HOUSE OF ASSEMBLY

Wednesday 8 May 1985

The DEPUTY SPEAKER (Mr Max Brown) took the Chair at 2 p.m. and read prayers.

INSTITUTE OF MEDICAL AND VETERINARY SCIENCE ACT AMENDMENT 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.

PETITION: HOMOSEXUALITY EDUCATION

A petition signed by 129 residents of South Australia praying that the House oppose the South Australian Institute of Teachers policy on homosexuality within State schools was presented by Mr Ashenden.

Petition received.

PETITIONS: LIQUOR LICENSING BILL

Petitions signed by 368 residents of South Australia praying that the House amend the Liquor Licensing Bill to allow clubs to purchase liquor from wholesale outlets and provide for the sale to members of packaged liquor for consumption elsewhere were presented by the Hon. J.W. Slater and Messrs Meier and Rodda.

Petitions received.

PETITION: BELAIR-BRIDGEWATER RAIL SERVICE

A petition signed by 968 residents of the Adelaide Hills praying that the House urge the Government to reject the proposal to discontinue the rail service between Belair and Bridgewater, rationalise existing services, and allow public comment before any further decisions are made to discontinue the service was presented by the Hon. D.C. Brown.

Petition received.

PETITION: EMERGENCY HOUSING ASSISTANCE

A petition signed by 1 818 residents of South Australia praying that the House urge the Government to extend bond money and advanced rental payments for emergency housing assistance to country applicants was presented by the Hon. H. Allison.

Petition received.

QUESTIONS

The DEPUTY SPEAKER: I direct that the following written answers to questions without notice be distributed and printed in *Hansard.*

CHAIN LETTER

In reply to **Mr GROOM** (28 February).

The Hon. G.J. CRAFTER: Chain letters have been with us for many years and their popularity seems to wax and wane over time. There is no legislation which specifically prohibits the distribution of chain letters. However, where chain letters involve the giving of money or some valuable consideration, they are in breach of the Lottery and Gaming Act. Such is the case with the chain letter to which the honourable member referred in his explanation. The Attorney-General is of the view that the scheme outlined in the letter is a 'lottery', as defined in section 4 of the Lottery and Gaming Act, and is unlawful by virtue of section 5 of the Act.

This matter has been referred to the Minister of Recreation and Sport, as the Minister responsible for the Lottery and Gaming Act, for consideration with a view to prosecution of the promoters.

LOCAL COURT RULES

In reply to **Mr FERGUSON** (21 March).

The Hon. G.J. CRAFTER: Sections 125 to 127 inclusive of the Local and District Criminal Courts Act, 1926, as amended, provide for the circumstances where a party or parties to a local court action fails or fail to appear. Where neither party attends, the court may place the matter at the bottom of the list for the day. At the conclusion of the sitting of the court for that day and neither party has attended, the court shall order that the action be struck out, and no further proceedings shall take place unless the matter is reinstated by a judge or special magistrate.

If a defendant but not a plaintiff attends, and admits the claim, the court may order judgment for the plaintiff, with costs. Alternatively, the court may place the matter at the bottom of the list for the day and if the plaintiff has not appeared, order that the action be struck out, or exercise a discretion to adjourn the hearing of the action to another day. If the defendant does not appear the court may cause judgment to be entered for the amount claimed plus interest or, if the claim is for an unliquidated amount, assess the damages. If a plaintiff does not attend and the defendant does attend, the court may non-suit the plaintiff. This would occur when the defendant does not admit the claim.

Where either party has a judgment given against the other party in default of attendance at the trial, an application may be made to a judge or magistrate, by way of interlocutory summons, for an order setting aside the judgment. This process is not uncommon as there are often legitimate reasons why the party was unable to attend when the matter was listed for trial. It is clear that there are a number of options open to the court, depending upon the circumstances. The fact remains that if a plaintiff does not appear he can be non-suited. If a defendant does not appear, judgment may be given for the amount claimed. It is open to either party to make application for a judgment to be set aside. The Act therefore makes ample provision for the protection of the interests of both parties.

LINDAL HOMES

In reply to **Mr MAYES** (19 March).

The Hon. G.J. CRAFTER: I am able to report that the consumers referred to in the question signed an agreement in July 1984 to purchase a 'home package' for $39 000 from Lindal Homes. A second agreement signed by both parties was for Lindal Homes to supervise and oversee the erection of the home at no charge. The supervision agreement was a requirement of the consumers' lending authority; Lindal Homes claims that it does not usually enter into agreements of this kind.

Lindal Homes provided the consumers with an estimate of the construction costs to be met by the purchaser. The estimate was $30 000 and included the following:

This estimate is based on information given to date regarding the proposed dwelling. It is a guide only to the possible construction costs of the package. The actual construction costs are the matters to be determined between the purchaser and his builder and for appointed trades-persons and can only be determined when final plans, specifications, engineer's soil reports etc. are prepared.

The supervision agreement for the supply of the 'home package' stated that the contractors and tradespeople would be nominated or approved by the owners and paid by the owners.

The supply agreement appears to have been the subject of some negotiation between the parties because some of the standard clauses were deleted. A special condition was added to the effect that the consumers had the right to cancel the contract and receive a refund of the deposit if they received a construction quotation which exceeded the estimate. However, a quotation was not obtained until the construction was well under way. I understand that the company has given an undertaking that some of the outstanding carpentry work will be completed without additional cost and that all building materials to complete the supply of the package home will be delivered. Negotiations between the consumers and the company are in the hands of their solicitors.

The Managing Director of Lindal Homes claims that customers are fully informed that they are purchasing a 'package home' consisting of various materials which have to be cut on site and prepared for erection and that they are given a comprehensive list of materials included in the 'package'. He has also stated that no contracts have been lost and that further contracts are still being negotiated. The Commissioner for Consumer Affairs proposes to conduct further inquiries into several aspects of the company's operation, including the payment of large deposits prior to material being delivered to the site and certain statements in the company's advertising literature. He considers that some of the clauses in the contracts used by Lindal Homes are unfairly weighted in favour of the company, although they are not unlawful. He has pointed out, however, that this comment would apply to many other forms of contract commonly used in the building industry. The Minister of Consumer Affairs has requested from the Department of Public and Consumer Affairs a report on building contracts generally and the forms of contract used in the present case will be further studied as part of this project.

QUESTION TIME

Mr ABE SAFFRON

Mr OLSEN: Can the Premier confirm that the South Australian Government has given its approval for a full scale inquiry by the National Crime Authority into the Sydney business identity, Mr Abe Saffron, and, if so, does this inquiry involve any alleged activities of Mr Saffron in South Australia?

I understand that an inter-governmental committee last October gave the National Crime Authority a reference to investigate Mr Saffron using coercive powers. This committee comprises Ministers from the Commonwealth and each State and Territory, and it made its decision following a formal submission to the Commonwealth and the States outlining the case for an inquiry into Mr Saffron. I also understand that the move for an inquiry is based, at least in part, on information compiled by the Federal Police, which showed that Mr Saffron was linked with between 40 and 100 companies, mainly in New South Wales, South Australia and Western Australia.

In a statement in this House on 7 March 1978, the former Attorney-General, Mr Duncan, said that he had been informed by police that Mr Saffron was a key figure in organised crime in Australia. In raising this matter, I do not seek any detail of allegations about Mr Saffron which may be under investigation, but a general indication of whether the national inquiry into his activities now underway, extends to activities in South Australia.

The Hon. J.C. BANNON: I am not aware of this matter or of such an investigation, but I shall refer the matter to my colleague the Attorney-General, who, I would imagine, would be the only Minister cognisant of these affairs through the National Crime Authority. All I can say is that I have not been made aware of the matter. I certainly recall the references in 1978 that were made by the Leader of the Opposition. It is true as a matter of practice in this State that both licensing authorities and other authorities that may be involved, including the police, have over the years kept an eye on Mr Saffron's activities and have ensured that there has been proper surveillance and checking. I do not know any more than that, and I am certainly not aware of the specific matter raised by the Leader of the Opposition.

FRIENDLY TRANSPORT COMPANY

Mr MAYES: Can the Minister for Environment and Planning say whether agreement has been reached between the Government, Friendly Transport Company and the West Torrens council in relation to the relocation of Friendly Transport Company from its present site at Black Forest to Richmond? Will the Minister outline the details of that agreement?

The Hon. D.J. HOPGOOD: I can confirm that an arrangement has been arrived at. This involves the Minister's advising His Excellency on Thursday morning that the regulation which removed the planning powers from the West Torrens council should be revoked so that the council can carry on normal planning proposals. The important aspect of this matter is that the West Torrens council has agreed that it will withdraw the actions that it has been undertaking in the courts which have had the effect of frustrating the original approval that had been given through the Planning Appeals Tribunal for this matter to proceed.

That is the important principle involved. The Government has been able to achieve its objective: that Friendly Transport Company shall be moved to the site which we had identified. At the same time, an investigation by the Planning Commission has satisfied the Commission in relation to certain matters that had been referred to it for investigation in relation to the planning performance of the West Torrens council. That is why last week the Planning Commission made an appropriate recommendation to the Government, which has been accepted and which will be placed before the Governor on Thursday morning. I think that the important principle that has been imported into this matter is that the Government's reasonably drastic action (admittedly drastic action) in this matter has forced the various parties to the conference table, and has resulted in an interesting document being entered into by Friendly Transport Company and the West Torrens Corporation.

The effect is that there are certain penal provisions which can apply where trucks going to and from that depot wander from an agreed transport route into suburban streets. This is something that Mr Lazarovits from Friendly Transport has agreed to: his signature is on the document, and it was ratified by the West Torrens Corporation last evening.

I can confirm that the Government's prime objective has been achieved here, in that, without further delay, which would have occurred through the court system, we have now reached a position where Friendly Transport is able to locate to the new site. At the same time the planning powers will on Thursday morning be restored to the West Torrens Corporation, and it can proceed with the normal planning powers of local government.

The Hon. B.C. EASTICK: Can the Premier say how much will the settlement by the Government of the Friendly Transport dispute cost the South Australian taxpayers? Also, will he withdraw the statement he made on 14 March that the West Torrens council was employing delaying tactics over the relocation of this company?

Earlier this afternoon the Minister for Environment and Planning announced an agreement, and he has just confirmed that agreement in this House. In the statement the Minister said that an investigation had shown no evidence of unsatisfactory planning performance by the council, and that the Planning Commission and the Government were satisfied that the council's planning performance has been satisfactory. This statement amounts to an admission by the Government that it was completely wrong in using the planning powers against the West Torrens council. It completely repudiates the Premier's accusation on 14 March that the council was employing delaying tactics, and it proves the point that the Opposition has been making all along.

The DEPUTY SPEAKER: Order! I have pointed out on numerous occasions whilst in the Chair that Question Time is a time when members have a right to question, not debate, some issue that has been raised. I ask the honourable member, who would know what I am talking about, to bring his explanation back to an explanation and not to debate the issue.

The Hon. B.C. EASTICK: The Government would be aware that there is a letter-boxing of the Black Forest area this afternoon about the decision in a desperate attempt to shore up the light of the honourable member for Unley. Will the Premier quantify the funds the Government will have to allocate as its part of the agreement, which include the legal costs of the West Torrens council and work on Friendly Transport's new site, including over $250 000 of Highways Department funds which has played a significant role in entry to the new property and which I believe runs into tens and probably hundreds of thousands of South Australian taxpayer funds in total.

The Hon. J.C. BANNON: I can understand that the chief concern of the Opposition is that this matter has been satisfactorily settled.

Members interjecting:

The DEPUTY SPEAKER: Order!

The Hon. J.C. BANNON: The Leader of the Opposition himself had in the newspaper today a letter in which he was effectively chiding the Government for not compulsorily acquiring the property. What would that do in terms of taxpayers' funds? It appears that the Leader of the Opposition criticises the Government for finding a solution to this problem by means which have amicably settled it—with some hassle we concede—at a minimal cost to the taxpayers and the community. That is the overriding point, yet the Leader of the Opposition again (perhaps there has been a failure of consultation between the two) is in the paper asking why did not the Government move to compulsorily acquire it. For a start, we would have to outlay those expenses immediately and, secondly, the compulsory acquisition orders and the legal transactions arising from them would have been more protracted and far more costly than what has happened now. That is a fact of life. By taking the action that it did, finally at the end of its patience the Government indicated firmly and precisely what was necessary and that action has been accomplished. I congratulate the member for Unley on the role he has played in bringing that about.

Members interjecting:

The DEPUTY SPEAKER: Order!

AUSTRALIAN HOME NURSERIES

Ms LENEHAN: Will the Minister of Community Welfare, representing the Minister of Consumer Affairs in another place, urgently investigate the company Australian Home Nurseries, the principal of which is a Mr Ernst Van Reesema? In yesterday's *Advertiser* an advertisement headed 'Home grow for profit' exhorted people who are keen gardeners over 40 years of age to turn their spare time into $5 000 to $25 000 per annum, and stated that there was a one to 10 year warranty and a one to 10 year guaranteed contract. From $3 995 for a plantarium, all equipment and training and one year horticultural supervision, people are obviously exhorted to invest their funds. Several of my constituents and a number of other people from Adelaide have contacted my electorate office and complained about Mr Van Reesema and his companies, of which I am told there are 14 in South Australia.

These constituents have put to me certain facts. In one case, for an investment of $4 150, only a return of $200 has been received over 12 months. In another case, for an investment of $4 500 to date only $369.80 has been received over 10 months. Thirdly, for a sum of $4 820 an investor has received only $20.25 over eight months. While these people have received greenhouses, shelving, mini seed propagators, seeds, etc., they have also been obligated to purchase potting mix, seeds and other equipment from the company and in return they are guaranteed to receive in some cases 80 per cent of the wholesale cost or price of plants, although in more recent contracts that figure has been reduced to 60 per cent. However, returns have nowhere near reached the advertised $5 000 to $25 000.

Finally, it has been put to me that ordinary South Australians over 40 years, nearing retirement in many cases, have been asked to contribute between $4 000 and $5 500 for a return that is at best extremely dubious. I therefore ask the Minister to urgently investigate the behaviour of the company.

The Hon. G.J. CRAFTER: I thank the honourable member for her question and for raising the matter. I understand that another honourable member has also indicated his concern to the House on this measure and I further understand that this company is actually under active investigation presently. I will obtain a report for the honourable member from the Attorney-General.

PUBLIC SERVICE SALARIES

The Hon. E.R. GOLDSWORTHY: Can the Premier say whether the Government intends to agree to significant salary increases for senior public servants in line with the rises to which it has agreed for the Judiciary?

The Hon. G.F. Keneally: Deputy Leaders of the Opposition—

The Hon. E.R. GOLDSWORTHY: Certainly not for Ministers of Tourism. The Government has agreed to an increase of more than $140 a week for judges of the South Australian Supreme Court. This decision is a complete departure from the Government's original intentions, which were that the Judiciary and senior public servants such as departmental heads and statutory office holders should pres-

ent their case for salary increases to a remuneration tribunal. The Government's agreement to a significant salary increase for the Judiciary is likely to cause confusion and concern amongst the general work force, whose pay packets have been determined by the wages accord during the past two years. Because the agreement with the judges has not so far been explained by the Premier—far from it—we trust that he will take this opportunity to clarify the reasons for the decision and any effect that it may have on the salaries of senior public servants.

