. J.W. SLATER:** Currently, the Sports Institute has about 120 athletes from 20 different sports. We predict that 15 of those 120 athletes could be chosen to represent Australia at the Olympic Games in Los Angeles. If that is the case, and all or most of those athletes are chosen to represent Australia, it will be the largest South Australian squad that has ever competed at an Olympiad. I point out that, depending on each athlete's particular sport, they undertake a special programme with specialised training, which includes a continuing assessment of their progress.

I believe that the Sports Institute has done a great job, as mentioned by the member for Peake. Proof of its worth is the 15 athletes that have been mentioned, and perhaps

there are one or two others who may represent us internationally. In reply to the honourable member's question, there are about 120 athletes training in 20 different sports, and 15 of those athletes could represent Australia at the forthcoming Olympic Games. I join with the honourable member in giving credit to the people at the Sports Institute.

**Mr Ferguson:** Any rowers?

**The Hon. J.W. SLATER:** The 15 athletes that I mentioned include some rowers. There is a multiplicity of sports. Personally, I believe that quite a number of the athletes will represent Australia and will win medals at the Olympic Games in August this year.

## DIRECTOR-GENERAL OF AGRICULTURE

**The Hon. TED CHAPMAN:** Will the Premier say whether it is a fact that the Director-General of Agriculture, Mr Jim McColl, is currently absent from duty and, indeed, has been for some time; that in the near future he has several months leave to undertake certain studies in the United States and the United Kingdom at Government expense; and that with some holidays the period of absence from his directorship duties will collectively embrace some 19 weeks? If so, upon whose recommendation was Cabinet approval given for this unprecedented term of absence from duty by a senior public officer? What is the total cost for and the intent of this extensive study tour, and is the Premier satisfied that the study has not recently been undertaken by an officer or officers from another public funded authority?

It has been alleged at public servant level that a cross duplication of effort and, thereby, a significant waste of public money is involved in this particular study proposal. The Premier would appreciate that, whilst I have a very high regard for that officer, we are in times when public funds for a number of important projects, particularly in agriculture, are short and that feelings are, in fact, running very high in that Department.

**The SPEAKER:** Order! I have allowed three debating points so far, and I do not think the honourable member should take it much further.

**The Hon. TED CHAPMAN:** In conclusion, I repeat that feelings are allegedly—

**The SPEAKER:** Order! Leave is withdrawn.

**The Hon. J.C. BANNON:** I will obtain a report on the matter.

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## PUBLIC ACCOUNTS COMMITTEE ACT

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

That pursuant to section 15 of the Public Accounts Committee Act, 1972, the members of this House appointed to the Public Accounts Committee have leave to sit on that Committee during the sittings of the House for the remainder of the session.

Motion carried.

## PARLIAMENTARY SALARIES AND ALLOWANCES ACT AMENDMENT BILL

**The Hon. J.C. BANNON (Premier and Treasurer)** obtained leave and introduced a Bill for an Act to amend the Parliamentary Salaries and Allowances Act, 1965. Read a first time.

**The Hon. J.C. BANNON:** I move:

*That this Bill be now read a second time.*

Its purpose is to vary, retrospectively, the determination of the Parliamentary Salaries Tribunal made on 22 December 1983, and to ensure that while the present central wage fixing system operates the salaries of members of Parliament move in line with and at the same time as indexation increases granted by the Federal and State Industrial Commissions.

Honourable members will need no reminding of the controversy which greeted the Tribunal's determination when it was gazetted in January of this year. While the public reaction to the size of the increase was understandable, given that it came soon after a general indexation rise which appeared to be lower, much of the criticism of the increase was ill informed and unfortunate. I refer particularly to suggestions that the Parliamentary Salaries Tribunal was in some way not acting independently. Indeed, the main difficulty that the Government faced was to take account of community concern, while ensuring that the independence of the Tribunal was not compromised and that the principle that members of Parliament should not set their own salaries was preserved.

I do not intend to go over the various arguments surrounding the determination. However, some points need to be made. The Parliamentary Salaries Tribunal is required by section 5 of its Act to have regard to the state of the economy, the likely economic effects, either direct or indirect, of its determination, and the need for an example of restraint by members of Parliament. The Tribunal, in giving its reasons for the determination, made quite clear that it had given full consideration to these statutory responsibilities.

The Tribunal also made clear that, while it was not bound by the principles and guidelines set down by the South Australian Industrial Commission, it had nevertheless applied them. The Tribunal also pointed out that members of Parliament had forgone increases to their salaries for a period of almost two years. Following the gazettal of the increases, the Government formally requested the Tribunal to consider limiting its determination to 4.3 per cent. However, the Tribunal declined to do so, citing its observance of the requirements of section 5 and its application of the central wage fixing guidelines.

It is the Government's view, however, that additional action must be taken to ensure that the support of the community for the present wage fixing system is maintained. Consequently, this Bill provides for certain variations of the determination of the Tribunal which will have the effect of phasing in the increases in basic and additional salary in four equal instalments. It does not mean that the increases will be cumulative.

The Bill also provides for the insertion of a new section providing for certain limitations on the powers of the Parliamentary Salaries Tribunal. Under the proposed new section, the Tribunal is prevented from making a determination affecting the basic salary or additional salary of a member of Parliament except where the Full Commission of the Industrial Commission of South Australia makes an order under section 36 of the Industrial Conciliation and Arbitration Act varying the remuneration payable generally to employees under awards. In that event, the Tribunal is to make a determination as soon as practicable thereafter, varying the rates of basic salary and additional salary in the same manner and with effect from the same date as is fixed by the order of the Full Commission. Such a determination is to be made only where an order is made by the Full Commission under section 36 during 1985 or subsequently. This ensures that members of Parliament will not receive indexation increases in 1984 which will flow to other wage and salary earners.

The proposed new section is to expire upon a date to be fixed by proclamation. However, such a proclamation is

not to be made unless the Governor is satisified that the principles of wage fixation as adopted by the Full Commission in the State wage case decision of 11 October 1983, no longer apply, and that no other principles, guidelines or conditions of substantially similar effect apply by virtue of any decision or declaration of the Full Commission.

There remains the question of whether in the future the Tribunal should be formally bound to follow the rulings of the State Industrial Commission. The Government's view is that it should, and we will amend the Industrial Conciliation and Arbitration Act accordingly so that the Parliamentary Salaries Tribunal is a declared wage fixing authority for the purposes of section 146 *(b)* of that Act. I seek leave to have the explanation of the clauses of the Bill inserted in *Hansard* without my reading it.

Leave granted.

**Explanation of Clauses**

Clause 1 is formal. Clause 2 provides that the measure shall be deemed to have come into operation on 1 January 1984, being the day on which the variations of remuneration made by the determination of the Parliamentary Salaries Tribunal of 22 December 1983, came into effect. Clause 3 provides for the insertion of a new section 5aa providing for certain limitations on the powers of the Parliamentary Salaries Tribunal. Under the proposed new section, the Tribunal is prevented from making a determination affecting the basic salary or additional salary of a member of Parliament except where the Full Commission of the Industrial Commission of South Australia makes an order under section 36 of the Industrial Conciliation and Arbitration Act varying the remuneration payable generally to employees under awards. In that event, the Tribunal is to make a determination as soon as practicable thereafter, varying the rates of basic salary and additional salary in the same manner and with effect from the same date as is fixed by the order of the Full Commission.

Such a determination is to be made only where an order is made by the Full Commission under section 36 during 1985 or subsequently. The clause makes it clear that remuneration other than basic salary or additional salary may be varied by the Tribunal separately from or as part of a determination made by the Tribunal upon the making of a section 36 order. The proposed new section is to expire upon a date to be fixed by proclamation, but such a proclamation is, by virtue of proposed subsection (5), not to be made unless the Governor is satisfied that the principles of wage fixation as adopted by the Full Commission in the State wage case decision of 11 October, 1983, no longer apply and that no other principles, guidelines or conditions of substantially similar effect apply by virtue of any decision or declaration of the Full Commission.

Clause 4 provides for the insertion of a new section 18 of the principal Act providing for certain variations of the determination of the Parliamentary Salaries Tribunal made on 22 December 1983 and published in the *Gazette* of 5 January 1984. The proposed new section provides for variation of the terms of that determination in the manner set out in a proposed new sixth schedule to the principal Act. The effect of these provisions is to phase in the increases in basic salary and additional salary provided for by the determination in four equal instalments, the first instalment of the increases to operate from 1 January 1984 (the date fixed by the Tribunal's determination for the full amount of the increases to come into effect), the second instalment to operate from 1 April 1984, the third instalment to operate from 1 July 1984, and the final instalment to operate from 1 October 1984.

**Mr OLSEN** secured the adjournment of the debate.

## OMBUDSMAN ACT AMENDMENT BILL

**The Hon. J.C. BANNON (Premier and Treasurer)** obtained leave and introduced a Bill for an Act to amend the Ombudsman Act, 1972. Read a first time.

**The Hon. J.C. BANNON:** I move:

*That this Bill be now read a second time.*

The Ombudsman, in his report to Parliament in 1982, indicated that the duty placed on him to give notice before he formally exercises powers of investigation, vested in him under the Ombudsman Act, 1972, unduly hampers his efforts to properly investigate complaints. This Bill seeks to give the Ombudsman power to conduct preliminary investigations of complaints before a public agency is formally notified of his intention to conduct a full investigation of a complaint. In practice, the Bill seeks to formalise an existing procedure adopted by the Ombudsman's Office, whereby information about a complaint is sought from an agency before a full investigation is embarked upon as a means of establishing whether a full investigation is warranted. This preliminary procedure also helps in the satisfactory resolution of complaints without proceeding to the more formal processes of a full investigation. With the adoption of this Bill, any doubt as to the Ombudsman's power to conduct these preliminary investigations of complaints will be removed. The Bill, however, preserves the existing duty of the Ombudsman to notify an agency before a full investigation of a complaint is embarked upon. The more formal processes of a full investigation require notification in fairness to all concerned in the resolution of the complaint. The Ombudsman has been fully consulted as to the content of the Bill and has expressed satisfaction with it.

Clause 1 is formal. Clause 2 replaces subsection (1) of section 18 with two new subsections. Subsection (1) will enable him to make a preliminary investigation to determine whether he should proceed with a full investigation. If he decides to do so he is required by subsection (1a) to give notice of his decision to the authority concerned.

**Mr OLSEN** secured the adjournment of the debate.

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

## SMALL BUSINESS CORPORATION OF SOUTH AUSTRALIA BILL

**The Hon. J.C. BANNON (Premier and Treasurer)** obtained leave and introduced a Bill for an Act to establish a corporation to be known as the 'Small Business Corporation of South Australia'; to define its functions and powers; and for other purposes. Read a first time.

**The Hon. J.C. BANNON:** I move:

*That this Bill be now read a second time.*

It fulfils a major commitment of my Government to actively encourage the development of small business in South Australia and is designed to upgrade the assistance provided to small business by Government so that our enterprises are given the best chance to survive and prosper. It establishes the Small Business Corporation of South Australia which will be directed to increasing the number of viable small businesses in South Australia, promoting the expansion of existing small businesses, and reducing the rate of small business failure in this State.

The decision by my Government to establish the Corporation is the result of intensive research, analysis and consultation over several years and follows on from proposals outlined in October 1982 in our policy document 'Small Business: Growth Sector for the '80s'. In June 1983 my Government set up a comprehensive inquiry into the needs of small business in South Australia so that detailed policies could then be considered for implementation.

That study sought to identify the real needs of small businesses and the respective responsibilities of the Federal and State Governments in meeting those needs; the appropriateness and effectiveness of existing assistance and services provided to small business; and to make recommendations on appropriate State Government measures aimed at achieving a vigorous and viable small business sector. During the course of the inquiry, the working party received public submissions and interviewed a wide cross-section of individuals involved in all aspects of small business.

The report, handed to my Government in August 1983, confirmed our view that a vigorous and viable small business sector is essential to the economic and social well-being of the State, and that the small business sector is not realising its full potential as a generator of economic activity and new employment opportunities. According to the report, endorsed in principle by my Government, additional State Government resources need to be directed to assistance and services to small business to enable this sector to make an optimum contribution to the development of our State.

A key recommendation of the inquiry was that the Small Business Corporation of South Australia be established to replace the operations of the Small Business Advisory Bureau set up in 1977 by the Dunstan Government. It was the view of the working party, after consideration of alternative organisational structures, that a statutory authority would be the most appropriate framework to give effect to the Government's small business policies and programmes. In the words of the working party as stated in its report: 'the working party considers a statutory authority essential for reasons of autonomy and to establish credibility, acceptability and visibility within the business community... The success or otherwise of the recommended initiatives will depend upon the establishment of a visible, vital organisation, highlighting itself as a caring, empathetic, highly professional service at arm's length from the Government'. The advantages of the Corporation model are well illustrated by the Victorian Small Business Development Corporation, widely regarded as an effective and highly motivated organisation, which has developed and implemented a range of innovative and useful programmes.

It is my Government's view that the advantages of the Corporation model are significant: enhanced acceptance by small business; ability to act as an advocate for small business; ability to tap private sector expertise through the Board; and the potential to attract private sector sponsorship for its programmes. The working party made a number of recommendations on needs of and assistance to small business which the Board of the Corporation will examine and develop.

Major initiatives empowered by this Bill include the upgrading and expansion of advisory and counselling services; the co-ordination, promotion and possible conduct of training and educational programmes for small business management; and the provision of financial assistance to small business by way of grants or loan guarantees to enhance the efficiency of a small business operation. The Corporation also will perform an important advocacy role and will monitor the impact on small business of all new legislation and regulations.

It is intended in this legislation to establish a facility which will co-ordinate all available sources of assistance and information for the benefit of small business. The Corporation is intended to be a 'one-stop shop' for people intending to start a small business, wishing to expand existing operations, or experiencing difficulty and needing advice. This Bill gives the Corporation the ability to design and implement a range of initiatives to assist small business, and allows a degree of flexibility to the Corporation in carrying out its functions. The Board of the Corporation will be able to direct its skills and business knowledge in the best interests of small business.

The Board will comprise seven members, all but one of whom will be drawn from the private sector. Members will come from a wide spectrum of business and possess considerable expertise in small business matters. The Director of the Department of State Development also will become a member of the Board in order to facilitate a productive relationship between the Corporation and the Department and to avoid unnecessary overlapping of functions and duplication of services. The Government strongly believes that these initiatives will provide substantial encouragement to small business in South Australia, enabling it to realise its full job creation potential.

When combined with our other measures specifically designed to assist small business, such as increased pay-roll tax exemption levels, the Government's intention to encourage small business development is clear. After a long period of deep economic recession throughout Australia, and especially in South Australia, we are now experiencing some encouraging improvements in economic conditions. Production and employment are steadily rising; unemployment is slowly falling; and building activity, particularly in the housing sector, is strong and is exerting a significant impact on activity in industries supplying materials and household fittings. Most of the economic indicators point to a strengthening in the State and national economies. But, recovery is by no means assured and it is the view of my Government that continued improvement will involve a co-operative approach by all sectors of the community and an innovative approach by Government.

As my Government consistently has stated, our economic future depends on a strong partnership between public enterprise and the private business sector. Within that partnership it will often be the public sector which takes the initiative or directs the course of events. But equally, we accept the responsibility to set the framework within which the private business sector can create opportunities for the kind of growth and development required to sustain and improve the living standards of South Australians. This kind of approach to economic development of the State is exemplified by this Bill, which establishes the Small Business Corporation of South Australia, and will facilitate the upgrading and extension of Government assistance to the small business sector.

Development of the small business sector is a key component of my Government's economic strategy. That strategy is directed towards the achievement of five principal objectives: first, to encourage the expansion of long-term employment opportunities in the State and to improve the economic well-being of its citizens; secondly, to strengthen the State's economic base and make it less vulnerable to national and international economic fluctuations; thirdly, to foster a favourable investment climate within the State; fourthly, to ensure the effective use of labour skills and technologies to enable South Australian businesses to be internationally competitive; and fifthly, to work with industry to develop new products and new markets. Each of these objectives will be met to some degree by the operations of the Corporation.

Support for, and encouragement to, small business is seen by my Government as essential to the creation of new jobs

and the maintenance of existing jobs in this State. Small business dominates the retailing, wholesaling and manufacturing sectors in South Australia. It is a major employer of labour in our State, providing about 60 per cent of total employment in the private sector. The performance of small business is thus vital to our future economic development. I seek leave to have the explanation of the clauses of the Bill inserted in *Hansard* without my reading it.

Leave granted.

**Explanation of Clauses**

Clause 1 is formal. Clause 2 provides that the measure is to come into operation on a day to be fixed by proclamation. Clause 3 sets out definitions of expressions used in the measure. 'Small business' is defined by the clause to mean a business that is wholly owned by a natural person or natural persons in partnership or by a proprietary company; is personally managed by the owner or one or more of the owners or directors; and does not form part of a larger business. Under the clause, 'small business' may include, in addition, a business or undertaking, or one of a class, declared by the Minister, by notice published in the *Gazette*, to be a small business or class of small businesses. Clause 4 provides for the establishment of the 'Small Business Corporation of South Australia'. The clause provides that the Corporation is to be a body corporate with the usual corporate capacities.

Clause 5 provides for the constitution of the Corporation. Under the clause, the Corporation is to consist of seven members of whom one shall be the permanent head of the Department of State Development or the person holding or acting in an office in that Department nominated by the permanent head and the remainder are to be persons appointed by the Governor upon the nomination of the Minister. A Chairman and a Deputy Chairman of the Corporation are to be appointed upon the nomination of the Minister from amongst the members. Clause 6 provides for the term of office and conditions of office of members of the Corporation. Under the clause, those members appointed by the Governor are to hold office for a term not exceeding three years, and upon conditions, determined by the Governor on the recommendation of the Minister. Clause 7 provides for the quorum and regulates the procedure for meetings of the Corporation.

Clause 8 is the usual provision ensuring the validity of acts of the Corporation and the immunity of its members in certain circumstances. Clause 9 requires a member of the Corporation who is directly or indirectly interested in a contract or proposed contract of the Corporation to disclose the nature of his interest to the Corporation and to refrain from taking part in any deliberations or decision with respect to the contract. Clause 10 sets out the functions and powers of the Corporation. The Corporation is to have the functions of providing advice to persons engaged in, or proposing to establish, small businesses; promoting awareness of the value of proper management practices in the conduct of small businesses and of promoting, co-ordinating and, if necessary, conducting management training and educational programmes; disseminating information for the guidance of persons engaged in, or proposing to establish, small businesses; monitoring and making representations with respect to the impact upon small business of the policies, practices and laws of the various branches of government; consulting and co-operating with persons representative of small business and, where appropriate, putting their views to governments; providing financial assistance to small businesses through the guarantee of loans or grants; and generally, promoting and assisting the development of the small business sector of the State's economy. The clause goes on to empower the Corporation to acquire property, make contracts and do the other things necessary for the performance of its functions.

Clause 11 provides that the Corporation is to be subject to the general control and direction of the Minister. Clause 12 provides for the appointment of staff for the purposes of the Corporation. Under the clause, persons may be appointed under the Public Service Act in the normal way, or under that Act but upon a modified basis, or by the Corporation and outside the scope of the Public Service Act. The Corporation is also empowered to make use of the services of officers or facilities of a department of the Public Service with the approval of the responsible Minister.

Clause 13 provides that the Corporation may guarantee liabilities of a person under a loan entered into, or to be entered into, for the purposes of a small business or proposed small business. The clause provides for upper limits to be fixed by the Treasurer on the total amount of the liabilities of any particular person that may be guaranteed by the Corporation and on the total amount of all liabilities that may be the subject of guarantees by the Corporation. The Corporation must, before giving the guarantee, be satisfied that the person is not able to obtain the loan upon reasonable terms and conditions without the guarantee; that it is in the public interest to give the guarantee; and that there are reasonable prospects of the business being financially viable. The clause provides for appropriate terms and conditions of guarantees by the Corporation. Under the clause, any liabilities of the Corporation arising through a guarantee are, in turn, guaranteed by the Treasurer.

Clause 14 provides that the Corporation may make a grant to assist a person conducting or engaged in a small business to obtain advice with respect to the management of the business or to undertake management training or educational programmes or to improve by any other means the efficiency of the business. The clause provides that the total amount paid in relation to each business by way of grants must not exceed such limit as is fixed by the Treasurer. Under the clause, the Corporation must be satisfied that it is in the public interest to make the grant and that there are reasonable prospects of significantly improving the efficiency of the business and of it being financially viable. The Corporation is also empowered to impose conditions designed to secure the objects of the grant.

Clause 15 empowers the Corporation to borrow moneys from the Treasurer or, with the consent of the Treasurer, from any other person. The clause provides for the guarantee by the Treasurer of liabilities under a loan obtained by the Corporation from a person other than the Treasurer. The Corporation is also empowered by the clause to invest any of its moneys that are not immediately required for its purposes in such manner as may be approved by the Treasurer. Clause 16 provides for delegation by the Corporation.

Clause 17 requires the Corporation to expend money only in accordance with a budget approved by the Minister and the Treasurer or as authorised by the Minister and the Treasurer. Clause 18 provides that the Corporation is to be liable to pay fees in respect of guarantees of the Treasurer. Clause 19 regulates the accounts of the Corporation and their audit. Clause 20 requires the Corporation to prepare an annual report and provides for the report to be laid before Parliament. Clause 21 requires applications to the Corporation for guarantees or grants to be in writing and requires applicants to furnish such information as the Corporation may require. The clause provides that it is to be an offence if a person provides information to the Corporation that is to his knowledge false or misleading in a material particular. Clause 22 provides that proceedings for

offences under the measure are to be disposed of summarily. Clause 23 provides for the making of regulations.

**Mr OLSEN** secured the adjournment of the debate.

## PLANNING ACT AMENDMENT BILL, 1984

**The Hon. D.J. HOPGOOD (Minister for Environment and Planning)** obtained leave and introduced a Bill for an Act to amend the Planning Act, 1982. Read a first time.

**The Hon. D.J. HOPGOOD:** I move:

*That this Bill be now read a second time.*

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

Leave granted.

### Explanation of Bill

This Bill seeks to make a number of different amendments to the Planning Act, 1982. First, the Bill seeks to amend the Act by repealing subsection (3) of section 43 of the Act. This subsection provides that section 43 will expire on 4 November 1984, two years from commencement of the Planning Act. Section 43 provides that where the Governor is of the opinion that it is necessary in the interest of orderly and proper development that an amendment to the Development Plan should come into effect without delay (for example, a zoning change) then he may declare that the amendment shall come into full effect on an interim basis. This action can only be taken concurrently with or after commencement of public exhibition of a proposed amendment to the Development Plan. Section 43 has been used on four occasions since November 1982.

Section 43 was enacted to enable an amendment to the Development Plan to be given effect without delay. Section 57 of the Act provides that a planning authority, when considering an application for a planning authorisation, must apply the law as it stood at the time that the application was made. Section 57 therefore prevents a planning authority from considering proposed amendments to the Development Plan which were not in force at the time that the application was made. It is often important, however, that proposed amendments to the Development Plan are considered before planning authorisation is given. Such consideration could, for instance, prevent development undertaken in order to avoid the impending changes to the Development Plan. Section 43 achieves this by bringing a proposed amendment into operation earlier than would otherwise occur. The now repealed Planning and Development Act dealt with this problem by allowing 'all relevant matters' to be considered with the result that it was possible to prevent development from proceeding on the basis that it would clearly be contrary to draft amendments to either the Development Plans under the repealed Act, or to draft zoning regulation amendments. The repeal of subsection (3) will make section 43 a permanent feature of the Planning Act, 1982.

The Bill seeks to amend the penalty provisions of sections 46 and 51 of the principal Act, so as to allow maximum penalties to be calculated on the basis of the length of time a continuing breach of the Act has occurred. In many cases development contrary to the Act may occur and some months may elapse before prosecution proceedings can be put before the courts and determined. In order to discourage the continuation of an illegal activity such as the illegal use of land, or continued clearance of native vegetation, it is proposed to allow a maximum penalty which increases for the length of time a breach of the Act continues. This is particularly important where an illegal activity continues for a lengthy period prior to a court decision, especially where the monetary benefit gained by the defendant from the illegal activity exceeds the maximum penalty of $10 000 currently set by the Act. As the Act already provides a default penalty of $1 000 for each day that an illegal activity continues after a conviction, it is appropriate that a similar sum be adopted as a maximum penalty for every day on which the illegal development continues before conviction.

The Bill also seeks to repeal section 56 (1) *(a)* of the Act. Section 56 (1) *(a)* of the Planning Act, 1982, provides that no provision of the Development Plan under the Act may prevent the continuation of an existing lawful activity. This provision has been incorporated in successive 'planning' Acts to ensure that existing lawful activities cannot be stopped by planning laws. Planning controls are, and have always been, aimed at ensuring that new development is well planned. Section 56 (1) *(a)* of the Act perpetuates the provisions of section 37 of the now repealed Planning and Development Act. Section 36 of the repealed Act provided for the making of regulations to render certain activities illegal in certain zones (for instance, industry in residential areas). Many such regulations were made (zoning regulations), so that it was necessary to protect the 'existing use' of 'non-conforming' activities which existed at the time the relevant regulations took effect. This was the purpose of section 37 of the old Act.

However, the philosophy of the Planning Act is different. It seeks to control 'development', which amongst other things includes changes in the use of land, but not land use *per se*. With the exception of provisions dealing with the removal of unsightly outdoor advertisements, the Planning Act, 1982, does not inhibit existing uses of land, but becomes relevant only where it is proposed to undertake new 'development' on land. Accordingly, section 56 (1) *(a)* of the Act is not necessary for the protection of 'existing use rights'.

Section 37 of the repealed Act was the subject of judicial review on a number of occasions. A series of successive judgments held that section 37 entitled a user of land to some further expansion of an existing use without planning approval. In some cases, it was held that significant extension could occur without approval, even when the existing use was under no legal threat whatever. Since repeal of the old Act and commencement of the Planning Act in November 1982, the courts have interpreted section 56 (1) *(a)* of the Planning Act in the same manner as its predecessor, section 37 of the old Act. It has been held on a number of occasions that section 56 of the Planning Act allows the erection of new structures without approval, provided that no land use change is proposed. In some cases, the new structures have constituted a significant impairment to the amenity of the locality.

This problem has been exacerbated by a recent decision relating to the State's vegetation clearance controls under the Planning Act, 1982. The court found that the vegetation clearance controls are valid, but held that the existing use of the subject land was farming, and therefore the clearance of native vegetation for farming purposes was a continuance of an existing use and did not require planning approval. While this determination is the subject of further appeal by the South Australian Planning Commission, it casts great doubts over the effectiveness of the clearance controls while section 56 remains in its present form. As the Planning Act, 1982, does not control 'use of land' but only changes in the use of land, section 56 (1) *(a)* is not necessary to protect 'existing use rights'. To ensure, however, that existing use rights extend only to the maintenance of existing activities on land, and do not confer a right to undertake further new development, the Bill proposes the repeal of section 56 (1) *(a)*.

Consequential upon repeal of section 56 (1) *(a)*, the Bill proposes the repeal of subsections (3) to (7) of section 56

and insertion of new section 4a. Subsections (3) to (7) of section 56 were intended to provide that, where an 'existing use' ceased for a period of six months, or more, the protection afforded to existing uses would no longer apply, thus preventing the re-establishment of that use without planning approval. The current wording of these subsections was drafted on the assumption that the Planning Act would control 'use of land', and therefore that re-establishment of the use would be subject to control. However, the Planning Act controls changes in the use of land, rather than uses *per se,* and the re-establishment of an existing use may not be considered by the courts to constitute a 'change of use'. Accordingly, it is proposed to replace subsections (3) to (7) of section 56 with provisions which ensure that a planning authority can declare that an existing use has discontinued once it has ceased for six months, and that re-establishment of that use shall be deemed to be a change of use and therefore subject to control. Where no such declaration is made by a planning authority, the existing use is deemed to be discontinued after two years, thereby preventing the re-establishment of an old activity after many years have passed.

Under the proposed amendments, an activity, once discontinued, would be subject to the normal planning controls should it seek to re-establish. If the re-establishment requires consent, that is, the development is not 'permitted' development under the Act, re-establishment can be judged on its merits, having regard to the impact of the activity on the area.

The new provisions retain a right of appeal against a declaration, thereby enabling disputes between a user of land and planning authorities to be settled, and also provide that a declaration can be made only after an activity has been ceased for six months, or has continued only to a trifling extent for that period.

Clauses 1 and 2 are formal. Clause 3 inserts new section 4a into the principal Act. A change in use of land constitutes 'development' for the purposes of the principal Act. Where there has been a period of non-use of land, it can be argued, if the original use is revived, that there has in fact been no change in use of the land. This would allow a previous use to be revived after a long period of non-use without planning approval being required and notwithstanding that that use of that land might be contrary to the Development Plan. Subsection (1) *(b)* (i) of the new section provides that where a use has lapsed for two years or more the revival of that use shall be regarded as a change of use and will therefore require approval. Similarly, if a planning authority has made a declaration under subsection (2), the revival of the use to which the declaration relates shall constitute a change in use. Subsection (1) *(a)* is a general provision explaining the concept of change of use as it applies in the Act. Clause 4 repeals subsection (3) of section 43 of the principal Act.

Clause 5 amends section 46 of the principal Act. The effect of the amendment is that when a court is sentencing an offender under section 46 it will be able to compute the maximum fine that may be imposed by multiplying the number of days on which the offence has continued before the offender is convicted by $1 000. If that sum is more than $10 000 the court will be able to impose any penalty up to, but not exceeding, that sum. If it is less than $10 000 the court will, if it wishes, be able to impose the existing maximum penalty of $10 000. Clause 6 makes a similar amendment to section 51 of the principal Act. Clause 7 strikes out paragraph *(a)* of subsection (1) of section 56 of the principal Act. As a consequence of the removal of paragraph *(a),* the clause also strikes out subsections (3), (4), (5), (6) and (7) of section 56.

**The Hon. D.C. WOTTON** secured the adjournment of the debate.

## CITY OF ADELAIDE DEVELOPMENT CONTROL ACT AMENDMENT BILL

**The Hon. D.J. HOPGOOD (Minister for Environment and Planning)** obtained leave and introduced a Bill for an Act to amend the City of Adelaide Development Control Act, 1976. Read a first time.

**The Hon. D.J. HOPGOOD:** I move:

*That this Bill be now read a second time.*

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

Leave granted.

### Explanation of Bill

The Bill proposes amendments to the City of Adelaide Development Control Act to allow control of development which would impair the heritage value of listed buildings and sites in the city.

First, the Bill provides that the Adelaide City Council cannot grant consent to a development proposal affecting an item of the State heritage, as listed under the Heritage Act, without first forwarding the application to the City of Adelaide Planning Commission and seeking the Commission's concurrence to the proposed consent. The Bill requires the Commission, prior to making its decision, to have regard to the advice of the Minister responsible to the State heritage. Should the Commission refuse to grant its concurrence to the proposed consent by the Council, an appeal against that refusal lies against the Commission, thereby making the Commission accountable for its decision. This provision will ensure that the views of the Minister responsible for the Heritage Act are considered prior to consent being granted to any development proposal affecting an item of the State heritage within the City of Adelaide.

Secondly, the Bill proposes an amendment to the regulation-making powers of the Act to enable a list of city buildings and sites of local heritage significance to be incorporated into the regulations. Should the Act be amended in such a manner, the development control principles in the City of Adelaide Development Plan will then be amended to enable the Adelaide City Council to have regard to the heritage significance of a listed building or site when making decisions on a development application affecting that building or site. Such decisions, however, will be the sole responsibility of the Adelaide City Council.

Clauses 1 and 2 are formal. Clause 3 inserts a definition of 'item of State heritage' into section 4 of the principal Act. Clause 4 makes a number of amendments to section 24 of the principal Act. New subsection (2a), inserted by paragraph *(a)* of this clause, requires the Council to refer a development that will affect an item of State heritage to the Minister responsible for State heritage. New subsection (5) prevents the Council from giving its approval to such a development if the Commission has not concurred in the approval. Paragraph *(b)* of the clause makes a consequential amendment to subsection (3) of section 24. Clause 5 inserts new section 24a into the principal Act. This section will require the Commission to delay its decision in relation to a development that affects an item of State heritage until it has received any representations that the Minister wishes to make in relation to the development. In making its decision the Commission must have regard to the Minister's representations as well as to general planning considerations.

Clause 6 makes a consequential change to section 25b of the principal Act. Clause 7 adds a new paragraph to section 28 of the principal Act. This new provision will ensure that an applicant for approval will be able to appeal against the refusal of the Commission to grant its concurrence to a proposed development. Clause 8 makes a consequential amendment to section 32 of the principal Act. Clause 9 amends section 44 of the principal Act. The amendment will give the Governor power to make regulations to provide for the keeping of a register of heritage items that are situated within the municipality of the City of Adelaide.

**The Hon. D.C. WOTTON** secured the adjournment of the debate.

## LOCAL GOVERNMENT ACT AMENDMENT BILL, 1984

**The Hon. G.F. KENEALLY (Minister of Local Government)** obtained leave and introduced a Bill for an Act to amend the Local Government Act, 1934. Read a first time.

**The Hon. G.F. KENEALLY:** I move:

*That this Bill be now read a second time.*

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

Leave granted.

### Explanation of Bill

The aim of this Bill is to amend section 157, subsections 5 to 8, of the Local Government Act to establish the legislative framework for a single superannuation scheme for all local government employees in lieu of the multitude of schemes currently operated by individual councils. It provides for the separate presentation before Parliament of such benefits and conditions of the scheme as may be agreed between the councils and the unions and approved by the Minister of Local Government. Section 157 of the Local Government Act requires councils to provide superannuation for their full-time employees. It became a part of the Local Government Act in 1972 following a review of superannuation in the local government industry at that time.

In its present form the Local Government Act gives no absolute prescription of the level and type of superannuation which must be provided, and any scheme dealing with superannuation for local government employees must be approved by the Minister of Local Government. In order to give guidance on what could be regarded as reasonable for approval, a set of 'minimum standards' was formulated by the Public Actuary in 1973 and became available to local government. These minimum standards were set at a time when the introduction of a national superannuation scheme was being widely discussed. It was considered that all local government employees should, through council-sponsored superannuation arrangements, receive benefits on retirement, death in service, etc., additional to those which could be received from the then proposed national scheme.

It was felt, however, that employees on lower incomes had less capacity to pay for additional benefits and had less need for additional benefits because of the anticipated national superannuation pension. In addition, it was also considered that females had less need for, and less interest in, additional benefits. Consequently, the minimum standards allowed, but did not compel, councils to divide employees into two classes for the purpose of superannuation. Class A consisted of all male office staff and other supervisory and managerial staff employed outside the office and class B comprised all female staff and outside staff not of supervisory or managerial level. The minimum standards required a lump sum retirement benefit after 40 years service of three times final salary for a class A employee and one times final salary for a class B employee.

Since 1973, and with the failure to introduce a national superannuation scheme, there has been considerable pressure from a wide range of sources for a review of the local government superannuation system. Much criticism has been levelled at classification on the grounds of sex and employment type and the lack of portability of superannuation when employees move between councils. There is no doubt that many local government employees are being seriously disadvantaged because their superannuation arrangements have not kept pace with developments in other industries and it is obvious that this could have a detrimental, long-term effect on the development of local government in this State.

In 1978-79 the then Minister set in motion a review of the local government system and asked the Public Actuary for a full report on its effects and implications. Questionnaires were sent to each council and the managers of the various funds and the Public Actuary prepared a report on the responses. In addition, an investigation was carried out on interstate local government superannuation arrangements and these were summarised in a second report. Both reports were prepared in 1981, together with a discussion paper on local government superannuation. The reports findings indicated that approximately 60 per cent of council funds differentiated in their benefits on the grounds of sex and approximately 95 per cent on the grounds of type of employment. The class A/class B distinction had produced some very marked differences in superannuation coverage, and across councils there was a wide variance in retirement benefits. For example, retirement benefits for class A employees with 40 years service ranged from three times final salary to seven times final salary. It was obvious from the data obtained that the same variability and discrimination was widespread in other areas such as contribution levels, qualifying periods, disablement, vesting and portability.

Although there is not yet any anti-discrimination legislation in Australia which affects superannuation schemes, most new schemes in the private sector would not differentiate on the grounds of sex and many established schemes are creating equal conditions for males and females. The minimum standard benefit levels for class B employees are grossly inadequate by present-day standards when judged against private and public sector superannuation practice. Even the minimum standard benefit levels for salaried staff are low when judged against private sector arrangements for equivalent employees and against arrangements for local government employees in other States. Many councils indicated that they would like to see full portability of superannuation for staff moving between councils, for a natural progression of jobs in the local government sector virtually requires such moves. There is full portability in Victoria, Queensland, and Western Australia for those States all have local government superannuation schemes run by statutory boards, with benefit and contribution levels specified in the relevant legislation. Although the conditions vary between the States, interstate superannuation provisions are more rational and offer greater advantages than in South Australia.

When the Government was elected in 1982 it had within its local government platform a firm commitment to improve superannuation conditions for local government employees. The previous Minister of Local Government, Mr Hemmings, in a speech to the Local Government Association of South Australia in February 1983, pointed out that the policy of the Government was to provide fair superannuation benefits to all employees and he urged the Association in the following 12 months to come up with a scheme which would meet

these objectives. The Local Government Association had in fact been meeting with its advisers from the private sector to review its superannuation arrangements and to provide a single, non-discriminatory scheme for all local government employees. It had established a task force to formulate a design for such a new scheme. After some initial meetings the task force was broadened to include representation from the relevant union (the M.O.A. and A.W.U.), as well as representatives from the Public Actuary's office. The atmosphere in the meetings was extremely constructive and all members of the task force are to be congratulated for their approach.

At a special general meeting of the Association held on the 19 August 1983 endorsement was given to the recommended plan design by the task force and the Minister of Local Government was requested to implement any legislative backing required to give effect to the proposed scheme. This Bill will provide that legislative backing. Before I detail the clauses of the Bill, I should summarise the main features of the proposed scheme as they have been worked out between the councils and the unions with guidance from the Public Actuary.

Membership will be offered to all permanent employees without discrimination because of sex or type of employment. Membership will not be compulsory. Councils will contribute 7½ per cent of the salaries of all employees who join the scheme, while the members themselves will be able to choose levels of contributions from 2½ per cent to 10 per cent of salary. Benefit levels will vary according to the level of contribution chosen. At the lowest level of contributions, employees will receive a lump sum retirement benefit after 40 years service of 4.8 times their average salary during their last three years of service. The maximum retirement benefit will be seven times final average salary. Lump sum benefits will also be payable on death or total and permanent disablement, though any of the lump sums will be able to be switched to a pension. The resignation benefit will incorporate a share of the council's contribution, which increases with length of membership of the scheme.

Members of existing council schemes will not be disadvantaged. They can choose to remain with their present contribution levels and benefit entitlements or else transfer to the new contribution benefits, with their accrued benefits being preserved. Because all councils will participate in the scheme there will be full portability of superannuation for staff moving between councils. The scheme will be run by a board of six comprising two Local Government Association representatives, two union representatives, a representative of the Public Actuary and a person appointed by the Minister as Chairman. The scheme will be administered initially by a life office appointed by the board and the funds generated by the scheme will be invested by investment managers appointed by the board with the approval of the Minister.

The rules and conditions of the scheme will be detailed in documentation being formulated by the task force referred to earlier. After approval by the Minister, the documentation will be gazetted and laid before the both Houses of Parliament. Any subsequent amendments to the scheme will be similarly formulated, gazetted and tabled. Either House of Parliament could disallow the scheme or amendments thereto. Before I deal with the Bill, clause by clause, I point out that the Bill has been developed in consultation with the task force and has the general support of both the councils and the unions.

Clause 1 is formal. Clause 2 provides that the measure is to come into operation on a day to be fixed by proclamation. Clause 3 amends section 157 of the principal Act which makes provision, *inter alia,* for each council to develop a superannuation scheme for its full-time employees. The clause strikes out the provisions relating to superannuation, leaving the remainder of the provisions of that section which deal with the appointment of employees and their long service leave and sick leave rights.

Clause 4 provides for the insertion of new sections 157a to 157f. Proposed new section 157a provides that the Minister may approve a scheme providing for superannuation and related benefits for the officers and employees of every council and may approve amendments to such a scheme. The scheme or amendments, when approved are to be published in the *Gazette* and to be subject to disallowance by either House of Parliament. The proposed new section provides that the superannuation scheme is to be binding on every council. For the purposes of the section, 'council' includes a controlling authority constituted under the principal Act or an authority or body declared by the superannuation scheme to be an authority or body to which the scheme applies; and 'officer' or 'employee' of a council means an officer or employee of a class declared by the superannuation scheme to be officers or employees to whom the scheme applies.

Proposed new section 157b provides for the establishment of a 'Local Government Superannuation Board' to administer the superannuation scheme. The board is to be a body corporate with the usual corporate capacities. The proposed new section goes on to provide that the constitution, powers, functions and duties of the board are to be as set out in the superannuation scheme. Proposed new section 157c requires the investment of funds generated under the superannuation scheme to be carried out on behalf of the board by investment managers appointed by the board with the approval of the Minister. Proposed new section 157d provides for the auditing of the accounts of the board.

Proposed new section 157e requires the board to prepare an annual report for the Minister, who is to cause it to be laid before each House of Parliament. The report must incorporate the audited statement of accounts for the financial year to which the report relates. Proposed new section 157f requires the board to obtain within four years after the commencement of the superannuation scheme and at least once in every three years thereafter a report from an actuary on the state and sufficiency of the funds generated under the superannuation scheme. The board is to forward a copy of the report to the Minister together with any recommendations it thinks fit to make as a result of the report. The Minister is in turn required to cause a copy of the report and recommendations (if any) to be laid before each House of Parliament.

**The Hon. B.C. EASTICK** secured the adjournment of the debate.

## LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 2), 1984

**The Hon. G.F. KENEALLY (Minister of Local Government)** obtained leave and introduced a Bill for an Act to amend the Local Government Act, 1934. Read a first time.

**The Hon. G.F. KENEALLY:** I move:

*That this Bill be now read a second time.*

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

Leave granted.

### Explanation of Bill

Efforts to rewrite the Local Government Act have been underway for at least 20 years, if not since the amalgamation of the District Councils Act and the Municipal Corporations

Act in 1934. Everyone involved in any way with local government agrees on the need for the Act to be rewritten. The 1970 Report of the Local Government Act Revision Committee noted that 'the Act is hopelessly outmoded on many important matters'; 14 years later the same situation applies.

The previous Government instigated the review of the Act as a major priority within the Department of Local Government. It embarked upon a program of five Bills being drafted, each of which would, on preparation, be inserted into the existing Act resulting in an entirely new Act on completion of the fifth Bill. A draft Bill, intended to be the first of the five, was in fact released by the then Minister of Local Government in July 1982. Following a lengthy consultation process, however, this Bill was not introduced into Parliament before the November 1982 election, which brought the present Government to office.

As part of its pre-election commitment, the present Government is continuing with the process of rewriting and upgrading the legislative basis of local government, the Local Government Act. The Bill prepared by the previous Administration has been substantially retained in terms of both structure and content. On coming to office, however, the present Government undertook a thorough revision of the policy framework included in the Bill. For this exercise the following principles were established:

1. In order for the status of councils to be improved within the Australian structure of government, the representative character of local government must more closely model that of its State and Federal counterparts, whilst retaining its non-partisan and voluntary aspects.
2. More specifically, in order to be seen to govern in the interests of the broad community, elected office must be accessible to the entire community.
3. Similarly, in order to be seen to govern by standards beyond reproach, local government decision makers and decision making must be highly visible and consequently highly accountable.

These notions of representation, accessibility and accountability form the keys to the major changes which are proposed. It can be seen from the above that the prime objective of the Bill, apart from systematic reorganisation of the Act, is the improvement of local government's standing both within governments and, more importantly, amongst the general community.

*Representation*

Two issues relating to local government's electoral arrangements have been tackled in the Bill. First, a system of optional preferential voting replaces the present first-past-the-post. Not only will this allow some weighting to be attached to the views of the electorate and therefore achieve a more representative result, but the voting method at Federal, State and local government elections will be made more consistent. This will help reduce voter confusion. Acknowledging apparent fears expressed in some quarters that a system of optional preferential voting may herald the introduction of party politics to local government, the Bill provides for the simple 'bottom-up' distribution of preferences thereby minimising the potential for factionalism. Additionally, this system is particularly easy to count with distribution of preferences ceasing when the remaining number of candidates equals the number of vacancies.

