HOUSE OF ASSEMBLY

Tuesday 26 February 1985

The SPEAKER (Hon. T.M. McRae) took the Chair at 2 p.m. and read prayers.

REMUNERATION BILL

His Excellency the Governor, by message, recommended to the House of Assembly the appropriation of such amounts of money as might be required for the purposes mentioned in the Bill.

PETITIONS: HOTEL TRADING

Petitions signed by 168 residents of South Australia praying that the House reconsider legislation allowing hotels to trade on Sundays were presented by Messrs Baker, Groom, and Mathwin.

Petitions received.

PETITION: ETSA

A petition signed by 40 residents of South Australia praying that the House call upon the Governor to establish an inquiry into the financial management of the Electricity Trust of South Australia was presented by Mr Becker.

Petition received.

QUESTIONS

The SPEAKER: I direct that written answers to the following questions on the Notice Paper, as detailed in the schedule that I now table, be distributed and printed in *Hansard*: Nos 251, 376, 385, 400, 404, 411, 413, 420 to 423, 431, 433, 440, and 441; and I direct that the following answers to questions without notice be distributed and printed in *Hansard*.

FOOTROT

In reply to **Hon. TED CHAPMAN** (6 December).

The Hon. J.C. BANNON: Footrot was detected in ewes and weaned lambs offered in a consignment of 314 sheep by one vendor prior to commencement of the annual Penneshaw sheep sale on 22 November this year. In line with normal policy and procedures, all sheep offered by that vendor were withdrawn from auction sale; the adult sheep were later sold by private treaty for immediate slaughter and the weaned lambs were returned to the property of origin for treatment. At the time of detection of footrot in the sheep penned at the saleyard, the stock agents were immediately notified and a public announcement was made of the presence of footrot in sheep at the sale. Again, in line with normal policy, prospective buyers were publicly advised to footbath purchased sheep prior to release on properties of destination.

The property of origin (located immediately across the road from the saleyards) was quarantined on the same day. All sheep on that and other properties owned by the producer concerned were inspected as soon as possible after the sale. A programme of culling and treatment to eradicate footrot from the property has since been prepared by the district animal health adviser. Cape Borda Research Farm, a property leased by the Department of Agriculture, was placed under quarantine for footrot on 15 November 1984, immediately after detection of footrot in a mob of 100 sheep transferred from Cape Borda Research Farm to Parndana Research Centre for experimental purposes. Epidemiological investigations were begun by the district animal health adviser to determine possible sources of disease on Cape Borda farm. As part of these investigations, traceback procedures were commenced on all purchases and introductions of sheep to Cape Borda farm during the previous 12 months.

These investigations subsequently revealed that four lines of sheep had been purchased by the Department at the annual Penneshaw sheep sale in 1983, two of which had gone to Parndana Research Centre and the other two to Cape Borda farm. The properties of origin of all purchased lines were determined; one of the sources of the Cape Borda sheep was the owner of the infected sheep subsequently detected at the Penneshaw sale in 1984. It is important to note here that the annual Penneshaw sale in 1984 took place one week after Cape Borda farm was quarantined. There was no suspicion of footrot on Cape Borda farm at any time prior to the time of quarantine on 15 November 1984. Although investigations were in progress, no firm traceback information was available at the time of the Penneshaw sale on 22 November.

Further, there are no grounds to suspect that footrot detected on Cape Borda farm in November 1984 was introduced in sheep purchased at Penneshaw in 1983. Identification of specific strains of footrot organisms is not performed in the laboratory, so there is no evidence connecting strains of organisms involved. Therefore, although the departmental animal health adviser was pursuing investigations at the time in connection with the quarantine of Cape Borda one week previously he had no suspicions and certainly no clear prior knowledge of the presence of footrot prior to the sale. As a property owner, the Department of Agriculture is aware of the importance of reporting suspected notifiable diseases. In the case of Cape Borda farm, notification occurred to the local animal health adviser immediately disease was suspected; the matter was attended to promptly and investigations and control procedures were commenced.

It has been pointed out that appropriate precautionary measures were advised at the time for purchasers of sheep at the sale. The action recommended is the most effective method of reducing risk of disease spread to a minimum. In fact, some stockowners requested the additional provision of footbathing facilities at the saleyard but the stock agent was unable to provide them. In common with many of the producers on Kangaroo Island and in other endemic footrot areas of South Australia, the Department of Agriculture is vitally concerned to control footrot and prevent its spread. The Department's animal health staff rely heavily on stockowners to notify suspected footrot (indeed any cases of lameness). Although saleyard inspection is a more laborious and less sensitive method of detection, in view of the clear concern of Kangaroo Island producers and the recent wet spring seasons, a second officer was assigned to the recent sale at Penneshaw. This action was taken primarily for the protection of sheep owners, clearly in the interests of disease prevention and control. I have been advised by the local manager of a major stock agency represented at the sale that the behaviour and performance of the Department officers was impartial, decisive, clear and efficient and that they both discharged their duties in a fully professional manner.

PORTER BAY PROJECT

In reply to **Mr BLACKER** (4 December).

The Hon. J.C. BANNON: A proposal for the State Government to construct an inland marina and associated facilities at Porter Bay has been referred to the Public Works Standing Committee for consideration. It is proposed that the Government undertake earthworks and provide jetties, roadworks, infrastructure services, reclaimed land and beaches. As you will be aware, the Public Works Standing Committee will review the purpose of the project, and the necessity or advisability of undertaking the Government works.

A one-year construction period is expected and, if the Public Works Standing Committee recommends that the works proceed, construction could commence in the latter months of this year. The cost of the Government works is estimated at $10.1 million at current prices.

The second aspect of the project is for a private company, the Porter Bay Development Company, to use the marina and associated facilities as a focus around which it will develop tourist and commercial facilities and residential land, totalling $4.3 million initially. The proposed Government works will, therefore, stimulate private sector investment. Should both aspects of the project proceed it is estimated that a maximum of 280 construction jobs will be created. There should be a gradual increase in the number of full time permanent positions to approximately 100 persons by 1990. Some of those employed will be unskilled workers, but it is impossible to predict the numbers involved.

PAPERS TABLED

The following papers were laid on the table:

By the Treasurer (Hon. J.C. Bannon)—

By Command—

Parliamentary Superannuation Fund—Report, 1983-84.

Pursuant to Statute—

South Australian Superannuation Board—Report, 1983-84.

Superannuation Act, 1974—Regulations—Employing-Authority.

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

Pursuant to Statute—

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

Erection of Classrooms, Port Augusta TAFE.

Transfer of Land for Sewerage Reserve, Port Augusta.

Power Generator and Distribution System, Nundroo District.

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

Pursuant to Statute—

Statute Revision, Commissioner of, Schedule of Alterations made—Juries Act.

MINISTERIAL STATEMENT: SUPERANNUATION

The Hon. J.C. BANNON (Premier and Treasurer): I seek leave to make a statement.

Leave granted.

The Hon. J.C. BANNON: Members will recall that last year I tabled the Actuarial Reports on the South Australian Superannuation Fund. On that occasion I informed the House that the Government would not make any decisions in relation to the recommendations of the report until it had consulted fully with representatives of the contributors. The tabling and subsequent publication of that report raised a number of issues concerning public sector superannuation, and it became clear during the process of consultation which the Government undertook that there was some concern among contributors concerning the operation of the scheme. It was also apparent that there was some disquiet in the wider community concerning the cost of public sector superannuation.

These divergent views both carried with them requests for a wide-ranging inquiry into public sector superannuation. In particular, the Hon. L.H. Davis, in another place, moved a motion which called for such inquiry. In responding to that motion, the honourable Attorney-General made it clear that the Government was not opposed to an independent inquiry into public sector superannuation. However, it did not believe it was necessary to cover yet again the ground that had been traversed by the major inquiries into this subject that had been held in other States. It also believed that it was not appropriate to spend the considerable resources that would be necessary on a large scale inquiry, as was envisaged by the Hon. Mr Davis.

However, the Government does believe it is necessary that any inquiry into public sector superannuation be conducted in such a way that it can both deal with the many issues that have been raised and provide an opportunity for all parties to contribute their point of view. Consequently, the Government has decided that the inquiry shall be representative of contributors, the private superannuation sector, and the Government, headed by an independent Chairman.

Mr Peter Agars, of Touche Ross & Company, has agreed to chair the inquiry. I am sure all members will agree that Mr Agars will be a very appropriate person for such a task. He is a well respected South Australian accountant, Past National President of the Australian Society of Accountants, and a member of the Public Sector Accounting Standards Board established by the Australian accounting profession in 1983. It is worth noting that the Board is currently addressing requirements for a proposed statement of accounting standards to apply to both public and private sector superannuation schemes. Mr Agars has also had considerable experience as a consultant to Government, both during the term of the current Administration and in the term of office of the previous Government.

The terms of reference of the inquiry will address the immediate concerns of the contributors regarding the recommendation of the triennial review that contribution rates should rise. However, they will also cover the wider issues of the appropriateness of benefits provided by South Australian public sector superannuation schemes.

The inquiry will also be asked to review the findings of the major inquiries that have been held in other States and, in the light of those findings, review the provisions for accountability of the South Australian schemes. Finally, the inquiry will be asked to consider the investment policies and administration of the South Australian Superannuation Fund Investment Trust.

I also advise the House of decisions the Government has taken in regard to superannuation in advance of this inquiry. They relate directly to the findings of the interstate inquiries to which I have referred. These are a direction to all Government agencies that any changes to superannuation arrangements require the prior approval of the Treasurer; the recommendation that trustee groups for public sector superannuation schemes involve employees in the management of schemes; and a recommendation that trustees provide annual reports to the relevant Minister for tabling in Parliament. As to that last recommendation, members will note that I have tabled today the Report of the Trustees of the Parliamentary Superannuation Fund.

The Government appreciates that superannuation is a very important issue for its employees. It is also aware that the Superannuation Fund has become a very important

source of investment and development for the South Australian economy. The many questions surrounding superannuation are complex and they require careful consideration. The Government believes that the inquiry, which I have outlined, will be the best vehicle for that consideration.

CENSURE MOTION: PAROLE SYSTEM

Mr OLSEN (Leader of the Opposition): I move

That Standing Orders be so far suspended as to enable me to move a motion without notice.

Motion carried.

The Hon. D.J. HOPGOOD (Minister for Environment and Planning): I move:

That the time allotted for this debate be until 4 p.m.

Motion carried.

Mr OLSEN (Leader of the Opposition): I move:

That this House censure the Government for completely failing to protect the community in the way it promised when the new parole system was introduced in December 1983; for completely failing to review and amend the parole system in the light of clear evidence that it is exposing innocent people to risk; and for its attempts to mislead Parliament and the public about the operation of the parole system, and calls on the Government to resign.

For some people, this motion is too late. They are the victims of this Government's indifference and inaction—indifference to the repeated warnings the Government was given about this parole system—inaction to ensure that the failures of the system were corrected. This Government has treated many prisoners with lollies and leniency rather than sense and strength. Let me begin by demonstrating to the House the gravity of this matter. Let me give new evidence to the House to demonstrate the failures of this parole system. Case No. 1: A man involved in the Yatala riot early in 1983 (indeed, he was a ring leader) was charged with riot and assault occasioning actual bodily harm: yet this man was released on parole just over a year later, in March 1984, after serving only three years for rape, robbery with violence, common assault, and assaulting police. Within a month of his release, he was charged with murder.

Case No. 2: a man released on parole in August 1984. He had been serving a sentence for rape. Within three months, he was charged with raping the same woman again, and with the murder of a man. Case No. 3: a man paroled in February 1984. He was rearrested in November 1984 on two counts of attempted murder. Case No. 4: a man paroled in April 1984, charged last month with attempting to murder a police officer. Case No. 5: a man paroled in June 1984, charged the following month with assaulting a police officer who sustained a fractured skull. The man was bailed on this charge, and now also faces two counts of attempted murder.

It is no exaggeration to say that, because this Government ignored the strong warnings given when this new parole system was introduced, two people are now dead and others have been the victims of some shocking crimes. These criminals have been able to obtain automatic release from gaol under this new system. They have been set free on society without any account being taken of the potential for them to reoffend, without any attempt by this Government to keep them in prison for at least the minimum period originally ordered by the court. They have been thrown the key to freedom and given a licence to offend again.

Let me also reveal to the House this afternoon that these are not isolated incidents. While the Government has attempted in the past to hide behind statistics to answer criticisms of its new parole system, those statistics are now flashing urgent warnings, which must be heeded. The fact is that the reoffending rate of parolees is not less than 10 per cent as the Government has constantly sought to maintain: it was 19.5 per cent during the first 12 months operation of this new system. One in five parolees has reoffended within relatively short periods of their release. That information is available to the Government, yet it still refuses to act. Later, I will detail further examples of the failure of this system, and the risks to which this Government has been prepared to expose the South Australian community.

But first, I emphasise the point that the Government must accept complete responsibility for this state of affairs. Indeed, this motion is one that the Minister of Local Government anticipated, and even invited, when, as Chief Secretary, he was responsible for the legislation establishing this parole system in 1983. On 1 December 1983, in answer to predictions from members on this side of the House that the system would not work, the Minister said:

> If this system is not working correctly the honourable member and his colleague can point that out . . . they can also move any number of motions to highlight the fact that the system is not working. That is the best way of doing it.

This is certainly not the best way of doing it. From the community's point of view, the best way of dealing with this issue would have been for the Government to admit the problem and do something about it. But this Government has persistently refused to do that. Without the diligence and determination of the Opposition, none of the facts about the operation of the parole system would be known publicly. Quite obviously, the Opposition knows more about the operation of this system than do the Premier and the Government. That is a scandalous indictment of their failure to properly and responsibly administer our gaols.

The Premier made that clear last Thursday when, in answer to questions about the early release of Colin William Conley, he said that the Opposition should have first provided the information to the Government and that something would be done about it. Conley's early release was public knowledge 24 hours before those questions were asked in this Parliament. Even after those questions had been asked, the Government was not prepared to do anything about the matter, other than to attempt to completely mislead this Parliament and the public about it.

I shall refer to that in a moment but, first, I refer back to the introduction of the parole legislation in December 1983. My Party strongly opposed the legislation. However, because the Government and the Democrats in another place were determined that it should proceed, we attempted to introduce various safeguards. My colleague the member for Murray proposed in this House that a standing committee should be appointed to review the legislation after it had been in operation for 12 months. The standing committee would have included representation from the Victims of Crime Service, the Offenders Aid and Rehabilitation Service, prison officers and prisoners.

The Government refused to accept the proposal, even though the New South Wales Labor Government had established a similar committee to review new parole legislation when it was introduced in that State. In another place our shadow Attorney-General proposed amendments when the Democrats and Government members combined to propose that legislation should be applied retrospectively so that prisoners serving sentences imposed before it came into force could gain remissions and therefore shorter minimum sentences than the courts had imposed.

The Hon. Mr Griffin proposed one amendment to ensure that prisoners receiving non-parole periods before the Bill came into operation would not be released until that non-parole period was reviewed by the original sentencing court. It was an attempt to provide a safeguard for the commu-

nity—a protection against the early release of criminals convicted of serious crimes. The Government also refused to accept that amendment. In doing so, it claimed that the community was adequately protected. Reference was made to section 42i (2) *(b)* of the Act which allows the Crown to apply to the sentencing court for an order extending a non-parole period. The Attorney-General described this provision as a safeguard, and the former Chief Secretary had this to say about it:

> There clearly is a protection for the Crown to take the necessary action in relation to those prisoners whose sentences the authorities believe might be reviewed under the provisions of the new Act.

In the cases of Conley, and also Kloss, however, the Government has not even attempted to invoke this section, to test it in the courts. What is more, I am not aware of any case in which there has been an appeal to the courts under this section relating to non-parole periods being imposed before December 1983. What this means is that virtually all of the more than 600 prisoners who have so far received automatic release under this new system have had their minimum sentences cut short, not by the courts, but by an Act of this Parliament, and that is unprecedented.

The Government has simply let the system rip without attempting to control it or keep it under review. It has completely ignored and refused to honour the undertakings given to this Parliament and to the public that a check would be maintained of early releases allowed by this new system. All it has offered are pathetic, misleading and mischievous excuses. The Minister of Correctional Services is now saying that the Government has not attempted to seek an extension of non-parole periods imposed on criminals such as Conley and Kloss to keep them behind bars for at least the minimum period ordered by the court because the grounds on which such extensions can be sought are very narrow.

That comes as no surprise to the Opposition, because we pointed out that very fact when the original legislation was before the Parliament in December 1983. I return to the words of the Hon. Mr Griffin: referring in another place to the grounds under which an extension of non-parole periods could be sought under this new system, he said (and I quote from *Hansard* of 8 December 1983):

> That is really tying the hands of the court behind its back so that it is very much constrained in determining whether or not a non-parole period ought to be extended.

The grounds for appeal require the Government to prove that a prisoner is likely to endanger the community. As I said, the Government has refused even to test these grounds.

Surely, however, it had grounds to do so in the case I mentioned earlier of a man who was convicted of rape, who was released on parole, and who has now been charged with raping the same woman again after his release, as well as with murder. In the case of Conley my officers are aware, following a telephone call received on Friday, of at least one person concerned about personal safety as a result of his early release, and I understand that the office of the Minister of Correctional Services received a similar call from the woman.

While this Government was warned at the time this legislation was before Parliament of the narrow grounds for seeking an extended non-parole period, and now knows that those warnings have been vindicated in the worst possible way, it still does nothing about it. Rather—and certainly the Premier is implicated in this—the Government has attempted to mislead the Parliament about the real reasons why criminals such as Conley can get out of prison after serving only three years of a 15 year sentence.

When answering questions last Thursday, the Premier said that the fault was with the former Government because it had not appealed against the non-parole period originally imposed by the court. The Minister of Correctional Services said the same thing in the Upper House. Nothing is further from the truth or more typical of this Government's negligence—and one can say criminal negligence—in the matter. The fact is that Conley's non-parole period of four years meant that at the very least Conley would have served that sentence under the former parole system operating at the time the sentence was imposed.

Members interjecting:

The SPEAKER: Order! The honourable member for Glenelg.

Mr OLSEN: After—and I hope that the Minister listens to this point—serving four years, he would have been eligible only to apply for parole, not to automatically receive it, as he has today. That is the difference. Indeed, the policy followed by the former Parole Board was such that in all likelihood Conley would have served up to 10 years or more, given the nature of his crime, and indeed, if one looks at the track record of the former Parole Board in applications for crimes of this nature, two thirds of sentences (on average) were served before those prisoners were released back into the community. The same applied to Kloss: he would have served at least six years.

So, let us hear no more of these untrue statements from the Premier and his Minister. Let them face the facts squarely and honestly: let them admit that, because they refused to heed the warnings we gave, criminals convicted of serious crimes are being released into society years ahead of the time intended by the courts which sentenced them.

Conley was sentenced to 15 years—a record sentence for drug dealing—for trading in pure heroin: one deal for which he was to gain some $150 000. Kloss was convicted as the principal in a conspiracy to import $1 million worth of cannabis into Australia. These men are prepared to endanger the lives of our young people, yet they are getting what amounts to a rich present from the Government—early freedom, early automatic release. Of course, Conley and Kloss have both served as Chairmen of the Prisoners Action Group at Yatala, the group which agitated for this system to be introduced retrospectively. They are now the major beneficiaries of their advocacy, because this Government has been prepared to place more emphasis on their threats to cause trouble than on protection to the rest of the community.

Their cases, and those I mentioned earlier involving parolees who have reoffended, who have murdered, raped and committed other serious crimes, are the direct result of this Government's callous indifference to the implications of this parole system. Let me give some other examples of cases in which the community interest has not been protected:

A man convicted of the attempted murder of two police officers in 1977, released last year after serving less than half of his 16 year sentence.

A man released in October last year after serving only 16 months of a 10 year sentence for armed robbery.

A man, released after two years of a seven year sentence for manslaughter, who is now back in gaol.

A man who served only 18 months of an eight year sentence of multiple rape, who has now been charged with further rapes and kidnapping committed while on parole.

Other offences committed by parolees have included illegal use, assaulting police, shop breaking and larceny, break with intent, possession of drugs and assault occasioning actual bodily harm. I understand that more than 100 prisoners so far given parole since the introduction of this system are known by police to have reoffended.

The former Chief Secretary said, when he introduced this legislation, that one of its objectives was that it should be accepted with confidence by law enforcers. Quite clearly

however, our Police Force is rejecting what is happening. Clearly, the message from the former Chief Secretary to the Premier has gone almost the full length of the front bench.

The President of the Police Association, Inspector Tom Rieniets, has said that the early release of Conley and Kloss makes a mockery of the Government's anti-drug campaign and that economic policies are playing a greater role in letting people out of gaol earlier, rather than allowing the original form of punishment by the court to be continued. The Premier said when he announced the Government's anti-drug campaign on 18 November last year that his Government would lead Australia in a massive effort to root out those who seek to entrap our young people in this dangerous game. That is a laudable objective which the Opposition fully supports—

The Hon. B.C. Eastick interjecting:

The SPEAKER: Order! The honourable member for Light.

Mr OLSEN: —but nothing can be more calculated to hinder its achievement than the lenient treatment of these leeches in our society—the Mr Bigs in the drug trade. The sort of leniency shown in the treatment of Conley and Kloss adds great weight to the statement yesterday by the Federal Minister for Health (Dr Blewett) that there is a widespread community feeling that governments are not attacking the drug problem.

Drug related offences have shown a steady climb in South Australia, as have other serious crimes. Between 1972-73 and 1982-83—the latest year for which official figures are available—the number of drug offences of all types in South Australia increased by 584 per cent—from 420 such offences to 2 874. The number of serious assaults was up 363 per cent; rapes increased by 308 per cent; common assaults by 222 per cent; murder and attempted murder by 110 per cent; and all forms of robbery by some 90 per cent. In the same period, South Australia's population rose by only 11.6 per cent. With trends like this, it is little wonder that a Gallup poll published this morning shows that crimes of violence are the most important problem now facing South Australians. This issue is of more public concern in South Australia than in any other State.

This situation demands fair but firm treatment of offenders. The community demands retribution, deterrence and protection, while offenders need rehabilitation where possible. The former Liberal Government (and I assure the Premier that this is not a laughing matter) took a number of major initiatives to reflect those principles. It increased maximum penalties for a range of violent crimes. It acted to ensure that people given life sentences were not released on parole unless this was granted by Executive Council. It legislated in 1980 to ensure that the Crown had the right to appeal against lenient sentences following our election commitment in 1979 to do just that.

At the same time, we made every endeavour to ensure that prisoners have an opportunity to take their place as useful citizens within society after discharge. They were encouraged to attend, for example, education classes and learn and develop new skills to assist them in gaining employment upon leaving the prison system. We gave a high priority to the completion of the industrial complex at Yatala. We acted to more effectively segregate prisoners.

We also retained the parole system administered by the former Parole Board in the belief that supervision after imprisonment benefits the offender and eases transition back into the community, as well as ensuring protection of the community. Before the changes to parole introduced by this Government, a system had been in operation for 14 years. That system was introduced in 1969 with bipartisan support. It remained unchanged apart from the introduction in 1981 of the compulsory fixing of non-parole periods by the courts—

Mr Groom interjecting:

The SPEAKER: Order!

Mr OLSEN: —and the removal from the Parole Board of its power to release lifers, transferring that power to the Executive Government. This was a system reflecting the acknowledged retributive, rehabilitative, preventative and deterrent aspects of prison sentences. It allowed for the individual treatment of individual cases at the post sentencing stage. It took into account prison behaviour, prison progress, up-to-date post release plans and other relevant matters unknown to the sentencing judge. What is more, that system had operated without complaint or calls for change from Labor Governments, despite the fact that in 1972 Her Honour Justice Mitchell had recommended major changes to parole including a system of conditional release, which the former Liberal Government enacted.

Yet in all of that time, former Labor Governments, which for a time included the present Chief Justice, did nothing to change parole. The agitation for change was sparked by the Yatala riot early in 1983—a fire which ignited a hasty and completely misguided, misconceived and irresponsible response from this Government. The rioting of the prisoners was answered with a system which gives them parole as a right, not as a privilege. The legislation was rushed through Parliament to allow a spate of early releases at Christmas 1983. The concerns of the former Parole Board were completely ignored and not even responded to by this Government. These moves have completely undermined any justification for a parole system. They prevent individual consideration of the respective interests of the prisoner and the public at the time of the proposed release. I ask the House to pause for just one moment to consider the implications of that.

Take the sex offender as an example. A sex offender can be a model prisoner guaranteed automatic release under the present system, yet all scientific predictions are that this type of person is highly likely to reoffend. The inflexibility of automatic parole does not take sufficient account of the many aspects of punishment. The Parole Board makes no objective decisions on whether parole should be granted—it is a toothless tiger. I know that the Government will cite what happens in some other States to justify its policy, but parole systems which show more tenderness to prisoners have not stopped prison riots and fires in either Victoria or New South Wales. The real dilemma that the actions of this Government now pose is that it has extended a privilege to prisoners. It will now be extremely difficult to withdraw that privilege, even though the experience of it is showing its disadvantages and dangers. But the difficulties are no reason to attempt to ignore the problem, as this Government is doing.

This motion can succeed with the support of the members for Semaphore and Elizabeth. I understand, from the recent statements that he has made about capital punishment, that the member for Semaphore is concerned about the maintenance of law and order. I understand also that the member for Elizabeth shares at least some of his sentiments. This motion gives them the opportunity to demonstrate those concerns. It gives the member for Semaphore the ideal opportunity to back up with action his words about capital punishment. I urge his support for this motion, for anything less will only suggest that his statement about capital punishment was a publicity stunt and nothing more. I have put before the House this afternoon many facts of which the Government is aware, but of which it does not want the public to learn.

An honourable member interjecting:

The SPEAKER: Order!

Mr OLSEN: This Government is now in the dock of public opinion, and, on the facts that I have given, it is

guilty as charged in this motion. The Government has done nothing to control the flood of early releases permitted by the retrospective application of this legislation. All it has done is attempt in a quite cavalier manner to avoid responsibility. The Minister of Correctional Services is blaming the Australian Democrats in another place for initiating the amendment to the legislation which allows people like Conley and Kloss to get their presents of early release. The Democrats might have introduced that amendment, but this Government supported it without hestitation—without thought—and now, without using the safeguards that it promised to apply to ensure potential reoffenders were kept in gaol for at least the minimum length of the sentence originally imposed by the courts.

The Government's administration of this new parole system has been careless and carefree. It characterises this Government's whole approach to many issues. When his Government is under attack, all this Premier does is attempt to evade and excuse—to duck and dissemble. He likes to have his photograph on the taxpayer funded advertisements which promote things such as the power link and the Financing Authority.

Mr Mathwin interjecting:

The SPEAKER: Order!

Mr OLSEN: He knows his Government is in desperate trouble, so he is trying to buy popularity at the expense of taxpayers funds. But it will not work with scandals like this in our midst.

This afternoon, I have demonstrated the total consistency of my Party's approach to this vital issue, the warnings we have given, and the attempts we have made to have this parole system reviewed because of its obvious failings and the intolerable risks to which our community is being exposed. We have repeatedly urged the Government to act. Its indifference and its inaction have left us no option but to take this course of action this afternoon. As I have shown, two people are dead already because this Government has been completely negligent in administering this new parole system. Many more people have been the innocent victims of serious crimes committed by people who should have been behind bars.

This Government has failed completely to deal with this matter in a responsible way. It is time to hand over to another Government—a Liberal Government—that is prepared to give a higher priority to community protection than to the demands of hardened criminals.

The SPEAKER: Order! Before calling on the Premier, let me say, first, that this is a most serious motion and, secondly, that the Leader of the Opposition was, properly, able to argue his case vigorously with the most serious allegations being made against the Government. He was heard in silence. I expect and will require that Standing Orders be upheld and that the Premier also be heard in silence.

The Hon. J.C. BANNON (Premier and Treasurer): In the course of his address, the Leader of the Opposition confused irony with laughter. I do not think that many members opposite in this place, and perhaps those in the wider audience, listening to what the Leader said, could restrain themselves from at least some sort of ironic smile about the amazing impudence of the sort of speech that the Leader has made on this subject. The motion can easily be tagged as a diversion and a cover up.

The Hon. E.R. Goldsworthy interjecting:

The SPEAKER: Order!

The Hon. J.C. BANNON: First, the motion is a diversion that has been clearly cobbled up in a hurry because of the embarrassment of another matter that has occupied public attention for the past couple of weeks.

Mr Olsen interjecting:

The SPEAKER: Order!

The Hon. J.C. BANNON: I suggest that, if we want to talk about scandals in our midst, the Opposition should look to its own house first. Secondly, as an example of that, the Opposition did not even have the text of the motion available when notice was given that it would be brought on, and it was not until as late as about 12.45 p.m. today that we finally got this thin, useless bit of paper with the text of the motion. That is the extent to which thought has gone into this matter. It is a nice little diversion that has been built up in the past two or three days. Further, it is a cover up of the soft attitude taken on law and order issues by those members opposite who were in Government in particular. The sheer audacity of the claims made today is staggering, but I guess that it is built on the principle that, the bigger the accusations and the more staggering and the more breathtaking they are, the more likely they are to suck someone into believing them.

Members interjecting:

The SPEAKER: Order!

The Hon. J.C. BANNON: I would have thought that, if we were debating this issue couched in the area of law and order, some account could be taken of the comparative records of the two Governments. Our record since being the Government stands proudly in this area, preserving that balance—

Mr Lewis interjecting:

The SPEAKER: Order!

The Hon. J.C. BANNON: —between the protection of citizens in our midst and the rights of citizens as well. I believe that the case that has been the subject of such controversy recently is a classic example of the cover up. Where and when did the problem occur in the Conley case? I suggest that it was not in February 1985, when that person walked free before the time that many people believe that he should have walked free: it occurred in April 1982, when the then Chief Secretary, now the Leader of the Opposition, and his shadow Attorney-General in another place (the then Attorney-General, Mr Griffin), chose not to exercise the right of appeal against the sentence that had been given. That is where the problem started and that is why we have the situation that we have today.

The first that the Opposition heard of the Conley release, we are told, was when Opposition members were approached by the media. However, what were they doing in April 1982 when in this heroin case a sentence of 15 years was given with a four-year non-parole period? Where were they then? How many of us believed that that sentence was appropriate in that case? The right of appeal existed, but it was not exercised. The two individuals responsible at the time included one who is in another place spouting the same nonsense as that which has been spouted by the other individual in this place. The right of appeal certainly existed.

The Hon. D.C. Wotton interjecting:

The SPEAKER: Order! I call the honourable member for Murray to order. I will not tolerate this.

The Hon. J.C. BANNON: Opposition members, when in Government, could not claim credit for what happened. Indeed, it was in 1979, after the election, that the then shadow Attorney-General (Mr Chris Sumner) introduced a private member's Bill to give that right of appeal, which had not hitherto existed. After a while, it was rejected by the then Government. So, Mr Sumner took the initiative, but the Bill was rejected. A little later, it was picked up and, in November 1980, a similar Bill was passed.

So, from November 1980 that right of appeal existed. In the two years of the previous Government, with that power 17 Crown appeals were instituted. That is a nice soft touch, is it not? That is the way the previous Government viewed this power and the sentences that were being given. That

governed its reaction in the Conley case, about which it is now weeping crocodile tears and claiming that there is community concern—of course, there is, and there could have been Government action at the time, in 1982. Contrast those 17 cases in two years with the more than 60 appeals that have been taken by this Government against inadequate sentences in a range of cases involving rape, drugs, murder, armed robbery, and a host of other violent crimes.

We have picked up that power that we first mooted and we have used it in the public interest, and the statistics speak for themselves. The power still rests where it should: with the court, and not by a Government in Executive powers simply determining what should or should not be done. If the Opposition's proposal is that the court system, the sentencing power, parole fixation, and all those other things should be placed in the hands of Executive decision, heaven help South Australia, because the only other Administrations that have done things like that are Administrations that we rightly condemn as totalitarian. We fought two wars over this particular issue alone: that freedom—the maintenance of the rule of law—and the rule of law mean that those things are the prerogative of the courts. It is about time that the Opposition started saying that to the public, pointing out that the responsibility properly in our system is and must be with the courts.

As far as the Government is concerned, as a Crown prosecutor we have a responsibility to put all arguments before the courts, and indeed we have done that on more than 60 occasions in relation to sentencing, against the pathetic, soft and weak attitude of the previous Government that is now coming here as an Opposition and claiming some credit. Good heavens! I would have thought that at least the Opposition could hide the Leader of the Opposition for this debate. There might have been more credibility from some of his colleagues who were not so directly involved in this particular area. What is our record in terms of law and order? I suggest that this is where the cover-up comes—the cover-up of three years of inaction and the decay of our prison system.

A monumental capital works bill has been handed to this Government because we have to spend big money to get out of problems of neglect. Those problems were created not just by the previous Government: some of us take the blame for not spending enough in the 1970s. However, this Opposition claimed that it was all about law and order. What did it do? It did virtually nothing. My colleague in the Upper House recently had occasion to outline a number of the areas in which we have taken action at the national level through the National Crimes Authority, for instance, on the question of drugs, and this is another aspect of the diversion. The Leader of the Opposition and his colleagues well know that next week marks the beginning of a month of a major and massive attack on the problems of drugs in our community spearheaded by this Government, its officers and its departments—a campaign that has been months in preparation. That has not just been conjured up out of the air for some sort of stunt: preparation has taken place in the schools, the health system, the welfare system and by the Police Force, and that will be a record that we can take to the National Drugs Summit, showing what can be done at a State level with a will to do something about it.

That is our record in this area. The Opposition is jealous of that. It does not want us to be seen to have any credit in this area. It wants to undermine the position with this futile diversion. So, in the area of drugs, starting with the Controlled Substances Act and right through, this Government has done more than any Government has done in the previous 30, 40 or 50 years in that area. On the question of videos, we were the Government that took initiatives well ahead of the rest of Australia. We introduced legislation, called meetings and attempted to get a common response. We have had to cobble and compromise because of the obstructive attitude of those in another place.

The Government took the initiative. In the matter of child pornography, the 1983 legislation leads Australia: it is the toughest in Australia, and so it should be. We introduced it—not members opposite. On the question of rape, fundamental reforms have been introduced; major changes are being made and there will be more to come. We have actually done something about looking at the problems of child abuse, rousing community consciousness and putting all the arrangements in order so that something can be done about it after three years of inaction by the previous Government.