The Hon. J.C. BANNON: The judges' salaries have been governed by the Remuneration Bill that has gone through the House. I do not believe that it will affect the salaries of senior public servants, because they are related to the public servants determinations. So, I can add nothing at this stage to what is common knowledge.

The Hon. E.R. Goldsworthy: You want to give them a handout irrespective of the legislation. You don't know what day of the week it is.

The DEPUTY SPEAKER: Order! I hope that the Deputy Leader of the Opposition will not continue in the vein that he is at present, because he will clash with the Chair sooner or later, and we know who will win.

SOUTH AUSTRALIAN FILM CORPORATION

Mr HAMILTON: Can the Premier elaborate on the expression of interest by overseas organisations in the South Australian Film Corporation?

Members interjecting:

Mr HAMILTON: I know that honourable members opposite are not interested in the South Australian Film Corporation, but the Government is. While the Premier was overseas, I noted an article in the local press that indicated that overseas organisations were interested in the South Australian film industry and, if my memory serves me correctly, the video activities of this world wide recognised film corporation. The House will also be aware of the considerable contribution made by the South Australian Film Corporation to the economy of this State, the recognition of the State and to local employment within the electorate of Albert Park, which is my electorate. Therefore, I ask whether the Premier can elaborate on the expression of interest by overseas organisations and companies in the South Australian Film Corporation, and I hope that this will be of benefit to the Opposition, which obviously does not like the South Australian Film Corporation.

The Hon. J.C. BANNON: I thank the honourable member for his question and his ongoing interest in the Film Corporation, which is a very important part not just of the film industry in Australia but as a promotional vehicle for the State of South Australia. In fact, overseas the product of the Film Corporation is certainly well recognised and well known as part of the revival of the Australian feature film industry. The quality of its work is also recognised. Some of the videos that have been presented in the course of investment seminars have been commissioned through the Film Corporation and, certainly, its role in promoting and developing film work in South Australia has had a major contribution and acted as a major employment stimulus. I believe that it can go much further. It is interesting that, of the Australian feature films mentioned, very often the names of those films that have been produced by the South Australian Film Corporation, even if it is not specifically understood that that was the producer, constantly come up as being in the forefront of the feature films that have created such interest.

In Texas, for instance, as part of the Jubilee 150 exercises there are plans to have an Australian Film Festival which will be performed in a number of centres. There is already quite considerable interest in it. There are a number of commercial elements to be wrapped up before it becomes a reality, but South Australian Film Corporation films will be a major feature of that festival. I hope it can include the latest production, *Robbery Under Arms*, which has been made, as the honourable member knows, as a full length feature film and, perhaps more importantly from a financial point of view, it is also to be a television mini series. In fact, it was shot by two directors in two forms, which was a breakthrough as far as filming in Australia was concerned. So, there is no question that the prestige, the competence and the technical abilities of the Film Corporation are an important selling point for South Australia. Its product is certainly very useful in explaining to people just what this State is about and what its capacities are. I would hope that all members endorse and support the activities of that important part of our South Australian structure.

APPEAL AGAINST SENTENCE

The Hon. MICHAEL WILSON: Will the Premier say whether it is the Crown's intention to appeal against the sentence handed down in the Central District Criminal Court yesterday which, on the facts reported in this morning's *Advertiser*, appears to be manifestly inadequate? The case involved a charge of causing death by dangerous driving, following the death of an eight year old boy in October 1982. The facts reported in today's press indicate that alcohol and speed contributed to this tragedy. The person convicted was given a suspended 18 month gaol sentence and a two year good behaviour bond when the maximum penalty for the crime of causing death by dangerous driving is seven years imprisonment.

The Hon. J.C. BANNON: I will have to refer that question to my colleague the Attorney-General who, of course, would receive advice from his Crown Law officers as to what action might be taken. Therefore, I do not want to comment on the specific case, but in that general context of appeals against sentencing it is worth again reminding the House that this Government has pursued that power very vigorously indeed. Well over 60 cases of appeals have been taken and a considerable percentage of them have been successful in that the Full Court has ruled that sentences given in lower courts were not adequate or sufficient. Our record in this area is to take very strong and vigorous action where legal grounds and the facts of the case demand it. I must contrast that with the record of the previous Government with nowhere near—

Members interjecting:

The Hon. J.C. BANNON: They may have had the power, but they did not use it.

The DEPUTY SPEAKER: Order! I call the honourable member for Florey.

OLD GOLD MINING AREAS

Mr GREGORY: My question is to the Minister of Mines and Energy.

Members interjecting:

The DEPUTY SPEAKER: Order!

Mr GREGORY: Early in April the Minister provided the House with some very interesting information on his Department's efforts to reassess the potential of many South Australian old gold mining areas and to encourage and assist in a greater level of exploration in those areas. I am aware that since then the Minister has visited some of the old

mining areas in question. Does he have any further information to provide to this House?

The Hon. R.G. PAYNE: I trust that you, Sir, would not conclude from the behaviour of the Opposition when the honourable member was asking his question that its members have no interest in gold, because I would not believe that from what I know of members opposite. The honourable member referred to an earlier question in this House in answer to which I provided information that the departmental officers for a number of years—and that would of course have occurred under the regime of the previous Minister so I take it that there is no opposition to that by the Opposition—have been re-examining South Australian goldfield areas, many of which were no longer being worked, to see whether there was potential for encouragement in that area by some action by the Department with the support of the Government.

At Waukaringa, the Department recommended and I have approved a $70 000 drilling programme consisting of three core holes in that area to see whether a further ore chute can be located. It is likely that something in the order of 30 000 tonnes of gold bearing ore, perhaps running 10 grams to the tonne, could be located by that work if it is successful. Also at Waukaringa, for example, I think honourable members would be rather surprised to know that between 1873 and 1894 something in the order of 3 080 pounds of gold was taken from that field alone.

At Waukaringa, I visited the area where the departmental drilling rig was *in situ* and was within a day or two of completing the first of the three holes I have already mentioned. On the site is a plant in which a considerable investment is being made by David Fairs and other persons to try to recover (in addition to the other area I am mentioning) from something like 40 000 tonnes of tailings a quantity of gold which has been sampled and runs to about 4 grams per tonne.

I notice members opposite now are not quite so scathing. As I mentioned at the beginning of my answer, there is a little interest in gold by members opposite. In addition to visiting Waukaringa, I visited Nillinghoo. That field in its heyday earlier in our history produced more than 100 000 grams of gold. At that field, as would be well known to the member for Eyre as they are his constitutents, I met Mr Harry Rademaker, for whom I have a great admiration—and I dare say the member for Eyre would also have a similar admiration for him. I am sure Harry would not mind my saying in these illustrious confines that he is a bit of a battler.

Mr Gunn interjecting:

The Hon. R.G. PAYNE: The member for Eyre can speak for himself. I am endeavouring to put before the House something of my feelings about Mr Harry Rademaker, who is struggling to produce gold in a limited way from a difficult field which has no obvious water supply. I am sure members would appreciate that that would make the project somewhat difficult. I had some discussions with Harry about that matter. I was not able to meet the member for Eyre's other constituent, Johnny, on that field, because he was not there at the time. It seems to me that members opposite ought to pay more attention to the content of questions and spend less time trying to make some silly point. In this case, I think my attitude has been vindicated, because members opposite have at least listened and may have learnt something, although I doubt it.

ST VINCENT GULF FISHING

Mr MEIER: Can the Minister for Environment and Planning say whether there have been any prosecutions, or are prosecutions pending, against people who have fished within the protected zone around the shipwreck, *Zanoni*, in St Vincent Gulf off Ardrossan? In a statement reported in the *Advertiser* on 17 April the Minister said that fishermen were flouting the law by continuing to fish around this wreck and that penalties for breaching the law included fines of up to $1 000 or up to a year in gaol. In a statement in the Yorke Peninsula *Country Times* on the same day, the Minister said that he was angered because the wreck had been damaged by boat anchors.

The Hon. D.J. HOPGOOD: I understand that three possibilities for prosecution are under consideration at present. I think it would certainly be improper for me to give details of that at this stage, but we are very serious about the protection of this unique part of South Australia's heritage. It is possible that those prosecutions will proceed. If the honourable member has any suggestions for further action in this regard, I would be only too happy to receive names.

MURRAY RIVER HOUSEBOATS

Mr FERGUSON: Has the Minister of Marine considered what would be the optimum number of houseboats on the Murray River? Recently I had the opportunity to inspect a houseboat mooring stationed near Murray Bridge, and I was impressed with the tourism potential and employment possibilities of this venture. The number of boats on the river appears to be increasing substantially, and that raises the question of what the outer limits of this activity might be.

The Hon. R.K. ABBOTT: I thank the honourable member for his question, and I have a report for him. The Murray River was developed as a centre for multi-user water activities, including both recreation and sporting activities, such as water ski-ing, pleasure cruising, fishing and leisure boating. Currently, 120 registered houseboats and an estimated 200 private houseboats are operating on the Murray River in this State. The number of commercial houseboats is increasing at an estimated rate of 20 per year and the private houseboats at a rate of 25 to 30 per year.

In early March 1983, Cabinet approved the production of staged management plans for areas adjoining, and including, the Murray River, from Overland Corner to the State border. The first stage of these plans, from Disher Creek to the border, is in final draft form and is expected to be available for public comment shortly. Zoning is included as part of the management plan.

The production of a management plan has involved representation from State Government departments, local councils and relevant interested private associations. In conjunction with the production of these management plans, the Murray Valley Regional Co-ordinating Committee has been established. This committee comprises representatives from State Government departments. One of the aims of the committee is to provide for the multiple use of the Murray River and adjacent areas in a balanced manner to minimise conflicts, and it is envisaged that this committee will have a strong input into determining the future needs of the Murray River development.

SHIPWRECK *ZANONI*

Mr BECKER: My question is directed to the Minister for Environment and Planning and is supplementary to the question asked by the member for Goyder. Will the Minister confirm that a senior member of the Government—a member of this House—was spoken to on Sunday 7 April by an authorised fishing inspector within the protected zone surrounding the shipwreck *Zanoni*, and can he say whether a

prosecution is pending in this case? I have been advised that this Government member, in the company of another man, was spoken to by an authorised inspector and told to move out of the area. In his statement in the Yorke Peninsula *Country Times* of 17 April the Minister was quoted as saying that prosecutions were pending against several fishermen for going within this protected zone, and I ask whether a Government member is one of them.

The Hon. D.J. HOPGOOD: This is all news to me. I can assure the honourable member that it certainly was not me. I can hardly swim, so I think to be that far out of sight of land would be a little unusual. I shall obtain a reply for the honourable member. Obviously, the law must be applied without fear or favour to whichever individual is involved. However, at this stage I know nothing of the matter to which the honourable member refers.

PROBATE

Mr TRAINER: I direct my question to the Minister of Community Welfare, representing the Attorney-General in another place. Will the Attorney-General give consideration to revising section 71 of the Administration and Probate Act, 1919-1975, which requires a certificate of probate before any sum exceeding $2 000 that is owing to a deceased employee of the Government can be paid out to his or her spouse? I understand that this $2 000 limit was last revised a decade ago, and inflationary movements since then have probably made that ceiling too low for today's monetary values. This problem came to my attention with the case of Sue Arthurson, a courageous young mother who became a widow following the death last year of her husband David Arthurson, who was a paraplegic employee of the STA. Unfortunately, he died intestate (without leaving a will).

At the time, the sum of $2 657 was owing to David Arthurson in long service leave payments but, because that sum exceeded the $2 000 limit, the Government (even wih the best will in the world on the part of the Minister of Transport) was unable to pay it to Sue Arthurson without a certificate of probate, a limitation which required her to seek legal assistance which would reduce the sum eventually received.

As it turned out, the legal fees of her solicitor totalled $1 592, so that Sue Arthurson received only $1 065, less than 40 per cent of the long service leave payment her late husband should have received, since 60 per cent went in legal costs. The account from the solicitor she engaged included items such as—

7 interviews at $80 per hour;
32 telephone calls at $11 each;
6 letters written at $25 each;
14 letters received at $1 each,

plus varying other charges, including photocopying charges, taxi-fares for the solicitor, etc., totalling nearly $1 600. I have complained about that account to the Law Society, pointing out that, at those rates, my electorate secretary and I would soon be among the wealthiest people in the State.

Separate from the problem of the specific legal costs involved with that particular solicitor, I would ask the Minister to make representation to the Attorney-General to raise the $2 000 limit above which legal costs will begin to be incurred with payouts such as this one.

The Hon. G.J. CRAFTER: I thank the honourable member for his question. The circumstances explained to the House do seem to give rise to some degree of concern about the hardship caused by the current level referred to. I will be pleased to have this matter referred to the Attorney-General for his consideration.

THOMAS PIETSCH COTTAGE

The Hon. D.C. WOTTON: Will the Minister for Environment and Planning provide to the House a full report relating to the destruction of the Thomas Pietsch Cottage at Hahndorf? What is the Government now going to do about what is left of that particular building, and will he indicate now what action he is taking to ensure that a similar situation regarding a very valuable part of our heritage does not occur again?

The Thomas Pietsch Cottage at Hahndorf is widely recognised as being the first structure to be built in what is the oldest German settlement in Australia. The 140 year old cottage, which is on the State heritage list, was badly damaged by fire recently, and the following day the owner of the property pulled down a considerable part of what was left of the structure. The small section remaining is deteriorating daily as a result of exposure to the elements and the lack of any action by the Government to rectify this situation. I understand that the police are investigating the circumstances surrounding the fire, and the Minister may be able to confirm that and to indicate whether any findings have been released.

It is public knowledge that $20 000 has been spent by the Government on the structure. I am told that this expenditure has occurred without any formal agreement being reached between the owner of the building and the Government. Since the fire, there has been no statement given by the Minister, and no physical action has been taken by the Government regarding what is left of the cottage. It has been put to me and said publicly in recent times that this Government appears happy to play on the tourism significance of Hahndorf but does nothing in recognition of its heritage significance which, after all, makes Hahndorf such an important tourist centre.

The Hon. D.J. HOPGOOD: I would be only too happy to give the honourable member (and anybody else who requires it) the information sought. There are aspects of this whole matter which disturb me somewhat and I really do not think I should put a finer point on it than that, but I am having the whole matter very properly examined.

As to action which might be taken, I would refer the honourable member to legislation which will be introduced in this Chamber next week. It will not be possible to get that legislation through in this session, but it is my way of indicating to the Opposition and the public generally that a set of amendments to the heritage legislation is being prepared. We think they are important and should receive some public debate before we return for the Budget session and that matter can be investigated.

The Hon. D.C. Wotton: Has that investigation been completed?

The Hon. D.J. HOPGOOD: I do not know whether that investigation has been completed. As soon as it is (and it cannot be completed quickly enough for me) I will be happy to ensure that appropriate decisions are taken and that those decisions are made as widely known as possible. I thank the honourable member for drawing the matter to my attention.

The Hon. D.C. Wotton: Will you get me a copy of it?

The Hon. D.J. HOPGOOD: Yes, I am happy to give the honourable member all the information I can, and anyone else who wants to get it. There are aspects of this whole matter that disturb me as they no doubt disturb the local member for the area. I hope that the scheme of legislation that we will introduce next week for the laying on the table process will give some assurance to the public that we will have more adequate legislative steps to take in future.