The second electorate issue dealt with in the Bill relates to the terms of office for local government elected members. The present staggered system places councils on a continual election footing and mitigates against rational forward planning. Moreover, some members may face elections in a more favourable climate than others depending upon the local circumstances prevalent at any particular time. Accordingly, the Bill provides that all members will in future retire at the same time. In addition, the Bill extends the term of office for all elected members to three years. This confirms a general trend in all Governments towards longer fixed terms of office. Again, this is also intended to assist in forward corporate planning and management. Whilst concern has been expressed that these measures may cause sudden and harmful changes in council direction, reference interstate indicates that complete changes in the membership of a council at a single election are very rare indeed.

*Accessibility*

South Australian local government has a tradition of voluntary community service. Whilst this tradition has earned it significant respect, it is apparent that participation in local government through elected office involves an increasingly significant financial burden being borne, particularly by councillors and aldermen. Higher telephone costs, stationery, motor vehicle expenses, etc. nowadays form essential expenditure for an efficient elected member. To the extent that an elected member is unable, through limited means, to meet such costs, his/her capacity to effectively carry out their responsibilities is reduced. Similarly, many potential candidates for local government elections may be deterred from nominating through the costs involved in the office. In order to ensure, therefore, that people of all means have access to elected office the Bill provides that all council members will be entitled to an annual allowance. Regulations to the Act will prescribe minimum and maximum levels for the allowance. Any member will be able to decline the allowance and participate in local government on a purely voluntary basis. It is intended that this will not interfere with existing assistance for Mayors/Chairmen and their deputies.

In addition to financial restrictions to local government elected office, another vital issue affecting all present and potential members of councils is the times at which meetings are held. Whilst ideally councils should decide the times at which it is most convenient to sit, the Bill provides that all meetings of council and committees shall be held after 5 p.m. This has been done for two reasons:

First, a number of cases have been cited where a member has been required to resign from council through being unable to attend meetings during the day, generally because the member is engaged in employment. Secondly, it is reasonable to assume that those individuals in employment are to some extent dissuaded from standing for council where meetings are held during the day. At the very least, where meetings are held during normal working hours, their right to stand for office is dependent upon the agreement of their employer. Whilst some councils may prefer to continue day meetings, on balance the benefits to be gained from ensuring that elected office is accessible to the entire community favour the requirement in the Bill.

*Accountability*

Two important measures are included in the Bill which are designed to clearly and publicly demonstrate the propriety of the conduct of council affairs— thus removing a stigma which detractors of local government have frequently sought to impose. First, the Bill reinstates the requirement, originally proposed by the previous Government, that all meetings of council or council committees are to be conducted in public except where the council is considering certain prescribed matters. These exceptions will include the consideration of tenders, disciplinary action against an officer and the like, and are deliberately broad in scope.

Whilst it may be argued that the decisions of State Government are not subject to such public scrutiny, it should be borne in mind when making such comparison that coun-

cils carry out both Parliamentary and Executive functions. As such, the approach in the Bill attempts to define clearly those circumstances where councils should privately hold discussions, and those where the public should reasonably be able to view proceedings.

The second issue affecting the accountability of local government decision making relates to the provisions in the Bill requiring all members of council to declare their financial interests in a public register, to be updated annually. This requirement does no more than mirror conditions under which all State Parliamentarians hold office and follows a trend established in other States.

Together, these changes represent the principal features of the Bill. A number of other changes, however, are being made to which the attention of the House is drawn:

- the expansion of the Local Government Advisory Commission to include Local Government Association and Trades and Labor Council representation.
- the removal of the existing petitioning process involved in council boundary changes.
- the clarification of interest provisions.
- the simplification of advanced voting procedures.

A draft of this Bill was sent to all councils in November and copies sent directly to each member of the executive of the Local Government Association, to the President of the Institute of Municipal Management and to the Secretaries of the major unions in local government to ensure that the opportunity was granted to all relevant parties to make input into the Bill. Officers of the Department of Local Government have discussed the Bill widely throughout the State and I personally have held discussions with representatives of the Local Government Association.

As a consequence of the consultation process, a total of 120 submissions were received. The importance of this Bill to local government was reflected in the enormous input made by elected representatives and staff of councils; a variety of changes of both a policy and technical nature have subsequently been made as a result. I would like to place on record my appreciation for the co-operation which local government, including the Local Government Association, has extended in this process.

This Bill now being presented to Parliament would represent a unique achievement, indeed, if it were able to satisfactorily combine all views expressed prior to and during the consultation period. That is not the case. However, the changes made by the Bill and the rationale for those changes is well understood by all involved. If not agreed to in total, the intent of these proposals is certainly widely acknowledged.

Clause 1 is formal. Clause 2 provides for the commencement of the measure. Clause 3 amends the section of the principal Act concerned with the arrangement of the Act so that it will accord with other amendments to the Act.

Clause 4 provides for the repeal of present section 4 of the principal Act and the substitution of new transitional provisions. The operation of this amending Act shall not affect the composition of any council, council committee, area or word. Persons shall continue to hold the same offices. All voters' rolls shall continue in existence until revised. A proposed new subsection will cater for the fact that after the commencement of the amending Act, the term 'clerk' will be replaced, for the purposes of the Act, by the name 'chief executive officer', but will still be in existence in other legislation. Another transitional provision applies to councils that have more aldermen than the number prescribed by the amending Act. Other provisions deal with notices and nominations relating to voters' rolls. Others ensure that there will be no transitional problems if extraordinary vacancies have occurred in an office of the council, or if a council has been declared to be a defaulting council. The operation of the Acts Interpretation Act, 1915, is preserved.

Clause 5 provides necessary amendments to the interpretative provision. An amendment of note is the effective substitution of the definitions of clerk, district clerk and town clerk by a definition of 'chief executive officer'. Other definitions, such as 'metropolitan municipal council', 'metropolitan district council' and 'metropolitan council', are rendered superfluous by new provisions in the amending Act. A definition of 'periodical election' is to be inserted as a result of proposed three-year terms for members of councils. This clause provides also for the striking out of section 5 (7), a provision that attempts to restrict the functions of a council to its area. While such a provision as this may often be appropriate, it may sometimes be the case that councils must act outside their areas (for example, in serving notices on ratepayers who live elsewhere). It is therefore appropriate to allow general principles to operate and to repeal the provision. A proposed new section 5 (7) will provide for another matter, being the time at which an election or poll is to be deemed to have concluded. Finally, subsections (10) and (11) of section 5 are also to be struck out as they are now superfluous.

Clause 6 provides for the repeal of sections 6 and 6a of the principal Act. It has been decided that councils may no longer be distinguished, for any reason, as 'metropolitan municipal councils' or 'metropolitan district councils'. Section 6a, concerning the Local Government Association of South Australia, is to be replaced by proposed new section 34.

Clause 7 is the most significant provision of the Bill, providing for the repeal of Parts II to IXAA (inclusive). These Parts of the Act are concerned primarily with the constitution and membership of councils, the Local Government Advisory Commission, defaulting councils, and officers and employees of councils. New sections are to be substituted. Proposed new section 6 provides for the constitution, by proclamation, of new councils. A proclamation under the section would have to provide for a variety of matters, including the area of the new council, its name and its composition. Proposed new section 7 provides for the amalgamation, by proclamation, of councils into one or more new councils. Again provision is made for such matters as area, name and composition. A proclamation may make provision also for the method of assessment that is to apply if the former councils employed different methods, for the application of existing by-laws, for the resolution of any problems that might arise in relation to officers and employees of the councils, and for any other matter that may warrant action in view of an amalgamation. Section 8 would allow the Governor, by proclamation, to change the name of a council. Proposed new section 9 would provide for changes in the name of an area by proclamation, while changes to the name of wards could be effected by resolution of a council. Proposed new section 10 would enable a proclamation to be made changing a district council to a municipal council and vice versa. New section 11 relates to the composition of a council. Provision is made for such matters as a council that has a Chairman to instead have a Mayor (but a council will not be able to dispense with the office of Mayor in order to have a Chairman), for the creation of offices of alderman in a council whose area is divided into wards, and for alteration in the numbers of existing aldermen and councillors of a council. Subsection (2) provides that the Governor may, if providing for new or additional offices in the membership of a council, appoint the first persons to fill the offices.

Proposed new section 12 allows the alteration of boundaries of the area of a council. By one or more proclamations, if two or more councils are affected, provision may be made

for the adjustment of rights and liabilities of those councils, for the application of by-laws that may apply to the areas affected by the alteration, and for any other matter that may require adjustment. New section 13 provides for the formation, alteration or abolition of wards. Section 13 (2) provides that the area of a municipal council must be divided into wards. New section 14 allows the Governor to abolish a council. Upon abolition, the rights of the council will either vest in some other council or councils, or in the Crown. Proposed new section 15 prescribes the methods by which proclamations under the preceding sections may be initiated. It is proposed that the functionaries be either the Houses of Parliament, the advisory commission, or, in the case of proposals relating to the names of councils, areas or wards, or to alterations in the status of a council, the council that would be affected. Proposed new section 16 would allow the Governor to provide for a variety of matters by the one proclamation. Thus, for example, a proclamation providing for an alteration in the boundaries of an area could also provide for the creation of a new ward in light of the alteration and the appointment of further councillors. Proposed new section 17 provides that a proclamation could take effect from a specified date, or from date of publication. Proposed new section 18 would allow the Governor to correct any error or supply any deficiency apparent in a proposal for a proclamation from the Houses of Parliament, or the advisory commission. It might be the case that a proposal contained some minor defect that, if a provision such as this was not available, would have to be referred back to the initiating body for rectification. This could cause considerable delays and difficulties, especially if the defect was discovered at about the time that the proclamation was due to be made. Proposed subsection (2) allows for a correction to be made even if a proclamation has already been made upon the basis of the address or recommendation. This would be of particular importance if a series of related proposals were being put into effect. Proposed subsection (3) would allow the Governor to correct errors in proclamations made by him. Subsection (4) would allow a correcting measure to have effect from the date of the defective address, recommendation or proclamation (as the case may be).

Proposed new section 19 provides for the establishment of a new Local Government Advisory Commission. Under section 20, the Commission is to consist of a District Court judge, a member or former member of a council nominated by the Local Government Association, a person nominated by the United Trades and Labor Council, a person with experience in local government nominated by the Minister, and a person holding office in the department of the Minister. Proposed new section 21 allows for the payment of allowances and expenses to members of the Commission. Section 22 provides for the appointment of a Secretary (who may hold office in conjunction with another office in the Public Service). Section 23 ensures that proceedings of the Commission are not invalid by reason of a vacancy in its membership; personal liability is not to attach to members. A quorum of the Commission will be three, according to proposed section 24, and a decision of three will be a decision of the Commission. Section 25 proposes that the Commission have the powers of a Royal Commission. Proposed section 26 provides for the manner in which matters are to come before the Commission and decided. Subsection (1) allows the Minister to make a reference of his own motion, and he must refer a proposal for the making of a proclamation if the relevant council, or 20 per centum of electors of an area or portion of an area that would be affected by the proposal, apply under subsection (2). A proposal will not be referred to the Commission if a similar proposal has been decided upon by the Commission in the preceding three years. Subsection (6) provides for the giving of public notice setting out the substance of the proposal and inviting interested persons to make submissions. (However, this procedure need not be complied with if the change proposed is of a minor nature.)

Hearings are to be conducted, and the Commission may conduct also private inquiries. A report is to be prepared and presented to the Minister. The Commission may not recommend an alternative proposal unless it gives fresh notice or it is satisfied that all interested parties have had an opportunity to consider the alternative and make submissions to the Commission. Proposed new section 27 would allow the Minister to refer any other matter to the Commission for advice and report.

New section 28 provides for councils to carry out periodical reviews to ascertain whether there should be an alteration in its composition or an alteration of its position as to wards. A council will have to give public notice of the review and allow interested parties to present submissions. The Commission may furnish advice during the course of the review. The council shall report to the Minister, and any of its proposals for reform will be referred to the Commission. Subsection (7) provides that reviews should be conducted in seven-year cycles, after an initial determination by the Minister as to when the first review should be completed. (This will thus allow the Minister to stagger council reviews throughout the State). If a council fails to complete a review as prescribed, the Commission shall act instead. Proposed new section 29 empowers the Minister to commission a poll on a proposal for the making of a proclamation. Provision is made for the preparation of a 'summary of arguments' to assist electors. The Minister may direct councils to conduct the poll, or arrange for the Electoral Commissioner to conduct it (who may, if the Minister so determines, recover his costs from the council or councils affected by the proposal). Proposed new section 30 empowers the Minister to initiate an investigation into the affairs of a council if he has reason to believe that the council has failed to discharge its statutory responsibilities, or that an irregularity has occurred in the conduct of its affairs. A report on the outcome of the investigation must be presented to the Minister, who shall supply a copy to the council. Under new section 31, the Minister could make recommendations to the council in view of matters contained in the report. Furthermore, if the report, or a report of the Ombudsman, disclosed failure of responsibility on the part of a council, or an irregularity in the conduct of its affairs, the Minister could, under section 32, direct the council to rectify the situation. New section 33 relates to the power to declare a council to be a defaulting council. Such a declaration could be made only in serious cases of failure of responsibility or irregular conduct, as disclosed by a report to the Minister. Councils are to be given a reasonable opportunity to make submissions to the Minister in relation to the report. An administrator would be appointed in the event of a council being declared to be a defaulting council, and a report would have to be laid before both Houses of Parliament within five sitting days. An administrator would have to make trimonthly reports to the Minister. A council would cease to be a defaulting council if a proclamation so provided, or after the expiration of a period of 12 months, whichever first occurred.

New section 34 is the section that relates to the Local Government Association of South Australia. The Association is to continue to be a body corporate. Its constitution and rules shall not be altered without Ministerial approval.

New section 35 is the first of many sections concerned with the structure and functions of a council. Section 35 provides that a council is responsible for the area in relation to which it is constituted, and for the execution of other

powers and functions of local government. It is thus a general description of the nature of a council. Proposed new section 36 describes how a council is constituted of its members and is a body corporate. New section 37 provides that the common seal of the council may not be used except by resolution of the council. Attesting witnesses must be the Mayor or Chairman, and the chief executive officer. Proposed new section 38 provides for council committees. Committees may inquire into and report to the council on any matter within its responsibilities, and may exercise delegate powers. A member of a committee is to hold office at the pleasure of the council. Subcommittees may be established by a committee. The presiding member of council is, *ex officio*, a member of all committees and subcommittees. Proposed new section 39 provides for advisory committees. These may consist of persons who are not members of councils. Proposed new section 40 is a savings provision. Section 41 would provide for the power of a council to delegate a power function or duty. Some limitations are prescribed (relating principally to borrowing and expending money, and providing certain reports), and further limitations may be prescribed by regulation. Each council must keep a separate record of all delegations and review that record annually. Section 42 provides for the maintenance of suitable offices. A council must have a principal office.

Proposed new section 43 is the first of many provisions concerned with the membership of councils. It provides that the Mayor or Chairman is the principal member of the council. A Mayor represents the area as a whole. A Chairman is to be chosen from amongst the members of the council. A council may, as is appropriate according to the circumstances, appoint a Deputy Mayor or a Deputry Chairman. They will be able to exercise all the powers of a Mayor or Chairman in the absence of the Mayor or Chairman. If a deputy is absent also, or there is none, the members may choose one of their number to act in the office of Mayor or Chairman. Under section 44 the Mayor of the city of Adelaide is entitled to be styled 'Lord Mayor'. Section 45 provides for the office of aldermen, who are to be representatives of the area as a whole. There may not be more aldermen than half the number of councillors. Section 46 relates to councillors. There may not be more than four councillors for each ward. Section 47 provides that the term of office of a member continues until the conclusion of the periodical election next held after his appointment or election. This ensures continuity in the constitution of a council. Alterations to the composition of a council, its area or its wards would not affect a term of office. Proposed new section 48 prescribes the grounds upon which an office may become vacant. A member may be removed from office on the ground of mental or physical incapacity to carry out his duties of office, or his office vacated if he becomes bankrupt, is convicted of an indictable offence, is absent from three or more meetings of the council without leave, becomes an officer or employee of the council, or resigns.

Proposed new section 49 provides that a member of a council is entitled to receive an annual allowance and reimbursement of his expenses. It is envisaged that allowances will be fixed at the first meeting after an election, and then in every May thereafter. Limits on the amount of an allowance may be prescribed, and may vary according to the different offices of a council. A member may decline to accept an allowance.

Section 50 would require a council to take out policies of insurance insuring members and their families against death or injury while on council business. Section 51 provides that no personal immunity will attach to a member of a council for any act or omission by the council or by him. Instead, any liability will lie against the council. Section 52 provides that members should make a prescribed declaration before taking office.

Proposed section 53 relates to the issue of conflict of interest. The section defines when a member may be regarded as having an interest in a matter before the council. The basic test is whether the member or a person closely associated with him would obtain a direct or indirect benefit or suffer a direct or indirect detriment if the matter were decided in a particular way. Section 53 (2) prescribes the various people who are to be regarded as being closely associated with a member. Subsection (3) addresses what might otherwise have been the vexed question of the status of officers of the Crown by providing that a member who is an officer or employee of the Crown, or an agency or instrumentality of the Crown, shall be regarded as having an interest in a matter before the council by virtue of his office or employment if that matter directly concerns the department, agency or instrumentality with which he is connected (but not otherwise). Under section 54, a member with an interest in a matter must disclose that interest, refrain from taking part in relevant discussions, and must not vote in relation to the matter. A penalty is provided if these requirements are breached. It is a defence if the member was unaware of the interest at the time. Some exceptions are provided. New section 55 would make it an offence for a member to abuse confidential information gained by him by virtue of his position. Under section 56 it will be an offence to offer or accept a bribe. Under section 57, a conviction for one of the preceding offences will disqualify a member from holding office for seven years, unless the court orders otherwise. The court may order the member to pay compensation to the council for any loss that it may have suffered by virtue of the member's impropriety.

Section 58 relates to council meetings. At least one ordinary meeting must be held in each month, but ordinary meetings may not be held on Sunday or public holidays, and not before 5 p.m.; three days notice must be given. Special meetings may be called by the Mayor or Chairman, or by three members. Section 59 deals with the quorum required for a council meeting. Section 60 provides the procedures that must be followed at meetings. The Mayor or Chairman is the presiding member. A Mayor will not have a deliberative vote on any matter, but may exercise a casting vote. A Chairman will have a deliberative vote, but may not exercise a casting vote. Section 61 relates to meetings of council committees; they will not be able to be held before 5 p.m. Section 62 provides that meetings must, subject to prescribed exceptions, be held in public. The exceptions include the consideration of professional advice, issues relating to the staff of the council, tenders, information received on a confidential basis, or matters of a prescribed class. A record must be made as to the basis upon which the public are to be excluded from a meeting. Section 63 provides for the calling of meetings of electors. These meetings must be advertised and all resolutions passed must be transmitted to the council. Section 64 relates to the keeping of minutes. A copy of minutes of council meetings must be put on public display for a period of one month. All minutes and some other documents are to be available for public inspection. Section 65 relates to the adjournment of meetings.

Proposed new section 66 is the first of many sections that relate to officers and employees of councils. The office of 'clerk' is to be replaced by the office of 'chief executive officer'. (The Act presently provides that the clerk is the chief executive officer of a council.) A deputy may be appointed. However, a council will not be obliged to keep the statutory title of 'chief executive officer' for the person who fills that office. A chief executive officer must give two months notice of resignation. Proposed new section 67 relates to other offices and positions. New section 68 provides for

the establishment of a 'Local Government Qualifications Committee'. Under section 69, a person will be able to apply to the Committee for a certificate of registration, which may be required for appointment to a prescribed office, or an office performing prescribed functions. The Committee will consider the educational qualifications, experience and suitability of applicants for certificates. It may be empowered to suspend certificates and to conduct examinations. It will also be required to promote the establishment and development of courses of study. Section 70 provides that subject to the conditions of any Act, award or agreement, conditions of service of officers and employees may be determined by the council. Section 71 empowers the council to suspend or dismiss an officer or employee. Section 72 will provide that an officer or employee who transfers to another council, with a break of less than 13 weeks, will be entitled to regard his service as continuous. He will accordingly, retain existing and accruing rights to long service leave and sick leave. Councils affected by this continuous entitlement will be able to make suitable adjustments between themselves. Sections 73 to 78 relate to superannuation, and are comparable to provisions presently being provided for in another amendment to the principal Act. Proposed new section 79 provides that an officer or employee shall not use confidential information to his own advantage. Section 80 provides that an officer or employee must disclose any private interest that he may have in a matter in relation to which he is authorised to act. The provision makes reference also to the interests of persons who are closely associated with the officer or employee. Section 81 relates to bribes. Proposed new section 82 provides for the appointment of authorised persons. These officers will replace local government constables. An appointment may be limited to the enforcement of specified provisions of the Act. Each officer must have an identity card. Section 83 sets out the powers of authorised persons. A person may not obstruct an authorised person or refuse to answer lawful questions. Section 84 would provide officers and employees with immunity from personal liability.

Section 85 is the first of many provisions dealing with elections and polls. It is the interpretation provision. Section 86 provides that there must be a returning officer for each area, who would be the officer principally responsible for the conduct of elections and polls. Section 87 provides for the engagement of electoral officers (on a temporary basis). Section 88 is a delegation power relating to the powers, functions and duties of the returning officer. Section 89 provides for the appointment of polling places by councils. Public notice of the locations must be given. An electoral officer will reside at each polling place. Costs and expenses of the returning officer are payable by the council under section 90. Proposed new section 91 sets out entitlements to vote. A natural person, of or above the age of majority, may vote if he is an elector in the area for the House of Assembly, he lives in the area and has lodged a declaration with the council, or he is a ratepayer by virtue of being the sole owner or occupier of ratable property. A body corporate may be enrolled as an elector if it is a ratepayer by virtue of being the sole owner or occupier of ratable property. A group may be enrolled as an elector if all members are ratepayers, the members are joint owners or occupiers and at least one of them is not enrolled in his own right under a preceding right to enrolment. A body corporate or group voters by appointing a nominated agent.

Section 92 provides that the chief executive officer is responsible for the maintenance of the voters' roll. The roll must be revised twice yearly so as to reflect entitlements at March and at September. The Electoral Commissioner is, for each revision, to supply a copy of the House of Assembly roll. Voters' rolls must be available for public inspection, or for purchase at a fee. The roll will be conclusive evidence of entitlement to vote. Section 93 provides that a person whose name appears on the roll is entitled to vote at an election or poll. A person may vote in several capacities, with one vote for each capacity. A person whose name has been omitted in error from a roll may, subject to the Act, vote as if the error had not occurred. Section 94 provides that elections be held on the first Saturday in May in 1985, and triennially thereafter. Supplementary elections may be held if a periodical election wholly or partially fails, or in the event of a casual vacancy occurring not less than six months before a periodical election. Section 95 is concerned with the eligibility of persons to be candidates for election. A person is eligible if he is, or is entitled to be, an elector for the area, provided that he is not an undischarged bankrupt, liable to imprisonment, disqualified from holding office, or an officer or employee of the council. Furthermore, members of other councils and persons who have nominated for offices of other councils are ineligible. A person running for the office of Mayor or alderman must have been a member of a council for at least 12 months. Under section 96, nominations will have to be made by at least two electors entitled to vote for the nominee. Nominations for periodical elections will close on the first Thursday in April. Public notice of vacancies must be given. A person may not nominate for more than one office. By virtue of section 97, the death of a candidate will result in an election failing. Under section 98, if a supplementary election does not fill a vacant office, the council may appoint a person to the office.

Section 99 deals with the form and contents of ballot-papers. Names of candidates will be arranged according to the drawing of lots. Section 100 deals with the method of voting. The system that is proposed is one of 'optional preferential voting'. The voter will therefore be obliged to mark his first preference on the ballot-paper, and may then, if he so desires, mark other preferences as he chooses. Section 101 provides for the appointment of scrutineers by candidates. Notice of appointment must be given to the returning officer or a presiding officer. Sections 102 to 105 (inclusive) deal with the conduct of polls. A poll may be initiated by a council in relation to any matter within its responsibilities. Voting is to be by marking a cross to indicate support for the proposal submitted to the poll, or to indicate opposition. The council may appoint suitable persons to act as scrutineers. Section 106 allows a person who may not be able to vote at an election or poll to apply (personally or in writing) for advance voting papers. Applications must be made before polling-day. Declarations must be made to the effect that the vote is the vote of the relevant elector, that the vote has not been influenced by fraud or undue influence, and, if the voter is not on the roll, that he is entitled to vote. Section 107 sets out the procedure for advance voting. The vote must be returned by the close of polling. Section 108 provides for assistants to voters who are illiterate or physically unable to vote. Spoilt advance voting papers may be returned, and fresh ones issued, under section 109. A person to whom advance voting papers have been issued may not, according to section 110, vote unless he has delivered the papers for cancellation. Advance voting papers must be available at least 21 days in advance by virtue of section 111.

It is proposed, under section 112, that voting occur between 8 a.m. and 6 p.m. on polling day. Before any vote is taken, the ballot boxes must be displayed empty to any scrutineer or elector who may be present (section 113). Section 114 sets out the procedures to be followed in relation to voting. The person desiring to vote must state his full name and address, answer whether he has voted before on the day, and may then receive the voting papers. Section 115 is

concerned with the person who, on polling day, claims to be entitled to vote, although his name is not on the roll. Such a person will be entitled to sign a declaration before a presiding officer, vote, and then have his vote placed in an envelope (bearing the declaration) for deposit in a ballot box. Section 116 provides for assistants if voters are unable to vote. Section 117 allows the issuing of fresh ballot-papers if one is inadvertently spoiled. Section 118 provides for the exclusion of unauthorised persons from polling places. Under section 119, a presiding officer may cause any person who attempts to influence a voter, or behaves in a disorderly manner, to be removed from a polling place. A member of the Police Force may be asked to assist. The returning officer may, under section 120, adjourn an election or poll if it becomes impracticable to proceed on the appointed day. Votes cast prior to an adjournment, other than advance votes, shall be disregarded.

New section 121 sets out the procedure to be followed at the close of voting for an election. The presiding officer is to complete a return relating to the use of ballot-papers, and then send it with the ballot boxes to the returning officer. The returning officer will then, in the presence of the scrutineers, conduct the count. Any tie in the number of votes cast will be resolved by the drawing of lots. Recounts may be requested within 72 hours of a provisional declaration. New section 122 sets out the procedure to be followed at the close of voting for a poll. The counting of ordinary votes is to be done by the presiding officers, in the presence of scrutineers. Declaration votes will be counted by the returning officer. A recount may be requested.

Section 123 provides that all electoral material must be kept for at least six months. Under section 124, it will be an offence to attempt to influence any step in process of voting by the use of violence, intimidation or bribery. A maximum penalty of $10 000 or five years imprisonment is prescribed.

Under section 125, it will be an offence to attempt to vote when not entitled to do so. A maximum penalty of $5 000 or two years imprisonment is prescribed.

Section 126 provides for an offence of attempting to unduly influence the vote of a person. However, under section 127 no declaration of public policy or promise of public action shall be regarded as bribery or undue influence. Under section 128, it will be an offence to solicit votes within six metres of a polling place.

New section 129 makes it an offence for a person, other than an electoral officer, to have a voters' roll in his possession at a polling place, and an electoral officer must not disclose information as to who has voted to anyone other than another electoral officer.

Under section 130, it will be an offence for a scrutineer to interfere with a voter. Under section 131, neither a candidate nor an agent for a candidate may act as a witness or assistant. Section 132 relates to the publication of electoral material, providing that it must contain the name and address of the person who authorises its publication. Section 133 is the first section dealing with disputed returns. There is to be a new Court of Disputed Returns, constituted by a District Court judge. Section 134 provides for the office of clerk of the court. Section 135 vests the court with its jurisdiction. Section 136 sets out what must be contained in a petition (which must be lodged within 28 days of the disputed election). The respondent may reply within seven days of service of the petition. Section 137 prescribes the powers of the court. The court will not be bound by the rules of evidence but shall act according to good conscience and the substantial merits of the case. Under section 138, the entitlement to vote of any person on a roll shall not be called into question. Under section 139, the court shall not declare an election void on the ground of an illegal practice unless satisfied, on the balance of probabilities, that the illegal practice affected the result. However, some illegal practices shall be deemed to have affected a result unless the contrary is proved. This provision will therefore overcome the problem associated with attempting to overturn an election if persons who were not entitled to vote in fact do vote. Section 140 provides that if a person is declared not to be duly elected, he shall cease to be elected and the person declared to have been duly elected shall take his place accordingly. Section 141 allows a party to appear personally or by counsel. A question of law may be stated to the Supreme Court for its opinion. Section 143 allows orders for costs. Section 144 allows for the making of rules.

Sections 145 to 150 (inclusive) provide for the creation and maintenance of a register of interests of members of councils and their families. The provisions are similar to those applying to members of Parliament. Primary returns must be lodged by 30 September 1984; ordinary returns within 60 days of each thirtieth day of June. The register is to be maintained by the chief executive officer. A statement containing a compilation of the information on the register must be laid before the council by the chief executive officer.

Clause 8 proposes an amendment to section 168 of the principal Act that is consequential upon the repeal of those provisions of the Act dealing with the annexation of areas. Clause 9 proposes an amendment to section 169 that is consistent with the abolition of the classification of some councils as 'metropolitan municipalities'. Those councils presently within this classification for the purpose of this section may, after the amending Act, be prescribed. Clause 10 provides for amendments to section 201 of the principal Act. Section 201 is concerned with the appointment of Assessment Revision Committees. These Committees will now be appointed after the conclusion of the periodical elections, not the annual elections as is presently provided. Clause 11 provides a consequential amendment to section 227 in relation to a cross-reference of that Part of the Act under which polls of electors are to be conducted. Clause 12 amends section 281 of the principal Act, which deals with alterations to the boundaries of any area. A reference contained in this section to the alteration of the 'constitution' of any area is inconsistent with the approach proposed by this amending Act.

Clause 13 provides a consequential amendment to section 287a of the principal Act that is consistent with the proposal to delete references to 'metropolitan councils'. Clause 14 provides an amendment to section 288a of the principal Act. Again, as it is proposed to do away with the classification of some councils as 'metropolitan municipal councils', such a reference in this section is to be deleted. At the same time, it is considered that this section may apply to all municipal councils, whether or not they may be 'metropolitan municipal councils'. Clause 15 effects an amendment to section 290 of the principal Act by substituting the word 'constables' with the term 'authorised officers'. Clause 16 proposes the insertion of a new section, providing for auditors. Each council will be required to have a qualified auditor for its area. The removal of an auditor must be reported to the Minister.

Clause 17 provides for the repeal of section 295 of the principal Act. This section allows the Minister to appoint officers to inspect the accounts, records or procedures of councils. This matter will now be dealt with under proposed new Division XIII of Part II of the Act. Clause 18 proposes an amendment to section 325 of the principal Act to strike out a reference to 'metropolitan district'. Clause 19 provides an amendment to section 377 of the principal Act by striking out two subsections. Section 377 (4) and (5) provide for the execution of documents by the affixing of the common seal in the presence of the principal officer and clerk. This will

now be dealt with under proposed new section 37 of the Act. Clause 20 proposes an amendment to section 449 of the principal Act that is consistent with other provisions of this Bill.

Clause 21 provides various amendments to section 457 of the Act. The amendments provide for a meeting of electors under Division IV of Part V to be held when a prescribed lease is to be granted, and delete the possibility of a poll being held. Clause 22 provides for the amendment to section 459 of the principal Act. A reference to 'municipal council' is to be struck out, and a new subsection is to be inserted that will provide for the conduct of a meeting of electors to approve the use of the parklands referred to under the section. The ability to demand a poll is to be deleted. Clause 23 proposes the repeal of section 661 of the principal Act, which provides that a council and its officers shall have and may exercise all powers vested by law. Such provision is to be made in the proposed new sections dealing with the nature of councils and the functions and duties of officers. Clause 24 provides for amendment to section 667 of the principal Act ('by-laws'). A paragraph concerning meeting procedures should be deleted, and a reference to 'constables' altered to 'authorised persons'. Clause 25 provides amendments to section 681 of the principal Act, which is concerned with the adoption of by-laws upon the union, or amalgamation, of areas. New terminology is to be used and a cross-reference to the provisions of Division II of Part II is appropriate. Clause 26 provides for amendments to section 691 of the Act. Paragraphs *(f)* and *(g)* are to be deleted. These paragraphs are principally concerned with the formulation of educational and professional qualifications for persons employed in the field of local government. This will be within the responsibilities of the Local Government Qualifications committee under Division II of Part VI. Clause 27 provides for the repeal of section 718 of the Act. This section is concerned with the immunity of members of councils, and is to be replaced by new section 51 of the Act. Clause 28 is a consequential provision, dealing with the repeal of section 724 of the principal Act (which is concerned with proving the appointment of constables. Clause 29 is consequential on the repeal of section 724.

Clause 30 provides for the repeal of section 736, which provides that judicial notice should be taken of the common seal of a council. The provision is superfluous. Clause 31 proposes the repeal of section 737. This section is concerned with evidence of minute books. An evidentiary provision is to be provided by new section 64 (8). Clause 32 proposes the repeal of section 741. Similar provision is to be made by new section 37 (3). Clause 33 proposes a new section 744 to the principal Act. This is consistent with new terminology to be employed in relation to the officers of a council. Clause 34 provides an amendment to section 745 of the principal Act that is consequential upon the introduction of 'authorised persons'. Clauses 35 and 36 provide for the repeal of various provisions of the Act that are to appear now in the new Parts to the Act (except section 753, defending title to office, which is considered to be inappropriate by virtue of the provisions of the proposed new Parts).

Clause 37 extends the operation of section 768 (obstructing meetings) to council committee meetings. Clauses 38, 39 and 40 provide for the repeal of various sections of the Act considered to be superfluous or inappropriate upon the introduction of the proposed new Parts to the Act. Clause 41 repeals Parts XLIII and XLIV of the Act. There are to be new provisions on elections and polls. Clause 42 amends section 858 of the principal Act by striking out a passage of the section that is superfluous by reason of proposed new section 37 (2). Clause 43 provides for the insertion of a new section 879a, which will preserve the ability of Mayors and Chairmen to be, *ex officio*, justices of the peace.

Clauses 44 to 46 provide for the repeal of various schedules. Clause 47 is a provision of general application that is designed to alter all references to clerk, town clerk, etc., to 'chief executive officer'.

**The Hon. B.C. EASTICK** secured the adjournment of the debate.

## LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 3), 1984

**The Hon. G.F. KENEALLY (Minister of Local Government)** obtained leave and introduced a Bill for an Act to amend the Local Government Act, 1934. Read a first time.

**The Hon. G.F. KENEALLY:** I move:

*That this Bill be now read a second time.*

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

Leave granted.

### Explanation of Bill

This Bill makes a number of what may be termed 'housekeeping' amendments to the Local Government Act designed to improve its administration.

The principal amendment streamlines the administrative procedure for making council by-laws by providing that the legal practitioner who drafts a by-law shall certify that it is within power. At present a by-law, after being drafted, must be examined by the Crown Solicitor, who issues the certificate of validity, resulting in a duplication of effort. The provisions of the Act providing for Parliamentary scrutiny of by-laws are not affected by the amendments.

Other amendments contained in the Bill repeal obsolete and archaic provisions such as power to control noisy trades and provisions in the nature of planning controls over the erection of hospitals and drive-in theatres, which were placed in the Act prior to the advent of noise control or planning legislation. Councils will be empowered under an amendment contained in the Bill to use reserve fund investments to offset temporary liquidity problems, in their general fund, which frequently arise prior to the levying of rates. This amendment will ensure the efficient use of council cash resources, but at the same time controls are contained in the Bill which will ensure that all cash balances are properly adjusted and properly reported at each 30 June. In addition to the foregoing, there are numerous minor amendments which merely correct cross-reference to other provisions in the Act, and an amendment which will exempt the Royal Zoological Society of S.A. Incorporated from payment of rates on the Adelaide Zoo.

Clause 1 is formal. Clause 2 provides for the commencement of the measure. Clause 3 provides consequential amendments to that section of the Act concerned with its arrangement. Clause 4 proposes amendments to the definition of 'ratable property' in section 5. Reference to the Recreation Grounds Taxation Exemption Act, 1910, is to be replaced by the correct reference—to the Recreation Grounds Rates and Taxes Exemption Act, 1981. Furthermore, provision is made to exempt lands under the care, control and management of the Royal Zoological Society of South Australia from the definition of ratable property. This will mean that such lands will be unratable. Clause 5 provides for the repeal of section 215 of the principal Act. Councils no longer declare 'watering rates' and so this section is obsolete. Any action that a council may wish to take in

relation to watering roads is now done as part of general maintenance. Clause 6 provides for the repeal of various sections of the Act concerned with memorials to have street lighting undertaken. These are obsolete. Electors will still be able to address a memorial to the council under section 218 of the Act.

Clause 7 proposes that a new subsection be inserted in section 290c of the principal Act. This section is concerned with the establishment by councils of reserve funds to offset amounts payable for allowances to officers and the depreciation of council property. However, once money is paid to a reserve fund under this section it cannot be temporarily reallocated to any other area of the council's activities. The council therefore may be compelled to obtain money from far less satisfactory sources to offset temporary liquidity problems. This situation can have the effect of discouraging councils from paying money into such reserve funds. Consequently, the amendment proposes that councils may transfer moneys out of a reserve fund to make good any temporary deficiency in general funds, but the moneys must be repaid by the end of the relevant financial year (thus allowing the council's end of year accounts to reflect accurately the situation of that time) and if the fund is unable to meet a payment for which it was established, moneys sufficient to meet that payment must be repaid to the fund.

Clause 8 provides for various amendments to section 290d of the principal Act. The amendments will rectify various incorrect cross-references. Clause 9 proposes the repeal of sections 299 and 300 of the principal Act. Section 299 is concerned with payments of grants to councils out of the Highways Fund established under the Highways Act, 1926. Section 300 is concerned with the application of such grants. These provisions are obsolete. Clause 10 proposes an amendment to section 300a that is consequential on the repeal of section 299 under clause 9. Clause 11 proposes the repeal of section 313a. This provision allows all the owners of property abutting a street or road to apply to have the street or road removed from the register of public streets. Clause 12 corrects an incorrect cross-reference in section 332 of the Act. Clause 13 proposes the repeal of section 359 of the Act. This section is concerned with the watering of public streets or roads.

Clauses 14, 15 and 16 are intended to rectify incorrect cross-references. Clause 17 provides for the repeal of sections of the Act concerned with the provision of lighting by councils. Clause 18 provides for the repeal of section 541 of the Act, which provides for the giving of notice to the council before a hospital for the treatment of infectious diseases may be established. Such a matter is dealt with sufficiently under other legislation. Clause 19 repeals various other sections concerned with giving notice to councils of the establishment or alteration of other hospitals and nursing homes. It is considered appropriate that they now be repealed. Clause 20 provides for the repeal of Part XXVIII of the Act—noisy trades. It is inappropriate to have these provisions still appearing in this Act. Clause 21 proposes various amendments to section 667 of the principal Act (by-laws). The amendments effected by paragraphs *(a)*, *(b)* and *(c)* are either consequential upon other provisions of this measure, or correct incorrect cross-references.

Clause 22 proposes amendment to section 668 of the principal Act. The succeeding clause provides for the repeal of various sections, including section 671 which provides that by-laws made with respect to public health cannot have effect until approved by the Central Board of Health. This approval is to be transposed to section 668 of the Act, which is concerned also with the effect of by-laws. Clause 23 provides for the recasting of various provisions concerned with the confirmation and scrutiny of by-laws. The new provision will require councils to refer their by-laws to the Minister, for confirmation by the Governor. Those by-laws will have to be accompanied by a certificate, signed by a legal practitioner, certifying the legality of the by-law. (The present procedure is that the Crown Solicitor must give an opinion on each by-law.) The by-laws may then be confirmed, and shall then be laid before each House of Parliament. A motion for disallowance may then be passed. Clause 24 proposes the rectification of incorrect terminology in section 712.

Clause 25 proposes the repeal of section 726, concerning evidence of memorials, etc., relating to manufacturing districts. The section is superfluous. Clauses 26 and 27 relate to increasing the penalties provided by sections 779 and 780, respectively. It is considered that by reason of the considerable damage that persons may do to council property, roadside vegetation, etc., it is appropriate that the penalties be revised. Obviously, small misdemeanours will still attract small fines. Clause 28 proposes an amendment of section 858 of the Act so that this provision will be consistent with section 430 (3) of the Act (as amended in 1983). Clause 29 provides for the repeal of Part XLVA of the Act. It is no longer required. Clause 30 provides for the repeal of section 889 (drive-in theatres). Approval is now a matter for the Planning Act. Clause 31 is a consequential amendment to the repeal of Part XLVA.

**The Hon. B.C. EASTICK** secured the adjournment of the debate.

## DAVID JONES EMPLOYEES' WELFARE TRUST (S.A. STORES) BILL

Second reading.

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

*That this Bill be now read a second time.*

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

Leave granted.

### Explanation of Bill

In 1921 Mr N.K. Birks established a Welfare Trust for the benefit of employees of Charles Birks & Co. Ltd. The indenture creating the Welfare Trust has been amended by the Charles Birks & Co. Limited Employees' Welfare Trust Act, 1946, and has been subsequently amended by deeds in 1963, 1964, 1965, 1982 and 1983.

The object of the Welfare Trust as presently constituted is to provide pensions and other benefits to employees and former employees of David Jones (Adelaide) Ltd and their dependants. However, in August 1976 the business of David Jones (Adelaide) Ltd was taken over by a related company, David Jones (Australia) Pty Ltd. Persons employed by David Jones (Adelaide) Ltd became employees of David Jones (Australia) Pty Ltd. David Jones (Adelaide) Ltd presently has no employees, is not carrying on any business and is to be wound up voluntarily in the near future. Clause 23 of the Trust Deed provides that, if David Jones (Adelaide) Ltd is wound up, then the Welfare Trust itself must be wound up and the property of the Trust distributed in the manner provided in that clause.

The management of David Jones (Australia) Pty Ltd desires that, notwithstanding that David Jones (Adelaide) Ltd is not now carrying on business, has no employees and is to be wound up, the Welfare Trust be continued for the benefit not only of the former employees of that company

and the dependants of those former employees but also for the benefit of those persons employed by David Jones (Australia) Pty Ltd in the group's Adelaide store and their dependants, whether or not those persons were formerly employed by David Jones (Adelaide) Ltd.

However, in its present form, the Welfare Trust can provide benefits only for the employees or former employees of David Jones (Adelaide) Ltd. The employees of David Jones (Australia) Pty Ltd who were not previously employed by David Jones (Adelaide) Ltd are precluded by the wording of the Trust Deed from taking any benefit from the trust.

The Welfare Trust has long been regarded as a trust for the benefit of the persons employed in David Jones' Adelaide store. It was not foreseen that, after the transfer of the business of the Adelaide store to David Jones (Australia) Pty Ltd, the range of beneficiaries under the Welfare Trust would be limited to those persons who, prior to that transfer, were employees or former employees of the transferor company. It is therefore proposed that the Trust Deed be amended to widen the range of beneficiaries.

However, the provisions of the Trust Deed do not permit amendments, by deed, to effect this purpose. The variation required by the trustees can only be effected by an Act of Parliament. At the request of the trustees, and following receipt of advice from the Crown Solicitor and discussions with the solicitors acting for David Jones (Australia) Pty Ltd, this Bill to effect the necessary changes to the Trust Deed has been prepared.

Clause 1 is formal. Clause 2 provides that the measure be deemed to have come into operation on 2 August 1976, and that the Indenture dated 25 February 1982 be deemed to have had effect from 2 August 1976. Clause 3 defines 'Trust Deed'. That expression means the Indenture made on 3 June 1921 between Napier Kyffin Birks, James Frederick Brock Marshall, Theodore Rechner, John Carter Williams and Florence Margaret Jones, as amended by the Charles Birks & Co. Limited Employees' Welfare Trust Act, 1946, and Indentures dated 28 March 1963, 20 August 1964, 12 November 1965, 25 February 1982 and 22 September 1983.