The new Bail Act will also give powers of appeal and will provide a tightening up in that area in this State. So it is with other areas—the protection of property against squatters, mushroomers, and things of that nature. The Government has moved and it has moved promptly and effectively. But to quote my colleague the Attorney-General, it is not in the context of this shoot from the hip reaction, the backwoodsman type of approach, which would see any crime dealt with by the axe and violent emotion. That is not the way governments or communities should behave. We have a greater responsibility. As the Attorney-General said, 'It is being done with that design to find an appropriate balance between the rights of the community to security, protection and freedom to go about their lawful business, on the one hand, and the rights of an accused to a free unprejudiced trial, on the other'. I now refer specifically to the matter of parole, the subject of part of the Leader of the Opposition's turgid speech. The statistics speak for themselves. The South Australian Office of Crime Statistics reports that the non-parole periods in South Australia are increasing. In other words, under this new system we are getting longer sentences than was the case under the previous system.

Mr Mathwin interjecting:

The Hon. J.C. BANNON: That is a fact of life; it is statistically recorded. It is not sufficient to say that there was some discretion in the past, but what does it matter that it may not have been exercised or have been appropriate. The records show clearly that the sentences are increasing. It is a tougher system—and that is what members opposite are calling for.

Mr Mathwin interjecting:

The SPEAKER: Order! This is the last time that I will call the member for Glenelg to order.

The Hon. J.C. BANNON: Under the old system, prisoners released by the Parole Board (the Board that the Opposition wants operating under the same procedures and responsibilities) were totally free at the expiration of two-thirds of their total sentence. Under the new system prisoners are under supervision for the entire length of their head sentence after being released on parole. I also make the point (because the Opposition wants this forgotten in the wider community) that parole does not mean that one can walk free as a bird and do as one likes: it means that a prisoner leaves prison with, hanging over his head, an unexpired term of sentence with very strict and rigid conditions attached to it, with reoffence meaning reimprisonment. It is as simple as that: that is what parole means. It does not mean free release at all, but that is the impression that members opposite have tried to convey.

One of the things that has prompted the debate today is the very effective and, I believe, very objective and well argued case that was put on a number of radio stations today by my colleague the Minister of Correctional Services. Members of the Opposition do not like debate being conducted in that type of atmosphere at all: they want the smear, innuendo and the misleading statement to prevail.

That is no way to tackle the responsibility that Government and the community have in this area. There is another example of where the new parole system is tougher. Prisoners are spending longer periods in prison compared to when the Leader of the Opposition was Chief Secretary and in charge of our prisons. For instance, the statistics show that life prisoners are spending an average of two years and two months longer in gaol than they were under the previous system, and that for major crimes generally those convicted are now spending longer periods in prison and longer periods under supervision than was the case before.

So, what is wrong with the system? Is not the Opposition crying for it to be tougher? Are not members opposite suggesting that people ought to be in prison for longer periods, that there ought to be some certainty about sentences? I suggest that the Deputy Leader get himself up to speed on this issue. It is certainly something about which we would like to hear a bit of honesty and fact from members opposite instead of the nonsense that we have had so far.

The Hon. E.R. Goldsworthy interjecting:

The SPEAKER: Order!

The Hon. J.C. BANNON: So, forget about the diversions and deal with the issues centrally. The system of parole that we have is not something that has come out of the blue and has applied particularly in South Australia: it is a system that is in place in other States—11 years in Victoria, introduced by a conservative Administration (no doubt muttering the same slogans about law and order as this Opposition does). Certainly, there have been problems in the transition period: no-one denies that—I do not, nor does my colleague in another place in charge of prisons, nor does the Attorney-General. We have been on record saying that there are problems in transition, that there are some problems in the legislation and that they ought to be looked at, but that we ought to give the system a chance to work so that those problems can be properly revealed and we are not simply legislating day by day on an impulse. It has to be done properly.

A major exercise is under way between the Office of Crime Statistics and the Department of Correctional Services which may well result in some amendments to the legislation. However, let that be done on a sober assessment of the facts and not based on hysteria through some campaign being whipped up as some sort of smoke screen to other issues and problems.

This Government was forced into the problem of transition. The amendments were not amendments that we desired or supported, but in order to protect those good aspects of the Bill that did introduce an improved parole system we were forced to accept them. I did not hear the Leader of the Opposition say once in his address what he was actually going to do. He blustered, puffed and bellowed about the things that might happen, but I refer the House to his record when he actually had a chance to put these things into practice, and that was pretty deplorable. What will he do in the future? He has not really told us—do away with this system? He knows very well that this system is working effectively.

Let me deal with this question of recidivism (and I will finish on this point), because this is the emotional core of the Opposition's case. The Opposition is not really interested in the things that Parliament should be interested in, that is, how the system works and how the legislation operates: it is interested in picking up a few sensational examples. It is a fact that the parole system breaks down: it has done so historically. It is a fact that prisoners released on parole do commit further offences: they have always done so under whatever system of parole exists. Recidivism is common to prisoners and prison systems throughout the world. Every one of us could produce, if we went through the records, the sort of cases that the Leader of the Opposition could produce. I suggest that it is a dishonest game, especially when the Opposition actually accuses the Government, which is administering a system that has been set in place by Parliament and is under the control of the courts, of causing people's deaths.

I suggest that if we want to play that game (the Leader of the Opposition has picked up a few examples of crime committed by persons on parole) we will go back through the records. We can all play the game; we, too, can find examples and can put them up. Some of them are pretty horrendous under the old system—quite horrendous indeed. I suggest that playing that game is dishonest and despicable, and it ignores the facts of life of any parole system. What are the figures here? I am told that 576 prisoners have been released on parole since December 1983 under the new system, 41 of whom have received sentences of imprisonment for subsequent offences committed on parole and have had their parole revoked. The Leader of the Opposition talked about percentages: he said that 19.5 per cent of those people had offended. I have the Department of Correctional Services updated figures which take into account all those cases where charges have been successfully prosecuted against persons for breach of parole. One would assume that 18 per cent of those who have been released on parole have committed major offences: one imagines that they have murdered, raped and pillaged (that is, in terms of individual examples that the Leader quotes) which indicates a massive breakdown in the system. That is not true, and it is totally dishonest to imply it.

There are in fact three categories of offence caught up in the overall statistics. We would argue that it is 18.5 per cent on the figures we have. There are in fact three categories caught up in it. One category is that from which the Leader of the Opposition draws his examples—a subsequent offence worthy of a prison sentence—and there have been 41 such cases. He has picked the most lurid examples to suit his purposes. We can all play that game and may indeed do so.

The second category comprises those who breach conditions of parole supervision; that is, they have done something in breach of their parole terms but have not in fact committed a crime as such. However, the effect of that breach is that they go straight back into custody for at least three months before being rereleased on parole. Such cases comprised 5.2 per cent—a total of 30 cases. Then there is the final category carried in the figures given by the Leader of the Opposition of persons he wants us to believe are all criminals and rapists let loose under the parole system. A further category comprises 36 persons, or 6.25 per cent, who have been reported for offences involving non-custodial penalties; in other words, there has been some breach of parole terms or minor offence which the Parole Board has considered and, having considered it, has permitted the parole order to continue because it is not of the nature that would warrant reimprisonment.

They are the three categories. I suggest that the only category that we should be talking about or concentrating on is the first one, and 7 per cent of offenders come within that category. That is not a high percentage if one looks at the percentage of recidividism throughout any penal system in the world and in Australia. If the Leader of the Opposition, in the fortunately mercifully brief time he was Chief Secretary, had managed to master criminal statistics and an understanding of the penal system, he would know that. I am doing him the favour of putting a kinder interpretation on what may be an understanding of it and a deliberately distorted misrepresentation for his own cynical purposes.

Enough of cover up and diversion. This Government is getting on with the job of ensuring that we have a proper

prison system, properly administered in the courts where the responsibility lies. We stand ready to amend the law if it proves defective, but we will do it only after consideration and analysis of the facts and not because some nonsensical hysteria is generated for their own political purposes by members opposite.

The SPEAKER: I draw honourable members' attention to the fact that I intend to maintain the warnings that I gave before the Premier spoke. The honourable Deputy Leader.

The Hon. E.R. GOLDSWORTHY (Deputy Leader of the Opposition): It is perfectly clear that the Premier does not know much about this subject.

Members interjecting:

The SPEAKER: Order!

The Hon. E.R. GOLDSWORTHY: I will deal briefly with the points that he sought to make in his particularly thin contribution to this debate. There are times when I feel quite sorry for him in this place. Poor little chap, he hunches up in his seat, hoping that it will swallow him up, and that situation has occurred with increasing frequency in recent months. He gets up with a show of bluster and completely misrepresents the position of the Liberal Party and his own Party on the question of parole. I will refer to the points he made.

The Premier made the magnificent point that we did not have the motion ready. I made it perfectly clear that the Opposition was not obliged to make available to the Government the text of the motion. That has not happened for years. I did not have it anyway, but in the event I did make it available. What a point to make in a debate such as this: that he had not been given the text of the motion! That has not been done for years. The motion was prepared, it was in the Leader's office, but I did not have it. If it is not customary to give it to the Government, I did not see why I should. In the event I did make it available because it was such a big deal with him. I trundled it down to his office so that the poor little fellow could be prepared.

The Premier talks about the comparative record of the two Governments, and churns out again the inaccuracies peddled by his Minister this morning—the new Minister, not the sacked Minister. The new Minister was talking about the former Attorney-General and his failure to institute an appeal when Conley was first sentenced. How many times do we have to say that that was another parole system entirely? That is not comparing like with like. One could be 90 to 100 per cent sure that Conley would have served 10 years of his 15 year sentence under that old system before he would even be considered for parole. The significance of the four year non-parole period was that there would be absolutely no chance of his getting out under four years. In the normal course of events there was no reason for him to be let out then.

The Hon. Michael Wilson: He couldn't even be heard.

The Hon. E.R. GOLDSWORTHY: He could not even be heard. In the normal course of events Conley would have come up for sympathetic hearing after two-thirds of his sentence had been served, which is 10 years. The Premier seeks to gloss over this point or deliberately misunderstand it, as does his rather quick-footed Minister whom I heard this morning on radio, the venue in which the Premier suggests this debate should be conducted. I suggest this is the right forum for matters of this kind to be aired in the first instance. His Minister also sought, deliberately, I believe, to disguise the facts.

The third point made by the Premier was that this idea of appealing against sentences that the Government believes are lenient was really the brain-child of the present Attorney-General. In fact, this is the history of events. The Liberal Party in the 1979 election announced this as Party policy. In the event, the Liberal Party was elected and Mr Sumner, who is not slow with his fancy footwork, thought, 'I will get in.' The first time it hit the public arena—the first time ever—was during the Liberal Party policy speech. We made clear that we would institute Crown appeals. Mr Sumner picked it up. Of course, it was a Liberal Party initiative—we announced it, we took it over—so to think that this was his brain-child is a pretty thin point, anyway. The fact is that members opposite were in Government for nine long, terrible years in this State and they did not do it, but when it bobbed up in the Liberal Party policy speech, Mr Sumner thought he would give it a fly. In effect, it was not long before we instituted it.

Members interjecting:

The SPEAKER: Order! The honourable member for Brighton.

The Hon. E.R. GOLDSWORTHY: This was the big debating point: it was Sumner's bright idea. What garbage! The Premier is saying that Government and the Executive should not accept any responsibility, should hand it all to the courts—but he does not even know that that is not how the parole system worked. It was handed over to a Parole Board, members of which were not even judges, but it so happens that we put in charge someone who was well qualified: indeed, Justice Roma Mitchell was in charge for many years. It was not handed over to the courts; it was the Parole Board. For any Government or any Premier such as this poor chap to suggest that the Government should not have any authority or should not look at the decisions of the Parole Board, which they appoint, is obviously trying to shovel off responsibility, as he does at every turn. The Government is elected by the people to do a job and, if he suggests that the Government cannot review the decisions of a board it set up, the Premier is even more pathetic than we would want to think.

An honourable member: Pontius Pilate!

The Hon. E.R. GOLDSWORTHY: Of course. Let Someone else take the responsibility, not the elected Government. We heard all this hoo-hah this morning from the Minister of Correctional Services that the courts know all—they are omniscient—so let them do it. Under the old system it was not the courts which did it, and that system worked extremely well.

The next point made, and a point which the Minister of Correctional Services made—they churn it out like a gaggle of parrots—was that more murderers now are released earlier than under the old system. We were responsive as a Government—and the former Attorney-General, the Hon. K.T. Griffin, was responsive—to the fact that the public was concerned that some fairly serious offenders and convicted murderers were being let out earlier than the community and we as a Government found acceptable.

What did we do? We instituted an amendment that the Executive Council would review those cases. He is calling us Nazis for doing that. He is suggesting that only totalitarian States do that. That is an absurd proposition. A parole board set up by a Government, not the courts, should not be reviewed by the Government, he said, in the light of public disquiet; in fact 'public alarm' would not be too strong a way of putting it. What did we do about that?

We instituted a system whereby we would undertake in the case of a life sentence or an indeterminate sentence an Executive review of the Parole Board's finding in response to the fact that they were concerned about the single category, I might add, of life sentences, and we did that. There were three or four cases, and in the majority of cases that came before that Executive Council (we would not shovel off our responsibility) we said that they would not be let out. Is the Premier suggesting that that is totalitarian dictatorship? How

absurd! What is a Government put there for if it is not to govern, to look at the operations of the boards it has set up? That is a completely absurd proposition, but it is typical of this Government: if he can run and close the door and let someone else make a decision, that is what he will do. He will run for the funk-hole as soon as the heat comes on. At the first opportunity, down he goes, like a scared rabbit.

If that is the Premier's interpretation of good strong government, it does not coincide with ours and, if he does not believe that he is there to be responsive to public expectation, Lord help him—and I think that is what he will need if he thinks he will survive. The next point he made was that suddenly the Labor Party is the saviour of the morality of the State. He said, 'Look at what we have done in relation to video porn.' The Hon. Trevor Griffin, the Liberal Party and the Leader were hammering away for a year—

An honourable member: You did nothing.

The SPEAKER: Order! Interjections will cease. I ask the Deputy Leader not to answer interjections.

The Hon. E.R. GOLDSWORTHY: It just shows how ill informed the Premier is. The Hon. Trevor Griffin in another place moved to institute a system of compulsory classification and after about 18 months of shilly shallying the Government, in response to solid public pressure, decided to do something about it, so it brought in a Bill which would outlaw some extreme violence but allow in hard core pornography. Talk about hypocrisy! The Premier has tried to sell to the public the idea that his Party is the firm defender of public morals. What absurd nonsense! They wanted to institute a new category which would allow through hard core pornography, stuff which it was illegal to show in the cinema. The Liberal Party effectively blocked that Bill, in line, I might say, with other Labor Premiers: in Western Australia, Burke would not wear it; Nifty Nev got a bit shaky, and he would not wear it; they would not wear it in Queensland, and they would not wear it in any other State, yet the Labor Government wanted to allow hard core pornography to come freely into South Australia. The Premier has the gall to get up here and say that his Government instituted controls on videos. I ask you!

The sort of hypocrisy that we have been subjected to this afternoon really defies the imagination. The Premier talked about taking the initiative on child pornography. That goes back to 1974 when I remember the then leader of the Opposition (Hon. Bruce Eastick) regaling this House with some of the material which the majority of the population found offensive. Do members opposite think that the freewheeling, free swinging, now boss of the Tourism Department in Victoria (trying to sell out this State as fast as he can) would have a bar of it? Of course he would not. He said that everybody has a God given right to see and read and do every damned thing they want to do in this community. That was his philosophy. We had to work like navvies to get them to outlaw child pornography, and we did that successfully. Yet here is this protector of the public morals today, saying, 'Here I am, righteous Joe, we have fixed it all.'

I do not lose my breath very often in this place, but it was a breathtaking performance this afternoon, having to listen to that hypocrisy. But that is what he has been trotting out. He is returning to the days when he was a junior Minister. I feel sorry for him, this poor little fellow, the junior Minister, pitchforked up to the leadership of his Party, which was bereft of leadership material when the four heavies left: we saw the exit of Dunstan (retired hurt); his Deputy (retired hurt); the big heavy, the member for Brighton, Hudson (defeated), and Virgo (retired because he was pushed out). What did they have left?

The Hon. J.D. Wright interjecting:

The Hon. E.R. GOLDSWORTHY: To big Jack's credit, he said, 'I don't think I am up to the job.' I admire him for that: at least he had a bit of realistic self-assessment of what he could do. They cast around and saw this fellow they thought they might be able to sell before the cameras if they brushed him up a bit and the poor junior Minister got pitchforked into the leadership. No wonder he squirms in his seat and looks as though he wants to disappear when the heat comes on.

Members interjecting:

The Hon. E.R. GOLDSWORTHY: We will see how he gets on next time. He won because he told a series of complete untruths and, by golly, they are coming home to roost. Where is his credibility now? He has been tried, he has been tested, and he has been found wanting, and the day of reckoning is not far away.

Members interjecting:

The SPEAKER: Order! After that interlude of mirth (and it is not for me to say whether that is appropriate or not), I trust honourable members will obey the Chair and Standing Orders, as they have been doing up to now. The honourable Deputy Leader.

The Hon. E.R. GOLDSWORTHY: The Premier knows so little about this subject that suddenly the statistics in relation to recidivism were upgraded almost twofold during the course of this debate. It was churned out that recidivism under the new system is about 10 per cent, and the Premier suddenly today looked at his table and found out that it is 18.5 per cent. The Opposition has been saying that it is 19.5 per cent, and we have firm evidence of that that will become public in due course.

The Hon. J.D. Wright interjecting:

The Hon. E.R. GOLDSWORTHY: I do not know whether you know or do not know, but the fact is—

The SPEAKER: Order! I mean what I say. I will be forced to warn the Leader of the Opposition if he continues with his current behaviour. The honourable Deputy Leader.

The Hon. E.R. GOLDSWORTHY: Even the Minister does not know what the law now says, and the Premier does not know. This new system is a system of automatic parole under which there are remissions for good behaviour. Six fellows got out of gaol, had a few pot shots with a gun at a warder, and still got their maximum remission for good behaviour after they were caught. That makes an absolute farce of this point that they will suffer some penalty. The Minister does not understand. He suggests that, in the case of Conley, if Conley offends again the court can reimpose the remainder of the 15 year sentence. That is completely wrong. The maximum to which Conley can be sentenced if he reoffends after he is let out is three months; that is a condition of his parole.

The Hon. J.C. Bannon interjecting:

The SPEAKER: Order! I ask the honourable Premier to come to order, and I ask the Deputy Leader not to answer interjections.

The Hon. E.R. GOLDSWORTHY: We heard no answer at all to the examples which were given by the Leader and which are causing grave concern in the community in relation to this new early release system. The Premier tried to suggest that that is something dreamed up by the Liberal Opposition and that it is something we do not understand. I suggest to the Premier that it goes a fair bit wider than that.

Let me remind the Premier of what two fairly prominent citizens in this State have said, people whose views I think he ought to respect. Maybe he does not respect the views of the Opposition, maybe he seeks to impute to us the basest of motives in raising these matters, but maybe he will not impute those motives to the former Chairman of the Parole Board or indeed to Ray Whitrod, the Executive Officer of the Victims of Crime. No doubt the Premier well

knows Mr Whitrod's background in police circles and otherwise, and that he is recognised as a forward looking member of the community in relation to these matters. When the Minister brought in this Bill he said that it was not particularly controversial and not radical. However, the discussion paper, put out in relation to the proposed changes, describes them as radical. In his discussion paper the sacked Minister, the Minister who presided over a period of arson on an unprecedented scale in the prisons, the burning down of the prisons, used certain words.

He uses the words 'to facilitate such a radical shift of policy'. That is an acknowledgement by the Labor Party that it has instituted a radical shift of policy. It certainly is. On 3 December 1983, Ray Whitrod, of whom all members know, wrote the following in a letter to the *Advertiser:*

> The Government's proposals conflict with the public's attitude which has been consistently revealed in opinion polls as wanting longer sentences and harder parole. The Government plans to make parole easier by arranging that it will be almost automatic.

Let them deny that! It is automatic—full stop. Mr Whitrod continued:

> The proposals have two immediate pay-offs for the Government—

and this is telling—

> They will temporarily appease Yatala inmates so that for the present they will not burn down any more buildings. Secondly, the strain on the Government's limited resources will be reduced by a significant cut in the high costs of prisoner accommodation.

That gets to the very nub of the Government's proposals. Poor old Minister Keneally, the worst Minister in living memory to disgrace the office of Chief Secretary, presided over riots in the prison. By the way, he was unloaded by the current Minister on this morning's programme. He had better get the tape of that programme because he was unloaded fair and square: it was said that he indulged in politicking and headline hunting when in Opposition. That shows how the Government is falling to bits. When the prison was burning, the previous Minister was so busy, running around and seeing what the Prisoners Action Group wanted, that the public interest was ignored. He would stand up here with his hand shaking, and I felt almost as sorry for him as for the Premier. He read a Ministerial statement saying that the latest building had burnt down and that he was conferring with the Prisoners Action Group. They were running the show. Mr Whitrod knew it and I think that the public knew it. David Angel said that parole was a privilege, but the new legislation made it a right. He continued:

> If a prisoner has a right to get out automatically at the end of the non-parole period, why have a sentence?

That is not a bad question: why have a sentence? Mr Angel denied that the present system exposed prisoners to double jeopardy. He continued:

> If a prisoner is sentenced and at the expiry of the non-parole period the board decides, in the public interest, not to release him, that doesn't further jeopardise him. Denying a privilege isn't double jeopardy. He still has the sentence to serve. He got the sentence at the start.

And so it goes on: it was an intelligent exposition of the old system and of what was proposed. We know that the Labor Party is soft on crime, and the public senses that. We know that the Labor Party is anti police. One of their factions—

Ms Lenehan: Rubbish!

The SPEAKER: Order!

The Hon. E.R. GOLDSWORTHY: I should not have thought that the Premier could get into a dirtier sewer than the one into which he descended at the start of his speech. When a question involving the Minister of Health was asked in this House, the Premier talked about a slippery slide: that related to someone who must answer to this Parliament. The Premier said that, in moving this motion, the Opposition was mounting a diversion. The Premier was in the deepest, filthiest sewer and he knew it. The Labor Party is faction ridden.

An honourable member interjecting:

The Hon. E.R. GOLDSWORTHY: Oh, it is true now! So, there is a different set of rules for this man: Mr Squeaky Clean. We know how the game is played. Members opposite have a few closets the doors of which we could open and find something at which they might not like to look. We know that the Government is faction ridden. The Premier heaved a great sigh of relief when the former member for Elizabeth departed the scene because he was anti police. The Labor Party has its factions here: they are not confined to Canberra. We know of the resolutions about police hand guns. It has taken members opposite an interminable time to sort out that matter. The poor old Deputy Premier had to deal with those factions. Those freewheelers, who are anti-police, had trouble with the Special Branch and wanted it closed, so it had to go because they did not like it. It might find out something that it should not. Someone's civil liberties might be trampled on.

We know the history of the former freewheeling Premier who is now working against South Australia in Victoria. We know his philosophy about the police and how he tampered first with the 'move-on' rule. It is all there for people to read. The first Police Offences Act that was drafted by Labor and circulated was as weak as dishwater, so members opposite have drafted another one more like the Liberal Party had always advocated. We know that they have sniffed the political breeze.

For the Premier to get up here and spew out that garbage, that hypocrisy, as he did today defies the imagination. The Government has instituted a system of parole that is clearly not working. It may be in line with its attitude of going soft on criminals, but it will not delude the public. The Government therefore deserves the censure of this House.

The SPEAKER: Before calling on the Minister, I again repeat my warnings. It is not for me to judge the politics of all this. However, when a member alleges the facilitation of homicide, arson, people with arms up to their elbows in sewers, anti police, spewing out garbage, and so on, it must be expected that the next speaker be able to defend himself and to be heard in silence. I will ensure that.

The Hon. E.R. GOLDSWORTHY: On a point of order, Mr Speaker, I do not think that it is appropriate for the Chair to reflect and make judgments on previous speakers in this debate, as you have sought to do in relation to my contribution.

The Hon. D.C. Brown: Would you—

The SPEAKER: Order! I do not need the assistance of the member for Davenport. I make perfectly clear, as I did in my previous rulings, that I am not involved in the politics of the matter. I am not concerned with the appropriateness or not: I am concerned, and it is my duty, to ensure that quarrels and other problems in this House will be reduced to a minimum or eliminated under Standing Orders. That is what I have consistently done in this debate, and I make no apology for it.

The Hon. G.F. KENEALLY (Minister of Local Government): I intend to address myself to the subject at hand and to speak about the parole legislation in South Australia. However, before doing so, I must respond to some of the arrant nonsense that has come from members opposite. I believe that, if they were serious about this motion of no-confidence, at least they would have briefed their Deputy Leader so that he could come into this debate with some knowledge of the subject. The fact that he spoke for 23 minutes without knowing anything about the parole legislation indicates clearly what the Opposition is on about.

The honourable member did not address himself to the parole legislation, but tried to build up an impression that the Labor Party is soft on criminals and crime and that the Liberal Opposition is tough on criminals and crime. The evidence put by the Premier to the House today clearly refutes that allegation.

In direct response to one or two comments, the Leader and the Deputy Leader said that the previous system of parole in South Australia was working well and that no complaints about it had been received. However, complaints have been received about the parole system ever since the Liberal Party introduced it in 1969, and anyone who wants to point the finger at anyone else and say that crimes have been committed by persons on parole should go back to the Liberal Party which, in 1969, introduced the system in South Australia. Indeed, I wish to go on record and speak on behalf of the Government. We support a parole system in this State, as I believe that members opposite do. If that is true, we will need to be aware that a parole system brings risks to the community.

We take account of those risks in supporting the parole system. Let me quote what the then Secretary of the South Australian Police Association, Mr Tremethick, said in a newspaper article in 1979 about the then Parole Board, as follows:

> This lack of confidence will continue until such time as the activities of the Parole Board are made public.

This is Ralph Tremethick indicating no confidence at all in the Parole Board. The article further stated:

> One of the fiercest critics this week was South Australian Police Association Secretary, Mr Ralph Tremethick, who said, 'Today, with our parole system, there is no real deterrent to the crime of murder.'

I ask the Deputy Leader to consider that. I refer to what Justice Mitchell, the former Chairman of the Parole Board, said in response to the criticism of the release of Christopher Worrell who, under the previous system, while on parole murdered five young South Australian women. He was released under the system that the Leader of the Opposition and his spokesmen want to bring back into South Australia, saying that it is a good system. Five young women were murdered by a parolee released under the previous system. Justice Mitchell said the following:

> ... the alleged criticism from police ranks should come, if it was true, from Police Commissioner Draper and not from the Police Association Secretary, who, she said, 'has never been to a Parole Board meeting'.
>
> She added, 'He doesn't know the basis upon which parole is decided. His comments are not those you will hear from the Police Commissioner or his deputies. I would be much more interested if criticism came from them.'

And it has not changed a great deal. The Police Department in South Australia is not on record as criticising the performance of the new system: the Police Association may well be, but the Police Department is not, and it has not changed. That interchange occurred when Christopher Worrell was released from prison on parole and committed those murders. People, including the Deputy Leader, might wish to cast their minds back to the release from prison in the same year of convicted murderer Clifford Cecil Bartholomew, who murdered 10 South Australian citizens. He was let out of prison by the former Parole Board under the previous system after serving eight years, and he murdered 10 people in South Australia. Yet, members opposite—

Mr Mathwin interjecting:

The SPEAKER: Order! I warn the member for Glenelg.

The Hon. G.F. KENEALLY: —want to point the finger. The Premier has also pointed out that, if we want to go down this track, all of us can find many, many instances where people have been released on parole but where, in retrospect, it might have been better if they had not been released. However, that is a judgment that had to be made at the time. I want to refer to both the Leader's and the Deputy Leader's contributions about Mr Conley. They said that if the previous system had still applied Mr Conley would have served 10 or more years in prison. That is arrant nonsense!

Mr Olsen: It's not.

The Hon. G.F. KENEALLY: The Leader says that it is not. Under the previous system automatically one-third of the head sentence was given in remission; so, if the head sentence was 15 years, a third would be five years. Therefore, the absolute maximum that Mr Conley could have served had he not applied for parole was 10 years. The absolute maximum that he could have served in prison had he not applied for parole was 10 years.

Members interjecting:

The SPEAKER: Order! I ask that interjections cease.

The Hon. G.F. KENEALLY: I will refer back to that in my speech. One other comment I wish to make is that the Deputy Leader referred to the Chairman of the Victims of Crime group, who stated that our present system was inadequate. I point out to the Deputy Leader that Mr Clark, who was part of the team effort that resulted in the arrest of Mr Conley, said in a public statement that three or 3½ years in goal is a severe sentence and that Mr Conley should not have been there any longer. Mr Clark, as we all know, has a very personal interest in that case. Not at all in this whole debate has there been any criticism of the existing parole system. There has been criticism of the transition period: that is the only area about which there has been criticism.

I suggest that members opposite, if they had researched a review of the parole system, would find that automatically they would come up with the same system that we have in place—a system, after all, that was introduced in Australian Parliaments and into the Australian prison system by a Liberal Premier of Victoria with the Liberal Minister of Correctional Services. I refer to Mr Hamer and the Hon. Mr Jona. It was not our system in the initiation, but it is certainly our system in South Australia. So, in South Australia in 1969 the Liberal Party introduced parole into our system, and in 1984 we in government introduced the Victorian Liberal Party's system into our system. Criticisms of what we are doing in South Australia are criticisms of the Victorian system, which I personally think is a very good system that is working very well. It has had 11 years to be tested, and I have not heard one word of criticism from members opposite about the Victorian system.

As I have said, we are not debating the principle of parole. All of us agree that a parole system ought to take place in South Australia and that in the course of rehabilitating offenders it is necessary when these people come back into society that their movements are monitored and are under supervision for a period of time. As the Premier has pointed out, parole is not release—free. However, if one serves (as one used to in the previous system) two thirds of the head sentence one was let lose—free—totally without any supervision at all. If one was sentenced to 15 years, after 10 years in prison one went out a free man, responsible to no-one, with no supervision at all. We all know that a 15 year head sentence meant that one spent 10 years in prison.

If one is released on parole, one is under supervision. If one is under strict supervision, there are rules with which one must comply until the complete sentence is finished—the full 15 years. I would recommend that system to anyone because, once one is on parole (and I point this out to the honourable Deputy Leader because he does not understand this, either), and one breaches one of the requirements of parole, that is, if one does not attend at a police station, at the supervision office, if one goes to a hotel, or if one leaves

the State, such actions—which in themselves cannot and should not warrant any penalty from society—are a breach of regulation serious enough to require a parolee to be taken back into prison for a maximum of three months. However, if the parolee breaches the law he is taken back to the court and, if this is a law, that in itself results in imprisonment, and the offender will serve the completion of the head sentence for which he is on parole, plus the new sentence.

So, the offender will serve the completion of the sentence for which he is on parole, plus the new penalty that is applied by the court, and the court in doing this can, of course, then give additional non-parole period remissions, etc. That is the system, and it is no good the honourable member's shaking his head, because he obviously does not understand it. As I have said, any parole system will have its elements of failure. It is the very nature of parole that risks are involved, and we can always go into this point scoring exercise. The overwhelming majority of people in prison are in there as recidivists: they have either offended again because they have breached parole as an indictable offence, or they are serving their total requirement under the head sentence and have gone back into prison.

If one goes into the systems that have applied at any time in history, one will find that people reoffend and are re-sentenced. So, any parole system will have failures. However, as the Premier has pointed out, we need to address ourselves to those people who seriously reoffend rather than hiding behind a smokescreen of referring to many other people who are imprisoned for minor breaches of regulations or for minor offences that bear very little on the original crime.

I hope that sooner or later members opposite will say what it is that they would do in relation to parole. They have been challenged often enough to do this, but all they have said is that the parole system is no good. They have point scored and grabbed grandstanding headlines, but have not said what exactly their policy on parole is, except to say that they would review it. Anyone can say that, but is that a policy? I can tell members opposite that any review will indicate that nearly all the systems in Australia are similar to a system that we have in South Australia, with one notable exception.

The Hon. D.C. Wotton: Why did New South Wales adopt the early release system?

The Hon. G.F. KENEALLY: That system is completely and absolutely different from the system that we have in South Australia. I will refer to the early release system in a moment. The Deputy Leader referred to notable citizens in the community who he said support the Opposition's view on parole. Let me refer to comments made by two notable citizens in the community who have a different view on the parole system and about how it is working in South Australia. On 13 January 1984 comments made by the South Australian Chief Justice were reported as follows:

'Parole back in rightful place. The new parole legislation has restored control over the liberty of criminal offenders to its rightful place—the independent court system,' the Chief Justice, Mr Justice King said yesterday. He said, 'Judges now would decide how long prisoners will stay in gaol, how long they were on parole, and whether a prisoner should receive parole.'

For the benefit of members of the House I want to read a letter that I received on 4 August 1983, as follows:

My dear Minister,

A constituent, who carries out voluntary social work at Yatala Labour Prison, has visited me to pass on information concerning the extent of unrest at the prison.

He warned that unless significant action was taken quickly, then serious consequences could result, as the prisoners had expressed to him their disgust with prison conditions and their dissatisfaction with the administration of the prison system. In particular, the prisoners are apparently very dissatisfied with the present method of parole.

The constituent specifically asked that I pass on to you this information.

Yours sincerely, (Signed) Dean Brown, member for Davenport

That is an interesting letter of which, obviously, members opposite were not aware. On 4 August 1983 their own colleague, the member for Davenport, drew to my attention the concerns expressed about the parole system and the dissension within prisons. I shall refer to how the system used to be and to how the regional system worked. A prisoner was sentenced. On the first day after having been sentenced he or she could apply for parole. The principle was that if a person applied for parole and was refused (which obviously he would be) that person would have to serve a third of the remainder of the head sentence before that person could apply again. Therefore, a person would not apply. Nevertheless, the Parole Board was letting people out early to the extent that the previous Liberal Government introduced a non-parole period stipulating that no-one could be released on parole until having served a minimum sentence. This provision was introduced because members opposite thought that the parole system was not working. In addition, they were concerned that the Parole Board was releasing people early, so they had the life sentencers referred to Executive Council before they could be approved.

In Government, members opposite were most unhappy about the way that the parole system was working, and that is why changes were introduced. Previously, if a person was sentenced to 15 years with a non-parole period of four years that meant that the court had stipulated that it was appropriate for that person to be released after having served four years if that was the will of the Parole Board; that the judge had stipulated that four years would be the minimum length of time that a prisoner should serve before being considered for parole. It was also the length of sentence and the time of release that the court thought was appropriate. There is no doubt about that. So, it is totally erroneous and arrant nonsense for members opposite to suggest that a sentence which could have enabled the release of a prisoner after four years would automatically be 10 years. There is no way that members opposite can know what is in the minds of members of the Parole Board.

The Leader of the Opposition knows, as I do, that a Minister cannot interfere with the Parole Board. It was a *quasi* judicial body and no Minister dared to interfere. One could ask them questions and receive a report, but one could put no pressure on the Board or try to influence it. The decision was essentially for the Parole Board to make. The Board could have released Conley after four years—we do not know; there is no way that we could know that. However, what we do know is that he could not have stayed there for longer than 10 years. We also know that this House is not debating the parole system *per se* (because there has been no criticism of that by members opposite). It is the transition provisions to which honourable members opposite are drawing the attention of the House.