SCHOOL CLEANERS

Mr KLUNDER: Can the Minister of Education indicate whether there is any intent to alter the conditions of tenure with regard to those people now holding petty contracts as school cleaners? My question is consequent on a question asked yesterday by the shadow Minister of Education regarding the possible move from contract to weekly paid labour. To avoid any possible fear of retrenchment or displacement, can the Minister indicate what is the tenure of employment of existing petty contract cleaners?

The Hon. LYNN ARNOLD: I can advise the House that, in all proprosals being considered and to which I referred yesterday in the House, there is no proposal under the present policy that petty contract cleaners will be varied. That policy is that petty contracts stay in place until they are terminated by retirement or withdrawal of the petty contracts servicing these schools. That policy has been followed to date and there is no intention to vary it. The policy was put in place by the former Government belatedly after its initial decision to move to industrial contracts. Its first decision had been that it would move in a wholesale way to industrial contracts. We were one of these groups who vehemently opposed plans of the former Government at the time of the first Estimates Committees when that system came into operation.

As a result of the collective opposition of various groups, including the Opposition of the day, it was modified by the former Government to enable petty contracts that existed to see themselves out rather than to be summarily terminated. That policy has been accepted by this Government and nothing is in train to see the summary termination of the petty contracts. In other words, those who have petty contracts will be able to work out those situations, and any future decision of Cabinet (and that is a decision yet to be made with industrial contracts *vis-a-vis*, weekly labour) will not effect that policy.

ROADWORKS

Mr ASHENDEN: Will the Minister of Transport please reconsider his earlier reply to the question I asked concerning the hours at which maintenance work should be undertaken by the Highways Department in order to ensure the best possible traffic flow during peak hours? My earlier question to the Minister concerned delays on Payneham and Lower North East Roads due to roadworks and signal globe maintenance in peak hours. Long delays were suffered by motorists because non-essential work was being undertaken during peak periods. Constituents are most unhappy with the reply forwarded by the Minister which indicated that he believed it was necessary for globe changes to occur in peak hours. My constituents cannot understand why that is the case.

I now refer to contacts I have had from constituents over the past week in relation to problems on the North East Road. Just after 8 a.m. on 1 May maintenance work was undertaken on the North East Road opposite Windana Avenue and one lane was completely closed. Similarly, just after 8 a.m. on 2 May just by the OG Hotel maintenance work was being undertaken and traffic was reduced to one lane. Traffic was banked up almost to Holden Hill—well over two kilometres. One constituent said that it took an extra 15 minutes for him to travel to town that day; another indicated that he took an extra 25 minutes. In that case it was again only maintenance being undertaken.

Constituents have put suggestions to me to overcome these problems. They have suggested—and I certainly agree—that no work should be undertaken during peak hour on the side of a road that is needed for peak hour traffic flow. A second suggestion is the use of witches hats or other markers to vary the normal flow so that the usual lanes can be altered to provide two lanes in the peak hour direction and only one in the opposite direction. A third suggestion is the erection of warning signs ahead of the roadworks so that motorists can follow an alternate route. A fourth suggestion is that there should be publicity before this type of work is undertaken.

In other States, this sort of work is always held off until after the peak hour flow has passed so that with traffic flow to the city no work is undertaken until after 9 a.m. and with the traffic flow travelling out of the city no work is undertaken after about 3.30 p.m. or 4 p.m. I urge the Minister to reconsider his earlier decision and to issue instructions to the Highways Department not to undertake that work in peak hours.

The Hon. R.K. ABBOTT: All road programmes and maintenance work that is carried out by the Highways Department is programmed to minimise traffic delay as much as we can. It is not always possible to do that. The suggestion that the honourable member has put forward that this work be done outside of normal hours—

Mr Ashenden: Peak hours.

The Hon. R.K. ABBOTT: —outside of peak hours in an endeavour to complete the work on time would entail work being done outside of normal hours, and would further delay the completion of that work. The cost would be astronomical. If we had to pay overtime and other penalty rates outside of normal working hours, it would increase the cost considerably. I do not know what that cost would be, but I certainly can find out from the Highways Department.

I have some information from the Department. In particular, bearing in mind that it is not usually satisfactory to leave excavated lanes closed off over night, road planning operations must be commenced sufficiently early in the day to enable reinstatement to be finished on the same day. Problems can also occur as a result of either inclement weather, or plant breakdown. A balance must be achieved between having a reasonable degree of traffic hold-ups, say, on one day as against having lesser delays but spread over several days. Usually, it is possible to provide two lanes for peak traffic, but occasionally problems occur, particularly close to intersections, where median kerbing prevents the use of median space or adjoining traffic lanes.

Problems can also occur when working in the centre lane (that is, on three-lane carriageways) because of the road required by construction plant physically limiting the space to traffic. It is anticipated that reinstatement work will cease at the end of this week, 10 May—this is on North East Road—but that some additional work would be undertaken towards the end of the calendar year and an asphaltic overlay to the entire pavement will be provided later.

All roadworks are very expensive, as the honourable member would be aware, and it would add considerably to the total cost of that suggestion that he has made. I know that the Commissioner for Highways has instructed the manager of those works to endeavour to avoid as much traffic delay in the peak hours as they possibly can. They are carrying that out and doing the best that they possibly can in the circumstances. We are not getting enough funding for roads as it is, and to spend more in this way would be totally unacceptable to the total responsibility of our roadworks programmes in the whole of the State. Then, I guess that the member would criticise us if we were wasting money: we always get criticised for any waste. Honourable members opposite have complained about over spending, but they are always appealing for the Government to spend more money in this kind of wasteful way.

COMMERCIAL TENANCIES LEGISLATION

Mr GROOM: Will the Minister of Community Welfare ask the Attorney-General when the commercial tenancies legislation passed in February and intended to provide protection to small businesses is likely to come into operation in South Australia? My question is prompted by a situation recently related to me by the owner of a small snack bar in the south-western suburbs. Briefly, a new owner purchased the premises in which the business was conducted in September 1984. Immediately the purchase was concluded the new owner then sent the snack bar proprietress a notice to quit, the basis being that the person concerned had not painted the building in the month of June, despite the fact that this was not required by the then owners.

As a consequence of going to a solicitor that situation was resolved because, quite frankly, it was simply a ruse to seek to get the person out or renegotiate tenancy terms. The person had at that point what I describe as being a fair lease. The person concerned clearly read into the situation as to what was the likely turn of events with the new owner, and promptly sought to sell the snack bar for $20 000, plus stock, and found a prospective purchaser.

When she then went to the new owners of the building to seek agreement to the assignment of the lease, the new owner wanted $8 000 just to have the assignment effected and another 10 per cent of goodwill from the new owner of the snack bar, should that person want to sell the business ultimately. Needless to say, the snack bar proprietress simply lost this sale. In addition to that, she has now received a demand for a rent increase because, although her lease has 15 months to go, the rent is subject to review I think in the month of June, and the new owner of the building wants the rent to go up from something like $280 a week to about $600 a week, which is a 300 per cent increase, and has refused to release the snack bar proprietress from the residuary terms of the lease, which has another 15 months to run. The effect of this type of iniquitous practice is that the person concerned has lost the sale and is facing the complete loss of business. Many of those practices I have outlined are outlawed under the legislation passed in February. Although this is not the only example that has been drawn to my attention, this outrageous fact situation reflects the need to have the legislation operational as soon as possible to prevent these types of iniquitous practices being perpetrated on small businesses.

The Hon. G.J. CRAFTER: I thank the honourable member for his most important question, and I note the interest in this matter from members opposite. This is an important measure that the Government has introduced and which has now passed the Parliament. I understand that the Attorney is, as expeditiously as possible, preparing regulations, making the necessary administrative arrangements and seeking funding so that this legislation can be proclaimed and implemented. It is important legislation, as the honourable member has said, and many people in the community are waiting for it to come into effect. Also, this legislation was rejected by the previous Government. I will seek more up-to-date information from the Attorney, and ask him to transmit this request to those who are inquiring into this matter.

PRE-SCHOOL FACILITIES

Mr LEWIS: Can the Minister of Education say when the communities of Coomandook and Geranium will be provided with capital works funds necessary to enable the construction of pre-school facilities there and to provide adequate staffing levels for children eligible to attend pre-school from these communities?

The Hon. LYNN ARNOLD: I refer the honourable member to replies I gave him on precisely this question in the Estimates Committee last year. I also refer him to the fact that this legislation for the creation of a Children's Services Office has now passed. Of course, from 1 July we will be taking responsibility for both recurrent and capital requirements of early childhood matters in this State.

Indeed, the matters at Coomandook and Geranium have been under consideration, as I said, in the 1984-85 Budget process and they are also under Budget consideration for the 1985-86 financial year. We believe that the creation of the new office will substantially enable much better meeting of needs that exist around the State than may have been possible under the previous system that existed, given the diverse methods of meeting those needs.

The matter of the preschool needs of the Coomandook and Geranium communities has not been disputed; we acknowledge the needs out there. We have examined alternative ways of meeting those needs, as I believe the honourable member will be well aware. One was to examine whether or not there was space available at the Coomandook Area School to make part of that school available as a preschool facility. When I visited that school some time ago there was some excess capacity that could have been turned over to that facility and it was my suggestion that that matter be examined.

However, enrolment patterns have changed and that space which had been available is no longer available at that school and I have to accept that my suggestion is no longer a viable one. That is indicative of the fact that the Government is trying to do what it can to meet the needs within the available resources of all communities in South Australia and, as I said in the Estimates Committee last year, there is no belief in this Government that the needs of any one community are pre-eminent over the needs of another. We are trying to do the best we can with the resources available to meet all those needs as quickly as possible. We believe the creation of the Children's Services Office will help us to do that more effectively than may have been the case in the past.

ADELAIDE INTERNATIONAL AIRPORT

Mr HAMILTON: Can the Minister of Tourism advise the extent of inbound and outbound traffic through the Adelaide International Airport? In an article that appeared in the *Advertiser* last month it was stated that airline executives were pleased that Adelaide International Airport was 'running hot' in terms of overseas inbound and outbound traffic.

On 29 April British Airways was reported as saying that a record 281 passengers were on its flight to Singapore and London. Similarly, on 28 April Qantas is reported as quoting that it had 275 passengers on its flight to London and during the previous week it had almost 300 passengers on its London service. British Airways Manager, Mr Ralph Maloney, is quoted as saying that he was very pleased with the way things were going. Can the Minister advise the extent of inbound and outbound traffic through the Adelaide International Airport in previous months?

The Hon. G.F. KENEALLY: I do not have with me the figures requested by the honourable member but I will ask my Department to obtain them for him. I think it is appropriate to say, nevertheless, that the three carriers—Qantas, British Airways and Singapore Airlines—are all meeting their forward expectations in terms of passenger loadings and that the Adelaide International Airport has been a

success for a number of reasons, not only commercially for the airlines using it but also because it places South Australia, and particularly Adelaide, very firmly on the airways of the international carriers. That is a great benefit to South Australia and to Adelaide, in particular.

I want to say one or two things about the Adelaide International Airport by way of response to some comments made by the member for Davenport. I believe that last week the member for Davenport was seen grandstanding at the Adelaide International Airport, saying that it was inadequate and that the facilities were not appropriate. Let me put squarely before the House what took place in 1982, when we obtained that international airport. I give credit to the previous Government for the urgency it showed in obtaining an international airport for South Australia but two factors should not be forgotten.

The first is that there was an urgency to open that international airport in Adelaide prior to the State election—much sooner than it ought to have been opened and much sooner than it was ready to be opened. I can recall going through that international airport soon after it opened: there were no carpets on the floors and no facilities were being provided at all. It was opened purely as an election gimmick. That was bad enough—

An honourable member interjecting:

The Hon. G.F. KENEALLY: The establishment was not necessarily an election gimmick but the timing of the opening was. When the international airport in Adelaide was established the Federal Government told the then South Australian Government (if it was honest enough to make that information available to the electors of South Australia) that we could have a full international airport appropriate to a capital city of Australia, which would mean that we waited a bit longer, or we could have a regional city airport. What we have in Adelaide is the direct plan that was developed for Townsville. They transferred the Townsville plan and placed it in Adelaide. What we have here, at the behest of the member for Davenport's Government when it was in office, is a regional city's international airport. All Federal Ministers for Aviation know that we were bought off cheaply indeed in Adelaide. We could have held out a bit longer and had an airport of the same quality as those at Perth and Brisbane.

An honourable member: That would have been 10 years away.

The Hon. G.F. KENEALLY: There you are, they acknowledge it! Members opposite acknowledge that they did accept a second-grade airport for a city with Adelaide's population. Since we have been in Government we have worked strenuously to ensure that, although we have an international airport (not of the quality we would have hoped, but we do have an airport, and I give credit to the previous Government for that), it needs a lot of upgrading, and we have worked hard to that end. The honourable member who has asked the question, my own committee and I, as Minister, have worked hard in co-operation with the Federal Minister and the South Australian Tourism Industry Council to ensure the upgrading of the international airport. However, it seems to me that it is politicking of the most extreme kind for the member for Davenport now to be carping about the inadequacies of the international airport in Adelaide when he was a member of the Government and of the Cabinet that was prepared to accept an international airport that was inadequate for our needs.

The Hon. Michael Wilson interjecting:

The Hon. G.F. KENEALLY: He knows that very well as does his colleague the member for Torrens, who has confirmed it by his interjection. We deserve a better international airport than we have. We have to ensure that the one we have works efficiently. We are working, through our colleagues federally and with the Department, to ensure that is the case. The fault that lies with the international airport is the result of the original decision made by the Opposition to accept the Townsville model rather than the Perth or Brisbane model which they could have had if they had been prepared to stick in there for South Australia and represent the best interests of this State. They sold us out to their Federal colleagues because of the pending State election. They wanted to make some cheap political points at the expense of South Australian tourists and South Australia as a tourist centre. I think they ought to be condemned for that, and I take no notice of the pious pleadings of the member for Davenport 2 1/2 years after he and his colleagues let South Australia down.

REMUNERATION BILL

Returned from the Legislative Council with an amendment.

STATUTES AMENDMENT (REMUNERATION) BILL

Returned from the Legislative Council without amendment.

URBAN LAND TRUST ACT AMENDMENT BILL

Returned from the Legislative Council with amendments.

MINISTERIAL STATEMENT: FISHING PROSECUTIONS

The Hon. D.J. HOPGOOD (Minister for Environment and Planning): I seek leave to make a Ministerial statement.

Leave granted.

The Hon. D.J. HOPGOOD: Very briefly, I want to provide more information to the member for Goyder in relation to a question he asked me a short while ago, and also to correct what might have been a misleading impression that some people would have taken from the question asked of me by his colleague the member for Hanson. First, as to prosecutions pending, I can indicate to the honourable member that five cases are listed for the Maitland court on 28 May, and there is one case listed for the Port Adelaide court on 4 June. As to the question asked by the member for Hanson, I have forgotten his exact words, but it is clear from the reaction of honourable members that the interpretation was that some member of the Parliament was involved in these prosecutions. I can confirm that no member of the State or Commonwealth Parliament is involved.

PAPER TABLED

The following paper was laid on the table:

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

Pursuant to Statute—

Supreme Court—Judges Report, 1984.