Clause 4 makes amendments to the Trust Deed. Paragraph *(a)* makes amendments to clause 1 of the Trust Deed, which is the clause dealing with interpretation. The definition of 'the Company' is struck out and a new definition of that expression is substituted. 'The Company' means David Jones (Adelaide) Limited or David Jones (Australia) Pty Ltd and includes any company formed upon a reconstruction of that lastmentioned company. A definition of 'Employee' is inserted, and means a resident of South Australia employed by the Company in relation to the business carried on at 44 Rundle Mall, Adelaide, or such other place as the trustees declare to be a place of business of the company for the purpose of the Trust Deed. The expression 'in the employ of the Company' has a corresponding meaning. The definition of 'the Trust Property' is struck out and the following definition substituted: 'The Trust Property' means:

*(a)* the shares specified in the schedule to the Trust Deed, any shares that may be acquired or received by the Trustees:

*(b)* all moneys, investments and property transferred to the Trustees:

*(c)* all accumulations of income;

or the investments and property representing such shares, dividends, moneys, investments, property, additions and accumulations.

Paragraph *(b)* amends clause 3 of the Trust Deed by striking out the word 'persons' and substituting the passage 'employees in the actual service of the Company'. Clause 3 sets out the class of persons who may be Trustees. Paragraph *(c)* makes an amendment to clause 22B of the Trust Deed. That clause authorises the purchase by the Trustees of fully paid up shares of £1 each in the Charles Birks & Co. Limited. The amendment reflects the changed definition of the company, and authorises the purchase of fully paid ordinary or preference shares in David Jones Limited.

Paragraph *(d)* amends clause 23 of the Trust Deed. That clause contains certain definitions (paragraph *(a)*), and provides (in paragraph *(b)*) for the manner in which the Trust Property is to be distributed amongst the beneficiaries in the event of the winding up of the Company. A new definition of the expressions 'Service' and 'Service with the Company' is inserted—they mean continuous service as an employee of the Company and where a person leaves the Company and is later re-employed, means his service from the date of re-employment. However, a person shall not be taken to have left the employ of the Company by reason only of the taking over of the business of David Jones (Adelaide) Limited by David Jones (Australia) Pty Ltd.

Paragraph *(b)* of the clause is amended by striking out the passage 'If the Company shall be wound up otherwise than for the purpose of reconstruction, then' and substituting a passage as follows: 'If David Jones (Australia) Pty Ltd is wound up otherwise then for the purpose of reconstruction, or ceases to carry on business at 44 Rundle Mall, Adelaide and each other place declared by the Trustees to be a place of business for the purposes of the Deed, then'. The purpose of this amendment is to prevent the Trustees from having to wind up the Trust merely because David Jones (Adelaide) Ltd is wound up.

Paragraph *(e)* amends the Trust Deed by striking out clause 29 which provided that, if the trusts declared in the Trust should fail, then the Trust Property would revert to Napier Kyffin Birks or his executors. Paragraph *(f)* amends clause 30 of the Trust Deed by adding a paragraph *(b)* which provides that, if at any time the number of trustees able to act as trustees is reduced to less than three, then the remaining trustees, or if there are none, the Attorney-General, may by writing appoint not more than three persons in the actual service of the Company to act as trustees.

Paragraph *(g)* amends the Trust Deed by adding new clause 32, which provides that the powers, authorities and discretions conferred upon the Company or the Board of Directors of the Company by the Trust Deed shall, with effect from 2 August 1976, cease to be exercisable by David Jones (Adelaide) Ltd and its directors and shall be exercisable by David Jones (Australia) Pty Ltd and its directors.

**The Hon. H. ALLISON** secured the adjournment of the debate.

## TRUSTEE ACT AMENDMENT BILL (No. 2)

Second reading.

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

*That this Bill be now read a second time.*

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

Leave granted.

### Explanation of Bill

This Bill to amend the Trustee Act is part of the package of four Bills prepared to implement the proposals of the South Australian Law Reform Committee regarding powers of attorney. The Law Reform Committee considered section 9 of the English Powers of Attorney Act concerning trustees

powers of delegation to be an improvement on the existing section 17 of the Trustee Act, and recommended its adoption. This Bill gives effect to that recommendation.

Clause 1 is formal. Clause 2 provides that the measure is to come into operation on a day to be fixed by proclamation. Clause 3 substitutes for existing section 17 of the principal Act a new section dealing with the power of delegation of trustees. Existing section 17 provides for delegation by a trustee but only in circumstances where the trustee is, or is about to be, absent from the State. Under the proposed new section, a trustee may, whatever the circumstances, unless expressly prohibited by the instrument creating the trust, by power of attorney created by deed, delegate to a person or persons residing in the State all or any of his powers, authorities and discretions as trustee whether vested in him alone or jointly with any other person or persons. The persons who may be donees of a power under the proposed new section include a trustee company but not (unless a trustee company) the only other co-trustee of the donor of the power. A power of attorney under the proposed new section must come into operation within six months after the giving of the power and terminate within 12 months after coming into operation.

The donor, must, within seven days after giving a power under the proposed new section, give written notice of the power to each person (if any) who has power to appoint a new trustee and to each of the other trustees (if any). The notice must specify the date on which the power comes into operation and its duration, the donee of the power, the reason why the power is given, and where only some are delegated, the powers, authorities and discretions delegated by the power. Failure to comply with these notice requirements is not to invalidate anything done in pursuance of the power. The proposed new section provides that everything done pursuant to the power has effect as if done by the donor and that the donee, in exercising the power, is to be regarded as a trustee. The donor and donee of a power of attorney under the proposed new section are to be severally and jointly liable for an act or default of the donee. The proposed new section is not to limit or affect a power to appoint a new trustee in place of a trustee who has given a power of attorney or any power of the Supreme Court to make any order in relation to the trustee.

Clause 4 provides for the repeal of section 34 of the principal Act which provides for the protection of a trustee for acts done under a power of attorney after the death or incapacity of the donor of the power. The repeal of this provision is consequential upon the enactment of clause 12 of the Powers of Attorney and Agency Bill which provides for the same matter but in relation to agents of all kinds (including trustees acting under a power of attorney).

**The Hon. H. ALLISON** secured the adjournment of the debate.

## INDUSTRIAL CONCILIATION AND ARBITRATION ACT AMENDMENT BILL (No. 4)

Adjournment debate on second reading.
(Continued from 20 March. Page 2640.)

**The Hon. J.D. WRIGHT (Minister of Labour):** Last evening before seeking leave to continue my remarks and to reply to the criticisms, accusations and allegations about the effect of this Bill, I was dealing with the specific matter of how the Industrial Relations Advisory Council was working, and was replying to allegations made by the Deputy Leader of the Opposition and other members opposite that it was not working. I was quite surprised and amazed by the criticism directed at that committee, because in my view it serves a very useful purpose as a filter of the intentions of Government, irrespective of which Party is in Government. I might add that a facsimile of the Industrial Relations Council which had been established by myself continued under the previous Liberal Government and the then Minister of Industrial Affairs, the member for Davenport. However, during the time the Liberals were in office that committee met only once in 11 months. The Liberal Party gave no recognition at all to that advisory council. The present Government has attempted to give it some status or some authority in an attempt to make it work.

**Mr Lewis:** You put a muzzle on it.

**The Hon. J.D. WRIGHT:** We get these inane interjections about muzzling: I would bet that the honourable member has not rung any member of that council and asked whether they are muzzled. I challenge him to ring any member of the council or any member who has acted from time to time on the council and ask that person whether he has been muzzled. The Opposition has made that allegation but it cannot be substantiated.

**Mr Lewis:** It says so in the Statutes.

**The Hon. J.D. WRIGHT:** Of course, it does, because the Deputy Leader went out last week and made the accusation publicly. No-one bothered to check with members of that committee, but I bothered to check with them. However, I will not be distracted by the honourable member's inane interjections. The fact of the matter is that in dealing with that committee there has been a very liberal attitude in recognising the opportunity for people on both sides of the political fence to express their views. An opportunity is provided for members of the committee to go away and seek further advice. The allegations about secrecy are unbelievable. There is no secrecy involved and the members of the committee are not bound in any way. They can go away and talk to whomever they like and can receive advice. As I said last night, they are entitled to bring advisers into that meeting if they want to. The only semblance of secrecy as far as the committee is concerned is the condition that they cannot run outside to the press and repeat what some individual said at the meeting. If that were not the case there could be all sorts of defamation cases arising between parties involved.

That is the only semblance of secrecy that exists in that committee, and we should bear that in mind. It is important that we lay that to rest forever and that, at the same time, we lay a foundation, and build upon that foundation, of the service that IRAC can give to the State provided that the political opponents of the ALP. will accept it. They will only accept it if it suits them. Because the members of IRAC are responsible people from both sides of the political fence, and because they set out to try to put in train some sensible, responsible, reasonable amendments to the current Act, the Opposition does not like it. So what does it do? It condemns IRAC and every member of it when it says that it is gagged and muzzled.

**The Hon. E.R. Goldsworthy:** Not true.

**The Hon. J.D. WRIGHT:** It is true. The Opposition has declared that the employer members of that committee are puppets to Jack Wright. That is what is being said by the honourable member.

**The Hon. E.R. Goldsworthy:** It's not true and you know it.

**The Hon. J.D. WRIGHT:** That is what was said. The Deputy Leader said that they are bound and gagged and cannot speak up.

**The Hon. E.R. Goldsworthy:** Have a look at the Act that you put through Parliament; we raised the secrecy provision.

**The Hon. J.D. WRIGHT:** Is he allowed to make a speech, or has he made it already?

**The SPEAKER:** Order!

**The Hon. E.R. Goldsworthy:** Tell the truth, don't tell lies.

**The SPEAKER:** Order! I hope that members will calm themselves a little.

**The Hon. J.D. WRIGHT:** I am perfectly calm. I hope that I am not being accused of not being calm.

**The Hon. E.R. Goldsworthy:** Tell the truth. You take what I say and embellish it.

**The Hon. J.D. WRIGHT:** I always know when I am going fairly well—

**The Hon. E.R. Goldsworthy:** Yes, when you are not telling the truth.

**The Hon. J.D. WRIGHT:** When the honourable member bites the bullet I know I am going fairly well—I am very close to the truth.

*The Hon. E.R. Goldsworthy interjecting:*

**The SPEAKER:** Order! I have asked the Deputy Leader to come to order.

**The Hon. E.R. Goldsworthy:** Ask him to tell the truth.

**The SPEAKER:** Order! I regard those remarks as being in complete defiance of the Chair. I again repeat that I have asked the Deputy Leader to come to order. The honourable Deputy Premier.

**The Hon. J.D. WRIGHT:** I know very well that after the Deputy Leader's press conference he talked quietly to other journalists, the subject of which conversation appeared as a headline in the *Advertiser* of 10 March 1984 above an article in which the Deputy Leader accused the employer group of being muzzled. They are not my words, they are there for everyone to see.

*The Hon. E.R. Goldsworthy interjecting:*

**The Hon. J.D. WRIGHT:** Will I be given the opportunity to make a speech, or will I have to listen to the Deputy Leader all day?

**The Hon. E.R. Goldsworthy:** They're not puppets and you know it.

**The SPEAKER:** Order! Order! I ask both the Deputy Premier and the Deputy Leader of the Opposition to maintain the Standing Orders of the House. Clearly, the Deputy Premier, in his capacity as Minister of Labour, is entitled under Standing Orders to make his reply on the second reading of this Bill, and he shall have that opportunity within the reasonable bounds and limits set out in those rules.

**The Hon. J.D. WRIGHT:** I wish to quote from the *Advertiser* article dated 10 March, which states:

> The Deputy Opposition Leader, Mr Goldsworthy, has attacked the credibility of a 'super group' which advises the State Government on industrial legislation.
>
> He said the four employer members of the Minister of Labour's Industrial Relations Advisory Council 'are effectively muzzled, as we predicted.'

If that is not saying that they are 'Yes' men, I do not know what is. If that is not describing those poor people as being puppets to the Government, I do not know what is.

**The Hon. E.R. Goldsworthy:** Then you are not very bright.

**The Hon. J.D. WRIGHT:** I am afraid it is the Deputy Leader who is not very bright.

**The Hon. E.R. Goldsworthy:** You are particularly obtuse: if you do not understand have a look at your IRAC Act—you know what I am talking about.

**The Hon. J.D. WRIGHT:** The Deputy Leader is getting very excited because I am very close to the truth. He has not come out of it very well with those employer representatives.

**The Hon. E.R. Goldsworthy:** You are—

**The SPEAKER:** Order! I make one final comment before I am forced to take action, and that is that each gentleman involved in this repartee across the floor should be aware of the Standing Orders. The honourable Deputy Premier.

**The Hon. J.D. WRIGHT:** I say for the record, quite publicly, that the Deputy Leader of the Opposition has accused the employer representatives of that committee as being puppets to Jack Wright and 'Yes' men.

**The Hon. E.R. Goldsworthy:** That is a lie.

**The SPEAKER:** Order! I warn the Deputy Leader of the Opposition. The honourable Deputy Premier.

**The Hon. J.D. WRIGHT:** I seek a withdrawal from the Deputy Leader, who has virtually called me a liar. I am quoting from a statement wherein he said something on such and such a date. I am putting my interpretation on what he said and meant on that occasion. If he now likes to back off from that let him do so, but in the process of so doing he is not right to say that I am lying to this House.

**The SPEAKER:** Order! I am now going to take some advice on this matter because there were a number of things being said at the same time and I could not catch exactly what was being said. The difficulty with which I am faced is that I cannot recollect exactly what, in the babble of conversation, was said by the honourable Deputy Leader to which the Deputy Premier takes umbrage.

**The Hon. J.D. WRIGHT:** He said 'It is a lie'.

**The SPEAKER:** Order! On taking advice I cannot find support clearly for what may have been said. In those circumstances, I ask the Deputy Premier to continue.

**The Hon. E.R. GOLDSWORTHY:** I rise on a point of order. The Deputy Premier suggested or said that I called the employer members of IRAC puppets. I interjected and said, 'That is a lie.' I make no bones about saying that, because I did not say they were puppets. If that is unparliamentary I am quite happy to withdraw that and say that it is a complete untruth.

**The SPEAKER:** It is unparliamentary. I ask the Deputy Leader of the Opposition to withdraw it.

**The Hon. E.R. GOLDSWORTHY:** I withdraw. The word is unparliamentary. I say that it is a complete misrepresentation of the truth, but I withdraw it.

**The SPEAKER:** I would like to say one more thing before the Deputy Premier is called upon again, and it is this: it is not just a question of semantics. The fact is that we are dealing with real people in a real world and words have been bandied about last night and now this afternoon which would be very damaging to those people—

**The Hon. E.R. Goldsworthy:** But I will not—

**The SPEAKER:** Order!—if, in fact, they were true. I am putting everybody in this House, drawing no distinctions between ranks, on guard that if there is a repetition of a breach of Standing Orders the appropriate action will be taken. The honourable Deputy Premier.

**The Hon. J.D. WRIGHT:** Mr Speaker, I am allowed to place my construction on what I believe the Deputy Leader was saying.

*The Hon. E.R. Goldsworthy interjecting:*

**The SPEAKER:** Order! I call the Deputy Leader of the Opposition to order.

**The Hon. E.R. Goldsworthy:** I will made a personal explanation. She'll be right.

**The Hon. J.D. WRIGHT:** I have no doubt that the Deputy Leader would want to make a personal explanation, and he certainly has to make a personal explanation, because what he has been doing at the moment is indulging in total condemnation of people who have been selected, not by myself but by various organisations, to represent totally across the board the employer organisations in the State.

*Mr Baker interjecting:*

**The SPEAKER:** Order!

**The Hon. J.D. WRIGHT:** If I need help from the member for Mitcham I will certainly put him on the long list of people I would ask. He would be a long way down the line after his speech last night. Nevertheless, if I am not correct

in my allegations about the inference that is placed by the Deputy Leader on the employer group he can refute the headline 'Employer group muzzled', which on my interpretation makes them 'Yes' men. They are certainly not that because, as I said before, they are honourable men, I will go on and explode some further untruths that are in that statement. To the best of my knowledge, the Deputy Leader has not refuted that statement, so I accept that he said it.

**Mr Lewis:** He just did.

**The Hon. J.D. WRIGHT:** Hello, the old bearded one cannot help himself; he has to get into it.

**The SPEAKER:** Order! I ask the honourable member for Mallee to refrain from interjecting and also I ask the honourable Deputy Premier not to comment on the personal appearance of any member. The honourable Deputy Premier.

**The Hon. J.D. WRIGHT:** I can agree with you on the last point, Sir, but I believe there has not been one piece of industrial legislation debated in this House during which I have not been subjected to the most vociferous and inane interjections. It seems that, every time we bring in some sort of industrial reform, we have to be subjected to all these interjections which do not add up to much sense, and if one happens to hit on the truth about allegations made by the Deputy Leader he is confounded. This is what is causing the problem at the moment.

**Mr LEWIS:** I rise on a point of order, Mr Speaker.

**The Hon. J.D. Wright:** The longer he goes, the longer he—

**The SPEAKER:** Order!

**Mr LEWIS:** My point of order is in relation to Standing Order 156 on the question of prolixity. I ask you, Mr Speaker, to rule as to whether the Deputy Premier's remarks and allegations about our Deputy Leader and other members on this side of the House are indeed repetitious and extraneous to the debate.

**The SPEAKER:** I do make a ruling. I was in the Chair between 7.30 and about 11 p.m. last evening and there was no question in my mind that in that period members of the Opposition continually referred to the composition of IRAC as referred to in this Bill, and as to the alleged complicity of some of its members (or all of them) with the present Minister or the previous Minister. In those circumstances, I do not regard the reply thus far as being prolix.

**The Hon. J.D. WRIGHT:** I refer again to that press statement. I happen to believe in IRAC. I believe it is working, and I want to lay the foundations in this House to ensure that it does work and is not upset by a conservative, backward Opposition which tries to disrupt IRAC and at the same time tries to criticise those members of it who come from the employers' side. Opposition members are not going to get away with that, because the record will be laid down quite clearly about what IRAC has done to help get this Bill into the House. The Opposition will have to listen to this; the fewer interjections it makes the sooner it will be able to stop listening to it. On 10 March 1984 the Deputy Leader is stated as saying:

> They can't report back to employer organisations until a Bill comes out.

This is absolutely untrue. I have already told this House, and I will say again, that every member of IRAC has the right to go back and discuss what is before that Committee with anyone with whom he wants to discuss it, and he has the ability to bring in someone to advise him if he wants to do so. Again, we have this disruptive tactic by the Deputy Leader of the Opposition. He goes on to say:

> They fight a rearguard action to try to modify some of the more extreme proposals in the [Government's] legislation.

This Bill can be examined in detail by anyone who wishes to scrutinise it. The basis of this legislation is the Cawthorne Report. Just remember that. There might be some deviations from the Cawthorne Report in some areas, but Mr Cawthorne is not Mandrake.

Mr Cawthorne is a magistrate who was given a responsibility to discharge and, in my opinion, he has done an excellent job in laying the basis for future legislation. However, the then Minister of Industrial Affairs did not like the report, because he put it in his back pocket and ran home with it, and I had to threaten court action before I could get the report from him, although the Liberal Government of the day had spent $120 000 to get that report. That explains the basis of the legislation now before the House.

When the proposed legislation was first put to IRAC after that body had been established by the original Act, members of the council divided on about 60 clauses, although about the same number were agreed on by employer and employee organisations. In an attempt to obtain ratification and consensus on those issues, the council, at my suggestion, broke up into an advisory committee or a Select Committee, two employers and two unionists going away to argue about the 60 clauses at issue, and this very Bill is the compromise reached by that committee, which reported to the council that 50-odd clauses had been agreed on.

How can anyone say that that is muzzling people or that certain people have no rights? Does that represent standover tactics? The Liberal Party should wake up to itself, get out, and talk to the employer and trade union representatives on the committee. If any representative of the four employer groups says that council members were muzzled on this legislation, I will withdraw it. That is a challenge for the Opposition to pick up, but I believe that no Opposition member will have the guts to test the challenge.

**The Hon. E.R. Goldsworthy:** You're saying that if they were not—

**The Hon. J.D. WRIGHT:** Read it in *Hansard.* The challenge still stands. No member of the council could or would say that he was muzzled. Every member played an honourable role on behalf of the State in attempting to frame legislation acceptable to both Parties, yet there has been nothing but criticism from this conservative Opposition.

**The SPEAKER:** Order! For the remainder of his speech I hope that the Deputy Premier will address the Chair.

**The Hon. J.D. WRIGHT:** I know the Standing Orders and I accept your ruling, Mr Speaker, but it is frustrating to me and to the Government, and it must be even more frustrating to those members of IRAC who have devoted so much time to making a success of this legislation and to making it acceptable to the people of South Australia by improving industrial relations and consolidating the already good face we have in that area, to have to put up with the dialogue that we heard last evening, repetition after repetition, and speech after speech critical of certain aspects of the Bill.

Having defended, I believe adequately, the honour of the members of IRAC representing employer and employee organisations who have been subject to so much criticism from members opposite, I turn now to criticisms of the Bill itself that have been voiced by members opposite. I was disappointed, although not surprised, with the speech made last evening by the member for Davenport who, when a Minister, authenticated the right of Mr Cawthorne to compile and present his report.

I thought that at least the member who had had the report longest would have made some contribution to the debate, either criticising or accepting some of those recommendations by Commissioner Cawthorne, but the member for Davenport chose not to do so. He merely got up and gave us his new philosophy towards industrial relations which, when looked at this morning, simply boiled down to the fact that, while the Cawthorne inquiry had not satisfied him (we know that because he stole the report—took it

away from the departmental office), he now relies on a new deal (which was the way he put it). He went into hardly any clauses of the Bill. In fact, he did not do so.

He simply talked about a new structure, a new way of life, and he now relies upon Keith Hancock's review, which obviously will come out some time this year, being done for the Federal Government. However, as I say, I was somewhat disappointed with the member for Davenport's contribution. I was looking forward to at least some constructive comments. The man had been in the portfolio for a three-year period. He ought to have learned something about industrial relations. It is obvious from his communications last night that he knew nothing about it at the time he went into it, and he learned nothing about it in three years; otherwise we would have got reasonably constructive criticism of the actual legislation, but we never did. We were all, for the half an hour he spoke, subjected to a new philosophy in life, and he said very little about the Bill.

The member for Mitcham argued about the rights of entry clauses, and I would like to tell him that the right of entry provisions mention a number of qualifications which Commissioner Cawthorne suggested might in circumstances be appropriate to the right of entry provisions—qualifications such as limiting right of entry to once a week, making sure that interviews do not take place during work time, and so on. He criticised the Government for not including these specific qualifications in the Bill. What the member for Mitcham overlooked was this: the Cawthorne Report contained the recommendations that the Commission itself may make.

The Government is not making it, and I see that the member for Mitcham is now agreeing with what I am saying. The Government is not writing into legislation what may or may not happen about the right of entry. What it is writing into the Act is for the Commission to pick up that right, and I think that that is a proper way of approaching it. The Commission, after having the opportunity of judging that situation on evidence from both sides of the spectrum, will then make up its mind about what sort of conditions it lays on the terms of entry. That is what Commissioner Cawthorne was saying. He was not laying down, in giving the exercise of power to the Commission, that the Government should write into any piece of legislation this or that way of doing it.

That is quite proper in my view, because I do not think that any group of legislators, irrespective of the political fence on which they stand, can write in all the applications and conditions necessary under the circumstances prevailing at a certain time, because it is a changing situation. The member for Mitcham surely would realise that that is the case. Each award, employee, union, and each employer for that matter, would probably want diverse and different conditions so far as those terms of entry are concerned.

I am pleased that the member for Mitcham is nodding his head, apparently now understanding the provisions of the Bill. The Commission is to be given the unfettered right to make its decisions on applications before it. The member for Mitcham also criticised the preference provisions. I do not resile from the fact that for time immemorial the Labor Party has supported preference to unionist provisions in awards. It is a simple fact of policy and something that I personally believe in. The member for Mitcham criticised the proposed new section 29a (2) and said that it amounted to a form of blackmail in appearing to make preference mandatory. That is what the honourable member said, and that is in *Hansard*. No such situation exists at all and the member for Mitcham has misunderstood the provisions of the Bill. I now have the opportunity to—

**Mr Baker:** Wait until we get into Committee.

**The SPEAKER:** Order! There are two things I want to refer to. First, I ask the Deputy Premier to address the Speaker and, secondly, I ask that the line of personal discussion that appears to be occurring be discontinued.

**The Hon. J.D. WRIGHT:** I apologise, Mr Speaker, but I do get upset with the attitude of members opposite who simply do not sit down and read the legislation and attempt to come to terms with it. I know that I have the habit (which is very hard to break) of not addressing the Chair, but I will certainly attempt to correct that during the rest of this debate. Clearly, the new provisions in the Act will give power to the Commission in that, where in the Commission's opinion industrial disputation or industrial peace could be achieved and remain on a continuing basis, it will have the right, after hearing from both parties, to place preference clauses in an award. The member for Mitcham is grinning: is he doing so because the Commission is getting the power, or is he grinning because he did not understand the matter in the first place, or does he consider that the Commission will automatically do these things?

**Mr Max Brown:** Or is he acting naturally?

**The Hon. J.D. WRIGHT:** That may be so, I do not know. Clearly, from the look on his face, he is placing on the Commission a vote of no confidence. I place on record the comment that the Court and the Commission in this State have a very good record of making their own decisions, and I am sure that the Commission will continue to do so in these circumstances. Members opposite, including the member for Mitcham, who have opposed this provision have misunderstood the Bill. The member for Mitcham and other members expressed their alarm at the provision for the fees of conscientious objectors, equivalent to union dues, being paid into general revenue. The member for Mitcham implied that there is something sinister in this provision. In fact, the amendment is merely bringing the legislation into line with industrial statutes in other States. It has been a long time since money collected in other States of Australia from conscientious objectors has not gone into the resources of the Government. That is the case whether the honourable member wants to come to terms with this or not, or whether he still wants to believe that it goes to children's hospitals or somewhere else. I point out that the amount involved is not very much. It is a very small amount, and so it will not help consolidate general revenue to any great extent. On page 30 of his report Mr Cawthorne stated:

> I query whether it is still appropriate that the Adelaide Children's Hospital be the recipient of the moneys paid by holders of certificates. It may be better for such sums to be paid into Consolidated Revenue, as provided in other relevant Australian statutes.

I repeat for the member for Mitcham that the basis upon which this recommendation and the amendments to the Act have been conceived is the Cawthorne Report. In 95 per cent of the cases, where possible, this legislation is based, with some remedial changes because of differing views, on the Cawthorne Report: there is no question about that. The member for Mitcham can laugh; that is his habit when he feels displaced about things. Nevertheless, it is an undeniable fact that the basis of this legislation comes from the Cawthorne Report and from a lot of hard work put in by other people. I refer to the many people in my Department and outside, the trade unionists and union employers—all who have made a contribution to this legislation. I should have thought that that would be enough to convince the Opposition that this was a reasonable and practical Bill to implement.

I now wish to refer to the issue of retrospectivity, which came in for a fair amount of criticism last night. The member for Bragg claimed that the Bill encourages the awarding of retrospectivity. In fact, the Government is

severely limiting the Cawthorne proposal. This is one of the issues that the union representatives on IRAC gave away to employer representatives. At page 20 of the Cawthorne Report the following appears:

> I am persuaded that there is a case for removing the present statutory bar on the award of retrospectivity. I believe it is an unnecessary fetter on the Commission's discretion which could throw up unfair results. Moreover, it is hardly conducive to good dispute settling practice to encourage applications to the Commission first up in order to establish a starting point for the operation of any award should negotiations fail.
>
> Thus, I recommend that the present bar on the granting of restrospectivity, in so far as the operation of both State awards and conciliation committee awards are concerned, be removed.

Mr Speaker, I say to you and to this House that that was a very open-ended recommendation which could easily and conceivably have been picked up and argued by the Government as being the proper way of proceeding, because it was a recommendation of Magistrate Cawthorne. I talked about this earlier when I spoke about the 60-odd clauses wherein the representatives of the negotiating committee went away and came back with some sort of agreement. I fail to comprehend how the Liberal Party can set itself up in this way in not accepting the recommendations of IRAC. The unions could have insisted on it; there could have been a dispute over it.

I could have been placed in a position of having to come to a decision as Chairman, but the unions in their co-operative way in relation to this legislation gave away that open-ended recommendation by Mr Cawthorne. If one wants to place it at its highest level, the employers had a victory. There is no question about that: no-one can deny it. Yet we heard from the member for Bragg last night (unfortunately he has left the Chamber) that this clause was too severe, too strong and dictatorial. There is no such thing because this clause is a compromise clause, a victory for the employers, if one likes to look at it that way.

As a result of extensive consultations through IRAC, the Government has been persuaded to limit the open-minded nature of this recommendation to a situation where a nexus exists with another award of either the State Commission or the Federal Commission whether the matter involves the flow-on of a national wage case, or where the parties are in agreement.

The fact is that the Government has been persuaded by employers not to go as far as the Cawthorne Report. The member for Mallee, as did most other members, had a fair bit to say about the tort actions. Most members on that side of the House picked up this argument and said that this measure is taking away the right of employers to sue and to prosecute in an industrial action. Nothing is further from the truth.

Again, this was one of the clauses that was subject to very severe and strong negotiation to try to reach some compromise. The negotiating committee came back to the major IRAC committee with a recommendation which was acceptable to all sides simply that, in order to keep industrial relations activities and disputes in the proper concept, that is, in the industrial arena, before someone runs off to the Supreme Court to take an action against employee organisations on the basis of either second or third party disputes, the proposition—

*The Hon. E.R. Goldsworthy interjecting:*

**The Hon. J.D. WRIGHT:** I will read into *Hansard* exactly what the clause provides. What the Bill seeks to do is to prevent the premature exercise of a civil remedy in a situation where such an action would do more harm than good. All the Government seeks to do is to ensure that the processes of conciliation and arbitration are given a fair chance to resolve a dispute before one or other of the parties races off to take formal legal action. There is no-one in this House or outside this Parliament who can point to me and say that legal action solves industrial disputes, because it simply does not do so. The record is clear, going back to the Clarrie O'Shea case, or whatever one wants to go back to. Industrial disputes will not be settled by legal action in Supreme Courts.

Disputes will be settled in one of two ways—by the parties either sitting around the table and negotiating out of a difficulty or taking the matter to the Industrial Court where the pains and penalties of a Supreme Court action are not hanging over people. Members of industrial organisations will not accept that this is the way of settling industrial disputation. Further (and this is the most important point I want to make about this clause), the employers on this committee did not want that. The employer representatives on the negotiating committee came back and said, 'Here is a way that we think will work before the heat gets into this dispute too strongly. Let us do this'—that is, give the Industrial Court the opportunity of settling an industrial dispute. I ask you, Sir, and members of this House, whether that is unreasonable. It does not take away (as the member for Mallee and other members said), the right to a tort action: it provides some remedial activity before that occurs. That is what that clause provides and, if that is not conducive to good industrial relations, then I have had no experience in that field. Every precautionary action must be taken to prevent a suicidal arrangement of going to the Supreme Court. That is what this clause provides; it is simply no more than that.

**Mr Lewis:** It might be what you wanted to do but that is not the way it is drafted.

**The Hon. J.D. WRIGHT:** It just may be that the member for Mallee missed his professional calling. Maybe he should have been a Parliamentary draftsman. Why does he not apply for a job in that arena? I am relying upon the Parliamentary draftsman in whom I have a great deal of faith to tell me that he is putting into my legislation in Parliamentary language what I want him to put in—and that is what I think he has done. The final point I refer to in reply in this debate (and I know I have been speaking for over an hour, including last night), is the provision relating to contractors. The member for Kavel claimed that the provisions of this Bill will lead to the demise of the independent contractors and to unemployment.

He said that it will result in increased costs and a deterioration in housing standards. The Deputy Leader of the Opposition talked about the great increases in costs that would occur if the contract system in the housing industry was done away with. It would be a simpler matter for me to get up in this House and quote any sort of figure I wanted to quote, but I challenge the Deputy Leader to substantiate what he said last evening about increases in costs. He did not produce in this House any evidence about how much costs will rise. He relied upon some information he received from someone, totally unsubstantiated with no facts, no figures and no way of showing an increase. However, even if he is right, that simply means that someone is being paid under-award wages in that industry. It means that someone is not getting what he is entitled to in the way of award wages and conditions.

That is what this clause is all about. This clause is about giving protection to people who are in a subcontract situation. It may be that that is not the case at the moment as the building industry is moving because of certain actions taken by both Federal and State Labor Governments. There is enormous activity in that industry at the moment, but a few months ago, before the change in Governments, that was not true and many people were not receiving award standards.

*Mr Baker interjecting:*

**The Hon. J.D. WRIGHT:** That is just the point. In 1984 do we, as a Parliament, want to accept and support standards by which some people working in an industry do not have the right to receive award wages and standard conditions? Is that what the Liberal Party is saying? I hope it says so publicly, because there would not be many votes in that. At the moment it is trying to scare new house owners into believing that there will be an escalation in the costs of housing.

**Mr Lewis:** Deny it.

**The Hon. J.D. WRIGHT:** I do not deny it, because I am not quite sure how many people in the industry are being underpaid, but I will fight for the right of those people to get the proper rates of pay and conditions. This legislation gives that right to people, whatever industry they are in, because this clause applies not only to the building industry but also to cartage contractors and to anyone, for that matter, in a contractual situation.

This clause gives the power to the Commission, on my recommendation to the Commission, to deal with any industry and to make its determination as to whether or not people in that industry are getting their just rights by way of pay and conditions. If the Commission makes such an inquiry and comes to the conclusion that there is no need to interfere with that industry because everyone is getting award rates, or whatever the case may be, then the Commission has the right to refer from that recommendation made by me. Really, it is not much different from what is happening at the moment except at present the Minister has no power to refer. At the moment I do from time to time ring the Commissioner. In fact, I rang the President of the court recently and asked him whether or not he would allot some time to a Commissioner to look at the building industry to see whether or not people in that industry were being exploited, were not being paid proper wages, or were not receiving proper conditions. Commissioner Pryke at this moment is conducting that investigation. He is one of the most respected Commissioners—he is certainly well respected by the building industry. The union asked for Commissioner Pryke to undertake this investigation. He will certainly report to me about what he finds in that industry. The only difference in the clause before us at the moment is that it gives the power to the Minister to have this done, where currently there is no power in the Act to do this; it can be done only by request.

Again, this is a clause that does not suit the requirements of this side or that side. This clause was negotiated to the fullest extent to try and get some practical solution to the never-ending complaints from people who are not being paid award conditions. If the Liberal Party wants to oppose this, I think it does so at its own risk. The power conveyed here is not a terribly strong one. It is not as strong as that which applies in New South Wales, as I told some HIA people from New South Wales in Canberra the other evening. I told them that this clause is not as powerful as their legislation. They argued that it is, in fact, stronger, but it certainly is not. It is a new clause and it is what I believe, and what IRAC believes, is the start of an opportunity to determine whether or not people in a contractual situation ought to be legitimised and get the award rates and conditions applying to them.

Those are the major points raised by the Opposition last evening. I urge the House to consider this Bill on philosophical grounds. There is a philosophical stand-off in this particular debate. I do not believe, contrary to what the Deputy Leader had to say about this matter, that there is a great upsurge about this from employers. I certainly do not have such evidence. It certainly has not been suggested to me by employers that there is great concern about this legislation. In fact, an article by Matt Abraham that appeared in the *Advertiser* on 9 December 1983 (a few days after the Bill was introduced) stated:

> The General Manager of the South Australian Chamber of Commerce and Industry, Mr A.C. Schrape, said yesterday that, while employers were not enthusiastic about the proposals, it was 'not a bad Bill'. The chamber was concerned about aspects dealing with issues of right of entry, preference to unionists, unfair dismissals and the regulation of contract labour. But the Government had paid 'pretty good heed' to employer views in most areas and this had diluted concern about the Bill.

They are not my words; they were quoted in the press by Matt Abraham as being stated by the General Manager of the Chamber. I agree with him when he says it is not a bad Bill. It is not a perfect Bill by any stretch of the imagination, but it is a Bill that has been arrived at by consensus. If the Opposition wants to defeat that consensus, it cannot do so in this House but, if it wants to defeat it in the Upper House, I believe that it is about to destroy itself because of the processes we have gone through in introducing this legislation.

**The Hon. E.R. GOLDSWORTHY (Kavel):** I seek leave to make a personal explanation.

Leave granted.

**The Hon. E.R. GOLDSWORTHY:** I wish to make a personal explanation because I have been grossly misrepresented, deliberately I believe, by the Deputy Premier. I do not deny what I said publicly to a journalist, that I believe that the members of IRAC were effectively muzzled. That is in the context that clauses in the IRAC Bill specifically state that IRAC discussions are to be kept confidential and that no public statements are to be made by individual members of IRAC.

I have also had discussions with employer representatives who made clear to me, in the presence of other people who can therefore bear testimony to my statement, that they were not able to comment on the Bill because they were not able to have the Bill: the employer representatives were there as individuals and did not represent certain organisations. In the context of the Deputy Premier's suggestion, made publicly, that he had employer support for the Bill, a suggestion that he has repeated here, I made these statements. To reinforce the point I make that I have been misrepresented, I quote briefly from a letter received from one of the groups, the Metal Industries Association, South Australia, which states:

> The MIASA office bearers have very clearly advised the Minister, Mr Wright, and the Premier that 'the Government mischievously has allowed the impression to be obtained by the public that employers support the proposals. MIASA has not, did not indicate approval, nor approve the proposed amendments. Assertions of this kind create opposition and unwarranted polarisation of opinion.'

That sentiment has been repeated by all the other employer groups who have given their submissions to me and, I believe, to the Government.

*Members interjecting:*

**The SPEAKER:** Order! We are now reaching the stage of debate.

**The Hon. E.R. GOLDSWORTHY:** I have clearly been misrepresented by the Deputy Premier about when I sought to indicate to the public that his statements were misleading. That is borne out by the testimony of the quotation I have cited this afternoon.

The House 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, Hemmings, Hopgood, Keneally, Klunder, Ms Lenehan, Messrs Mayes, Payne, Peterson, Plunkett, Slater, Trainer, Whitten, and Wright (teller).

Noes (22)—Mrs Adamson, Messrs Allison, P.B. Arnold, Ashenden, Baker, Becker, Blacker, D.C. Brown, Chapman, Eastick, Evans, Goldsworthy (teller), Gunn, Ingerson, Lewis, Mathwin, Meier, Olsen, Oswald, Rodda, Wilson, and Wotton.

Majority of 2 for the Ayes.

Second reading thus carried.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Objects of Act.'

**The Hon. E.R. GOLDSWORTHY:** I move:

Page 1, line 31—Leave out 'encourage the organisation' and insert 'provide for the organisation upon a voluntary basis'.

Page 2, line 1—Leave out 'control' and insert 'administration'.

These amendments are consequential on changes that I hope will occur as a result of further amendments to be moved by the Opposition. The Government has picked up one or two issues that are addressed in our amendments and intends to move a couple of amendments coinciding with some I have on file. However, we believe that there should be no compulsory unionism in South Australia and that preference to unionists should not be encouraged by the Government in such a way as to make it amount to compulsory unionism by saying, 'Unless you join the union, you don't get the job.'

We believe that the definition clauses, at least clause 3, which sets out the objects of the Bill, need some modification to fit in with what we believe ought to be the purpose of this Act; that is, not to conscript people, not to put undue duress on people and not to force people into a course of action which is not to their liking in relation to what organisations they shall or shall not join.

**The Hon. J.D. WRIGHT:** I suppose that I follow the argument of the Deputy Leader. Again, it is a philosophical point which he extends rather than any great debate in favour of his amendment. I think that these are superficial points that he is raising in his amendment. The provisions of this Bill are taken directly from the Commonwealth Act. That Act has stood the test of time. It has existed during the life of a series of Governments of differing political persuasions over the years. It was for a long time under the control of a Federal Liberal Government. Preceding that it was under a Federal Labor Government, and is now under a Federal Labor Government. There has been no need to alter the objects of that Act and all we are doing in South Australia is trying to get some uniformity between the States. When we reach other clauses in this piece of legislation, one will become aware that we are tending to work towards uniformity and, simply, that is all that we are doing. Therefore, I oppose the amendment.

**The Hon. TED CHAPMAN:** I rise to support the comments of the Deputy Leader in his remarks about the amendments on file. The Minister, in good faith, indicates to the House that it is uniformity that he wants throughout the Commonwealth with respect to this and similar industrial laws. If, in our opinion, what he is seeking under the guise of uniformity is wrong and, therefore, uniformly wrong across the nation, then we oppose it. He talks about the amendment being superficial. I put it to this House that the amendments in the name of the Deputy Leader are not superficial but, indeed, fundamental to a belief that we have that the freedom of rights of an individual shall be preserved.

It is all very fine for the Minister to make mockery out of a headline in the *News* today about some other Federal Party political issue, but what we are dealing with here is a fundamental principle applicable to the rights of an individual. Indeed, we have in the past, are at present and, as far as I am concerned, will vigorously continue to support the principle which preserves the right of an individual to join or not to join an association of employment, in industry, or in private practice. In this industrial sense we are talking about the rights of an individual that shall be preserved in relation to whether or not that person joins a union.

I have spoken on this subject at length, as members who have been around this place for a long time would know. Indeed, I have been in the practice of employing male and female persons over a good number of years and throughout that period as an employer I have insisted that, if a person wishes to enjoy the benefits of a union or a movement representing the work force, they shall be not only entitled to join but also protected during their course of entry into that union. Accordingly, those who wish not to be a part of such an association or union shall be equally protected whilst in employment.

The Minister would recall, not only in his capacity as a member of this House, and as a Minister of the Crown dealing with industrial affairs, but also in his former capacity as secretary of a prominent union in Australia (the South Australian division of the Australian Workers Union, in particular), I am sure, my long term and consistent attitude towards this particular subject. I am proud to be a part of the Party on this side of the House which demands that the rights of the individual shall be protected as, indeed, is incorporated in the amendments before the Committee.

**Mr BAKER:** The objects which appear in the Act set the basic framework for the Bill which is before us. We have heard the Minister make a number of statements on his beliefs regarding preference to unionists. We have heard various other statements about industrial relations and what good industrial relations comprise. They are somewhat different from our own and we recognise that in the way the Bill has been put together. Fundamentally, the word 'encouragement' is out of context with the statements that have been made by the Minister in this House during this debate. His view is not to encourage but, in fact, to use various forms of persuasion in terms of organisational membership.

If we are now to put this in the Bill, it is totally out of context with the debate that we have heard from the Minister and is out of context with some of the provisions in this Act. Further, in relation to the question of democratic control, the Minister will realise that the words 'democracy' and 'control' do not sit very well together. From the point of view of control, it is control in which the Minister is interested. We believe in democratic administration and that the will of the people who belong to organisations shall be done, not the will of the people at the top or in control of such organisations. The Minister suggests that this is a matter of semantics. If he believes that our amendments are purely semantics and are providing only a little change to what is already there, then I suggest that he embraces them and satisfies both sides of the House regarding this matter. However, as I have said, both of these areas are inconsistent with some of the provisions of the Act and with what the Minister has said.

**The Hon. E.R. GOLDSWORTHY:** I will not press this point any further, except to say that I do not accept the only point that the Minister made that, because it has occurred in the Commonwealth for many years, it makes it right for South Australia. Anyone who gets up in this place and suggests that industrial relations in South Australia and at the Commonwealth level do not leave a lot to be desired has a pair of very heavy blinkers on, because one of the things that has bedevilled this country over many years has been industrial relations at the Federal level. It is wrong to suggest, as the Minister has, that because some of these provisions occur in the Federal sphere that makes them right. I think that there is plenty wrong in relation to industrial relations in the Federal sphere.

The Minister reviled the member for Davenport for making a thoughtful speech last evening on the general question of industrial relations in this country and the lack of flexibility in that system. Of course, those criticisms apply equally validly to the Commonwealth system perhaps even more than they do to the State jurisdiction. I thought that it was a very thoughtful speech, but the Minister was not impressed. If he thinks that he will get this House to swallow an argument that, because something has happened in Australia in the Commonwealth jurisdiction for many years therefore we have to slavishly follow it, then he must think that we are a House of simpletons. If he thinks that industrial relations in Australia, as I said a moment ago, do not leave a lot to be desired, then he obviously has a lot to learn. However, I will not press the point any further. These amendments do not have any great force in relation to the provisions of the Bill. They are consistent with the amendments we have moved and we will certainly be spending some time on our major objections to this Bill at a later stage.