The system that we have adopted from the Liberal Party in Victoria and now introduced into South Australia seeks to put the responsibility for sentencing prisoners where it rightfully belongs—back with the courts. I have already referred to the cases involving Worrell and Bartholomew, and I point out that under the previous system serious prisoners were spending less time in prison than they are now, and, as this system that we have now introduced into South Australia has an opportunity to work over a period of time, the average length of time spent in prisons will increase.

At the moment the length of time that murderers are spending in gaol in South Australia is two years and four months longer than it was under the system that the Opposition seems to support. It is interesting that lifers in the prison system at the moment will not apply to the court for a non-parole period (as is their right) because they know

that if they do their sentence will be longer. At Cadell there are many lifers, murderers, who want to take their chances with the previous rules that applied in relation to the Parole Board. They know that they will get out quicker under that system, which members opposite favour, than they would if they applied to the court for a non-parole period. So, we have murderers in the South Australian system who will not apply for a non-parole period because they know that the court will apply a very heavy sentence indeed.

The other point that I want to make—and members opposite should take account of this—is that, if eight years later one attempts to judge the severity of a crime, and goes back through the newspaper reports, trying to acquaint oneself with the feeling of the community at the time when the offence was committed, one cannot do it. When a court sentences an offender to a prison it knows the feeling in the community and it will apply the maximum sentence that satisfies the community's needs at that time. That cannot be done eight or 10 years later, because all the trauma, emotion and feeling that a community has about a serious crime dissipates over that 10-year period.

When the Parole Board sits in judgment 10 years later it does not have that sort of community feeling in front of it. However, the court does, because it sentences the prisoner at the time that the community is aware of the severity of the crime, and it can apply a penalty that has due relevance to the community attitude and to the severity of the crime.

The court is made up of sensible and intelligent people who can count. It is absolutely ridiculous for members opposite to say that the court does not know about a non-parole period or remission. Of course, the court does know, and the sentences being provided by the courts are the heaviest in the history of the judicial system in South Australia. The heaviest sentences ever applied to offenders are being applied under this system. Are members of the Opposition critical of that? Where is their criticism and/or the justification for it?

Mr Creed has been given a most severe sentence. Under the old system if he stayed in prison and did not apply for parole he would be released in 10 years. Under the previous system there was automatic remission. The member for Murray shakes his head. Under the previous system, a prisoner served two-thirds of the sentence and had one-third of the sentence automatically remitted, unless he or she reoffended. It is exactly the same now, but it deals with remission. So, the present system has a very powerful tool to ensure that the system runs effectively, because prisoners themselves now know that any breach of the regulations will result quite clearly in their spending a longer period in prison as a result of their own actions—longer than the court has determined as a minimum time within which they can be released.

There is no early release system working in South Australian prisons. I know that it is politically beneficial to members opposite to try to suggest that to the public, and I know that any Opposition can always point score on this subject. However, on the other hand, there has to be more than an element of truth in those sorts of criticism, but any element of truth is sadly lacking in what has been put to us today.

If we want a system to work, let us look at the systems available to us. If Opposition members do not believe that the present system operating in South Australia is appropriate, let them tell us what the alternative is. No member opposite has suggested an alternative. The Premier has said that some transitional factors need to be looked at, and they will be looked at as with all new legislation. The community in South Australia can be assured that this Government will continue to insist that violent and other offenders in South Australia are treated as they ought to be treated, but by the appropriate authority—and that is the court. I oppose this motion.

Mr OLSEN (Leader of the Opposition): In closing the debate on this motion I want to rebut a number of points that have been made by the Premier and the Minister of Tourism. Clearly, in the Premier's contribution to this debate he did not go to the core of the problem, and he avoided answering the specific allegations that we made before this Parliament. Let us talk about the Conley case: let us establish clearly that Conley was given four years as part of the non-parole period under the old system. It is quite right to say that no Minister would seek to interfere with the direction of a Parole Board hearing. I did not do so, and I am sure that any Minister subsequent to me did not seek to do so either. Conley would have been eligible to make application to the Parole Board.

The Hon. G.F. Kenneally: He would have been released.

Mr OLSEN: That is not correct. Under the old parole system he was eligible to make application to the Parole Board. If one looks at the track record of the Parole Board over that period it clearly indicates, as well the Minister knows, that he would not have been released at the four year stage. That is clearly the case, and well the Minister knows it.

I cite also the Bartholomew case, referred to by the Minister of Tourism on a number of occasions in this debate. The former Administration did not support Bartholomew's release back into society at the time that the Parole Board agreed to do it. There was a public outcry, as rightly there should have been, about Bartholomew being released so early back into society. As a result of that decision of the Parole Board, the then Government acted—unlike this present Administration, which during the course of the debate today has acknowledged that there are problems and failings in the system. Both the Premier and the Minister (the then Chief Secretary who introduced the legislation in the Parliament) have admitted today that the system has failings. Despite that, however, they have not identified any action to correct the shortcomings and failings of the system that we have highlighted accurately and factually. In the Bartholomew case we acted decisively, in respect of life sentence or indeterminate sentence inmates, for the recommendation of the Parole Board to go to Executive Council. Only in those instances did the then Government assume the responsibility, which I believe an elected Government has, to review the case before releasing indeterminent or life sentence prisoners back into society.

That is a clear case of a position arising and a Government acting decisively about it—in stark contrast to this Administration. The Premier could not answer a question asked last Thursday about a particular case. Today I have identified nine further cases, and they are not isolated: there are dozens of cases that need addressing, as well the Premier knows.

The Hon. Michael Wilson interjecting:

Mr OLSEN: The Premier has ignored them: whenever he does not know an answer he boasts about a whole range of things but does not address the question or the core of the motion, and he has done that again today. He has walked away from the issue and ducked for cover. In the few minutes available to me, I have to say that, unlike the Premier, when confronted with matters that I consider an embarassment I will not walk away from them: I will stand up and be counted. I will never duck for cover. I point out to the House that it was the Premier in this House today who introduced matters concerning the courts. We have not moved this resolution today as a diversion or for any cover up.

The facts speak for themselves: the parole system in this State is not working, as we said it would not work when the legislation was brought before the House in November/December 1983. We identified where the problems were, but the Government ignored us. Now those problems are coming home to roost, and the Government is still being indecisive and unprepared to act.

What will we do about the parole system in this State? In Government, we will take several important steps in regard to the parole system in South Australia. For example, we will reinstate the conditional release provisions; so that when a prisoner is released (that is, at the expiration of his or her life term, with remission for good behaviour), if there is another offence from the date of release to the date of expiry of the sentence the criminal is under a cloud. Secondly, we will restore the discretionary powers of the Parole Board to ensure that all relevant factors relating to release are taken into consideration. In relation to the Parole Board, the membership should be on qualifications and/or experience in the field and not on grounds of race or sex.

An integral part of the corrections process in parole is important, and it ought to be recognised that parole is part of the ultimate sentence programme itself. Parole should never be automatic: only perhaps the time for the earliest possible consideration of release or the alternative. No element of retribution or punishment should influence the decision, but the degree of danger to the community is relevant.

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

The House divided on the motion:

Ayes (21)—Mrs Adamson, Messrs Allison, P.B. Arnold, Ashenden, Baker, Becker, Blacker, D.C. Brown, Chapman, Eastick, Goldsworthy, Gunn, Ingerson, Lewis, Mathwin, Meier, Olsen (teller), Oswald, Rodda, Wilson, and Wotton.

Noes (23)—Mr Abbott, Mrs Appleby, Messrs Bannon (teller), M.J. Brown, Crafter, M.J. Evans, Ferguson, Gregory, Groom, Hamilton, Hemmings, Hopgood, Keneally, and Klunder, Ms Lenehan, Messrs Mayes, Payne, Peterson, Plunkett, Slater, Trainer, Whitten, and Wright.

Pair—Aye—Mr S.G. Evans. No—Hon. L.M.F. Arnold.

Majority of 2 for the Noes.

Motion thus negatived.

ASSOCIATIONS INCORPORATION BILL

Received from the Legislative Council and read a first time.

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 detailed explanation of the Bill inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

There have been several attempts to remedy the deficiencies in the existing legislation in this important area. Subsequent to introducing the Incorporated Associations Bill, 1978, the then Government appointed a departmental committee to receive public submissions on that Bill and to report on desirable amendments. Effect had not been given to the recommendations of that committee prior to a change of Government. Another Bill was prepared on instructions from the Tonkin Governmen, but had not been introduced when that Government went out of office. On 17 March 1983, the Government introduced in to the Legislative Council the Associations Incorporation Bill, 1983, and invited public comment thereon. The public comment made in response to that invitation comprised over 50 submissions, some of considerable length. Because of its commitments under the national scheme for the regulation of companies and the securities industry, the Corporate Affairs Commission was unable to collate and assess these submissions before that 1983 Bill lapsed.

This Bill takes into account the many constructive comments made in those public submissions, together with those made in subsequent discussions between the Commission and representatives of groups of incorporated associations. The Bill also contains provisions which the Corporate Affairs Commission sees as essential if it is to be effective in protecting the public interest in this area of its responsibility. In addition, further provisions were inserted in the Legislative Council as a result of submissions received after the introduction of this Bill. The Bill is therefore a product of the input of those who will be affected by the legislation, and those who will administer it. In this Bill, as in the 1983 Bill, full account has been taken of the vast differences in affluence and financial complexity of associations incorporated under this legislation. It has taken significant thought and drafting effort to ensure that small associations, such as a local church or tennis club, are not burdened with obligations which it would be beyond their capacity to discharge.

In the public submissions on both the 1978 and the 1983 Bills, the overwhelming concern was in relation to the requirement to appoint a registered company auditor, and to lodge audited accounts with an annual return to the Commission. Under this Bill and previous Bills, such an annual return would be available for public search. Under the 1983 Bill any association which fell within any of the five criteria in clause 26 of that Bill was, subject to an exemption being granted by the Corporate Affairs Commission, required to appoint a registered company auditor and lodge an annual return with their audited accounts. One of those five criteria was that an association had a gross income in excess of $100 000 per annum.

After very careful consideration it has been provided in this Bill that a gross income in excess of $100 000 per annum or such greater amount as may be prescribed be the only test in respect of the obligation to have a professional audit and to lodge audited accounts with the Commission. It must also be noted that the wide powers of exemption given to the Commission under the Bill are available in an appropriate case, irrespective of the amount of income of the applicant association. It is considered that a threshold of $100 000, or such other amount as is fixed by regulation, should exclude from this obligation small associations whose involvement with the public or with creditors would be minimal.

This provision also confers power on the Minister to apply the requirements for accounts and audit to any association or class of association irrespective of the amount of gross income. This action would be appropriate only in cases where the public interest is involved, or there was a history of financial mismanagement. The 1983 Bill incorporated by reference the inspection and special investigation powers of the Companies (South Australia) Code. That Bill also provided for the winding up of an incorporated association on the certificate of the Minister issued on the recommendation of the Corporate Affairs Commission. Such provisions have been expanded so that the relevant sections of the Code are actually included in the Bill. It is hoped that this will lead to an easier understanding of the effect of the legislation.

A new provision which has not been exposed for public comment, imposes an obligation on all associations to lodge a triennial return with the Commission. This return will be lodged without fee and will not be available for public search. Because of the complete absence of any on-going return requirements in the existing legislation, the Corporate Affairs Commission has no profile of the nature and financial complexity of incorporated associations generally. The limited information which the Commission does possess, derives almost entirely from complaints which it has no power to investigate, and from newspaper and other similar reports which are common knowledge.

If it possessed such a profile, the establishment of a threshold for professional audit and lodgment of accounts, would have been a far easier and less experimental task. It is therefore seen as appropriate that all incorporated associations be required to lodge triennially, a return containing the particulars required by the relevant clause of the Bill. However, in order to ensure a review of the operation of this provision, a 'sunset' provision has also be included.

The other provisions of the Bill attempt to clarify the law, and to make for administrative convenience in, for example, winding up and dealing with outstanding assets discovered after dissolution. The Bill also contains provisions which regulate the conduct of committees of management of associations. These provisions do no more than establish a standard which would be generally accepted as appropriate to persons having the responsibility for the appropriation of money and other assets, which in many incorporated associations has been provided by benefactions, donations or Government funding. In conformity with the view expressed in a number of public submissions, the District Court will be the level of jurisdiction at which appeals against decisions of the Commission will be determined. In summary, this Bill makes for effective and moderate legislation, in an area where existing legislation falls far short of what is appropriate in the interests of members, creditors, and the general public.

Clauses 1 and 2 are formal. Clause 3 sets out the definitions that are required for the purposes of the new Act. Clause 4 provides for the appeal of the Associations Incorporation Act, 1956, and contains certain necessary transitional provisions. Clause 5 provides for the administration of the new Act by the Corporate Affairs Commission. The Commission is to be subject to the control and direction of the Minister.

Clause 6 provides for the keeping of registers by the Commission and provides for the inspection of the registers and inspection of documents lodged with the Commission under the new Act. Clause 7 relates to the power of the Commission to screen documents submitted to it and to request that errors, misdescriptions, etc., be corrected. Clause 8 empowers the Commission to extend limits of time prescribed by the Act. Clause 9 provides for the Commission to furnish an annual report upon the administration of the Act. The report is to be laid before Parliament.

Clauses 10 to 17 includes provisions similar to Companies Code provisions relating to the inspection and special investigations of incorporated associations. Clause 18 deals with eligibility for incorporation. Subclause (1) sets out the kinds of purposes for which an association must be formed if it is to be an eligible incorporation. Subsequent provisions of the clause make it clear that, subject to certain exceptions, an association is not to be incorporated under the new Act if it is eligible for incorporation under the Industrial Conciliation and Arbitration Act, 1972, or if a principal or subsidiary object is to engage in trade or commerce or to secure a pecuniary profit for its members.

Clause 19 deals with the manner in which an application for incorporation is to be made. Clause 20 deals with the incorporation of associations under the new Act. It also sets out the general powers of an association incorporated under the new Act. Clause 21 relates to the rights and liabilities of members of incorporated associations. The clause confirms that membership of an incorporated association does not confer, except as may be provided by the rules, any proprietary right in the association and that a member is not liable for the debts and liabilities of the association.

Clause 22 provides for the amalgamation of incorporated associations. Clause 23 provides that the rules of an incorporated association bind the association and all members of the association. Clause 24 deals with an alteration of the rules. Clause 25 sets out certain general powers of an incorporated association.

Clause 26 deals with the manner in which an incorporated association is to enter into contracts. Clause 27 limits the operation of the doctrine of *ultra vires* in relation to incorporated associations. Clause 28 deals with the rule in Turquand's case. It provides that a person dealing with an incorporated association is not to be presumed to have notice of its rules. Clause 29 deals with the management of the affairs of an incorporated association.

Clause 30 regulates the appointment of members of the committee of management. Clause 31 deals with disclosure of interest by members of the committee of management. Clause 32 prevents members of the committee of management who have a pecuniary interest in contracts proposed by the association from taking part in decisions of the committee with respect to such contracts.

Clause 33 sets out the duties of honesty and diligence that must be fulfilled by members of the committee of management. Clauses 34 and 35 deal with the obligation of certain classes of associations to keep accounts and to have those accounts audited. Clause 36 provides for certain classes of associations to furnish periodical returns containing financial and other information. Clause 37 ensures that auditors of associations required to undergo audits by this Act have proper and effective powers and rights in relation to inspecting the records of those associations. Subclause (4) provides the same privileges for auditors in relation to defamation as auditors have under the Companies Code.

Clause 38 provides that the Commission may exempt an association from the obligation to comply with the accounts and audit sections of the new Act. Clause 39 provides for the holding of an annual general meeting for associations to which the accounts and audit provisions apply. Clause 40 provides that the Committee of an association must act in accordance with principles of natural justice in adjudicating upon disputes.

Clause 41 provides for the winding up of incorporated associations. Clause 42 empowers the Commission to require an incorporated association to transfer its undertaking to some other body corporate where in the opinion of the Commission it would be more appropriate for a body incorporated under some other Act to carry on the undertaking. Clause 43 deals with the distribution of surplus assets or a winding up. Such assets are not to be divided amongst the members of the association but, subject to an order of the Supreme Court, are to be distributed in accordance with the rules of the association or a special resolution of the association.

Clause 44 empowers the Commission to dissolve a defunct association. Clauses 45 to 48 relate to dealing with any outstanding property of an association after it has been dissolved. Clause 49 provides for the removal of the name of an association from the register upon dissolution. Clause 50 provides for appeal against decisions by the Commission. Clause 51 provides that associations incorporated under this Act must provide periodic returns relating to their operations, composition and other similar matters. These returns are to be for the sole use of the Commission and will not be

available for general public inspection. The provision will cease to operate on 1 July 1990 (unless further extended before that time).

Clause 52 imposes a general duty on incorporated associations to keep proper accounting records. Clause 53 prevents an incorporated association from issuing invitations to the public generally to deposit or invest moneys with the association. Clause 54 requires an association to print its name on certain documents that are commonly used in its affairs. Clause 55 restricts the ability of incorporated associations to conduct their affairs to secure pecuniary profits for members.

Clause 56 provides that an incorporated association must have a public officer. Clause 57 requires members of the committee of an association to take reasonable steps to secure compliance by the association with its statutory obligations and ensures that conditions imposed under this Act will be complied with. Clause 58 makes it an offence for an officer of an association to make improper use of his position to gain an advantage for himself or someone else, or to cause a detriment to the association.

Clause 59 provides for the notification of variations or revocations of trusts. Clause 60 makes it an offence to hold out falsely that a body is an association incorporated under the new Act. Clause 61 enables a member to apply to the Supreme Court for relief if he considers that the affairs of the association are being conducted in a manner that is unreasonable or oppressive. Clause 62 deals with proceedings for offences against the new Act. Clause 63 is an evidentiary provision. Clause 64 provides for the service of documents on incorporated associations. Clause 65 allows the use of the abbreviation 'Inc.' for 'Incorporated'. Clause 66 relates to fees. Clause 67 provides for the making of regulations.

The Hon. JENNIFER ADAMSON secured the adjournment of the debate.

SOUTH AUSTRALIAN WASTE MANAGEMENT COMMISSION ACT AMENDMENT BILL

Returned from the Legislative Council without amendment.

The SPEAKER: Call on the business of the day.

PRICES ACT AMENDMENT BILL (No. 3)

Adjourned debate on second reading.
(Continued from 20 February. Page 2692.)

Mr LEWIS (Mallee): This Bill has the support of the Opposition. It becomes necessary because of the corrupt and hellish mess that exists in the bread marketing industry that always arises whenever monopolistic systems or situations are made possible by Government regulation of an industry. Accordingly, we have seen the change in technology, plus the kind of marketing system that has applied for a long time in this State, develop the environment in which it has been possible for big business to get into bed with big unions and screw the public in the middle. That is what has been going on.

The purview of this simple measure is to not address the basic cause of the problem, but merely to enable the existing order of things to continue. That is the Government's desire. It does not wish to address the basis of the problem and the Opposition is, in this instance, happy to facilitate the Government's narrow perception of a solution to the problem.

Of course, the effect of this Bill as it comes into this Chamber is in no way similar to its effect as it was introduced into the other place by the Attorney-General, and that was pointed out to the Attorney-General by our spokesman on such matters (Hon. J.C. Burdett), who has a very clear grasp of these things. In balance and fairness it needs to be acknowledged that the Opposition has saved the Government considerable embarrassment by moving a significant amendment to clause 3 of the Bill which influences—indeed changes—section 51 of the principal Act. For the sake of interest, I will read section 51, which provides:

> The Governor may make any regulations necessary or convenient for the administration and enforcement of this Act and for preventing evasions of this Act, and for requiring the prices of any specified declared goods to be marked or otherwise displayed, and may by any regulations prescribe fines recoverable summarily and not exceeding two hundred dollars for breach of any regulation.

In this Bill the first two clauses are formal. The third would have allowed some things it was not intended to permit, to possibly occur. It struck out that section which I have just quoted from the principal Act and in its place proposed to insert new subsection (1), which provides:

> The Governor may make such regulations as are contemplated by, or as are necessary or expedient for, the purposes of this Act.

That is a statement in part of the first part of the former clause. Proposed new subsection (2) provides:

> Without limiting the generality of subsection (1), those regulations may—
>
> *(a)* require the prices of specified declared goods to be marked or otherwise displayed;
>
> *(b)* impose conditions with respect to the sale of specified declared goods;—

which is different—

> and
>
> *(c)* provide for and prescribe penalties not exceeding five hundred dollars for breach of any regulation.

With the effluxion of time it has been necessary to up the ante from $200 to $500, which is common sense and a good move.

However, nowhere in that amendment of section 51 of the principal Act was bread mentioned. When the Hon. J.C. Burdett tried to explain that initially to the Attorney-General, the Attorney-General had difficulty grasping the point that his proposed new section 51 would apply to any and all goods. So the Opposition, through the sharp eyes and mind of the Hon. J.C. Burdett, has saved the Government considerable embarrassment by moving an amendment which the other place has duly accepted and which in paragraph *(b)* differs from the Government's proposition, and states:

> prohibit any transaction or arrangement under which financial relief or compensation is directly or indirectly given or received in respect of bread . . .

It specifically mentions bread and by doing so clearly specifies what the Attorney-General would have us all believe by his second reading explanation was to be the case. I conclude my quotation of proposed new section 51 (2) *(b)*:

> . . . having been supplied for sale by retail, is not sold by retail;.

In other words, you cannot rebate, or credit, unsold bread from customers who have bought bread wholesale for the purpose of selling it retail and take it back if you are a baker. I think that is quite proper, because it otherwise creates the kind of practice to which speakers in the other place alluded in their remarks (speakers of such note as the Attorney-General; my colleague, the Hon. J.C. Burdett; and the spokesman for the Democrats, the Hon. Lance Milne). I will not delay the House any longer.

Mr GROOM (Hartley): I support the passage of this legislation which is somewhat long overdue when one looks

at the history of the way in which supermarkets have gained an ascendancy and dominance over the market to the detriment of the public, manufacturers and employees. The advantages of this legislation can be summarised by saying that it will stabilise employment in the industry, increase capital investment and have the effect of lowering the future rate of price increases of bread, if it does not have that as an immediate consequence. Also, it will give greater protection to small retail businesses. It has been estimated—

Mr Lewis interjecting:

Mr GROOM: —for the benefit of the honourable member for Mallee, that a quarter of Adelaide's bread production is wasted through over-ordering by the big supermarkets, which over-order because they can obtain discounts and have, over a period of time, demanded discounts in gunbarrel diplomacy from manufacturers of up to 40 per cent on the wholesale price of bread. In addition to that, they have insisted that the manufacturers take back unsold bread, in other words, credit them for unsold bread. Someone has to pay for this over-ordering of bread and, indeed, it has to be not only the manufacturers but ultimately the public.

The consequence of being required to take back unsold bread has been low profitability amongst manufacturers in the bread industry over many years. It is not easy to deal with the big supermarkets; because of their greater dominance in the market and bargaining strength they can simply play one manufacturer off against the other and say, 'If you do not give us 40 per cent discount on the wholesale price of bread and take back unsold bread and give us a credit, we will go to another manufacturer,' so over a period of time the manufacturers have regrettably been controlled by the supermarkets.

Mr Lewis interjecting:

Mr GROOM: The unions have supported this measure for as long as I can recall; I have been involved in this industry since about 1976. The member for Mallee might support the supermarkets in their venture; I thought he said he was not going to facilitate the passage of this legislation. The fact of the matter is that the public is going to gain. For the benefit of the member for Bragg, who might think this is something of a joke, it is not a joke for the public who are paying something like $1 for a 680 gram loaf at the present time.

During the last bread price cutting war, in a report in the *News* of 13 October 1983, it was estimated by the two unions involved that something like 300 000 loaves of bread are thrown away every week by Adelaide supermarkets. The manufacturers have to bear that cost in the first instance, but ultimately the public must bear the cost because there has been no financial responsibility on the part of the large supermarkets; they have been able in the past to demand credits from the manufacturers, and the manufacturers have not been able to resist the strength and dominance that the supermarkets have occupied in the market place. As a consequence, there have been fears of instability relating to employment in this industry. This Bill will also have a positive effect on capital investment amongst manufacturers because they will return to better profitability as a consequence of it. The public will gain because, if manufacturers no longer have to over-produce and the public no longer has to pay for these 300 000 loaves which are thrown away every week, this must depress the price of bread.

If honourable members opposite had been in Government, nothing would have been done. That is something of which we can be assured. This Government has recognised that there are occasions when the market place has to be interfered with, that the dominance of supermarkets has to be balanced against the interests of the public and, indeed, the small retail business person. Armed with these massive discounts and the fact that supermarkets can demand that unsold bread be taken back by the manufacturers, every now and again a price war breaks out. The small retailers (delicatessens and small business persons who purchase bread) cannot get the same discount of up to 40 per cent on the wholesale price of a loaf of bread. They cannot demand that unsold bread be taken back, so the supermarkets have had an inbuilt price advantage over small business persons.

Every time there has been a price war which has been engineered by the supermarkets and the large chains the small retailers have suffered; they cannot compete, because the supermarkets have a huge leeway. They have plenty of scope because, if they are getting a 40 per cent discount on a 680 gram loaf, for which I understand the wholesale price is about 85 cents, when the small retailer has to purchase it at 85 cents without receiving a discount of up to 40 per cent, the supermarkets have a price advantage. They can bring about, on occasions, price discounting for the sole purpose of taking away the market from small retailers.

They have done that in the past, and we all know the way in which supermarkets operate. We get this phantom gain situation: they might put out a special for a week, but they whack up the prices on other items so that overall they do not lose. It is well known that bread is put out as a special in supermarkets but the supermarkets have had a 100 per cent mark up on the retail price over their wholesale price. Obviously, it must have a beneficial effect from the point of view of the public and the manufacturer. In future, supermarkets will have to be much more responsible in their ordering: they will not be able to play off one manufacturer against another and, in so doing, rule the roost and demand these discounts. There are some excellent bakeries in Adelaide: Continental Bakery in Grote Street is one which comes to mind and which has an excellent product. It has been battling for decades over the type of discounting that supermarkets have demanded.

I did not mean to mention that bakery in a singular way but only by way of example. I am familiar with this industry. Having had extensive contact with the industry over many years, I am well aware of the problems that are involved in it. Over a period of time supermarkets have attained a dominance in this area that has been detrimental to the public, to manufacturers and to employees. This legislation will be to the benefit of the community as a whole, and I urge honourable members to support it.

Mr S.G. EVANS (Fisher): I support the Bill. I do not see it as being an ideal solution to the problem, but it is perhaps the best we can do with such a complex situation. I do not disagree with much that the member for Hartley said, because a few years ago I wrote an article which appeared in the *Sunday Mail* and in which I stated that a monopolistic society was as bad as a communist society, and I do not like either of them. There is no doubt within this industry that we were tending to move towards supporting those groups that had the greatest buying power, or whom the law allowed to use that power to such a degree that very often the small operator (in business terms) was severely disadvantaged.

This is obvious when it comes to corporate advertising, whereby a big operator can go to a manufacturer of a particular item and say that he will buy so many millions of that product at a particular price on the basis of the manufacturer's paying for the advertisement. When the consumer picks up the newspaper and sees a full page advertisement under the name of that retail outlet, he will not know that the advertisement was not being paid for by that retailer. For instance, if Joe Blow's butter or Mary Jane's cheese is being advertised, they are paying for the advertisement. The small operator is paying a higher price for the goods to be sold in his retail outlet and must pay for

his own advertisement relating to the same items. So, small operators are therefore disadvantaged not only in relation to price but also regarding the cost of advertising.

I am a private enterprise person but, if it comes to the point where the big operator is allowed to destroy the small operator, we reach a situation that we nearly have now in the quarry, hard-rock crushing industry, which is becoming close to being controlled by a few. To me, that is just as dangerous. I support the Government's proposition. If it is to be found to be wanting in the future—

Mr Lewis interjecting:

Mr S.G. EVANS: The member for Mallee says that it will be. If it improves the situation (and I am sure it will) but needs amending in the future, I hope that this Government or a future Government will not hesitate to take action immediately. I have great respect for some people in the retail field who operate in a big way. I realise that it is easy if one is a big operator to want to become bigger and bigger, particularly with heavy taxation on companies and individuals, and there is a dog eat dog situation. Sometimes that is one of the handicaps in the private enterprise system.

Once we start to make laws in relation to one aspect of private industry in order to protect someone, we will always have to make more laws to protect people: once one tries to eliminate the possibility of failure and attempt to ensure success, one will be in a position of having to make more laws to catch up with those who find a loophole in the law in order to destroy others. In that context, although it is against my philosophy to make laws relating to the private enterprise system, I must support the Bill, because I think injustices are occurring at the moment which should not be allowed to occur. Manufacturers have been a part of the system as much as anyone else. If they had stood up and told the supermarkets that their demands were just not on in the food retail outlets, this situation would not have arisen.

I can remember in 1939 a group at the bottom end of Rundle Street selling sliced peaches and halved apricots at a discounted price. Some of the growers in the market said that there were fewer apricot halves in the cans that they were selling under that trade name than in the cans being sold through normal channels from the same cannery. When the contents of the cans were counted, it was found that there was one apricot (two halves) less in the bargain cans and that the weight was made up by an increased amount of juice. So, they were able to sell it slightly cheaper because of that and still make a similar profit. When that sort of thing happened (it could not happen under present laws), it made it difficult to say that there should not be some controls in the private enterprise system.

The Hon. G.J. CRAFTER (Minister of Community Welfare): I thank members who have contributed to the debate and indicated their support for this measure. Bread is a staple food in our Australian community: the ability of persons to purchase that commodity is important, and any responsible Government must monitor that situation. It is hoped that this measure will bring some relief to bread consumers and indeed some stability and common sense to the practices of this industry.

The Government has previously introduced legislation to introduce a bread industry authority, but that was rejected by the Opposition in another place. This is but one part of the attempts made by this Government to come to grips with some of the fundamental problems that exist in this industry, an industry which is a large employer of labour and in which many jobs have been lost, particularly from the small business community. The number of bakeries that have gone out of business, particularly in the rural areas of this State, is a great disappointment to us all.

Indeed, it is a great tragedy that so much of the cultural identity of regions of our State has been lost as it has been expressed through our bakeries, and those traditions that were so much a part of rural South Australia have been so much diminished. Nevertheless, in city areas of the State there have also been fundamental changes, in the sale of bread in particular, that have been wrought by these most undesirable trading practices. This measure will allow the Government some flexibility in its regulation making powers to bring about a more orderly marketing system. The industry has been most fully consulted on this matter, as have been all elements of the industry. So, it is hoped that this measure will now bring about some relief and the benefits to which I have just referred.

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

SECOND-HAND GOODS BILL

Adjourned debate on second reading.

(Continued from 20 February. Page 2695.)

Mr BAKER (Mitcham): I support the Bill, which I suppose could be termed a 'rats and mice' Bill. As this Bill has been debated in the Upper House, there is little to be said about its provisions in this place. However, I am pleased that, by means of this Bill, we are consolidating the Marine Stores Act (1898) and the Second-hand Dealers Act (1919). Further, the bottle collectors will now be delighted that they are now being upgraded to the status of second-hand dealers.

The provisions of the Bill are straightforward. The Bill deletes a number of areas, and that is sensible. For example, why should we prescribe that a person should have a second-hand dealer's licence spread across his premises in a certain size lettering? I do not think that such a measure is appropriate today. A number of other provisions are being deleted from the Act, although some may be picked up in regulations.

Some time was spent in the Upper House on the situation of the trash and treasure markets. It was suggested that, if we really wanted to cut out the dealing in stolen goods in trash and treasure markets, we should note the people who deal in these markets and thereby pick up those people who are acting as second-hand goods agents. That motion was lost, but it was a proposition that was advanced if we were to try to regulate second-hand dealing.

I am not convinced that there is a great need to regulate this industry. I do not believe that there is any real merit in the amount of bookwork that is created when controls are applied. The debate in the Upper House centred around the proposition that the second-hand dealing market is the outlet for stolen goods. We could all accept that proposition but, on thinking through it, we are going a long way here to stop that practice by asking dealers to keep records, by licensing, and by a whole lot of other things that we expect of these people because of stolen goods.

Other than that, there is no reason for having second-hand dealers. Everyone knows that a person who sells goods can see whether they are second-hand or not. The proposition is that a person makes an offer and, if it is acceptable, the goods are sold. A differentiation is made between charitable organisations who wish to make a little extra money out of the market and those people who rely on the market for some form of income. If I could think of an effective means of preventing the throughput of stolen goods through second-hand dealers, I would ask the House to throw this Bill into the bin, because otherwise it is unnecessary.

One item that really concerns me involves the extra powers being given to police in certain circumstances. Section 32 (1) of the Second-hand Dealers Act provides:

> Any justice of the peace, upon complaint made before him by any person that the complainant has reason to believe and does believe that any goods stolen or unlawfully obtained are kept in any house, shop, room, or place by any licensee, may, by warrant authorise any constable, with such assistance as may be necessary, to enter such house, shop, room, or place, either by day or night, and to search for and seize all goods there found, and to carry the same before the same or some other justice.

The existing Act also provides for the use of reasonable force. However, clause 16 (2) of the Bill provides:

> If an authorised member of the Police Force suspects on reasonable grounds that goods that have been stolen or illegally obtained are present at the place of business of a licensed second-hand dealer, he may enter that place at any time and employ such force as is reasonably necessary for that purpose.

The Bill therefore gives the police extra powers. Previously, a warrant had to be obtained to gain entry to premises, but that provision is being taken away. I do not necessarily agree with the proposition. There are checks and balances in the system. Over the past few months we have seen some of the problems that exist in relation to legislation dealing with police complaints, especially about the right of a person to enter premises, certainly on reasonable suspicion. I do not intend to debate the clause, but it is a retrograde step to allow power to exist. Innocent people can be affected in these circumstances. The obtaining of a warrant does involve some checks and balances in the system and I would have preferred that the existing provision stay rather than the provision in the Bill which takes away the rights of those individuals. Having said those few words, I congratulate the Government on at least making life simpler for the people concerned. Although we are not sure yet what the regulations may bring, at some time in the future we may have an effective way of stopping people from dealing in stolen goods through the second-hand market. When that time comes, I shall be delighted to be part of a Government that throws this legislation in the bin.

Mr S.G. EVANS (Fisher): I support the amendment, but oppose the whole concept of the Act. I can understand that the Act had merit in the past. As the member for Mitcham said, we are making it simpler for the Police Force if its members wish to inspect premises. However, in a day and age when we have garage sales all over the city virtually every weekend, people sell second-hand equipment, often not their own but that of their neighbours and friends, some of it stolen. Sometimes it is a massive task for inspectors, for example, to go through the *News* and *Advertiser* each Friday and Saturday, take the addresses of all garage sales, and go and warn the people that they are really second-hand dealers if they are selling other people's goods. It would be even more difficult where people do not advertise but just place a sign outside their gate indicating a garage sale.