ACTING CHAIRMAN OF COMMITTEES

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

That the honourable member for Henley Beach (Mr Ferguson) be Acting Chairman of Committees of the whole House so long as the Chairman of Committees shall be acting as Speaker, and in the absence of the Speaker and the Chairman of Committees he shall take the Chair as Deputy Speaker.

Motion carried.

PLANNING ACT AMENDMENT BILL (No. 3) (1985)

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill seeks to repeal to subsections (10), (11) and (12) of section 53 of the Planning Act; the provisions which require a third party appellant to seek leave from the Planning Appeal Tribunal to continue an appeal to formal hearing. Section 53 of the Planning Act provides that certain types of development application must be publicly notified, and any person may object to the proposal, and appeal to the Planning Appeal Tribunal if aggrieved by the decision. Prior to commencing formal appeal hearings, the Act provides for the holding of a compulsory conference of parties. Following this conference, a person who has lodged a 'third party' objection and appeal must seek the leave of the Tribunal to continue to a formal hearing.

Shortly after commencement of the Planning Act in November 1982, the Government appointed a committee to review the operation of the Planning Act. This committee finalised its deliberations and published its report in November 1983. The Planning Act Amendment Bill (No. 2), (1985) currently before Parliament has resulted largely from the recommendations of that Committee.

In its report, the committee recommended repeal of the requirement to seek leave to continue a third party appeal beyond the conference stage, as in its view the hearing required to determine whether to grant leave to the appellant would in practice be as lengthy and costly as the hearing itself, thus potentially adding to delays and costs. The committee concluded that the requirement for all appeals to seek leave was not justified for the few appeals denied leave.

The first draft of the Bill to implement the committee's recommendations contained the proposal to remove the 'leave to continue' provisions. The committee's view that the leave provision should be repealed was supported by a judgment of the Land and Valuation Division of the Supreme Court, in which the court concluded that the grounds on which leave should be granted were twofold: first, that the appeal was arguable on its merits, and, second, that the appeal concerned a matter of public importance. As the second ground would clearly limit legitimate third party appeals based on sound planning argument, but of private or individual importance only, the committee re-affirmed its recommendation.

However, in November 1984, the Planning Appeal Tribunal considered the Supreme Court case, and 'read down' its implications. Following that consideration, the Tribunal, as a matter of practice, heard appeal evidence concurrently with evidence on applications for leave to continue, and denied leave in many cases. As the sole basis used by the Tribunal was the 'planning merits' of the appeal, it was decided by the Government not to remove the 'leave to continue' provision.

On 4 April 1985, the Land and Valuation Division of the Supreme Court again considered the leave to continue provision, and, overturning the Tribunal's review, re-established the view that a third party appellant must show public importance to warrant leave to continue an appeal. This judgment is binding on the Tribunal, and effectively will require the Tribunal to deny leave to the great majority of third party appeals, whether arguable on the merits or not, as most appeals do not involve a matter of public importance.

The judgment of the Supreme Court effectively removes third party appeal rights in the majority of cases. As third party appeals are a fundamental feature of the Planning Act, it is proposed to amend the Act to remove the requirement for a third party to seek leave, and accordingly grant all third party appellants the right to a full hearing. An alternative course of establishing criteria in the Act to govern the assessment of the leave application was considered. However, this approach was not favoured as a full hearing would still be required to determine whether leave should be granted. For these reasons I recommend speedy passage of the Bill.

Clauses 1 and 2 are formal. Clause 3 amends section 53 of the principal Act as already described.

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

CITY OF ADELAIDE DEVELOPMENT CONTROL ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill amends the City of Adelaide Development Control Act, 1976 (The City Act). The Act provides for a scheme of development control in the City of Adelaide administered by the Corporation of the City of Adelaide and the City of Adelaide Planning Commission. The system established by the Act is separate from the development control system applying throughout the rest of the State. The Bill provides for a number of amendments to the Act to enable the council and the Commission to administer development control in the city more effectively.

A number of amendments seek to clarify or strengthen existing provisions in the Act. There is presently some doubt whether at law the council and the Commission can deal with an application for development if the development has been commenced or completed before the application is made. The Bill amends the Act to make it clear that all development, whether proposed, commenced or completed may be considered by the council or the Commission. The Bill provides for a substantial increase in penalties for undertaking development contrary to the Act.

The Bill amends the Act to clarify the sorts of conditions which may be attached to a planning approval. The Bill provides that the council is authorised to attach conditions which require the future restoration of land. The new provision does not require restoration within the period of two years prescribed by existing section 25a.

The Bill amends the Act to provide that the Crown (excluding Ministers of the Crown and prescribed instrumentalities and agencies of the Crown) is bound by the Act. The new section provides that a Minister or a prescribed instrumentality or agency of the Crown wishing to undertake development must first advise the City of Adelaide Planning Commission and consider any submissions it wishes to make before proceeding with the development. This amendment brings the city Act into line with the Planning Act, 1982.

The Bill amends the Act to provide that the council or the Commission may vary or revoke a decision that is the subject of an appeal under the Act at a compulsory conference held prior to the hearing of the appeal. This will enable the council or commission to change the original decision in order to implement a compromise worked out at a conference. The Bill amends the Act to overcome difficulties which have been encountered in effectively exercising powers of entry conferred on the council by section 40 of the Act.

The Bill repeals section 42 of the Act. This section is similar to section 56 (1) *(a)* of the Planning Act, 1982. In so far as it purports to protect the right to continue to use land the section is redundant. The term 'Development' means a change in the use of land but not a continuation of an existing use. The Act, therefore, does not attempt to control the continuation of the existing use of land. However, judicial interpretation of this section has expanded its meaning so that it now protects landowners who wish to change the use of their land by extending an existing use of the land. The Government and the council are concerned that such expansion can be undertaken without any control.

The Bill amends the Act to incorporate a number of new provisions which are based on provisions in the Planning Act, 1982. These include civil enforcement proceedings, land management agreements and control of advertisements. Provisions based on the Planning Act, 1982, will provide useful methods of enforcing planning controls. The Bill also provides that environmental impact statement procedures may apply to development of major social, economic or environmental importance in the city.

Since the commencement of the Planning Act, 1982, environmental impact statement procedures apply throughout the State except in the City of Adelaide. It is considered desirable that similar provisions also apply to the city. It is anticipated that this provision will only be used in circumstances where proposed developments are of major importance to the State. Experience in administration of the Planning Act, 1982, has demonstrated that a parallel provision in that Act has been used only once since commencement of the Act.

Clauses 1 and 2 are formal. Clause 3 amends section 3 of the principal Act. Clause 4 repeals section 5 of the principal Act and replaces it with two new sections. New section 4a explains the concept of the change of use of land for the purposes of the Act and is in the same form as section 4a of the Planning Act, 1982. New section 5 is the new provision relating to the Crown.

Clause 5 replaces sections 23 and 24 of the principal Act. Subsections (1) and (2) of section 23 are in a form similar to that of section 46 (1) and (2) of the Planning Act, 1982. The remaining subsections of existing section 23, being enforcement provisions, are redundant in view of the insertion of enforcement provisions by a later clause of the Bill. New section 24 replaces the substance of existing section 24 with minor changes. Clause 6 makes consequential amendments.

Clause 7 replaces subsection (2) of section 25 with a provision that elaborates on the substance of the existing provision and increases the period within which restoration may be required without the consent of the Commission to 12 months. Clause 8 replaces section 25a with a provision that spells out the kinds of conditions requiring restoration of the land that may be imposed by the council. Clause 9 makes consequential amendments.

Clause 10 inserts new Part IVA into the principal Act. This Part makes provisions similar to those of sections 50 and 51 of the Planning Act, 1982, and also provides for the preparation of environmental impact statements. Clause 11 makes a consequential amendment to section 28 of the principal Act. Clause 12 amends section 29 of the principal Act so that the council or the Commission may vary a previous decision to give effect to an agreement reached at a conference of parties held under that section.

Clause 13 inserts new Part VA into the principal Act. This Part provides for civil enforcement proceedings and follows closely Division II of Part III of the Planning Act, 1982. Clause 14 inserts new sections 39d and 39e into the principal Act. Section 39d provides for land management agreements and section 39e provides for the removal of certain advertisements. These provisions are similar to sections 61 and 55 of the Planning Act, 1982, respectively. Clause 15 replaces section 40 of the principal Act with a more detailed provision. Clause 16 replaces section 42 of the principal Act with a provision similar to section 57 of the Planning Act, 1982.

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

INSTITUTE OF MEDICAL AND VETERINARY SCIENCE ACT AMENDMENT BILL

The Hon. LYNN ARNOLD (Minister of Education) obtained leave and introduced a Bill for an Act to amend the Institute of Medical and Veterinary Science Act, 1982. Read a first time.

The Hon. LYNN ARNOLD: I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

The main purpose of this Bill is to permit the Institute of Medical and Veterinary Science to form a company, which would have as its principal objective the management of the commercial aspects of the Institute. In addition, the Bill will allow part time employees to enter the State Superannuation Fund, thus providing IMVS employees with conditions similar to other State Government employees.

The provision of laboratory services for the diagnosis and management of patients is a fundamental objective of the Institute of Medical and Veterinary Science. The Institute's role in research and teaching is also well understood and clearly identified. However, the Institute has a number of capabilities and functions in other areas which are not so well identified. The Institute is perhaps the largest medical diagnostic laboratory complex in Australia. It is different from most diagnostic laboratories in that it not only provides laboratory services to public hospitals but is also a major supplier of diagnostic services to private medical practice.

It is integrated into the University of Adelaide Medical School complex with respect to teaching and research in the areas of pathology. Because of the size and range of activities it undertakes, the Institute has had to develop a number of facilities, systems and devices to enable it to provide these services. Some of these have a commercial value and have either been given, copied or sold to other organisations. Until now there has been relatively little emphasis on the commercial role of the Institute and financial returns have been absorbed into general revenue. However, the recent emphasis on biotechnology by the Federal Department of Science and Technology, the State Ministry of Technology and the Department of State Development has caused the Institute to review this aspect of its role. For the purposes of this Bill the commercial role of the Institute does not include the routine medical diagnostic services provided for patient care.

The Institute already is involved in the manufacture of several biomedical products. However, it is considered that there is a significant market potential for more commercially viable products supported by the present manufacturing capacity of the Institute. Such products could include the various chemical diagnostic test kits, an example being a faecal blood test developed at the Institute and which now appears to have significant national and international applications in the early diagnosis of cancer of the gastrointestinal tract. Special function software for micro-computers in laboratories has been developed at the Institute and has been used in many States within Australia.

Educational systems based on high quality microscope slides could also be developed. There is, of course, a very real potential to develop completely new products using the highly trained and skilled staff of the Institute. The capability for the development of test systems involving recombinant DNA work already exists at the Institute. Indeed, the Institute is already a party to a biotechnology grant awarded to the Flinders University in this area for the development of specific monoclonal antibody based tests. The Institute is also in receipt of a further grant with the University of Adelaide Department of Biochemistry which is based on recombinant DNA work involving novel technologies developed in Adelaide. The recent development of a Q fever vaccine by the Institute—a world first—has brought benefit to the State by the elimination of Q fever from SAMCOR, with significant savings from workers' compensation and improved productivity. This vaccine is to be marketed by the Commonwealth Serum Laboratories nationally and internationally. The Institute will not benefit further from this development, but may have if there had been a different climate to research and development at the commencement of the project.

Over recent years there has been a dramatic change in the climate with respect to biotechnology developments. Recently in Australia, both Federal and State Governments have been actively promoting technology and officers of the Institute have held discussions with the Federal Departments of Trade, and Science and Technology and the State Ministry of Technology. These discussions have offered encouragement to the Institute to pursue the commercialisation of its scientific developments and, in particular, to achieve this through a company.

Arising out of a symposium organised by the Minister of Technology at which the Federal Minister of Science and Technology was the guest speaker, it was made clear that the principal issue with respect to financial support of research and development in institutions was that it should be linked to marketing to enable the full potential of such developments to be pursued through to commercial viability of the product. There would be advantages for the Institute in having a company to support research. Such advantages would be:

- the proper identification of budgeting of research and development for new tests and procedures;
- better accountability for these developments;
- the development of incentives for staff to be involved in developments;
- the reduction of the deficit of the Institute on the State by more appropriate funding of research and development;
- the direct and indirect possible employment benefits within the State;
- linking research and development of biotechnology to commercial markets.

The present commercial operation of the Institute would provide a small, but self-supporting base for a company to develop from. In addition to the ability to attract biotechnology grants, the company would also be able to actively improve present product manufacture and its marketing. It is not envisaged that such a company would, by itself, develop into a large and separately staffed organisation. Like other companies operating out of Government departments and statutory authorities, it would contract with the Institute for some aspects of its operation and could also contract outside of the Institute for some aspects of its management and marketing.

The requirement for the company accounts to be audited annually by the Auditor-General (clause 5) and for an annual report to be presented to Parliament as part of the IMVS Annual Report (clause 7) will permit the ordered and controlled development of the commercial aspects of biotechnology at the IMVS.

These developments are not seen to be in conflict with private pathology laboratories in South Australia who are not involved in this form of research and development. Indeed, they may wish to use some of these developments for their own services. It is believed that these proposals will assist industrial development and therefore employment within South Australia. This expectation is in line with experience in other centres where this form of technological activity is recognised as having a high economic multiplier effect.

Clauses 1 and 2 are formal. Clause 3 inserts the necessary functions for the Institute to take commercial advantage of its existing activities. Paragraph *(b)* inserts provisions that will enable the Institute to operate through the instrumentality of a company and paragraph *(c)* makes a consequential amendment to the delegation provision. Clause 4 makes an amendment that will enable part-time employees of the Institute to join the State superannuation scheme.

Clause 5 replaces section 21 with a provision that requires the auditing of the accounts of a company established by the Institute. Clause 6 amends section 23 of the principal Act so that money generated by the commercial operations of the Intitute may be used directly to finance the Institute's functions without first having to be appropriated by Parliament. Clause 7 amends section 31 of the principal Act to include the operations of a company formed by the Institute in the Institute's annual report.

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

UNLEADED PETROL BILL

The Hon. R.G. PAYNE (Minister of Mines and Energy) obtained leave and introduced a Bill for an Act to regulate the sale and use of leaded and unleaded petrol; and for other purposes. Read a first time.

The Hon. R.G. PAYNE: I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill is designed to ensure the availability of unleaded petrol throughout the State and to prevent the misfuelling of new motor vehicles with leaded petrol. It is anticipated that the new Act will be administered by the Minister of Consumer Affairs. This piece of legislation supports Australian Design Rule 37 which requires that from 1 January 1986 all new passenger cars and derivatives will be designed to use only unleaded petrol.

To understand the significance of this legislation, it is important that the background to ADR-37 be clearly understood. As honourable members will recall, in 1976 a previous design rule for the control of motor vehicle emissions was introduced. Known as ADR-27A the rule demanded a considerable reduction in emissions of air pollution below the standards then existing. In achieving these reductions the motor manufacturers used a technology which increased petrol consumption and decreased performance. The public rejected these measures and many paid to have the emission controls nullified.