**The Hon. J.D. WRIGHT:** It is rather surprising that we have had three speakers on this clause. There are many more significant matters to promote debate in this Bill, most on philosophical grounds, I agree. This is one matter with which the Deputy Leader or any member of his Party can find no dispute. I pointed out earlier that it has been in legislation I think since about 1964 and there has been no dispute either politically or industrially about it. The Deputy Leader of the Opposition can make the judgment that he is not satisfied with industrial relations federally but he cannot make that judgment based on the provisions in this clause, because these provisions have not been disputed by either Party or by employers or unions. We are trying to get some consistency between the State and Federal Acts, as is evidenced later in the Bill, and the Deputy Leader of the Opposition must be aware that we are moving towards that situation.

**Mr LEWIS:** The Minister's remarks obviously overlook the thrust of the predominant view that I expressed in my second reading speech last night, namely, that I do not think it is helping the cause of our civilisation to require an entrenchment of an already inadequate system of adversary advocacy in industrial relations, which is what this proposal does. It further entrenches the belief that there ought to be, (even though there can indeed be) no system other than an adversary advocacy system. What the devil this will do to worker co-operatives I do not know. It certainly will not make it easier for worker co-operatives to exist, let alone to begin the process of using their labour for the accumulation and investment of capital thereby utilizing their collective diverse skills and services in the process. On the other hand, this sort of approach, spelling out the philosophical attitude in law in this way, deliberately entrenches our commitment and involvement with an adversary advocacy system in industrial relations.

At least, if we simply delete the words 'encourage the organisation', as has been suggested by the Deputy Leader of the Opposition, and in their place put 'provide for the organisation upon a voluntary basis', it does not stipulate to those members of our community who do not see themselves as fitting into the model of finding a boss to get a job or wanting to be a boss to employ others that they can still be gainfully, profitably, sensibly and productively involved as citizens by forming worker co-operatives. I point out to all honourable members that they should not overlook the context in which those words fit.

At the end of paragraph *(e)* of proposed new section 3 the words 'their registration' are used. If we do not encourage it on a voluntary basis, but rather simply encourage 'the organisation', then we are also going to require such people to register themselves. Ultimately we will find that we will be dispossessing, at present a small part, but in future a significant part, of the prospective work force in this country by going down this track and closing off the options of developing the worker co-operative concept in our economy.

Amendments negatived; clause passed.

Clause 4—'Interpretation.'

**The Hon. E.R. GOLDSWORTHY:** I move:

Page 2, lines 5 to 16—Leave out paragraphs *(a)* and *(b)*.

The import of this amendment is quite clear. It removes the clauses in relation to the definition of an employee and will remove the ability of the Minister or anyone else who may care to do so to get rid of the subcontract system in relation to a whole range of activities. Most of the debate has been in relation to the housing industry but of course there will be an overflow in many other areas, too. I was challenged by the Minister to state the basis on which an estimate was made concerning what will happen in relation to the cost of housing. The Minister said that there is not one scintilla of evidence—although I do not think he would have used that word.

**The Hon. J.D. Wright:** It is too big for me. I am a worker.

**The Hon. E.R. GOLDSWORTHY:** The Minister obviously does not know the difference between 'muzzle' and 'puppet'. Anyone who does not know the difference between those two words needs a crash course in the English language.

*Members interjecting:*

**The CHAIRMAN:** Order!

**The Hon. E.R. GOLDSWORTHY:** Let me put the record straight. Last night during the debate I paid a quite emphatic compliment to the employer representatives of IRAC, who had a very tough job. For the Minister to suggest that I am suggesting that they are puppets is so far from the truth (and the Minister knows it) as to be scandalous. I do not deny that I said they are being effectively muzzled in terms of the Act, because they are.

The Minister claims that he has employer support for this Bill and for this clause. I refer again to submissions I have received on this clause from employer groups with which the Minister claims to have consensus. The Metal Industries Association of South Australia, under the heading 'Control of Contract Labour', stated:

> The amendments proposed in terms of clauses 4 *(a)* (re sections 6 *(ab)* and 6 *(b)*) and 14 (re section 25b) of the Bill aim at the regulation of contract labour.
>
> In our view the extension of powers to the Minister and Court or Commission to regulate what are contractual matters as opposed to genuine industrial matters represents undue interference and restrictive regulation. Our earlier comments on the Cawthorne Report emphasise this attitude.
>
> This situation is exacerbated by proposed amendments to section 25 which are addressed later in this submission.

I also have submissions from the Master Builders Association, on behalf of itself as well as the Australian Federation of Construction Contractors (S.A. Branch), Master Plumbers and Mechanical Services Contractors Association of South Australia Incorporated, Electrical Contractors Association of South Australia Inc., Master Painters, Signwriters & Decorators Association of South Australia Incorporated, Housing Industry Association, and Joinery Manufacturers Association. In regard to clause 4 and the Minister's supposed consensus in relation to regulating contract labour, in its submission the Master Builders Association of South Australia stated:

> Paragraphs *(a)* and *(b)* of clause 4 are unacceptable and consequently are opposed by employers, including self-employed persons in the building and construction industry. The building and construction industry, together with many other industries, are based heavily—and rely to a considerable extent for their cost efficiency—on small businesses, including businesses operated by one, two or a similar small number of persons.
>
> In Australia generally, and including South Australia, these small businesses provide Australian citizens with a standard of residential accommodation which is equal to any anywhere in the world; in Australia, however, the affordability of such a high

standard of accommodation is directly attributable to the industry, application and efficiency of the small businesses which provide bricklaying, carpentry, painting, plumbing, electrical installation and similar skills for the construction of houses, units and other types of residential accommodation.

We see potential for these businesses to have their legal standing as sole traders and partnerships seriously distorted in the industrial law context by the paragraph *(ab)* of section 6 which the Bill proposes.

Accordingly in the interests of small business and in the interests of the maintenance of the standard of residential accommodation which South Australian citizens enjoy, it is our recommendation that paragraphs *(a)* and *(b)* of clause 6 be deleted from the Bill.

That is from the other large employer group. I think that that would almost exclusively cover all of the employer groups in the building industry. I shall now quote from a letter from the Employers Federation, another major employer representative, to indicate to the Minister that what he said about employer support was false. The Liberal Party would not go along with it anyway because it independently came to the same conclusions in relation to the cost of housing. The Government introduced a Bill today, the Small Business Corporation of South Australia Bill, to help small businesses, and yet is trying to strangle them in another piece of legislation. The Employers Federation states:

1. Clause 4 *(a)* and *(b)*—section 6:

We are opposed to the proposed coverage of independent subcontractors under the terms of the Industrial Act. The Act is designed to provide a means of regulating wages and conditions of employment, and should not be used to cover contractors who are of a different legal nature to that of employees.

In terms of the drafting of the proposed section 6 *(ab)* , the current wording would mean that once a class of person is declared by regulation, that class will be considered by the Act as an employee for all purposes. There is no power under the Bill for the Minister to regulate the way in which such a class of persons would be covered, and to what extent that coverage should be allowed.

An example of the need for this flexibility is where the Commission might decide that it should be allowed to govern only rates of pay for a certain class of persons, and not working conditions as included under most awards.

The Minister says that there is universal support! Likewise, the Chamber of Commerce and Industry indicates in its submission of January 1984 that it does not like this clause. It states:

1. Contract Labour:

Clause 4 *(a)*, page 2 sections 6 *(ab)* and 6 *(ba)*, and clause 14, page 6, section 25b.

The Chamber does not support the regulation of contract labour, as indicated in its submission on the Cawthorne Report. However, we note the Government's intention whereby the Commission may be asked by the Minister to furnish a report, upon which the Minister may act by issuing regulations. If there is to be a mechanism whereby the regulation of contract labour in a particular industry may be subject to inquiry, we suggest that section 6 *(ab)* as drafted takes a 'broad brush' approach which fails to provide the Minister with any flexibility.

Once he declares a class of person by regulation, that class comes within the definition of employee and all of the Act's provisions relating to employee status apply. This may be undesirable.

It is perfectly clear that there is widespread opposition to what the Minister has in mind in relation to this clause. The member for Coles will say something about the attitude of the tourist industry in relation to contract labour.

**The Hon. Jennifer Adamson:** They are not pleased with this Bill.

**The Hon. E.R. GOLDSWORTHY:** They are not pleased with the Bill. They were handed a complex piece of legislation and the ramifications were explained to them. We are concentrating on the housing industry in this debate because the effects will be dramatic. However, they could be equally dramatic in other areas where contract labour is currently operative. The Minister earlier said that I did not have one scintilla or one scrap of evidence to indicate that there would be an increase in the cost of housing.

**The Hon. J.D. Wright:** I didn't say you didn't have it. I said you haven't produced it. There is a lot of difference.

**The Hon. E.R. GOLDSWORTHY:** The people who would be best equipped to produce evidence in relation to the increase in housing costs as a result of the regulation on contract labour in this way would be the people involved in the industry. They are the people I asked to do some costings. Commonsense would tell us from our own knowledge of building (if any members have done it themselves, as I have from time to time) that the most cost-efficient way of doing a job is to use subcontract labour. One could be the contractor and find someone working for himself, a small tradesman, to give a quote for a job. The small tradesmen cost their labour.

**Mr Mathwin:** They work hard.

**The Hon. E.R. GOLDSWORTHY:** They work hard and they are perfectly happy. They make a go of it and get a lot of work, and I do not believe it is because they undercut award rates but because they work for themselves. I asked the Housing Industry Association what this clause would do to the cost of housing. Last night I quoted from a Housing Industry Association publication in which this matter was canvassed. It did sums in relation to the increased cost of Housing Trust houses under the design and construct scheme, and I quoted that information to the House: the Minister must have been asleep. That Association quoted a figure of 10 per cent which came from the people who put in quotes to do those jobs; that amount would apply to the change in arrangements which the responsible Minister has forced on the Housing Trust with all Housing Trust work having to be fully unionised. It was said that it would increase the cost of tenders by 10 per cent.

However, the Housing Industry Association gave me a breakdown of the costs associated with a typical $46 000 house. I brought that back to a $30 000 house for simplicity, but the sums remain the same. It was supplied by their members with a break down of the components making up a $46 000 home. Most house builders belong to that Association. I have met many of them and they have said that the escalation in labour content would result in an increase as a result of the regulation of that labour. The Government proposals would lead to an increase in the cost of that house of 10 per cent. That Association did the sums for me and if the Deputy Premier does not believe me then he should ring up and ask. These people are actually on the job, have to cost the job, and know what their quote will be if the provisions of this Bill and the Government's intentions are to apply. I did not make that up. I asked the people who should know. What more evidence does the Minister want?

When the letter is returned from *Hansard* I will again read what one of the employer groups had to say, but it is quite untrue to suggest that there is consensus. People in the industry should know, and the general public are not as gullible as the Minister thinks. They know their ability, particularly young people, to buy a home: if the whole industry is unionised as the Government wants it to be. The person who is working for himself does not want to be forced into a union. The Minister said that he has a stream of complaints from people who say that they are underpaid. I have a stream of people through my office, small business people, complaining that they are being forced by guerilla tactics to join a union.

**The Hon. J.D. Wright:** You would not have 20 a year in your office. What are you talking about?

**The Hon. E.R. GOLDSWORTHY:** The Minister can be as insulting as he likes but the fact is—

*The Hon. J.D. Wright interjecting:*

**The Hon. E.R. GOLDSWORTHY:** The Minister does not have the faintest idea what happens in my electorate office and I do not have much idea of what happens in his.

He has suggested that he gets a stream of complaints from people in the building industry who complain that they are underpaid. I have never had one complaint, but I have had plenty from people who ring up or who see me at functions and complain about the current thrusts of the unions.

**The Hon. J.D. Wright:** Of course, you encourage that, don't you?

**The Hon. E.R. GOLDSWORTHY:** I do not have to. There is a continual stream of complaints from people who come to my office and complain about the push that the unions are embarking on in relation to unionising the building industry. I believe in unionism, voluntary unionism. I do not believe in compulsory unionism. I do not believe in people being forced to join something they do not want to join. It is like telling me I have to go to a certain church. It is the same principle, as far as I am concerned: you have to join. If I do not want to join a union, I believe I should be free not to join. As I said last night in the debate, I joined the Teachers Union when I was a teacher, by choice. If it had been compulsory I would have fought it like hell. I do not believe that in a free society one should be forced to join an organisation unless one chooses freely to do so.

As I say, in the building industry there is a real push at the moment. The Master Builders Association was forced to sign an agreement last year to unionise completely construction sites in metropolitan Adelaide because if a company had been taken right up to the wall it would have been bankrupted, and that happened not only here but in Melbourne. That push is right across the board. The Minister thinks I attract this sort of complaint. I went to a social function about a fortnight ago, on a Sunday, and a small fencing contractor came up to me and said he could not get a job in Adelaide now unless he and his people were unionised.

**Mr Gregory:** Good idea.

**The Hon. E.R. GOLDSWORTHY:** 'Good idea', says the honourable member; that is his idea of freedom. The contractor was resisting this demand because of his feelings in this matter, and he could no longer work in Adelaide in the way in which he ought to have been able to.

**An honourable member:** Why?

**The Hon. E.R. GOLDSWORTHY:** Because he did not want to join the union. He did not want to be forced to join an organisation he did not want to join. The Minister says 'That is right'. I say it is wrong. He can say it is philosophical. He said earlier that he believed in it. The Government's compulsory unionism policy gives preference to unionists it says. What a laugh! Join or do not get a job! That is what it is.

**The Hon. J.D. Wright:** You just—

**The Hon. E.R. GOLDSWORTHY:** I am telling the absolute truth, and the Minister knows it. He does not like it because it is too close to the bone and because he knows the majority of Australians agree with what I am saying. He knows that all the polls agree with what I am saying.

*Members interjecting:*

**The Hon. E.R. GOLDSWORTHY:** I always know—

**The CHAIRMAN:** Order! I hope the honourable Deputy Leader does not take notice of that episode.

**The Hon. E.R. GOLDSWORTHY:** No, Mr Chairman. You must be embarrassed by the irrelevancies.

**The CHAIRMAN:** Order! The question of embarrassment to the Chair is not in this clause, either.

**The Hon. E.R. GOLDSWORTHY:** Sir, you urge me to ignore it. I will ignore it because it is completely irrelevant and if you were embarrassed I would understand it.

**The CHAIRMAN:** I am not embarrassed, but it is completely irrelevant.

**The Hon. E.R. GOLDSWORTHY:** Let me make it perfectly clear again for the Minister. I acknowledge that there is a philosophical difference between our approach and the Government's to this Bill but there is also a very practical difference which I pointed out and which will be felt by everyone, young or old, who wants to build a house in this State, when the Government and unions get their way. The Minister knows in his heart of hearts that the cost of building will escalate dramatically (and I think 10 per cent is dramatic) as a result of complete unionisation of this industry. So, we disagree philosophically.

If people are content with their present lot and do not want to join a union, they should be free not to join. The Government does not agree with that view. But, there is also a very practical reason too. We know that all of the on-costs which the Minister complains about, such as the cost of the workers compensation legislation, have caused things to get out of hand. Now he says that we have to do something about it. All these costs apply to people who do not want to be part of the system. Industry representatives and others involved in the industry know that the cost of housing will increase markedly. We oppose the provisions of this clause. I have moved to remove these two paragraphs of this clause for what I believe are compelling reasons supported by the majority of people in this State.

**The CHAIRMAN:** Order! Before calling on the member for Coles, the Chair has some difficulty. The Committee knows there is a long range of proposed amendments. In this case an amendment moved by the Deputy Leader leaves out two paragraphs of the clause. Similarly, an amendment to be moved by the Deputy Premier endeavours to insert certain words. So that the amendment of the Minister is safeguarded I intend to put the question in relation to the Deputy Leader's amendment that all words on page 2, in lines 5 and 6, be left out. In other words, I am also safeguarding the Deputy Premier's amendment. If the question passes, the balance of the Deputy Leader's amendment would be put and the amendment to be moved by the Minister would be lost. I hope that the Committee understands that. It is simply a procedure so that both amendments are safeguarded. So, in this case we are dealing with the Deputy Leader's amendment to lines 5 and 6, not the two paragraphs. I hope that that explanation is satisfactory. It is not the intention of the Chair to pit one member against the other. There are two amendments, and they must be safeguarded.

**The Hon. E.R. Goldsworthy:** We can canvass them.

**The CHAIRMAN:** Yes, the Chair will allow canvassing but it points out that there must be a provision to safeguard the two amendments.

**The Hon. Jennifer Adamson:** Do you wish me to speak to the clause generally, Sir, or to speak in support of the Deputy's amendment?

**The CHAIRMAN:** The honourable member for Coles is at liberty to speak in favour of or support the Deputy Leader's amendment and canvass the complete proposed amendment. But, I point out that we are still dealing only with lines 5 and 6.

**The Hon. JENNIFER ADAMSON:** I oppose subclauses 4 *(a)* and 4 *(b)*, and fully support the Deputy's amendment which seeks to delete those subclauses. Clause 4 will have a profound effect on the construction industry and costs within that industry, as the Deputy has pointed out. It will also have a profound effect on the hospitality industry. I want to elaborate on that and to seek information from the Minister as to whether he, in fact, has any concept whatsoever of the costs that will be imposed on the tourism industry as a result of clause 4.

In the second reading debate I referred to the use by hotels of contract labour for a variety of functions. I mentioned the extension and renovation aspect, which is important to the hotel industry. In fact, at least $30 million a

year is spent in this State by the hotel industry in extensions and renovations. If the estimate of the housing and construction industry of 10 per cent on-cost, (which we believe is conservative but it is a figure we are using because we prefer to err on the side of conservatism in estimating these additional costs rather than to exaggerate the possibility of an additional cost) is correct, that would mean that the hotel industry will have imposed upon it an additional 10 per cent which will mean, if it is $30 million a year, that the industry will have to find an additional $3 million a year, in order to pay the cost of renovations and, in some cases, extensions.

Most hotels have regular renovations. Certainly, in the leases of almost all hotels there is a requirement that the hotel shall be repainted every three years. So, that is a triennial cost that the industry knows it has to sustain. The average cost of that repainting for most average-sized pubs is in the region of $5 000. From now on it is likely to be $5 500, on the basis of the effect of this clause on contract labour and the additional costs that will be involved.

I wonder whether the Deputy Premier has the slightest idea of what his Government is doing to the tourism industry, and notably to the hospitality section of the tourism industry, by enacting legislation of this kind. The industry has already been hit for six by the liquor tax, and it has been further damaged by the increase in electricity charges, because for many hotels those charges represent probably one of the single largest costs after wages and salaries and actual food and liquor. In fact, electricity would represent for most hotels far more than food costs. The industry simply cannot sustain the increased costs that have been imposed upon it by this Government. Air-conditioning servicing and installation is another very large annual cost for hotels. That work is done largely by subcontractors.

If in future those contractors will have to be treated as employees in a relationship which at present has no bearing on the normal employer/employee relationship, hotels are simply going to have additional costs imposed, and a limit has to be reached. As I have explained, the industry is already working on very fine profit margins, and the whole range of problems which result from those fine profit margins, namely, discounting of liquor, in order to achieve high cash turnover through increased sales, are having adverse effects on the industry. I will not canvass these issues now but they should be borne in mind by the Government, and the Minister should realise that the hotel industry can withstand very little more in the way of a tax on its profitability. However, this clause represents an attack on the profitability of hotels, motels and to a lesser extent restaurants.

Another aspect of contract labour which is important for the hotel industry is the employment of musicians and entertainers, again, on a contract basis. At the moment those people are paid reasonable rates which are basically in accord with award rates, so the charges by Government members that contract labour is being exploited cannot be sustained, as far as I have been able to ascertain, when it comes to musicians, because mostly the hourly rate equates with the award rate. However, musicians, like most performing artists, tend to be free spirits: they like to be independent and do not want to think they are working for a boss: they like to believe that they are the masters of their own fates, and they do not welcome these provisions.

If the Commission was to designate, as it may well do, musicians as a class of person engaged in industry and declare them by regulation to be employees, then the hotel industry will have to find literally hundreds of thousands of dollars more a year in order to pay these musicians on an employee basis. As I said last evening, 50 or 60 hotels in the metropolitan area (and I am not talking about the rest of the State) each pay about $1 500 a week to musicians. If that is taken on an annual basis, that is about $750 000 to be paid annually by the hotel industry in the metropolitan area to musicians alone. Add 10 per cent to that and you are talking big money in terms of the costs to be imposed through clause 4 on hotels, motels and to some extent restaurants.

This clause has implications not only for the employers in the hotel industry but also for the employees. The tax implications should be taken into account. There is no way that a musician, as an employee, is going to be able to claim the same concessions as he has claimed in the past as a self-employed person working under contract. From that point of view the contract musician/employee is not going to find himself better off under these provisions. On the other hand, if the employer has to regard those people (and some of them are big bands consisting of 15 to 20 people) as employees, I ask the Minister to contemplate the effect on the employer's pay-roll tax when suddenly up to 25 or 30 people are added to his pay-roll thereby quite possibly putting that employer into a higher tax bracket for pay-roll tax purposes. I do not believe that that prospect has been canvassed so far, although I have not heard every speech in this debate, but I believe it is a point that the Minister should take into account.

I would like to ask the Minister several other questions. Has his Department assessed the implications of pay-roll tax on employers as a result of the passage of clause 4 and the declaration of certain classes of employee as being employees under this Act? Certainly, builders, who suddenly will have added to their pay-roll upwards of anywhere between 50 and 100 people on a large job, will be liable for pay-roll tax which they did not have to pay before, and that will be on top of workers compensation payments and all the other benefits and on costs that have been canvassed. The whole gamut of entertainment as far as the hospitality industry is concerned is at risk as a result of clause 4 and is rejected. I ask the Minister two specific questions: first, what consultation, if any, has there been with any sector of the hospitality industry in regard to the cost consequences of this clause on the industry and, secondly, what is the Minister's Department's estimate of the increased revenue to the State Government through pay-roll tax as a result of the passage of this clause?

**Mr MATHWIN:** I oppose the clause. I am surprised that the Minister has not paid more attention to this clause as a result of some of the questions raised in the second reading debate. I support what the Deputy Leader has said in relation to the statements and the letters he read to the House. I certainly do not support the Minister when he says that there is universal support from employers on this matter.

**The Hon. J.D. Wright:** I didn't say that.

**Mr MATHWIN:** Maybe I have misunderstood the Minister, but it appeared to me that he said he had agreement from the employers and that they believe it is a good thing. That is how I understood it. If that is the case, I believe that some sort of deal was done involving the Minister and these people, whoever they are, and he did mention the building trade in particular. I would suggest that some sort of sweetheart deal has been arranged in order to get this agreement that the Minister says he has.

No subcontractor with any experience wants to rid himself of the subcontracting scheme, because it is a good method. Having had experience of subcontracting successfully for some years, I have some knowledge of this matter. We would not want the strong muscle men of the unions and of the Government to override the freedom and ability given those who chose to work as subcontractors to work as hard as they want when they want. If it is a crime to be a good workman and to work hard, then so be it, but I do not think that is a crime. I do not suggest that one makes

a great amount from every contract undertaken, because things must go wrong sometimes. However, one learns to take the bad with the good.

I firmly believe that no experienced subcontractor has asked the Minister to unionise him or his employees. None of my workers under the subcontracting scheme was ever dissatisfied: my workers were well paid and therefore stayed with me. The Minister cannot say that he has great support from employers in this matter, although he may have talked to a large firm which, being able to pass on its costs to the purchaser, said that it would be glad to have the whole building industry unionised. However, that is as far as it would go, because no small business man would agree with the Government in relation to compulsory unionism, which is what this clause is all about.

Some members opposite hate the subcontracting system of labour because they are committed to a policy of compulsory unionism. Be that as it may, subcontracting keeps down the price of housing and enables the conscientious worker to do a better job not only to his satisfaction but also to the satisfaction of those for whom he works. As it stands, this clause robs such people of their freedom of choice. I believe in unions. Indeed, I was a member of a union myself. I was well on the way to becoming a top union executive when I left the United Kingdom, and everyone knows what has happened to the United Kingdom since I left!

I do not oppose union membership, but I oppose compelling anyone to join a union. After all, that is against the charter on human rights. If the Government puts the boots into the subcontractor by means of this clause, the little people, the young people, the newly married couples for whom we are trying to provide reasonable housing at a reasonable price, will be disadvantaged. This State has had the record of the lowest housing costs in Australia because it has had a good subcontracting system of labour that has benefited those who want their own home on their own block of land. If the Minister forces subcontractors to come under the heel of the operation of this clause, it will cost this State not only financially but also in terms of jobs. After all, this was the Government that was going to provide more money and more jobs, but it is on the wrong track with this provision, to which I am diametrically opposed.

**Mr BAKER:** The Minister said that Opposition members did not understand what he was trying to achieve, but I suggest that he does not understand what he is doing. When I subcontracted certain parts of extensions to my house, I ascertained who were the best workers and employed them for a period. I paid $20 or $30 an hour, but I got a good job done quickly, whereas other people in the work force might do a good job and take twice as long. The Minister has said that people employing labour must pay the minimum award wage. However, one has only to ask those people who engage in subcontracting whether they want the minimum award wage to find out that, when times are tough, they will take $10 rather than $20 merely because they want the work. The Minister is saying, 'We want you to be unemployed because people have to pay you a contract rate or an award rate of so much per hour.'

**Mr Groom:** That is nineteenth century.

**Mr BAKER:** It might be nineteenth century to the honourable member, but he should get out and understand a bit about subcontracting.

**Mr Groom:** Times are tough. You take a cut!

**The CHAIRMAN:** Order! There will be no interjections, and the honourable member for Mitcham will please address the Chair and not reply to interjections.

**Mr BAKER:** Thank you, Sir. The principle is that the people concerned who want to remain in the industry when the industry has been buoyant have been able to charge a very reasonable price for their labour. When the industry has not been in such good condition, as it has not been over a number of years, they have charged less because they want to be able to continue in that form of employment; they know that if they overcharge they will not get business. They know that households and businesses will cost the price of a job, whether they can afford it or not. It is a contract between two people, nothing whatsoever to do with the Minister. It has something to do with two people: one is offering his services at a price, and the other is accepting that offer. That is the original law of contract, as our legal friend over there would quite understand. It has nothing to do with awards.

*Mr Groom interjecting:*

**The CHAIRMAN:** Order! I remind the honourable member for Mitcham once again that he must address the Chair.

**Mr BAKER:** Thank you, Sir. In pure economic terms in relation to the building industry (we have taken the building industry, but there are other industries which fluctuate quite violently with economic circumstances), the Minister has said that he cannot countenance anyone working for less than award wages. I suggest that the Minister should talk to the people who have done exactly this over a period of time when the industry has been in poor circumstances and he will understand that, if in fact they had applied for the rates that they are getting today, they would not have got the contracts. People would not have been able to afford them and they would have used more of their own labour than contract labour.

The Minister does not understand the simple laws of supply and demand and that it is a cheap and efficient way in which everyone benefits. No-one loses under the system, but he says that it is better and that he will fight for the right of people to get award wages. What about the rights of the unemployed and those people who cannot get jobs because the cost of their labour is too high? The Minister does not seem interested in that aspect of it. Under the current conditions I know that some subcontractors are working 12 or 13 hours a day. They are getting substantial rewards for their efforts, whereas previously they were confined in some cases to working seven or eight hours a day. That has been the nature of the market, and to force and confine any industry to a given set of standards in circumstances where everyone (the user and the supplier) is content with the system is quite diabolical.

I wish to refer to IRAC under this clause. When the Minister referred to the fact that employers had supported the provisions for settlement of disputes and the leaving aside of tort action until such time as the full processes of conciliation and arbitration had been exhausted, he mentioned (and broke a confidence in the process) that the employers had been in favour. Consistent with that statement (and breaking a confidence of the committee of IRAC), will the Minister say what in fact were the deliberations of the employers on this clause? I ask him to answer that question.

**The Hon. JENNIFER ADAMSON:** The Minister seems to be determined not to answer any questions at all, so I will put—

*The Hon. J.D. Wright interjecting:*

**The Hon. JENNIFER ADAMSON:** I am more than happy to give way to the Minister and to ask him—

*The Hon. J.D. Wright interjecting:*

**The Hon. JENNIFER ADAMSON:** That is good. I am pleased to hear that, because when I gave way to the Minister previously he remained seated whilst the Chairman called another member. As long as I know that my questions will be answered, that is fine. However, I would like to ask the Minister to add another question to the list that he has to answer. In what way, if any, does the Minister regard section 15 (1) *(d)* and *(e)* of the principal Act as being so deficient

as to cause him to introduce clause 4 into this Bill? There has been much talk on the Government benches of exploitation by employers of employees. There has been much talk (and the member for Albert Park referred to it last night) about the hospitality industry's exploiting young people by not paying them—

**Mr Hamilton:** Some.

**The Hon. JENNIFER ADAMSON:** Yes, some sections of the industry, and I did not dispute it—by not paying them award rates and by sacking them for no just reason. The law as it stands provides amply for both those circumstances under section 15 and, if the law as it stands is not being upheld, one can only assume three basic reasons for that. One is insufficient employer knowledge and at times the will to uphold award provisions. I suppose that the best way to overcome that is to encourage employers to join employer organisations so that they can be fully informed of their obligations under industrial law.

The second is to encourage people to voluntarily join a union so that they are also aware of their rights under industrial law, and the third is to upgrade the inspectorial services of the Department of Labour to ensure that employers are meeting their obligations. I would not deny that there are some sections of the hospitality industry where not the Liquor Trades Union but the Shop Distributors Union is representing restaurant employees with whom it has very little natural affiliation. Those people may not be receiving their proper dues under their awards, but if that is the case why is that not being picked up in the present system, because the present system appears to me to provide amply for it under section 15?

Does the Minister believe that section 15 is deficient and, if so, in what way and why is he imposing clause 4 in order to force subcontractors to become employees? I cannot see that that clause will improve the lot of subcontractors. In many cases it will simply price them out of the market and ensure that the jobs that would have gone ahead had clients had access to efficient and cost-efficient labour in future will not go ahead. I am reasonably certain that in the hospitality industry there will be a lot less renovation and upgrading. There will be either a lot less entertainment in the hotels, motels and restaurants, or, alternatively, the consumer will pay dearly and the Minister can be assured that, if that happens, the Liberal Party will make all consumers well aware as to who has imposed those costs on their weekly entertainment bill, and it will be the Minister of Labour and the Bannon Government.

**Mr BECKER:** Can the Minister say whether a financial impact statement has been made in relation to this clause, particularly as far as the Government's work programme is concerned. If successful, the provisions of this clause will have a tremendous impact on the tendering system as we know it in this State. It will also have an effect on taxpayers. When legislation such as this is brought before the Committee we should be given a financial impact statement if we are genuine in relation to having open Government, because taxpayers are entitled to know exactly where we are heading and what the implications will be. I want to correct a statement made last night by a member of the Government, namely, that the labour content of constructing a house is about 10 per cent. I contacted the Master Builders Association this afternoon and was informed that for an average brick house costing about $40 000 the labour content is at least 35 per cent or $14 000.

**Mr Evans:** That is only for construction, too.

**Mr BECKER:** Yes. Someone has to make the bricks, provide the cement, scaffolding, timber, and tiles. There is a whole range of people associated with other industries supplying building materials. All these people are affected. Also, subcontractors are used to manufacture the components of a house. So this clause will add to the average cost of a house. During the last calendar year the price of housing in South Australia increased by about 12 per cent. We are embarking on a very large programme of providing welfare housing and I am quite happy with that. I am pleased that the housing and construction industries are receiving a boost. I have been reliably informed that the construction industry is hopeful of receiving contract work worth $1.5 billion in South Australia in the next three years. There are some large multi-storey office blocks to be built in the City of Adelaide, there is a huge development at Port Lincoln and there are many other near city housing development and home unit projects. This will provide a tremendous boost to the economic growth of South Australia and will be extremely valuable. I would not want anything to upset the possibility of those projects going ahead, but that is what I fear from this clause.

I am also concerned that this type of legislation will have a tremendous impact on people who are owner drivers of delivery vehicles at the Adelaide Airport. TAA and Ansett subcontract work involving small parcel cargo delivery. A friend of mine began this type of work some years ago: he had a 3-tonne enclosed truck, went down to a panel van, and is now down to a station waggon. He says that the way business is going he will soon be able to do his job with a push bike with a parcel carrier. He and his colleagues were forced to join the Transport Workers Union. The whole of the airline industry is highly unionised and over the years has been plagued with industrial disputes. TAA and Ansett, which should be carrying this cargo, have been losing contracts to small operators and others associated with the transport industry. The fellows involved believe there has been no benefit to them at all in being members of the Transport Workers Union. They ask how they can tender when their hands are tied due to their involvement in the union.

I have been told that yesterday there were problems at the East End market. The member for Fisher may well have some knowledge of this. Some of the associated produce companies there have been advised, as have all the growers, that if they make deliveries to warehouses such as Coles, Woolworths and Associated Co-op the drivers of the vehicles will have to be members of the Transport Workers Union. Under the subcontracting provisions of this Bill the larger organisations that have subcontractors and owner drivers of vehicles making these deliveries will get swept into this. The fear is that there will be a spin-off and an impact on the growers who make their own deliveries, and I am referring to small family companies or partnerships with only one or two employees. In an attempt to remain viable and to keep their heads above water some of these very small businesses will be affected. It also will affect those in the rural industry who employ owner drivers on a subcontract basis. If such people are brought in under a union sponsorship the tendering system will be affected.

The Minister would have handled and signed hundreds of contracts in his time as Minister of Works. He would know that the Public Buildings Department in most cases, depending on the credibility of the person submitting the tender, accepts the lowest tender, and on occasions the company or whoever it may be who is concerned with the tender may gamble on making a very small profit; if there is a mistake made then that profit becomes a loss situation. How will small business people be able to compete against the large organisations if they are swept in under this clause? I reiterate what the Premier said when he opened the Independent Grocers' warehouse at Plympton this morning, namely, that small business is the backbone of providing employment in this State. I want to know whether a financial impact statement has been done and, if so, what the impact

will be on our works programme, what it will cost the taxpayers of South Australia and industry, whether it be the building industry or any other associated industry.

**Mr BAKER:** Further to my comments about the building industry and with reference to comments I made about the bad times that are still to hit the building industry, how does the Minister envisage that he will be able to obtain employment for people who perhaps during difficult times can get employment for only five or six hours a day? How does he envisage that they will suddenly get full employment when the demand for their services will be declining? Also, does the Minister envisage any problems in terms of the underpayment of wages? A number of references have been made (and the Minister has referred to this matter) to the exploitation of youth and of other people in the market place and to the fact that certain employers have been underpaying their employees. I congratulate the Minister for having followed up these matters. In a relationship between an employee registered in a number of areas there is a definable employer/employee relationship; what does the Minister think will happen in the case of householders with contracts with a person contracted to do a certain amount of work? Will a contractor then be able to come back to the person and say, 'I contracted for a certain price to do your work but the award stipulates that I must be paid so much extra per hour,' and then go to the Industrial Court to ask for an extra payment to top up his wages? It is a serious question, because it does happen on the industrial scene, as the Minister will be well aware. I want to know what the legalities of that situation would be for two people who presumably entered into a contract in good faith.

The third question relates to the fact that under various awards there are determinations on part-time work. Does the Minister believe that most awards have provision for the various work standards which are to be applied? I am unaware of which awards allow for people to contract their labour at, say, award rates for an hour, half an hour or two hours: what does the Minister envisage in a situation such as this? I would also appreciate an answer to my question about employers' reaction. He has already said that in the tort situation the employers basically agreed with his approach on this matter.

**The Hon. J.D. Wright:** You don't listen when I speak.

**Mr BAKER:** Yes I did, but I would appreciate an answer about what the employers thought of clause 4.

*Members interjecting:*

**The CHAIRMAN:** Order!

**Mr EVANS:** I chose not to speak on the Bill generally, even though I had some objections to it, because it was late and the Minister was showing the signs of a strained day by his niggling approach. However, I accept that. He encouraged me to speak last night, so I have responded to his request today. I oppose the clause because I am concerned at some of the statements made about it. Will the Minister tell the Committee the real reason why he, his colleagues and those who support him want to introduce this provision? I am not saying that in a sinister or nasty way but because as members of Parliament we should be quite open and frank about why we would like to change the law. It is obvious that the Minister knows that those people backing the organisation that he represents want this provision because it will bring to their organisation (the trade union movement) greater control of the work force, of the economy of the State, and a greater financial reward. There is no doubt that, whether one is a union secretary or whatever, that it will be of great benefit to these organisations if there is conscripted membership, and that is what it is: it is conscripting people to join a union through the use of this clause.

I appreciate that this has been a long debate but there are one or two points I wish to make. The member who is kindly helping the Minister (the member for Hartley) has been reported as saying that an increase in the cost of labour brought about by this measure would not be great, that if there was a .5 per cent increase in interest costs that would be a greater increase than the increase in the cost of labour.

**Mr Groom:** The wage component.

**Mr EVANS:** Yes, the wage component. What the member did was to use a figure of .5 per cent over a period of 30 years as the increased cost, which worked out at about $6 000 on a $40 000 home. What the member did not do was be factual about the matter. He did not take the amount of money that an individual would have to pay by way of interest on the extra labour cost over that 30 years. He took only the initial labour component.

**Mr Groom:** It's not understood.

**Mr EVANS:** The member said that it is not understood: that is not the case. If the labour component is 35 per cent and one takes the amount of interest to be paid on that component over 30 years on a $40 000 loan, it is much greater than a .5 per cent interest increase and the member cannot deny that. The member of course realises that his speech will be distributed to the trade union movement through its journal or through other channels, and that it will be fully read. However, the vast majority of readers will not go into it deeply enough to understand what the Minister is talking about, so the rank and file will spread the word that a .5 per cent increase in interest rates will be greater than the labour component on an average home. That is what the Minister was saying: that is hogwash. If the Minister had been honest he would have then said that the interest rate attributed to that labour component has to be taken over 30 years.

**Mr Groom:** You've missed the point.

**Mr EVANS:** If the member for Hartley is saying that a .5 per cent increase on the cost of the labour on a house is more over 30 years than the overall labour component, he is wrong, because a .5 per cent increase over that period would amount to only $6 000.

**Mr Groom:** There is the cost to the developer as well; you forget the interest rate to the developer as well.

**The CHAIRMAN:** Order!

**Mr EVANS:** Not all people who build houses are developers in the sense of building to sell it to others. I would hope that the Labor Party, as I am sure that the vast majority of people who support Liberal philosophy do, would prefer the average individual who wants a home to set out to have it designed and created without going to a project developer. In those instances there is no burden on the developer over a long term for money involved in that construction. We should all be fighting for people to be encouraged to acquire their homes at an early age.

If one tries to draw the sort of comparisons that the member for Hartley is drawing, we could say that if we can encourage the average young person to smoke three less packets of cigarettes a week, drink three less bottles of beer a week, or travel 35 kilometres less each week in the family car, that that they would, at the end of a 30-year period (and I am talking about per week, not per day) have something like $15 000 saved towards a home, a much greater component than a .5 per cent interest rate—in fact, 2½ times the amount. However, the Minister is not concerned about that. The Minister is saying, and I believe the ALP is saying, that he is not concerned about how much it costs a person to buy a home; that that is a secondary consideration, and that the first consideration is to conscript everyone in the building industry into a union, people who in many cases are subcontractors at the moment.

What is the benefit of the subcontracting system? I can remember when a person for whom I had a fair amount of respect as an individual who had an opposite philosophy, Frank Walsh, coming to me in 1946 and saying, 'Young Evans, you will have to join a union.' I said, 'Mr Walsh, I am working piece-work. I am being paid so much per square yard for cutting the stone material for buildings,' which was his trade. He suggested that I join a union but I never did. However, he made the point to me then that it was important to his movement to have the subcontracting system abolished. That is nearly 40 years, ago but the push has been on for all of those years since I was in that trade and around the building industry to abolish subcontractors. If there is a satisfactory system producing top quality houses at a low cost to the purchaser, and a standard of home that I believe cannot be beaten anywhere in Australia, or possibly the world, on average, why do we want to change it?

It is not because we have improved housing. Let us look at the subcontract field as far as the individual is concerned. Where has the greatest exploitation taken place in regard to subcontractors on a few occasions lately but on many occasions in the early 1960s—in Housing Trust contracts. This has happened because the Housing Trust has bled the principal contractors down to the lowest possible price causing them to force the subcontractor down to the lowest possible level. From my memory, ceiling height had been 9ft 6in, but in an endeavour to build a cheaper house the Housing Trust reduced that height to 9ft 3in, then to 9ft and progressively down to 8ft.

I am told that Australians, on average, are growing taller, yet we are bringing ceiling heights down. I do not know what will happen if we keep going in that direction. But, the Housing Trust was the culprit in forcing that lower standard or lower ceiling height right throughout the industry. It forced people into taking contracts that forced subcontractors to accept levels of payment and sometimes standards of production that were not up to the right quality. I admit that in recent years one or two project builders have gone into the same category. The worse time for it occurring is when there is a slump in the industry. Sales are hard to achieve when interest rates are high and individuals did not have enough capital to build the home that they wanted to build and that they dreamed they could build. That is when there was pressure applied to suppliers and those who worked in the industry. At times those who were trying to take out contracts in the industry did that just to survive.

If they did not get a job here they drifted off to Queensland or somewhere else. That is why, at this stage, subcontractors are able to reap the benefits of some higher payments and are able to get some rewards. Because interest rates are down, there is a demand for housing and people have more ability to pay, so they can catch up on what they lost in the slack period. However, I cannot condone a change to the law that attempts to destroy a system that has worked in an excellent way. I know that there was a dispute a few years ago when there was an attempt to do away with private contractors carting pre-mixed concrete. We wanted to force all these truckies, who were trying to buy their own vehicles and working on the breadline, to join the union movement. I know that the squeeze is on now to do the same at the East End Market. It is part of ALP philosophy to force everyone to join a union. All I ask of the Minister is that he say: 'This is part of our push to have compulsory unionism, not unionism by choice, because it gives us more financial backing through the trade union movement as a Party. We want it because it gives the trade union movement more finance to run its organisations. We want it because we want to see greater control of industry, finance and the wealth of the community by the trade union movement and its members.' That would be an honest statement if members opposite would just say that, but they say that it is an attempt to get better relations within the industry, and so on.

When history is written about what has happened in the building industry, particularly in recent times, there will be some great stories about forms of blackmail and payments behind the scene that have been received by certain union people as guarantees for contracts to be finished, or guarantees that a contract will go ahead when everybody working on a site belongs to a union. That is a rather ruthless way of conducting union business or controlling an industry. If the other side of that industry, in other words the employers and suppliers, attempted to do that restrictive trade practices legislation would be implemented immediately. People on the Government side would have deomonstrations, marches and all sorts of things to attack and condemn those people.

I am disappointed that over the years the private sector has bowed on every occasion to compulsory unionism when attempts have been made to inflict it on different sections of industry. In the building industry it has been a simple process. I am now talking about bigger contractors, where one builder is picked upon. It is said, 'Right, we will blackball that site until all your employees are members of the union.' Sometimes it becomes quite ludicrous. I will give honourable members an example of what happens once one becomes involved in the union system. It relates to when the Sportsgirl shop was being built in Rundle Mall. A gang of carpenters worked on that site on a weekend to try to finish the project on time.

They found that the concrete lintel over the window had not been poured by the concrete workers on the Friday so they chose, because they had enough knowledge, to box up the lintel, mix the concrete themselves, reinforce it, pour it, and go ahead with the overall boxing up so that the concrete workers could complete the major floor section on the following Monday. When the concrete workers came on the Monday they said, 'Sorry, who did that?' The carpenters said, 'We did.' They said, 'You should not have done that, that was our work.' In fact, they knocked the lot down and started again. That is the problem we have in a society once we say that unionism and all its dominant factors are the be all and end all of decision making.

We had a system in this State that was club building, if you like, just after the war when men who served in other lands to fight for freedom came back and formed a collective system of co-operation to build their own homes because there was a shortage of skilled labour that had not been developed while they were away. Many skilled people had been killed and not many houses had been built during that period so they had to be built quickly. A carpenter would give so many hours on a job or his mate's job, and club members contributed a number hours to different trades to complete projects.