The inspectors would have to travel around every street in the city to find out who was selling secondhand goods. I know that over the years it has perhaps been an advantage for the police in some of the more specialised areas of burglary involving jewellery, electrical goods, and the like, to have the Second-hand Dealers Act in operation, but the Act came in long before there were electrical goods of the type that we see today. At the time, there were very few secondhand dealers, and the city and the country towns were small. There were enough people around to be the watchdogs of the community, and the secondhand dealers could not afford to take too many chances.

When it comes to secondhand furniture (and there is some very valuable secondhand furniture in the form of antiques) that can be stolen and sold through a retail outlet, I do not believe that that is affected by the Second-hand Dealers Act. If it is, I believe that there are cases where the law is flouted.

My belief is that we do not cover that aspect, but the Minister will correct me if I am wrong. When it comes to trash and treasure, however, as the member for Mitcham stated, we should encourage that aspect, because at least if a lot of stolen goods are being sold by this means it is simple for the police to make inspections. At least all the selling points are at one spot or at a couple of spots in the city; so, it is a lot easier to have a walk through and to see what is being sold. When it comes to videos, for example—we have had a spate of breaking and entering in the Hills recently in broad daylight—I suppose that all the person concerned needs to do is have a mate in a flat and advertise a video for sale. Would the police go through the advertisements in the newspaper and go to every address where a video is advertised?

Anyone who gets six calls for videos but has only three in stock which were stolen, say, the night before does not have to display them all at once and give himself or herself away. They may end up with two or three people wanting to buy a video and can say, 'We have a mate who wants to sell his video. I will check with him and let you know in a few days about that.' It is quite easy for them to move from place to place and sell stolen goods.

I believe that we would be better off to throw the Second-hand Dealers Act out the window. I do not believe that it has much of a role to play in our society. It is not relevant to secondhand clothes—I know—or to other areas, so why keep the confounded thing? It is a different argument in the case of the motor vehicle business, where one may be putting at risk people's lives and it is necessary to ensure that vehicles will be reasonably safe on the road. However, when it comes to general items sold secondhand and the need for a different type of licence for each range of goods so that the police or someone else can check whether or not they are stolen goods, I think that it is really a joke, and I hope that the Minister will consider whether it is really necessary to keep this measure on our Statute Book.

As much as I support the way that he is amending the Act now, I hope that the Minister will come back next session and say, 'The Act is not worth having, anyway. This is one law that we can do away with.' That may mean that a few workers in a Government department will not have a job, and perhaps we can find something else for them to do in lieu of administering a Statute for which there really is little need.

Mr PETERSON (Semaphore): In general, the Bill is a step in the right direction in this whole area, although one particular area worries me.

Mr Baker interjecting:

Mr PETERSON: Yes, there are a few dealers in my area, as has been mentioned: there are quite a few down our way. I have spoken to some of these people and their representatives, and basically they are fairly happy with the legislation. There is nothing too critical except for one aspect that I would like to raise today, and that is the trash and treasure markets, which are outlets for people who wish to get rid of household goods.

The second reading explanation referred to service clubs and sporting clubs and to people who supplement their income by scavenging equipment, buying at sales, renovating it and selling it with other trash and treasure. I have absolutely nothing against that: it is quite legitimate. Many groups mentioned obviously benefit from the sale of goods in this way, and in general it is good for the community and the service clubs concerned. It is a growing method of

selling goods, and one only has to look at the newspapers to see time and time again advertisements similar to the one in the newspaper I have telling of a business opportunity for stallholders in a new exciting and uncovered market, namely, the trash and treasure market, involving secondhand and new items, art and crafts, home-made goods and other items.

It is very entertaining for people who come and purchase at this type of market. However, it is also recognised that this type of market is an outlet for stolen goods. It is by no means a secret that goods can be stolen in another State, brought through overnight and sold on the market next day. I understand that markets such as the trash and treasure type are visited by up to three sections of the Police Force. I understand also that the Vice Squad visits them and inspects for pornographic video tapes. I believe that there is a squad that looks for stolen motor vehicle parts, accessories, tools, and the like. I also believe that the local CIB, instead of a central body, now has to police the Secondhand Dealers Act to make sure that dealers comply with the Act.

The one thing that worries me is that the trash and treasure market is such an openhanded way of disposing of goods, there being absolutely no check on it. I assume (and this is something that I have not checked) that with trash and treasure (involving, I believe, a registered company) there would be some system of issuing of receipts. Dealers have to pay a fee for the day for a stall, at which they sell the goods. Also, in the new legislation there is a requirement that, if one sells on more than six days per year, it requires a licence. As I said about stolen goods earlier, the statistics indicate that easily disposed of goods are the type taken from homes and businesses; so they would feed into the system. In the early drafts of the Bill given to the secondhand dealers there was a clause which may help my argument, as follows:

> A person who organises or takes part in the organisation of a secondhand goods market shall be guilty of an offence and liable to a penalty not exceeding $1 000 unless the Commissioner of Police is, within the prescribed period, furnished by writing with such information relating to the market as may be prescribed.

It seems to me (and from discussions with people in the industry, so-called, I believe) that there is a need for a check on the people involved with trash and treasure. There is no argument whatsoever about the people already mentioned, such as the service clubs and schools. However, people are using this avenue to dispose of stolen goods, and if a receipt system is already required in the trash and treasure markets, as there must be (and as contemplated in the earlier legislation), why cannot we have a receipt system that gives the name, address and perhaps the registration number of the motor vehicle belonging to the person concerned? I would think that that would make the job much easier for the police in checking on the person using this as an outlet for the sale of goods.

Currently, the system provides that the police simply visit the area and walk around the markets to see who is there and what is being sold. I would think that it may be easy for someone to use a sister or a brother and to change the face of the stall every now and then. A common element, such as a receipt showing details to which I have already referred, may help the police. It would provide a permanent record, which does not exist now. It must be fairly difficult for a policeman, for instance, having to go to these trash and treasure markets. He may not necessarily be able to visit every market if he is working on different shifts, and so inevitably over a period he would miss some. Can the Minister say how the six day requirement could be checked? I have no argument with the length of time—it could be nine days if so desired—but in relation to the checking of attendance at those markets there should be a permanent record, perhaps noting details of names and addresses and motor vehicle numbers.

The Hon. G.J. CRAFTER (Minister of Community Welfare): I thank members for their contributions to the debate. They indicate the dilemma that faces Government when legislating in an area such as this. The member for Fisher indicated that he supported a situation involving no legislation or regulation of this industry. The member for Mitcham indicated that he was concerned about the widening of police powers and the potential for abuse of those powers in the detection of stolen goods in the secondhand dealers industry. The member for Semaphore indicated that he would like to see further intervention and a greater facilitation of police activities in this area. I think it is a matter of pursuing a responsible course in this respect.

This legislation represents a substantial rewriting and updating of the law. The consultation process and the compilation of this Bill have taken a number of years. I note that both the industry associations (and there are a number of associations involved in this industry) and the Police Department have sought the introduction of updated legislation as a matter of urgency.

This Bill has as its primary aim the licensing of all people who carry on the business of buying or selling or otherwise dealing in second-hand goods. I believe that some of the member for Semaphore's concerns may be overcome by the fact that those licensed secondhand dealers who operate at antique fairs, trash and treasure operations or similar markets will be regulated: they will be required to obtain a permit from the Tribunal. Further regulatory requirements will also be placed on those licensed secondhand dealers. Those safeguards will be there.

What I think is undesirable is the suggestion made by one of the initial working parties for much tighter regulations in relation to those people who decide to clear out their garage or sell off an accumulation of electrical or other household items which they no longer require, involving charitable groups, and so on, who go along to trash and treasure operations and raise a lot of money. To require such organisations to meet the regulatory obligations referred to could be seen as being an unfair intrusion into their activities and an onerous responsibility placed on them. That would require police officers and others to peruse all relevant information and documentation, and it would take up a great deal of time, perhaps resulting in little benefit.

However, the present system provides that, most certainly, police officers (who I understand do in fact visit on most occasions) can spend their time effectively using the skills existing within the Police Force to detect crimes, particularly theft and the passing of stolen goods by means of market sale. I think that in that way many of the fears referred to will be overcome.

There is very large-scale theft of household items, and many of the goods are disposed of by some means or another in the secondhand dealers industry. This legislation will give police officers and the administrative authorities the powers and techniques to minimise by regulation this age-old method of disposing of stolen goods. The Police Department was very closely involved with the work of the various committees in the preparation of this legislation, and it is confident that this will give the Police Force the power and the authority to operate effectively in this area.

These are matters of great concern to so many people who have their homes burgled. The incidence of burglaries in suburban Adelaide is very high, and if we can effectively stop the profit-taking by those involved in such burglaries it is hoped that we may well limit the scope of activities for this type of criminal. This is not simply a matter of

burglary but a matter of unlawful entry into people's homes, which brings great fear to anyone who experiences that unfortunate happening. I thank members for their support of the Bill.

Bill read a second time.

In Committee.

Clauses 1 to 15 passed.

Clause 16—'Powers of entry and inspection.'

Mr BAKER: Can the Minister say why the powers have been widened in this instance to allow entry without reference to a third party such as a justice of the peace to obtain a warrant?

The Hon. G.J. CRAFTER: I do not have precise details of the difficulties that the police found under the existing law, but I understand that the police are required to have reasonable grounds of belief before entering a property. Subclause (2) provides:

> If an authorised member of the Police Force suspects on reasonable grounds that goods that have been stolen or illegally obtained are present at the place of business of a licensed secondhand dealer, he may enter that place at any time and employ such force as is reasonably necessary for that purpose.

So, there are those checks. That is not uncommon in legislation of this nature, and in fact that is subject to a third party: that is, it is subject to a judicial review of that power. So, there is an intervention of a third party—that is the court—if there is an abuse or an excessive use of that power, or simply an unreasonable use of it, to gain entry. Honourable members must bear in mind that this is an industry where, if a police officer did believe that there were stolen goods in those premises and he was refused entry or those premises were sealed in such a way that he had to leave them to go to find a justice to obtain a warrant to enter, that may well allow removal of those goods from those premises. Therefore, the police officer must be empowered to enter, but of course with those safeguards that are provided for in that section.

Mr BAKER: There was nothing in the Minister's speech to indicate that the police were unhappy with the previous conditions. There was no mention of the fact that they had difficulty in entering premises at the required time when they wanted to locate stolen goods that they believed were on the premises. We are taking away more rights in this situation and we have had no reasons given to us why those rights should be taken away. If the previous system had been working reasonably well, I see no reason why it should not continue. I just want that point put on record. I do not oppose the clause.

Clause passed.

Remaining clauses (17 to 36) and title passed.

Bill read a third time and passed.

SECOND-HAND MOTOR VEHICLES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 20 February. Page 2695.)

Mr MEIER (Goyder): The Opposition supports this Bill, which has come to us from the other place. Honourable members would be aware that it proposes an amendment to the Second-hand Motor Vehicles Act that is consequential on the passing of the Second-hand Goods Bill, which we have just debated. A few interesting points were brought out that do not need to be repeated here. Additionally, two amendments will come out of this Second-hand Motor Vehicles Act Amendment Bill.

Probably one of the main points under the Bill, as the Minister said in his second reading explanation, is that the consequential amendment ensures that the Commissioner of Police has a right to appear personally or by his representative in proceedings before the Commercial Tribunal relating to the granting of a second-hand motor vehicle dealer's licence or proceedings relating to the disciplining of a licensed dealer. The Commissioner's interest in such proceedings is largely in relation to stolen vehicles.

It is pleasing that this matter is being attended to. The issue of stolen vehicles is one that I took up personally about 12 months ago when I read a report that vehicles from several States—and it would appear that South Australia was included—were finding easy access into Queensland at that stage. I wrote to the appropriate Minister (I think it was the Hon. Mr Hinze) in Queensland seeking further details as to whether there was any truth in the allegation that stolen vehicles were going from South Australia to Queensland. Subsequently I received an answer that assured me that Queensland had more than adequate safeguards to ensure that stolen vehicles were not ending up there under normal circumstances. I believe that of the number of vehicles stolen in South Australia a very small percentage is actually traded off interstate.

Therefore, one would assume that the opposite would occur—the percentage of vehicles coming from interstate into South Australia would also be relatively small. It would appear that, if they are stolen and do finish up in a used car dealer's lot, it is highly likely that either a camouflage job or change of identification was expertly done and confused the second-hand dealer. So we must look at the other possibility that maybe the dealer had some knowledge in the first place. Therefore, it appears that this first part of the Bill covers that. It is a very good safeguard for South Australia, because there would be nothing worse than having gone to the trouble of finding a vehicle only to find subsequently that it may have been stolen.

Secondly, under the provisions of the Second-hand Goods Act a licensed second-hand motor vehicle dealer will not be required to hold a general second-hand dealer's licence. There has been a lot of talk over a period that we have far too many licences in this State. I know that the Opposition put forward, as part of its policy some years ago, a one licence system to the greatest possible extent so that, say, shopkeepers (and I guess in the second-hand area too) would not have to buy licence after licence. Again, I see it as a very positive move that at least the second-hand motor vehicle dealer can be released from one licence due to the amendments that are before us, hand in hand with the Bill that we have just passed.

Thirdly, the Bill also proposes an amendment to the Second-hand Motor Vehicles Act which would enable an unlicensed person to carry on the business of a deceased licensee for not more than six months after the death of the licensee. Again, I see that as a positive factor. Those honourable members who have been involved when a member of the family or close relative has passed on would be well aware that it is a time of distress and that there are so many other factors that have to be attended to that perhaps the one one wants to attend to least is how the business will keep going. However, if one is a second-hand dealer who does not have another person to help in the business, this gives a six-month period of grace, which I am very pleased to see.

Further, the Bill amends the provision of the principal Act dealing with the power of the Tribunal to discipline second-hand motor vehicle dealers. I will look to the Minister to give an example of how this will operate, either in his speech to follow or perhaps in Committee. The second reading explanation states:

> The amendment removes from the ground for disciplinary action that a dealer acted negligently, fraudulently or unfairly the limitation that the action was to the prejudice of the rights or

interests of a person dealing with the dealer in his business. The amendment is designed to ensure that disciplinary action may be taken in any case where a dealer's actions do not affect the person with whom he is dealing but some third party.

That sounds as though it is protecting not only the person who is buying the vehicle but some other third person. I would be pleased if the Minister could give an example of how this amendment is enlarging the current provisions. In considering the debate in the other place and in perusing this second reading explanation, I have not been able to figure out to what extent this will be a greater benefit. It seems to me to be broadening the current provisions, but I would like to know in what way it is broadening them. It seems as though it must be some person other than the owner or purchaser of the vehicle, and who else would be affected other than the owner or purchaser of the vehicle? I will be pleased to receive a response from the Minister in relation to that clause.

Apart from that, it seems that this Bill will tidy up any loopholes that might have been left over from the Bill we have just passed, the Second-hand Goods Bill. It is hoped that these Bills (assuming that this one is passed) will ensure that the public and the second-hand motor vehicle dealers will be in a better position than they are at present. I do not think we can look at it as simply being a matter of the police being given more power. In fact, I think the second-hand dealers would welcome the interest by the police because it is protecting them in their own trade so that people are not taken down inadvertently. The Opposition supports this Bill.

The Hon. G.J. CRAFTER (Minister of Community Welfare): This Bill is primarily consequential on the Bill just passed. It does, however, take the opportunity to tidy up a number of other matters in the Second-hand Motor Vehicles Act. The matter to which the honourable member referred with respect to the powers vested in the Tribunal to bring down disciplinary action where a dealer has acted 'negligently, fraudently or unfairly' empowers that action to be brought in circumstances in which not only the consumer is affected but some third party (for example, when a motor vehicle has an encumbrance on it, and that party is the party so affected). However, if the honourable member requires further information on this aspect of the Bill I will be pleased to obtain it or, indeed, arrange for officers to explain the circumstances to him.

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

STATUTES AMENDMENT (COMMERCIAL TENANCIES) BILL

Adjourned debate on second reading.

(Continued from 20 February. Page 2704.)

Mr INGERSON (Bragg): I support the Bill. On behalf of the Opposition, I congratulate the member for Hartley on having convinced the Government that this type of legislation was needed. There is no question but that this sort of legislation possibly concerns the most discussed issue as regards small business. Other than perhaps whether there should be an extension of shopping hours, this would be the most important issue to small business. As we all know, small business in this State comprises the largest economic factor. Indeed, it is about 60 per cent of our total economic factor. Further, 95 per cent of all businesses in this State are small businesses and, as the Government pointed out earlier when it set up the Small Business Corporation, it is essential that we recognise in this Parliament and in this State how important it is that this sector flourish and that we recognise that there are unusual developments in the market place requiring this significant group of people to be helped.

There is no doubt that in any economic system there is a need to put some controls on the market. In this instance, if we continued with an unbridled free market concept, we would have tragedy for many people in the market place. It is one of the few instances in which I, principally a free marketer, would strongly support the need for the market to be controlled in some way.

One thing that is critical in the area of small business is increases in cost. One significant area of cost increase is the taxation area. Federal taxation, by way of income taxes and other charges, presents a significant problem to small business. It will be interesting to see whether the Federal Government comes to grips with the need to recognise that we should have a change in income tax law if we are to see incentive returned to the small business sector. So, Federal taxation is critical to small business.

There is also the problem of State taxation. Since this Government came to office, we have had significant increases in taxation and charges which are biting heavily at small business. Electricity tariffs and water rates have had a significant effect in this area. The increase in workers compensation premiums has been significant under this Government. There has also been a significant increase in wage costs, albeit the slow-up that has occurred in the past three or four years. This increase in wage costs has been a significant problem to small business.

Apart from that most important increase, a most important factor has been the unbridled and unfair increases that have occurred in rental review. Any move that is made in this area to help the small business sector is vital and important. In this connection, I shall read into *Hansard* a reasonably long article that summarises the majority of problems of small business. The article is headed 'Grievances of tenants highlighted' and appeared in the December issue of *IPECAC News*. For those who do not know what *IPECAC News* is all about, it is a journal put out by a professional association (in this case for pharmacists) and it highlights very clearly the overall problems occurring in this sector. The article states:

A survey of tenants in retail centres has disclosed a wide range of grievances. These included rents increasing by 40 per cent to 100 per cent, mostly occurring on the renewal of leases. Tenants have no righs on renewal of leases although the landlords do need them to renew.

Tenants build up considerable investments in the business at its location and cannot afford to walk away from it. Fewer leases have options to renew and small businesses are unable to successfully negotiate a long lease. Even when there is an option the benefits are somewhat illusory because rent has to be negotiated for the new term after the option has been exercised; therefore the tenant is locked in and has to punt on a 'good deal'.

On negotiation the landlords know how well the tenant is going—they often have access to the tenants books, etc. They know how much the tenant has invested and that the tenant has no security tenure. Landlords impose any rent as market value and the tenant has to resort to the use of expensive valuers in a long and complicated process to have a value established. Some leases penalise a tenant who uses this method by making the tenant pay for this exercise. This dissuades many tenants from mounting a challenge.

Many small tenants live in constant fear that any 'rocking the boat' will result in refusal to renew their lease. This fear arises out of overt or covert threats and sometimes out of the knowledge that the tenant is at the mercy of the landlord in this regard.

There are no fetters on the landlord while the tenant may have invested $10 000 or $20 000 in the building up of the business and he knows that when the lease expires the landlord can choose not to renew the lease. The tenant is then left with no way of recouping the money he has invested and no hope of selling the goodwill he has built up in his business as there is no goodwill without a lease.

This knowledge is also very important when the landlord is deciding upon the reviewed 'market value' of the premises. Because the landlord is aware of the tenant's investment the landlord knows that he can demand more for the premises than he would receive if a new tenant had to be found, so the term 'market value' is actually transposed for what is actually 'review value'.

That is a very important factor, because a lot of the new leases are starting to be transcribed, instead of into dollar values into market values and, as is pointed out clearly here, it is not really a market value: it really ends up being a review value. So, it is critical that that sort of matter be noted. The article continues:

The precedent for setting 'market value' for the sake of reviewing a lease is always taken from other premises in the area who are also renewing and therefore subject to the same pressure. Consequently, the rental costs are spiralling at a rate outstripping all other expenditure to small businesses.

I made that comment earlier when I was giving a brief introduction. The article continues:

Tenants take leases in shopping centres more or less on the tenant mix at the time of the lease. They appreciate that there may be some changes to the mix over time.

Although there was only one shoe shop planned for the centre at the time of the lease being signed there may be an extra shoe shop allowed in at a later date or what started out as a centre with a broad cross section of retailers may be narrowed down as time goes by.

However, the tenants do not think it fair, on the basis of the original offering of the mix, that the ladlord may dump three or four more of one type of business in the centre... Obviously the more of the same shops in a centre the less business for each of them. Landlords seem to feel free to arbitrarily reduce tenants' income in this fashion while at the same time increasing or at least maintaining rentals.

Outgoings are another perennial problem for leases. The only obligation on the landlord to account for the outgoings charged is a budget produced at the beginning of the year and an audited account at the end of the year. Landlords' auditors prepare the account and the tenants' auditors are not given access to any of the sources from which the audited accounts are prepared.

The landlord is under no obligation to obtain quotes for the services paid for by the tenant—insurance, cleaning, etc., and, although many landlords are honest and business-like, there are certainly some who would use a method of intertransfer pricing by using associated companies to do the work at prices significantly higher than might have been obtained had tenders been sought and the best price accepted.

At the very least tenants should have some input since their money is being spent. Many outgoings have a miscellaneous clause—a classification which could be used by unscrupulous landlords to cover expenses from 'scotch' to 'overseas holidays'. On the basis that justice must be seen to be done, these 'catch all' provisions should be eliminated.

Landlords also have the ability to regulate the hours a business must operate. This is unfair and a major interference in the tenant's right to operate his own business.

I will take up the last point in Committee. The other short article to which I wish to refer to is from the same document of the same month headed 'Big landlords trying to crush small tenants'. It states:

The Gallery is one of a group of four shops, including a long established pharmacy, nestled just off the footpath in busy Hunter Street around the entrance to a large commercial building that since October 1977 has had three owners. As the initial leases were for terms of 5 x 5 years, the advent of new owners did not affect the terms of the leases. Rent reviews had taken place in 1979 and 1981 with no real objection from any of the tenants.

Then, in May 1982, tenants were required to exercise the option in the lease for the new term to begin in November of that year. Once the option is exercised, tenants are legally bound for the new term even though the landlord was not obliged to notify any increased rent applicable. In March 1983, the owner which by then owned and managed the building, notified the tenant that her rent was to increase from a base figure of $26 913.60 to $59 016 per annum retrospective to November 1982—close enough to a 100 per cent increase.

The four retailers, decided to pool their resources, engage a professional valuer and negotiate jointly with the owner—a tactic which was not appreciated.

That comment has been made widely to me and I am sure to many other members of Parliament, namely, that, if tenants decide to get together and form a consortium to argue their viewpoint with the landlords, the landlords themselves do not like the same sort of pressure being put back on them that they are exerting on many of the small tenants. Eventually, this group of retailers finally got to the General Manager of the company and were able to convince him that there ought to be some negotiated and arbitrated reduction. That took place, but shortly after there was a significant increase in outgoings which merely ended up giving the same result.

I continue by reinforcing the fact that the problem of shop leasing to the small business man is the most important single problem with which he has had to deal in the past four to five years. As the House would be aware, there are several alternatives, one being to let the market find its own level and to have the land owners self-regulate. That, obviously, was one of the options considered by the Government. The other option is to go down the line that it has gone down and set up a tribunal and certain rules that will apply in covering rents.

One of the things about which I am disappointed is that, in setting up the Small Business Corporation, the Government defined what it thought was a small business, yet in the first instance when it brings in new Government control of the industry it has immediately ignored the definition that it set up for small business and decided to insert an arbitrary figure to control the rent. I accept in the second reading explanation the Minister's statement that principally this legislation is designed to protect the very small operator. It seems odd that we are introducing legislation with arbitrary limits when it would have been better to have had it wide open.

Mr Groom interjecting:

Mr INGERSON: It is interesting that the member for Hartley says that I ought to move an amendment. An amendment was moved in the Upper House to open up the provision to include all small businesses, but it was defeated by the Government. It is important to have that on the record. Although the honourable member would like me to move an amendment, there is not much point, because I assume that the Government would again defeat it. The amendment in the other place was designed to include by regulation all small business, but that was defeated.

Whilst we are on the point of regulation, I state that I have expressed many times in this House a concern about having the Act run by regulation. Here again we have the same situation where the major—in fact, the controlling—factor as to whether or not people come under this Act is set by regulation. Rents of $60 000 or less (and that is the major factor in deciding whether or not one is covered by this legislation) are to be prescribed by regulation. I find that sort of thing unsatisfactory, and would have preferred that to have been in the Act. Unfortunately, the Government has chosen not to do that and would prefer to do it by regulation, which is disappointing.

One of the major problems in this area has arisen with the development of shopping centres. Although I understand the need for and support the development of such centres, the leases that have been set up in the control of shopping centres have suddenly become the same basic leases that are used in strip shopping centres. Very few of the same rules apply because in the major shopping centres there is obviously a need to have significant promotion and to co-ordinate the outgoings for air-conditioning, promotion of the centre, cleaning, and so forth, which are not applicable to smaller strip centres. It is unfortunate that the ideas that have been set up in the area of major shopping centres have been transferred to these small owners. It is a pity that, in relation to the problem of shopping hours, which was one of the major problems mentioned in the quote from *IPECAC*

News, many retailers are concerned about opening and closing when they wish. One of the clauses in the Bill sets it up so that that control is taken out of the hands of almost every single business in this State.

The clause provides that, if a shopping centre has six or more shops, the clause controlling hours that a retailer can open does not apply. In looking at shopping centres in my electorate and many other electrates, I have not noted one centre which has six shops or less. As a result, almost every shopping centre in this State is controlled in the hours for which they can open. This seems to be an unusual clause to include in a Bill when it does not cover anyone, anyway. One of the major problems that small retailers have (being told that they have to open when larger supermarkets open) has been thrown out the window by the exemption clause in the Bill.

I would like to sum up my attitude and that of the Opposition in relation to the area of the leases and point out the problems about which we have been concerned. As I said earlier, I support the Government, because 99 per cent of the points that I will make have been picked up in this Bill.

One of the major areas of concern is lease documents and the fact that they are not available for a considerable time after signing the lease: this matter has been adequately covered in the Bill. Concerning outgoings, which I have mentioned earlier, one needs to spell out clearly in the lease what the requirements are, what one is paying for and when one has to pay; one needs a credibility factor at the end, in that the organisation taking the outgoings needs to have detailed expenditure accounts freely available to all tenants.

In relation to lease periods, one of the major concerns not covered by this Bill is that it is very difficult for small tenants to get reasonable lengths of tenancy in that, when one is building up one's business and renewing one's lease, it is critical for one to be given that bit of an edge in the competition with the rest of the market place and, if one finds it difficult to get leases for more than 12 months or two years, where most of the major tenants are on five and 10 year leases, it makes it difficult for one to develop stability. Anything that tends to cause problems in relation to stability makes it difficult for one to continue to trade.

Regarding rentals, there is no question that percentage turnover rents are a major problem. It is also a factor that a significant number of small businessmen would prefer to have their rents geared to a turnover basis. That should be clearly spelt out in the lease, and those involved should understand the ramifications regarding turnover and what should be included in turnover. I believe that has been adequately covered.

One of the most important things regarding renewal is that usually insufficient time is made available for the small business man to sit down and work out ways and means to renegotiate his lease. Of all the points in this Bill, one's ability to obtain a reasonable renegotiation time to enable one to renew one's lease with the minimum of effort is the most important, because it is at this renewal point that I have had most of the small businessmen coming to me and complaining about outlandish increases or controls being placed upon them.

In the area of assignment, the demands for goodwill obviously need to be adequately spelt out. Again, the time factor regarding the withholding of approvals is important, as is the cost of assignment, in that many times the assignment costs end up in the lap of the small businessman who is selling. Regarding goodwill, there is no question that any major shopping centre develops a significant amount of goodwill. However, it is essential that the command of that goodwill is clearly set out, if there is to be any, in the documentation.

I speak with a great deal of experience when I say that to be in a major shopping centre and have the advantages of the pull of customer traffic generates significant goodwill and, if there is to be any sharing of that at sale, it needs merely to be significantly spelt out. In earlier times and in the more recent leases, that has been clearly spelt out. However, for the last three or four years that has not been so and there was a lot of abuse in that area.

The other problem area is remodelling of a centre, because in the relocation of business and transfer of premises, costs need to be clearly defined, and often this has not happened. The compensation that a tenant should obtain if he has no option in being transferred—and again I can speak from a fair amount of experience, having been transferred into other premises—needs to be clearly spelt out.

The final area of concern is key money, and the way in which the Government has attempted to attack that is interesting. It will be interesting to see how it is policed. We will take up that matter in Committee.

There is an obvious need for arbitration to be introduced into the system. The Opposition clearly supports the introduction and setting up of the Tribunal. We support the Government in the proposed appointments of one Commissioner and an expert from both the landlord and tenant side. There is no question that a lot of these disputes can be resolved by conciliation and that there is no great need to arbitrate. Until now, apart from the courts, an easily accessible facility has not been available. This is obviously a very important part of the legislation, which we support.

Finally, one of the areas that I believe needs to be taken up is that of the Small Business Corporation looking at the need to set up a model lease and of making sure that this is freely available to all people beginning in business and that the Corporation clearly is used to promote and encourage people to go along so that the sorts of problems about which I have spoken and which are highlighted by the Bill can be clearly explained at that first point. There is no doubt that, when setting up any business venture, if one can be well informed from the start, a lot of problems that come about through inability to understand leases can be overcome.

Mr GROOM (Hartley): I am pleased to speak in this debate in support of this measure. While I am indebted for the kind remarks of the member for Bragg in relation to my contribution, I want to say from the outset that had a Liberal Government been in office this measure would never have seen the light of day. Despite the many reported instances of exploitation in this area of business activity, when the Liberal Party was in Government between 1979 and 1982 it whitewashed the whole thing. It said it would have a voluntary code to encourage landlords to increase communication with respective retail tenants; that it would encourage the formulation of a voluntary code but would take no specific action— in other words, a 'do nothing' Government.

Mr Baker: It's changed.

Mr GROOM: Members opposite had the opportunity to introduce legislation to protect small business people when they were in office between 1979 and 1982. Despite the fact that in Queensland the Cooper Committee of Inquiry reported on the iniquitous practices that were going on in that State, the same sorts of iniquitous practices were going on here. But the South Australian Liberal Government was going to do nothing and leave small business people to the mercy of the giant combines.

I do not propose to repeat many of the things that I said in April 1983 when I introduced in Parliament a private member's Bill on this subject. There was not exactly a rush of speakers from the benches opposite at that time. I think the member for Fisher had something to say, but his com-

ments were really quite innocuous, and he did not really indicate one way or the other, if my memory serves me accurately, whether or not the Opposition would support that private member's Bill. I think that the inactivity of members opposite stemmed from their dilemma: they had divided loyalties between big business and small business and they could not make up their minds at that time which way they were going to jump. So, effectively, we had no contribution from members opposite in April 1983, and that was consistent with the stand they took when in Government—do nothing.

It is true that I have been campaigning for reform in this area of commercial activity since about 1976. I was in a position professionally to monitor the sorts of iniquitous practices in this area of commercial activity. I commenced highlighting these iniquitous practices as early as 1978, and followed that through in 1979, and when I returned to Parliament in 1982 I immediately took up this issue because, instead of abating (one would have thought that perhaps some of the larger combines would get the message because there was activity occurring in other States) things were getting worse. In April 1983, within a matter of a few days of my announcing that I would introduce a private member's Bill, I received something like 65 reported instances, by either telephone or letter, of iniquitous practices in this area of commercial activity.

Other States have now followed suit, and I am very pleased to say that South Australia was the first State to introduce legislation to redress the disparity in bargaining positions as between large shopping centres and smaller retailers. Queensland followed suit, and legislation has been passed in the Queensland Parliament. The legislation in Queensland was introduced subsequently to ours, but it is the most innocuous piece of legislation that can be imagined. Enormous problems were experienced in Queensland with exploitation as a consequence of the disparity in bargaining positions. Something had to be done. The Queensland legislation has provision for a mediator, but the tribunal and the mediator have no power to determine rental issues. Therefore, it does not deal with the main area of disputation, namely, matters concerning rent. In Queensland there is a halfway house: disputes on any matter other than rent can be aired. It is hardly the sort of legislation to appeal to small business people.

Following the introduction of my private member's Bill in 1983, the Attorney-General, with the support of members on this side of the House, announced an inquiry. As a consequence of that inquiry, a report was subsequently published, and this Bill has resulted from that working party's recommendations. Since April 1983 and the introduction of this measure, there has been wide circulation of the working party's recommendations in the business community to properly inform it of the Government's intentions, and it has had a long time in which to make representations, as it has done in a number of areas, and as a consequence has reached some sort of consensus with Government. The reason why there are no ripples with this legislation is that there has been an extensive consultation process with business. It is an example of the way in which the Government has worked with business in South Australia for the betterment of South Australia's commercial activity.

The Bill prescribes a limit of $60 000 so that if one's rental under a lease agreement exceeds $60 000 one's business will not have the protection of this legislation. Although it is not contained in the actual Bill, it is proposed to be a regulation. I think the member for Bragg was in error earlier in his speech in relation to the Upper House. An amendment was moved to provide this limit in the Bill and not in the regulations. The limit of $60 000 is based on the assumption that the larger combines can look after themselves and will have access to professional assistance when determining the terms and conditions under which they enter into a lease agreement.

As members should well know from reading the working party's report and the recommendations, and undoubtedly from representations that they have received in their electorate offices, some of the iniquitous practices. Referring to the aspect of goodwill, the goodwill really belongs to the person who builds up the business, but we have found over many years lease provisions containing a requirement that the tenant pay the landlord a proportion of the goodwill on the sale of the business, ranging from 10 per cent to 50 per cent in some instances.

That problem has been addressed in the legislation. In relation to assignment and subletting of leases, one of the most iniquitous practices has been for the owners of the building to say, 'Look, you can sell or assign your business, provided that you pay me so many thousand dollars.' That has been outlawed under this legislation, and rightly so. Other benefits of the legislation are that the lease should clearly indicate the method of calculation of rental and the frequency of its review.