In 1979 the Australian Transport Advisory Council commissioned a report on the development of a long-term emissions strategy. The report clearly indicated that without further action to prevent the increasing level of motor vehicle emissions they would rise to unacceptable levels. Consideration of the available technology to control emissions led to the conclusion that only by adopting the use of catalytic converter technology could the emission levels be achieved without an energy penalty. Put very simply, industry and Government officials agreed that the energy benefits in vehicle fuel economy that are obtained from using a catalytic converter more than offset the energy penalty at the refinery through the additional processing necessary to produce unleaded petrol. Unleaded petrol is absolutely necessary for use with a catalytic converter as lead poisons the catalyst and results in emissions increasing to those of an uncontrolled pre-1972 vehicle. The importance of preventing misfuelling and hence catalyst poisoning is the basis for this Bill. The use of leaded petrol in post 1986 vehicles will result in a gross increase in vehicle emissions and is likely to void manufacturers warranties and cause damage to vehicle engines.

The benefit to the motorist of misfuelling is absolutely nil and it is to be hoped that the facts about unleaded petrol which have been circulated by the Department of Environment and Planning will convince any wayward motorist of the fruitlessness of interfering with emission controls.

It was originally considered that this Bill would not be required. It was thought that the availability of unleaded petrol throughout the State could be achieved by agreement with the major oil companies. However, the major oil companies only lease or own about half of all the resellers' sites in South Australia, with the vast number of these being located in Adelaide and major country centres. To ensure that the travellers and those with new cars in the more remote areas of the State were not to be stranded or encouraged to misfuel it was considered imperative that the availability of unleaded petrol be guaranteed. Before proceeding with legislation the Department of Environment and Planning wrote to all resellers asking if they proposed to stock unleaded petrol from 1 January 1986. The response was extremely positive but it did leave areas of the State where supplies were in doubt.

A governmental committee drawn from the Departments of Highways, Environment and Planning, Mines and Energy and the South Australian Health Commission, supplemented by representatives of the AIP, RAA, SAACC and the Oil Agents and Petroleum Distributors Association recommended to Government that legislation similar to that recently passed in Western Australia should be introduced in South Australia. Recognising that ULP would rapidly gain in market share it was further recommended that this Act terminate after four years. This Bill is therefore intended to provide much needed controls for a very short period.

The main purpose of the Bill is, as I have previously stated, to prevent misfuelling; the Bill therefore creates an offence for anyone to place leaded petrol in a vehicle designed for unleaded petrol. It is not possible to accidentally add leaded petrol to an unleaded petrol vehicle for five very good reasons:

1. The colour of the new fuel is yellow so there can be no visual confusion.
2. There is a permanent sign 'UNLEADED PETROL ONLY' affixed alongside all petrol filling points.
3. Bowsers will be marked 'LEADED' and 'UNLEADED'.
4. The petrol filler inlet is designed to accept only the small diameter nozzle that will be used to dispense unleaded petrol. It is physically impossible to insert a leaded petrol dispensing nozzle into the unleaded petrol inlet.
5. The petrol filler point incorporates a flap valve which prevents petrol being poured into the tank.

The Bill requires that all resellers offer unleaded petrol for sale. As I have indicated, the purpose of this requirement is to ensure availability of unleaded petrol. It may be that, because the initial demand for unleaded petrol may not be great, some resellers will decide to defer stocking the fuel until demand increases. The Bill provides the Minister with the power to exempt resellers who do not wish to stock unleaded petrol. The criteria on which the Minister will make his decision will be the location of the reseller and the proximity of alternative unleaded petrol outlets. Basically, the intention is to avoid unnecessary inconvenience to the public.

To prevent the sale of contaminated unleaded petrol, all unleaded petrol outlets are required to be certified for that purpose by an authorised person. Such action prevents unleaded petrol which has been contaminated through storage in lead contaminated service station tanks being offered as unleaded petrol.

It is proposed that a self certification of service stations will exist. The oil companies already have laboratories and a mechanism for testing petrol and it is intended that they be authorised to perform this function. For resellers not tied to oil companies the option will exist to utilise the oil company laboratories. Alternatively, the services can be provided by the Division of Chemistry or AMDEL. Certification is seen as safeguarding both the reseller and the consumer. The obligation to sell petrol that is uncontaminated by lead rests firmly with the reseller. However, tank decontamination will be conducted by petrol suppliers using a flushing process with no independent confirmation of the standard of cleanliness.

Certification ensures that when the reseller commences to offer unleaded petrol it is initially at the required standard. While it is not expected that resellers will blatantly sell or offer for sale leaded petrol as unleaded petrol, the likelihood cannot be ignored. Oil company rebates on leaded petrol or the availability of cheap leaded petrol may create conditions that encourage a reseller to try to improve his profits. To discourage such activities, officers will be authorised to obtain petrol samples for analysis from premises on which fuel is offered for sale or stored. Authorised officers will

also be able to take samples of petrol carried by a motor vehicle.

The two final points covered by the Bill are the fines and the cost of the petrol. The fines are set at $10 000 and are intended to discourage misfuelling. The fines are similar to those in New South Wales but greater than Western Australia.

The cost of unleaded petrol relative to leaded fuel has been considered in great depth. There has never been consideration of unleaded petrol being more expensive than leaded fuel as this would only encourage misfuelling. Consideration of a one cent differential in favour of unleaded petrol was seen as a means of encouraging a more rapid acceptance of unleaded petrol. However, strong representations were received from the AIP and the RAA favouring price parity. Additionally price parity is favoured by the Federal Government; hence Cabinet has chosen to support a pricing policy which will ensure compatibility with our major adjoining States.

While the Bill does not cover wholesale prices the Government expects oil companies and their agents to ensure that any rebates passed to resellers on leaded petrol will apply equally to unleaded petrol. As Commonwealth and State Governments have all agreed to the price relativity between leaded and unleaded petrol, any departure at the wholesale level which affects resellers' abilities to abide by the legislation would be viewed seriously.

In summary, I believe this Bill is necessary to facilitate the smooth introduction of unleaded petrol and ADR-37. I see the Bill having the support of both petrol supplier, reseller and user groups, and commend it to the House.

Clauses 1 and 2 are formal. Clause 3 sets out definitions of terms used in the Bill. Industry uses the terms 'leaded' and 'unleaded petrol' although it will be seen from the definition of 'unleaded petrol' that phosphorus can also poison the catalytic converter. Clause 4 provides that the Crown will be bound. Clause 5 makes it an offence to place leaded fuel in the petrol tank of a vehicle designed to use unleaded fuel.

Clause 6 makes it an offence to sell leaded petrol if unleaded petrol is unavailable. Subsection (2) provides a defence where the unleaded petrol was unavailable for reasons beyond the control of the defendant and the defendant has applied to the Minister for exemption. Subsection (3) allows such an application to be made by telephone. Subsection (4) enables the Minister to grant exemptions for the benefit of an individual retailer or a group of retailers. Clause 7 prevents misdescription. Clause 8 provides a system of certification in relation to the problem of contamination of petrol from storage tanks.

Clause 9 in combination with clause 18 provides power to make regulations to prevent tanks in which leaded petrol is stored being connected to tanks in which unleaded petrol is stored and to require clear identification on bowsers of the kind of petrol sold through the bowser. Clause 10 provides for the appointment of authorised officers. Clause 11 sets out powers of authorised officers. Clause 12 provides for the appointment of analysts for the purposes of the Act. Clause 13 provides for procedures for taking and analysing samples of petrol. Clause 14 is an evidentiary provision.

Clause 15 provides that a director of a body corporate is guilty of an offence if the body corporate is guilty of an offence under the Act unless he can show that he could not have prevented the commission of the principal offence. Clause 16 provides that offences under the Act will be summary offences. Clause 17 provides for the making of regulations. Clause 18 provides for the expiry of the Act.

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

STATUTES AMENDMENT (COURTS) BILL

Second reading.

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill has three major aspects.: First, the jurisdiction of the District Court is increased from the present limits of $60 000 in relation to a cause of action in tort relating to injury, damage or loss caused by or arising out of the use of a motor vehicle, and $40 000 in any other case, to $150 000 in personal injury actions and $100 000 in all other cases. This increase in jurisdiction is a reflection of the important role the Government considers the District Court should have as a first instance trial court in this State. The move to increase jurisdiction is also in keeping with moves in several other States to increase the jurisdictional limits of intermediate courts. In New South Wales the civil jurisdiction of the District Court has been increased to $100 000, whilst in Victoria County Court jurisdiction has been increased to $100 000 in personal injury cases and $50 000 in all other cases. The Victorian position is under review yet again following a report of the Civil Justice Committee to the Attorney-General of the State of Victoria concerning the Administration of Civil Justice in Victoria. The report recommends several changes to jurisdiction of courts in that State, including a recommendation for an unlimited jurisdiction for the County Court in certain conditions.

Second, the Bill provides for more flexibility in the deployment of judges in the courts of this State. Provision has been made for the Chief Justice, with the approval of the President of the Industrial Court or the Senior Judge of the District Court as the case may be, to recommend the appointment of an acting judge from another court to either the Supreme Court, the District Court or the Industrial Court. In addition, provision has been made for a Supreme Court judge to exercise the powers and jurisdiction of a District Court judge.

This latter provision in particular will overcome the current difficulty that arises when a Supreme Court criminal trial collapses leaving the Supreme Court judge without a matter to try and unable to dispose of a District Criminal Court trial instead.

The other advantage of this provision is that it will also enable a Supreme Court judge to deal with an offender's District Court charges and summary charges (as provided for in the Magistrates Act) at the same time as sentencing on charges brought in the Supreme Court.

Lastly, the Bill picks up a number of miscellaneous amendments.

Provision has been made for the Governor to appoint an acting judge to the Supreme Court when it appears necessary or desirable to do so in the interests of the administration of justice. This provision confers the same kind of broad powers as are provided for the appointment of acting judges in the District Court and the Industrial Court.

At present the Local and District Criminal Courts Act only permits a judge who retires to complete the hearing or determination of proceedings part heard prior to retirement. Unlike the Supreme Court Act, no similar provision is made for a judge who resigns to complete his work. The Local and District Criminal Courts Act is amended to include provision for a judge who resigns to complete the hearing and determination of proceedings.

Section 153 (2) is amended to take account of two problems which have arisen over the years. The section is currently orientated towards judgment against the defendant in favour of the plaintiff. Judgment may of course be ordered in favour of a party other than the plaintiff. In a complex action judgment may be given in favour of a third party against the defendant or vice versa or costs may be awarded between defendants against each other. Section 153 (2) has been amended to apply to the party against whom the judgment or order was given or made. In addition, a definition of 'taxed costs' has been inserted.

Section 19 (1) of the Act provides that the offices of each court should remain open for the dispatch of business on a daily basis subject to certain specified exceptions. One such exception is Easter Tuesday. Officers of the Local Court attend for work on that day; however, the office must remain closed.

Reference to Easter Tuesday has been deleted as has reference to the times during which the court office must be open. This matter will be determined administratively as it is in respect of other courts. Section 80 (2) requires name prefixes (Mr, Mrs or Miss) to be used where the defendant is unacquainted with the Christian name of the defendant. In 1981 the Hon. Anne Levy suggested that the prefix Ms also be permitted. Section 80 (2) has been amended to permit use of the prefix 'Ms'.

The Suppression Order Review Committee set up by the Chief Justice recommended amendment to section 320 *(b)* of the Local and District Criminal Courts Act to provide for publication of the criminal lists of the District Court in the *Government Gazette* only—rather than requiring publication of the lists in newspapers circulating generally throughout the State.

It is considered that such an approach is desirable as a standardisation of requirements of the Supreme Court and the District Court. The Supreme Court does not require publication of the criminal lists other than in the *Government Gazette.*

Clauses 1 and 2 are formal. Clause 3 makes an amendment to section 11 of the Supreme Court Act. The effect of the amendment is to clarify the qualification of a person who may be appointed as an acting judge or master, and to require that, before a Deputy President of the Industrial Court, or a District Court judge can be appointed as an acting judge, the Chief Justice must recommend his appointment with the concurrence of the President of the Industrial Court or the Senior Judge of the District Court, as the case requires. Clause 4 is formal. Clauses 5 to 14 make amendments to the Local and District Criminal Courts Act, 1926 ('the principal Act'). Clause 5 amends section 4 of the principal Act—the effect of the amendment is to increase the local court jurisdictional limit from $60 000 to $150 000 (in the case of a tortious action arising out of a motor vehicle accident) and from $40 000 to $100 000 in any other case. Clause 6 amends section 5c of the principal Act. The effect of this amendment is to provide that a Deputy President of the Industrial Court shall not be appointed as an Acting District Court Judge except on the recommendation of the Chief Justice of the Supreme Court made with the concurrence of the President of the Industrial Court.

Clause 7 amends section 5f of the principal Act. The effect of this amendment is to enable a judge to complete, after his resignation from office, the hearing of cases part-heard by him before that resignation. Clause 8 inserts new section 51a—the effect of the new section is to confer upon judges of the Supreme Court all the powers and jurisdiction of a District Court judge. Clauses 9, 10 and 11 make amendments to sections 7, 8a and 19 of the principal Act. The amendments are of an administrative nature, and are designed to enable greater flexibility in the hours during which local court offices may open. In addition, a prohibition on the opening of such offices on the Tuesday after Easter is removed.

Clause 12 amends section 80 of the principal Act which provides for the description of defendant on a summons. The present possible descriptions ('Mr, Mrs or Miss') are extended with the inclusion of 'Ms'. Clause 13 amends section 153 of the principal Act. The effect of the amendment is to extend the operation of that section, which imposes certain procedural requirements before certain costs may be executed against a defendant. The effect of the amendment is to extend those requirements to the execution of such costs against any party against whom they were awarded. Furthermore, the amendment makes it clear that the costs referred to are taxed costs, as taxed by the clerk of a local court, a special magistrate or a judge. Clause 14 amends section 320 of the principal Act. The effect of the amendment is to remove the requirement from that section that the District Criminal Court lists be published in a newspaper circulating throughout the State. Clause 15 makes an amendment to section 9 of the Industrial Conciliation and Arbitration Act, 1972. The effect of the amendment is that a District Court judge may not be appointed as a Deputy President on an acting basis except on the recommendation of the Chief Justice of the Supreme Court made with the concurrence of the Senior District Court judge.

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

CONSTITUTION ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.
(Continued from 7 May. Page 3923.).

Mr OLSEN (Leader of the Opposition): The Opposition supports the second reading of this important piece of legislation. It has been the subject of an extensive debate already in another place, but it is this House which its major provisions relating to the term of the Government most directly affect. The reasons for these provisions, for a four year Parliamentary term, with a minimum of three years except in specific circumstances, are well established. I refer in particular to the spate of early State and Federal elections which has occurred since the late 1960s. These have provoked widespread public demand for fewer elections. This is a basic aim of this Bill.

Let me first deal further with its background. Between the introduction of responsible government in South Australia in 1857 and 1968, there were 38 State Parliaments, 32 of which ran for at least two years and 10 months, the constitutionally normal period. This stability applied especially to the period between 1912 and 1968, when the State election was invariably held at three year intervals in February, March or April apart from the five year term between 1933 and 1938. Of the 19 elections held between those years, 11 were called by Sir Thomas Playford: 10 of them were held in March, and one in April.

To give further focus to the stability of this period, eight of the Parliaments in which Sir Thomas sat as Premier were dissolved on 28 February and two on 29 February. In other words, in the Playford era there was no need to speculate about election dates, to consider the poll in terms of political expediency for the Government of the day.