I hope that if the trade union movement gets this system through that is what young people will do in the future—take up the challenge, because it is not difficult nowadays, with the modern methods of framework with inner walls of timber-frame construction, to build one's own house. One does not have to be registered to do that if one does it for no reward. I hope that housing clubs are formed again to show the union movement that it cannot dominate individuals and say what type of people will be employed on any project.

**The CHAIRMAN:** Order! The honourable member's time has expired. I call the honourable member for Bragg.

**Mr INGERSON:** I want to make some very quick general statements. It is interesting that today we have heard about the need for development of a special corporation that will look after problems of small business. Here is an area where small business is particularly involved. Obviously, some big

businesses are involved but, principally, subcontract work is run by family companies or family operations. It has been said here many times by the Government and by Government supporters that they could not possibly support anything less than the award rate being paid to do a job! That is just a red herring because in any subcontracting work a person puts in a price for a job and the principal reason why subcontracting is so successful is that a subcontractor is usually able to finish that job much more quickly than the time in which he has quoted to do the job.

On the surface, his rate of pay may appear to be less than the award rate. But his principal concern of efficiency and getting the job done quickly is the reason for his surviving as a subcontractor and will in fact enable him to get better than the award rate. That argument is just another red herring that has been thrown across the line in an attempt to do away with contractual labour. It seems to me that one of the main reasons for objection is that it is an individual right for a person to set up in his own business and it is an individual right for a person to charge out his work at whatever rate he wishes. Any legislation which is introduced and which prevents a person from exercising that right should be opposed.

**Mr MEIER:** In the second reading explanation the Minister referred to the fact that no evidence had been put forward to show that modifications to the contract system would increase costs. I simply wish to bring to the attention of the Minister a specific example where the contract system definitely reduces costs. I would have thought that the Minister would take the time to read the second reading speeches that were made last evening but, from his comments today, it appears that that was not the case. So, I wish to reiterate an example I cited in the second reading stage and I hope that the Minister will listen.

I referred to an engineering firm which employs 25 to 27 people and which has been in existence for some years. Some time ago the firm was approached by an unemployed, qualified welder who was seeking employment. Unfortunately, the employer said that he could not employ anyone permanently at that stage but he offered to employ the welder on a contract basis to build a stone crusher (a large machine that is rolled over the fields to crush stones). Normally, it would take four weeks, or 20 working days, for one man to build such a machine.

**Mr Becker:** It must be a big crusher.

**Mr MEIER:** The member for Hanson says that it must be a big crusher—it certainly is: it is a large piece of machinery. This person employed the former unemployed person on a contract basis and said that he would pay the man four weeks wages if he built one stone crusher, and the contract was entered into.

However, that man built the machine in two weeks and three days. In other words, in 13 days he had built a machine that normally takes 20 days to build under an employee situation, and that meant a saving of seven days work. I believe that the Minister could clearly see that the contract system can have many advantages. This particular employer said that he hopes to put more of his jobs out on contract. In this way he would become more competitive not only in this State but also interstate for the type of equipment he is manufacturing. I believe this brings to the attention of the Minister a clear example of how the provisions of clause 4 will harm the community and will not help in the economic recovery that we are hoping will continue.

**The Hon. J.D. WRIGHT:** The matter of subcontractors has been debated fairly well and I hope that most members have now made up their mind how they will vote on these measures. I am sure that the battle lines have been drawn. I need to cover two aspects of the matter. First, I am not convinced that Opposition members understand what the Government is doing. One would think from the tone of the speech of members opposite that, immediately this Bill passes, subcontracting will be covered by an award and therefore come under the control of a trade union, but nothing could be further from the truth: this legislation merely gives the Commission power to examine industry by industry and to decide whether certain industries should be covered by an award.

**Mr Mathwin:** Why doesn't the Commission do that now?

**The Hon. J.D. WRIGHT:** Because it has not the power to do so at present: this Bill gives the Court that power. That is the crux of this Bill. Secondly, the Opposition says that, irrespective of the type of subcontract labour, the Commission will, if this clause passes, have the power to cover all subcontract work by means of an award. Everyone will be in the same box and dice. However, I remind members opposite that there are two types of subcontractor: first, the subcontractor who supplies labour and material, and, secondly, the subcontractor who supplies labour only. I suggest (and I am not trying to dictate to the Court about how it should do its work) that the contractor supplying material as well as labour is in a vastly different situation from the one who works on a labour-only basis. Surely the latter is the one who would be examined by the Commission to see how the wages paid compared with those prescribed by an award. The person who supplies material is in a different category. In the final analysis, it is not a decision of the Minister, the Government or this Parliament that will bind those people: clearly, the Commission will have that power.

There would be hardly one Opposition member who has bothered to see how the Commission operates in practice. If members opposite have not seen how the Commission hears evidence and gives a decision on the basis of that evidence, they should do so, because the Commission will have to decide on the evidence before it whether or not the industry concerned should be covered by an award. New South Wales, which has a much stronger provision than that contained in this clause, has not had its economy wrecked, nor has the provision produced a situation of total industrial disruption.

I would say that the reverse would apply: if one does not have regular control of these industries under the conciliation and arbitration system, one is promoting a disputation situation. If that is what the Opposition wants to do, let it stay on the line it is following. The member for Fisher wanted an honest answer to the question. He was making allegations that the Government is doing this only because it wants more people in the unions, because it wants more money paid out for subscription fees, and the like. Nothing can be further from the truth. No union, if it is affiliated with the ALP, has to pay total affiliations. They suit themselves about that. It is not the Party's decision to determine how many unions affiliate for, so that argument has no foundation.

The intention of the Government in this case is to ascertain whether the situation ought to be regulated, industry by industry, rather than just say in a blanket situation that they are all covered. We say that the responsibility for those circumstances ought to be with the Commission. Let me remind the Committee that we are basing this amendment on what was recommended by the Cawthorne Report. No-one in Australia has had a more in-depth examination of industrial relations than has Commissioner Cawthorne. Many people working in the Federal Conciliation and Arbitration Court have commended this work to me and, no doubt, commended it to others, because certain people were given copies of this work as soon as it came out, and the reports on this investigative report were that it was of a very high

quality. Those are the reasons why the Government wants to give the Commission the opportunity of making some regulations in this industry, and there is no other purpose.

I refer now to some of the questions asked. First, the member for Coles asked whether or not there had been any consultation by me or the Department with the hospitality industry. The answer to that is 'No.' However, members of the hospitality industry, like everyone else in South Australia, knew full well that this proposition had been in the House since last December, and that any suggestions, recommendations, submissions or otherwise would have been more than welcome. However, the hospitality industry did not do anything about that, nor did the member for Coles.

**The Hon. E.R. Goldsworthy:** Yes, she did.

**The Hon. J.D. WRIGHT:** She did not, because I have just inquired whether the member for Coles made any recommendations or submissions to the inquiry. She did not, although she had an opportunity to do so. Yet today she wants the answers to all these questions. I am not in a position to answer the question in relation to pay-roll tax. That is not relevant to the Department of Labour and Industry, but to the Treasury. However, I know that the Premier recently increased his staff in the Treasury Department to try to ensure that people in the building industry are not in a position to evade pay-roll tax; there has been tremendous evasion because of the cash payments in the industry. Most people know that there are large cash payments in that industry, and that is one of the reasons in some circumstances why I have fairly well convinced myself that there are under-award payments in that industry.

The member for Coles asked questions about section 15 (1) *(d)* and *(e)*. Of course, section 15 (1) *(d)* is simply a section in the Act which gives the right to any employee to make an application to have his case heard if there has been an underpayment of wages. Under the current contractual system, not being classified persons under the award, no person would have the right to go to that court, because there is no coverage. So section 15 (1) *(d)* does not cover the situation. Section 15 (1) *(e)*, to which the member referred as well, is the reinstatement section. I do not think that either of those sections has anything to do with what we are talking about.

**The Hon. Jennifer Adamson:** Your colleagues were talking about people who were employees, saying that they were exploited.

**The Hon. J.D. WRIGHT:** I still do not see the sense of the questions, but I have answered them. Have a look at *Hansard*. The member for Hanson asked whether a financial impact study had been done in the Government departments. No, there has not; nor could there be, because no-one knows exactly how many people or what industries may be covered. Clearly, the answer would have to come after the court, in its wisdom or otherwise, made a decision to regulate that industry. So, no-one knows what the effect will be until it is actually regulated.

When the first question was asked by the member for Mitcham I turned to the member for Hartley and asked, 'Do you understand that question?' He said, 'No.' I am afraid that I cannot answer the question because it was absolutely and totally mind-boggling. I have no idea what the member was talking about. He was asking something about: 'What would you do as a Minister if someone had five hours work and wanted eight hours work or had eight hours work and wanted five hours work? How would you know how to control that?' How would anyone know how to control that? Let us be reasonable and put logical, sensible questions, and I will try my best to answer them.

The second question really asked me to give a legal opinion about contractual arrangements between the member and some person who was doing subcontracting work. Again, that is a decision for the court. If that person were subject to regulation, clearly he would have an argument to have his complaints assessed in the court; if he was not covered, as I say, any person providing labour and material would probably escape being regulated. Again, that is a decision that the court would have to handle or, alternatively, if the member is seeking advice in that regard I suggest that he see a lawyer. Those are all the questions that were asked of me.

**Mr Baker:** What about the employers' reaction on IRAC?

**The Hon. J.D. WRIGHT:** I can produce at least four letters if the honourable member wants to see them, privately—I will not bring them into the Parliament—from employer organisations, commending me personally on the way in which this Government has consulted and attempted to reach consensus. I am not suggesting that they have agreed with everything that is in the Bill.

**Mr Baker:** It was in this clause.

**The Hon. J.D. WRIGHT:** You asked about IRAC.

*Mr Baker interjecting:*

**The CHAIRMAN:** Order! The Chair is being a little tolerant. The honourable member is out of his chair.

**The Hon. J.D. WRIGHT:** Obviously, in the main the employer organisations would be opposed to this facet of the Bill, but, as I explained earlier today in my second reading reply, I made very clear what the General Manager of the Chamber said when he made the comment about this not being a bad Bill. I agree with him: it is not a bad Bill. There is sufficient evidence to show the member for Mitcham, if he so desires, that the Government has been applauded for the way it has approached this piece of legislation and for the establishment of IRAC as well.

**The Hon. E.R. GOLDSWORTHY:** The Minister has back-pedalled very quickly in relation to what this clause is all about. In his earlier comments he made perfectly clear what he, his Party and I believe the union movement have in mind in relation to subcontracting, particularly in the building industry. We had the business about the procession of people through his office down at heel about the level of wages that they are getting. We had this great recitation about the evils that exist, in his sight, in the building industry currently, and how the Government is on about remedying this situation and seeing that people get justice in relation to wages. As I said in response then—and I will not go into detail again—not one person has complained to me on that score, but there have been plenty of complaints about what the Government is trying to do in relation to this; so that back-pedalling does not wash.

**The Hon. J.D. Wright:** I did not back-pedal.

**The Hon. E.R. GOLDSWORTHY:** You certainly did back-pedal. You said, 'Oh, you know, the court has to go through the processes, but the Government made it perfectly clear—'

*The Hon. J.D. Wright interjecting:*

**The Hon. E.R. GOLDSWORTHY:** I know that the Bill does not say anything about subcontracting. It does not use that word in these clauses. The employee groups know what it is all about and the Minister knows what it is all about. He told us what it is all about earlier this afternoon. Now he is back pedalling. He is saying that one has to go through all this, but that it is not as bad as it has been made out to be.

*The Hon. J.D. Wright interjecting:*

**The CHAIRMAN:** Order!

**The Hon. E.R. GOLDSWORTHY:** That will not wash; we knew what it was all about in the first instance, and the Minister made it perfectly clear at that time. So, all this soft sell at this late stage just will not wash. The Minister knows perfectly well what it is all about as do the organisations which contacted him. The Opposition knows what

it is all about, and so the back pedalling and the soft sell approach will not wash. In regard to the hospitality industry the Minister said that the Bill had been sitting in the House and that there had been no submissions from the hospitality industry. I believe that the hospitality industry is not represented as such on IRAC. In fact, we have been told previously that representatives are there as individuals. When sent a Bill such as this it is very difficult for people to understand most of its ramifications. I defy even members of this House to pick up a Bill cold, to read it and what the Minister says about it, and then understand what it is all about. It is an extremely difficult exercise. Unless those involved are consulted and given the details, they will not have the faintest idea.

The member for Coles went through the process of telling people in the hospitality industry what it is about, and they were very concerned. It would have been far more satisfactory had the Minister in his spirit of consensus sought the opinion of those who could well be affected by this Bill. As to the suggestion that the member for Coles should have made a submission, that is simply laughable. Does the Minister think that members of this place came down in the last shower? How often does correspondence from members of Parliament bob up in here when being quoted back in regard to a point of view that was expressed? If the Minister wants some formal contribution from members of the Opposition he should set up a Select Committee or use one of the legitimate processes of the House to see that there is consultation and that the Opposition is involved. Does he think that members of the Opposition are going to fall for that cheap trap of responding and giving a point of view when the Government is seeking to get its own ideas straight in relation to a measure which is to come before the House? The Minister knows that that is a ludicrous suggestion. If the Minister wants members of the Opposition formally involved he should put his legislation to Select Committees, where the Opposition could well become involved in those discussions.

*The Hon. J.D. Wright interjecting:*

**The Hon. E.R. GOLDSWORTHY:** The honourable member is not that green to fall for that one.

**The CHAIRMAN:** Order!

**The Hon. E.R. GOLDSWORTHY:** The honourable member did her job conscientiously as a member of Parliament and as the shadow Minister of Tourism by contacting the accommodation and hotel industry, and they are alarmed.

**The Hon. J.D. Wright:** They have not contacted me.

**The Hon. E.R. GOLDSWORTHY:** They may well do so. While the Minister is on his bit about consensus, I point out that today he again desperately sought to misrepresent me in relation to the consensus question. I made the point that the employer groups were not *au fait* with what is in the Bill. I made the point publicly and I stated that the Minister was exaggerating and that he did not have employer support. I have already quoted the Minister's comments as reported in the *Australian*, namely:

> I have been on cloud 9 ever since we achieved agreement between employer and union groups.

I suggested that that was an exaggeration and it was. Now that the Minister is listening, I will also quote some comments made in a letter from the Metal Industries Association, an employer association. The letter is from the executive and states:

> Regrettably, I was not present at this meeting—

and the relevant part goes on—

> The MIASA office bearers have very clearly advised the Minister Mr Wright, and the Premier that 'the Government mischievously has allowed the impression to be obtained by the public that employers support the proposals.

That is the point I was making publicly and the Minister knows it. He almost backed off three weeks ago, and he knows that, too. The letter continues:

> MIASA has not, did not indicate approval, nor approve the proposed amendments.

**The Hon. J.D. Wright:** Who wrote that letter?

**The Hon. E.R. GOLDSWORTHY:** That is the letter from the Metal Industries Association of South Australia to its constituents.

**The Hon. J.D. Wright:** Who signed it?

**The Hon. E.R. GOLDSWORTHY:** The Director.

**The Hon. J.D. Wright:** What would you call the people on IRAC?

**The CHAIRMAN:** Order! The Chair has no intention of allowing a personal debate to be entered into over what went on in regard to the Bill. We are dealing with an amendment and I would like this reaction to stop.

**The Hon. E.R. GOLDSWORTHY:** The Minister canvassed the idea of consensus. He backed off slightly even in his response during what has been said in this Committee debate, just as he backed off what would happen in the building industry—and so he ought to have backed off. He ought to take a few giant steps back, because he sought to mislead the public; an employer group had been told that by the Executive Officer in a letter and then contacted the Government and told it.

**Mr Becker:** Read page 2 of that letter.

**The Hon. E.R. GOLDSWORTHY:** At page 2, it states:

> Members should be aware that it was at the Industrial Relations Advisory Council (IRAC) that employer representatives, appointed by the Government, negotiated a compromise as to the amendments sought by the United Trades and Labour Council. This compromise, now the planned amendments to the Conciliation and Arbitration Act are now the subject of debate and submission.

He is claiming that he already had their support. What about employer groups on 5 December? The Minister was on cloud nine because he said we had great consensus. If that is not misleading the public, what is?

**The Hon. J.D. Wright:** Why don't you take it up under the—

**The Hon. E.R. GOLDSWORTHY:** There is a stupid interjection: it is an admission by the Minister that he lost the argument, because he sought to mislead.

*The Hon J.D. Wright interjecting:*

**The Hon E.R. GOLDSWORTHY:** When the Minister gets up and spends a long time reviling me and telling me that I have been telling less than the truth—

**The CHAIRMAN:** Order! The Chair has gone far enough in allowing this personal argument to go on between the Deputy Premier and the Deputy Leader. It does not do any good in regard to the debate before the Committee. I ask you both (I stress 'both'), the Deputy Premier and the Deputy Leader, to cease this kind of behavior.

**The Hon. E.R. GOLDSWORTHY:** He knows that he has lost that argument.

**The CHAIRMAN:** Order!

**The Hon. E.R. GOLDSWORTHY:** He knows that he is done like a dinner.

**The CHAIRMAN:** Order! It is not a question of who has lost: it is a question of dealing with the amendment before the Chair. The Deputy Premier should stop interjecting and the Deputy Leader should stop answering interjections.

**The Hon. E.R. GOLDSWORTHY:** Having put that one to rest very successfully, I do not believe that the back pedalling of the Deputy Premier will convince anyone in relation to this clause. We know what it is all about. The Opposition is diametrically opposed to what the Government and the union movement have in mind in regard to this clause.

**The Hon. JENNIFER ADAMSON:** I support the amendment. The Deputy Leader has covered some of the ground that I would have covered in reference to the response of the Minister to my request for information. I reject utterly the Minister's suggestion that it is the role of the member of Parliament to make submissions to his committees. The role of the member of Parliament is to represent the views of his or her constituency in this place and at this time when the Bill is before the Committee. The role of the member of Parliament is not to make submissions to Ministers outside this place. Parliament is supreme in this matter and now is the time and place for members to express their views on the legislation: not before hand; not in some committee rooms outside Parliament; not to some departmental officer—but here and now to the Minister in Parliament, and that is what I am doing on behalf of the tourism and hospitality industry.

**The Hon. J.D. Wright:** You are doing it very well, too.

**The Hon. JENNIFER ADAMSON:** Thank you, I accept the Minister's tribute that I am doing it successfully.

**The CHAIRMAN:** Order! The Chair will not accept the continuing interjections.

*Members interjecting:*

**The CHAIRMAN:** Order!

**The Hon. JENNIFER ADAMSON:** I accuse the Minister of failing to consult with the tourism and hospitality industry, and he made the point that the industry could well have studied this Bill and made a submission to him between the time that it was tabled and now. That assertion demands some response. If the Government did not make such a big thing of its support for the tourism industry, if it had not said that the tourism industry is an integral part of its economic development programme for the State, if it chose to ignore the tourism industry and the effects of legislation on the industry, then perhaps the fact that it has not consulted with the industry would be of little or no import. However, the reality is that the Government has paid a lot of lip service to the tourism industry and its needs, and yet it has failed to consult with it on important pieces of legislation that will have an immediate and adverse financial effect on the industry and on its capacity to create jobs.

It is no use the Government and the Minister saying one thing and doing another. The reality is that the only people who have consulted with the tourism industry on this matter and on many other pieces of legislation are members of the Liberal Party. As soon as this Bill was tabled last year, I drafted a letter which was sent early this year, when I had been able to obtain sufficient copies of the Bill and the principal Act, and it was circulated to the tourism industry. The Minister well knows or should know that the tourism industry in this State is largely composed of small businesses and, with the exception of the hotel sector, the other sectors of the tourism industry are ill equipped to cope with the complexities of this Bill, to determine the effect that it will have and to make the kind of sophisticated and powerful representations that are obviously needed if the Government is to listen to any sector of the industry.

I have no doubt that the hospitality and notably the hotel sector of the industry will be making some kind of contact with the Minister between the passage of the Bill in this place and its debate in another place, because the industry is extremely concerned about the impact of the legislation on its profitability and its employment prospects. I simply say that the Minister has failed the industry badly, and the Minister of Tourism and his tourism committee have failed the industry badly by not doing their homework on the impact of this Bill on tourism in South Australia.

There should be by now some recognition by the Government that the tourism industry is fragile, although it is gradually managing to become cohesive. Unlike the manufacturing and agricultural sectors in South Australia, the tourism industry does not have a history of organisation and representation. It is really in its infancy when it comes to sophisticated dealings with Governments. If this State Government wants to encourage tourism it will have to do a lot better than it has done in terms of consultation. Consultation with the tourism industry has become an absolute farce when the Minister can stand up here in this House a year ago and guarantee that the Government would consult with the industry before it introduced any new taxation or charges, and then goes ahead blithely with no consultation whatsoever. His credibility is at a very low ebb indeed.

The Minister will know only too well what happened with the liquor tax and the Government's failure to consult and the subsequent caning that it received. The same thing will happen with this Bill because it will impose insupportable burdens on the hospitality industry. Now in the Committee stage is the time and the place for me, as shadow Minister of Tourism, to make those points. I make them and I urge the Minister to take them on board.

The Committee divided on the amendment:

Ayes (20)—Mrs Adamson, Messrs Allison, P.B. Arnold, Ashenden, Baker, Becker, Blacker, Chapman, Eastick, Evans, Goldsworthy (teller), Gunn, Ingerson, Lewis, Mathwin, Meier, Olsen, Oswald, Rodda, and Wotton.

Noes (22)—Mr Abbott, Mrs Appleby, Messrs Bannon, Crafter, Duncan, Ferguson, Gregory, Groom, Hamilton, Hemmings, Hopgood, Keneally, Klunder, McRae, Mayes, Payne, Peterson, Plunkett, Slater, Trainer, Whitten, and Wright (teller).

Pairs—Ayes—Messrs D.C. Brown and Wilson. Noes—Mr L.M.F. Arnold and Ms Lenehan.

Majority of 2 for the Noes.

Amendment thus negatived.

**The Hon. J.D. WRIGHT:** I move:

Page 2, line 7—Before 'any' insert 'subject to any condition or other limitation that may be prescribed by regulation—'

The purpose of this submission is to give some flexibility to the clause. It was submitted that when prescribing classes of persons who come within the extended definition of employee, there should be power to regulate the way in which a class might be covered and to what extent such coverage should be allowed. It is my view that this submission from the Chamber of Commerce (the General Manager sent the letter to me) has some merit. (I am not trying to say that the Chamber supports the clause at all, but it is saying that, if we proceed with this Bill, there should be room for the Commission to make a judgment in an industry on whether or not there should be some freedom for certain classes of occupation in that industry), whereas the clause as it stands at the moment, on the recommendation of the Commission, would have to declare and regulate everybody in that industry. This amendment allows freedom for flexibility to determine that some classes may not necessarily be covered. I recommend the amendment to honourable members.

Amendment carried.

**The Hon. E.R. GOLDSWORTHY:** Mr Chairman, you only put two lines of my amendment.

**The CHAIRMAN:** I pointed out to the Deputy Leader the position in which I found myself as Chairman. If the Deputy Leader had moved the whole of his proposed amendment, it would have meant that, if it had been lost, it would not have given the Deputy Premier an opportunity to move his amendment. Therefore, I put the Deputy Leader's amendment to lines 5 and 6 so that we could safeguard the Deputy Premier's right to move an amendment. But, our having done that, and the Deputy Leader having lost the vote, obviously lost the whole of his proposed amendment.

**The Hon. E.R. GOLDSWORTHY:** I rise on a point of order. You are suggesting, Sir, that I had to sacrifice the major part of my amendments just so that the Minister's amendment was protected. From your explanation of Standing Orders, I understood that you were putting part of my amendments and then the Minister's amendment, and that the rest of the amendment that I wished to put to the House would be so put. You, Sir, are saying, in effect, that the major part of my amendment will not even be put to a vote.

**The CHAIRMAN:** Order! There is no point of order. The explanation that has been put to the Chair by the Deputy Leader is not correct. I have pointed out, and will repeat, that it was a complicated situation. The Deputy Leader was moving an amendment for a whole part of a clause to be taken out. If that vote had been put by the Chair and defeated it would not have given the Deputy Premier an opportunity to move his proposed amendment to that part of the clause.

**The Hon. E.R. Goldsworthy:** If he put his first.

**The CHAIRMAN:** Under the procedure the Chair rules that that could not have been done either, because that part of the Deputy Leader's amendment occurred procedurally before the Deputy Premier had the right to move his amendment. The Chair therefore rules in that manner.

**Mr EVANS:** On a point of order, I first make the point that I believe it is possible to recommit if both sides of the House agree that there has been a misunderstanding. Secondly, I ask whether it is possible for the Deputy Leader to now move the other part of that resolution as it was not voted upon. I ask that both sides of the House agree that the clause be recommitted, particularly as the clause has been voted on only up to the point of the Deputy Premier's moving his amendment, so that the Deputy Leader can move any amendment thereafter which he may wish to move and on which the Committee has not yet voted. I seek your ruling, Sir.

**The CHAIRMAN:** I find myself reiterating what I have already pointed out. I allowed the Deputy Leader to move an amendment and pointed out that he could do so only by going up to lines 5 and 6. During the moving of that amendment, I allowed the whole Committee, including the Deputy Leader, to canvass the whole of the proposed amendment. That having been defeated, and the Deputy Premier having been given the right to move a further amendment, it is obvious that, after the defeat of the vote on the Deputy Leader's amendment, the Committee has indicated that it does not wish to proceed further with the question proposed by the Deputy Leader, and I rule accordingly.

**The Hon. E.R. Goldsworthy:** You had better change the rules.

**The CHAIRMAN:** Order! I have been perfectly fair about the question.

**The Hon. E.R. Goldsworthy:** The rules are no good.

**The CHAIRMAN:** I have endeavoured to be fair about the situation. Having sought some advice on the matter, I believe that I have been perfectly clear about the situation, and that is how I rule. I am beginning to think that the Committee is trying to confuse the Chair.

**Mr EVANS:** I rise on a point of order. We have not put—

**The CHAIRMAN:** The Chair has put 'That clause 4 as amended be agreed to,' and it has been agreed to.

**Mr EVANS:** On a point of order, Mr Chairman, I asked that it be agreed to but you did not put it to a vote calling for Ayes and Noes.

**The Hon. E.R. Goldsworthy:** I took a point of order. You didn't put it to a vote.

**The CHAIRMAN:** I am seeking some opinion but, to save any difference of opinion, the Chair is firmly of the opinion that it put that 'the clause as amended be agreed to'. But, rather than have any difference of opinion, the Chair wishes to be fair again, and will now reiterate that 'clause 4 as amended be agreed to'. Those in favour say 'Aye'; against 'No'. I think the Ayes have it.

The Committee divided on the clause as amended:

Ayes (22)—Mr Abbott, Mrs Appleby, Messrs Bannon, Crafter, Duncan, Ferguson, Gregory, Groom, Hamilton, Hemmings, Hopgood, Keneally, Klunder, McRae, Mayes, Payne, Peterson, Plunkett, Slater, Trainer, Whitten, and Wright (teller).

Noes (19)—Mrs Adamson, Messrs Allison, P.B. Arnold, Ashenden, Baker, Becker, Blacker, Chapman, Eastick, Evans, Goldsworthy (teller), Gunn, Ingerson, Lewis, Mathwin, Meier, Oswald, Rodda, and Wotton.

Pairs—Ayes—Mr L.M.F. Arnold and Ms Lenehan.

Noes—Messrs D.C. Brown and M. Wilson.

Majority of 3 for the Ayes.

Clause as amended thus passed.

Clause 5—'President and Deputy President.'

**The Hon. J.D. WRIGHT:** I move:

Page 3, line 5—Leave out 'title,'.

After 'Supreme Court' and insert 'and shall be entitled to be styled "The Honourable Mr Justice . . ." or "The Honourable Justice . . ." '.

**The Hon. J.D. WRIGHT:** The President of the Court has expressed some concern that, although he may be entitled to the rank, status and title of Supreme Court judge, he may still not be entitled to be called 'the Honourable Justice'. There should not be any dilemma in my view in relation to this matter.

**Mr MATHWIN:** On a point of order, do I take it that we are to debate the amendment before the clause? Is it not normal that we debate the clause first and then go on to the amendment? I understand that there were special circumstances in relation to the last clause because there were a number of amendments and it had a number of subclauses in it. Do I take it that this is the system?

**THE CHAIRMAN:** Order!

**Mr MATHWIN:** I am only trying to talk to you, Sir.

**The CHAIRMAN:** Order! That was not the procedure in relation to the last clause. I allowed the Deputy Leader to move part of his amendment to lines 5 and 6, and I allowed the Deputy Leader to canvass the whole issue. I am following a similar procedure in relation to clause 5 and am allowing the Deputy Premier to move his amendment.

**The Hon. J.D. WRIGHT:** I have moved it and hope that the House will support it.

**The CHAIRMAN:** Order! I point out now that the Deputy Premier has moved the amendment that if the member for Glenelg wishes to canvass the whole of the clause the Chair is quite prepared to allow him to do so.

**Mr MATHWIN:** In relation to my point of order, the only reason that I interrupted the honourable gentleman was that I took it that if I did not do it then I would not be allowed to do it at the finish.

**Mr BAKER:** I have several questions relating to this clause. There is no immediate opposition to the clause. It has come to my attention by way of the new set of amendments that Deputy Presidents will be entitled to receive pensions which are non-contributory under the Judges Act. What does the Deputy Premier envisage will be the number of Deputy Presidents of the court? What will be their salaries? Does the fact that they are now to be included under the same scheme as the judges for superannuation purposes mean that they will have a non-contributory superannuation scheme, and what is the reason for the dilution of the

demand that the Deputy President have the same standing as a judge?

In the original Act the Deputy President had to have qualifications that would entitle him to be a judge of the Supreme Court. Under this amendment that person now no longer has to have those qualifications; so I ask what is the reason for bringing back the qualifications needed for the Deputy President of the court? Is there a change in the role of the Deputy President and is there some reason why the status of the Deputy Presidents should be reduced?

**The Hon. J.D. WRIGHT:** I have been in this House for 14 years, and nobody can confuse me like the member for Mitcham can.

**The Hon. E.R. Goldsworthy:** There could be another explanation for that.

**The Hon. J.D. WRIGHT:** There could be, but I just do not follow the question. This has nothing to do with the Deputy Presidents at all. It has to do with the President. The amendment to this clause is simply to allow the President to legally, if one likes, refer to himself as 'Mr Justice'. I think that the power is there to do it already. The good President himself—

**Mr BAKER:** A point of order, Mr Chairman. The question was on clause 5, which you have told us we were allowed to debate. The question relates to clause 5, not to the Minister's amendment at all. I have no difficulty with the Minister's amendment. If the Minister had been paying attention when I asked the questions and if he had taken them down, he would have seen that they relate to clause 5. They are, one at a time: how many Deputy Presidents does—

**The CHAIRMAN:** Order! The honourable member does not need to go into depth about this position; he just wants to make a point of order. In reply to the point of order, I advise the Deputy Premier that in allowing him to move his amendment I said—and I have said it continually—that members of the Committee could canvass the merits of the clause. I believe that that is what the member for Mitcham is doing.

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

**The CHAIRMAN:** Before calling the Deputy Premier, in regard to the point of order taken by the member for Mitcham before the dinner adjournment, I point out that although the Deputy Premier has moved an amendment the Chair will allow members of the Committee to canvass the whole of the clause before the Committee, as has been the case on previous occasions.

**The Hon. J.D. WRIGHT:** I was confused about the honourable member's question because I was relying on the question being directed to the amendment rather than the total clause. From memory, one of the questions asked by the honourable member was whether I intended to appoint any new Deputy Presidents. Having regard to the work load at present, I would suggest that there is no intention of that, nor have I received a request to create any new positions from either the President or anyone else in the Industrial Court. The Government considers that the work load is capable of being handled by the Deputy Presidents there at the moment.

The honourable member's other question referred to salaries and superannuation conditions. Those conditions have been maintained for quite a long period and there is no intention of changing them. In the event of a vacancy occurring due to retirement, appointment to another court, or whatever the case may be, the Government has no intention of changing the present salary or superannuation conditions. If a new President comes in by way of a vacancy the situation will be the same as that which applies at the moment. The only change in fundamental principle in the clause is in relation to the stipulation concerning years of practice. It has been recognised over the years that one must have spent 10 years in practice before one can be appointed to the bench. The Local and District Criminal Court has a seven-year rule. It has been pointed out to me that the State has lost to Victoria and New South Wales people who would have made competent judges after a seven-year period had they been given the opportunity. It is intended to reduce the qualifying period in legal practice from 10 years to seven years.

**Mr BAKER:** I thank the Minister for that explanation. It was my understanding that a person had to be a Queen's Counsel before being eligible for appointment to the bench of the Supreme Court. I was trying to elicit from the Minister whether he was trying to reduce the total qualifications required while providing the same amount of remuneration and the same benefits of a judge in the Supreme Court, because, as the Minister would realise, the previous Deputy Presidents had to have the same qualifications as a judge of the Supreme Court and therefore they were remunerated and qualified accordingly. The question of how many should be appointed was based on a number of aspects. I think that in this regard there are some improvements in this Bill. As the Minister would realise, one of the problems at the moment concerns cases of harsh and unfair dismissal some of which are taking four to six months to get through the Industrial Court. I do not know whether that is because of the legal complexities of the situation or whether it is because of lack of staff in the Industrial Court, but there are certainly problems in the Court.

That revolves around and relates to the further problem of satisfying some of the conditions of tort, which are that all the processes of arbitration and conciliation have to be satisfied. I thank the Minister for his answer and ask him to look at the courts as they operate today. The Minister need not respond again, but I ask him to look at the courts and the cases before them and ascertain whether they are taking undue time to resolve matters.

Amendment carried; clause as amended passed.

Clauses 6 and 7 passed.

Clause 8—'Jurisdiction of the Court.'

**The Hon. E.R. GOLDSWORTHY:** I move:

Page 3, lines 22 and 23—Leave out all words in these lines.

This is one matter which the Opposition views as important in the Bill. A number of matters are important and this is one of the more important: it deals with the Government's proposal to take the hearing of dismissal claims out of the court and into the hands of the Commission, to be heard by a single Commissioner. My amendment is the first of a number which relate to this matter, and it is appropriate that I canvass the matter in relation to the amendment.

**The Hon. J.D. Wright:** Are you resting on this one?

**The Hon. E.R. GOLDSWORTHY:** We will see about that in due course. The amendment is important because of the firm view of the Opposition that judicial matters should be settled in court. We are sustained in that view by a number of submissions, to which the Minister obviously had access. One submission to which I refer has come from the Law Society in regard to the proper place in which legal matters should be determined. Where questions of law are involved and legal determinations are made in relation to a claim against an employer for wrongful dismissal, the matter should be heard by a court. Under the present Act such a matter would be heard by the court and the Government proposes that the matter be heard by the Commission, which will be constituted by a single Commissioner. I refer now to the view of the Law Society and I will be referring to other submissions later. This is the Bill about which the Minister persists in claiming he has agreement.

A copy of the letter, which was sent to the Minister, was sent to me. Headed, 'Industrial Conciliation and Arbitration Act Amendment Bill', it states:

I have been asked to convey to you the Law Society's concern at some of the provisions in the Bill currently before Parliament to amend the Industrial Conciliation and Arbitration Act.

Re-employment applications: our concern with these provisions relates to the removal of re-employment applications from the jurisdiction of the Industrial Court and the transfer of them to the Industrial Commission constituted of a single Commissioner with power of the Commission to award compensation in some circumstances and, further, with the right of appeal limited to a hearing before a single judge.

I might say that I received this submission only today, so it does not relate to our strong opposition to what has been proposed, but it certainly adds a bit of force to what I said last night in the second reading debate. The submission to the Minister continues:

(1) The re-employment jurisdiction in South Australia at present is far wider than that existing in any other State, in that it allows any individual to obtain relief by means of a curial process on his own application. He does not have to be represented by or have the support of a union, and the exercise of the jurisdiction is not dependent upon the existence of a collective dispute or a union sponsored application. The determination of the matter is essentially judicial in concept rather than arbitral.

The significance of those words is quite clear: judicial in concept rather than arbitral. The submission continues:

These concepts remain in the present Bill, and so long as they remain, the jurisdiction ought to remain with the court as the judicial body, rather than the Commission. The functions of the Commission have been and are to remain arbitral in character. The re-employment jurisdiction in its concept has never been an arbitral one, and is quite inappropriate that in its present form it should become a function of the Commission.

(2) Of more concern, however, is the proposal to allow compensation to be assessed (with no apparent limits) by a single Commissioner, untrained in the principles of assessment of compensation. If that is to be allowed as an alternative to re-employment, it is of the utmost importance that it be determined in a proper and judicial manner, upon sound legal principles, for which members of the Court are eminently suited and trained.

The Law Society believes that that is of more importance than point (1): I do not. I think that point (1) is a particularly important one and that this point is equally important. However, the Law Society believes this to be a crucial point that it is making in its submission. I believe that the arguments are irrefutable. The submission continues:

(3) With the transfer of the jurisdiction to the Commissioner, the 'equity and good conscience' provisions of section 28 (5) of the Act will become applicable to re-employment applications. This means that such applications, and the assessment of compensation, need not be determined, as has been the case, according to rules of law and well established principles, but in a much more arbitrary fashion. It will become impossible to give any sound advice on the outcome of such applications, let alone the assessment of compensation.

(4) Section 60 of the Bill introduces a right to compensation where an employee is dismissed or injured in his employment on certain grounds set forth in sections 156 and 157 of the Act. Alleged breaches of those sections (being industrial offences under the Justices Act) are heard by Industrial Magistrates. If they are to exercise a compensation jurisdiction in those circumstances, consistency requires that they should retain it in respect of re-employment applications.

(5) The addition of compensation to the possible remedies available will greatly increase the number of applications made to the Court purely for the purpose of endeavouring to force some settlement by monetary payment based on the inevitable cost to which the employer will be put to defend the action if it proceeds. Under the proposed Bill the Commission may make an order for costs against the applicant (without reference to any scale) only if the applicantion is frivolous or vexatious. By virtue of section 34 (2) of the Act this would not include legal costs, and no legal costs could be granted to an applicant. The Court at present has an unlimited discretion to award costs which it exercises very sparingly. Frivolous and vexatious actions constitute an extremely restricted class of actions, and the combined effect of these provisions is to limit severely the circumstances in which costs may be awarded.

It is referring there to the present circumstances and not to what the Government proposes. It further states:

If the compensation is able to be awarded as an alternative, and in order to avoid the type of abuses referred to in this paragraph, then discretion to award costs should be more freely exercised rather than restricted. Otherwise the process will be abused in a great many cases which cannot be described in law as frivolous or vexatious.

With the addition of compensation to the remedy, and with the proceedings remaining the true inter-parties proceedings that they are, the legislation should ensure that the normal rules applicable in civil actions for recovery of money or compensation should apply.

Of course, that is not what the Government proposes. Before reading the remainder of the Law Society submission, I pause to point out that this comes from a Government which claimed that it was worried about costs to employers in this day and age, and the effects that its legislation will have on employment. The Government's action encourages claims, and spurious claims, which cannot be cut off in terms of what is proposed in the legislation.

I hope that the Minister took time out to read the Law Society submission with some care. At first glance, even to a layman, it can be seen that this is one of the provisions that is quite inappropriate. Commissioners are appointed to the Arbitration Commission from various fields. Some Commissioners could be described as coming from the labour or trade union side, while others come from the employer side. The Commissioners are a diverse group of people with differing backgrounds to give some sort of balance.

**The Hon. Jennifer Adamson:** They are not legally trained.

**The Hon. E.R. GOLDSWORTHY:** No, they are not legally trained. All individual Commissioners have a certain sphere of experience and each Commissioner has been placed on the Commission because of his particular experience. Each individual Commissioner's experience is balanced by other members of the Commission who could be described as coming from the other side of the spectrum. The arbitration area requires someone with a breadth of experience and with judicial training, but the Commissioners do not have that.

**The Hon. Jennifer Adamson:** You mean in a judicial situation.

**The Hon. E.R. GOLDSWORTHY:** Yes, in a judicial situation, with some judicial training to enable them to give what is essentially a judicial decision. That is done in a court, not in a Commission, which is basically set up to settle industrial matters based on particular knowledge in relation to industrial disputes. It is a court situation delivering court style judgments. The Government in its wisdom, or lack of it, wants to remove judicial decisions out of a judicial situation and put them into an arbitral situation. I am not criticising the Commissioners, and I hope that the Minister will not get on that tack again. I am referring to the nature of the operation of the Commission. The Government is putting judicial decisions into the hands of a single Commissioner who is not trained to make that kind of decision. the ground rules are quite different in relation to compensation which, as I have said, is introduced into this legislation. These points are made very strongly.

As I have said, I received the Law Society submission today. It strongly verifies what I, as a layman, knew was the situation in relation to removing judicial decisions from a court and putting them into an arbitral situation and into the hands of individual Commissioners (and their backgrounds certainly do not include training in judicial matters). The Law Society submission continues:

(6) The Society notes that Mr Cawthorne's report on the review of the Act recommended against transfer of the jurisdiction to the Commission, except for the purposes of pre-trial conciliation.

I mentioned that point during the debate last night. This is one of the areas where the Government has departed significantly from what Cawthorne recommended. I think I quoted that part of the Cawthorne Report. Cawthorne suggests that the Commission may have some mediating or conciliating role in an initial pre-trial conference where the skills of the Commission may be brought to bear in suggesting the settlement of a situation. The Government has not accepted that. It is all very well for the Minister to say that he accepted a high percentage of the report.

**The Hon. J.D. Wright:** It was 95 per cent.

**The Hon. E.R. GOLDSWORTHY:** Yes, 95 per cent of the Cawthorne Report. The Minister stretches the truth, if I might put it diplomatically, to put not too fine a point on it, when he suggests he has adopted 95 per cent of Cawthorne.

*The Hon. J.D. Wright interjecting:*

**The Hon. E.R. GOLDSWORTHY:** The Minister is very good at making threats but they do not worry me. The truth will out.

**The Hon. J.D. Wright:** You're in trouble.

**The Hon. E.R. GOLDSWORTHY:** I am in no trouble. The Minister is in trouble. He knows it, because he misrepresented to the public the degree of support he suggested he had in relation to his consensus theory and in relation to this Bill. He knows perfectly well that all the submissions from the employer groups which are not part of IRAC are opposed to significant sections of the Bill, including this one.

**The Hon. J.D. Wright:** We will see.

**The Hon. E.R. GOLDSWORTHY:** The Minister may be able to twist a few arms. I do not know what he can come up with. I know perfectly well, as he does, that he was seeking to mislead the public in relation to the degree of support he had in relation to this Bill.

**The Hon. J.D. Wright:** You have said that 99 times.

**The CHAIRMAN:** Order!

**The Hon. E.R. GOLDSWORTHY:** One has to keep returning to the truth of the matter when the Minister tries to interject and pull a red herring or something else across the trail. I think that is the only way to answer. The Minister knows that he is in trouble in relation to his statement. He knows perfectly well he sought to deceive the public. I read a letter here where he is described as mischievously having allowed the impression to be obtained by the public that employers support the proposals. I do not know what more he wants.

**Mr Gregory:** That is from only one group.

**The Hon. E.R. GOLDSWORTHY:** The submission from that group is no more telling than are the submissions from all the other groups that I have quoted, and he knows it perfectly well.

**The Hon. J.D. Wright:** When did that group ever support the Labor Party?

**The Hon. E.R. GOLDSWORTHY:** I am not suggesting they ever supported the Labor Party; that is an irrelevant remark.

**The CHAIRMAN:** Order! The type of baiting, interjecting and answering that is going on at present must cease. We are dealing with an amendment to clause 8, as moved by the Deputy Leader. I would hope that we come back to that position.

**The Hon. E.R. GOLDSWORTHY:** The Minister is very sensitive on this point.

**The CHAIRMAN:** Order! The Minister is out of order when interjecting and the Deputy Leader is out of order by answering the baiting that is going on.

**The Hon. E.R. GOLDSWORTHY:** Thank you. 'The Minister is out of order': that is all we want to know. So, we will carry on with this particular point. There is a suggestion in this submission that Cawthorne certainly did not go down the track and for the Minister to suggest that 95 per cent of his Bill is what Cawthorne recommended is more than a gross exaggeration. There are a number of matters in this Bill, as I pointed out, which were not recommended by Cawthorne and there are a number of areas where the Minister goes a lot further than Cawthorne. This is one of them. Let me refresh his memory. I do not know how he did his sums when he came up with 95 per cent. I read from the report:

> It was also with a view to encouraging informality that the Discussion Paper considered the question of giving the Industrial Commission jurisdiction to hear re-employment cases.