The lease must state the length of its terms and whether any right of renewal or option is provided. Outgoings must be clearly itemised and responsibility for their payment specified, because one used to have these vague sorts of things about management costs—percentage for advertising and percentage for a sinking fund to replace the shopping centre. Where the lease requires payment of a security bond, it is not to exceed one month's rental which will be deposited with the Tribunal. The Tribunal will obviously earn interest as a consequence of these security bonds being deposited, and that will offset the cost of the running of the Tribunal.

The landlord must also provide the tenant with a copy of the agreement at the time of signing and within 28 days of its being stamped. Also, the landlord must give a warranty relating to suitability of the premises. Although there are some areas that are not touched, such as percentage rents, I daresay that the area of percentage rents will be monitored by the Government, and certainly by me, to ensure that the sorts of inquitous practices that crept in previously are abated.

In addition to the monthly rent, rates and taxes and other outgoings, this was a percentage applied on top depending on one's turnover, which was a complete disincentive to expanding one's business. I understand that the Building Owners Managers Group has a sort of model lease that it circularises, and I think that to a large extent the problem of percentage rents, at the moment at least, has been redressed. It will certainly be monitored, but if the problem breaks out again members can rest assured that I will be airing, to the best of my abilities, any instances reported to me.

By addressing the iniquitous practices in the main that have been carried out in this sector of commercial activity, the public will benefit, because it has been estimated that as a consequence of these iniquitous practices—harsh and oppressive lease conditions—something like 10 per cent is being added to the cost of goods. In the past, the public has suffered because someone has to pay for these excessive and iniquitous terms, and ultimately it must be the public. If one is required to pay $10 000 to the landlord just to renew one's lease or to reach further agreement on the terms, someone ultimately has to pay for that, and it has been the public.

It has been estimated that in this way, through harsh and oppressive lease conditions, up to 10 per cent has been added to the price of goods. In addition to the gain to the small business sector, the public will benefit, because the rate of future price increases by retailers should reduce as

a consequence of controls on oppressive conditions. There should be some lowering of prices; at least the rate of increases in prices will not be as great as it would have been had this legislation not been enacted. Traditional notions of freedom of contract are no longer meaningful in this area of commercial relations.

The power and authority of shopping centres has meant a gross disparity in bargaining positions which has grown up over the past few decades. The legislation will redress this imbalance. The Government's record in relation to support of small business is unparalleled by comparison with that of previous Liberal Governments. Since this Government has come to office it has indexed the lifting of pay-roll tax exemptions.

Members interjecting:

Mr GROOM: Members opposite did nothing when they were in Government: they were prepared to leave small businesses to the mercy of larger combines, and that is a fact of life.

Mr Baker interjecting:

Mr GROOM: I know it is painful for the member for Mitcham to have to listen to this, but it is a fact of life. So, in addition to indexing the lifting of pay-roll tax exemptions, the Government has established a Small Business Corporation and the South Australian Enterprise Fund. The overall impetus given to the level of economic activity in South Australia through our initiatives in home building and the construction industry is unparalleled.

Mr Ingerson interjecting:

Mr GROOM: I know that the member for Bragg mentioned the impost that small business has suffered through various taxes and charges or other imposts that have been imposed over a number of years and said how these had been a burden to small business. That is quite true, but the fact is that in the past—and members opposite would have left them this way—small business was extremely vulnerable.

Take council rates and land tax: it is all right to say that some small business person or some leaseholder's land tax bill has doubled. Land tax and council rates are a tax on the owner of the premises. As a consequence of the disparity in bargaining positions, these imposts have been forced on small leasehold businesses by the larger combines so that it has become standard practice. One does not get it with residential tenancies: if one rents a house and signs a lease, one does not find the landlord saying that in addition to rent one has to pay council rates, water rates and land tax. One does not find that, because it has never been acceptable.

Mr Ingerson interjecting:

Mr GROOM: The rental component has a component of overhead. Because small business persons have been vulnerable and because—

Mr Ingerson interjecting:

The DEPUTY SPEAKER: Order! The honourable member for Bragg cannot speak twice in this debate.

Mr GROOM: Because small business persons have been vulnerable, and because this country for most of the 1960s and 1970s, if one looks at Australia generally, has been governed by conservative Governments, a situation was permitted to develop in which small businesses were at the mercy of the larger combines, and so capital taxes, taxes on owners of premises, have been forced on to small leasehold businesses. Some years ago this did not happen, but it was worked out that because of the disparity in bargaining positions one could hold a gun at the heads of small businesses. One could say, 'If you want your lease extended, you agree to pay land tax, council and water rates and everthing else.' That is what happened, because of the disparity in bargaining positions.

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

Mr GROOM: It is pleasing to see that South Australia was the first State to introduce legislation, albeit a private member's Bill in April 1983, to address the imbalance in this area. Now, Queensland has passed some legislation, and other States will undoubtedly follow suit. Western Australia has already made moves in this direction, and Victoria has announced an examination of reform, as has the Australian Capital Territory. I believe that New South Wales has also considered various practices in the industry.

So, South Australia, once again, has been the first State that has properly examined this area of reform, and it has introduced meaningful legislation. The Queensland legislation is shallow in its intent: it has a mediator, but it excludes one of the most vital areas of a commercial lease agreement from its jurisdiction, and that is rental. Even though the legislation before the House this evening will probably not redress all the inequities and oppressive practices that have gone on in this area of commercial activity, the fact that small retailers can attend before a tribunal and have their grievances aired will in itself be a sanction to large combines, that they cannot continue some of the oppressive practices of the past.

The current Government has made an enormous contribution to the viability of small business in this State. The Government recognises that the small business sector is a vital segment of the South Australian economy, particularly in the light of our declining manufacturing base. This Bill recognises the importance of the small business sector and is intended to ensure that the small business sector enjoys the proper conditions and protections to enable it to prosper and expand its importance. It also recognises the legitimate interest of developers and the vast sums of risk capital invested in a shopping centre complex. By providing categories of exemption, the Bill clearly is intended to protect only the smaller businesses on the assumption that the larger concerns are well able to protect themselves. Hence, a cut-off point of $60 000 is provided for in the legislation. I commend the Bill to the House.

Mr BAKER (Mitcham): The great problem with the member for Hartley is that he spoils himself all the time.

Mr Groom: I was a spoilt child.

Mr BAKER: Yes, and it has continued into adulthood, although in the case of the honourable member we may not know where adulthood starts. Perhaps we should start by lifting the age of majority to 50, and that would take care of the honourable member. The honourable member made certain statements about the historical background to this legislation and said that the Liberal Party had done nothing in this area, yet he also said that it had discussed the subject of this legislation with industry. However, that is more than the Labor Party did in its nine years of government when the real problem arose.

Mr Groom: We noticed the problem

Mr BAKER: We noticed the problem back in 1969. For nine years, members opposite sat on their proverbials and did nothing, so they should not talk about action in this area. At least we tried to talk to members of the industry and explain the problems to the various parties in an effort to reach an agreement. So, one must ask whether it is better to get the industrial sectors on side to reach agreement rather than pass Draconian legislation as members on the other side are wont to do. Although they had nine years to do something, members opposite did absolutely nothing. That is how much they cared.

The member for Hartley said that we did nothing during our three years in office, although he admitted that we raised the problems with industry. He also made the classic com-

ment that, under a residential tenancy agreement, the renter does not pay land tax. Where did the member for Hartley learn his arithmetic, or has he not been in business? The costs of business are passed on in some form or other to the people using the service and, in the case of a residential tenancy, any costs, whether land tax, electricity tariff or council rates, are passed on in the form of rent. Surely the member for Hartley knows that. Surely he does not have to tell the story that all these landlords are renting properties with no way of recovering the land tax that they must pay. His statement is garbage, and it is time that the honourable member got his act together. Unless he gets things into context, he will never be a Minister.

I was going to pay a tribute to the member for Hartley for his efforts in this area. When the honourable member put forward his draft legislation, South Australia would have been out of business. He should take the trouble to reread the report that was drafted as a result of his original foray into this area. That report refutes so many of the things that the honourable member wanted to put in the Bill: it said that they were standard practice and that certain areas of abuse could be fixed up in a tribunal sense, but the report in no way endorsed the suggestions put forward by the honourable member.

Mr Groom: Which ones?

Mr BAKER: The honourable member should get hold of a list. If he has not read the document, he needs remedial reading lessons and should start from the top. To a certain extent the honourable member has precipitated this issue's coming before Parliament. Since becoming a member, I have experienced considerable concern about some practices that occur in the industry, and I thank the honourable member for bringing those matters before the House. We have before us a concrete form of alleviating some of the difficulties that people are experiencing, especially those people who are without bargaining power.

The issue that I wish to raise this evening is one that I have experienced twice: the issue of unregistered agreements. I am especially upset that there is nothing in the Bill to deal with this matter. I had prepared an amendment but, unfortunately, because of circumstances it will not be presented this evening. I wished to have the following new section 66a inserted in the legislation:

> Notwithstanding any other Act or law the successor of a landlord to a commercial tenancy agreement takes his interest in the premises subject to the interest of a tenant occupying those premises under that agreement.

The purpose of that provision and a further provision is to ensure that people have a right to protection when the property changes hands. Two people in my district have had unregistered agreements and, when the property has changed hands, both of these people have been effectively bankrupted. Their families have suffered, and the whole episode has been traumatic. The upshot of this issue is that such persons are not really covered by the Act. Many people take out unregistered agreements in good faith. The circumstances to which I shall refer briefly are that these people believed that they had a binding agreement with the owner of those two properties but, when the properties changed hands, they were effectively put out on the street. Everybody knows you can plan for the period of a contract, but you cannot plan for the contingency of the contract suddenly being voided, and that is exactly what happened. The owners concerned said, 'We no longer wish to continue with this contract.'

Not only did the people have to sell off their stock, but they also had enormous debts and a number of hire purchase agreements which they had contracted in good faith, knowing that they had a certain time schedule in which they could discharge those debts. They were no longer able to do that. The debts from that operation were enormous. The goodwill which they normally would have reaped from the business was lost and the two families concerned were destitute.

I have had other examples brought to my attention of one agent in Adelaide who allows the agreements to run over their renewal clause, which practice leaves the tenants with no bargaining power at all. So I am appreciative of the fact that there are some moves being made in this area and that this Bill helps to redress that situation. I hope that at some time in the future, if we cannot get an amendment to the Bill, then at least we can inform the people of the risks involved if they do not take out a registered agreement. I think it is important that people understand fully what their rights and obligations are and what risks they run if they do not get that agreement so registered, so that in the event of a death or sale of property they themselves, their family and livelihood can be protected.

That was the sole contribution I wanted to make tonight on this subject. There is always this check and balance system that we must have. We cannot apply restrictions that are going to reduce people's incentive to invest, but on the other hand we cannot allow gross excess use of power to the detriment of the people, the lifeblood of this State. I believe that the Bill reaches that sort of balance, and I hope that it will help to assist in many, many cases. However, I will say that I do not want to see the situation which arose originally after residential tenancies, when I was in Canberra in 1972, where the distribution of power changed quite considerably. In the Canberra situation, when there was a very large amount of rental accommodation, a price was put on all rental accommodation and no increase was allowed. A large number of the units were converted to strata title. Very few residential properties were available, and the price of land skyrocketed. A whole set of circumstances had a reverberating effect which affected the industry.

The same situation occurred with residential tenancies in this State. Initially, when that legislation was introduced, people got out of the industry very quickly. There were some massive escalations in prices of the rental commodity, and that is a very serious question and something that the person who put forward the Residential Tenancies Bill did not perceive when so doing, but there was an effect and we are now facing the long term impact of that. I believe that the market forces would have given a lower market rent than we are facing today if we had sorted out our priorities in the days when that was actually discussed. I support this measure. I think it is going to add a particular balance to negotiations in this area where I believe over the last 10 to 15 years things have got out of balance.

Mr. M.J. EVANS (Elizabeth): I rise this evening briefly to support this measure. I believe the honourable members who have spoken previously in this debate have covered the field very well, and in this context I would particularly like to congratulate the member for Hartley for his contribution, not only tonight, but of course over the past years when he has strongly suggested amendments to the law of this kind and has finally seen them come to fruition in this Government Bill.

The area of the administration and regulation of both residential and commercial tenancies has long been an interest of mine. In fact, I was one of the inaugural members of the Residential Tenancies Tribunal. Although one cannot directly compare the administration and regulation of residential tenancies with that which is proposed tonight in respect of commercial tenancies, I believe one can draw some parallels. In this case, of course it is not intended to enter overtly into the market related factors, which of course the Residential Tenancies Tribunal has to some extent done, although I believe beneficially for both landlords and tenants.

However, it is intended in the Commercial Tenancies Bill to lay down certain minimum standards which I believe are essential if the landlord and tenant are to be put on an equal footing.

Of course, a number of landlords, particularly those who are in the BOMA grouping and other similar professional groupings, have long had certain minimal ethical standards which they have required their members to undertake. That has been of some substantial benefit to the industry, but it cannot possibly have the same effect and impact as can legislation. I believe the legislation which we are considering this evening will suggest certain minimum ethical, administrative and legal standards which will require landlords to conduct themselves in a way which this Parliament and community would support. I believe the Bill quite properly leaves to landlords and tenants the right to negotiate those matters which are more properly the subject of market related negotiations, and the Bill does not seek to overtly intrude into those areas. However, it is most important that landlords and tenants are put on a more equal footing than they are at the moment.

In my previous capacity as Mayor of Elizabeth I had the opportunity to see some of the more unfortunate aspects of the landlord and tenant relationship when a major developer took over the Elizabeth City Centre shopping centre and proceeded to redevelop it. In the course of that redevelopment it was inevitable that certain small businesses would be forced out, relocated and rearranged and their tenancy agreements altered and varied as a result of that redevelopment. While that ultimately has beneficial effects for the community, it can indeed be very traumatic for the small businessmen concerned who have invested many years of their lives and many thousands of dollars in building up businesses, only to see come in overnight a national company which can, of course, afford to hire QCs to prepare massive legal documents consisting of many, many pages and many, many convoluted legal terms, which they have very little hope of understanding without very expensive professional advice.

Under the previous arrangements those changes could be forced on them with very little notice and with very little chance for them to have any recourse to the law. I believe in that situation to which I have referred, that of the Elizabeth City Centre, the developer exercised a good deal of good faith with respect to the tenants and of course ultimately good sense prevailed and those people were able to make the adjustments necessary to enable the redevelopment to take place. But that kind of episode in which many small businessmen were affected I think demonstrates the need for an adequate system of basic legislation to protect their fundamental rights in this matter. I believe this Bill does just that.

It is of course essential that we do not go too far into this area, and I believe my thinking on this subject has certainly evolved over the years in which I have been involved in it. Initially, I might have been inclined to reject any form of legislation which sought unduly to intrude into what is really a market related area, but I believe that when one sees the sort of things which can occur in extreme examples with landlords who are perhaps less sensitive of the needs of the community and the tenants than are those who are associated with the professional groupings, one realises that they can indeed exploit tenants unmercifully. The examples which I have seen over the past few years have convinced me of the need for this kind of legislation and I believe the basic standards which it sets up would be beneficial to both landlords and tenants.

Of course, Parliament can go only so far. There is a strong obligation on the small business community to seek help and assistance, both from legal practitioners in the field who are obviously able to make a significant contribution to understanding the complex leases with which they are faced these day, and also from the agencies which the State Government has established and which the Federal Government also maintains for their benefit. The Small Business Corporation in this State has a major impact on this area of legislation. It can of course substantially assist small business men and women in this State who require assistance in the establishment of their businesses and in the interpretation and understanding of the lease agreements which come before them.

Obviously, it is a foolish person who takes a 100 page lease from a national landlord and signs it in haste without fully consulting with others as to the impact of that lease. In some respects, they deserve the ultimate fate which will befall them. Quite obviously, small business people are mandated to take those steps in their own interest to protect their own position, and seek advice and assistance where it is available and required to ensure that they are not signing something which they will subsequently regret. So, I certainly support this legislation and, in the Committee stage, I will be raising two small matters to which I will briefly advert now.

The first relates to my concern for those agencies and groups in the community which perhaps are not trading for profit, but which represent service providers. In this instance, I example the case of the Para Districts Counselling Service in my own electorate which has a tenancy in a major shoppping centre in the electorate. It provides, free of charge and without obligation or negotiation, to men and women in the community counselling advice. Of course they would fall outside the definition of 'shop premises' or 'business premises' and we will get to that later in the debate, but I believe they are equally entitled to protection, and I would want to understand that they are able to obtain under this legislation, protection similar to that available to business premises.

I would also like to touch on the question of the rights of the Tribunal to vary parts of the Act without further notice to other parties. I am sure that we can amply cover that in later stages of the debate. With those comments, I would certainly be supporting this measure.

Mr OSWALD (Morphett): I support the Bill as it has come down from another place. Any reasonable and fair-minded legislator should support legislation to abolish undesirable practices associated with retail leases. Tonight the member for Bragg canvassed many areas of concern, but I would like to refer to three or four matters in particular, namely, goodwill, the payment of key money, non-returnable bonds, and the like.

As to goodwill, tenants in shopping centres are already paying a high rent which acknowledges the draw that that centre has for shoppers and acknowledges customer traffic passing the retailer's door. Rents have already been adjusted upwards to compensate for the privilege of having a shop in an area with heavy customer traffic, advertising campaigns, air-conditioning in summer, and all the fringe benefits that mean that people want to shop in that area. The rents have already been adjusted upwards. For a landlord to then come along and hit a tenant at the time of renewing his lease with a percentage of turnover in the form of goodwill, such increased turnover having been generated by that person's own diligence and business acumen, is downright immoral and should be stopped. I would have no compunction in supporting any move along that line.

The member for Bragg highlighted many concerns of retailers in regard to their tenancy agreements. How often have we found that documents to renew a lease are available too late and that when they are drawn up, they usually

favour the landlord? It is a frequent occurrence. How often, upon examining a lease, do we find that outgoings are not clearly spelt out and, if they have been, it has not been done to spread the outgoings fairly and equitably? I am sure that honourable members are aware of such examples. How often have small tenants found themselves locked into short leases under which they can and probably will be subjected to massive increases in rents? The landlord stands back and observes that there has been an increasing turnover, that the business has come good and, when the time then comes to renew that lease, suddenly the tenant is hit with a massive and unrealistic increase in rental. They have no option but to pay the massive increase or to close their doors.

The small man is sometimes faced with the option of having to close his doors, and that practice is to be condemned. We have all heard of tenants who have been given insufficient time to negotiate new terms from an expiry date and subsequently have lost their business or had to renew the lease at a massive penalty in increased rent. I am sure all honourable members have such cases on record. Clearly, something has to be done to help retailers, because there has been a strong feeling amongst retailers for some time that they have been ripped off by unscrupulous landlords. It is to the credit of the drafters of the Bill that they did address this subject, and I was pleased to see it happen.

The problem first started in some of the one-stop shopping centres and then, unfortunately, we have seen it spread to the strip shopping centres where some landlords had what was an unrealistic view of passing customer traffic. they were not providing advertising, atmosphere or anything like that, but they felt that, because landlords in shopping centres could impose these demands on tenants, they could do the same thing, and they proceeded to do so. However, it must be borne in mind that not all shopping centres are ripping off their tenants, as the Labor Party would have us believe. Unfortunately, most Government members are obsessed with the notion that, if one is a landlord, one automatically falls into the category of people despised by the Labor Party and is therefore automatically guilty of ripping off tenants. In fairness to the owners of shopping centres, I submit that not all shopping centres fall into this category.

For the information of the House, I refer to a circular put out to all tenants by the Unley Shopping Centre. Although it is not in my electorate, a copy of the circular has been passed to me. It is of interest to honourable members, I think, as it puts the position of those shopping centres that have not been guilty in their view of ripping off their customers. The circular, over the letterhead of the Unley Shopping Centre Pty Ltd, is headed 'Circular to all Tenants—Commercial Leasing Practices', and is signed by Mr L.G. Curtis, the Director of the centre, and states:

> The attached circular from Mr Kym Mayes the member for Unley has been drawn to our attention, and it is appropriate that comment be offered particularly in relation to our own centre. Leaving the commercial Tribunal for special comment, the following points are made regarding this company's practices:
>
> Rent is payable one month in advance.
>
> 'Key money' has never been charged and security bonds are not required.
>
> No provision is made in our lease for sharing of goodwill.
>
> We do require tenants to be open for normal trading hours which apply to their particular type of business. To do otherwise in a shopping centre would invariably be to the detriment of the centre as a whole, and this means the tenants as a group more so than the owners.
>
> Copies of stamped leases are always provided to tenants.
>
> Details of all rates, taxes and outgoings are provided annually to all tenants, together with details as to the method of calculation.
>
> Our leases provide adequate protection to the tenants as to conditions of premises.
>
> Whilst there are undoubtedly some cases of harsh treatment of tenants by landlords, the establishement of another Government body is not likely to be of much help. The principal effect will be to set up yet another taxpayer funded body to deal with a problem which does not exist in the vast majority of well conducted centres. The only lasting beneficiary will be the legal profession and the public servants staffing the tribunal.
>
> In relation to the proposed power of the Commercial Tribunal the following comments may be relevant:
>
> In every commercial lease that I have experienced there is provision for rent disputes to be settled by an independently appointed licensed valuer. This is surely more efficient and cost effective than a Tribunal, particularly when past experience with such bodies suggests that they are costly, time-consuming and often create as many disputes as they resolve. Anyone with experience of the present planning appeals machinery will testify to this.
>
> Where will the funds come from to establish the Tribunal and what is the estimated cost to conduct it? The answer will be, as usual, the taxpayer or the already over-burdened small business community.
>
> This proposed legislation is regrettably symptomatic of the Bannon Government's approach to the growth of Government expenditure and its supporting taxation base. It seems that a Government which is establishing history with its escalation and diversity of State charges has not learned that there is a limit to what people and in particular small business can afford.
>
> With respect, it is suggested that Mr Mayes could better help the retailer and small business proprietor by critically examining the plethora of red tape inflicted on them by Government, and by analysing how Government charges which gallop ahead of the inflation rate make business survival more and more difficult.
>
> We conclude with two particularly relevant examples—first, State land tax. In 1983-84 the charge for the Unley centre was $16 870. The assessment for the current year, which is payable mainly by the tenants, is $23 786, an increase of 41 per cent. Secondly, tenant electricity charges, which you will have noted have increased by an average of 40 per cent as from November of this year.

This Labor Government is fair dinkum about providing relief for the retailer (of course, in this case, the retailer is the small businessman) from his overheads, and I applaud the Government for this sentiment, which has been expressed in this Bill. But, what about the Government's addressing the other costs, which are also responsible for incurring expenses for small businesses? I refer to Government electricity charges which are being heaped on small businesses at the moment, the financial institutions duty—

The SPEAKER: Order! I think the honourable gentlemen is straying far from the Bill. I would ask him to confine his remarks to the Bill.

Mr OSWALD: With great respect, Sir, I am building up a scenario about which small businesses have cost structures inflicted on them. One of those cost structures is the imposition of harsh leases which the member for Hartley has said put 10 per cent on the cost of their businesses. I am not only pointing out, as did the representative of the Unley shopping centre, that the Government should be addressing the costs incurred by shopping centres but also asking the Government whether it can do something about reducing the massive increases in land tax, water rates, gas, sewerage, business trade registration fees, and the like.

We find that the costs in these areas have been increasing at a rate about three times that of inflation in his State, and the small businessman is finding it harder and harder to stay in business. The State needs a freeze on taxes and charges. The Leader of the Opposition—

The SPEAKER: Order! The honourable member has now strayed quite far enough from the Bill, and I ask him to come back to the point.

Mr OSWALD: Certainly, Sir, I will do that, because I would not like to stray from the point. The shopping centre people have made the point on my behalf. In conclusion, I am pleased that the tenants of small businesses are to receive some help from this Bill. Any help at all that will reduce their overheads is to be supported and applauded. However, I implore the Government to give immediate relief to small businesses in those other areas to which I have referred rather than make them wait till 30 November

when the Liberal Government comes into power in South Australia.

Mr FERGUSON (Henley Beach): It is with great pleasure that I support this Bill. I extend my congratulations to the member for Hartley for his persistence in seeing this matter through. The fact that we have now almost reached legislation on this matter is proof that the Government does work and that it is possible that, from the back bench, with enough persistence and courage legislation can eventuate. I congratulate the honourable member on his efforts in this matter.

However, in supporting the Bill, I consider that the Bill itself does not go far enough. We are establishing a principle which is a first in relation to the rest of Australia, regarding the establishment of a commercial tribunal to conciliate and arbitrate disputes. However, there are a couple of things that I would like to see extended, and, while I am in the Parliament, I intend to continue to try to extend the Bill. One of the problems—

Mr Ingerson interjecting:

Mr FERGUSON: I am glad that the member for Bragg interjects. I agree with his speech on this matter. I took the opportunity during the dinner adjournment to congratulate the honourable member on the speech that he made. I told him that I thought that he was on the wrong side of the House, because the sort of proposition that he was putting was a socialist proposition and would have done proud anybody on this side of the House. I will refer to that in due course.

The problem has already been referred to by the member for Bragg and the member for Morphett, and I am totally on their side. They are absolutely right. In fact, it is the only time that I have been in the House when we have all been on the same side. I have never had my views running concurrently with those of members opposite, so I must congratulate them on the propositions that they advanced. There is no need for the member for Ascot Park to be worried, because time will reveal exactly what I am about to say. The propositions that they expressed regarding the renewal of leases are unassailable, and that is the problem with this legislation. I am not critical of this legislation, because we are establishing a principle. But, I believe that these matters must be tackled in due course, because the renewal of the leases still gives the landlords too much power over those people who take leases from them; I will demonstrate that as time goes by.

The member for Bragg mentioned taxation, and I think that this was purely a political point. In the time that I have been the member for Henley Beach, I have been approached on numerous occasions about shop leases; I have had unending complaints regarding shop leases; and I have never had one businessman come to me and complain about taxation. In fact, regarding small businesses, the taxation system suits them. I do not have time in this debate to talk about the fringe benefits that are available to small business—

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

Mr FERGUSON: I accept what you are saying, Sir, and I thank you for guiding me on the right path. There would not be, in this House, a person who has not been approached from time to time about the unfair nature of commercial leases. We are all supporting this proposition, which is a rather unique position. Many people in the small business area in my electorate will be surprised to see those people who are opposed to the proposition. I have received, from the Small Business Corporation, advise that if rents exceed 8 per cent or 10 per cent as a maximum of the total turnover of a business those people ought not to be in business.

Unfortunately, the present situation without regulation would mean that more than half the small business people in my electorate ought not to be in business, and that is not their fault: it is the fault of the system. I hope that with the introduction of the Tribunal we will be able to right the wrong that has now been perpetuated out in the various electorates.

I have often heard from the Opposition praise of the entrepreneur, and to a certain extent I agree that entrepreneurs are necessary, in that they help our commercial life and therefore we should have them. There could not be any more entrepreneurial people than those who enter small business in my electorate. It is not unusual, (and I can refer to a case in this respect) for people to sell their house, leave themselves with no security and then invest or gamble with that amount of money, whatever it be (and we are talking about young people with $17 000 or $18 000, which is not a lot of capital), to take on the entrepreneurial area of small business.

I refer specifically to those people in the shops along the highways and byways, not the shopping centre leaseholders, although I want to do so provided that I have enough time. I refer to correspondence which I received yesterday; it is important that this be recorded so that in due course people outside this arena will understand why we are supporting this legislation. Addressed to me, the letter states:

> We have been placed in a situation where we could lose $17 000 which we obtained by the sale of our house to purchase our deli. Our deli has been made unsaleable because of our new landlord. He purchased the entire complex in November and evicted all the tenants (five families)—

there are also flats attached to this business—

> immediately with the intention of renovating all the flats and house. With these renovations our small backyard has been halved: we did not consent and we did not object, and our bedroom window is now our new neighbour's laundry's back door. Our landlord wants to work on our shop but we haven't agreed and our lease is protecting us. We don't have the money for such improvements and we want to stop him. At the moment our rent is $87 a week, and he told me he will double the rent. He has told us several different stories about what he wants to do, so we have no idea what he'll do. He told my husband there may not even be a flat for the shop. Our agent says our lease expires on 1 November, with a right to renew for three years with only CPI rises. Our landlord thinks otherwise. We want to sell but no-one will buy a shop with these problems to contend with.
>
> Our agent told us that Parliament is pushing for new legislation to protect people in this sort of predicament. He suggested you may pass this on to see if you could help; we would be willing to let you use us as an example. We cannot give you all the details but I'm sure you will get the general idea of what is going on. I am looking forward to hearing from you.

The proposition on which we all agree will hopefully protect that sort of entrepreneur—somebody who is prepared to sell their house and go into a business with no security. At the moment they are at the mercy of the landlord. By setting up the Small Business Advice Corporation, we have been able to provide these people with advice that they would not have received from previous Governments.

I have mentioned in previous speeches some of the unfair practices that are occurring within the small business area and the exploitation by landlords of these people who have no income other than that which they receive from counter sales in their small businesses. I have previously mentioned a chemist shop proprietor, for example, whose lease had expired, and where the landlord sought an increase in rent from $105 to $300. It is a pity that Opposition members who are interested in the chemist shop area are not now in the Chamber. The proposed new lease was to force the present owner to open seven days and seven nights a week. The chemist was unable to accept the terms of the new lease and was forced from that location to another.

There have also been many complaints in shopping centres where repair work is charged against the property holders.

I have had referred to me one instance where a proprietor was involved in an account which he said would cost him only $120 for the area in front of his shop, yet the account from the landlord was $200. The padding on maintenance costs is something that this new Bill will take into account and look after. I have been approached by a delicatessen owner who made arrangements to sell his business. The landlord took exception to the proposed new tenants and raised a series of objections to their taking the remainder of the lease. The objections were that parking was allowed for one car and the new owner had two, and that there were four people in the family whereas allegedly there was accommodation for three. When temporary arrangements had been made to overcome the landlord's objections to both the above mentioned problems, the landlord objected further by raising other faults with the proposed new tenants. Finally, the sale was cancelled because of the delay and legal complications.

In the past few weeks I have had complaints about which unfortunately I have been able to do nothing. The complaints referred to a group of owners in the Findon shopping centre within my electorate. Unfortunately, the lease, which I have had an opportunity to read, provides that the owners can increase the rents and renegotiate the lease every 12 months, which is something that I hope this new Bill will be able to remedy. Unfortunately, the leases were not very carefully looked at by the proprietors, and new owners have taken advantage of the terms of the lease and substantially increased the rents. I have received correspondence from one of these small business people, and I will quote the letter without naming the constituent. In part it says:

> Every two years we have had our rents increased, but this time it is going up from $7 965.96 per annum to $14 560, an enormous increase. On top of this we have the usual rates, electricity, etc.; also what is classed as outgoings for the shopping centre, which at this time is $168 per month and will increase with other rates from 11 December 1984. This shopping centre had declined over the past seven years, due partly to the advent of West Lakes complex and the extensions at Arndale.
>
> Due to this decline our takings have not changed in five years, but we have to face increases in everything else. This latest increase will mean having to let our part-time staff go and my husband and myself coping by ourselves. I do hope you are able to assist us in this matter. Yours sincerely.

I also received a visit from a small business person in the same complex and, because of adjustment in his rent for this year, the increase is from $6 700 per year to $13 200 per year. Perhaps the worst aspects of this example is that the owners intend to build an arcade of another 16 shops and will not guarantee the present tenants, the small business people, that there will not be a duplication. Unfortunately, the present lease gives them no protection.

Many of these problems have been duplicated elsewhere in the small business world, and the protections that this Bill will offer will go some of the way towards overcoming those problems. It is my view that there is insufficient protection in this field, but to my understanding this is the most forward legislation of its kind in Australia. Therefore, we must accept what is politically practical. Even with a lease which covers some of the contingencies to which I have already referred, I have seen developing within my electorate problems that need legislative activity. A fish shop proprietor, for example, had a lease for two years with a right of renewal for a further three years. At the end of the two year period, his present landlord demanded an increase of $25 per week, even though the tenant was protected by the clauses of his lease which stated that the rent could not increase except in accordance with the CPI.

The tenant referred this matter to his landbroker, who stated that there was no need for him to comply with this demand. His original rent was $70 a week, and it had now increased to $110 per week. The landlord threatened that he would not renew that contract at the end of the contract period unless the present tenant agreed to the weekly increase of $25, back dated to the day of demand. The landlord has further threatened that if the present tenant sells his business he will expect to receive from the goodwill of the business an equivalent amount of the increase demanded or will not allow his shop to be leased to the new purchaser.

This is where the member for Bragg and I have common ground. I was very pleased to hear him reading into *Hansard* the article to which he referred, and I could not agree with him more about that matter. My only regret is that the member for Bragg did not seek to amend the Bill. Having indicated his concern about the renewal of leases (and certainly I am concerned about this matter), I would have expected the honourable member to seek to further strengthen the Bill by way of amendment. I hope that as time goes by, once the establishment of this principle has been agreed to, that sort of proposition will see the light of day in this Parliament.

The new Bill, of course, provides for protection against some of the extortion to which I refer. I was approached by a gift shop proprietor who was recently asked to agree to a contract arising from a change of ownership of the property he was leasing. Originally, with the previous owner, he was on a week by week contract. He had entered the business by taking over an empty shop that the landlord had had great difficulty letting. Over a period of 12 months no wages were drawn from the takings of the business and all the profits were used to buy new stock and make the business more attractive.

After 12 months the business had attracted new customers from the surrounding areas, and it was about to produce a profit for the proprietor. The new lease as required by the new owner could be described as a standard lease that is usually signed by most of the small business people in a similar situation. It provided that insurance be taken out by the present proprietor to protect the shop in every possible way and also that repairs to the shop had to be undertaken by the present proprietor in the event of fire damage or damage from any other source.

In addition, there was a small increase in weekly rent. The unfairness of the new contract related to the fact that the shop was more than 50 years old, and under the terms of the contract the new owner, by demanding that the necessary repairs to the shop be undertaken could have taken all the profits away from the business. The proprietor decided to close the business and move on. It has been my great pleasure to see the introduction of this measure in the Parliament. I am happy that there is agreement on all sides, and I hope that most members in the Parliament will support the Bill.

Mr S.G. EVANS (Fisher): Those members who have been here for some time will recall that in the early 1970s, when we started to move for land zoning and thus make it difficult for people to build what they liked on any piece of land, I said then that we would end up with a scarcity of land in some areas for certain uses.

That has occurred in relation to land required for shopping facilities, in particular. Once a commodity becomes scarce there is an artificial increase in prices, and also people are given the opportunity to exploit not only small business but also the community itself. In other words, the owner of a business is used as a revenue raiser from the community. That is what has occurred in many cases. It would not be so bad if all the rentals were the same throughout the community so far as small business operators are concerned, because they would be competing on an equal footing, although the community would still be exploited.