That is something which members of the Labor Party conveniently ignore when they talk about manipulation of the electoral process by our longest serving Premier, because no Party has been a greater manipulator of the process than has the ALP in terms of calling early elections—in terms

of putting political expediency before stable State Government. In the period since 1968, there have been four early State elections—three of them called by Labor Premiers.

Indeed, considering Federal and State polls together, there have been 15 elections since 1968—15 Federal and State elections in the past 16 years, and eight of them were early elections. It is little wonder, therefore, that there is wide public support for the major provisions of this Bill. The Opposition recognises and respects the public demand for fewer elections. Fewer elections should mean more stability and better management by Government.

At the same time, it also needs to be recognised that this Bill retains some flexibility in terms of the actual election date. In effect, a four-year term is only the average a Government could serve under this Bill, if it runs a full term. The term can be as little as three years and five months or as long as four years and five months, depending upon the actual date of the previous election. That point has not been recognised in much of the public discussion on a fixed term. That term is not a precise three or four years. My party supports the extension to a notional four-year Parliamentary term, with the first three years of that term generally to be fixed.

During the debate in another place, the shadow Attorney-General, the Hon. Trevor Griffin, while supporting these basic principles, also exposed what my Party considered to be some fundamental constitutional limitations in the original drafting of the Bill introduced by the Government. I commend the Hon. Mr Griffin for the manner in which he analysed this Bill and exposed its shortcomings. Great care and caution are needed in any amendment to the Constitution: it is the most important Act on our Statute Book. The whole Parliament has a responsibility to seek to foresee, as far as possible, the results of any changes proposed.

In this respect, the work of the Hon. Mr Griffin and his colleagues in another place should be recognised, and I am pleased that the Government did so by agreeing to substantial amendments resulting from the comments made during the second reading debate in another place. These amendments have greatly improved the substance of the Bill. Whilst the Government did not resolve all the potential problems, the Bill as it now stands is substantially better than the original version introduced in another place. For example, the amendments have clarified when there should be exceptions to the minimum three-year term, allowing the resolution of matters of considerable constitutional difficulty or grave public concern. In effect, the debate in another place resulted in a workable compromise which safeguards the public interest.

Before leaving the question of the term a Government should serve and early elections, I take this opportunity to make one more point. In a statement yesterday, the Premier accused the Opposition of spreading what he called nonsensical rumours about a snap June election. This was part of what one could only describe as a completely hysterical attack on the Opposition which had no foundation in fact but, rather, was yet another example of the desperation this Government is exhibiting as it stares electoral defeat in the face. The poll in today's *Bulletin* exposes the real reason for the Premier's tactic of attacking the Opposition. I am sure the Premier did not send his Press Secretary scurrying around newsrooms with today's result as he did with the Morgan polls last year. There is a notable change at the moment in the tactics of Government press secretaries compared to 12 months ago. The Government is now on the run. It is in a blind panic, because it knows that South Australia will be the first of the Labor dominoes to fall. Let me give the House just two facts that expose the utter falseness and absurdity of the Premier's latest diatribe. In a public statement on 17 February, I said:

> I believe for a number of reasons that the Premier has already decided on 30 November as the election date.

In a further public statement on 19 April, I said:

> The Premier has made two public statements indicating his Government will run a full three years. I do not believe there can be any justification for an early election—an election before November. But we know that the last three elections in South Australia called by Labor premiers have been early elections. That is why I asked shadow Cabinet to complete our major policy development work by the end of last year. We won't accept any excuse for plunging South Australia into an early election. At the same time, because Labor has shown it can't be trusted on the question of early elections, we must be ready.

We will be, and we are. Those two statements clearly put my view that there was no justification for an early election, and the Premier can produce no evidence whatsoever that the Opposition has spread rumours about an early election. However, I am convinced, from information which has come to me over recent months, that the Government has been preparing for the possibility of an early election, because of difficulties it will face later this year with matters like the Federal Budget. I have made no public statements about that information, nor will I say anything further about it now, other than to recognise that I welcome the three separate and specific public assurances now given by the Premier that there will be no early election, notwithstanding the preparations the ALP has been making.

At the time this Bill was before another place, its other provisions relating to the filling of vacancies in the Upper House were considered to be only minor. In part, they formalise the understanding which has existed between the two major parties in this Parliament for some years: that, in the event of a casual vacancy occurring in another place, the nominee to fill the vacancy should be of the same political persuasion as the member replaced. I strongly support the enshrining of this convention in the Constitution, to give it the force of law.

These provisions are necessary to fill casual vacancies which occur in the event of the resignation or death of a member when a general election is not imminent, but they were never intended to be used to allow members of Parliament to play hopscotch between the two Houses. To prevent this, I will be moving amendments in the Committee stage of the Bill to establish a general principle to apply to all members of another place.

The scenario as we now know it is that the Minister of Agriculture will contest the House of Assembly seat of Whyalla at the next State election. If he is not successful—as he will not be—he wants the luxury of still having a vacancy in another place to go back to. My Party believes that this scenario amounts to nothing less than manipulation of the Constitution for base political motives. That is a current example. The principle I want to enshrine in the Constitution will apply to all political Parties and individuals. There are no exceptions, and it applies across the board. The Opposition wants to achieve the establishment of a general principle.

The Government has a problem with the proliferation of Independent Labor candidates provoked by the serious failings of its own internal preselection system which gives key union officials—and that means the left wing—undue and unreasonable power. This has resulted already in the election of two Independent Labor members to this House. At the next election, the third Independent Labor member—in Whyalla—is likely.

In an attempt to prevent this, and shore up its precarious electoral position, the Government wants the Minister of Agriculture to come to the rescue. To overcome internal Party politicking, the Government wants to exploit the casual vacancy provisions of the Constitution. As I have said, these were established for situations in which a vacancy occurs because of the resignation or death of a member and a

general election is not imminent. However, the situation in contemplation with the Minister of Agriculture is that he will contest the seat of Whyalla at the next election in the comfort of knowing that under the Government's proposals he can still go back to another place if he is unsuccessful. That is having a bob each way, using the most important component of our Statute Book, the Constitution, and manipulating it for nothing else but base political gain at this time.

The Constitution was not written to be played with like this. Neither the Minister of Agriculture nor any other member of another place can have it all ways. I stress that I am using the example of the Minister of Agriculture because it is a case in point right now. The amendments I propose will apply to any individual and any political Party in the future. Seats in Parliament are not the currency of the Party in power: they are not to be owned by the Party in power at the time.

The Hon. Michael Wilson: And they are not the playthings of members.

Mr OLSEN: They are not the playthings of members—they are the decisions of the electors of South Australia. That is where it must be left. Of course, we know that the Minister of Agriculture does not have that much regard for the other place and, indeed, one can quote from *Hansard* where, on several occasions, the Minister of Agriculture referred to the abolition of the Legislative Council. Obviously, with that sort of disdain for the role of the Upper House, it is little wonder that the Minister has taken the attitude that he can play with his seat in the way that he proposes. My Party certainly takes the opposite view to that. We believe in the bicameral system of Parliamentary democracy. We will not have a bar of any action that seeks to use or abuse constitutional procedures to undermine the integrity of the Upper House.

Accordingly, we believe that, if a member of the Legislative Council resigns before an election of the Council, and has not completed the allotted term and that position has not been filled by an assembly of all members of Parliament called to agree to that replacement, that election shall elect 12 persons and not 11 members as currently happens in respect of the Legislative Council. I will be moving amendments to achieve this objective when the Committee stage deals with the casual vacancy provisions of this legislation. It was never contemplated that the casual vacancy provisions of the Constitution would be used to allow a member to play hopscotch between the two Houses of Parliament.

My amendments will effectively prevent that—prevent any member of any Party taking the attitude that an Upper House seat can be used as a backstop—an insurance against defeat for an election in an Assembly seat. If one has the conviction to stand for an Assembly seat, that is what it ought to be. One ought to put one's conviction on the line and not have it both ways. If the Minister of Agriculture is put forward as an Assembly candidate at the next election, the people of South Australia, no less, at that election should also be given the opportunity to determine the replacement in another place—not a political Party, but the electors of South Australia.

That is what democracy is all about: allowing the people the maximum opportunity to determine who their Parliamentary representatives will be. Any denial of that opportunity—any opposition to my amendment from the Government—will be an indication that this Government seeks to deny democracy itself—that this Government knows its only means of limiting the electoral defeat it now faces is to play with the Constitution like a toy. That is what is going on.

For the benefit of the House, I will briefly outline my amendments. They will provide that a vacancy will occur in the Legislative Council if, at the declaration of nominations of candidates for an election of members of the House of Assembly, a member of the Council is one of those candidates, even though that member may not have completed the allotted term in the Council. They will further provide that the casual vacancy will be filled at the ensuing general election, in addition to the other 11 Council vacancies normally occurring.

In the case of the Minister of Agriculture, should he become the nominated ALP candidate for Whyalla, his place in the Legislative Council will automatically become vacant and be filled by the electors at the general election on the basis that he had a term yet to expire in the Legislative Council.

The Hon. Michael Wilson: So, the people will have the say.

Mr OLSEN: So, the electors of South Australia will have a say. That is what democracy is about. The basis of the Constitution is to provide the electors with that opportunity. At the moment it does not do so, because the Constitution can be manipulated. We seek merely to remove that manipulation and to apply this provision and general principle to all persons and all political Parties. We have at the moment an example before us—a glaring example—that has brought home the shortcomings in the Constitution which can be used by those who wish to abuse it. Those shortcomings have to be removed, and the amendments put forward by the Opposition seek to do that. The amendments have been drawn up and we have just received them. If the Minister is agreeable to reporting progress, we will have an opportunity to look at those amendments and come back to them later in the Committee debate. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

DAM SAFETY BILL

In Committee.

(Continued from 7 May. Page 3948.)

Clause 3—'Interpretation.'

Mr ASHENDEN: Last evening, in addressing myself to this Bill, I indicated to the Minister that I was extremely concerned about the possibility of severe damage and loss of life occurring in the Torrens Valley should either the Kangaroo Creek dam or Millbrook reservoir collapse or in any way become faulty, thus enabling floodwaters to flow down the narrow Torrens Gorge and spread to the flood plain in a heavily populated area. I indicated to the Minister then that I was very concerned that the current legislation did not cover the Government and that the proposed authority would not act as a controlling body over Government dams. At that time the Minister indicated that I needed a geography lesson as he stated that the Millbrook reservoir did not flow into the Torrens River. I would correct the Minister on that, because the overflow of the Millbrook reservoir does run into the Torrens River just above the Kangaroo Creek dam.

I point out to the Minister that should either the Millbrook dam or Kangaroo Creek dam become faulty, the Torrens Valley would be flooded and such a flood would spread out into the suburban area that is presently covered by the districts of Todd and Coles. It is perhaps the Minister who needs a geography lesson rather than me.

In relation to clause 3, under the definitions that are provided, I note that the definitions include the meaning of the word 'dam', and then on page 2 that they cover 'prescribed dams'. Will the Minister reconsider his decision that he is not prepared on behalf of the Government to

include Government-owned dams as prescribed dams? This is of extreme concern to the districts of Todd and Coles, and I firmly believe that, if we are to provide full protection, Government dams must be included. Is the Minister prepared to reconsider and ensure that the meaning of the term 'prescribed dams' in this Act will include Government-owned dams?

The Hon. J.W. SLATER: I again reassure the member for Todd, the Parliament, and the people of South Australia that even though this legislation may not bind the Crown and the E&WS Department, which is the custodian of the public dams in South Australia, the E&WS Department will comply with the requirements of the legislation. Over a period of years, dam safety and surveillance of dams in South Australia has been undertaken by the E&WS Department, and a special branch in the design services to ensure that that takes place.

The Hon. P.B. Arnold: But to claim that it is infallible—

The Hon. J.W. SLATER: Nobody has claimed infallibility. We are claiming that the departmental officers have more experience and technical knowedge than have any other persons in the State. I challenge the Opposition to prove that that is not so. Persons involved from the Department are expert in dam safety. Nobody can claim, infallibility in that, but they have the technical knowledge, experience, and expertise to provide the service.

If necessary—and I made the point about Happy Valley last evening—they obtain the services of and get a second opinion from somebody who is recognised to have additional or the same qualifications. I assure the member for Todd that the Department and the Government are very conscious of the need to protect both life and property with Government dams, and to ensure that all of them, whether they be in the metropolitan area as are the two described by the member for Todd, or anywhere at all in South Australia are safe. The purpose of the legislation is to ensure that dams, whether private or administered by the Government, are adequate, structurally sound, and protect the lives and property of residents who may live nearby.

'Prescribed dams' in the legislation are of a certain dimension. As I said last evening in reply to the comments in the second reading debate, we estimate that about 100 private dams, which have a capacity of the dimensions mentioned in the legislation, will be prescribed under the legislation. There may be some that, by reason of location—that is, category C—may constitute in the opinion of the Authority a threat or risk to life or property, that can also be included.

It is anticipated, I am advised by departmental officers, that about 10 dams a year may need to be prescribed. They are additional dams that are built to those dimensions in a locality that may cause them to be prescribed, as this indicates clearly that there is a trend to the building of such dams of this type of dimension and in localities that can add to the risk of life and property. The purpose of the legislation is to ensure that every dam in South Australia, whether administered by the E&WS Department on behalf of the Government or a private dam, mining dam, or one belonging to any other authority, is adequately and structurally sound in order to ensure the protection of life and property.

Mr ASHENDEN: The Minister states that all dams, including Government-owned dams, will be subject to the same requirements, restrictions or whatever word one can use—

The Hon. J.W. Slater: The same criteria.

Mr ASHENDEN: I thank the Minister for that—the same criteria as are put forward in this Bill. I ask the Minister again: if he states that the Government will be required to abide by the same criteria as are put forward in this Bill for all other dams, why will he not include Government-owned dams under the definition of 'prescribed dams'? The Minister has said that that is what he wants: he wants these dams to be subject to the same inspections, requirements, and criteria, yet he persists in refusing to allow these dams to be included in the Bill. I cannot understand that.

There are only two possible courses of action: first, if as the Minister says, the present staff of the E&WS undertake these inspections, why can those staff not undertake all inspections of all dams, and therefore we would not need such an authority as is put forward in this Bill? Secondly, if the Minister says, 'No, the E&WS officers do not have the necessary skills and that is why we are developing this authority', surely it is essential that Government dams should be covered by this legislation.

It seems cut and dried. One must have one course of action or the other. The Minister is trying to say, 'We will have a bit of this and a bit of that. We will have an authority that will not bind the Crown, but we have officers who will inspect Government dams.' It is incredible.

The Hon. P.B. Arnold: An absolute sham!

Mr ASHENDEN: It is an absolute sham. The definitions in the Bill are not adequate. The definition of 'prescribed dam' should include Government dams: the Crown should be bound. Both Australian and overseas studies indicate clearly that wherever there are Government owned dams they should be subject to inspection by bodies outside the Government. One has Caesar sitting in judgment on Caesar. The Minister is saying that the E&WS will inspect its own dams and make its own decisions, but the Government will not let any authority come in and have a look at its dams; we will force on the public of South Australia an authority that will look at private dams. Will the Minister reconsider?