This is the pertinent Cawthorne quote at page 34 of the revised edition put out with such glee by the Minister, which reads:

> On a preliminary examination of the arguments in favour of such a move, which are outlined on pp 366-369 of the Discussion Paper, it was generally concluded that there was much to recommend the involvement of Commission members in the reinstatement jurisdiction, but only at the conciliation stage or where the matter arises in the course of a compulsory conference and both parties consent.
>
> However, the response to that tentative conclusion has persuaded me that it is appropriate, at this stage at least, that the jurisdiction continue to be vested in the Industrial Court.

Then there is a full stop. No, it is not: it is a comma. I do not think Medibank has cut in yet. My wife has just had a pair of glasses. I will have to wait before I get a pair.

> continue to be vested in the Industrial Court,

The point is still strong.

> . . . involving as it may do difficult questions of law.

What can be clearer than that from Cawthorne, the Minister's new English Bible *a la* Minister of Labour—Cawthorne; 95 per cent (I will not say 'dishonestly'—that might hurt him) of which he alleges he has incorporated in the Bill. One does not have to be a genius at mathematics to know that that is a complete misrepresentation.

There are a number of matters (and this is one) where the Government has gone down a completely opposite track to Cawthorne. The report further states:

> . . . I am convinced that there is a positive role which could be played by Commissioners at the pre-hearing conference stage, which role would use to full advantage the dispute settling and conciliatory abilities possessed by Commissioners. Consideration may have to be given to what additional powers the Commissioners would need to ensure that the objects of pre-hearing conferences are met.

Mr Cawthorne agrees with the Law Society, with the intuitive reaction of laymen who commented on this, and also with the reaction of employer representatives who disagree with what the Government is proposing. He gives added weight to our contention that the place to hear judicial matters is a court under proper judicial circumstances, where people who are trained to make those sort of decisions are able to do so, rather than before a single Commissioner in an Industrial Commission, where people are not trained in these matters and where the scope of decision making is very loose indeed in terms of this submission. I refer to what the Law Society had to say in regard to this matter.

**The Hon. J.D. Wright:** I have got the letter; I know what is in it.

**The Hon. E.R. GOLDSWORTHY:** But the Committee ought to know. If it is embarrassing for the Minister, that is too bad. I make no apology for getting this on the record so that members in this place can hear it. Members do not know what letters the Minister has in his possession. If they did, they would know, as I know, how he has been trying to hoodwink the public in relation to the support that he has got for the Bill.

*The Hon. J.D. Wright interjecting:*

**The CHAIRMAN:** Order!

**The Hon. E.R. GOLDSWORTHY:** I am putting it in *Hansard.*

**The Hon. J.D. Wright:** By wasting a lot of time.

**The CHAIRMAN:** Order! The Chair pleads with the Minister to stop interjecting. I hope that the Deputy Leader will also stop baiting and get back to the amendment.

**The Hon. E.R. GOLDSWORTHY:** I am simply reading one of the submissions from the people who the Minister says—

**The CHAIRMAN:** I ask the Deputy Leader to continue with the amendment.

**The Hon. E.R. GOLDSWORTHY:** Part (7) of the letter states:

> Difficulties have already arisen in re-employment applications because appeals from Industrial Magistrates are limited to a single judge (section 93 (2) of the Act), and conflicting decisions have been given. That general problem is now eliminated by section 40 of the Bill so far as the Industrial Court is concerned. However, section 42 of the Bill would appear to limit appeals in re-employment applications to the Commission constituted of a single judge, thereby perpetuating the problem in this type of application.
>
> The Society therefore requests that the Government reconsider these matters and that:
>
> *(a)* the jurisdiction not be transferred to the Commission, particularly if there is to be a power to award compensation;
>
> *(b)* if compensation is to remain as an alternative, the widest possible discretion remain with the Tribunal to award legal costs; and
>
> *(c)* the appeal provisions allow access to the Full Court or the Full Commission as the case may be.

A number of other matters in relation to this matter are canvassed by the Law Society.I will refer in due course to a number of submissions stating the views of others in regard to these provisions. Suffice to say that the Minister does not have support for this provision in clause 8—far from it. He does not have the support of all employer groups to which he has referred and from whom he has suggested he has support. He certainly has not taken cognisance of the views of the Law Society and certainly he has not thought through the ramifications of what is being proposed in this clause in relation to the appropriate place to hear complaints in relation to dismissals. Essentially, they are judicial decisions and the matters should be heard in a court.

**The Hon. JENNIFER ADAMSON:** I support the amendment but oppose the clause because I oppose the removal of dismissal hearings from the court and placing them in the hands of a single Commissioner, that Commissioner being a person untrained in the law. The Deputy has outlined in a submission to the New South Wales Law Society the reasons why lawyers oppose this clause. I must say that, having heard those reasons, I am absolutely amazed that the Minister's legal colleagues in the Labor Party would have countenanced to the inclusion of this clause in the Bill. I am surprised that the member for Elizabeth, the Premier himself, the Attorney-General and other lawyers in the Labor Party would contemplate removing a judicial matter from a court and placing such decisions in the hands of unqualified people.

We have heard the legal viewpoint. I want to put the viewpoint of a lay person who could be affected by this decision, because if this Bill is passed any South Australian in his employment could be and will be affected by what is a fundamental change to industrial law without precedent in Australia as the Law Society has stated. There is far too much at stake in these matters of dismissal for judgments to be made by a single person, not by a court. There is certainly far too much at stake for these judgments to be made by someone who has no training, qualifications or experience in the law. The Commissioner's may well be experienced and well qualified to make decisions in relation to arbitration and conciliation, but they are not qualified to make judicial decisions.

As far as I am concerned, this clause amounts to a degradation of the law by the Labor Party, and I think that it will be seen (and widely seen) as just exactly that. The principles of industrial law on which our society is based rely very much on the fact that judicial matters are determined by the courts, and I cannot for the life of me understand why the Deputy Premier has even contemplated the inclusion of this clause in the Bill, because I cannot see any beneficiaries from it. Certainly employees will not be beneficiaries and neither will employers. There can be no beneficiaries under a system which downgrades the value of legal training and a judicial office.

To refer again to the view of the lay person and to give the Deputy Premier an analogy of what he is doing, I as a mother am reasonably well qualified to care for a sick child. I am not qualified to take out that child's appendix or to perform surgery on that child: that is the work of a qualified medical practitioner, and I could not possibly claim to be able to do it. What the Deputy Premier is doing with the transfer of powers from the Court to the Commission in regard to dismissal hearings is equivalent to what an unqualified person would be required to do in performing some kind of medical procedure on a person, because this provision involves the performance of a legal procedure.

The Deputy Premier is suggesting, indeed requiring, that it should be done by someone who is not or not necessarily (because there is nothing to preclude lawyers being Commissioners) qualified to do the job. What we are talking about here when we are talking about dismissal are matters of tremendous moment to individuals. They are not exactly matters of life and death as a medical matter may be, but they are matters of career.

**The Hon. J.D. Wright:** Try getting sacked and see what you think.

**The Hon. JENNIFER ADAMSON:** Exactly. I am about to say, Try getting sacked and see what you think if you are to have your future—

**The CHAIRMAN:** Order!

**The Hon. JENNIFER ADAMSON:** Mr Chairman—Try getting sacked and see what you think if your future is to be determined by someone who is untrained in the law. The Minister could not have made a more appropriate interjection at a more appropriate time, because this is exactly what will happen to people who are sacked. They will not have resort to a court: they will have their cases determined by a Commissioner. What is at stake is the careers, the livelihood and security of people who will have these matters determined not by a court but by a single Commissioner. It is all very well for the Minister to try to intimidate me by saying that I do not know what I am talking about. I do know about justice and the law.

*Mr Ferguson interjecting:*

**The CHAIRMAN:** Order!

**The Hon. JENNIFER ADAMSON:** It is very interesting that Labor Party members resort to abuse when they hear statements from this side of the House that do not suit their purposes. They resort to personal abuse. I do not claim—and never have and never would—to be an expert in industrial matters. I am participating in this debate as a lay person representing the interests of my constituents and of the South Australian community at large.

*Mr Ferguson interjecting:*

**The Hon. JENNIFER ADAMSON:** It is no use the member for Henley Beach trying—

**The CHAIRMAN:** Order! The Chair has been very patient in this debate, but the task becomes very difficult if members continually cross-examine and abuse each other, which is absolutely unnecessary. I call on the member for Henley

Beach to stop interjecting; if he does not, the Chair will deal with him.

**The Hon. JENNIFER ADAMSON:** Mr. Chairman, I am grateful for your protection. I want to pursue the point that there is so much at stake in a dismissal hearing, and one does not have to be an expert in industrial law to know that. The matters involved should be decided by people who are legally qualified to do so, and all the arguments and snide comments by the Minister will not remove that point. It is true that I have never been sacked, but I know some people who have been. I know some people who have taken their cases to court, and I know the anxiety and anguish that they have gone through in doing so, but I also know that they have gone to court in the confidence that a judgment will be made on their cases by people who are qualified to make such a judgment.

If this Bill becomes law there cannot in future be such confidence. How can one have confidence in judicial decisions being made by lay people? It simply defies logic and reason to contemplate why the Government has made this move, and it certainly dents any confidence that I may have had in those members of the Government who are legal practitioners, who from time to time have displayed—and I am not talking about the politics of the matter—a considerable respect and regard for the law and have enhanced debates in this House because of their knowledge of the law. How, for example, the member for Hartley could have endorsed this clause in the Caucus just beggars the imagination. As I say, the lawyers have spoken, and I do not suppose that the Minister will claim that the New South Wales Law Society does not know what it is talking about in relation to industrial law. I am saying that from the point of view of a lay person this clause is obnoxious and should not be in the Bill.

**Mr BAKER:** Under the law, this is another tort action; to the extent that it is believed that an injury has been done, there is redress under the law. In court cases, no matter what the penalty, the judgment is based on the evidence available. The simple process of justice is that the legal decisions should be based on the case.

**The CHAIRMAN:** Order! If honourable members wish to have a private conversation, perhaps it would be better if they left the Chamber.

**Mr BAKER:** When a case is brought before them, the courts determine the rights or wrongs thereof purely on the basis of the evidence available and then may impose a penalty. In this instance the determination of right or wrong is being taken outside legal hands and the ramifications can go back through the system in terms of the damages that can be proceeded with. It is fundamentally wrong in law that a Commissioner should determine the rights and wrongs of a case. To that extent, I do not believe that the Minister is facilitating justice with this provision or that the Commissioners will in essence determine the legal rights of the parties concerned. I do not believe that in all honesty they can make decisions, based purely on the facts, as to whether the decision to dismiss an employee was right or wrong. They can determine points of equity but they cannot determine justice as we know it today. So, in principle I am not in favour of this clause.

**The Hon. E.R. GOLDSWORTHY:** The Minister has suggested that the only employer group which has suggested that he sought to mislead the public in relation to support for the Bill is the Metal Industries Association of South Australia.

*The Hon. J.D. Wright interjecting:*

**The Hon. E.R. GOLDSWORTHY:** The Minister interjected to that effect not that long ago. The Minister is acknowledging that there is widespread disapproval among employer representatives if he is suggesting that it is not only the Metal Industries Association. In relation to this matter, I have canvassed and read out part of the Law Society's submission.

I shall now refer to the views of a number of other groups which reinforce the view that we in the Liberal Party have in relation to the matters which are the subject of this amendment. The amendment is tied up with amendments to later clauses in the Bill which are related to the question of unfair dismissal and reinstatement. I shall read out what the Employers Federation said in relation to the Bill. There is someone on IRAC affiliated with the Employers Federation, but he is there as an individual and does not represent the Employers Federation as such, as I pointed out to the Minister earlier. The submission from the Employers Federation states:

> We are totally opposed to the proposed amendments to the current reinstatement provisions under the Act. The proposed new section is erroneous, unnecessary, and would be a positive discouragement to employers coming to or expanding in South Australia. It has commonly been expressed that it is the Government's intention to provide for consistency with the Federal jurisdiction. There are no provisions to provide for reinstatement in the Federal jurisdiction and the proposed provisions go well beyond any powers which have been exercised by the Federal Commission when acting as a private arbitrator. Indeed, it is our opinion that these provisions alone will be enough to force employers from the State jurisdiction into the Federal jurisdiction.

There is one group other than those who said that the Minister had been mischievous in trying to mislead the public.

**An honourable member:** What's your problem?

**The Hon. E.R. GOLDSWORTHY:** I do not know. I did not hear that interjection, Mr Chairman.

**The CHAIRMAN:** Order! I hope that the Deputy Leader will not take notice of inane interjections.

**The Hon. E.R. GOLDSWORTHY:** I agree, Mr Chairman: they are completely inane interjections. You must feel ashamed to be a member of the same Party—

**The CHAIRMAN:** Order! That remark is definitely out of order.

**The Hon. E.R. GOLDSWORTHY:** One has to be extremely repetitive so that the point sinks in.

**The CHAIRMAN:** Order! I can assure the Deputy Leader that if this line of barrage of interjections and personal statements continues, I will be dealing with the Deputy Leader, too.

**The Hon. E.R. GOLDSWORTHY:** I find no fault with your Chairmanship. If they make stupid interjections, they will get a response.

**The CHAIRMAN:** Order! The Deputy Leader will find some fault with it in a moment.

**The Hon. E.R. GOLDSWORTHY:** The Deputy Premier seized with great glee on a statement that he got back in December from one of the Executive Officers of the Chamber of Commerce. He quoted something earlier to try to show that he had widespread support for his Bill.

**The Hon. J.D. Wright:** He wasn't one of the executives. He was the senior executive.

**The Hon. E.R. GOLDSWORTHY:** Well, the senior executive, but that was in December. I have here a submission on this Bill from the Chamber of Commerce dated January 1984. In relation to re-employment, the Chamber states:

> We reiterate our comments contained in our submissions on the Cawthorne Report and in point 4 above. We are opposed to this legislation in principle.

Unfortunately, the Minister is not listening. I want him to listen because someone has his wires crossed somewhere. Either the press report quoted by the Minister in December was erroneous—

**The CHAIRMAN:** Order! I hope that the Deputy Premier is dealing with the clause and the amendment.

**The Hon. E.R. GOLDSWORTHY:** I am indeed.

**The CHAIRMAN:** There is some doubt about that.

**The Hon. E.R. GOLDSWORTHY:** This is the first amendment in regard to placing dismissal matters in the hands of the Commission; I am right on the subject. I was hoping that the Deputy Premier would listen, because there is a clear conflict between what was in the press report and what is in the Chamber's official submission of January 1984. The Chamber states:

> We reiterate our comments contained in our submission on the Cawthorne Report as in point 4. We are opposed to this legislation in principle and we do not support the transfer of this power from the court to the Commission.

Did the Deputy Premier hear that? The Chamber is opposed to this legislation. The Minister quoted the spokesman earlier this evening; it is convenient for him not to listen now.

**The CHAIRMAN:** Order!

**The Hon. E.R. GOLDSWORTHY:** It is convenient for him not to listen. The Deputy Premier earlier quoted the Executive Officer who had said that all was well, that the legislation was fine. This is what was said in January, when they must have had second thoughts:

> We are opposed to this legislation in principle and we do not support the transfer of this power from the court to the Commission. If the Government intends to proceed with the legislation we suggest that section 31 (3) *(a)* should read:
>
> *(a)* order that the applicant be re-employed by the employer in his former position or in another similar position if such is available, subject to the test of practicality contained in subclause *(b)* hereof, on conditions determined by the Commission;
>
> In order that the tribunal may conduct conferences as a conciliator without giving rise to fear that the issues have been pre-judged, we propose that subsection (6) be followed by a similar provision to Section 22 (2) of the Federal Act . . .

That is going down the track of the Cawthorne Report. That is from the group which the Deputy Premier uses on the basis of one press report in December to suggest that he has their support. The position is unequivocal in their official submission:

> We are opposed to this legislation in principle.

What do the other groups have to say about this matter? I refer to the eight bodies comprising the building group, who said:

> It is considered inappropriate for hearings of claims of unfair dismissal to be vested in the Commission; such matters are of a nature that they should be heard by the court and consequently the proposal to transfer this power to the Commission is opposed.
>
> However, we are of the opinion also that the existing provisions are inadequate and would suggest that, although jurisdiction remain with the Court, facilities for the holding of a conference should be provided as well as directions relating to frivolous and vexatious applications.

That group wants the measure tightened up and it wants to follow down the line of Cawthorne in relation to some attempted conciliation at an initial hearing, and then they want matters tightened up in relation to vexatious claims. Another somewhat more abbreviated submission is from the Printing and Allied Trades Employers Federation of Australia which states:

> The principle that an employee should not be disadvantaged in a situation in which the Commission finds it impractical to order re-employment is acceptable; but provision should be made for a limit to the amount of compensation determined . . .
>
> Any amount so determined should be related to actual loss of earnings between the date of termination of employment and the date upon which the terminated employee obtained alternative employment, or, if no alternative employment is obtained: from the date of termination of employment up to and including the end of the twenty-sixth week after such date of termination.

That group is looking for a limit on compensation. All of the groups that made submissions (except for the metals group, which I do not think referred to this clause but which was the group that the Minister tended to disown when it said that he had been mischievious in seeking to suggest to the public that he had support for the Bill) are opposed to what is being promoted in this clause, as is Cawthorne. It is very difficult to understand why the Minister would wish to place matters in the hands of a single Commissioner. If one wanted to try and work out what is going on in the Government's mind I suppose one could suggest reasons, but the fact is that there is no logical argument at all for this move by the Government. All of the people concerned in this area are opposed to it, and the Law Society, in particular, put in a very strong submission pointing out just how way off the beam the Government is in relation to what it is suggesting, in seeking to thrust this out of the court and into the hands of a single Commissioner. I do not think that the Minister has a feather to fly with in relation to what he is proposing in this clause and, subsequently, clause 21 of this Bill, when he seeks to take this power out of the hands of the court (where it should properly reside, if it resides anywhere) and put it in the hands of a single Commissioner. I shall say no more but I will be interested in hearing what the Minister has to say in justification of what he is proposing. I do not believe that there is one scintilla of evidence that would indicate any justification at all for what he is proposing in these clauses.

**The Hon. JENNIFER ADAMSON:** I seek leave to make a personal explanation.

Leave granted.

**The Hon. JENNIFER ADAMSON:** Earlier when I spoke and when I referred to the letter which the Deputy Leader read to the House from the Law Society, I believe that I mistakenly referred to the New South Wales Law Society when the letter in fact was from the South Australian Law Society. I did not have the letter in front of me; I have never read it, and obviously misheard the Deputy Leader when he spoke. When I rose to speak I had no intention originally of referring to that letter, but simply of making my own observations on the clause. However, I believe that it should be corrected for the record that the letter was in fact from the South Australian Law Society and that I wrongly designated it as being from the New South Wales Law Society.

**The Hon. E.R. Goldsworthy:** You misheard me?

**The Hon. JENNIFER ADAMSON:** I did indeed.

**The Hon. J.D. WRIGHT:** Now that everyone has had their say, there are a few things that I would like to say, not in answer to anything, but simply as comments I would like to make. I am pleased that the member for Coles decided to make a personal explanation because I must confess that she is rather belated in her attempt to become an authority on industrial relations. I have sat in this House for a long time and have not heard the member in any way involve herself in a debate on this question previously.

*The Hon. Jennifer Adamson interjecting:*

**The Hon. J.D. WRIGHT:** No, the honourable member has every right to do it: she is a member of Parliament and she can participate. However, I think the fact the honourable member talked about the New South Wales Law Society exposed her ignorance.

**The Hon. Jennifer Adamson:** It exposed my bad hearing.

**The Hon. J.D. WRIGHT:** That establishes it further. The honourable member did not even bother to check her facts before she rose and began a great tirade about what she does and does not know. I challenge the member for Coles to say whether she has ever been dismissed in her life, what she knows about dismissal and the agony involved in being sacked. She stands up pretending that she is an authority on this matter, yet she knows nothing whatsoever about it. I suggest that the member for Coles should confine her remarks to tourism. She does tremendously well in that area, and I complimented her for her comments in that area earlier in this debate. However, the member for Coles knows very little about the area presently under discussion.

*Mr Mathwin interjecting:*

**The Hon. J.D. WRIGHT:** The member for Glenelg can do whatever he likes. He has the freedom of this Chamber, he is a member and he can speak as often as he wants to. I would like someone to tell me, apart from the lawyers in this State, how it becomes a legal question because someone is dismissed. How is that a legal question? In fact, in 99 cases out of 100 it is an industrial question of some type or another. It has nothing to do with the law whatsoever. However, I will come to that point in a moment.

**Mr Mathwin:** When the Government appears in the Industrial Court, then it—

**The CHAIRMAN:** Order! If the honourable member for Glenelg wants the Chair to deal with him, I assure him that the Chair will accommodate him.

**The Hon. J.D. WRIGHT:** I suggest to the Committee and to everyone in South Australia that there is nothing illegal about being sacked. It does not take a lawyer to sack someone or to reinstate them. Members opposite should remember those two points. The member for Coles raised in debate the New South Wales system. This question has been answered in the New South Wales Commission for many years, where it has been handled effectively and well.

*An honourable member interjecting:*

**The Hon. J.D. WRIGHT:** I do not expect employers generally, specifically or across the board to support any industrial legislation, because they never have. In fact, in the 13 years that I have been a member of this House the Liberal Party has not supported industrial legislation, and on most occasions my legislation has been defeated, amended or had scissors used on it in the Legislative Council. Most of my legislation has been of a progressive nature and, therefore, the Liberals in this State will not accept it. I do not really expect the combination of the Liberals and employers to support my legislation.

**Mr Mathwin:** You said employers—

**The Hon. J.D. WRIGHT:** Just a moment. When a body such as the Industrial Relations Advisory Council is established, with four union members and four employer representatives, and they reach agreement, one has the right to think that the legislation has their support. That is what I said, and I maintain that view.

**The Hon. E.R. Goldsworthy:** No you didn't.

**The Hon. J.D. WRIGHT:** I maintain that I said that, and I repeat it. The Deputy Leader should be careful about the ground on which he is treading, because some people are not too happy with his statements on this matter. The Deputy Leader knows that I know what I am talking about on this particular subject. However, let us return to the clause before the Committee. Incidentally, the Deputy Leader did not connect his amendments to clause 8 with clause 21 until very late in the piece.

**The Hon. E.R. Goldsworthy:** Why should I?

**The Hon. J.D. WRIGHT:** Because clause 21 is clearly the main clause. They are linked. If the Deputy Leader's amendments to clause 8 fail, of course, his amendments to clause 21 also fail.

**The Hon. E.R. Goldsworthy:** Do you disagree with me talking to this one?

**The Hon. J.D. WRIGHT:** I think that the Deputy Leader should have linked the two.

**The Hon. E.R. Goldsworthy:** You want two bob each way.

**The CHAIRMAN:** Order!

**The Hon. J.D. WRIGHT:** It is the Deputy Leader who wants two bob each way. This debate is really about whether or not the activities regarding reinstatement ought to be transferred from the Industrial Court to the Commission. Let me give the picture of an ordinary working class person who is on $250 per week, or whatever the case may be.

**The Hon. Ted Chapman:** Like me.

**The Hon. J.D. WRIGHT:** Not like the honourable member, I am afraid: very much unlike him. I am talking about an ordinary working class person, who, for the first time in his life, finds that he has been dismissed. The employer comes in and says, 'You are sacked.' The employee does not know what to do, where to go, how to handle it. He gets home and tells his wife, 'Darling, I have been sacked.' She says, 'What happened?' She would also say, 'You must have done something wrong.' That man is left with this situation. They sit down and talk about it, and he says, 'I had better ring the union office to see what I can do.' He is told that the first thing he must do is to see the union lawyer, which frightens him anyway. He has to sit down and tell the lawyer all about the dismissal and the lawyer decides whether or not he has a case. The costs are escalating all the time.

Let me say, with great respect to my friend the lawyer who is sitting behind me, that lawyers costs are extremely high and escalating all the time. What happens to this poor working class person who does not know why he was sacked, why he had to see his union or why he had to see a lawyer? The next thing is that he goes before a judge (who is wearing a wig) and he has to sit petrified in the court. That is what happens to this working class person who, for the first time in his life, has been sacked.

The New South Wales Government some 15 or 16 years ago decided it would take wigs, courts, lawyers and all those sorts of things which cost money out of that atmosphere and allow the working class man who has been sacked to present his own case if he wishes. In South Australia, such a person has to appear before a judge, who makes a decision. The employee who has been dismissed has no option but to employ a lawyer because the employer will employ one. Obviously, that is what he will do. What chance has the working class man who knows nothing about the courts or the law?

*The Hon. Ted Chapman interjecting:*

**The Hon.J.D. WRIGHT:** The honourable member for Alexandra says he should not get the sack. The fact is that people do get the sack. I can remember the honourable member saying some very disparaging things in this House about working class people over the years. But I am not going to go into that tonight. That might be left for another time. What the Government is trying to do is to make the procedures a little more accessible to those people who get the sack, to make costs a little cheaper, and to make the atmosphere in which cases are conducted a lot better. The Law Society must be seen as nothing more than a union.

*The Hon. Jennifer Adamson interjecting:*

**The Hon. J.D. WRIGHT:** The Law Society is a union representing lawyers.

**The Hon. Jennifer Adamson:** Is anything wrong with that?

**The Hon J.D. WRIGHT:** No, but let me qualify it.

**Mr Mathwin:** Does it give them legal advice?

**The CHAIRMAN:** Order!

**The Hon. J.D. WRIGHT:** Obviously, the Law Society will make representations to the Government and the Opposition to try to protect work for its members. It would not be doing its job if it did not do that. I make no criticism of that: that is its right if it wishes. However, the activity of the Law Society is simply a bid to keep the work under the control of lawyers. That is one of the reasons, I suggest, put forward by the member for Coles in saying that she was surprised that the members for Elizabeth and Hartley had not raised these objections in the court. They are people who have had the experience of having to go into court to determine these situations.

**The Hon. E.R. Goldsworthy:** It does not apply in the Commission.

**The Hon. J.D. WRIGHT:** It does not have to apply. One can simply go on one's own, but I am suggesting that the majority of decisions do not require legal brains to settle them. They require someone who has an industrial past, who has worked as a Commissioner. Let me say this—and it is a very important point: those people who will be appearing before the Commissioners come from equal sides of the political fence because, under the Act, there must be two employee and two employer representatives. Therefore, they will be treated equally.

*The Hon. Jennifer Adamson interjecting:*

**The Hon. J.D. WRIGHT:** The member for Coles has not really considered her position—she has not read the rest of the amendments. We have catered for that as well.

**The Hon. E.R. Goldsworthy:** It is not in the Bill.

**The Hon. J.D. WRIGHT:** It is in the amendments.

**The Hon. E.R. Goldsworthy:** What are you seeking to change in the Bill?

**The CHAIRMAN:** Order!

**The Hon. J.D. WRIGHT:** The amendments have been on file for two days. If the Deputy Premier has not read them, it is not my fault.

*The Hon. Jennifer Adamson interjecting:*

**The Hon. J.D. WRIGHT:** I am telling the honourable member what it caters for: it caters for simple circumstances.

**The Hon. E.R. Goldsworthy:** We are on about what the Bill says.

**The Hon. J.D. WRIGHT:** That shows the ignorance of the Deputy Leader. He has read the amendments and he knows what they say. The amendments make a simple change to allow a Commissioner to refer to a judge matters of a legal nature.

**The Hon. Jennifer Adamson:** He can, but will he?

**The Hon. J.D. WRIGHT:** Does not the honourable member trust the Commissioners of the State Industrial Commission? Is she trying to tell the Committee that State Commissioners are untrustworthy people and that, if they thought the argument was above them, if it was a legal argument, they would not refer it on? I suggest that the honourable member does not know what she is talking about. I have a great deal of trust in the Commission and the Court, without any shadow of doubt. This amendment simply makes access easier and makes people feel more confident. For the first time it gives the Commission the opportunity to handle these cases. It handles all industrial matters now, irrespective of their nature. The Industrial Commission makes a determination about these matters. I say unequivocally that this amendment is of an industrial nature—there can be no question about that.

In my view, almost every dismissal is made on the basis of some industrial happening in the work place. It is not a matter of getting advice from a lawyer—there is an instantaneous decision when an employer dismisses an employee.

I fail to understand the Opposition's objection. It is interesting to note that all the opposition that has been cited by the Deputy Leader in this House comes either from lawyers or people representing employers. The honourable member has not been able to cite one letter from an individual complaining about this change to the Act or from any organisation representing employees, whether it be an association, an industry union, any other union, or the Trades and Labor Council. Nobody has objected to it except employer organisations. Yet, the Industrial Relations Council agreed unanimously that these changes were in the interests of good industrial relations. Again, we find that the recommendations of that committee are not being accepted by Liberal members.

**The Hon. E.R. GOLDSWORTHY:** I suggest that the Minister is way off the beam in his personal attack on the member for Coles. It is about the weakest point that he could have thrust forward in any debate in this place to suggest that, because the member for Coles misheard my statement in relation to a Law Society submission to the Minister and thought I said 'New South Wales' rather than the 'South Australian Law Society', by some lateral process of thinking it destroyed the import of the argument. That must be the weakest point that the Minister could advance in any debate in this Chamber.

Just how far will the Minister go in grasping for straws to sustain an untenable argument if he sinks to that level: a personal attack on the member for Coles who he knows perfectly well is a conscientious member of this House and who seeks to represent the views of the people who put her here. I thought that that was a pathetic attack on the member, simply on the basis of mishearing one sentence that I uttered in relation to this matter. It does not for a moment deny the import of what was in that submission, and he knows it. The next point made by the Minister was that, unless one has been sacked, one is in no position to debate this clause. I ask you, Mr Chairman, what strength does a statement like that have in this place? If one has not been sacked from one's job one cannot have an opinion in relation to this clause.

**Mr Ingerson:** So therefore Jack's been sacked.

**The Hon. E.R. GOLDSWORTHY:** He said that he had been sacked, so that makes him eminently suitable to talk about this. Because some of our members have not been sacked they are excluded from talking about this clause. How pathetic can one get in debating these matters? The Minister wants two bob all ways in relation to the degree of support. Then we got back on to the old argument which we have been having, to-ing and fro-ing all day in relation to the support he has for this Bill. He wants it all ways. He said quite clearly that he had been on cloud nine ever since agreement was achieved between employer and union groups, and what I have quoted tonight are the views of these groups, not individuals who happen to be represented as individuals on his much loved IRAC. That is what he said publicly. I have mentioned already that he keeps leading with his chin: every time he leads, one has to hit him. He has been accused: the Government mischievously has allowed the impression to be obtained by the public that employers support the proposals.

'My answer did not indicate approval nor approve the proposed amendments',—and I have read again all the submissions indicating that they will not have a bar of this clause and of a lot of other matters in the Bill. If the Minister wants to go public and make statements which are not true, we will draw his attention to them and, no matter how many red herrings he draws across the trail, he cannot escape the consequences of what he has said and what he is on the record publicly as having said. He gave the lawyers a back hander. All they want is to be part of the action. One does not have to go into the Commission or the court with a lawyer: that is a matter of choice, wherever one goes, and he knows that. The lawyers will be thrilled when they read what he has said about them. However, I still believe, and here is a lawyer—

**Mr Groom:** I support it.

**The Hon. E.R. GOLDSWORTHY:** The honourable member is a Labor lawyer. What would we expect? He is in the Labor Party in Parliament. We know what would happen to him, an aspirant for the front bench. We know what would happen to him if he did not toe the Party line. He would not have his arm broken; he would have every bone in his body broken. We know that. He is breathing down the neck of poor old Jack Slater and Terry Hemmings.

*Members interjecting:*

**The CHAIRMAN:** Order! Order!

**The Hon. E.R. GOLDSWORTHY:** This week's joke.

**The CHAIRMAN:** Order! Time and time again during the course of the small amount of progress that has been made in relation to this Bill, the Chair has appealed to members not to get into personalities and not to use abuse, and we still seem to be able to come along and do it. For the last time—

*Members interjecting:*

**The CHAIRMAN:** Order! And this goes for Government members also. For the last time, the Chair is giving fair warning. If someone wants to violate that warning, the Chair will deal with them.

**The Hon. E.R. GOLDSWORTHY:** Thank you, Mr Chairman. I always accept your ruling.

**The CHAIRMAN:** Order! That goes for the Deputy Leader, too.

**The Hon. E.R. GOLDSWORTHY:** Mr Chairman, very well spoken, as always. We know that the Labor lawyer opposite would have every bone in his body broken if he did not toe the Party line, and his hopes of getting into the Ministry would evaporate. Let me come back to the Deputy Premier's contribution in reply to the points made in this debate. As I said, he wants it all ways. He said, 'I would not expect to get the support of the employer groups for this legislation; so, I am not surprised when I have not got it.' I read out where he had not got it; yet he was on cloud nine in December because he had got it. How funny can one be! What a point to raise, along with his other feeble points, in response to what we are saying.

*An honourable member interjecting:*

**The CHAIRMAN:** Order!

**The Hon. E.R. GOLDSWORTHY:** The honourable member will have to speak up if he wants me to hear what he is saying.

**The CHAIRMAN:** Order! The Deputy Leader is again out of order by even baiting the interjection.

**The Hon. E.R. GOLDSWORTHY:** He baited me, but he did not speak up; so I could not hear him. Where is the substance in the Deputy Premier's argument? He says that he does not expect to get the support of employer groups. It would be unusual if he did. So he is not surprised that he has not got it. Yet he claims publicly that he has. So every time he leads with his chin, we will hit it. If he says that we are being repetitive we suggest that he gets off that tack because he knows that he has sought to mislead the public, and the employers have said so.

His other point was that we are disqualified from talking about this if we have not been sacked. Then we had a dissertation in relation to the tragedy of being sacked. We all know perfectly well about this, although we may not have experienced it at first hand. Friends of mine have been put off from employment at short notice; I know the traumatic effects that this has had on them and their families. I do not believe that we are disqualified from talking about it, because people in our close ken have experienced it under the present Labor Government, which was going to fix up unemployment. It happened last year; so I know full well what the tragedy of unemployment is, and I know full well that the present Government has done nothing in relation to employment in this State; more people are unemployed in South Australia now than there were when this Government, which promised to do something about it, came to office. These provisions and this Bill will exacerbate that situation unless it is severely amended. We had the Minister's exposition in relation to the tragedy of unemployment; we do not disagree with that. The Labor Government has done nothing to fix it, and this Bill will do nothing to fix it.

**The CHAIRMAN:** Order! The Chair points out that this clause does not deal with the question of unemployment.

**The Hon. E.R. GOLDSWORTHY:** The only other point made by the Deputy Premier in relation to one of the more feeble—and that is really saying something—responses that have come from the Government in relation to points made in this debate was in quoting submissions from employers. I have already made the point that they are supporting the Government anyway, according to the Deputy Premier, but none of these people have sent submissions to me. Where are all the people? We heard in relation to an earlier clause that there had been a whole stream of people through the Deputy Premier's office, putting a point of view in relation to those matters, but I have had not one submission in relation to this clause from any of the people about whom the Deputy Premier is talking. A number of friends of mine have lost their jobs, but I have not had one submission in relation to this clause from other than the groups that I am quoting.

What is the point that the Deputy Premier is making? He is saying that he has universal support, and I am saying that from the people who have contacted me he has zilch support in relation to a number of important matters. So, he wants it all ways, but he cannot have it all ways. To suggest that because the member for Coles has not been sacked, she is not capable of talking to this Bill, and that because she misheard one small quote in relation to where a submission came from that destroys the burden of her argument and that of the Opposition is about as pathetic as one can get.

*Mr Whitten interjecting:*

**The CHAIRMAN:** Order!

**The Hon. JENNIFER ADAMSON:** I thank my colleague the Deputy Leader for his defence on my behalf. I would now like to address myself to what the Deputy Premier said. I must say that I take exception to an attitude whereby he is so possessive of this industrial relations matter that he takes exception to any one else becoming involved in the debate. I would like a bit of consistency here from the Deputy Premier. He claimed in response to the Deputy Leader's speech that all opposition to this move comes from lawyers and employers, yet when I spoke out as a layperson on behalf of individuals, on behalf of employees (not employers or lawyers), he ridiculed me on the basis that I have never been sacked. Although I have never been sacked myself, I know of people in my extended family and close friends who have been sacked. One does not have to lose a leg to feel sorry for someone who is disabled and one does not have to be sacked to understand some of the anguish, anxiety and permanent effects on personality, marriage and parent-child relationships due to a person having been sacked. You do not have to go through that personally to have a knowledge of the suffering.

*The Hon. J. D. Wright interjecting:*

**The CHAIRMAN:** Order!

**The Hon. JENNIFER ADAMSON:** The Deputy Premier's response to the points that I made and the points that the Deputy Leader of the Oppostion made was based on the fact that he regards dismissal as not a legal matter but as an industrial matter.

*The Hon. J. D. Wright interjecting:*

**The CHAIRMAN:** Order!

**The Hon. JENNIFER ADAMSON:** The Deputy Premier continues to say that I know nothing about the matter, but even if it were true I should think he would welcome the participation of any member of this House in a debate on a matter that has such a profound effect on the whole economy of South Australia and on the lives of individuals. When any member from either side of the House has anything whatsoever to say on the subject of tourism I welcome it: a person may not necessarily know precisely what they are talking about, but at least that person is getting involved in a matter of profound importance to the State and is trying to learn something about it. Is there any reason why

that attitude should not be applied to industrial matters? I am involved in this debate for the very reason that if this legislation becomes law it will have a very profound and adverse effect on the tourism industry. Of course, this provision under consideration cannot be related to any specific industry: it relates to individuals and their rights before the law. The Deputy Premier stands up and refers to the terror that is struck in the heart of the working class man: he makes no reference to the working class woman or indeed any other kind of employee.

**Mr Whitten:** The working class woman! For Christ's sake!

**The Hon. JENNIFER ADAMSON:** 'The working class woman! For Christ's sake!' says the member for Price. I do not know whether that was an involuntary comment. I will give the member for Price the benefit of the doubt because he is a very decent fellow, but it certainly sounded strange at the very least. Men and women are involved here; not all are in the category of what the Deputy Premier would call working class. The chief executive who gets the sack suffers no less anguish than does the fitter and turner who gets the sack. I do not think one can start distinguishing between the degrees of pain suffered by individuals who get the sack, nor do I think that we should be concentrating entirely on one class (if the Deputy Premier must use that word) of employee when considering the effect of this clause on the rights of individuals and employment. The Deputy Premier says that it will make everything so much better if wigs and gowns and the whole judicial atmosphere are removed. That can be done without legislation: you can simply express a view and hope that the judges might see the merit of that point of view.

I would not have thought that the Industrial Court was of such a forbidding nature. We are not talking about the Supreme Court or the High Court, after all. I do not think that the judges on those courts disport themselves in an extraordinarily formal manner, although I am quite certain that they uphold the dignity of their judicial positions. It simply is not an argument to say that sackings or dismissals are not matters of legal consequence, that they are industrial matters and, therefore, they can be dealt with by lay people who are experienced in industrial matters. I do not believe that that is good enough. If I were to get the sack, and on behalf of the people I know who have got the sack—

**Mr Whitten:** You were pretty close last time.

**The Hon. JENNIFER ADAMSON:** As a matter of fact, the member for Price has raised an important point.

**The CHAIRMAN:** Order! The member for Price is out of order and I assure him that he is coming close to being dealt with by the Chair.

**The Hon. JENNIFER ADAMSON:** Without making any reference whatsoever to the interjection of the member for Price, I will say this: anyone who has held a position in Government, as a member of the Government, as a Minister in Cabinet, and loses that position gets quite some insight into what it is like to be sacked. I have had that experience and I have some slight insight into what individuals who actually lose their livelihood suffer. So, that interjection to which I will not refer was not so wide of the mark in terms of personal knowledge in terms of what it is like to be sacked.

The Deputy Premier's reponse on the basis that sackings are not legal matters and are industrial matters and that judicial office is not required virtually negates the whole basis of this section as it was originally laid down. The Industrial Conciliation and Arbitration Act was introduced in 1972, so it was a piece of legislation introduced by a Labor Government. What has suddenly made the Labor Party decide that sackings are purely industrial matters? It did not think that 10 or 12 years ago. It did not think that until 1979. What has made it suddenly decide in 1984 that sacking is an industrial matter which does not require any judicial determination as to compensation? I would like the Deputy Premier to explain why from 1972 to 1979 his Party and his Government believed that judges were the appropriate people to determine these matters and why, suddenly, in 1984, they believe that is not the case, because the Minister has not explained that satisfactorily and his arguments about wigs and gowns are just so feeble that they do not even stand examination.

I am not speaking for lawyers or for employers but for ordinary people who face or who have faced the prospect of dismissal. I believe that those people are entitled to have their cases considered by people who are legally qualified to do so. The proposal in this clause does not give the ordinary individual that right.

The Committee divided on the amendment:

Ayes (18)—Mrs Adamson, Messrs. Allison, P.B. Arnold, Baker, Blacker, D.C. Brown, Chapman, Eastick, Evans, Goldsworthy (teller), Ingerson, Lewis, Mathwin, Meier, Olsen, Rodda, Wilson, and Wotton.

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

Pairs—Aye—Mr Oswald. No—Mr L.M.F. Arnold.

Majority of 5 for the Noes.

Amendment thus negatived.

**The Hon. J.D. WRIGHT:** I move:

Page 3—

Line 24—Leave out 'subsection' and insert 'subsections'.

After line 24—Insert new subsection as follows:

(2a) A claim may not be made under subsection (1) *(d)* by reason only of an award made under section 25a.

There is a very simple explanation for this amendment. Some concern has been expressed that a general award under proposed new section 25a may form the basis of an application under section 15 (1) *(d)*. I assure this Committee that this was never intended as it has been accepted that such an application should be limited to employees covered by specific awards of the Commission. This matter should be clarified, and so it is proposed to provide expressly that the claim cannot be made under section 15 (1) *(d)* by reason only of the existence of an award under new section 25a.

Amendment carried; clause as amended passed.

Clauses 9 to 11 passed.

Clause 12—'Commissioners.'

**Mr BAKER:** Under the previous legislation an even number of Commissioners were appointed, but under this Bill there is an odd number. Is there any reason for the change?

**The Hon. J.D. WRIGHT:** There is a change under this provision; the honourable member is quite right. In the past there has been a restrictive situation, if you like, whereby, if the President, for example, came to me and said that there was too much work and recommended a further Commissioner, I could not allow that. This clause provides for one extra Commissioner. Under the present legislation two Commissioners must be appointed at the one time, and that is terribly restrictive. I assure the Committee that it will be viewed very seriously, and the addition of a further Commissioner would have to be justified by the President recommending the appointment and substantiating that there is extra work. I think that the amendment is justified. As I have said, at the moment we must appoint one from either side, and sometimes that cannot be justified.

Clause passed.

Clause 13—'Composition of Commission.'

**The Hon. J.D. WRIGHT:** I move:

Page 5, lines 23 to 25—Leave out subsection (3a) and substitute new subsection as follows:

(3a) The Full Commission shall not be constituted of more than three members if any party before the commencement of a hearing objects to the Full Commission being so constituted for the purposes of the hearing.

The President of the Commission has submitted that it is inappropriate that he be obliged to consult with parties to proceedings before the Full Commission could be constituted by more than three members. However, it is considered appropriate that the parties should have some opportunity to opt for the usual number of three members. Accordingly, it is proposed that the parties be simply given the opportunity before the commencement of the proceedings to object to a bench of more than three members.

Amendment carried; clause as amended passed.

Clause 14—'Insertion of new sections 25a and 25b.'

**The CHAIRMAN:** Once again, we have some difficulties with this clause. There are two proposed amendments, one by the Minister and one by the Deputy Leader. I will allow the Deputy Leader to move his proposed amendment up to page 5, which will safeguard the Minister's amendment. If that part of the Deputy Leader's amendment is carried, the Minister's amendment would be lost and the Deputy Leader could then put the balance of his amendment.

The proposed amendment to be moved by the Minister would be lost. However, if the Deputy Leader's amendment is lost, the rest of the amendment would not be proceeded with. I hope I make that position clear. It is a little complicated. But, that is the way we did it before and it is vital that both amendments be dealt with. I will allow the Deputy Leader to move his amendments, but I will put only part of the amendment to line 33.