The main reason for this Bill concerns the business person, and in the main this relates to small operators. Parliament set the scene for people to draw up what one might call undesirable leases, and now Parliament has to take some steps to try to correct some of the injustices that exist within the community. I refer to one or two of the practices which have annoyed me and to which other members may have also referred. I have never believed that a person's entrepreneurial skills should be used as a fund raiser for someone else. Some members would recall the article that I wrote about a monopolistic system being as bad as a communistic system in which I referred to a certain manufacturer of alcoholic beverages which used to sell the lease of a business on the basis of the quantity of alcohol sold.

If a person—the lessee—had sufficient entrepreneurial skill to increase the trade, that lessee was charged a higher rental for having sold more of the product. I believed that that was totally unjust. I acknowledge that this was known to the person involved upon signing the lease, but to me this practice involved making a profit not out of the commodity produced but out of the skills of the individual selling the product. People selling the product at wholesale prices should have known what was needed in order to show a profit. They owned the premises, and so they should have known how much they were worth and charged a rental that was fair. In such cases, if a rental was too high for someone to take on, that would be bad luck; it would have to be reduced, because of what the business was worth in the market place.

More recently shopping centres have been built where the individual operators have their cash registers hooked into a computer system. I know that operators sign contracts which state quite clearly that as turnover goes up an operator will be required to pay a higher rental for premises, but that is an undesirable practice also, because it is tapping the entrepreneurial skills of the individual concerned.

All of those matters are not really covered by the Bill but I raise them because I believe they are relevant. The Bill covers these matters in part but does not provide for their elimination altogether. The Parliament passed legislation in relation to land tax, and in the past few years both Governments that have been in office have left that in operation knowing that it is placing an unfair burden on certain sections of the community. If one owns a shop, the amount of land tax paid on it is very minute. Therefore, by owning one shop only and a residence, one pays land tax only on one piece of land. However, where a person owns a lot of property, for example, land that is available for farming (even though they may not be farming it), or commercial property, such as shops, that person must pay land tax in the highest category, which is very high. So, a stipulation is written into the lease of a person wanting to take over a shop providing that that person must pay all the land tax, Crown rates, water and sewerage rates, etc.

Automatically, that person is paying high land tax on a small piece of land, and a neighbour who might own only the one shop is paying very little land tax. So, that exorbitant land tax is a burden on the small operator who is trying to get established and does not own the shop and who is totally at the mercy of the lessor and the Government of the day.

Many small business operators have felt the land tax burden within the past 12 months. Unless we as a Parliament or the Government is prepared to tackle that matter, it will get worse. This Bill does not really stop exploitation of many people in the community and it is something we have to tackle quickly in fairness, in this case, to many small operators. I know of another practice that I think the Bill will stop, to some degree. I have just had a complaint (today) from a lessee who wishes to sell a lease to another operator. The lessor has asked for a copy of the lessee's income tax return for the past three years. That lessee wants to get out of the business; he does not want to be involved any more and is selling it to another person.

It is not the newly intended lessee who is asking for a copy of the taxation returns: it is the lessor. What have the lessee's profits over the past three years to do with the person who owns the shop? The lessor should know what the property is worth and should assess the new person coming in. He may want to make a judgment of his or her entrepreneurial expertise in business, and that may be a different argument. But the person who is trying to sell out should not have to produce his income tax returns for the past three years. It is totally unacceptable for a property owner to ask for that sort of detail.

We have all seen the injustice of clauses, for example, that provide for increases per year of a 10 per cent minimum, a rate based on the CPI figure, or the inflation rate, whichever is the highest. That is a disgraceful clause because, with a period of an inflation rate and a CPI rate of, say, 6 or 7 per cent running for a few years, and with the minimum increase as stated in the lease of 10 per cent, the increase is greater than that resulting from inflationary pressures. So, in real terms, one is paying a higher rate of rent each year.

If that happens for four or five years the figure could end up by being 15 to 20 per cent (if one compounds it) out of kilter with what would have been a fair rent if based only on the inflation rate or CPI figure, although I do not like the inflation rate being included either. I know that people going into business should understand and try to work it out for themselves, but if we suddenly went into a high inflation period and the CPI did not quite run up to it, one could also be in great difficulty. So, I detest those sorts of clauses, and I would warn anyone going into business to avoid signing such a lease, because they could be disadvantaged.

The main purpose of the Bill is to eliminate some other injustices. For example, three years ago I knew of some shops which I did not own but which certain people were operating. Suddenly, the whole block of shops was sold to a new owner, and the rents of all those shops increased automatically by 100 per cent. Three of the people concerned were struggling to make a go of it on the old rental. Those people had bought a business some time in the past, paid for the goodwill, operated it and made a meagre living, just scratching along. A new owner came along and increased the rent by 100 per cent, and they knew that they could not survive. Therefore, they put the business on the market and had to show returns for the past two or three years. They had no goodwill left: it was all gone because, if the new purchaser had any intelligence at all, he would not pay even a reasonable price that the business may have been worth before the rent increase which automatically killed the business. The goodwill had gone and that individual ended up with nothing.

Another sad aspect of this matter relates to recent transactions. I do not know whether other honourable members have had a similar experience, but I know of three people who were virtually forced to retire or who were sacked. They have some skills and some business intelligence and they are aged about 50 to 55 years. However, they were either given a golden handshake for their long service or some form of superannuation. It is impossible for them to get work in the community at that age unless they have exceptional contacts.

So, they plough their money into a business. Suddenly, someone comes along and says, 'You didn't read the lease very well; we're going to double your rents.' They have no goodwill, as I said, and all they have to survive on is virtually destroyed overnight. So, in bringing in this measure

the Government has improved the position for those people who have ended up in that category. I have no qualms about saying 'Congratulations' for bringing in this sort of provision. Both Parties have looked at it, although they did not know how to handle it, and both Parties knew that there would be complaints from some property owners.

I do not say that every person who owns a shopping centre or a shop has exploited the community or the business operator in question, because that is not the case. The vast majority have taken a responsible approach. As a Parliament, we do not want to say we believe that everyone who owns commercial premises and leases them out is working a racket, but we need to know whether any obligations that Parliament places on operators of those businesses or owners of land—obligations such as the payment of land tax, water and sewerage rates, and so on—are becoming so high that those owners have to charge high rates and feel obliged to insert certain clauses to protect themselves from actions that a Government may take. We really need also to be very conscious about that, because it would be unfair to say that a person who owns commercial premises should be able to gain from rental enough to pay at least the interest on capital invested and that if that is not possible there is no benefit in having a business rented out. We must at least allow for that.

I support the Bill, which I hope eliminates some injustices in our community. I trust that in future we will not go down the path of saying that all business owners have been fleeced and that all property owners have been 'baddies'. We should be conscious constantly that they need to get a reasonable return to pay for their investment. Sometimes such clauses are inserted because Governments take actions that cannot be foreseen, and because it is a protection.

Mr MAYES (Unley): I support the Bill, as former speakers have already done. This is a very important Labor Government initiative which will assist small business in South Australia. I also congratulate the member for Hartley for his work since April 1983 and before then. As backbenchers, we had discussions with the Minister prior to April 1983 about the need for this type of legislation in order to assist small business.

My father having been a small business man, I can say that there is no question but that one of the most crushing costs that small business encounters is the rent or lease payments that are made in order to occupy premises. In discussions that I have had with my local community, it has become apparent that rent is the major cost factor which they have encountered and which they must constantly worry about, because small business generally, to which I am referring, is in a situation where the proprietor has only one or two employees and possibly runs a family concern with members of his family working in the business. Therefore, there is more flexibility in his wage structure, whereas in his rental structure he is constantly indebted to the landlord and dependent on the landlord's goodwill. As a consequence, sometimes that does not exist and the retailer is forced into a hand-to-mouth survival situation. Therefore, this is an excellent piece of legislation.

I agree with comments made earlier that the Bill could have gone further and that there is a need to look at stronger legislation to provide greater protection for these small retailers. Opposition members constantly make the cry that small business is the backbone of Australia's economic recovery. True, small business employs 60 per cent of the work force in the private sector and is certainly an important area of the community. This Bill is an initiative of the Labor Government, not that of our friends opposite. We have initiated this. Over the past 18 months, I have sent out 3 000 letters to small business operators throughout the Unley district, and I have had much feedback in support of this legislation. Of course, it was not detailed feedback; it referred rather to the general thrust of the legislation.

Not only have I received feedback from retailers in the major shopping centres: I have received it from retailers on the shopping strips, and in this regard Unley has one of the best strip shopping areas in the Adelaide metropolitan area. Indeed, two defined areas offer large shopping facilities to commuters to the Unley District, and 60 per cent of the shoppers in the Unley Road area come from outside the district (that was the finding of a survey in 1978). The same applies to the King William Road strip, to which shoppers are attracted from outside the district. Many of these retailers have told me of their constant fear concerning the review of their lease and the renewal requirements of the lease. That applies not only to retailers in the shopping centres.

I have received a deputation from the Shopping Centres Operators Association, and members of that deputation have stressed that, in fact, it was the strip shopping areas that had problems and that they would tidy up their act. I hope that that is the case because, if that is to be the situation, it augurs well for the whole of the South Australian community. However, the litany of complaints has been constant, whether from the shopping centres or from retailers in the shopping strips. Earlier speakers have indicated some of the problems encountered by small retailers and small commercial operators, and those statements have been reinforced by information that I have received from my local retailers, who must bear the burden of repairs to buildings, of the costs of white ant repair, fumigation, water and sewerage rates, land tax and council rates, as well as having their rents fixed on the cost price index basis or on an even higher figure. Then there has also been what is the unfortunate practice of key money and goodwill on the sale of the property. All those methods of operation have occurred in my district and all have added an additional cost and additional stress to the small business operator. As the member for Henley Beach said, the payment of 10 per cent or more of annual turnover in rent will put a business and its proprietor under stress. From comments and information received from retailers in my district, I believe that many of them are paying more than that, and that such an impost is putting their businesses in jeopardy.

From past experience, we know how many small businesses have suffered and the number of bankruptcies that have occurred. Small business operators do not have time to enjoy the opportunity to improve their management skills. Many of them are intuitive business operators; consequently they must rely on their judgment and rule-of-thumb business methods. They do not have the luxury or the facilities to be able to take personnel courses or retail courses. They are mostly in their shops, retail outlets and commercial premises, operating for 16 hours a day in some cases. Those people are faced with these additional burdens on their small retail or commercial outlet, and they cannot survive. It has been brought home to me clearly that the major burden forced on these people has concerned their rent and their lease agreements. It is simple to develop the argument about who pays. If these people are exploited, the person who pays is the person who trades with the commercial operator and the cost is passed on to the consumer in the community. It shows up in a range of factors, including the cost of living, the whole cost structure of the community, and the purchasing power of the ordinary person who must purchase the necessities of life.

This important matter should be re-examined. It is a factor in this small exercise of introducing this Bill, because the Bill offers a pause, some constraint, and some protection to these small retailers. The cash flow is a critical factor in a small business and, in this respect, one of the large factors

in the cash flow is the payment of rent. If this Bill can offer an opportunity for a moratorium as part of the structure of negotiating a new lease, if it offers to exclude some of the malpractices in the community, it will offer some benefit and relief to the small commercial operator.

Within the Bill, a Commercial Tribunal is established. That Tribunal will, in fact, have powers to hear and determine any claim that arises under or in respect of a commercial tenancy agreement to which the part of the Act applies. So, under this Bill there will be established a Tribunal which will allow, with minimal cost, people to resolve disputes concerning commercial leases. In particular, clause 67 provides that other redresses are available for the ordinary commercial tenant. If a dispute arises from the negotiation of a lease, there is a procedure that will allow time.

I am concerned with a problem in an area concerning which matters are raised with me daily. Only today, another commercial tenant, a local retailer, came to me with a problem concerning virtually instant notice that had been given by the landlord. The retailer had a written lease agreement and had been 20 years in the shop. The ownership changed hands and, although the tenant was given a guarantee prior to the sale, the landlord has now decided to double the rent. If the tenant does not like it, he can leave. How often has this occurred in the industry? People are told that, if they do not like it, they can lump it. This case involves a small viable shop that offers a valuable service to the Goodwood community.

So the landlord has in fact forced this person to accept a sudden reduction in cash flow, or look for other premises. I believe that is very unfortunate. This clause will allow a breathing space. It will allow time in which that person will be able to negotiate with the landlord and in that period find some satisfactory arrangement suitable to both parties. If not, that at least gives the tenant breathing space to look for alternative premises.

Most of the points which have been canvassed tonight by my colleagues on this side of the House have, I think, raised the issues which have brought about the initiation of this legislation. I think it is important legislation. I hope (and I am sure) that we can keep it under review. I know that you, Mr Acting Speaker, will in your own area keep it under review, as will the member for Hartley. I am sure that, if we find faults in this legislation, we will bring it back before the Attorney for a further review so that we can improve the provisions and provide protection to those small tenants.

The end result of this excellent legislation will be an improvement to the whole of the community of South Australia, because it will assist in reducing costs to the consumer and it will provide a level of protection to those small retail operations, whether in commercial shopping centres or in strip developments. So, I wish to pass on my congratulations to the Minister for his effort in getting this legislation before the House and I am very pleased to be able to offer my support.

The Hon. JENNIFER ADAMSON (Coles): I am pleased to support the Bill. I also congratulate the member for Hartley on his initiative and persistence. It so happens that, had a Liberal Government been returned at the last State election, similar legislation would have been enacted in accordance with the policy that we enunciated for small business prior to the 1982 election. Nevertheless, it is the member for Hartley's initiative which has pushed the present Government into the development of this legislation, and he deserves and should receive the credit for that.

By way of comparison with other electorates, my own electorate contains relatively few commercial tenancies. It is predominantly a residential electorate. There is some light industry, and there are some small shopping centres, one particularly large one being the Target Shopping Centre at Newton. I have not had a great deal of representation on this matter, but the representation I have had caused me to recognise that grave injustices were occurring to people because of a distribution of power that was weighted quite disproportionately in favour of commercial landlords. In a free enterprise system there will always be arguments by some vigorous supporters of that system that market forces should be allowed to determine commercial matters. I do not subscribe wholeheartedly to that view because, as a Liberal, I believe that, where power is distributed unequally, then it is legitimate and right for the law to step in to provide a balance of power so that everyone involved in the scene has some established rights and can exercise those rights.

This is the case with the Commercial Tenancies Tribunal. The principal problems that were brought to my attention as a local member related to retail tenancies, although I feel just as strongly on behalf of other commercial tenancies, and they were all brought to me by migrant business people, men and women who believed that they were being treated unfairly, in fact on occasions very badly treated, by their landlords. There were a number of areas of concern. They related to lease documents under which the general conditions were almost totally in favour of the owner. I might add that the lease documents generally were not well understood by the tenants who embarked upon a business undertaking with considerable enthusiasm, but perhaps with not a great amount of caution. The outgoings in leases were not clearly spelt out and the proportioning thereof was not fair and equitable. Lease periods were sometimes (and still are) matters of contention, but the real areas where the shoe pinched, for my constituents at least, were in the three areas of rentals, renewals and assignment of leases.

I became quite angry at the injustice that was occurring in a case concerning the assignment of a lease under which the landlord was demanding for part of the goodwill some money. The money happened to be $5 000, which is, simply for an assignment of a lease, a pretty hefty sum for a couple who want to continue to operate a small delicatessen. There was just no way these people could have found that sum and yet without it there was equally no way they could operate the business in the way they wanted to. When it came to the renewal of the lease there was not sufficient time to negotiate new terms from the expiry date, and it caused tremendous worry and heartache to my constituents to have what I would describe as almost extortionate demands placed upon them, and eventually they had to get out.

Another problem I recall was the case of a tenant in a large shopping centre. That tenant was not located in my own electorate, but just some short way out of it. He had built up a shoe repair business which, as honourable members would understand, relies very much on repeat custom. He was located in a certain area in the shopping centre which was advantageous in so far as shoppers had to pass the shoe repair shop in order to get to the supermarket—an ideal position for any shop. The owners were expanding and remodelling the shopping centre. They wanted to relocate the shoe repair shop and put it at the end of an arcade some distance from the supermarket. They gave the tenant no option whatsoever. They simply said that was where he was going and if he did not like it he could get out. In my opinion that placed the tenant, who had spent some years building up his business to the point where its goodwill had some value, in a completely unequal commercial situation. In effect, his efforts had all been in vain in so far as the goodwill would have been of no value whatsoever had he wanted to sell his business. He faced every likelihood of his

business going downhill simply because it was relocated to an area that was quite out of the way of the shopping centre.

It is instances like those that aroused my concern and made me feel that there needed to be legislation to at least equalise the rights of both landlord and tenant in respect of commercial leases. I commend particularly clause 57, which in part provides:

57. (1) Subject to subsection (2), a landlord shall not require or receive from a tenant or prospective tenant any monetary consideration for or in relation to entering into, extending or renewing a commercial tenancy agreement other than rent and a security bond.

Of course, that proposed subsection does not apply to the carrying out of work on the premises before the tenant goes into occupancy, the amount required or received for a right or option to enter into the agreement, or the amount payable to a legal practitioner, but that provision is going to give heart to a great many commercial tenants, and it would certainly rule out any future opportunity for what I describe as extortion.

Having referred to extortion by landlords, I reinforce the remarks of my colleagues and indeed members on both sides of the House in saying that, as in most instances where there is unacceptable conduct, either commercial or personal, on the part of any person, these exceptions to the rule (and they are exceptions—in the main, commercial tenancies are agreed upon and conducted quite equitably and fairly) are relatively widespread and have thus built up the pressure that leads to this legislation. I support the Bill and hope that the operation of the legislation will be carefully monitored to ensure that difficulties which should occur, as indeed they occurred following the enactment of the residential tenancies legislation, as a result of this legislation are quickly identified and remedied.

Mr KLUNDER (Newland): I shall be brief, because I believe that most of the things that needed to be said in this debate have already been said, and I cannot think of a reasonable excuse for wasting the time of the House. Like the member for Hartley and others, I have for some time been aware of the area of difficulty in leases for small businesses and, indeed, like most other members I have assisted small businesses whenever necessary in their problems with landlords. In that rather piecemeal way I have tried to strengthen the hand of small business *vis-a-vis* the large landlords who have been imposing upon them.

I remember that I had only a moderate degree of success. In many cases the inequality between the landlord and the shopkeeper was so great that I was hard put merely to prevent what looked like almost straight out extortion. However, when the member for Hartley introduced into this House in April 1983 a private member's Bill on this matter, I was astonished at both the amount and degree of feeling exhibited by the small business people who came to see me. They showed me lease agreements that varied between 30 and 100 pages in length. They appeared to be very little more than a compilation of the most Draconian clauses that could be found in a wide variety of contracts over a long period of time.

From reading those contracts and their descriptions, I was even more astonished at the degree of ingenuity and range in variety of methods by which the large landlords especially were able to separate the shop keeper from his hard earned profits. There were cyclical goodwill imposts, advertising and cleaning costs, turnover charges progressively tailored to the degree of profit, key money and security bond irregularities to name but a few of the things that I saw.

This Bill will set the parameters that will curb many of the excesses that are currently occurring and provide for a tribunal to act as an umpire in cases of dispute. That will go a long way towards giving the underdog, namely, the small shopkeeper, some parity of bargaining power in what has hitherto been a very unequal contest. I acknowledge that many landlords seek only to make a reasonable profit on their investment, and I do not believe that this Bill will impact on their relationship with their tenants.

I do not believe that this Bill, when enacted, will automatically stop all the abuses that currently occur. Nor can I delude myself that attempts will not be made to evade the spirit of the Bill. Like the member for Hartley and other members on the Government side, I will keep a watchful eye on this area for possible abuses. I believe that the small business community has reason to be pleased that the member for Hartley has introduced into the House the ideas which have become the substance of this Labor Government Bill, and I wholeheartedly support it.

Mr HAMILTON (Albert Park): It is not my intention tonight to go over all the ground that my colleagues have canvassed during this debate. However, it is interesting, when one reads the Governor's Speech to the Parliament in 1983, to take note of the Government's stated intention to assist small business people in South Australia. Quite clearly with this Bill the Government has honoured that undertaking.

I also congratulate the member for Hartley, as indeed many other members on both sides of the House in this debate tonight have congratulated him, for not only his initiative but also the long years of tireless work that he has put into this proposal and for the fact that the Government has picked up the Bill as a piece of Government legislation and introduced it into this Parliament.

No question exists from my trips around my electorate and from talking to over 300 small business people in my area that they are very happy with what the Government is doing. I refer to some of the statements made from the Opposition benches tonight, in particular by the member for Coles (and I will research this later), when she said in part that it was the intention of the previous Government to introduce such legislation. If I were a cynic, I would suggest that that is a Johnny come lately proposal. The former Government had the opportunity to introduce this type of legislation but chose not to do so. So, one would question the sincerity of the Opposition.

It was pointed out here this evening that the present Opposition was torn between big business and little business in the South Australian community. I know from experience in my electorate, and from talking to small business people, of the problems that they have experienced. Only the other day a small business person came into my office expressing not only concern but also deep agitation as to where he may go because of the proposed new lease for his business location. I have mentioned my concern within the Government about the intention of some business proprietors to squeeze out the small business sector from large shopping complexes. If one were to listen to these small business people, one would understand their concern about being squeezed out by big multi-national chains in the shopping complexes in South Australia.

The Liberal Party was cognisant of that and was torn between the small and big business sectors. I will read into *Hansard* a letter sent to one of the small business people in the electorate of Albert Park. The letter is dated 8 February 1985. I will not mention the name of the firm involved, but the letter is here for any Opposition member to read should they so wish, provided that my constituent agrees. The letter states:

Dear Sir,

In order to assist you in planning your future ocupancy of these premises, we are prepared to offer you a new lease on the terms and conditions contained herein. You will notice that we have fixed the annual base rent for the first three years of the lease term and have also included a percentage rent factor that will assist you to budget for sales increases and at the same time retain a reasonable rent percentage to sales.

It names the number of the store and the area to be rented. The base rate is rather interesting: year 1, $17 000, an increase of 'a meagre' 46 per cent; year 2, $18 400, once again 'a meagre' 58 per cent; year 3, $20 000, once again 'a meagre' 72 per cent—an horrendous increase by anyone's standards.

This business person came to me wanting to know what I could do to assist. I offered him advice as to the areas in which he could go to seek that assistance. However, I did not hold out a great deal of hope for him to be able to achieve that because of the complex in which his business was located. This person told me that he would be better off to seek (and I understand he intends to do so) premises within the city where he could carry on his business. He has also indicated to me that the attitude of one of the members of management was such that it left no doubt in his mind that they wanted him out of that location to enable them to install, as he stated, someone from a large business chain.

The introduction of this Bill by the Government will hopefully reduce many of the problems that small business people in the South Australian community are currently experiencing. As we all know, small business is the largest employer in this country. It is interesting to see the response that I know you, Sir, receive and that many of us on this side receive; we have made it our business to go around individually and speak to small business people to ascertain what their problems are or were in the past.

I can recall speaking to a small business woman on Port Road some four years ago, when she informed me of the problems that she had experienced in a large shopping centre in the north-eastern suburbs. This woman pointed out that she welcomed legislation such as has been introduced. I said that I would take up this matter with my colleagues, which I did and, on the introduction of the private members' Bill by the member for Hartley, I went around and saw her the very next day. She had on her desk that information readily available to me, and I gave it to the member for Hartley. This lady was delighted that the Labor Government, of which she was not a supporter at the time, had taken this initiative. She has indicated to me that in future she will support the initiative, this Bill, and the Labor Government for what it is seen to be doing to assist small business people.

Mr Groom: That's common sense.

Mr HAMILTON: Indeed, as the member for Hartley says, it is common sense. The member for Hartley has spoken about the Bill that was passed in the Queensland Parliament. As he correctly pointed out, that Bill had very little teeth. I commend the Bill to the House and wish it a very speedy passage.

The Hon. G.J. CRAFTER (Minister of Community Welfare): I thank all members who have contributed to this now rather lengthy debate for their indications of support for this important measure. I am sure that those members who have spoken are acutely aware of the need for legislation of this type and hopefully the remedies that will flow from it. Indeed, the Bill will hopefully strengthen those business communities that are predominated by small traders who lease their premises. I want to add a few comments of my own to this measure in which I have had an interest for a long period of time and on which I have collected a good deal of information over the years. I passed that information on to my colleague the member for Hartley when he returned to this House at the last election.

I spoke on the policies and the lack of activity of the previous Government in this place back in 1981, and in that speech on commercial tenancies I expressed my bitter disappointment that the Tonkin Government had chosen not to act in this area. A very disappointing report indeed was prepared by a group of public servants who obviously had very strict limitations on what they were asked to examine. That committee did not have on it representatives from the community, and I think that that was the great weakness of that working party report.

I would have thought that small business men and representatives of the landlords as well as organisations such as the Mixed Business Association should have been on that committee. The Government chose not to do that but indeed to shelve that report and the limited recommendations that it made. I can confirm that that was indeed the Government's position.

The present Leader of the Opposition and then member for Rocky River, prior to his becoming a Minister, spoke on the then Government's policies on small business, and in that lengthy Address in Reply debate speech chose not to refer at all to commercial tenancies. I can clearly recall that speech that he gave and the concerns that I expressed at that time. The lack of protection that was given by the previous Government to small business was referred to in my speech in a whole range of areas, particularly that with respect to the planning laws of this State and the indiscriminate development of very large shopping centres. I also referred to shop trading hours, particularly relating to after hours trading by small stores sponsored by multi-national companies, for example the BP food plus, 11/7-type stores; *Hansard* records that debate.

Many honourable members and I have over a long period, both in this place and in the community, argued for legislation of this type, and that is obvious from what we have heard in the debate. Following consultation with all aspects of this industry, there is now a good deal of consensus with respect to the need for this legislation. Queensland is the only other State that has so far embraced this issue, and I must say it is my view that probably that State's legislation is stronger in a number of respects than this is.

The member for Mitcham said that the policy of the previous Government, and indeed the Opposition, was to deal with this matter by a voluntary agreement by reaching some consensus with the industry. That is the first I have heard that there was an agreement with the industry, and I have never seen it. I do not know who knew about it, who negotiated it, or with whom. I can only say that it obviously broke down because there was, and still is, a great deal of hardship being caused by the lack of intervention by an objective authority to remedy some of the great deficiencies in commercial tenancy agreements.

The member for Mitcham, and indeed a number of other members opposite, referred to areas in this legislation that could be strengthened, and I think there will be a great deal of interest in this legislation and how it pans out in the months ahead. Members opposite should not lose the enthusiasm they have for strengthening this law, and I hope that if further strengthening of the legislation is required in future it will receive their support. This is a very healthy start to this enormous area of the law of commercial activity in our community.

Some comment was made by, I think, the member for Morphett about the cost of this measure, and I should briefly refer to some of the hidden costs associated with bankruptcy among small businesses and some of the hardship that befalls particularly family businesses where those businesses come to an abrupt halt as a result of the termination

of a tenancy agreement, where goodwill is lost and an enormous amount of hard work in building up a business goes out the window. There are also costs to the owners of these premises.

There are unpaid debts and gaps in the tenancies which result in losses to the proprietors of such premises. There are legal costs associated with trying to recover bad debts, drawing up new leases, and the like. There is costly disputation with respect to renewal of leases or interpretation of clauses, increasing rents, and the like. This can involve expensive legal costs, sometimes court proceedings, and costs that flow not only to the parties but to the State as well. Further, there is community disruption, costs to consumers and to service providers associated with those businesses, to suppliers, and the like. Those costs are passed on to the community as a whole, and there is disruption to the delivery of often important services in local communities.

There is the effect on families of the proprietors of those small businesses. It can affect marriages, home life, and the health and welfare of people. We probably all know of such instances occurring, and it is often sad when they do occur. There are also social security and other costs associated with people finding themselves out of work and not possessing the skills or the finance which would enable them to continue the profession in which they have been engaged.

Probably most importantly, the fabric of local communities is affected. Every community relies upon the small business sector, not only in the delivery of those services but in the way that those people in the main support a whole range of allied activities, whether it is in associations of local business people or sporting, charitable, welfare, cultural and other such groups. Citizens look to local business people to become involved and help support them financially, morally or in some other way, and when small business breaks down the community is the worse for it. These costs are substantial, and I hope that this legislation will go a long way towards reducing many of them.

The questions asked by a number of members were rhetorical in nature. I think the member for Elizabeth referred to two matters which concerned him: one was the definition of 'business premises', and he referred to a welfare organisation in his district that occupies premises which would otherwise be commercial premises and asked whether that organisation could benefit under this legislation. The interpretation I have, which would be subject to further inquiry, is that that organisation and like organisations would benefit under this legislation. Perhaps that is an area that will have to be monitored as time goes on to see whether those non-trading or non-commercial organisations which rent perhaps one shop in a shopping centre or in a similar situation should benefit in the same way as business organisations.

The other matter to which the honourable member referred is the interpretation of new section 73 and the application of exemptions by the Tribunal in terms of whether the other party would be notified of that application for an exemption and then of the decision. Obviously, natural justice would apply in those circumstances; the parties would be given notice of such an application and an opportunity afforded them to place submissions before the Tribunal and, of course, they would be notified of the resultant decision of the Tribunal in relation to that exemption. I trust that that answers the questions of the honourable member relating to certain details in the Bill. If I have overlooked other matters on which members seek more information, I will attempt to answer them in Committee.

Bill read a second time.

In Committee.

Clauses 1 to 7 passed.

Clause 8—'Insertion of new Part IV.'

Mr M.J. EVANS: I thank the Minister for his response to the questions I asked during the second reading debate. I am quite satisfied with his reply in relation to new section 73, but I would like to further emphasise the point in relation to agencies such as the Para Districts Counselling Services, and I use that as an example not because of special pleading on their behalf but because I know of their situation in a major shopping centre in my own electorate. I appreciate that they might reasonably be excluded from the Bill at this stage because they are not a trading enterprise and therefore not subject to some concerns of rental in respect of business undertakings, goodwill, and the like; obviously a business will not be sold, and therefore most of the provisions of this Bill do not apply. However, I would appreciate a specific undertaking from the Minister that, if in future evidence comes forward that such organisations find their position under threat in relation to unacceptable leases and tenancies, the Government will consider widening the definition of 'shop premises' to include those non-commercial undertakings such as the Customs Centre, concerning whose position I know the Minister is well aware and sympathetic.

The Hon. G.J. CRAFTER: I can give the honourable member that undertaking: the Government would look at the situation sympathetically if circumstances were revealed indicating that such organisations were facing difficulties and could otherwise gain some relief. I do not think there is evidence of that available to the Government at this stage, and certainly we hope that that will not occur. However, if it does, obviously, we would want to look at that matter very seriously.

Mr INGERSON: In the proposed new section 55 (1) *(d)* reference is made to renewal of a commercial tenancy agreement. During the second reading debate tonight the renewal stage was not covered, yet here it is clearly referred to. Can the Minister explain what that means? Does it cover the renewal stage?

The Hon. G.J. CRAFTER: Yes, I understand that the renewal is not exempted. I think that was the proposal that was put forward in the other place, but it was not agreed to. Therefore, the renewal of a lease would be subject to law just as a head lease is.

Mr INGERSON: In relation to proposed new section 55 (2) *(d)*, which refers to a tenancy arising under a prescribed agreement or an agreement of a prescribed class, can the Minister explain what that means? Also, the following paragraph *(e)* refers to class as well. Can the Minister explain that?

The Hon. G.J. CRAFTER: It appears that submissions were received suggesting that provision ought to be made in the Bill for exemption of a certain class of commercial tenancy that may need to be excluded. This may relate to a massive agreement of a certain nature requiring completely different treatment. My colleague points out that the petrol resellers might come into a category of that nature, which could perhaps be dealt with by Commonwealth and State legislation, or the like. So, that provision gives the flexibility to exempt such a class from this legislation at some time in the future.

Mr INGERSON: Reference is made in proposed new section 51 (5) to the prescribed amount, meaning $5 000. How does that amount relate to the $60 000 which is virtually the guideline referred to in introducing this Bill?

The Hon. G.J. CRAFTER: The amount of $5 000 refers to the actual monetary claim that is in dispute and before the Tribunal. The $60 000 refers to the limit of the jurisdiction. That is the annual amount which is caught under a lease. If a claim is in excess of $5 000, it is dealt with in the civil jurisdiction of the court.

The CHAIRMAN: Order! The honourable member may not speak more than three times to a clause.

Clause passed.
Remaining clauses (9 to 12) and title passed.
Bill read a third time and passed.

REAL PROPERTY ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 20 February. Page 2704.)

The Hon. H. ALLISON (Mount Gambier): This Bill seeks to do two things. First, it permits the Registrar-General of Deeds to vary the order of priority between two or more registered mortgages or encumbrances and, secondly, it provides for the deposit with the Registrar-General of a document containing terms and conditions for incorporation as standard terms and conditions in mortgages, without the necessity of the mortgaging organisations having to submit a complete mortgage in every case. Those standard terms and conditions would be lodged for registration by a mortgagee.

The present provisions in the Real Property Act do not enable any variation in the order of priority of registered mortgages or encumbrances other than by first of all having to discharge the mortgages and then having to reregister new mortgages in the order of priority required. If, for example, a property owner who wishes to borrow on a property already has a first mortgage with a bank and the finance company from which he subsequently wishes to borrow a greater sum of money wishes to have a first mortgage over the property, it would be necessary for that person to discharge his existing first mortgage with the bank and then take out a new first and second mortgage with the original first mortgage from the bank becoming the new second mortgage. Of course, there would be concomitant charges for the discharge, the drawing up of new documents and then the reregistration and stamp duty. So, the provisions in this Bill could represent quite a considerable saving in that such changes in priority can be implemented by notations made by the Registrar-General on the certificate of title and all existing documents.

The second provision, under which the Registrar-General receives a standard mortgage with terms and conditions which apply to all of the mortgages that may be registered with him by, say, a bank or a finance company, means that possibly there may be some saving to the mortgagee, although I think it is highly unlikely that there would be a substantial reduction in fees and charges simply because two or three pages were omitted from a transaction and registered as a standard document with the Registrar-General. It is more likely that there would be some considerable saving in the longer term on storage accommodation both in relation to the Registrar-General of Deeds and the files of banks and financial organisations.

I am sure that honourable members would be familiar with the standard mortgage forms which used to be on four pages of fairly stiff foolscap paper and which folded over in the standard form to give the short title on one side. This formed quite a substantial and thick document to be kept on file. These provisions will result in hundreds and literally thousands of documents over the course of time no longer having to be lodged in various files across the business centres of South Australia. Obviously, that will mean that less Compactus space will be required in the various repositories. In another place the shadow Attorney-General addressed himself to a number of questions, but I do not propose to put them to the Minister here in this House tonight.

The main thrust of those questions was to elicit information from the Minister who, in the main, was responsible for a number of difficulties which may arise as a result of the enactment of this legislation. It would be fair to comment that in general the mortgagees are reasonably worldly wise and knowledgeable: they are very much *au fait* with what happens in the financial world. This legislation puts upon the mortgagees the responsibility generally of ascertaining that if there is any change in priority, or a number of problems arise, the solution lies in their hands. They have to estabish whether or not they will be advantaged or disadvantaged by any changes in priority.