The Hon. J.W. SLATER: No, I do not intend to reconsider. It is not necessary. Under the legislation a direction will certainly be given to the Department in regard to complying with requirements relating to every dam in the State. From information I have been given, I understand that to set up a completely independent statutory authority, reporting through the Minister to Parliament, allows the legislation to bind the Crown and therefore to control legally Government owned dams.

This authority would not be under the direction and control of the Minister. Another alternative, which we consider the most appropriate, is to set up a statutory authority under the control and direction of the Minister of Water Resources, but not to bind the Crown and, therefore, not legally to control Government owned dams. However, the situation is overcome in practical terms by the Government's issuing a direction to the relevant Departments stating that they should ensure that their dams comply with the Minister's directions as advised by the Dam Safety Authority. From advice I have received, that appears the most appropriate manner in which to cover the concerns expressed by the Opposition.

The ACTING CHAIRMAN (Mr Ferguson): The debate is straying a little from clause 3: we are really debating the proposed amendment that will be debated following this clause. I request that members confine their remarks to clause 3.

Mr BLACKER: Will the Minister explain why a prescribed dam means *(a)* a dam with a capacity exceeding 20 megalitres and which has a wall that exceeds 10 metres in height? Conversely, *(b)* provides for a dam with a capacity exceeding 50 megalitres, which is considerably larger in volume and which has a wall exceeding 5 metres in height. I assume that there is some hydrological reason for that classification. Clause 3 *(c)* has been the subject of argument.

Is there now a list of dams that would be prescribed or that would come within that classification? Why is the Minister saying that there are about 100 dams when from

now on each dam will have to be declared by regulation individually and gazetted as such? There must be a stock list now to which dams are individually added, otherwise one makes a mockery of the other.

The Hon. J.W. SLATER: One reason for the legislation is to ensure that all private dams of the dimensions described in the legislation are known. At present the Department is not always aware of them. It has no power in regard to the building of private dams. We estimate that about 100 would come under the categories described in the legislation. We are not sure, but as far as I am aware I could give the honourable member a list of all Government owned dams, which I have here, but he is not interested in that. I could give him the date, dimension and capacity. One of the reasons for the legislation is to ensure that in future some sort of format or list is kept so that we and the authority have details of new dams being built. They will be listed so that they can be inspected and safety is assured. I will obtain information for the honourable member and provide it to him in due course.

Mr BLACKER: I refer the Minister to the first part of my question relating to the different categories of *(a)* and *(b)*: why is the 20 megalitre dam with a 10 metre high wall different from a 50 megalitre dam with only a 5 metre high wall?

The Hon. J.W. SLATER: The honourable member answered the question for me: he said there was a hydrological reason. Obviously, there would be. I am not an engineer: I do not pretend to know technical details regarding dams in South Australia or anywhere else. Capacity is important, as are common sense and location, as well as technical information. Obviously, it is important that they be described by dimension for a particular dam. Category *(c)* encompasses additional dams that may or may not have a capacity exceeding 20 megalitres with a wall 10 metres high or a capacity exceeding 50 megalitres of which the wall is 5 metres high. It depends largely on location: I would be guessing in saying that it would depend on the capacity of the dam and its dimensions, particularly regarding locality (covered under *(c)*) if it is not up to that dimension. It is important to ensure that the capacity of the dam is such and such and that it is described in some way. Obviously, this is the most appropriate way to describe a prescribed dam.

Mr BLACKER: I appreciate the Minister's comments, but could he get a technical explanation for me? I have been asked a question to which I replied that I would endeavour to find out the technical reason for those figures. The Minister indicated that he would be obtaining a list of privately owned dams but he did not say how he will obtain it. For instance, will he be relying on landholders responding to an advertisement, or using aerial photographs? I appreciate the need for such a list. If there is to be such an authority, it will need to know the location of the dams. Secondly, how much has local government been involved in the preparation of this legislation? This might be more appropriately dealt with under another clause, but as this clause deals with the definition of 'council' I raise the matter at this time.

The Hon. J.W. SLATER: The capacity as described in the legislation is that advised by ANCOLD (Australian National Committee of the International Commission on Large Dams), which is a capacity that would be of some danger, should it fail, to life and property. That criterion was suggested to us by ANCOLD and we have used it in our legislation.

I think I made the point last evening that the Department and I have prepared a discussion paper that was circulated to the Local Government Association, United Farmers and Stockowners, the Department of Agriculture and other departments. Following the distribution of the discussion paper, the Local Government Association made certain suggestions, some of which were accepted, some of which were not, for incorporation in the legislation. Those discussions have taken place over the past 12 months. I also said last evening that, to my knowledge, no objections have been received from local government to this legislation. They will have representation on the Authority and will be the first point of contact for private persons who wish to build a dam. I believe local government has been adequately informed and to my knowledge has no objection to the legislation.

Mr MEIER: In this clause, 'dam' is defined, in part, as being:

> any buildings, structures, pipes, machinery, equipment or other works related to the storage and control of water or tailings in, or flowing out of, the dam;

How could the Minister say, as he did in the second reading explanation, that this legislation is not intended to cover farm dams? It seems, from my interpretation of the definition, that if safety is at risk it will not be broadened to include ventures on to farm properties to see whether the dams are safe. What is meant by 'tailings in'? Is that water flowing into the dam?

The Hon. J.W. SLATER: I should think so. Clause 3 is the definitions clause and paragraph *(b)* refers to buildings, structures, pipes, and so on, relating to storage and control and water flowing out of the dam and stored in the dam. I think it means that a person who is delegated by the Authority to inspect the dams and to ensure the safety of them must include in his deliberations all of the things included in this definition.

I assure the member for Goyder that it is not the intention of the legislation—and the United Farmers and Stockowners organisation knows that because we have had discussions about it—to include farm dams of a limited size that do not come within the prescribed capacity or are built in a locality that will not jeopardise life and property. It is not our intention to cover those dams unless they are in such a location—and most of them are not, to my knowledge. Consequently, it is not intended to encompass them within the legislation.

Mr MEIER: The Minister said, 'Unless they are' and did not finish the sentence. Unless they are what?

The Hon. J.W. SLATER: Unless they are of a certain capacity they are not covered by the legislation.

Mr S.G. EVANS: I take it that inspectors will go on to property with an existing dam to see whether or not such dam will be covered by this legislation. Will there be a registration fee or a compulsion upon the owners of dams to register in any way? Will any charge be made for inspection before or after construction of a dam as defined?

The Hon. J.W. SLATER: The legislation does not envisage a fee or charge for inspection or registration. The whole purpose of the exercise is to bring up to date those dams already constructed and to give advice to the landholders to ensure that the dams are safe from a life and property point of view. It is not intended to legislate for a fee or charge for inspection.

Clause passed.

New clause 3a—'Interpretation.'

The Hon. P.B. ARNOLD: I move:

> Page 2, after line 28—Insert new clause as follows:
> This Act binds the Crown.

In so doing the Minister, since this debate has commenced, has convinced no-one in this Chamber, I venture to state, that he is sincere as far as this legislation is concerned. The only major dams in South Australia of any significance are dams owned by the Government and if we come back to the attitude of the International Commission on Large Dams

or (ANCOLD), which virtually promoted the need for this legislation in the first place, it clearly promoted it on the basis of the need to protect the public at large from disasters which can occur from the failure of large dams.

The Minister has gone to great lengths to defend the Engineer and Water Supply Department and its engineers. In no way am I denigrating the ability of the engineers within that Department or any other engineer, but to claim that any group of engineers is infallible is absolutely absurd. The Engineering and Water Supply Department is well known as a unit with significant engineering expertise. But then so also is the Bureau of Reclamation in the United States, a unit within the Department of the Interior. An engineering unit of massive proportions, it has constructed some 250 major earthfill dams across the United States—and it also constructed a dam which gave rise to one of the major dam disasters in the world as well.

Yesterday afternoon, I referred to an article in the *Science Magazine* of 2 July 1976 in relation to the Teton dam disaster. As I have said, we are talking about an engineering body that is massive in comparison with the Engineering and Water Supply Department, and the expertise available to that body would be absolutely enormous. However, that engineering authority was not prepared to listen to other engineering advice that was given in relation to the initial building of the dam or to the proposal that the dam should be built on the Teton River at the site where it was eventually constructed. The article states:

> The real tragedy of the affair may be not that the Bureau refused to heed prior warnings but that the Bureau made a mistake in engineering judgment, and there was no-one around both willing and able to second guess its decision.

That is quite simple: it is saying that the Bureau of Reclamation acted as a law unto itself, that it maintained that it did not need the advice of any other body or group of engineers in relation to further considering any decisions made. As I have said, it built the dam which gave rise to one of the major dam disasters that we have seen—not in terms of loss of life as in that instance only nine lives were lost as a result of the collapse of the dam, but it cost the community $1 000 million in public damage.

I am not suggesting for a moment that the Kangaroo Creek dam is about to collapse. However, in the event of a severe earthquake that dam could well collapse, and I defy any engineer to give an absolute undertaking and guarantee that that would not occur. If that were to occur when the dam was at full capacity and in a flood situation, the effect on metropolitan Adelaide, and down the Torrens Valley, would be absolutely devastating. I would say that the loss of life would be enormous. I am not aware of the conditions that exist in relation to other major cities around the world or whether they are similar to those that we have in Adelaide. Our storages are in very close proximity to the built-up area in Adelaide, and in fact the storages are perched at a very considerable height above the city. In the event of a total failure of a dam like the Kangaroo Creek dam, the wall of water coming down the valley would be just like a tidal wave coming down on metropolitan Adelaide.

I am saying that, for the Minister and the Government to argue that there is no need for this legislation to be binding on the Crown, because of the expertise that exists in the E&WS Department, is sheer arrogance. I do not believe that any engineer in the E&WS Department would share that arrogance of the Government and the Minister, because I think that every engineer in the Department would be prepared to admit that there are varying degrees of concern in relation to all major constructions and that it is advisable to obtain the advice of another body or of international consultants if it is believed that that is necessary and this applies particularly in the South Australian situation. As I have said, the Adelaide situation is somewhat unique, with major storages perched right above the city. If the Minister were to give this some thought he would realise that the major water storages of most cities are not perched right above the main base of population, as they are here in relation to metropolitan Adelaide. For that reason I believe that if this legislation is to have any meaning whatsoever it must be binding on the Crown, and the Crown must adhere to this legislation; otherwise the legislation would be an absolute farce.

As I said yesterday, an appropriate officer from the E&WS Department could be given the authority to oversee matters in relation to the lesser dams that we are talking about. Most of the dams in South Australia, other than those owned by the Government, are comparatively minor dams, and any senior engineer in the E&WS Department would certainly have the capacity and ability to determine the standards to which any new dam should be built and the structural soundness of small dams. However, in relation to the major dam constructions owned by the Government, I believe that the problems involved can be very much greater, and it is essential that in legislation such as that which we are considering the relevant authority should have the power to look at dams owned by the Government and, if necessary, recommend certain action.

Certainly, if I were in the position of Minister of Water Resources, and such an authority made a recommendation to me that conflicted with information provided by departmental officers, the first thing I would do would be to bring in an international consultant to provide an independent report. As I have said, this is no slight on the Department or the engineers involved, but I simply come back to the point that no-one is infallible, and the case that I highlighted in relation to the Teton dam in Idaho is a glorious example of where an engineering undertaking by an authority many times bigger than the E&WS Department made a serious miscalculation resulting in a major disaster which cost the community $1 000 million.

The Hon. JENNIFER ADAMSON: I support the amendment of the member for Chaffey, whose knowledge and experience in this area are unparalleled in this Parliament. His arguments in favour of the amendment certainly contrast very strongly with the bland assurances of the Minister of Water Resources that everything was going to be all right because he had given his word that the Department would be bound by the same criteria as were those who would be the subject of this legislation. It is well known that Ministerial assurances, no matter what the sincerity with which they are given, are not worth a cracker in the statutory sense, and do not in any way bind the Crown. The Minister knows that; everyone in this Parliament knows that. The Minister's officers know that, and so will all the people living in the Torrens Valley, including my constituents in the electorate of Coles, those who are presently the constituents of my colleague the member for Todd and who in the future will be the constituents of our mutual colleague, Dr Jeff Nicholas, the Liberal candidate for the new electorate of Todd, those constituents further downstream in the Minister's electorate of Gilles, as well as constituents in the electorates of Hartley, Norwood, and further downstream still in Adelaide and Peake, and through to the electorates of Henley Beach, Hanson and beyond.

The whole purpose of this legislation should surely be the protection of life. The definition of 'prescribed dam' in the preceding clause deals with capacities exceeding 20 megalitres, or exceeding 50 megalitres. We are talking in the case of the Kangaroo Creek dam at the head of the Torrens Valley of a reservoir capacity of 6 000 million gallons, and the Government refuses to bind the Crown in respect of

the responsibilities of the dam authority for dams such as that.

The member for Chaffey, in moving the amendment, referred to the effect on the metropolitan area if such a dam should fail. He said it would have a similar effect to that of a tidal wave. One only has to look at the report prepared for the Engineering and Water Supply Department by B.C. Tonkin and Associates, consulting engineers, on some hydrological aspects of the Torrens River, and refer to the description of the 100-year-flood and its effect on the Torrens Valley to realise what could happen if there was a failure of the Kangaroo Creek dam.

As I said in the second reading debate, I am not forecasting or suggesting any failure; I am posing, if you like, hypothetical situations, which is what the Minister is also posing in respect of the justification for this legislation as it affects smaller dams, and saying that if the principle is to be accepted, it must be accepted by the Government for all dams. What is the use of allegedly protecting a small number of people and relatively insignificant property by enacting legislation which covers small dams but refusing to bind the Government in respect of its very large dams and the extremely significant effect that the failure of such dams could have on life and property in metropolitan Adelaide? It is absolutely futile for the Minister to argue, as he has done, that it is not necessary to bind the Crown because he is going to give his instructions and, therefore, everything will be all right. He knows full well that that argument has no validity whatsoever.

The Tonkin study, in looking at the flood plain determination of the Torrens River, states that it is stressed that the likelihood of major flooding is real and can be expected at any time, based on the premise that the events discussed in the report are chance events and therefore have a certain probability of occurrence, that is to say, the 100-year-flood—and it is about one century since a flood occurred—could occur again at any time and, if the dam burst at the same time as the flood, I venture to say that my district will not be the only one to suffer; the district of Henley Beach would also be adversely affected, as indeed it was in the 19th century at the time of the 100-year-flood.

One of the conclusions of the tables which provide an estimation for extreme precipitation in the Torrens River catchment area on pages 46 to 52 of the Tonkin Report states:

> The extreme rainfall for short durations will be produced by an intense and almost stationary thunderstorm located over the catchment. Such a thunderstorm is most likely to occur in summer or early autumn. For durations in the range 6 to 36 hours the extreme rainfall will be produced by a storm similar to that which occurred over the catchment in February 1946 and for durations in excess of 36 hours from a storm similar to that which occurred in April 1889.

At that time the descriptions of the flood were quite horrendous, and since then the settlement in the Torrens Valley has obviously built up to a very high level. I am thinking particularly of the area on the southern side of the river in my own district. At the time of the 1889 flood, that was market garden; it is now suburban Adelaide, and in several areas, notably in the suburb of Paradise, there is housing which, in my opinion, would be extremely vulnerable. It is right on the flood plain; in fact, it is virtually on the banks of the river. I am thinking particularly of an aged persons' home in Paradise where there are people who are obviously vulnerable to any kind of natural disaster. The experiences of the 1980 flood when Fourth Creek overflowed its bank caused me great concern. As member for Coles two areas cause me concern.