**The Hon. E.R. GOLDSWORTHY:** I move:

Page 5, lines 28 to 44—
Page 6, lines 1 and 2—Leave out all words in these lines.
Page 6, line 5—Leave out 'or other'.

Although, we are not going to vote on all the amendments, we can talk about them. The amendment to leave out 'or other' is one that the Minister has picked up, I see from perusing his amendments. But, certainly he has not picked up the other point which is the import of our amendments. Clause 6 seeks to insert a new clause 25a into the Act, and the clause which I seek to leave out relates to the Full Commission. It provides:

The Full Commission has jurisdiction to make an award, of general application, regulating remuneration or conditions of employment.

An award made under this section is, subject to this section and any qualification stated in the award, binding upon all employers and employees.

An award made under this section affects the conditions of employment of an employee only to the extent to which his conditions of employment are inferior to those prescribed by the award.

It goes on to say who can make an application under the section. I do not believe that that general power is appropriate at any time, let alone in the present economic situation in which we should be exercising constraint. I do not believe that that clause stands up under any circumstances.

Of course, it appears to me that what is being sought here is the best of all worlds in relation to these general awards. If an award is applicable to one section of an enterprise and industry and some 'overs and unders' in that agreement reached in relation to that industry (it might be a disability allowance or some other matter that has been negotiated), this amendment seeks to institutionalise the best of all worlds across the board in relation to those awards.

Nothing inferior is being written in—only some added advantages in terms of the award are to be enacted in terms of this clause. Again, the Minister is less than honest when he asserts that he has employer support in relation to this clause. He reached agreement in IRAC with the representatives: we all know that in the end they had to reach a compromise, which they did. But, to suggest he has the support of employer or other groups in relation to this clause is as fallacious as it is regarding all the others. But, it is inappropriate, I believe, to give this sweeping power to the Commission in relation to getting the best of all worlds from a whole range of awards concerning a whole scope of activity that would have general application. No real argument has been advanced to justify that. The best of all worlds is being sought. Where specific advantages have been negotiated for one group, they may be advantaged in some aspect of their award but may have a lesser advantage under their award in another area. The best of all worlds is to be rolled into a general award in terms of the differing conditions that may exist across one activity.

Again I briefly refer to some of the submissions which have come in on clause 14 and which again completely negate what the Minister has said. The employers Federation stated:

The proposed section 25 *(a)* is designed to allow the Full Commission to make general awards affecting all employees under its jurisdiction. We believe that awards should be made as closely as possible to the industry that they will affect and therefore we are opposed to general orders which are designed to supersede awards which have been negotiated and/or arbitrated to suit specific industry requirements.

We would therefore submit that general awards should not supersede industry award conditions even where that industry award may be inferior to the general award in respect to that particular condition of employment.

The submission from the building groups (there are 8 or 10 of them), states:

We consider the proposal contained in subsection (4) of section 25*a* unacceptable as written.

In the first instance we would agree that the Full Commission should be permitted to receive an application for determination concerning the making of an award of general application if the application is made by the Minister.

As far as the United Trades and Labor Council is concerned, however, we are of the opinion that, as an unregistered organisation, the proposed facility to make application should not be provided without qualification.

So, there is some qualified support in that submission. The Metal Industries Association states:

*Powers for making General Orders and Advisory Role.*

The introduction of section 25 *(a)* is of particular concern to MIASA. With the retention of existing sections 80 and 81 (amended) the intent of section 25 *(a)* as outlined by the Minister in his second reading speech is negated.

Power granted to the Commission to make an award of general application coupled with the proposed power under section 25 *(b)* goes too far without reference to the specific issues and circumstances attached to present award-making procedures.

It remains our view that awards should be considered individually and varied according to their own particular circumstances consequent upon established general principles. Efforts under section 25 *(a)* to cover award-free employees would cut across and confuse the situation concerning present award coverage for the vast majority of the workforce. The Commission already has all the power necessary to establish standards through appropriate test cases (for example, maternity leave provisions).

Looked at in depth, the provisions of 25 *(a)* and *(b)* provided a vehicle for the conduct of test cases to establish social issues as standards and award provisions.

This contention is supported by the alteration made by the Government to the original Cawthorne recommendation relating to section 25 *(b); viz.*, the Cawthorne recommendation was:

5 *(e)* That the Commission be given a general power to consider and report on any industrial matter referred to it by the Minister.

That canvasses the other matter that has been taken up by the Minister. That is what that group has to say in relation to this clause. I refer to the submission from the Chamber of Commerce, which, the Minister claims, supports his stance. This is tied up, in the view of the Chamber of Commerce, with clause 4, which we canvassed earlier, and clause 14. The submission states:

Once he declares a class of person by regulation, that class comes within the definition of employee and all of the Act's

provisions relating to employee status apply. This may be undesirable.

It may, for instance, be desirable to have rates of pay for certain classes of persons determined by the Commission, but for working conditions, leave provisions etc. to be unregulated.

It then proposes alternative wording. Therefore, there is no support for the clause from that group either. I do not think I need to say any more in relation to this clause at this stage. As I have said, the other part of the amendment to which I referred in relation to section 25b is not recommended by Commissioner Cawthorne and I think that, if I read the Minister's amendments correctly last evening, he seeks to omit the words 'or any other matter'. That the Minister should refer to the Commission for a report any matter is not recommended by Commissioner Cawthorne. I refer to new section 25b, which has been picked up by most commentators whose submissions have come to me and which states:

The Commission has jurisdiction to inquire into, and report and make recommendations to the Minister upon, a question related to any industrial or other matter that is referred to the Commission for inquiry by the Minister.

Commissioner Cawthorne certainly did not recommend anything like the breadth of that power of inquiry. I am moving that 'or any other matter' should be deleted from that clause, and that the Commission have the jurisdiction to inquire into any industrial matter, because that is the area in which it has some competence. I think that the importance of what I am moving there is fairly obvious. However, in relation to the amendment to new section 25a mentioned in clause 14, we simply oppose that clause because, as I said, it is introducing a power to make an award on general application which I believe is quite undesirable in terms of the sort of fine tuning that goes into individual awards applicable to that agreement and which certainly is not necessarily applicable across the whole spectrum of that industry.

**The CHAIRMAN:** Order! So that the Minister's proposed amendment is absolutely safeguarded, I believe that it would be right and proper for the Minister to at least move his proposed amendment at this stage so that it can be properly debated.

**The Hon. E.R. Goldsworthy:** One cannot have two questions.

**The CHAIRMAN:** Order! The Chair finds itself in a very difficult position in relation to this Bill. It is a very complicated Bill, and I think that the Committee would agree with that analysis of it. There are quite a number of amendments of a different nature and I have had to take advice on several occasions. I make no apology for doing that and I find that, in this particular case, if I do not allow the honourable Deputy Premier to move his proposed amendment it is possible that he could lose that proposed amendment altogether. Rather than do that, I believe that, quite rightly, he should be given the opportunity to make sure that the proposed amendment is safeguarded. I ask the Deputy Premier to move his proposed amendment.

**The Hon. J.D. WRIGHT:** I move:

Page 5, Lines 34 to 36—Leave out subsection (3) and substitute new subsection as follows:

(3) An award made under this section affects a condition of employment of an employee only to the extent to which that condition is inferior to a condition prescribed by the award.

**The Hon. E.R. GOLDSWORTHY:** I rise on a point of order. There was a ruling from the Chair earlier which, in effect, precluded all of my amendments being voted on. How on earth can one, in Committee stage, have two proposals before the Chair at the same time? At present, we have my amendment, which has been moved, before the Committee. It has not been dealt with, and now we have another proposal before the Chair. I am in favour of bending Standing Orders so that we can all have a go, and I would have liked Standing Orders bent so that I could have had a go in relation to the rest of my earlier amendments. However, I cannot for the life of me (and I do not want to be unduly difficult) understand how Standing Orders can allow for two propositions to be before the Chair at the one time.

**The CHAIRMAN:** It is true to say that there are two propositions before the Chair, but the Chair pointed out to the Deputy Leader that although he was allowed to move his proposed amendment at this time what would be put to the Committee would be the Deputy Leader's proposed amendment up to line 33. That is what will be put to the Committee at the appropriate time. The problem that the Chair has is that two different amendments cover the same set of circumstances in the same clause. Therefore, they both must be safeguarded; otherwise one could be lost without any debate whatsoever.

*The Hon. E. R. Goldsworthy interjecting:*

**The CHAIRMAN:** Order! It cannot be done that way. I can assure the Deputy Leader that there is no way that that could be done.

*The Hon. E. R. Goldsworthy interjecting:*

**The CHAIRMAN:** Order! It is very important that the member for Coles, who wishes to speak next, knows exactly what the position is, and I hope that I have explained it to her.

**The Hon. JENNIFER ADAMSON:** I am not sure that I do, but I want to speak to the clause, which I oppose, and I support the Deputy Leader's amendment.

**The CHAIRMAN:** You can support the whole of the amendment; the Chair has not taken that right away.

**The Hon. JENNIFER ADAMSON:** As the Deputy Leader has explained, by giving the Full Commission jurisdiction to make an award of general application regulating the remuneration and conditions of employment an enormous power is given to that Commission that enables it to override all other existing awards. By giving the Commission that power of general application, one simultaneously removes from employers the right to become involved as they would ordinarily do in cases of specific application before the Commission, and because the clause is worded as it is, the general award will override existing awards only where conditions are inferior to those proposed in the general award. In other words, the clause gives the Commission what one would call a general upgrading power. It does not provide any modifying power; it certainly does not provide any power to diminish benefits where that may be considered appropriate by employers. It is unlikely that it would ever be considered appropriate by employees unless we got to the stage where employees voluntarily wished to surrender some benefits in order to retain their jobs or possibly create more jobs.

A total power of upgrading is given to the full Commission. That has very pervasive consequences throughout all industries. As I indicated at the beginning of the debate, I want particularly to put the case of the hospitality industry because it has not been taken into account by the Government in developing this Bill. If such an award were granted under this clause it would override the awards currently applying in the hospitality industry. Two points are to be made about the hospitality industry awards, and they are points of such a general nature that they could be made about any award. The first is that current awards reflect, or should reflect, the prevailing attitudes of employers and employees. The second is that when the award was negotiated it is likely that overtime provisions were negotiated as a trade-off for something else. For example, a higher allowance might have been offered, such as for meals, which would have been the

employer's concessions to employees who wanted higher or more generous overtime allowances.

On the other hand, the unions might have conceded the overtime provisions, wishing to gain some other kind of concession. In every industry there have been *quid pro quos:* there have been things given and things conceded in order to arrive at common ground which is satisfactory to both parties. In the hospitality industry employees receive time and a half for the first three hours of overtime and then after that double time applies. It is conceivable that under this clause the United Trades and Labor Council could make an application for a general award seeking double time after two hours. If the Commission granted that award, it would have an absolutely catastrophic effect on the hospitality industry, because those overtime provisions have been carefully worked out and established in order to suit both employers and employees. The whole costing of the hospitality industry, of restaurants and hotels, in terms of their profitability, is based on the existing award.

Profit margins in the hospitality industry are very narrow indeed, and hoteliers, moteliers and restaurateurs have to calculate what the market can stand in terms of price rises. It is not unusual for a hotel or a restaurant to maintain prices at a given level, notwithstanding wage increases and possibly increases in the cost of raw materials and goods, because they know that if the price is raised then the general patronage of the establishment is likely to drop. So, a very fine judgment has to be exercised by management in such cases as to what the market will stand in terms of a price rise. Certainly, it could be stated categorically that the market could not withstand a price rise which would have to follow a general award that allowed more generous overtime provisions at this time. That could happen following the passage of this Bill.

By including this provision in the Bill, the Government is posing a real and devastating threat to the profitability of the hospitality industry and, indeed, to a whole range of other industries. Any industry that is operating on fine margins simply could not cope with an unexpected increase in general award provisions that impose higher costs on the business. There is no way they could cope with it. One has only to consider the fact that restaurants rarely open on public holidays or on Sundays. It is hard to find a restaurant open on a Sunday night in Adelaide: it is extremely hard to find one open on, say, New Years night or on Easter night, simply because overtime provisions are so punitive as far as the employer is concerned. If this general award were granted in respect to overtime, for example, the hospitality industry would suffer a blow from which it would find it very difficult indeed to recover. I am referring to a specific industry, but I think we have to acknowledge that the principle of introducing a whole new element into the system which allows general awards to override all other considerations is one that could well throw the system into absolute chaos.

Certainly, those people in the tourism industry to whom I have spoken are genuinely alarmed about the provisions of this clause. They fear the worst: they fear the unexpected. They fear that their negotiating power with the unions will be removed because a general application will be made and they will have no say in the matter. The Commission, when determining that general application, could not possibly take into account all the minute variables that apply in various individual industries.

Industries such as the hospitality industry will be at a very grave disadvantage, and that will cost jobs. That, without going further, without elaborating or being repetitive, is really the nub of the matter. The toursim industry has a greater capacity to create jobs in this decade than any other industry. It can do so only if there is profitability: if the present fine margins are shaved even finer, there simply will not be a capacity to create more jobs, and this general award provision, together with clause 4, is the measure in the Bill that most alarms the hospitality industry. It is for that reason that the Liberal Party opposes it and supports the amendment moved by the Deputy Leader of the Opposition.

**The CHAIRMAN:** Before the Deputy Premier replies, I believe that the Chair should point out, particularly to the Deputy Leader, that he is quite correct: there are two proposed amendments. If the Chair puts the amendment relating to lines 28 to 33 and the vote is lost, then the amendment of the Deputy Premier would be put without further discussion. Members of the Committee have every right to discuss both the amendments at the same time.

**The Hon. J. D. WRIGHT:** I oppose the amendment. I refer to page 50 of the Cawthorne Report in regard to conditions of employment: paragraph 5(a) sets out certain recommendations of the magistrate. The point that the Government has picked up is as follows:

(1) That the Full Commission be given a power to make general orders on any matter within its jurisdiction . . .

This is not something that the Government has invented or plucked out of the air, and it has not taken notice of some militant union organisation as would be suggested by the Opposition: it is as a result of a very in-depth inquiry by Magistrate Cawthorne that we come to the conclusion that, for the purposes of expedition (and nothing more than that), the Commission ought to be able to make general orders. At page 21 of the Cawthorne Report, in regard to the general resume of conditions of employment, it is stated:

As to the *first proposal*, it seems to me that the Commission is an ideal body to set minimum standards and in effect be the catalyst of industrial relations change. It is sensitive to the general industrial environment, away from the political arena and well placed to meet the challenges of the future. It could do this by entertaining applications say from the UTLC, on major contentious issues, for example, redundancy, and having heard relevant organisations and assessed the evidence, make a general ruling, much in the way Parliament does by legislation.

Whilst there was some acceptance of this proposition from some employers, there was considerable resistance to it from the major employer organisations in this State. They took the view that the Commission should not set too many minimum standards or be involved too much in industrial change because such things should essentially be left in the hands of the parties immediately involved—the employers and employees. They argued that the Commission should be 'facilitators' not 'quasi-legislators'. They took the view that if the Government of the day sought to legislate in particular areas of the employment relationship, then that is something they would have to accept (albeit unwillingly perhaps) because the Government of the day, as the elected representative of the people, was entitled to do so.

What he says from then on is very important. Having considered the opinions of both sides, he states:

Whilst I can accept that argument, it seems to me somewhat short-sighted and I would have thought it would be in the interests of the community at large to allow the Commission to consider issues of industrial relations significance and determine what should be an appropriate approach to adopt rather than leaving the matter solely to Parliament. To an extent, the Commission does this now by reason of so-called test cases in respect of particular awards which flow into other areas.

Here is a case where the Government is prepared to pass over powers to the Commission. It is then accused of doing something dreadful which will deter industry and bring about increases that it cannot afford, and so on. Nevertheless, if it was to do it by legislation it would still be accused by the Opposition of interfering in the process of good industrial relations. So, rather than accept the criticisms on the second count, the Government has adopted the recommendations by passing the powers over to the Commission. The report states:

This type of approach is not unusual in the Australian industrial relations context . . .

This might be of importance to the member for Coles (I doubt if she has ever read this document), because it goes on to state:

> This type of approach is not unusual in the Australian industrial relations context because the Western Australia Act gives in effect the Full Commission a power to make general orders on certain specified matters as well as such other matters as the Confederation of Industry, the Trades and Labor Council and the Attorney-General may agree. Similarly, the Queensland Act gives the Full Bench of the Industrial Commission power to declare general rulings relating to any industrial matter.

**The Hon. E.R. Goldsworthy:** Your Bill is broader than that.

**The Hon. J.D. WRIGHT:** No, it is not—'any industrial matter'. The report continues:

> Instances of such rulings include declarations as to basic wage and standard hours.
>
> It seems to me that the Full Commission should be given a power to make general orders on any matter within its jurisdiction with a view to facilitating industrial relations change and recognising that, as in all fields, such change is inevitable. The Commission, of course, has wide discretionary powers and would only make such a ruling if it were satisified that it was proper in all the circumstances to do so.

I unequivocally support the whole of that statement, particularly the last part, and I would defend the honour and the right of the Commission to make only such orders in circumstances where it thought it proper to do so.

Anyone who has had any experience in the industrial field would realise that there can be a great delay in obtaining flow-on decisions, general decisions concerning increased annual leave, penalties, meal allowances, wage concepts, or whatever the case may be. There could be a long line of cases and suddenly something disrupts the industry and a dispute emanates from it. An organisation or organisations are then not able to get into the court, hence the employees in that industry are waiting for increases which could have been simply granted under a general orders application. I think that it expedites the current Act. It gives an opportunity for an across-the-board application and for an across-the-board decision, so that it applies to anyone who may be neglected in receiving that increase.

The point raised by the member for Coles, who said that it could have devastating effects on the hospitality industry, is not entirely true, because there is an escape clause. I do not know whether the member for Coles has acquainted herself with it but if one looks at new section 25a (2) in the proposed amendments, the matter that the member for Coles referred to in relation to the hospitality industry (or for that matter any other industry) would not occur. New section 25a (2) provides:

> (2) An award made under this section is, subject to this section and any qualification stated in the award, binding upon all employers and employees.

It simply means that an application has been made in the jurisdiction of the Full Commission. It should be remembered that it is the Full Commission that must make the order. That is very significant and very important, because it is not a single Commissioner or even a single judge who has the responsibility—it is the Full Commission. It is a weighty group of people who will make the decision. Even in that context any person registered under the legislation has the right to make special application to be excluded from the decision. The interests of any minority group (or a major group for that matter), even if they are not affiliated with an employer organisation, has the right at that time to put a case to the Full Commission to the effect that, as far as they are concerned, they should not be included in any general order. That applies to everyone across the board. The other alternative is to continue having test cases as we know them at the moment. That is frightfully delaying and, in my view, causing great industrial unrest and disputation within industry. I think that the Government's proposition overcomes that.

**The Hon. JENNIFER ADAMSON:** My question relates to new section 25b, which provides:

> The Commission has jurisdiction to inquire into, and report and make recommendations to the Minister upon, a question related to any industrial or other matter that is referred to the Commission for inquiry by the Minister.

I support the Deputy Leader's amendment, which removes the words 'or other', on the simple grounds that the Commission should consider only industrial matters. The Commission certainly should not consider commercial matters or, indeed, any other matter.

One matter that concerns all sections of the tourism industry is the words 'or other matter', because that could encompass matters such as trading hours. The Industrial Commission is an industrial authority, and trading hours is essentially a commercial matter, although it does have industrial ramifications, and no-one denies that. The retail trading area involves a group of employers in their own right, but retail trading is also a very important sector of the tourism industry, as are hotels. The question of trading hours, which is one issue that could be considered under the heading of 'or other matter', is of great concern to both retailers and the hospitality industry.

I am interested to hear the Minister's attitude in relation to the question of 'or other matter', and the possibility of referring the trading hours question to the Commission. For example, does this clause override or conflict with the Licensing Act in the determination of trading hours for hotels? The two different jurisdictions could consider the same matter, as I read this Bill and the Licensing Act. I stress that there is very deep concern in the tourism industry, particularly in the hospitality section, that the Industrial Commission could consider matters of commercial importance (such as trading hours) and could make decisions which the industry does not believe it is qualified to make and which, indeed, may conflict with other Acts that presently control other sectors of the industry.

**The Hon. J.D. WRIGHT:** 'Any other matter' has a very broad meaning. There is no question about that. I cite an instance to the honourable member relating to legislation in New South Wales which is very similar to the proposed legislation here. Judge Macken conducted an in-depth inquiry into trading hours. I visualise that could apply here.

**The Hon. Jennifer Adamson:** That is just what the industry fears.

**The Hon. J.D. WRIGHT:** Maybe the industry should not fear that.

**The Hon. Jennifer Adamson:** But they do.

**The Hon. J.D. WRIGHT:** As I understand it, in New South Wales at the moment the legislation has not been implemented because of the proroguing of Parliament; the legislation is somewhere between the Lower House and Upper House waiting for determination. From talking to all parties in New South Wales, it appears to me that this recommendation by Judge Macken has at least pleased the people of New South Wales, whoever they are in the industry, whether they are shopkeepers, employers, or trade unionists.

**The Hon. Jennifer Adamson:** I have read it.

**The Hon. J.D. WRIGHT:** The honourable member is probably aware that the judge has done a very good job.

**An honourable member:** It is an excellent report.

**The Hon. J.D. WRIGHT:** Not only that: it is acceptable to all parties. That is the sort of thing that could occur here, irrespective of the fact that the member for Coles is saying that at the moment the industry is afraid of this. The industry will never be deprived of making its contribution to whatever the situation may or may not be. I do not suggest at the moment that I have any intention of directing

anything to the Commission in relation to shop trading hours, because I am not satisfied that there is any great difficulty being experienced in South Australia at the moment, which was certainly evidenced by our local inquiry. However, I am on the record in the past as having said—

*The Hon. E.R. Goldsworthy interjecting:*

**The Hon. J.D. WRIGHT:** We will see about that. I am on record as saying that I do not believe that Parliament is the proper place to determine shop trading hours because, irrespective of who is in opposition or in Government, it could become a political football, which I do not think does the industry or anyone else any good. If we can cast our minds back, the beginning of a major change was when I asked Commissioner Leane to conduct a Royal Commission into shop trading hours.

**The Hon. Jennifer Adamson:** I made a submission to him.

**The Hon. J.D. WRIGHT:** I am pleased that the honourable member did. She must have had some influence on him, I am sure. When one appears to be disturbed about the rights of any matter, let us assess what the effects of it may be. That is important.

**The Hon. E.R. GOLDSWORTHY:** We have not dwelt long on this matter, but briefly, if the Minister had kept reading from the same part of the Cawthorne Report in relation to these matters, he would have found towards the end this statement:

> On a general note, as I mentioned in the Jurisdictional section of this Report, it is my view that it would also be desirable to invest the Commission with a general power to consider and report on any industrial matter referred to it by the Minister.

Then he talks about a similar provision in New South Wales, but he certainly does not believe that the Commission should be invested with the ability to inquire into any matter. So, if the Minister wants to quote that section of Cawthorne fully which he quoted earlier in relation to the ability of a Minister to ask the Commission to inquire into any matter, he will find that that is just not there.

So, in relation to that portion of the clause which is quite disparate I guess from the other matter we canvassed (the ability of the Commission to make general awards) I suggest that Cawthorne does not sustain the Minister in his view that the Commission should have the ability to inquire into any matter. He is quite specific in his recommendation 'into any industrial matter' which, of course, is the field of competence of the Commission.

Progress reported; Committee to sit again.

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

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

Motion carried.

Committee debate resumed.

**The CHAIRMAN:** The question is that the amendment moved by the Deputy Leader be agreed to.

The Committee divided on the amendment:

Ayes (21)—Mrs Adamson, Messrs Allison, P.B. Arnold, Ashenden, Baker, Becker, Blacker, D.C. Brown, Chapman, Eastick, Evans, Goldsworthy (teller), Gunn, Ingerson, Lewis, Mathwin, Olsen, Oswald, Rodda, Wilson, and Wotton.

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

Pair—Aye—Mr Meier. No—Mr L.M.F. Arnold.

Majority of 2 for the Noes.

The Hon. E.R. Goldsworthy's amendment thus negatived; the Hon. J.D. Wright's amendment carried.

**The Hon. E.R. GOLDSWORTHY:** I move:

Page 6, line 5—Leave out 'or other'.

**The Hon. E.R. GOLDSWORTHY:** I have canvassed this amendment, so I will not go through it again. However, I believe that it is an important amendment. I do not believe that the Minister should be referring to the Commission matters which are not of an industrial nature. That view is supported by all those people who have taken the trouble of contacting me regarding this provision. In error, I thought that this was one of the Minister's amendments. He has made one or two minor amendments as a result of submissions he has made. Obviously, this is not one of them, but I believe that it is an important amendment and, indeed, I believe that the Committee should support it

The Committee divided on the amendment:

Ayes (21)—Mrs Adamson, Messrs Allison, P.B. Arnold, Ashenden, Baker, Becker, Blacker, D.C. Brown, Chapman, Eastick, Evans, Goldsworthy (teller), Gunn, Ingerson, Lewis, Mathwin, Meier, Olsen, Oswald, Rodda, and Wotton.

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

Pair—Aye—Mr Wilson. No—Mr L.M.F. Arnold.

Majority of 2 for the Noes.

Amendment thus negatived.

The Committee divided on the clause as amended:

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

Noes (21)—Mrs Adamson, Messrs Allison, P.B. Arnold, Ashenden, Baker, Becker, Blacker, D.C. Brown, Chapman, Eastick, Evans, Goldsworthy (teller), Gunn, Ingerson, Lewis, Mathwin, Meier, Olsen, Oswald, Rodda, and Wotton.

Pairs—Aye—Mr L.M.F. Arnold. No—Mr Wilson.

Majority of 2 for the Ayes.

Clause as amended thus passed.

Clause 15—'Mediation'

**The Hon. J.D. WRIGHT:** I move:

Page 6—

Lines 8 and 9—Leave out 'subsection' and insert 'subsections'.

After line 18—Insert new subsection as follows:

(1a) Where a Committee is directed to call a voluntary conference—

*(a)* the conference shall be called, on behalf of the Committee, by its chairman;

and

*(b)* the chairman shall preside at the conference.

Lines 20 to 22—Leave out paragraph *(b)* and substitute new paragraph as follows:

*(b)* by striking out from subsection (2) the passage 'the Presidential Member or Commissioner presiding' and substituting the passage 'the person who is presiding'.

Clause 15 provides for the insertion of a provision that would allow a presidential member or a commissioner to direct the committee to act as a mediator in relation to an industrial matter within the committee's jurisdiction and in regard to calling for a voluntary conference. However, it has been submitted that, in conformity with other provisions dealing with the calling of compulsory conferences, the Chairman of that committee should act to call the voluntary conference. The proposed amendments put this submission into effect.

Amendments carried; clause as amended passed.

Clause 16—'Compulsory conference.'

**The Hon. J.D. WRIGHT:** I move:

Page 6—
Line 39—Leave out 'may' and insert 'shall'
After line 9—Insert new paragraph as follows:
*(ba)* by inserting in subsection (9) after the passage 'desirable to do so, he may' the passage, 'after giving reasonable notice to the persons attending at the conference,'.

These amendments relate to the provisions dealing with the situation where a committee has been directed to call a compulsory conference. The provision states that in such a situation the Chairman of the committee may call a conference on behalf of the committee. It is envisaged that he would indeed always do so. However, to ensure that he always does this it is proposed to replace the word 'may' with the word 'shall'.

Amendments passed; clause as amended passed.

Clause 17 passed.

Clause 18—'Further powers of Commission.'

**The Hon. J.D. WRIGHT:** I move:

Page 8—
Line 2—After 'subject to the award' insert ', or any other premises where employees of the employer may be working,'.
Line 4—After 'employer' insert 'at those premises'.

This amendment relates to the new provision dealing with the rights of officials of registered associations of employees to enter premises in which their members are working. The amendment as presently cast makes reference to the premises of an employer. Obviously, however, the employees might be working elsewhere. It is therefore proposed that the provision be altered so as to allow the officials to enter also any other premises where the employess may be working.

Amendments carried.

**The Hon. E.R. GOLDSWORTHY:** I move:

Page 8—
After line 4—Insert 'and'
Lines 8 to 12—Leave out all words in these lines.

The intention of these amendments will be clear to the Committee if we look at lines 8 to 12 on page 8 of the Bill. The amendment seeks to leave out subclause (iii), which relates to the power for union officials, as follows:

interview employees (being employees who are members, or are eligible to become members, of the association) in relation to the membership and business of the association;

We do not believe it is necessary to give that power to union officials so that they can come in and interview workers and try to join them up. I do not need to go into any great detail. There are a number of matters in this clause which we have canvassed earlier, and this is the first of that number.

**Mr Mathwin:** There is much in it.

**The Hon. E.R. GOLDSWORTHY:** There is much in that clause that the Opposition believes is undesirable.

This is the first of those matters and it relates to the ability of union officials to enter the work place, interview employees in relation to their membership and the business of their association. This should not be thrust upon employers, or upon members in a work place. A couple of the submissions are quite outspoken in relation to this clause. There is no way that the Minister has the approval of the groups that he referred to in his press statement in relation to this clause any more than he had it in relation to the other clauses that have been debated so far. This is a completely unnecessary intrusion into the work place which I believe neither the employers nor the vast majority of employees want.

**Mr BAKER:** We do not disagree with the right of entry of accredited union officials for certain purposes, but what is provided for in this Bill is, in fact, a *carte blanche* situation. The Minister has allowed the employer to retain his books while the union representatives look at them.

**Mr Becker:** It wasn't in the original Bill.

**Mr BAKER:** It was not originally in the Bill, but it is one of the amendments that has suddenly appeared. I am glad to see that the Minister has thought it through more than he had originally because it was one of the areas that we were not happy about. The Bill does not require an employer to be specified by the Commission. All that it requires is for the Commission to say 'You are allowed to enter the premises provided there is an employee or a person perceived to be an employee who could be under an award covered by you'. It allows anyone to enter premises, under the pretention that there is a person employed there who could belong to a union, and to conduct interviews. Cawthorne made a number of statements about what would be a legitimate right of entry that I do not disagree with. The Minister has responded by saying that this is not the time or the place to introduce these matters into the Bill; that it should be left to the Commission to determine when the award is made, right of entry provisions, and conditions under which premises can be entered. Unfortunately, this Bill gives a right, *per se*, to do certain things. The Minister has included an amendment to protect employers by allowing them to retain their books. However, unless we ensure that some of the principles with relation to entry are laid down in the Act, there will be various interpretations of what the Commission believes is a right of entry. New paragraph (i) (c) of Section 29, which is inserted by paragraph 18, states:

by award authorise an official of a registered association of employees, subject to such terms and conditions as the Commission sees fit, to enter the premises of an employer subject to the award and—

That provision does not specify a particular employee; it could be any employee subject to an award. There is no guidance as to how a union official should conduct himself, or what are the proper hours which this should take place. Whilst the Minister has said that he has great confidence in the Commission, we know, and the Minister knows, that there have been many abuses of these provisions.

I received a complaint from a bakehouse on this very matter. Fortunately, the people involved apologised after the event, but it does occur. People abuse their positions. They use forms of intimidation under the guise of having authority to do so. I do not believe that this provision is in keeping with the rights of employers and employees. It does not say anything about whether an employee wants to be interviewed; it just gives the right for an interview to take place, irrespective of whether or not that interview is wanted. I do not believe in this day and age of various human right declarations, and so on, that this provision is appropriate for good industrial relations. If the Minister had a set of guidelines for the Opposition to look at, perhaps we could agree. I am sure that there are circumstances where union representatives have a right and should be able to exercise that right. However, as it stands at the moment we cannot agree with this provision.

**The Hon. JENNIFER ADAMSON:** At this stage I stress my opposition to the aspect of the clause which gives the Commission power, as follows:

. . . authorise an official of a registered association of employees, subject to such terms and conditions as the Commission thinks fit, to enter the premises of an employer subject to the award and . . . interview employees . . . in relation to the membership and business of the association.

The Deputy Leader and the member for Mitcham have outlined some of the very cogent reasons why this should not occur. I simply underline that opposition.

In this day and age there are a lot of things that one is entitled by law to do in the boss's time. I do not believe that recruiting membership for unions should be one of them. The reason for that opposition is not only consideration for the employer but also consideration for the

employee. The Deputy Premier should well know from his own work experience in shearing sheds the enormous peer group pressure that can occur in the work place. I venture to say that that pressure is as strong as that experienced in schools among young people. When you are caught in the work place in the presence of your workmates and are subject to interruption by someone who has lawful power to interrupt your work and require you to be interviewed, with the full force of the law, you are in a very vulnerable position. You may not feel free in front of your workmates, for a whole variety of reasons, to express your full and frank view. You are at least entitled to privacy, and there are many circumstances in the work place where you cannot achieve that privacy.

I really believe that this clause gives union officials unwarranted power, and it deprives individual employees of their rights by making them subject to the law in a position where they are vulnerable simply by virtue of their employment. For example, an employee might happen to know that his immediate superior is a very strong unionist. He might not wish to antagonise that person for a whole variety of reasons that have to do with his security or advancement in his job. He or she is in a terribly difficult position in being frank with that union official in the course of an 'interview' which is granted to the union official by virtue of the law.

That seems to be quite wrong. I also do not believe that employers should have to give up time which rightly should be devoted to the job in hand, whatever it might be, so that the job of unions in recruiting membership can be made easier. The honourable member opposite says that representatives should be able to visit people at their homes: that is another questionable matter, for representatives to visit people at work and be given the legal power to do so is, to my mind, completely unacceptable.

It could, and I believe would, lead to abuse. If this legislation passes it will not be so much the objections of the employers which will make trouble for the Government over a period but the very strong objections of employees who will get their backs up by this kind of intrusion into their work situation, even if they are loyal supporters of the Labor Party. They will bite back at the election box. That is not a threat, but I foreshadow that could happen, because I know how strongly people feel about this sort of intrusion into what should be their freedom and privacy in the work place and their ability to be able to go about their work in accordance with their employer's requirements without interruption from an outside source.

**Mr BAKER:** I seek clarification. This is an enormous clause. To what extent are we debating this matter, because a number of points will be brought up? What is your ruling, Sir, so that we do not cover the ground twice?

**The CHAIRMAN:** The Chair points out to the honourable member for Mitcham that it allowed the Deputy Leader to move two parts of his proposed amendments to this clause: after line 4 the word 'and' should be inserted and all words in lines 8 to 12 should be left out. This limits the scope of the debate greatly.

**The Hon. E.R. Goldsworthy:** He can talk about the whole lot.

**The CHAIRMAN:** It has been pointed out to me, quite rightly, that I have allowed canvassing, but I point out to the member for Mitcham that that is what is before the Chair.

**The Hon. E.R. Goldsworthy:** He can talk about the lot.

**The CHAIRMAN:** The honourable member can refer to the clause, yes.

**Mr LEWIS:** I rise on a point of order, notwithstanding that by raising the point I am not forgoing any of the three occasions on which I may speak on this clause. Do I understand that you, Sir, are instructing that, if we speak on three occasions on, say, new paragraph *(c)* (iii), then we cannot speak to the subsequent amendments that arise later in the clause?

**The CHAIRMAN:** The Chair is not ruling in that way at all: it is endeavouring to get through a very difficult situation. It is pointing out that all that has been moved so far are the two parts of the proposed amendment brought into question by the Deputy Leader. That does not stop the honourable member for Mallee canvassing the whole clause, but he may not refer to the other amendments. I am trying to explain the situation, and I hope I am doing that. The Chair has consistently allowed the Committee to canvass, but it will not allow any member of the Committee to canvass other amendments.

**Mr LEWIS:** Just over 1 000 years ago there was a fellow who got the power—

**An honourable member:** Was he black or white?

**Mr LEWIS:** I do not know. He was called the Black Heart.

**The CHAIRMAN:** Order! The word 'canvass' has a long bow, but I do not think it goes that far.

**Mr LEWIS:** Indeed, so did the soldiers of this man. They behaved in much the same way as the Minister would have the representatives of an organised association (simply known as a union) behave by the measure he introduces under clause 18. The man to whom I am referring, other than the Minister, is Charlemagne. He converted the world to Christianity as far as his sword could reach. That is exactly what the Minister is trying to do with this measure: he is trying to convert the labour force of South Australia to compulsory unionism without its having the chance to go anywhere and obtain any peace from being harassed by union representatives and officials. Charlemagne established the Holy Roman Empire in the most unholy fashion anyone could ever imagine. If the Pope disagreed with him, he simply put him to the sword and got a new Pope.

That is what would happen in this instance. If any union official decided not to take the directions of the Secretary of the union at State level to go into premises directed by the Secretary and to recruit union members, I am sure that that official would find himself on the point of the industrial sword of the union concerned, looking for another job. It concerns me that what the Minister imagines—and, bless his heart, he has left the Chamber—will be the means by which he gets recruits to his holy union empire will be the very reason for its decay.

The member for Coles has pointed out quite legitimately that the effect of these powers in the hands of irresponsible people like Owens in the Builders Labourers Union will be to alienate a large number of people from their involvement with, commitment to and support for the Labor Party and the trade union movement from which it emanates. That is tragic. Whilst it is necessary within the present framework of our organisation of industrial relations to retain the stupid industrial situation where we rely on adversary advocacy, I cannot see, however, that we should so redress the scales that it is impossible for one pan to be raised off the ground by whatever weight may be placed on the other side. The weight that is being placed on the side of the trade union movement and its representatives by the amendments contained in this clause, relative to the other amendments that will be made to the Act—

**The CHAIRMAN:** Order! The Chair has already pointed out that the honourable member cannot canvass other amendments.

**Mr LEWIS:** Without making any mention of them, I merely wish to refer to the fact that the weight now on the scale pan of all these amendments will produce the result I have described as an inevitability.

*The Hon. E.R. Goldsworthy interjecting:*

**Mr LEWIS:** I do not know whether it was syphilis or—

**The CHAIRMAN:** Order!

**Mr LEWIS:** The society that Charlemagne attempted to establish fell into disorganisation and disunity and the people who were leading his armed forces (his three sons) went off in their own directions and carved it up. I guess that that part of history is irrelevent to this Act, but the methods Charlemagne used are not different: they amount to the same thing. It is important to realise that, through this mechanism and by this means, it will be possible, without appearing to have done so, for a union representative to walk into a food processing factory or some other production line activity which requires continuity of operation by the employees and simply take out one or two key employees and say, 'Hey mate, we are having a talk to you now about joining the union and if you don't believe it—,

*Members interjecting:*

**Mr LEWIS:** I am sorry—I meant no reflection on the members for Peake or Stuart.

**The Hon. Peter Duncan:** What about us?

**Mr LEWIS:** I was not aware that the member for Elizabeth was in his place and therefore believed it inappropriate to refer to him. If he wants to be lumped into that menagerie, I am happy for him to be there.

**The CHAIRMAN:** Order!

**Mr LEWIS:** This clause is a dagger with which the union movement could strike the heart of the viability of any of the enterprises of the kind to which I have referred where a production line activity is involved.

*The Hon. Jennifer Adamson interjecting:*

**Mr LEWIS:** It is not so unlike a production line in that the meals are on the hotplates and the patrons have placed their orders. The corks are drawn from the wine bottles, and lo and behold the Liquor and Allied Trades Industry Union representative rolls up and decides that he wants to have a yarn to the waitresses or the cook about joining the union. What the hell happens in that case to either the interests of the proprietor or the starving customers is certainly not the concern of the union representative, I am sure.

*Mr Gregory interjecting:*

**Mr LEWIS:** That is as may be. There are one-star and two-star restaurants, and the Shop Distributive and Allied Employees Association may be involved, and who knows whether a demarcation dispute might arise? One will have members of one union whom organisers of another union believe should be members of their union. I do not simply mean to restrict the debate to the context of where there are, working in an enterprise, people who are not members of a union. I am referring not only to that, but also the situation where there will be members of one union considered by the organisers of another union to be wrongly joined or wrongly signed, and a demarcation dispute will arise.

If they do not have the right brand on them, one needs to leg them, tie them up and get the iron from the fire and land it on the rump where it counts: right on the hip pocket nerve. We are not talking about the contribution that goes to the sustentation funds of the Labor Party. We are talking about the effect that this will have on enterprise, and it could be used vindictively. Do not let any member of this place tell me that such a power has never been used vindictively. In my certain experience it has, and it is not merely restricted to one industry. I regret that the Minister ever felt that it was reasonable to ask responsible and intelligent citizens, representing the interests of their fellow citizens in this Parliament, to ever consider giving union organisers this kind of power. I see it as reprehensible, Draconian and primitive.

**Mr BECKER:** I am seeking information in relation to proposed new section 29 (5), on page 9, which states:

The powers of a board of reference appointed under subsection (1) *(b)* may include power to grant relief to an employee . . .

I would like the Minister to spell out what is meant by 'power to grant relief'.

**The Hon. J.D. WRIGHT:** I do not know whether this clause is reprehensible. However, the reason for its introduction is under 'Powers of the Industrial Commission' in the Cawthorne Report, wherein Commissioner Cawthorne makes very clear that unions, in the interests of industrial relations, ought to have the right to interview members. Incidentally, I support that.

**Mr Lewis:** But this is about non members.

**The Hon. J.D. WRIGHT:** How do they become members if one cannot interview them?

**Mr Lewis:** Talk to them in their own time.

**The Hon. J.D. WRIGHT:** How does one find them?

**Mr Ashenden:** At home.

**The Hon. J.D. WRIGHT:** We take the advice to leg rope them, brand them and tie them up. Is that what we do? The clear position here is that the power is vested in the hands of the Commission. The Commission determines under what conditions those union officials have the right of entry. I do not see how one can get into the argument that the member for Mallee is putting forward in relation to demarcation and disputes of that nature, because clearly the award in which this provision will be placed by the Commission will be the award for which the union operating that industry has the coverage for either prospective members or those members who are working there. The complaint raised by the member for Coles is covered on page 9. New section 29 (9) provides that the powers conferred on an official of a registered association by an award under subsection (1) *(c)* shall not be exercised in such a manner as to hinder or interfere with an employee in carrying out the duties of his employment.

**The Hon. Jennifer Adamson:** That is a very subjective judgment on the part of the union official.

**The Hon. J.D. WRIGHT:** It is not the part of the official to make a judgment; it is the part of the employer to make the judgment. It is also the responsibility of the Commission to make that sort of judgment as to how it writes in to that award particularly what the conditions are so far as the terms of entry and the responsibilities under those terms of entry are concerned. The difficulty that I am having—and I have had it right from the beginning of this debate—is that one would think that whatever passed this Committee tonight became law immediately and was implemented tomorrow morning.

**The Hon. E.R. Goldsworthy:** It has to get through the other place.

**The Hon. J.D. WRIGHT:** Even if it goes through the other place the powers are then vested in the Commission to make those decisions after application by the employees' representatives.

*The Hon. Jennifer Adamson interjecting:*

**The Hon. J.D. WRIGHT:** The honourable member is saying that the Commission should not have the powers because she does not trust the Commission; that is what the Liberal Party is saying. There is clear evidence that honourable members opposite do not trust this Commission. Why do they not come out and say that? Why do they not have enough courage to come out and say that they have no confidence in this Commission? That is what they are saying. If we are to have some avenue to determine and settle industrial disputes in Australia I would like to know a better one than the Industrial Commission. Do members opposite want to go back to the jungle? Is that the sort of argument that they want? That is the sort of thing that they get if they follow their policies through. They would abolish the Industrial Court. That is about the attitude that is being

expressed. The trend right through this debate has been one of non-trust of the State Commission; there is clear evidence in this debate.

A question was asked by the member for Hanson as to the circumstances in which relief could be granted by the board of reference. The answer is: in whatever circumstances the Commission decided to do so where it had responsibility. Relief means—

**Mr Becker:** Reinstatement?

**The Hon. J.D. WRIGHT:** Reinstatement, hearing a dispute, demotion or whatever circumstances the Commission required. That is not unusual with boards of reference. There are plenty of boards of reference operating under Federal awards now. As I am saying—and I have said it repeatedly—I wish someone on that side would examine a bit more closely what I have been saying about the Federal Commission. A lot of the provisions that we are putting in here have been taken out of the Federal Commission, which has been operating for 25 to 30 years.