An amendment was arrived at in another place whereby not only the mortgagee but the mortgagor had to be a party and signatory to any changes in priority. It is appropriate that the mortgagor should be fully cognisant of any changes which may occur in any of the documents to which he may have been a prime signatory. There is also the provision that before a mortgagee signs a mortgage he must be given a copy of the full mortgage—that is, the part that is already lodged with the Registrar-General as part of a standard mortgage document. In the original Bill that came before the Upper House there was some omission in that area. It is appropriate that the mortgagee should have at least the opportunity to peruse the full document.

I recall that when I spent some five years in real estate it was the standard practice to read out in its entirety the agreement for sale and purchase and the mortgage in the presence of the purchasers or signatories to a mortgage (all of them) and to make sure that all the clauses and conditions had been properly heard and understood. I am not sure what happens in contemporary business circles: maybe that practice has declined. We support the legislation, without amendment, and I commend the Bill to the House.

The Hon. G.J. CRAFTER (Minister of Community Welfare): I thank the member for Mount Gambier for his indication of support of this measure on behalf of the Opposition. As he explained to the House, it amends the Real Property Act in two ways. The first is to provide a system of postponement of mortgages which brings the South Australian legislation into line with that which exists in the Australian Capital Territory, New South Wales, Tasmania and Victoria, as well as in New Zealand, where there is a simple procedure to vary the priority existing between mortgages by the lodgement of a memorandum of variation of priority of mortgages signed by all parties who will be affected by the change. In some States the procedure is also used for varying the priority of encumbrances. Secondly, this Bill will provide that a mortgage document providing standard conditions can be lodged with the Registrar-General with, of course, safeguard for the consumer. Also, provision is made requiring the mortgagor to be furnished with a copy of the standard terms and conditions to be incorporated in that mortgage.

As the honourable member has pointed out, quite serious obligations are placed upon a signatory, that of the Commissioner in mortgage agreements, when they are executed, to explain the conditions of the mortgage. A recent Supreme Court case in this State I understand outlined those obligations that rest on that Commissioner who is a witness to the execution of such a document. This will provide a much simpler method of storing such information and documents, their handling, and their preparation. Hopefully, that will also be passed on to the consumer. So, in this way the citizens of this State will be thus advantaged.

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

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

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

Motion carried.

CONSENT TO MEDICAL AND DENTAL PROCEDURES BILL

Adjourned debate on second reading.

(Continued from 21 February. Page 2770.)

The Hon. JENNIFER ADAMSON (Coles): The Opposition has very grave reservations about this Bill, in particular with respect to clause 5, which relates to consent in relation to procedures carried out on minors. However, before addressing myself to that aspect of the Bill I want to make general reference to the Minister's second reading explanation, which commences by claiming that the purpose of the Bill is to clarify the law in relation to consent to medical and dental procedures. That seems to be something of a catch cry with the Labor Party, whose members cannot accept that common law applies and is a protection for people in any given area.

I recall the debate on the Natural Death Bill—another piece of legislation that allegedly clarified the law. In effect, it did no more than codify existing common law and in that regard was considered by many people to be redundant, because we have a body of common law. If we were to try to enact it all in the Statutes we would spend out lives here: the sittings of Parliament would be going 365 days a year and we would never catch up. In the opinion of the Opposition, and of many members of the medical profession, this is simply a codification of common law and in that respect, it is not a necessary or, in many respects, an ideal piece of legislation.

The Minister's second reading explanation makes very many statements which appear to be plausible but which, in fact, are quite specious, in my opinion. The Minister says that this Bill represents a large step forward in the area of consent and that it aims to clarify an existing common law, particularly in relation to minors. He further states:

The Bill is not controversial in nature.

That is simply not so. Many members on this side of the House have had a number of letters from people who are very troubled indeed about the Bill. In fact, I think that, if the majority of parents in South Australia knew that legislation had been introduced by this Government in order to enable their children under 16 years of age to seek medical and dental treatment without reference to their parents, they would be very worried indeed. It is deeply regrettable that there has been little or no media debate about this issue. Had there been, there would have been a great deal more concern and controversy than there has been. As it is, there have been petitions to the House and calls and letters to members, at least on this side of the House. I would be surprised if Labor members had not received at least some representations from anxious constituents. The Minister's second reading explanation states:

The Bill provides a firm basis upon which a good doctor/patient relationship can be established.

I would regard that as a somewhat arrogant statement. I cannot see any way in which the doctor-patient relationship is enhanced by this Bill. In fact, I suggest that the doctor-patient relationship in respect of minors and their parents (in other words, the doctor-family relationship) could be severely damaged by the Bill. Far from being improved, I think that the doctor-patient relationship, especially in relation to children, is dealt a severe blow by the Bill.

The legislation allegedly clarifies the common law. In effect, the issues at the heart of the legislation are not so much consent, as the Minister says in his second reading explanation, but are essentially issues of professional competence in respect of doctors and dentists administering treatment on the one hand and, on the other, the role, the rights and responsibilities of families, particularly parents. It is the second issue that I wish to address in some detail but, before doing so, I shall refer to the working party's report upon which this legislation is based. Possibly in his second reading reply in another place, the Minister said that he regarded the report of the working party as being the most comprehensive study ever undertaken in Australia on the issue of consent. If that is the case, it can only, in my belief, reflect on the paucity of work that has been done in this area, and it is likely that there has been a paucity of work done. One has only to look at the terms of reference of the working party to realise that its scope was narrow indeed. The introduction to the report states:

In February 1983, the Minister of Health established a working party to look at the practical clinical issues and legal problems associated with consent to treatment.

In other words, the working party's examination was confined to clinical issues and legal problems. There is no mention of the social and moral problems that relate to treatment of minors without the consent of their parents. Yet one of the most substantial clauses in the Bill (in fact, the substantive clause, clause 5) relates to the treatment of minors under the age of 16 by doctors and dentists without the knowledge and consent of parents.

When the Minister established the working party, he appointed five legal and medical officers of the Health Commission to it. They happened to be officers whom I know and for whom I have a high regard. However, those officers, in researching the situation, took no evidence, or none that is identified, from any parents or churches or from the wider community—nothing whatsoever. As if that were not narrow enough, the Minister has introduced a Bill based on the recommendations of the working party, which Bill he refuses to refer to a Select Committee. It is no light thing to alter the legal and moral concept that has applied for generations, in fact from time immemorial: namely, that parents are responsible for their children until they become legally of age. That is what this Bill does, and the Minister of Health in another place has flatly refused to refer the legislation to a Select Committee to enable parents, churches and the community generally to express an opinion on this radical and, I maintain, contentious alteration to the law.

The recommendations of the working party are wide ranging and, in so far as they relate to the general area of consent (excluding the area of minors), I support them. For example, recommendation 1 *(a)*, states that the attending medical practitioner be the person solely responsible for explaining all aspects of the proposed procedure and obtaining informed consent for that procedure. That is common sense and should be supported. Recommendation 1(b) states that consent forms presently used by hospitals be replaced by new consent forms which are clearly worded to ensure that the patient understands the full import of informed consent to treatment, provide a section for the attending medical practitioner to indicate that he has informed the patient of the nature and consequences of the proposed procedure and that, in his opinion, the patient has given informed consent to the procedure, allow for the separate endorsement by an anaesthetist if an anaesthetic is used, and are specific. The recommendations continue to deal with the range of consent forms, with the situation where the primary language is not English, and to deal with minors and third party consent. Further on, the recommendations deal with the consent where it relates to intellectually incompetent persons. That is the subject of another piece of legislation that has been referred to a Select Committee.

The reality is that, although the working party has done valuable work in relation to the technicalities of this matter, it has not examined, nor was it indeed empowered to examine, the philosophical basis of what the Government is doing. That is the job of this Parliament and I believe that Parliament has been denied the opportunity that it should have been given, through a Select Committee, to seek the views of the wider community. Certainly, no harm could have come from such a course of action and, in my opinion, much good would have come from it.

Returning to the issues that are at the heart of the Bill, one such issue is that of professional competence, which is very much wrapped up with the subject of consent, notably informed consent. Clause 3 provides that 'dentist' means a person who is registered on the general register or specialist register under the Dentists Act, 1984. It also provides that 'medical practitioner' means a person who is registered on the general register under the Medical Practitioners Act. Both those pieces of legislation have been framed with great care by this Parliament in order to ensure that doctors and dentists are highly qualified and are competent. One has only to look at the long title of the Acts to which reference is made to understand that the issue of competence and the related issue of informed consent are, in fact, satisfactorily dealt with by the general Acts which register the practitioners.

The Dentists Act provides for the registration of dentists, clinical dental technicians and dental hygienists to regulate the practice of dentistry for the purpose of maintaining high standards of competence and conduct by persons registered under this Act. When we talk about consent, we are very much talking about the standard of competence and conduct, a term that implies ethical as well as clinical conduct by the persons who are registered. The Medical Practitioners Act similarly provides that it is an Act to provide for the registration of medical practitioners, to regulate the practice of medicine for the purpose of maintaining a high standard of competence and conduct by medical practitioners in South Australia.

So, the suggestion that somehow or other dental and medical practitioners will fail in their duty to obtain informed consent implies a deficiency in the operation of both the Medical Practitioners Act and the Dentists Act. I am sure that the Minister of Health would resent that if such an aspersion was cast, yet in effect he is implying such criticism by enacting this very legislation.

The other issue which is at the heart of the Bill deals with the role, rights and responsibilities of families and parents in particular. I want to deal in some detail with that aspect. The family is the basic building block of a strong free society. I refer to the publication 'Vital Speeches of the Day' of 1 January 1984. In an article by John Howard, President of the Rockford Institute, entitled 'The Family', the author gives what I believe is a very accurate and sensitive summary of the role of the family. He states:

> The loving family is the support and refuge for the individual and it is the only truly effective training centre for the responsible citizen.

He goes on to say:

> For most people, what gives their lives the clearest meaning and the deepest joys are the events and relationships and accomplishments and sacrifices within the loving family. And isn't the opposite true, as well? Grief in its most penetrating form comes from cruelty inflicted by one family member on another, or from the family ruptures caused by divorce and death. Loving family solidarity is the greatest earthly blessing, but it is a blessing earned by a diminishing percentage of the people.

The author goes on to state:

> Another principle is that of parental authority, that first human requirement of the Ten Commandments . . . Nobody argues with the right of the parent to keep the little child from running out into the street . . . And yet, many people today insist on eliminating parental authority at the very age when the sap rising in the loins tends to overwhelm whatever fragments of good judgment the teenager may have accumulated.

If anything was relevant to the substance of this Bill, that statement is. There are further statements. If one looks at another speech in the same publication, 'Vital Speeches of the Day', dated 15 December 1983, by Bruce Hafen, President of Ricks College and Professor of Law, Brigham Young University, one sees the following:

> There are many important reasons why this deference to parental authority is considered so fundamental in our society. For example, modern civilisation is soaked through with a sense of anomie and alienation, heightened by feelings of helplessness against ever increasing concentrations of power in such 'megastructures' as the business conglomerate, the boundless governmental bureaucracy, and the national labor union. In the midst of such massive concentration of power, we appreciate the words of Edmund Burke: 'To be attached to the subdivision, to love the little platoon we belong to in society, is the first principle (the germ as it were) of public affections.'

The same author states:

> The child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognise and prepare him for additional obligations.

He further states:

> A recent analysis of the concept of mediating structures identifies the family as 'the major institution within the private sphere, and thus for many people the most valuable thing in their lives. Here they make their moral commitments, invest their emotions, [and] plan for the future.'

To some members here, and presumably to most if not all members of the Government, that might represent an idealised view of the family, but I suggest that, to the majority in our community, it is an accurate reflection of how South Australians view the family and how they want it to continue to operate. We know that vast numbers of families do not operate that way, that there are many, many individuals who have been either neglected or abandoned by the family. Many families have tried to do the right thing and failed, but should that justify the kind of treatment that is meted out to parents in this Bill, namely, the removal by the Government from parents of a right which has traditionally belonged to them, that is, their responsibility for their children until they reach the age of majority?

The article by Professor Hafen acknowledges that in our own day there is a concern with child abuse, neglect and abandonment. We have developed over the years laws which place some controls on parents, but, whatever the nature of the troubles that afflict some young people whose parents do not give them the support that they need, it cannot in my opinion justify the severity of the move which is being undertaken by the Government in this legislation. In my opinion it simply does not gel with the whole notion of the encouragement that the Government should be giving to parents to exercise responsible attitudes to their children.

We are simply saying to parents, 'Too bad. We will not sustain and support you in your efforts to exercise proper responsibility for your children. On the contrary, we will remove that responsibility from you and let your children make their own decisions, no matter how young they may'. We should bear in mind that there is no minimum age of consent in this Bill. Certainly, the dental or medical practitioner must make a judgment of the age of the child and whether that child is capable of giving what is described as informed consent. Despite the definition of 'informed consent', I suggest that it is still a subjective thing, particularly when one is considering any child under the age of 16; one can go as low as 12, 10, eight, six or even four in the legalistic sense, certainly, there is no minimum age.

I happen to represent an electorate in which there is a significant proportion of people of non-Australian origin, and these people are very concerned indeed about family values. All members would know that, in general, migrant

communities, especially those from non-Anglo Saxon origins, tend to have a cultural attachment to the family which is somewhat different from our own. The authority of the family, particularly in migrants from Mediterranean countries and from Asian countries, is paramount. If the migrant communities of South Australia were aware of what is being proposed in this legislation, they would be, and in some cases where they know they are, outraged.

It is worth looking at the Institute of Family Studies Newsletter of October 1982 and noting that the Institute has conducted a multi-cultural family values study, which is reported on page 20. There have been reports on 12 ethnic groups, including Greeks, Turks, Indo-Chinese and Vietnamese, Lebanese (of whom there are a significant number in my electorate), Sri Lankans, Muslims, Italians (of whom there are also a significant number in my electorate), Yugoslavs and Aborigines. It was stated that, in view of the size and importance of this work, the Institute would publish the papers through a commercial publisher in mid 1983.

But, even at that preliminary stage, the report states that the culture and social values of these non-English speaking migrant groups and their experiences regarding marriage and the family are the main concern. One has merely to speak to Italian, Lebanese or Vietnamese parents to know that, right up until their children achieve the age of majority, and frequently beyond that, they want to exercise control and, in the main, exercise it responsibly. For them to have that responsiblity taken away from them is, in my opinion, an absolute betrayal not only of the community generally but also of migrant communities whose cultural attitudes to the family are part of the absolute fabric of their lives. To think that any of these children could just go off to a doctor or dentist behind their parents' backs and request any kind of treatment would fill those families with horror.

I regard the legislation in that aspect of its application as being quite cruel, very thoughtless, and irresponsible on the part of the Government. So much has not been thought out. Indeed, it is clear, when one reads the debate in another place, that the Bill must have been drafted in rather a hurry because the Minister himself acknowledged that a point raised by the Hon. Mr Lucas in regard to children in isolated areas receiving treatment had not been addressed. The matter has not been thought out. Had it been sent to a Select Committee, many of these issues could have been raised and debated, with the views of the community and professions taken on board. If we were to see a Bill at all, it would have been a very different Bill from the one that has been put before us.

The question of financial responsibility in all this was dealt with in some detail very badly by the Minister in another place. He claimed that parents were responsible for costs incurred by their children. The legal advice that I had is that that is not the case when it comes to costs incurred as a result of this legislation. He also stated that children from the age of 14 could seek a separate Medicare card. I ask members what will be the situation with parents. What will be the attitude of parents if a 14 year old says to his or her father or mother, 'Listen, Dad and Mum, I want my own separate Medicare card.' The parents ask, 'Why do you want it?'. 'That is my business,' says the child. The lack of thought is unbelievable. Yet, the Minister and his colleagues seem to think that it is a perfectly acceptable thing to do to the parents of South Australia.

The Opposition does not think so. We will be opposing clause 5, notwithstanding the fact that we have no disagreement with clause 5 (1), which provides:

> The consent or the refusal or absence of consent of a minor who is of or above the age of 16 years in respect of a medical procedure or dental procedure to be carried out on the minor or any other person has the same effect for all purposes as if the minor were of full age.

The real concerns of many parents will not only relate to the principle of their being deprived of the responsibility that they have had until now, but also will revolve around the sensitive issues of contraception and termination of pregnancies. We must recognise that, whatever laws this Parliament enacts, people under the age of 18 years will engage in sexual intercourse.

If they do so they should do so with some kind of protection. Having done so, whether a girl should be entitled to go to her doctor if she becomes pregnant and say that she wants a termination but does not want her parents to know about it is something that I would very much question. Whatever the distress of the parents on hearing such news and whatever adverse reaction they may inflict on their daughter, surely, in the name of all that is good in human nature, parents are entitled to know. It is so wrong, I think, that this clause deprives parents of that right to know. It is an intrusion by the State in the form of this legislation into an area of family life that I do not think should be intruded upon by legislators. For that reason, clause 5 of the Bill will be opposed by the Opposition.

In respect of the remaining clauses, as I said earlier, several of them are simply a statement of the *status quo* in the common law. Clause 7 is an example of this. It provides for protection from criminal or civil liability in respect of procedures carried out with consent. The Opposition has no argument with that. To sum up, we feel that the legislation is basically redundant in so far as the common law is, in our opinion, sufficient and that the absence of litigation in the area should demonstrate that, as should the absence of agitation by the medical and dental professions for this Bill. It is true that they did not oppose the Bill. On the other hand, neither did they seek it. This legislation deals a blow to what I have always held to be the concept of the family, the ideal relationship between parents and children for which we should all be striving and which as legislators we should aim to support, not diminish. In that regard, the Bill fails dismally and that section of it which is, in our opinion, obnoxious will be opposed.

Mr M.J. EVANS (Elizabeth): I rise to briefly express my support for this measure which represents, as the member for Coles had said, a codification and clarification of the common law and, in some cases, an expansion of common law rights and responsibilities. I would like to refer to some publications that the Festival of Light has chosen to issue, and to some letters written to the *News* of today in relation to that. Before so doing I will quote from those documents, entitled 'Parental love under attack', which state:

> The freedom of parents to exercise loving care for their children is attacked by a Bill before the South Australian Parliament.

I will quote from the final paragraph of a letter written by the executive officer of the Festival of Light to today's *News:*

> I suggest that Martyn Evans and Norm Peterson talk to people in the street as I have done before allowing such a family splitting Bill to be pushed through the Lower House, as well.

Of course, I agreed to speak to the person concerned, so I spoke to the executive officer of the Festival of Light in some depth yesterday. The case that he presented, and the arguments that I discussed with him, do not lead me to suspect that this is a family splitting Bill. I believe, in fact, that the main thrust of this legislation concerns the right of children to health care and the rights they inalienably have as human beings to proper and effective health care. I do not believe that the thrust of the legislation is directed at splitting the family. In this context the great majority of families will never be affected by the legislation—I suspect that the great majority of families provide loving care and

support for their children until well after they turn 18 years of age.

Their children will be more than happy to come to them with the sort of medical problems about which the Festival of Light is concerned; they will be more than prepared to place their difficulties before their parents, listen to their advice and guidance and then together, or perhaps the child on its own, go to the doctor and seek the appropriate treatment with the consent of their parents. However, Parliament need not concern itself with those people because they are prepared to look after themselves and their own children, exercising their rights in the context of the law as it now stands.

However, Parliament has an obligation to look after those children whose families have failed them, and that is the problem this Bill addresses. Where will those children, unable for whatever reason to go to their parents with their medical problems in order to seek help and guidance in their resolution, turn if doctors are required to consult with their parents on every occasion concerning every medical procedure? If the consent of the parents is required in all those circumstances, it may be that some (albeit a small minority of) children will feel constrained not to go to their family doctor to seek help and guidance, and thereby their health will take a dramatic downturn.

We must provide an avenue for those children unable or unwilling, for whatever reason, to go to their parents with their problems. This Parliament must recognise that there will be a small number of such children, and their health care must be paramount in our minds when we consider this Bill. We should not dwell on the semantics of family splitting legislation that the Festival of Light has chosen to look at, but rather we should dwell on those aspects of the health care of that small minority of children who would otherwise be disadvantaged if this kind of legislation and the related common law provisions are not adopted, expanded and codified by this Parliament. It is essential that children have somewhere to turn, and I believe that this Bill enables them to turn to their doctor with confidence.

Members interjecting:

Mr M.J. EVANS: I have, Mr Deputy Speaker, in my opening remarks indicated my support for this measure. However, I intend to raise a problem which I believe exists with the legislation and which I trust will be answered. As I was saying, it is better that this Parliament provide an effective avenue for those children rather than leaving them in the medical wilderness in that respect. I have confidence in the medical practitioners of this State to provide that medical care and attention which children require. The Bill certainly contains adequate safeguards to ensure that it cannot be abused or used in a frivolous way.

However, I am concerned about a possible vacuum which will be left in the legislation with respect to those who are intellectually impaired or mentally handicapped. The Bill, as it now stands, provides for the repeal of the Emergency Medical Treatment of Children Act, 1960, when this legislation takes effect. This legislation will take effect on the day on which it receives the Royal assent, there being no clause in the Bill to postpone the day on which it takes effect. Accordingly, when the existing Act is repealed and this Act takes its place, clause 4 will come into effect, under which this Act (other than section 7) does not apply in relation to a person who is, by reason of mental illness or mental handicap, incapable of giving an effective consent. Therefore, it raises a potential vacuum in the law in relation to those minors who are suffering from mental illness or who are mentally or intellectually handicapped and are consequently unable to give effective consent. They will revert to the common law provision which existed before 1960, and I believe that more effective concern should be addressed to their needs.

The problem is being addressed by the Minister of Health, and I understand from the second reading explanation that companion legislation is in the process of being drafted and will be referred to a Select Committee. That legislation will no doubt cover the whole question of those who are unable to give effective consent because of mental illness or intellectual handicap, but that legislation is not before us at the moment and, as matters now stand, may well not take effect on the same day as this legislation.

Therefore, in supporting the Bill as I have this evening, I raise with the Minister the question of that potential vacuum which I believe may exist, unless some other satisfactory explanation is available, from the operation of the repeal of the Emergency Medical Treatment of Children Act and the operation of proposed section 4 of this Act, which excludes the operation of the Act in relation to those who are unable to give formal consent for the reason outlined. I support the measure, but ask the Minister to give consideration to that aspect of the Bill.

The Hon. E.R. GOLDSWORTHY (Deputy Leader of the Opposition): I am far from happy with the Bill. It is one of a series of measures that has pursued an unrelenting march and assault over a large number of years on established institutions and mores—measures that characterised the swinging '70s and have overflowed into the '80s, although many people are starting to question some of the so-called reforms that were visited on us during the '70s. A similar Bill, which was defeated, was brought into this Parliament, from memory, by the Hon. Anne Levy in 1977. The Labor Party members on that occasion had a free vote and went several ways, and the Liberal Party was opposed to it. As the Bill was defeated during the swinging '70s, there must have been some fairly serious reservations about it at that time.

A whole range of measures during the 1970s was designed, so we were told, to come to grips with the problems that existed in society. The end result of many of those measures, in my judgment, was to multiply and exacerbate the problems. The legislation was to deal with isolated cases that could be cited in a whole range of areas but, also seeking to remedy that perceived problem or defect, the legislation exacerbated it. I am thinking of the great contribution to the common weal of the now famous Judge Murphy, who was previously Attorney-General, in the Senate, when he brought in uniform divorce laws—enlightened laws to solve all problems. To my mind, those laws enormously exacerbated the problem when one considers marriage break-ups and the settlements that come out of that jurisdiction.

One does not have to be a genius to work out that some of the assaults, murder and attempted murder of some of the judges from that jurisdiction are because of the enormous frustration and resentment felt by individuals at the injustice of what comes out of that court. This no fault uniform divorce law was going to be the be all and end all to come to grips with the question of divorce. Australia now has a divorce rate rapidly approaching 40 per cent. This so-called enlightened legislation, which was to make divorce easy and take all the trauma out of it (all one had to do was clear out for 12 months, or if a couple had been married for a certain period of time there was no fault and they simply split the assets) has led to enormous hardship in some cases, although it was said that it would solve the problem of divorce. After some years of its operation, after looking at the great contribution of Justice Murphy to Australian society, the problem is now a damn sight worse than when the law was introduced.

One can think of a whole range of other social matters which were to overcome a perceived problem but which have exacerbated it. I think of former Attorney-General Millhouse's time, when South Australia introduced abortion law reform because backyard abortions were causing great problems. The phoney part of that law is that if there was some perceived psychiatric problem abortion was available. Now, 99 per cent of all abortions are on the phoney ground that there is some psychological damage to be done to the prospective mother, and the pregnancy is terminated.

So, what has happened is that abortion has blossomed. More than 3 000 a year are performed in South Australia, and abortion has become synonymous with contraception in the minds of some young people at least, again, to my knowledge: I have met two or three of them. So, this pace-setting, new reforming legislation, which was designed to stamp out an undesirable situation, has in many ways exacerbated it. I am not saying that there should not be some abortion laws, but it seems perfectly clear to me that the uniform divorce laws have in many regards exacerbated the problem and caused considerable hardship with this no fault idea and, again, in relation to abortion numbers an explosion has occurred simply because one of the side effects of this so-called enlightened legislation is to make it readily available in 99 per cent of cases on quite phoney and false grounds. So, this has been done without any regard to cost in terms of human travail, and indeed, it has become an enormous economic cost in both cases to the community.

So in those pace-setting, questioning years of the 1970s we saw a breakdown of accepted norms of social mores and discipline. Youngsters have been encouraged in some schools to question the authority of their parents—to question all civic authority, for that matter. We have had this great upsurge of freewheeling and free thinking during that period. That has not been without an enormous social and economic cost to the community. What do we have? We have an enormous number of underprivileged sole-income parents that we now have to support, supporting mothers, and this is as a result of a breakdown of the norms, as I call them. This is an underprivileged group, particularly the women with children where the women are the sole breadwinners or where they are totally dependent on social welfare.

So, these measures can involve enormous human, social and economic costs—and I put this legislation into that category. Here is legislation perceived to overcome a problem. We are told that there is a problem. The member for Elizabeth talked in this place about youngsters who may be in this situation. I do not know how major the problem is. I do not have any clear evidence of that, and I do not see it in looking at the report of the working party. So, we are off on a philosophical kick again. It is thought that maybe this will happen; here is a problem that may occur, so let us fix it up. But what will the end result be? It could well multiply and exacerbate the original problem.

In my view, legislating to allow youngsters over 16 years of age to undertake any of these procedures without any parental knowledge or oversight at all or children under 16 to undertake them with medical consent unbeknown to the parents, will multiply and exacerbate the problem. Peer pressures come into play; the protection of the law is removed; and the right of parents is removed. Peer pressure has an influence, as it does in all of these situations, and more youngsters will seek to go down this track. So, the problem will be exacerbated and compounded, as has occurred in other instances to which I referred, all in the name of reforming humanitarian legislation to overcome a perceived problem.

So, I am saying that the reformers perceive a problem, but in my judgment a lot of the solutions that are passed into law exacerbate the problem. I am not claiming to be omniscient and to know all the answers, but if one stands dispassionately by and observes what is happening, and observes the burgeoning social welfare bill that the whole community must pick up, due to this explosion in breakdown of the norms of society, one will be hit in the hip pocket nerve. I know that that is not the basic argument that one should apply in these cases, but that is certainly the end result of it.

If the pure base economic argument is costing the community dear, then in terms of the hardship, the human suffering and the difficulty in rearing children in these circumstances, the social and human cost is enormous. I am not happy with this Bill. Speaking as a parent I have found it hard enough to keep track of the little perishers as it is, on my own youngsters, and know what is going on, without all the peer pressures which exist in this day and age, without enacting legislation which will increase those pressures and deny parents their basic rights and basic responsibilities, which are for the care and control of their own children. If people want to say that this is done to overcome a perceived problem, I say that that argument is beginning to wear a little thin with me. That argument has been advanced ever since I entered Parliament in 1970. It is the argument that is still advanced.

This Bill was turned down in 1977. Has further evidence become available since 1977? In my judgment, there has not. I am not happy with this Bill. I am afraid that the horse has bolted, legislatively, in relation to it. We know that it has now become a Government Bill and we have two chances of doing anything about it in this House: Buckley's and none. At least I will have the satisfaction of saying what I think about it and about the trends that have occurred since I first entered this place.

Unfortunately, in this case, I do not think the public are aware of what is involved in this Bill. I cannot understand some of the more enlightened commentators who I thought would have responded to this legislation. On this occasion they seem to be strangely muted. I believe that there are encouraging signs in the 1980s, pressed in on people largely because of their declining economic position and their perceived decline in the economic situation in Australia and South Australia. People are starting to question some of the decisions made in the 1970s. In my view I thought people were starting to question some of the forces which have been operating in education and in other areas which lead to this sort of legislation seeing the light of day. As I have said, I am not happy with the legislation. It will get through this House without any enthusiasm or support from me.

Mr PETERSON (Semaphore): I was concerned about this Bill and the clause that other members have already spoken to. Earlier today I was lucky enough to speak to the Minister's advisers and I am no longer as concerned as I was; as a matter of fact, my concerns have been removed. To listen to the previous speakers—and I respect their points of view and their right to express their points of view—there is no way that we can legislate in this place for family responsibility and moral responsibility. We cannot bring in family respect by law. That is what we are talking about. If children do not respect their parents or their family ties, there is nothing we can do about it legislatively.

Mr Oswald interjecting:

Mr PETERSON: It looks like it is my turn today. I had a bit of a blast from the Leader earlier today. That is okay—I can take that. His day will come. I saw a letter relating to the Bill before us in the newspaper tonight from the Festival of Light. That made me wonder whether the Leader and the Festival of Light are not working together, because I saw that I got a blast from them as well. Last Thursday Mr Alan Barron of the Festival of Light contacted me and

asked my opinion on this Bill. At that stage, I had not seen the Bill, so I said I would get a copy and peruse it. He said that he would contact me yesterday, but he did not even take the trouble to do so, yet he has the right, he feels, to use my name in a letter and put me on a spot. I am afraid that the Festival of Light is *persona non grata* with me from now on. However, of course, those people have a right to their point of view, which I do not deny them.

Returning to the present debate, much has been said about moral decay in South Australia. To a degree, that is right: things are not the same today as they were 10 or 15 years ago. However, it is not only South Australia—the rest of Australia has the same problems, including Queensland, which one could hardly call a socialist State. The rest of the world has decayed: things are different; attitudes are different and young people are different.

Mr Mathwin interjecting:

The ACTING SPEAKER (Mrs Appleby): Order! The honourable member can manage on his own, thank you.

The Hon. H. Allison: He's not doing too well.

Mr PETERSON: I am doing all right. The honourable member should read *Hansard* tomorrow. We are talking about how terrible things are, but attitudes are changing. I heard some of the debate on this measure and the main concern seems to be about young children obtaining medical treatment from a doctor. I also heard a member (I think it was the member for Coles) say the moral and professional standards we set for medical and dental practitioners in this State are very high. If members dispute this Bill and its provisions, they are saying that those practitioners whom they recognise as being very highly qualified, competent and capable, will now change. The practitioners will reverse and do unspeakable things or allow children to do unspeakable things. The writer of the letter in the newspaper to which I referred earlier talked about 10-year-old children obtaining medical treatment and prescriptions from a doctor. I defy anyone in this House to believe that a responsible doctor would do that.

An honourable member: Are there irresponsible doctors?

Mr PETERSON: There are irresponsible everything in this world—even politicians. I am asking honourable members whether they honestly believe that a 10-year-old child could go alone to a doctor and obtain something from that doctor. They are more likely to get it, for instance, in the case of contraception (the pill, or something like that) in the lunch shed at school than from any professional doctor. Can members honestly see young children going to dentists to get their teeth done? As was mentioned tonight, it is hard enough to get children to go a dentist when they need to, let alone their going behind one's back.

An honourable member: Things are changing.

Mr PETERSON: I said that: they are changing. I believe that most doctors are responsible in their professional lives. If there is a crook, let us find him and get him out of the profession. We give girls the right, if I can use the term in this place, to give their bodies away at 16, but we are denying them the right to do anything about contraception.

An honourable member: We don't all agree with that, though.

Mr PETERSON: The law says they can do it. That is the fact right now. It is no good talking about what they can and cannot do: they can do it. Legally, a child can leave home under 16 years and stay away from home.

An honourable member interjecting:

Mr PETERSON: I am saying they can under the law. The law is there: this is not to change this law. That law exists and a child can leave home at 15 years.

The SPEAKER: Order! The honourable member should address the Chair.

Mr PETERSON: I am sorry, Sir. A 15-year-old child can leave home. It is possible for a child to live separately from his or her family. They can do that under the law and nobody can deny that. People will deny them the right to treatment, because they do not live at home for whatever reason. During the past few months a survey has been conducted into child abuse in this State which found that there has been a great deal of abuse of children.

If a child decides to leave home at 15 because of abuse at home, members opposite are saying that that child now cannot be treated, cannot receive anything, and cannot even get a pill from a doctor for a headache. I do not believe that anybody thinks that it is right that they should not be able to obtain them. As I said earlier, we are giving the children more responsibility now: a girl at 16, as I said before, can legally give her body away—and I use that term because it is as expressive as I can be. She can drive a car. All the responsibilities have been laid out in the Minister's second reading explanation, but they cannot go to a doctor.

Mr S.G. Evans: They cannot drive a car at 14.

Mr PETERSON: They can drive it at 16. Many children drive cars at 14, illegally. I do not see that this Bill will open the flood-gates to children doing anything that they do not do now. If we are talking about contraception again, a child can get the pill from somewhere on the black market now if she needs to go to that extent: if they really want to get it, they will get it. One can get heroin on the streets, they tell me: I do not buy it but I believe that one can get it. One can get marihuana in schools, kids have told me.

The Hon. H. Allison: Are you going to legalise that now?

Mr PETERSON: No, I am not going to legalise that. If we are sincere about our concern for our young people we should not be opposed to their right to have medical treatment, to look after themselves, to take responsibility. We should be for their welfare in other areas, such as the drug area.

I support the Bill because the children of our State are mature enough now to make that decision. If they are younger than 16, two responsible medical practitioners must make that decision. I have said before, and we heard the member for Coles say, that we have a very high standard in those professions. If we have that high standard, we must respect it. Someone talked about 'rogue doctors'. True, there are rogue doctors. I am sure that someone will break this law, but it happens in every sphere of life. However, the general and vast majority of people will not do that. The doctors and professional people are responsible, and I believe that children have the right to get treatment when they need it.

Mr OSWALD (Morphett): I received a letter today, as other members did, from the Festival of Light. Normally, it comes on very strongly on social issues, but I thought today that it was quite the contrary. The Festival of Light said that this Bill has a subtle anti-family stance. For once, it has come on rather weakly. That is the understatement of the year.

I have very strong feelings on clause 5 (2). I hold the Bannon Government in absolute contempt and disgust for even supporting this type of legislation. I feel very strongly about it. It is an absolutely contemptible thing to place on parents who pride themselves in taking an interest in what their children do. I wonder whether the member for Mawson and the member for Brighton, being women members of this House, whose children could at 10, 11 or 12 go off and have medical treatment without their knowledge, and other members who I know are concerned parents, really deep down condone this piece of legislation.

Historically, I can see the philosophy behind it. I relate it back to the Hon. Anne Levy's Bill in 1977. If we know

the personality of that lady and her particularly strong left-leaning social politics, we can see some reasons why she introduced that Bill in 1977 and has pursued it and other types of legislation in the South Australian scene ever since.

The Festival of Light in its draft to us talked about the legislation in terms of parental love being under attack. That is correct: that statement is spot on. It is another step to destroy the family and to bring everyone down to this common denominator that the left wing socialists of the ilk of the Hon. Anne Levy seem hell bent on. I as a parent resent the removal of my right as a parent to give consent for medical treatment of my children. I reserve that right. The member for Ascot Park can laugh his head off—he probably does not care about medical consent and dental treatment for his children. Deep down he probably does. That laugh is probably for the benefit of the more left wing radicals on that side of the House. You are riddled with them over there. They would love to see this pushed through.

Mr TRAINER: On a point of order, Mr Speaker, I was not laughing at any comment made by the member for Morphett: it was a private joke between myself and another honourable member on this side of the Chamber.

The SPEAKER: There is no point of order.

Mr OSWALD: Thank you, Mr Speaker. I will continue my remarks whether Government members laugh between themselves or at what I am saying. This is a serious matter and I feel strongly enough about it to address the House and place on public record my concern about where the State Labor Government is taking us. Indeed, I do not believe that public attitudes have changed much since 1977, when the Hon. Miss Levy first attempted to bring the South Australian family unit under attack with this type of legislation. In regard to the draft paper that we were given—I have no reason to doubt its authenticity—I refer to the comment of the then AMA South Australian Branch President in 1977. Dr Pickering stated:

> The AMA was unhappy with several aspects of the Bill, especially as it might relate to abortion and contraception. The AMA believed there was little reason for an age of consent to be fixed by law

The past President of the AMA, Dr J. Harley, telephoned a talk-back programme and said:

> If my 14-year-old daughter became pregnant I would be upset if she did not confide in me, but I would be furious if the law was such that a colleague of mine could terminate her pregnancy without any reference to me as a parent.

What reasonable parent in South Australia would not share those views? The document continues:

> Opposition to the Bill also came from the Guild of St Luke, an organisation of Catholic doctors.

Some members might say that this is probably a predictable response. However, I believe it is the statement of a parent as well. Dr Hugh Kildea stated:

> A procedure could be performed on a 14 or 15 year old by their lack of knowledge which could have a long term effect on them.

The report continues:

> Archbishop Rayner, the Anglican Archbishop of Adelaide, spoke out very strongly against the Bill. He said that a need for the Bill had not been demonstrated and that the possibilities of abuse are enormous.

Let us look at the former quotation and relate it to the whole question of when is consent effective. The report states:

> For a patient's consent to be effective it must be informed. In other words, the patient must know the risks and benefits of all proposed treatment, alternative treatments and no treatment before consenting. An article in the *Medical Journal of Australia* suggests that there are five major aspects of the information to be supplied to a patient:

As I read the list, members should imagine these propositions being put to a 12 year old of whom they have knowledge, and consider how that 12 year old would not be in a position to give a proper assessment. The major aspects are as follows:

(1) a description of the proposed treatment;
(2) an indication of the alternative treatment;
(3) an outline of the inherent risks of death and serious bodily injury which might result from the treatment;
(4) a reference to the problems associated with recuperation which could be anticipated; and,
(5) any additional information that would normally be disclosed.

I submit that if any child had those propositions put to them, apart from being over-awed by the medical practitioner or the two medical practitioners (if the child happened to be 10 years old or nine years old), the child could probably be bluffed into saying 'Yes' or saying nothing, and the doctors would say, 'Well my dear, this is what will happen.' This is outrageous legislation. It is contemptible and another step by the Bannon Government to attempt to fragment the family unit. The whole Bannon Government—if its members decide to join ranks and support the Bill—will stand damned and in contempt in the eyes of the good upstanding public of South Australia.

Mr BLACKER (Flinders): I totally oppose this measure, and I do so as one who has very young children. I hope that in the future they will not be placed in a position as envisaged by the Bill because of one reason or another. This Bill is a reflection on my integrity as, hopefully, a responsible parent. I see this Bill as undermining family ties. It contains the inference that the family really has no basis in society. It is definitely an anti-family Bill, one with which I cannot agree.

It has been said in this House that some parts of the Bill are worth supporting, and that is probably true, but those parts are already covered in existing legislation and it is not necessary to draft a Bill in that regard. It is more a matter of repeating provisions already in our Statutes to give the Bill some basis. If the Government did not have that padding of the issues that it has duplicated from other Statutes, its intent in drafting clause 5 would be obvious.

Many documents have been cited and I, too, received documentation from the Festival of Light. I share the view of the member for Morphett that indeed it is a very moderate and responsible document. Members have reflected on other documents that have been circulated, and any responsible person who reads the presentation from the Chairman of the Festival of Light, Dr David Phillips, will have to agree that it is a balanced, well-presented and worthwhile document. I for one cannot find argument with it. The points have been researched and are backed up with the appropriate quotation and qualifications that one would expect in such a researched document.

One question that comes to mind is that, if a minor seeks treatment of one kind or another, who is responsible for payment? Are we to give minors Medicare cards so that they do not have to consult with their parents, or will they be responsible for the payment of any treatment or care? That is a very minor point, but it is something that comes to mind. I believe that the parents are entitled to know. We should be endeavouring to provide a forum to create a family situation rather than passing legislation that tends to have the reverse effect.

By implying that 16 years is the magical age, the Bill is hypocritical, because we all know that some 14-year-olds can pass as 17-year-olds and in some cases 18 or 19-year-olds do not have the ability to decide for themselves as a 16-year-old might be able to do. Nominating an age is not solving the problem at all. This subject has been brought before Parliament and the community in different measures. A number of amendments have been introduced dating back to the 1977 Bill that was introduced by the Hon. Anne Levy

and there have been subsequent attempts. I note that on this occasion there is little public reaction. Is the community becoming numb to the issues that were important eight years ago? Perhaps people are becoming numb; maybe they are becoming cynical and saying that it will happen, anyway. I do not know. In opposition to the Bill of 1977 Mrs N. McCarthy asked:

> How many parents want a much loved but rebellious 14-year-old to have the right to seek plastic surgery, the Pill, an abortion or perhaps even donate a kidney to a school mate?

Most children go through a stage of rebellion against parents, but the anxiety that may be created at the time does not alter a parent's love for that child. As parents we would all resist, and be upset at the very least by, such an action. The South Australian branch president of the AMA, Dr T.G. Pickering, stated that the AMA was unhappy with several aspects of the Bill, especially as it might relate to abortion and contraception. The AMA believed that there was little reason for an age of consent to be fixed by law. That raises the point I mentioned a moment ago that, because a magical age of 16 years is stipulated, it does not mean that that person is mature or not mature at that age.

The past president of the AMA, Dr J. Harley, phoned a talk-back programme to say:

> If my 14-year old daughter became pregnant I would be upset if she did not confide in me, but I would be furious if the law was such that a colleague of mine could terminate her pregnancy without any reference to me as a parent.

We would all agree with that—we would be furious. Not only would we be furious in the interests of the child, but furious that the Parliament of South Australia allowed the laws to be created to enable that to take place and therefore take the responsibility of that parent out of that person's own hands.

Opposition to the Bill also came from the Guild of St. Luke, an organisation of Catholic doctors. Guild master, Dr Hugh Kildea, commented on the matter. Somebody stated that he was probably a responsible parent; I know for a fact that he is a very responsible parent, as he used to be my family doctor a few years back and I have the highest respect for him. If that is what Hugh Kildea believes, I totally support him. He states:

> A procedure could be performed on a 14 or 15-year-old by their lack of knowledge which could have long-term effects on them.

Archbishop Rayner, the Anglican Archbishop of Adelaide, spoke out very strongly against the Bill. He said that a need for the Bill had not been demonstrated and that the possibilities of abuse were enormous. I endorse those remarks completely. A need for the Bill has not been demonstrated and the possibilities for abuse are enormous. Why do we need it and why should we subject some of our young people to potential abuse that could occur in such a way?

I believe that there is a numbness in the community about the matter, and this Bill has been allowed to sneak up on us. I do not believe that the bulk of the community know what it is about. If we walked the streets and told people what it was about we would get an immediate reaction on explaining that their minor or child under 16 years could seek medical or dental services without their consent. They would be outraged by that information.

As the member for Morphett stated, it is hard to describe one's feelings if that happened in one's own family. I believe that any member in this Chamber, if placed in that position in his own family, would change his attitude, if he had previously supported the Bill. We have only heard the attitude of two members on the Government benches tonight—the two independent members. At least they were men enough to stand up and put their viewpoint. Whilst I disagree with those viewpoints, I respect them wholeheartedly and most sincerely for having the courage to place before the Parliament their real conviction in this matter. I might be considered old fashioned but, if being so accused is the penalty I have to pay for opposing this Bill, I am happy to wear that tag. It is a retrograde step and I call on the House to oppose this measure at all costs.

Mr S.G. EVANS (Fisher): I do not support this Bill in its present form. I have difficulty supporting that part of the Bill which allows persons aged between 16 and 18 years to give consent to certain procedures. However, I agree with some of them. I strongly oppose persons under the age of 16 years being able to give consent to certain procedures without consulting their parents, if they are available. I think that that is a retrograde step. The Government has the numbers to pass this Bill through this House, but I challenge it to put this matter to a referendum and include among the people who can vote in relation to that referendum all persons in this State over the age of 14 years.

I believe that this Bill does not have the support of the majority of people in this State aged more than 14 years. Some people would say that I am therefore arguing that people between the age of 14 and 16 years are responsible, if they would vote in that fashion, so that they would not ask for advice from a doctor or a dentist without consulting their parents. I am not arguing that point, either. The point I wish to raise relates to somebody who is going to school and whose friends are able to get help in relation to a procedure which is embarrassing to that individual or which is the in thing in a particular age group, and that person's parents are unlikely to give consent to that procedure; it might be in relation having gold fillings put in one's teeth. That child may be encouraged under those circumstances to leave the family home and go and live with friends who may be a lot older than he or she is.

I am saying that we are encouraging more people to leave home if their parents say that they believe a child should not have a particular treatment without getting further specialist advice, or whatever. It is argued that for a procedure to be carried out on a child under the age of 16 years it requires the consent of two doctors: that of the consultant and the other in writing. It is to be stated that no harm will occur if a procedure is carried out and that the young person involved understands what is happening.

However, there are on both sides of politics people who have grave doubts about how far we have gone with the abortion laws. People are now able to find two doctors who will agree to perform abortions virtually on demand. We all know that. Are those doctors responsible or irresponsible? I will not make that judgment; that is a judgment for the individual to make. We know that there is much concern in the community about how far a small number of doctors (who soon become known by those who want their service) have gone in allowing abortion on demand within our society. I do not have to go into detail on this issue. Society has changed in relation to such matters; there is no doubt about that. The member for Semaphore spoke of people driving motor cars while still under the age of 16 years and said that that was against the law.

Mr Ferguson: Only in certain circumstances.

Mr S.G. EVANS: If that is done on a public road it is against the law. Certain people seek certain services from medical or dental practitioners, and this Bill seeks to allow those persons to seek that treatment, regardless of their age, even if there is no attempt by the doctor to contact the parents or guardian of the young person involved. The doctor does not have to do that; he has only to go to a mate who may have a similar point of view and get the written agreement.

I read the letter from the Festival of Light; it is lengthy, but it has to be lengthy to argue this subject. As there is a

need for the House to adjourn fairly quickly tonight, I do not wish to go through all that I would have said. It was my original intention to read the Festival of Light letter into *Hansard* (about 14 pages of it), because I believe it is a point of view that should be recorded, but it will not be by me tonight because of the time factor. I hope people keep a copy of it so that later we can make an assessment, regardless of what the Labor Party might do by using its numbers, with the support of two Independents, whom I admire for expressing their point of view. Other individuals who belong to the Labor Party have not done so. When there is a change of Government, (and that should be within the next 12 months), I hope that this legislation will be varied, at least to the point that there should be an attempt to contact parents.

If a person aged 15 years goes to a dentist and says, 'I want my teeth treated', the dentist says,'Where is your mother or father?' The child says, 'I have nothing to do with them and do not have to consult them. I want my teeth treated and I want gold fillings', and the dentist is fool enough to say, 'I will go ahead with some dental treatment, although it is outside the ordinary', who is responsible for the debt? It is not a necessity of life to have teeth treated to that extreme. Who has to foot the bill?

The legal eagles might tell me the parents may not be responsible, but I believe they are; that being the case, there should be an attempt to consult them. Forget the emotional areas such as abortion, contraception, and the like; in that field young people can be 15½ and say they are working; they could be out of work in three weeks and the parents are still liable. I say we do not even place in this Bill (which will be an Act within a couple of weeks) the obligation for medical practitioners to attempt to consult the parents. I was amazed at the Independents. I believe both have strong convictions in their attitude to life, but they did not even ask the Minister to make sure it was there. They have the power to do it as Independents in the circumstances which prevail in this House at the moment, and it is something the Government could not refuse, Sir, and I know you, as a strong family person, would have difficulty not agreeing to that.

I strongly oppose the Bill because of that clause. I congratulate the Festival of Light on the moderate approach it took on this occasion to the whole concept in the Bill, and I hope at some time in the near future there is a change of Government and what is going to become law will be taken out of law and have some more protective qualities in it.

Mr LEWIS secured the adjournment of the debate.

INDUSTRIAL AND COMMERCIAL TRAINING ACT AMENDMENT BILL

Returned from the Legislative Council with an amendment.

ADJOURNMENT

At 11.14 p.m. the House adjourned until Wednesday 27 February at 2 p.m.

HOUSE OF ASSEMBLY

Tuesday 26 February 1985

QUESTIONS ON NOTICE

TEACHERS SALARIES TRIBUNAL

251. **The Hon. MICHAEL WILSON** (on notice) asked the Minister of Education:

1. Will the Minister reverse a recent decision of a Teacher Salaries Tribunal that part-time teachers will no longer attract increments on a pro rata basis after one years service?

2. Is it a fact that virtually the whole of the part-time teacher force is female and if so, is the Minister concerned that the decision of the Tribunal represents discrimination against women?

3. Has the Minister consulted with the Commissioner for Equal Opportunity regarding the Tribunal's decision and if so, what was her advice to the Minister?

The Hon. LYNN ARNOLD: The replies are as follows:

1. The Teachers Salaries Board is an arbitral tribunal with the jurisdiction amongst other things to fix the maximum and minimum salary payable to any officer of the teaching service and the annual or periodical increments of that salary. Until 23 March 1984, teachers and lecturers had a common incremental date of 1 January and thus part-time work could not with any equity affect incremental progression and, likewise, leave without pay could not affect incremental progression in anything less than year blocks. Because of this, it had been the policy of the Education Department to ignore, for incremental purposes, leave without pay for one year or less. The other side of this particular coin was that it was not possible for the same reasons to recognise part-years of relevant experience of new or returning teachers. I believe that it was this latter fact which prompted the South Australian Institute of Teachers to seek a change through the Teachers Salaries Board from a common incremental date to incremental dates based upon the proper recognition of appropriate teaching experience.

As a result of its deliberations, the Teachers Salaries Board abandoned the concept of annual increments accruing on 1 January in each year, in favour of incremental advancement upon the completion by a teacher of 207 full-time duty days worked. This decision meant that both leave without pay and part-time work would henceforth affect a teacher's incremental date, for example, a teacher working half-time would receive an increment once every two years, and a teacher who takes six months leave without pay would have the next incremental date delayed by six months. During the case, the Institute raised the issue of the effect of leave without pay in such a system and the consequences of that effect on the careers of women. In answer, Mr Justice Olsson, Chairman of the Teachers Salaries Board said:

> I know off-hand of no other award in the country which has such a prescription in it . . . If it is to be inserted by this Tribunal as the first prescription of its type in the country, it breaks totally new ground and I think it is ground of such importance that if it gets into the award, it ought not to be a side wind. It ought to be as a result of a deliberate claim for the purpose and on a proper in depth consideration of the industrial issues involved.

He went on to say to the Institute's advocate, that the Institute was:

> raising an issue of the most profound industrial importance and which could lead to all sorts of repercussions and effects in other award areas. In fact, I go on so far as to say that I think that if such a prescription was to be considered for the first time, the proper place to consider it is before the Full Commission because of the importance of it.

Because the change in the Teachers Salaries Board Award has been brought about by an arbitrated decision of an industrial tribunal, and especially in view of the comments of the Chairman of that tribunal, which apply equally to the part-time work issue, I consider that it would be quite inappropriate for me to set an industrial precedent outside a formal industrial tribunal which would run contrary to the spirit of the decision on an industrial determination. Indeed, I share the Teachers Salaries Board's concern and would not want to see a significant industrial precedent set by a 'side wind'. That is a matter to be settled in one of the major arbitral arenas as has been suggested by Mr Justice Olsson.

2. There are 3 103 part-time teachers employed within the Education Department, of whom 2 619 are female. On the basis of information contained in (3) below, I do not consider that on balance the Tribunal decision can be interpreted as discriminatory.

3. I have consulted with both the Commissioner for Equal Opportunity and with the Crown Solicitor about the possible discriminatory effects of the new Teachers Salaries Board Award. The Crown Solicitor has advised:

> *(a)* Legally, the new Teachers Salaries Board provision and any decision not to exercise Ministerial prerogative to recognise for incremental purposes accouchement leave or to recognise part-time work on anything other than a pro-rata basis, are not contrary to either the Commonwealth or the South Australian Sex Discrimination Act.
>
> *(b)* Leaving aside the strict legal position, the recognition for incremental purposes only of periods during which a teacher is gaining teaching experience is also not contrary to the spirit of the Sex Discrimination Acts, provided that educationally it is reasonable to link incremental advancement for a teacher to actual days worked as a teacher.

In regard to the latter part of the Crown Solicitor's advice, I do consider that it is educationally reasonable to link incremental advancement for a teacher to actual days worked as a teacher. Indeed, on Education Department advice, I supported fully the Institute's claim for experience based teacher increments and instructed that evidence be adduced as to the relative value of the different types of teaching experience. The Commissioner for Equal Opportunity has advised that she considers, for incremental recognition purposes, the exclusion of accouchement leave and the recognition of part-time work on a pro-rata basis to be discriminatory in terms of the Sex Discrimination Act. However, in view of the consideration contained in the Crown Law advice which I received, I consider that it is this advice which is to be preferred.

THIRD PARTY PROPERTY INSURANCE

376. **Mr BECKER** (on notice) asked the Minister of Transport: Has a recent review taken place into the feasibility of establishing a compulsory third party (property damage) insurance scheme; if not, why not, and will the Minister pursue the issue?

The Hon. R.K. ABBOTT: In 1972, a committee comprising representatives of the Government, the Royal Automobile Association and insurers brought down a detailed report and strongly recommended against the introduction of a compulsory third party property damage scheme. The committee examined a great deal of information from sources throughout the world and in their conclusions unanimously stated that any scheme would cause more problems than it would cure. The Attorney-General has also examined the situation and is of the opinion that no further study should be instigated at this point of time. This was also the opinion of previous Governments. The 1972 report is still considered valid.

UNITED WAY

385. **Mr BECKER** (on notice) asked the Minister of Community Welfare: What is the current position regarding the establishment of a United Way charitable collection agency?

The Hon. G.J. CRAFTER: The feasibility group that I appointed to look into the question of the establishment of a United Way type scheme for South Australia has concluded its work and the report is nearing completion. The Government will then consider the report and any recommendations made as soon as possible.

DEPARTMENTAL CORRESPONDENCE

400. **Mr BECKER** (on notice) asked the Premier:

1. Is the Premier aware that some of his Ministers and Government departments are taking three to four months and longer to answer correspondence from Members of Parliament and the public and, if not, will the Premier acquaint himself of the situation and, if not, why not?

2. What action will the Premier and Cabinet take to restore prompt efficient service to Members of Parliament and the public by Ministers and departments?

The Hon. J.C. BANNON: All Ministers and Government Departments endeavour to answer correspondence as promptly as possible.

ETSA

404. **Mr BECKER** (on notice) asked the Minister of Mines and Energy:

1. How many persons are employed by the Electricity Trust of South Australia to recover bad debts?

2. How many bad debt consumers were there as at 31 December 1984 and what was the total amount of debt involved?

The Hon. R.G. PAYNE: The replies are as follows:

1. Nine. This includes a supervisor and an assistant supervisor whose duties include supervision of employees engaged in other functions.

2. There are 2 268 bad debts which totalled $205 487. This represents about .08 per cent of revenue received during the period.

JAPANESE VISITORS

411. **Mr BECKER** (on notice) asked the Minister of Tourism:

1. How much did the recent visit of Japanese tour packagers cost the Government in accommodation, meals, charter of light aircraft and any other expenses?

2. How many tour packagers did the visitors meet and, if none, why not?

3. What benefits will come from the visit?

The Hon. G.F. KENEALLY: The replies are as follows:

1. Accommodation: $1 870, being five nights at 50 per cent concession at the Hilton International.

Meals: $941 which included breakfasts, lunches and dinners.

Charter Aircraft: $780.

Other—

Coaches/Sightseeing: $1 553.

Horse riding: $143.

Miscellaneous: $98.

2. The group met with:

Qantas, Adelaide

TAA, Adelaide

Airlines of S.A.

Ansett Briscoes

Hilton International

Oberoi Adelaide

Parkroyal

Travelodge

In addition, they spoke with a number of tourism operators en route through Adelaide, Glenelg, Kangaroo Island, Barossa Valley, Adelaide Hills, Inglewood, Birdwood, Gumeracha.

3. The benefits derived from the visit are two-fold in that it gives South Australia the ability to show that it has the product and attractions which would entice the Japanese visitor, as well as obtaining information of their impressions of Adelaide and South Australia. This would then ensure that Adelaide would be included in some of the tour packages arranged by these Japanese tour wholesalers.

PARLIAMENT HOUSE

413. **The Hon. JENNIFER ADAMSON** (on notice) asked the Minister of Public Works:

1. When was the facade of Parliament House last cleaned?

2. Are there any plans for cleaning the considerable grime which presently mars the facade, especially the ornamentation on the pillars, and, if so, what are they?

3. Will the building be cleaned in time for the Jubilee celebrations and, if not, why not and what is the expected cost of such cleaning?

The Hon. T.H. HEMMINGS: The replies are as follows:

1. An investigation has revealed that there is no record of the bulding as a whole being previously cleaned. A small area, however, was cleaned following an oil spillage during the construction of the Gateway Hotel.

2. The cleaning and restoration of the facade of Parliament House is being considered as part of a major programme of restoration of historic buildings in Adelaide to be undertaken by the Public Buildings Department. The large cost of scaffolding for cleaning, and for the general overheads of organising such a contract, makes it more economically efficient to carry out any restoration work required at the same time. Hence the two aspects are being considered simultaneously in the proposed programme.

3. The abovementioned programme will include such historic buildings as the Torrens Building, the Magistrates Court, the Supreme Court and the Jervois wing of the Library. These buildings are in greater need of treatment than Parliament House due to the deterioration of the building fabric. Accordingly, they are being given a higher priority. As the overall costs are significant, it will be necessary to undertake the programme over several financial years. In view of the priority of the other buildings, it is not proposed to carry out major work on Parliament House prior to the Jubilee celebrations.

However, some minor remedial work is proposed for the western wall of Parliament House as a protective measure during the 1986-87 financial year. The estimated cost of restoration and cleaning work at Parliament House as at January 1985 prices is $710 000. The cost of cleaning work alone, not including the cost of scaffolding, etc., is estimated to be $250 000 at January 1985 prices.

STATE BANK

420. **Mr BECKER** (on notice) asked the Premier: Is it the policy of the Government to ensure funds deposited by South Australians in the State Bank are invested in housing and development projects in South Australia and if not, why not?

The Hon. J.C. BANNON: The State Bank was established under a separate Act of Parliament and is administered by an independent Board of Directors. The policy of the Bank is to make housing loans available to all South Australians without a qualifying period, provided the applicant has satisfactory equity and can satisfy the bank that he or she can meet repayments of principal and interest.

All development projects in South Australia, where the applicant can show that he has the ability to make the repayments of principal and interest, will be financed by the State Bank. The bank does lend in other States, especially for projects and developments managed by South Australian companies, but these are small in the overall total and have no effect on the funds available for South Australians to help develop South Australia.

421. **Mr BECKER** (on notice) asked the Premier: What is the policy of the State Bank in relation to financing development projects in other States?

The Hon. J.C. BANNON: See response to Question on Notice No. 420.

GEELONG MARKET SQUARE

422. **Mr BECKER** (on notice) asked the Premier:

1. How much was invested by the State Bank in the $30 000 000 15 year project for the redevelopment of Geelong Market Square and what is the rate of interest?

2. What commissions, fees, etc., are payable to Societe Generale Australia Limited for arranging the transaction?

3. How many similar developments is the State Bank involved in and for what amount in each case?

The Hon. J.C. BANNON: The bank does not disclose details of individual client transactions as this would be a breach of banker/client confidentiality.

ELIZABETH CITY CENTRE

423. **The Hon. B. C. EASTICK** (on notice) asked the Minister of Housing and Construction: In relation to the Elizabeth City Centre lease agreement—

(a) when does the lease expire;

(b) what are the conditions of renewal;

(c) what rental is payable per annum;

(d) does the Housing Trust have an equity in any of the improvements thereon and, if so, what are those improvements and their current valuations; and

(e) what is the current valuation of the site, excluding Housing Trust owned improvements, if any?

The Hon. T. H. HEMMINGS: The replies are as follows:

(a) The memorandum of lease between Elizabeth City Centre Pty Ltd and the South Australian Housing Trust expires on 30 June 2081.

(b) There are no conditions for renewal incorporated in the lease.

(c) The rent terms for the first eight years (to 31 December 1989) provide for a fixed amount unrelated to income and payable by monthly instalments in advance. The lessee, in accordance with the lease agreement, chose the option to reduce monthly rentals for this limited period by a cash prepayment of $9.3 million.

15 January—31 January 1982 $9 140.00
February 1982—June 1982 $16 667.00 per month
July 1982—June 1983 $17 500.00 per month
July 1983—June 1984 $19 250.00 per month
July 1984—June 1985 $21 175.00 per month
July 1985—June 1986 $23 292.00 per month
July 1986—June 1987 $25 622.00 per month
July 1987—June 1988 $28 184.00 per month
July 1988—June 1989 $31 002.00 per month
July 1989—December 1989 $32 478.00 per month

For the period 1 January 1990 to 30 June 1990 the rent will be paid in monthly instalments equal to 2½ per cent of the estimated net income for that period.

Thereafter, from 1 July 1990 to the expiry date of the lease, 30 June 2081, the monthly instalments will be an amount equal to 1¼ per cent of the estimated net income for each lease year (15 per cent per annum).

(d) The South Australian Housing Trust retained ownership of the land on which Elizabeth City Centre is situated. The redevelopment of the Centre is being funded by Elizabeth City Centre Pty Ltd at a current estimated cost of $47 million.

(e) The Trust does not have a current valuation of the site excluding improvements.

EUROPEAN WASPS

431. **Mr BECKER** (on notice) asked the Minister of Education representing the Minister of Agriculture:

1. How many colonies of European wasps have been destroyed this financial year?

2. At what locations were the wasps found?

3. Are the wasps dangerous to humans and, if so, to what degree?

4. What action is being taken to eradicate the wasps and how much money has been allocated for that purpose?

The Hon. LYNN ARNOLD: The replies are as follows:

1. To date 33 nests of European wasps have been destroyed this financial year.

2. The nests were in the Crafers-Stirling-Aldgate area of the Adelaide Hills.

3. The main danger from wasps is associated with a person being repeatedly stung. This usually only occurs when a nest is disturbed and wasps swarm from it to attack the person or animal disturbing the nest. About 10 per cent of people stung more than once will become allergic to wasp venom and would suffer a severe reaction if stung later. The other 90 per cent of people would not suffer any permanent reaction to wasp stings.

4. Eradication of the European wasps in South Australia has not been considered feasible due to the likelihood of further introductions of the wasp interstate. $20 000 has been allocated for a public awareness programme and for technical training workshops on the detection, identification, control and hazards of the European wasps.

TRAFFIC LIGHTS

433. **Mr BECKER** (on notice) asked the Minister of Transport:

1. What studies have been undertaken concerning traffic lights for the intersections and junctions of Deviation Road and Tapleys Hill Road, Warren Avenue, Anderson Avenue and Tapleys Hill Road and, if none, why not?

2. What can be done in the short term to ease traffic congestion and make the junction of Deviation Road and Tapleys Hill Road, Glenelg North safer at peak traffic times?

The Hon. R. K. ABBOTT: The replies are as follows:

1. The Highways Department has undertaken an investigation into pedestrian and vehicular activity at the Warren Avenue/Tapleys Hill Road junction. It was determined that there is justification for the installation of traffic signals at this location during the 1985-86 financial year, subject to the availability of resources. It has not been considered necessary to undertake investigations into pedestrian and vehicular activity at the Anderson Avenue/Tapleys Hill Road

junction and at the Deviation Road/Tapleys Hill Road junction respectively, both of which are in proximity to the Warren Avenue/Tapleys Hill Road junction.

2. It is considered that the installation of traffic signals at the Warren Avenue/Tapleys Hill Road junction will facilitate the movement of traffic at the Deviation Road/Tapleys Hill Road junction by providing gaps in the traffic flow along Tapleys Hill Road. The Highways Department will keep the location under review as part of its on-going monitoring of traffic activity and take appropriate actions, if necessary.

LAND TAX

440. **Mr OLSEN** (on notice) asked the Treasurer: In relation to land tax revenue collected during 1983-84—

(a) what was the number of taxpayers;

(b) what amount of tax was collected; and

(c) what was the total amount of site values,

for each site value range (steps 1-18)?

The Hon. J.C. BANNON: Details of taxpayers, tax collected and taxable values set out in value ranges are as follows:

Schedule of taxpayers, tax to be collected and taxable values in value ranges for 1983-84

Value Ranges	Taxpayers *(a)*	Taxbilled *(b)*	*Taxable Values *(c)*
Not exceeding $10 000	33 947	254 494	202 696 183
Exceeding $10 000 but not exceeding $20 000	22 980	498 984	330 386 895
Exceeding $20 000 but not exceeding $30 000	11 140	503 583	269 014 663
Exceeding $30 000 but not exceeding $40 000	5 423	430 990	186 548 053
Exceeding $40 000 but not exceeding $50 000	3 264	400 259	144 287 586
Exceeding $50 000 but not exceeding $60 000	1 938	347 538	105 496 176
Exceeding $60 000 but not exceeding $70 000	1 340	336 045	86 360 483
Exceeding $70 000 but not exceeding $80 000	927	311 845	69 020 218
Exceeding $80 000 but not exceeding $90 000	751	330 591	63 603 636
Exceeding $90 000 but not exceeding $100 000	577	318 260	54 367 263
Exceeding $100 000 but not exceeding $110 000	474	321 855	49 496 216
Exceeding $110 000 but not exceeding $120 000	369	303 441	42 191 322
Exceeding $120 000 but not exceeding $130 000	317	309 594	39 296 281
Exceeding $130 000 but not exceeding $140 000	265	306 418	35 683 244
Exceeding $140 000 but not exceeding $150 000	214	290 762	30 963 514
Exceeding $150 000 but not exceeding $160 000	194	299 506	29 894 163
Exceeding $160 000 but not exceeding $170 000	145	255 518	23 821 536
Exceeding $170 000	1 926	21 614 104	1 094 610 912
	86 191	$27 433 787	$2 857 738 346
Less reductions in taxpayers because of subsequent exemptions etc.	680		
Plus tax collected from previous years, adjustments etc.		586 067	
	85 511	$28 019 854	$2 857 738 346

*Taxable values are either current site values or non-current site values multiplied by equalisation factors.

LAND TAX

441. **Mr OLSEN** (on notice) asked the Treasurer: In relation to the amount of $32.8 million estimated to be received from land tax during 1984-85:

(a) what is the estimated number of taxpayers;

(b) what is the estimate of collections; and

(c) what are the estimates of total site values.

for each site value range (steps 1-18)?

The Hon. J.C. BANNON: Details of taxpayers, tax collected and taxable values set out in value ranges are as follows.

Schedule of taxpayers, tax to be collected and taxable values in value ranges estimated for 1984-85

Value Ranges	Estimated Taxpayers *(a)*	Estimated Taxbilled *(b)*	*Estimated Taxable Values *(c)*
Not exceeding $10 000	32 785	237 564	197 568 119
Exceeding $10 000 but not exceeding $20 000	24 954	532 857	357 576 626
Exceeding $20 000 but not exceeding $30 000	12 510	574 366	305 504 847
Exceeding $30 000 but not exceeding $40 000	6 759	530 188	230 997 406
Exceeding $40 000 but not exceeding $50 000	4 016	498 667	179 086 940
Exceeding $50 000 but not exceeding $60 000	2 546	455 317	138 135 269
Exceeding $60 000 but not exceeding $70 000	1 729	431 440	111 292 727
Exceeding $70 000 but not exceeding $80 000	1 238	417 940	92 310 888
Exceeding $80 000 but not exceeding $90 000	929	405 646	78 377 861
Exceeding $90 000 but not exceeding $100 000	738	409 485	69 755 917
Exceeding $100 000 but not exceeding $110 000	633	432 954	66 117 038
Exceeding $110 000 but not exceeding $120 000	456	378 559	52 116 014
Exceeding $120 000 but not exceeding $130 000	397	389 995	49 403 347
Exceeding $130 000 but not exceeding $140 000	328	379 186	44 116 406
Exceeding $140 000 but not exceeding $150 000	294	395 374	42 476 448
Exceeding $150 000 but not exceeding $160 000	259	400 359	39 949 928
Exceeding $160 000 but not exceeding $170 000	195	350 913	32 184 988
Exceeding $170 000	2 409	26 076 528	1 324 907 857
	93 175	$33 297 338	$3 411 878 626
Less estimated reduction in taxpayers and tax due to adjustments, exemptions etc. to be processed for balance of year	2 175	497 338	
	91 000	$32 800 000	$3 411 878 626

*Estimated taxable values are either current site values or non-current site values multiplied by equalisation factors.