**Mr Becker:** I said that last night.

**The Hon. J.D. WRIGHT:** I am pleased that the honourable member did; he must be the only one on that side of the House who has recognised it. The simple fact clearly is that most of the provisions that have been operating in the Federal Commission for 20-odd years have never been interfered with by governments, of whatever political colour. The terms of reference, boards of reference and dismissal have all operated in the Federal sphere; I do not know where the complaints have come from.

**Mr BAKER:** I have had two constituents who have been harassed by people entering their premises without authority, at times that are inconvenient, to stop the enterprise because it has not got union members or because the official believes that he can solicit new members. These people came to me and asked what they should do, and I said that, if they fought it, it could get worse and that they had no recourse; if action is taken, it could exacerbate the situation, so what recourse do people have in regard to union officials or people with or without authority who might walk on to the premises and disrupt the enterprise because of their perceived right or their intent to take action? What we are saying is that people should have rights to participate in legitimate union activities but one of the great problems is that it is all in one area. The Minister has given us no indication of where employers are to be protected. What rights do they have if someone walks on to their premises and disrupts their production process? If they complain, the disruption may become worse—it has happened on many occasions.

*Mr Gregory interjecting:*

**The CHAIRMAN:** Order!

**The Hon. J.D. WRIGHT:** I have said before and will say again that the member for Mitcham never ceases to amaze me. His naivety in saying that employers have no rights is almost unbelievable. The employer and employee have equal rights under this Bill. The honourable member's difficulty is that he is still living in the world of the 1920s and 1930s. He could be going back even to serfdom.

*Members interjecting:*

**The CHAIRMAN:** Order!

**The Hon. J.D. WRIGHT:** The member for Mitcham sees only the master/servant relationship—there is no question about that. The member for Mitcham does not recognise that the employee has equal rights; all he is concerned about is the matter of the employer's rights. This Bill is giving equal rights to employees. Is there any reason in the world why a union official should not have the right to enter a property if an employee wants to see him, provided that he does not interfere or hinder?

*Members interjecting:*

**The CHAIRMAN:** Order!

**The Hon. J.D. WRIGHT:** Let us reverse the situation: is there any good reason why we should prevent a union official from going to an employer and saying that he wants the right to solicit membership in a certain area and that he wants the right to go on to a property?

*Members interjecting:*

**The CHAIRMAN:** Order!

**The Hon. J.D. WRIGHT:** If honourable members do not want me to answer, I will be just as happy to sit down. The point is that as far as this Bill is concerned there are equal rights. The honourable member wants only to protect the employer; he does not see the need for an employee to have rights as well. This Bill will provide the employer and the employee with equal rights, and in fact give total protection.

*Members interjecting:*

**The CHAIRMAN:** Order!

**The Hon. J.D. WRIGHT:** I will not go on all night listening to this garbage. If honourable members do not intend to let me answer when I am on my feet, I will not answer at all. The circumstances which the member for Mitcham raised a moment ago could have been clearly defined by the Industrial Court. That employer has every right to take such a dispute to court, as he has with any other dispute. So, why did not the honourable member advise him properly?

**The Hon. E.R. GOLDSWORTHY:** I shall read further what Mr Cawthorne had to say in relation to conditions that he thinks could be appropriate in relation to the right of entry. He stated:

> So far as the conditions which the Commission might attach to the right of entry are concerned, these might include:
>
> that only officers of a particular association should have the right of entry;
>
> that such entry be limited to not more than, say, once weekly and that any interviews do not take place during working time and then only at places where employees are taking their meal or some other mutually agreed place;
>
> that if an official is offensive in his methods, the employer might refuse entry with an appeal against such refusal to, say, a Board of Reference.

I just round out the picture for the benefit of the Committee. Also, while we are on the question of right of entry, I will just briefly quote the consensus from the employer groups on their attitude to the Bill. In support of that consensus, this group states:

> The membership of MIASA is totally opposed to any extension of the current rights of entry provisions for union officials. Our views in this matter are well known and were expressed in our response to the Cawthorne Report. In the main, they relate to freedom of choice and individual privacy, two of the more important philosophies expressed by employer organisations.

**Mr Ferguson:** Aren't they respondents to a Federal award?

**The Hon. E.R. GOLDSWORTHY:** Hold your horses, we have more consensus, more employer groups who are up on cloud nine with the Minister! I refer now to the comments of the Employers Federation.

**Mr Ferguson:** Isn't the Metal Industries Association—

*Members interjecting:*

**The CHAIRMAN:** Order! The Deputy Leader will resume his seat. If Government back-bench members continue to interject they will be dealt with in the same way as any member of the Opposition. I have pointed this out previously for the benefit of the member for Henley Beach. I will not be doing it again.

**The Hon. E.R. GOLDSWORTHY:** Thank you, Mr Chairman, they are a severe embarrassment to you and to all of us. The Employers Federation represents employers in South Australia, the vast bulk of whom no doubt are under State awards. They state:

> We are opposed to the proposed extension of the 'right of entry' provisions and in particular to allow union representatives to interview employees in relation to membership and union business.

This provision will be an invitation for competing unions to enter into the premises of an employer and to interview employees regardless of the fact that they may be members of another union. It is also possible that such a provision may be used by a union to attempt to take memberships away from another union that may have all of the eligible employees as its members.

*The Hon. J.D. Wright interjecting:*

**The Hon. E.R. GOLDSWORTHY:** This is the consensus. The Minister had plenty to say about consensus and the support he had from these groups to which I am now referring. He knows that he was seeking to mislead the public mischievously (to use their words). The Employers Federation continues:

While it is true that some strong unions have already been able to achieve what this section is seeking to allow, it is not in the interests of the trade union movement or employers, to license, this type of conduct and to promote demarcation disputes.

Those very matters were canvassed by Opposition members who had not had access to the submissions. Those very points were canvassed by the members for Mitcham, Bragg, Mallee and others. I bring this before the Committee now because those members did not have access to the submissions to indicate what occurs to people who may not fall into the category into which the Minister would want to push them to establish their eligibility to talk on this Bill, but they are people with a measure of common sense who know what the general public and their constituents are thinking. They are supported by the people who the Minister claims have indicated consensus on the Bill.

It is clearly not the case and I believe that it reflects the views of the vast majority of free-thinking people in South Australia—certainly not the views of the union movement and certainly not the hierarchy. I think it reflects the views of a vast majority of union members, the rank and file members of unions who do not want to be pestered in the work place. They do not want to be pestered at work, and I believe that the views that I am expressing are certainly not those of the hierarchy in the union movement. Certainly, they are not the views of Labor members here, because the vast majority of them came into this place through the hierarchy of the union movement.

**Mr Mayes:** How did you get in here?

**The Hon. E.R. GOLDSWORTHY:** I got in here because I was preselected by a democratic process where there is one vote one value, not where you are a member of the AWU, one of the big unions, and front up with 100 000 votes. If you happen to be some poor little lawyer who has no union affiliation and who aspires to the front bench, you would wish that you had 100 000 votes from the AWU in your pocket. It would have helped him in his march to the top.

*Members interjecting:*

**The CHAIRMAN:** Order! I hope that the Deputy Leader returns to the clause.

**The Hon. E.R. GOLDSWORTHY:** We know that members of the Labor Party have come up through the union movement.

**The Hon. J.D. Wright:** You should correct your figure concerning the AWU: you're only 85 000 out.

**The Hon. E.R. GOLDSWORTHY:** We may not have had the figure—it should have been 185 000 AWU votes in big Jack's pocket, but the fact is that that is how those members come to be in this place. Of course, what I am saying does not appeal to members opposite.

**The CHAIRMAN:** Order! What the honourable member is saying has nothing to do with this clause. I hope that he comes back to the clause.

**The Hon. E.R. GOLDSWORTHY:** The views expressed by members on this side would have the endorsement, I suggest, of 80 per cent of the public of South Australia, including a lot of union members, but not those who obtained their preferment through leadership in the union movement. I defy the Deputy Premier to quote any statistics or polls which have been taken in relation to this question of union membership and pressure on people to join unions and measures such as this that sustain his view. He knows that he cannot do so. The beliefs expressed by every member on this side are those of the vast majority of people not only in their electorates but in all electorates in South Australia. We take no great cognisance of what the Deputy Premier is saying in relation to this measure, because he has entered this place via the membership of the union movement. They want complusory unionism in this State, and they want this sort of clause to further their aims.

This an important clause embodying the principles which have been discussed in relation to a number of other matters in this Bill. I read it at the end because the members who have spoken have not read it, and in order to reinforce the point made earlier in relation to the Minister's claim that he had consensus from these groups which we know is utter garbage.

**The Hon. JENNIFER ADAMSON:** It is interesting to hear the views of the Employers Federation in relation to the potential activities of union officials when they have been given powers under this clause of the Bill to enter premises and interview employees. I could not help but reflect that the member for Florey, by way of interjection—

**The CHAIRMAN:** He was out of order.

**The Hon. JENNIFER ADAMSON:** Although he was out of order, the honourable member poured scorn on the member for Mallee for not correctly identifying the membership of the liquor trades union, which does not have responsibility for people employed in the restaurant industry (that is with the SDAI). However, the Employers Federation views make it quite clear that many union officials do not correctly identify their membership, and that in fact demarcation disputes, poaching and recruiting from other unions takes place. No employer wants that kind of activity to occur in the work place, and I would venture to suggest that employees do not want that, either.

*The Hon. E.R. Goldsworthy interjecting:*

**The Hon. JENNIFER ADAMSON:** Yes, not quite sufficient. My purpose in speaking on this clause is to refer to the Deputy Premier's answer to the member for Hanson in respect of new section 29 (5) which provides:

The powers of a board of reference appointed under subsection (1) *(b)* may include power to grant relief to an employee who has been demoted by his employer and whose demotion is, in the opinion of the board, harsh, unjust or unconscionable.

This subclause is causing a lot of concern within the tourism and hospitality industries. The reason for the concern is that the inclusion of this provision will, in the view of the industry, severely limit the flexibility of employers in their dealings with and disciplining of employees in their efforts to upgrade standards in the industry. This power will obviously have a very profound effect across the board. I venture to say that its most profound effect will be in the service industries, because it is in that area that an employee is most likely to be demoted or dealt with in some way for failing to reach proper standards of service as required by his or her employer.

This clause undermines an employer's authority and it effectively removes an employers prerogative to determine standards. That is the belief of employers in the hospitality and tourism industries. They believe that the existence of this clause will make it extremely difficult for them to demote employees who do not fulfill their standards. Standards of service are the key to it all in tourism. Any number of surveys show that the factor which most influences people in making return visits to a restaurant, an attraction, an entertainment centre, a city or a State is not so much the

substance of the tourism product but the quality of the service. In fact, today I was referred to the view of a Ms Sharon Dickman, who is a senior lecturer in tourism and hospitality at the Footscray Institute of Technology. She recently addressed an Adelaide Convention of Visitors Bureau seminar. She said that the expectations of return patronage by visitors was based 40 per cent on the nature of the product and 60 per cent on the quality of the service. That is borne out by a survey that was conducted within the restaurant industry.

I do not have the results of the survey before me, so I cannot quote it precisely. However, the first and most important quality that patrons look for in a restaurant is service; secondly, atmosphere, thirdly, food, I think; and, finally, price. Service tops the list in the service industry. If an employer is limited in his capacity to demote employees if they do not meet proper standards of service—

**Ms Lenehan:** Let them retrain properly.

**The Hon. JENNIFER ADAMSON:** The member for Mawson said 'Let them retrain.' It would be nice if the member for Mawson, as a member of the Government's Tourism Committee, were to participate in this debate by speaking to it rather than by interjection. It would be nice if she represented the interests of the tourism industry, because it has been expressed to me as being strongly antagonistic in relation to this clause. That is a very good point—let them be retrained. Let them be retrained and, if an employee refuses to conform to certain standards of dress or conduct, as some do, what redress does an employer have when this clause gives an employee the right to go to the Commission and seek some kind of compensation for what he or she might consider to be harsh, unjust or unconscionable?

I would like to give some examples. I know of a circumstance in a motel where an employee absolutely insisted on wearing her fingernails at a length that the employer considered to be excessively long—to the point where patrons found it unpleasant. The employer's responsibility was to the patrons. He requested that the woman trim and groom her nails to an acceptable length. She refused. Under this clause, she will be able to go to the Commission and say, 'Look, my work is of satisfactory standard. My boss does not like my fingernails. I want to keep them 2 inches long,' or whatever it might happen to be. What kind of inhibiting factor is that on the employer? These are not my views: they are the views of people in the tourism industry who are trying to upgrade standards, who want to insist on minimum standards of dress, conduct and service and who believe that this clause will severely inhibit their ability to do so.

*Ms Lenehan interjecting:*

**The Hon. JENNIFER ADAMSON:** The industry does not like this clause. It believes that the standards will be adversely affected by it and wants the clause out of the Bill. The member for Mawson is defending the clause. Let her defend it to the tourism industry, the interests of which she purports to represent on the Labor Party's Tourism Policy Committee.

**Mr Groom:** You let the tourism industry down badly on the Casino Bill.

**The Hon. JENNIFER ADAMSON:** The member for Hartley, as usual interjecting out of his place, is interjecting on a matter that has nothing whatsoever to do with this Bill. I am happy to debate that matter with him at any time, but I believe that we have covered it exhaustively in this House. The honourable member keeps trying to advance closer to the front, I notice, of those benches. He is always leaving his bench at the back.

**The ACTING CHAIRMAN (Mr Ferguson):** I ask the Committee to come to order.

*The Hon. E.R. Goldsworthy interjecting:*

**The Hon. JENNIFER ADAMSON:** Who knows? This whole question of granting relief is simply one more instance of circumscribing employers in the way in which they run their businesses. They believe that there is far too much of that in this Bill, and they find this clause absolutely inimical to the interests of high standards.

**The ACTING CHAIRMAN:** I ask Committee members to come to order. I particularly ask members not to interject out of their seats.

**Mr LEWIS:** Just now when I was speaking and subsequent to the remarks which I made by interjection and otherwise, scorn was heaped on the examples which I put before the Committee as to the reservations I expressed about this subclause. In reply, I draw the Committee's attention, and that of the offending members—the member for Henley Beach and the priceless Deputy Premier—to a couple of instances in which these situations to which I refer will apply. The member for Henley Beach will know that at present a change in technology is taking place in the printing industry and that large numbers of typesetters are being replaced by automatic data processing equipment and the printing machines to which they are connected. We therefore find that indeed the skills which people need now in the printing industry involve persons being capable of operating programmed, automatic, data processing equipment.

Let us consider what is happening in respect of that sunrise industry's application in other areas of the work force. Under another union altogether, we find the same skills being developed and acquired to an identical level of proficiency for precisely the same reasons—to be able to operate automatic data processing equipment connected to a remote printer for the purpose of publishing the material that is being entered by the operator on the keyboard of that equipment. The skills are identical; the workplaces, however, are different.

Can one conceive of a situation where, because the skills are identical, the union that covers the traditional typist might regard itself in 10 years time as also covering what was traditionally the printer? In those circumstances, membership poaching is likely to be seen as one means by which members of the printing union, especially when they are approaching preselection and needing votes, will send out its organisers to recruit new members, regardless of the unions to which they currently belong. I can sympathise with the organisers of the printers union feeling as insecure as they might be about their preselection prospects. They will need those members, so a demarcation dispute will arise. That is one instance.

Let us consider another sunrise industry situation. At the present time, we bury most of our dead marines. I am talking not about American GIs but rather about empty bottles. They may be recycled—as some of them are at present—for the manufacture of low-grade glass utensils and other materials. They can be used to manufacture bricks and there is no reason why they should not be. There again, who covers the brickmakers in the factories where the bricks are made? Is it the same union that covers the people who make the bottles that can then be smashed and turned into bricks? Alternatively, and more importantly, the most exciting prospect for the utilisation and recycling of glass where it has been degraded to the point in colour or other crystalline structure as to be useless for other container purposes is to use it in the slab production of photovoltaic cells (which will be needed by the square kilometre) or in protecting microwave wires (which will be needed by the square kilometre) if we are to go into a major solar energy source situation which makes it possible for us to reduce our dependency on fossil fuels.

Which union will cover the manufacture of those photovltaic cells or microwave grids or bricks? Will it be the bottle manufacturers union or some other union? If they are already members of the union, who will decide whether or not it is legitimate for them to change their union membership? What will be the consequence to the employer and the viability of the industry if it could be and indeed will be established in South Australia as a prospect? What will be the consequence when that kind of thing happens, as this clause envisages? If the Deputy Premier cannot understand that as a simple example of the reasons why we are concerned about the implications of this clause, then he is thick and I feel sorry for him. It is a priceless performance indeed.

**The Hon. J.D. WRIGHT:** Like most other people in this House. I did not understand the last speech. I am not sure that anyone did, so I will not attempt to answer it. It certainly was not on the subject, and many Chairmen would certainly have dealt with the honourable member.

**Mr Lewis:** Are you reflecting on the Chair?

**The Hon. J.D. WRIGHT:** No, but I am saying that the honourable member got away with a bit. However, I wish to answer a well put argument advanced by the member for Coles, who has obviously taken advice on the matter.

*The Hon. E.R. Goldsworthy interjecting:*

**The Hon. J.D. WRIGHT:** I did not. I said that on one subject the honourable member did not know what she was talking about. I congratulated her on her performance last night. In fact, I believe that the honourable member made the best speech in the House last night. Let us not underestimate that. The honourable member put a very reasoned argument on the assumption of what may or may not happen under this clause. The honourable member is simply assuming that every case that goes before the board of reference will go against the employer. That is just not the case.

*The Hon. Jennifer Adamson interjecting:*

**The Hon. J.D. WRIGHT:** The honourable member used words like 'this clause will prevent the employer from demoting.' This clause will not stop the employer from demoting, but it will stop an employer demoting wrongly. That is the purpose of the clause going into the award. There is no other reason for it. It is no good the member for Coles shaking her head. The employee, when demoted, has to justify to that board of reference why he or she should not have been demoted: that is the simple argument. It is not the clause going in which stops the employer but the fact that the employer may be wrong: that is the assumption that the member for Coles puts on her construction of this. It is a perfectly illegitimate argument, and she knows deep down that that is so, there is no question about that. She is assuming that that clause will prevent, but that clause will not prevent. What that clause will do is give an employee the right to protest in those circumstances where he considers he has been unjustifiably demoted. Surely that is the sense of reason. Surely an employee has a right to protest to his employer if he thinks that he has been treated harshly. That is what this clause is concerned with. So I think that members of the hospitality industry ought to get further advice on this question from the employer organisations, the Employers' Federation, or some other organisation of that nature.

*The Hon Jennifer Adamson interjecting:*

**The Hon. J.D. WRIGHT:** I know full well that they would oppose any liberalisation of that situation. However, the argument that the member for Coles is putting up just does not stand up; there is no question in my mind about that.

**The Hon. JENNIFER ADAMSON:** The Deputy Premier has taken a very simplistic view of what I said in regard to proposed new section 56 (5). I know full well that not every case that is considered by the Commission will be determined in favour of the employee. Of course I know that, and members of the hospitality industry know that. The hospitality industry's convention is that the very existence of the clause is in itself, regardless of the outcome of any case, a deterrent to an employer taking action which he might otherwise feel perfect freedom to take, and the outcome of so much of this—

**The Hon. J.D. Wright:** Protection for the employer is what you are saying—no protection for the worker.

**The Hon. JENNIFER ADAMSON:** The worker is already protected under section 15 of the principal Act, and the Deputy Premier knows that.

**The Hon. J.D. Wright:** They are not protected against demotion.

**The Hon. JENNIFER ADAMSON:** I beg your pardon—for dismissal.

**The Hon. J.D. Wright:** You don't know what you are talking about on this subject.

*Members interjecting:*

**The CHAIRMAN:** Order! The Chair is appealing continuously for order and is being ignored. That position will not be allowed to continue either. The honourable member for Coles.

**The Hon. JENNIFER ADAMSON:** Thank you, Mr Chairman. I want to make it clear to the Deputy Premier that I have had extensive discussions about this clause with representatives of the hospitality industry and the Employers' Federation. Members of both of those organisations are well aware that this clause does not of itself mean that every employee will have his or her demotion determined by the Commission in favour of the employee. No-one is suggesting that, and if that was the implication in my speech then I want to make it clear that I do not believe that and neither do representatives of the hospitality industry or the Employers Federation. However, what they do maintain (and I agree with them) is that the very existence of the power will inhibit (and I believe that I used the word 'inhibit' when I spoke) employers and will reduce their flexibility in attempting to maintain standards.

It is certainly well known that many employers fear the risk of going through the rigmarole of court procedures related to a dismissal, so a number of them do not pursue the course of dismissal that they believe in all conscience and based on all the principles of good management should go ahead. If an employee is disruptive, is causing dissent among his or her fellow employees and is in some way damaging the business there are plenty of employers who would like to dismiss that employee but who simply fear the prospect because of the existing legislation. This clause will impose yet more inflexibility on employers, and that is what they fear.

No-one believes that every time an employee goes to the Commission the case will be decided in his or her favour: it will just not happen, and we know that. However, the existence of the clause will inhibit the flexibility of employers, and that is why they object to it. I do not want to belabour the point; I just want to respond to the Deputy Premier by saying that if he interpreted my words as being a complete misunderstanding of that clause he interpreted them wrongly. I ask him to give the employers credit for knowing when a piece of legislation will inhibit their capacity to manage their businesses effectively, profitably and in a way that in the ultimate will serve to create more employment.

Amendments negatived.

**The CHAIRMAN:** I point out to the Deputy Leader that he can move to leave out the word 'unless' in line 29, and he can canvass the amendment to lines 30 to 47, but I must have assurances from him that if the vote is lost he will not proceed with lines 30 to 47. Have I got such assurances?

**The Hon. E.R. GOLDSWORTHY:** Yes. That is the position that we were in before.

**The CHAIRMAN:** I must do that under Standing Orders.

**The Hon. E.R. GOLDSWORTHY:** The Standing Orders are cranky, obviously. It is a symbolic vote. When we vote for the first bit of the amendment we will, in effect, be voting for it all. It makes a bit of nonsense of it. I do not know how on earth we can get this amendment into law; because if one cannot vote for it one cannot get it passed. I have not seen any sign that the Government will accept it, so nothing is lost except the opportunity to vote on it. I move:

Page 8, line 29—Leave out 'unless'.

The subsequent lines are the real substance of the amendment; they relate to the matter of retrospectivity as it is now incorporated in this clause. There are a number of matters involved here, but to save time we shall see how we go with the Government and simply vote against the clause in the end. I would like to divide in relation to all these matters, but, in view of the fact that the hour is getting late and we have not progressed particularly far in relation to this important Bill, I will oppose it but will not call a division on the important matters incorporated in this clause until the end of the debate on it.

The matters to be canvassed are retrospectivity and the demotion clauses, which the member for Coles has already mentioned and in relation to which I have an amendment. I have two amendments, which I think that the Government has picked up, relating to the fact that I do not believe that the leave of the Full Commission should be sought for an appeal to be instituted. The Act should be consistent with the parent Act; in other words, the Act should say 'hinder or obstruct'. I think that the Government has picked that up. I also seek in one of my amendments to introduce a clause removing preference to unionists not only from this Bill but also from a section in the present Act. So, a number of very important matters are being dealt with in the amendments to this clause because it covers a disparate number of subjects, all of which we consider to be very important. I will now talk about the retrospectivity clauses.

We do not believe that a case has been put forward by the Government for introducing retrospectivity beyond the date on which the application is made to the Commission. Of course, there will be some obvious results if this provision is enacted. No factor will be operating that will tend to get either an employee group or an employer group to seek to get their act together and put an application before the Commission if the restrospectivity provision is in force. People will have no real pressure on them to submit an application. Further, unknown factors are associated with this provision in relation to the effects that the award will have on the employers seeking to ascertain costs that they will accrue over a period of time. That will occur if a provision is enacted whereby an award can be made retrospective from the date on which it was awarded by the Commission. I could refer again at length to the submissions from the groups with which the Minister does not have consensus, despite his public claims.

**The Hon. J.D. WRIGHT:** The Deputy Leader is continuing to make stupid inane statements. The honourable member has said that 400 times since this debate began—how many more times is he going to say it? I made that statement on the basis of IRAC, and the honourable member knows it.

**The CHAIRMAN:** Order!

**The Hon. E.R. GOLDSWORTHY:** The Minister made that statement to try to denigrate me in this House.

**The Hon. J.D. Wright:** The honourable member should try to find something new.

**The CHAIRMAN:** Order!

**The Hon. E.R. GOLDSWORTHY:** I have found that one has to repeat the message to members opposite, particularly to the Minister, if it is going to sink in. The fact is that those groups are opposed to all aspects of this clause to which I have referred, I believe with good reason. They are opposed to the restrospectivity clause, as is the Opposition. How on earth will people know what they are up for if restrospectivity is awarded? I will say no more at this stage, unless the Minister wants to go over some old ground, which he has done on numerous occasions in this debate.

**The Hon. J.D. WRIGHT:** I have made my position clear in relation to this matter. Such an amendment would clearly deny the legitimate grounds for retrospectivity recognised by Mr Cawthorne, that is, the relationship between the Federal and State awards and the consent of the parties and the additionally related grounds of national wage case flowons. At page 20 of his report, Mr Cawthorne stated:

> I am persuaded that there is a case for removing the present statutory bar on the award of retrospectivity. I believe it is an unnecessary fetter on the Commission's discretion which could throw up unfair results. Moreover, it is hardly conducive to good dispute settling practice to encourage applications to the Commission first up in order to establish a starting point for the operation of any award should negotiations fail.
>
> Thus, I recommend that the present bar on the granting of retrospectivity, insofar as the operation of both State awards and conciliation committee awards are concerned, be removed.

That is the simple reason for the provision. I reiterate that the basis upon which the legislation has been drawn, clearly, is the Cawthorne recommendations, made to the Liberal Government. Are we dealing with further amendments to clause 18?

**The CHAIRMAN:** I remind the Deputy Premier that the Chair has already ruled that the Committee will vote on a single amendment to clause 18: if the amendment is lost the Deputy Leader has given an assurance that he will not proceed with the other amendments.

**Mr BAKER:** Although I do not have any difficulty with retrospectivity in relation to the national wage case, my question is which Federal awards are likely to impinge on State awards where this provision will have some impact? Which national awards are covered, as reference is made to the Australian Conciliation and Arbitration Commission?

**The Hon. J.D. WRIGHT:** I suggest that the honourable member write to me and I will provide him with an answer. More than 100 would be involved, I imagine, and I do not know the names of the award.

Amendment negatived.

**The Hon. J.D. WRIGHT:** I move:

Page 8, lines 33 to 35—Leave out subparagraph (ii) and substitute new subparagraph as follows:

(ii) an award or agreement under the *Conciliation and Arbitration Act* 1904 of the Commonwealth,.

Amendment carried.

**The Hon. J.D. WRIGHT:** I move:

Page 8, line 41—Leave out 'a' and insert 'any relevant'.

Amendment carried.

**The Hon. E.R. GOLDSWORTHY:** I move:

Page 9, lines 1 to 5—Leave out subsection (5).

This amendment relates to the question of demotion. The Deputy Premier likes to quote Cawthorne in support of a particular provision in the Bill which he finds Cawthorne recommends, but he is not quite so forthcoming in explaining the clauses in the Bill which are not recommended by Cawthorne, and this is one such provision. I do not intend to canvass this matter at length because the member for Coles has dealt with it adequately in regard to one industry in particular, and those arguments apply with equal validity across the board.

A new concept is being introduced by the Minister into the South Australian jurisdiction—not with any support from Mr Cawthorne, and not with any support from groups which have made submissions. I could read their views to the Minister if he does not believe me, but I think he is starting to believe me now.

**The Hon. J.D. Wright:** I believed you from the beginning; I did not disbelieve you.

**The Hon. E.R. GOLDSWORTHY:** That is not what the Minister said publicly, and that is what we had the barney about. That is what the Minister took me to task about earlier today.

**The Hon. J.D. Wright:** No, it's not; it is a different matter altogether.

**The Hon. E.R. GOLDSWORTHY:** My word it is, it is the same matter, and the Minister knows it. It is ill advised for the Minister to persist in introducing into the jurisdiction in South Australia matters which will simply add to the costs of employment (for which there is no great call) and militate against more people getting jobs. This measure will make it more difficult for people to get jobs, and it is not recommended in the Minister's bible.

**The CHAIRMAN:** I suggest that the Minister move his amendment to line 5.

**The Hon. J.D. WRIGHT:** I move:

Page 9, line 5—Leave out 'uncontrollable' and insert 'unreasonable'.

This amendment will make the terminology used in this provision consistent with other provisions in the Act and the Bill dealing with harsh, unjust and unreasonable dismissal of employees. I will not repeat the comments I made previously on the Deputy Leader's amendment.

The Hon. E.R. Goldsworthy's amendment negatived: the Hon. J.D. Wright's amendment carried.

**The CHAIRMAN:** The amendment to be moved to line 6 by both the Minister and the Deputy Leader is the same, but as the Minister takes precedence of the Deputy Leader I call him to move his amendment.

**The Hon. J.D. WRIGHT:** I move:

Page 9, line 6—Leave out ', by leave of the Full Commission,'.

Various submissions received in relation to the proposed new section 29(6) suggest that an appeal under the section should not lie by leave to the Full Commission and it has been decided to act upon those submissions. The passage ', by leave of the Full Commission' may therefore be deleted.

Amendment carried.

**The Hon. J.D. WRIGHT:** I move the amendment standing in my name to line 12:

Page 9, line 12—Leave out all words in this line and insert 'Commission has first consulted with all parties to the award'.

The President of the Commission has commented that subject 7 as presently cast might allow a party to object continually to the appointment of a chairman. The board of reference has considered that a better option is to provide that all parties should be consulted before an appointment is made.

Amendment carried.

**The CHAIRMAN:** Again, as the amendment to line 22 by both the Minister and the Deputy Leader is the same, I ask the Minister to move his amendment.

**The Hon. J.D. WRIGHT:** I move:

Page 9, line 22—After 'hinder' insert 'or obstruct'.

This amendment seeks to include the passage 'or obstruct' in that subsection that provides that an official acting under subsection (1) *(c)* of the section may not hinder an employee in carrying out his duties. The alteration has been suggested in various submissions and is consistent with the Act as it presently stands.

Amendment carried.

**The Hon. E.R. GOLDSWORTHY:** I move:

Page 9, after line 23—Insert new subsection as follows:

(10) An award,or part of an award, made in pursuance of subsection (1) *(c)* before the commencement of the Industrial Conciliation and Arbitration Act Amendment Act (No. 4), 1983, shall upon the commencement of that amending Act, cease to operate.

This amendment is a prelude to the opposition to clause 19 which follows. It seeks to complement that position and insert a new subsection (10). My amendment seeks to remove the effect of section 29 (1) (c), which provides:

Subject to subsection (2) of this section, by award authorize that preference in employment shall, in relation to such matters, in such manner and subject to such conditions as are specified in the award, be given to members of a registered association of employees;

I make my intention perfectly clear to the Committee: it is to remove preference to unionists across the board in relation to our legislation in South Australia. As I have said, that approach is consistent with the attitude of my Party. We are strengthened in that resolve by our knowledge of the way that 'preference' to unionists operates under the ALP. Of course, that really means the compulsion to join a union or to not work. My amendment will put into place the view that we should not have in our arbitration laws preference to unionist clauses, particularly as they operate in South Australia at the moment.

**The Hon. J.D. WRIGHT:** Obviously, the Government opposes this amendment. The amendment goes much further than the original intention of the Opposition, which was to oppose any preference clauses in this Bill.

**The Hon. E.R. Goldsworthy:** How do you know that?

**The Hon. J.D. WRIGHT:** The honourable member is now getting into the Act.

**The Hon. E.R. Goldsworthy:** How do you know that this is contrary to our original opinion?

**The Hon. J.D. WRIGHT:** I do not think I said 'opinion'; I said that it was contrary to the original proposition put forward in this piece of legislation. I might add that in the first place the honourable member was arguing that no added preference clauses should go into the Act under the new amendments. What the Opposition is trying to do is very cunning. The Opposition is trying to take any preference out of the Act altogether.

**The Hon. E.R. Goldsworthy:** It's not cunning; it is quite straightforward.

**The Hon. J.D. WRIGHT:** I think that it is cunning.

**The Hon. E.R. Goldsworthy:** I read the relevant section to you.

**The CHAIRMAN:** Order!

**The Hon. J.D. WRIGHT:** It is an entirely different approach to what the honourable member said earlier. The honourable member's earlier objection was based on the current amendments. Now he is trying to remove a provision already in the Act and, quite clearly, the Government has no option but to oppose that.

Amendment negatived.

The Committee divided on the clause as amended:

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

Noes (21)—Mrs Adamson, Messrs Allison, P.B. Arnold, Ashenden, Baker, Becker, Blacker, D.C. Brown, Chapman, Eastick, Evans, Goldsworthy (teller), Gunn, Ingerson, Lewis, Mathwin, Meier, Oswald, Rodda, Wilson, and Wotton.

Pair—Aye—Mr L.M.F. Arnold. No—Mr Olsen.

Majority of 2 for the Ayes.

Clause as amended thus passed.

Clause 19—'Power to grant preference to members of registered associations.'

**The Hon. J.D. WRIGHT:** I move:

Page 9, lines 26 to 30—Leave out subsection (1) and substitute new subsections as follows:

(1) The Commission may, by an award—

*(a)* direct that preference shall, in relation to engaging a person, be given to such members of registered associations or persons who are willing to become members of registered associations as are specified in the award;

*(b)* direct that preference shall, in relation to any other matter specified in an award, be given, in such manner as may be specified, to such registered associations or members of registered associations as are specified in the award.

(1a) An award that makes a direction as provided by subsection (1) may direct that preference be given subject to such conditions as are specified in the award.

Lines 35 to 37—Leave out all words in these lines and insert 'to make a direction as provided by subsection (1), the Commission shall make such a direction'.

Lines 38 to 43—Leave out subsection (3) and insert new subsection as follows:

(3) Where the Commission has, by an award, made a direction under subsection (1), an employer bound by the award is not required, by reason of the award, to give preference to persons who are, or who are willing to become, members of a registered association of employees over a person in respect of whom there is in force a certificate issued under section 144.

**The Hon. E.R. GOLDSWORTHY:** I do not particularly want to talk to the amendments because we are simply opposing the clause as it stands. This clause is at the heart of the question of preference to unionists. I indicated, in moving the last of the amendments in relation to clause 18, that related to the question of preference to unionists and that simply would have had the effect of wiping out any preference in relation to this matter. Of course, clause 19 carries further the intention of the Government to give preference, (in quotation marks). It is not really preference: it is compulsory unionism. That is the effect of it but I use that word because it is bandied about. This will give further effect to the Labor policy relating to preference to unionists. I will not canvass the whole argument again.

There is a philosophical and fundamental difference between the two Parties in relation to this matter. I believe that the view of the Opposition is shared by the vast majority of the people in this State, including a large number of unionists. Indeed, I made that comment in relation to a considerable number of other clauses which we have sought to amend. Nonetheless, the Labor Party, peopled largely by the hierarchy of the union movement, no doubt will hang tenaciously to this concept of preference or compulsory unionism, so we have no hope of opposition to this clause succeeding. Nonetheless, I will continue, and I am quite sure all my colleagues will continue, to fight for this principle as long as we have any voice in this place.

**The Hon. J.D. WRIGHT:** I want to make a couple of points. The Labor Party is always accused of supporting compulsory unionism. It supports nothing of the sort. It has never been our policy; rather, the policy has been for preference to unionists. Whatever construction the Liberal Party wants to put on it, is its own business, but it keeps reiterating that point, which is not true. The policy of the Labor Party clearly is for preference to unionists. Again, in this case we are doing what we have done right through, namely, referring the powers to the Commission. One would think that, after walking out of this place this morning, everyone has to join a union. That is the construction put on this Bill and it does the Opposition no good to put such a construction on the Bill. Clearly the implication of this legislation is to pass it over to the Commission for its decision. That applies here.

It was alleged by the Deputy Leader that the Labor Party is kowtowing to and is controlled by the unions in this State. I do not dispute that this Party was born out of the trade union movement. I am proud to be part of that trade union movement. However, there are no bosses—our policies are determined by a convention of delegates getting together and creating those policies.

*Members interjecting:*

**The Hon. J.D. WRIGHT:** On policy matters the card vote is not used. That shows the ignorance of members opposite in saying that we are running around with 85 000 votes. The card vote has never been used for policy matters in the history of the ALP. Members opposite should try to get their facts straight in making allegations about the Labor Party. One thing that has emerged from this debate tonight is that, if the allegations have any foundation at all that the Labor Party is controlled by the unions, it can be substantiated that the Liberal Party is controlled by the employers. There is absolutely no doubt about that. If Liberal Party spokesman on this Bill tonight had not had information from employers, they would have had nothing to talk about because, on almost every occasion when a Liberal member spoke tonight it was on the basis of information given by employers.

Let us not start slinging things at one another. It is late in the evening and, if the Deputy Leader starts to make those allegations, obviously one must come back and make similar allegations. The evidence right through this whole debate has clearly been that the Liberal Party would have had little to say if it had not been reading letters and giving the House information it had received from employer groups.

**The Hon. E.R. GOLDSWORTHY:** Let me put the Deputy Premier's mind at rest on that last allegation. The Liberal Party has been consistent ever since I have been a member of it (and that has been a long time) in relation to the question of preference to unionists. I could go on reading from these submissions. I do not believe that any other members of my Party have read them out. They made points in this debate.

*The Hon. J.D. Wright interjecting:*

**The CHAIRMAN:** Order!

**The Hon. E.R. GOLDSWORTHY:** The Minister branded all members on this side of the House as being the mouthpiece of the employers. He said in response to the point I made about the Labor Party's attitude to compulsory unionism that the Opposition was the mouthpiece of the employers. I quoted from those submissions to give the lie to what the Deputy Premier had said publicly and repeated again today when he castigated me in round terms: that he had employer support. I simply quoted those views which support the views of all the members of this Party, who have not had access to them, to indicate that the Deputy Premier was misleading the public. As I say, the members of this place are not the spokesmen for employer groups. They are not put here by employer groups: they are put here by their constituents, they are answerable to their constituents, and they do not get their arms broken by the Liberal Party if they do not toe the Party line or sign a pledge, as members of the Labor Party have to do. Therefore, let us put that one to rest.

**The CHAIRMAN:** Order! The Chair does not intend to allow the Deputy Leader to carry on in relation to a question of Party politics. He will return to the amendment.

**The Hon. E.R. GOLDSWORTHY:** I merely refute what the Deputy Premier said in relation to who members on this side represent. We represent the constituents who put us here, and he knows it. I make a brief comment in relation to the Government's 'preference' policy in relation to unions. If one wants to get a job, a Government job, or be a teacher, one has to join a union. An instruction was sent out by the Health Commission stating, 'If you want a job in the Public Service or as an ancillary staff member in a school, you have to sign a form saying "I will join the union and stay

in it." If you want to get promoted in your job, if you are in the Public Service, you had better make sure you are in the union because you will get preference for 'promotion.' What sort of duress is that in a society where unemployment is rampant?

A fellow does not have a job. He wants a job. The choice is: join a union or do not have a job. Preference to unionists, my eye! It means that, if one wants to get a job, one joins a union, and if that is not duress and compulsion of the most horrific and pressing type, I do not know what is. If that is not compulsory unionism, I do not know what is: join a union or do not get a job. We get the special ground rules here for the unemployment relief fund. The Federal Minister says in Canberra, 'It is not a condition for the use of these funds that you have to join a union to get one of these jobs for six or eight months.' However, out comes the instruction from South Australia: if one wants to get a job here, one has to join a union and pay one's dues or one does not get a job. If that is not compulsory unionism, I do not know what is. If one wants to get a job and a wage, one has to join. Preference to unionists, my big fat toe!

**Mr MATHWIN:** I want to pick up one of the matters referred to by the Deputy Premier when he said that there is no such thing in the Government's idea as compulsory unionism: it is preference to unionists.

**The Hon. J.D. Wright:** 'It's policy', is what I said.

**Mr MATHWIN:** What you did say, Mr Minister, was a load of hogwash because the situation is that, if one has to hand it over to the Commission, that is about it. However, the Government's policy is to join a union or starve: that is what it is all about, and it is compulsory whichever way one puts it. As the Deputy Leader has said, one does not get a job unless one signs a pledge and says, 'I will join', otherwise one is finished. We are really talking about the rights of people (the workers) to say whether or not they wish to join a union, and that is what it is all about: the rights of the little people and the right to please themselves about whether or not they join a union.

In actual fact, that boils down to their right to work because, under the Deputy Premier's rules, if they do not join a union they have no opportunity to work because they will not be given a job. That is plain enough and quite obvious. That is what it is about: the rights of people, whether or not they want to join a union, and whether or not they work. The Deputy Premier, if he is man enough, should stand up and say that as far as members opposite are concerned, no matter how one dresses it up and filibusters around it, the fact remains that preference to unionists means compulsory unionism. We will not go through the aspects of and reasons for it and the financial benefits to the Labor Party, because we all know it: members on that side and we on this side of the House. Let us be honest about it: it is compulsory unionism. That is what I object to. I firmly believe that if people work they are entitled to be members of the union. I have never had any argument about that at all, but I have had an argument that they should be able to please themselves and that it is their right if they wish to decide whether to join or not to join. That should not penalise them for working or earning money to keep their families or in any way at all.

**Mr Hamilton:** How many unionists do you employ?

**Mr MATHWIN:** I never asked them; that was their business, not mine.

**The CHAIRMAN:** Order!

**Mr MATHWIN:** I was answering an interjection from the other side.

**Mr LEWIS:** The clause clearly indicates that the Labor Party—the Government—does not understand how people should be chosen for particular jobs. They place membership of a union above every other consideration, reason and possible criteria that could be used to determine suitability, aptitude, competence or anything else for a job. That is exactly what this clause does. One is, in the opinion of the Labor Party—I say to any member of the South Australian population—unfit to work until one joins a union. That is the Government's opinion of every man and woman; every Jack and Jill of us. I do not see how in the name of justice any honourable man or woman can fairly claim that that should be the yardstick first applied to decide whether they ought to be allowed to earn their living and support the families which they have a responsibility to support. They are condemned, for so long as they do not join a union, from any chance of employment while there is an unemployed union member who is willing to pay, through their union dues, to the sustentation funds supporting the ALP. That is sick!

**Mr BAKER:** Certainly, the subject has been canvassed.

**An honourable member:** Were you a member of a union?

**Mr BAKER:** Yes, I was a member of a union. I want to bring the Committee's attention to proposed section 29a (2):

> Whenever, in the opinion of the Commission, it is necessary, for the prevention or settlement of an industrial dispute, for ensuring that effect will be given to the purposes and objectives of an award, for the maintenance of industrial peace or for the welfare of society to direct that preference shall be given to members of registered associations as provided by subsection (1), the Commission shall so direct.

What it clearly means in simple, plain English is that if an industrial disputation is based on a difference of opinion between employees in a union and those who are not in a union in a factory, workshop or whatever, if the perpetrators can prove before the Commission that the industrial disputation will continue unless everybody buckles under, the Commission is required to provide that preference. That is a disgrace. It writes into the Act the compulsion associated with the provision. I do not believe that in 1984 we should be putting these forms of words to provide—

**The Hon. Michael Wilson:** It is a pretty significant year.

**Mr BAKER:** It is a significant year—people with weapons and muscle far beyond what they need to attract people. If a union believes that it can attract people, it should do so on its merits and not use the power of legislation as a form of co-option and conscription. I make the point here that I am disgusted with this clause. I believe it is a disgrace. I do not know whether such a provision is in the Federal Act but, if it is, I would have to say that I am utterly disgusted with that Act, too.

Amendment carried.

The Committee divided on the clause as amended:

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

Noes (21)—Mrs Adamson, Messrs Allison, P.B. Arnold, Ashenden, Baker, Becker, Blacker, D.C. Brown, Chapman, Eastick, Evans, Goldsworthy (teller), Gunn, Ingerson, Lewis, Mathwin, Meier, Oswald, Rodda, Wilson, and Wotton.

Pair—Aye—Mr L.M.F. Arnold. No—Mr Olsen.

Majority of 2 for the Ayes.

Clause as amended thus passed.

Progress reported; Committee to sit again.

## ADJOURNMENT

At 12.17 a.m. the House adjourned until Thursday 22 March at 10.30 a.m.