One area of concern is bushfires, because the eastern boundary of my district, particularly my new district, extends from the Torrens River to Greenhill Road in a bushfire-prone and vulnerable area. The other area of concern is flood. It appals me that the Minister can sit there and stonewall, ignoring the merits of the argument, and act in what I consider to be an extremely irresponsible fashion by refusing to bind the Crown and thus make Government dams subject to the scrutiny of the Dam Safety Authority. In my opinion it is an unconscionable act by a Government and one that should be deplored and condemned. I urge every member of the House to support the amendment moved by the member for Chaffey.

Mr ASHENDEN: I support the amendment so strongly supported by the member for Coles. Many arguments have been very succinctly put by my colleagues, but I will be ensuring that the residents of Todd are made very well aware that this Government has refused to include its own dams as part and parcel of a Bill that is reputed to set up an authority to protect the public and property from potential dam failure.

The Hon. Jennifer Adamson: We have not heard from the member for Newland. I wonder if he will speak on this debate.

Mr ASHENDEN: I invited him to do so last evening, but he chose not to. I cannot understand that, because the district into which he hopes to move will have the Torrens River running right through its centre. I have not heard a valid argument from the Minister rebutting the points we have raised on this side.

Despite the Minister's so-called geography lesson last night when he informed me, quite erroneously, that the Millbrook reservoir has nothing to do with the Torrens Valley, I point out that the overflow of the Millbrook reservoir goes straight into the Torrens River immediately above the Kangaroo Creek dam and, therefore, if there is any failure of the Millbrook reservoir, it would only exacerbate any problems that may be occurring in the Torrens Valley.

If we are going to have a failure of a dam wall, it is likely to occur when the dam is full. Statistics show that overseas failures of dams have, in the vast majority of cases, occurred when the dams have been full or in a flood situation.

If that were to occur at the same time as the weakening in the support structure of the Kangaroo Creek dam or Millbrook reservoir as a result of an earthquake, then the effects on the metropolitan area of Adelaide would be disastrous. I hope this never occurs, but that is what occurred in the Teton dam in the United States of America where the authority's engineers said, 'No, the dam is structurally sound. There will be no failure.' The result, as has been only too clearly pointed out by the member for Chaffey, was disastrous.

There was a tremendous loss of life and thousands of millions of dollars worth of damage. That will occur in Adelaide if we have a failure involving the Kangaroo Creek dam. This Government is not prepared to have that dam under the inspection of this authority, set up for the purported reason of protecting the public and property. It is absolutely incredible that the biggest dams in the State are all exempt from the legislation. I hope that a failure never occurs, but if it does it will be on this Minister's head, as he is the one who has made the decision to refuse to accept our amendment.

Mr S.G. EVANS: Is the Minister going to continue to say that the Department will abide by the legislation anyway? What is wrong with confirming that matter for the people of South Australia, the Parliament and departmental officers now and in the future? The Minister and departmental officers will not always be there in future. If the Minister is saying that in his view the departmental officers should abide by the legislation, let us put it in the legislation. I would also like to know why he holds that view.

The Hon. J.W. SLATER: I will first answer the question asked by the member for Fisher. My advice is that it is not acceptable legally to have an Act binding on the Crown and also subject to the direction and control of the Minister.

Members interjecting:

The ACTING CHAIRMAN: Order!

The Hon. J.W. SLATER: That is the legal explanation. I repeat that such a provision is not necessary, because Government dams, like any other dam in South Australia, will be required to conform to the criteria established by the Dam Safety Authority.

Mr S.G. Evans: But not by law.

The Hon. J.W. SLATER: Yes, by law.

Mr S.G. Evans: Which law?

The Hon. J.W. SLATER: By this Bill. They will be directed by the Minister to conform to the requirements of the Dam Safety Authority.

The Hon. P.B. Arnold: That's absolute rubbish.

The Hon. J.W. SLATER: That is the honourable member's opinion, and I am not prepared to accept the amendment. We have heard a lot of hypothetical situations. I have not claimed any degree of infallibility on the part of engineers, the Department or anyone else, as some circumstances and factors are beyond human control. Members have given a few examples of what might happen and hypothetical questions have been put by the members for Todd, Coles and Chaffey. I do not believe that we are infallible at all but, as far as is humanly possible, every care and precaution has been and will continue to be taken by the Government.

It does not matter whether I am the Minister or who is the Minister: departmental officers will continue to regularly monitor and inspect, in the interests of the public, to ensure, as far as humanly possible, that all reservoirs and dams in South Australia are covered. We have heard of hypothetical situations that may occur in the future. The member for Coles selectively quoted from the B.C. Tonkin report, and Governments have acted upon that report. Following the endeavours of the previous Government, I am continuing with the Torrens River flood mitigation scheme, which is a great scheme, as is the Linear Park associated with it.

From what I recall from reading the B.C. Tonkin report, the western suburbs suffered disastrously, and I assume there was no flood control in those days. Part of Adelaide was and still is built on a flood plain. In those days there was no flood mitigation, and we hope that what was regarded as a quirk of nature at the time will never happen again, but if it does we have better information and better controls, with Governments continually acting on advice from experts. One of the experts in the matter was a consultant, B.C. Tonkin and Associates, who reported on the Torrens River flood mitigation, upon which Governments have acted.

Action has been taken in regard to the Kangaroo Creek dam and spillway to ensure, as far as is humanly possible, that a tragedy does not occur there. I assure members opposite that the Government will come under scrutiny and will be required to comply with the criteria of the Dam Safety Authority. I do not support and cannot accept the amendment moved by the member for Chaffey.

The Hon. P.B. ARNOLD: The assurances given by the Minister are absolutely worthless—they do not mean a thing. He is talking about the flood situation in the Torrens as it relates to the Kangaroo Creek dam and to the safety of the dam. There can be a major flooding situation, as addressed in relation to the reconfiguration of the Kangaroo Creek dam, by trying to spread out the impact of a major flood so that it has less effect in the metropolitan area. If a major flood occurred in the Torrens and, at the height of that flood, the Kangaroo Creek dam totally failed, we would have an enormous disaster on our hands.

The Minister ought to take into account that possibility. It has occurred in other places, and there is nothing to say that it will or will not happen. It is not impossible for it to occur, and that would be absolutely devastating. For the Minister to continue to flatly refuse to commit the Crown to this legislation is deplorable and shows an absolute lack of sincerity in this matter.

The Committee divided on the new clause:

Ayes (19)—Mrs Adamson, Messrs Allison, P.B. Arnold (teller), Ashenden, Baker, Becker, Blacker, D.C. Brown, Chapman, Eastick, S.G. Evans, Goldsworthy, Gunn, Lewis, Meier, Oswald, Rodda, Wilson, and Wotton.

Noes (20)—Mr Abbott, Mrs Appleby, Messrs L.M.F. Arnold, Bannon, M.J. Brown, Crafter, Gregory, Groom, Hamilton, Hemmings, Keneally, and Klunder, Ms Lenehan, Messrs Mayes, Payne, Peterson, Plunkett, Slater (teller), Trainer, and Wright.

Pairs—Ayes—Messrs Mathwin and Olsen. Noes—Messrs Hopgood and Whitten.

Majority of 1 for the Noes.

New clause thus negatived.

Clauses 4 and 5 passed.

Clause 6—'Authority subject to written direction of Minister.'

The Hon. P.B. ARNOLD: I oppose this clause for the reason that the Minister himself gave earlier in the debate. It is absolutely absurd to have an authority that is under the direction of the Minister, and at the same time have most of the major dams in South Australia owned, for all intents and purposes, by the Minister. The Australian National Committee on Large Dams, which had a very significant input into this legislation in the first place, specifically proposed that each State should legislate for a single control authority that would be independent of the existing agencies that engineer and/or own dams. The biggest agency and engineering undertaking when it comes to dams in South Australia is obviously the Government. Clause 6 provides:

> The Authority shall comply with any written direction given to it by the Minister.

That means that the Authority is totally under the control of the Minister and under whatever direction the Minister may decide to give it. As I mentioned before, the Australian National Committee on Large Dams had significant influence in this type of legislation being brought before the Parliament in Australia. This clause flies completely in the face of what that committee is trying to achieve. For that clause to remain in the Bill again makes an absolute farce of the legislation in the same way as the fact that the legislation, if it continues and is successful in the Legislative Council, will not be binding on the Crown. I cannot believe for one moment that the engineers involved in the Australian National Committee on Large Dams would support this clause being in the Bill.

The Hon. JENNIFER ADAMSON: I support the member for Chaffey in his opposition to clause 6, which requires the Authority to comply with any written direction given to it by the Minister. I simply pose a series of questions: how can an authority designed to impose a scrutiny independently of government do so if it is answerable to the Minister in the Government who administers that area of responsibility? That is simply crazy! It is without principle, logic, or precedent. It is incomprehensible that the Government can ask Parliament in effect to vote on what amounts to a direct conflict of interests: that is, the independent Dam Safety Authority clearly cannot be independent if it is subject to the direction of the Minister.

Assume for a moment that the Minister's statements and assurances, namely, that the criteria laid down by the Dam Safety Authority for the prescribed dams (that is, private

dams that come under the ambit of this Bill) will also be applied to Government dams. Let us just for a moment give the Minister the credit for assuming that his assurances will be given some kind of status once this Dam Safety Authority is in place.

Let us assume that the Dam Safety Authority advises the Minister that $X million will be required to do restoration work on three major metropolitan reservoirs. Let us assume that Cabinet's priorities judge that that money is not available, and that the Minister advises the authority accordingly: in other words, not to proceed with the restoration work that the Authority in its independent and technically expert fashion considered to be essential, but that the Government's priorities are different. Where do we stand then? The whole legislation is shown up for what it is quite clearly—farcical.

One cannot have a Dam Safety Authority to advise the Government and give independent advice if it is to be subjected to the direction of the Minister. It simply defies all logic: it is a completely unprincipled move by the Government and one that should be opposed by Parliament. The combination of the Act not binding the Crown and the Authority being subject to the direction of the Minister is one that would make South Australia a laughing stock in any world engineering forum. It is completely at variance with the ANCOLD principles and recommendations, as spelt out in the article the member for Chaffey has already read to the Committee. It simply means that the South Australian Government which, in the area of water resources has a reputation that is of international standing, will find that that international standing will be very much prejudiced by the actions of this irresponsible Minister. We cannot countenance that, and we oppose clause 6.

The Hon. J.W. SLATER: I wonder at the comments by members opposite, particularly the member for Chaffey, in regard to his position on this legislation. As I said, it has been pending for several years. The member for Chaffey was a Minister in a previous Government for some three years and he did not take any action on the matter. We thought it important to give it a priority, for the reasons I expressed last evening, and which I will not repeat. More and more private dams are being built without adequate supervision or care and without thought of protection for life and property. If the previous Government had been sincere, it would have taken some action rather than now that this Government has decided to do something about the matter being critical of our action. The Opposition has missed the whole point of the legislation. As I said last evening, there is no ulterior motive. The whole point is to ensure as far as possible that both Government and private dams are structurally sound and safe. The Dam Safety Authority will be both an advisory and functional body: it will approve the structure of any dam and its safety, and will cover both private and public dams.

The Hon. Jennifer Adamson: It will not, and the Act specifies it.

The Hon. J.W. SLATER: That is the honourable member's view. The authority will comprise four persons, one of whom will represent local government and three of whom are to be appointed by the Government. As specified under the legislation, they will be persons with technical expertise and it is likely that some of those appointed will be officers of the E&WS. This is not to be a great big statutory authority, as members opposite might envisage; it is set up for a specific purpose. For instance, it is not like the Electricity Trust of South Australia or other large statutory authorities. The purpose of the legislation to set up an authority was to ensure that it be both advisory and functional. As provided under clause 6, it was believed that it should have direction and control by the Minister. That is the Government's view, so I oppose the member for Chaffey's views.

The Hon. JENNIFER ADAMSON: I have heard a few queer things in my time in this place, but I do not think I have ever heard a Minister engage in the kind of double speak in which the Minister of Water Resources has done. He reminds me of the Phoenix who said, 'When I say a thing three times, it is true.' The Minister has virtually told us, not three times but 10 times, that black is white and he expects us to believe it. In other words, he said that the Act covers the Crown and quite specifically opposes the amendment moved by the member for Chaffey to ensure that it does. Yet, he still tells us and stands there plainly saying not once, twice, or thrice, but 10 times, that the Act will cover the Crown. It will not and we know it will not: all the assurances by the Minister will not make us believe that it will.

At the same time he inserts in the Bill a clause that provides that the Authority will comply with any written direction given to it by the Minister. It is absolutely ridiculous to spend, as the Minister has said the Government will be spending, about $180 000 annually, which will end up, in accordance with the Government's usual overruns, in the region of $250 000 annually, to administer an Act, the intention of which is made futile by the omission of a clause that ensures that the Act binds the Crown and the inclusion of a clause that states that the Authority shall comply with a written direction given to it by the Minister.

As the debate proceeds, it is quite clear that the Minister is standing on the footings of foundations that are going to give way under him in a matter of weeks or months: it is impossible for us to tell which. He will certainly be judged by anyone with any knowledge or authority in this area of dam safety as being a Minister of complete hypocrisy, and without any standards or principles whatsoever.

The Committee divided on the clause:

Ayes (20)—Messrs M.J. Brown and Abbott, Mrs Appleby, Messrs L.M.F. Arnold, Bannon, Crafter, Gregory, Groom, Hamilton, Hemmings, Keneally, and Klunder, Ms Lenehan, Messrs Mayes, Payne, Peterson, Plunkett, Slater (teller), Trainer, and Wright.

Noes (18)—Mrs Adamson, Messrs Allison, P.B. Arnold (teller), Ashenden, Baker, Becker, D.C. Brown, Chapman, Eastick, Goldsworthy, Gunn, Lewis, Meier, Olsen, Oswald, Rodda, Wilson, and Wotton.

Pairs—Ayes—Messrs M.J. Evans, Hopgood, and Whitten. Noes—Messrs Blacker, Ingerson, and Mathwin.

Majority of 2 for the Ayes.

Clause thus passed.

Clauses 7 to 19 passed.

Clause 20—'Notice requiring remedial work, etc.'

The Hon. P.B. ARNOLD: This clause provides for the Authority to be able to issue instructions to the owner of a dam to carry out certain works it believes are necessary. I would suggest that the cost of works that may be demanded within this clause could run into countless thousands of dollars; it might even run into millions of dollars in the case of a large dam if the Crown had been bound and this Bill related to State owned dams as well. However, a person could find himself confronted with work to be undertaken on a particular storage which could cost $200 000. What right of appeal does a person have against an order from the Authority? In other words, what redress has a person if he believes that the instruction issued by the Authority is totally unreasonable and is not necessarily sound in its engineering basis?

The Hon. J.W. SLATER: I appreciate the point made by the member for Chaffey, but of course any court can hear an appeal on behalf of the person concerned if he desires to make an approach in that direction. I hope that that would not be necessary but there is no right of appeal

written into the legislation requiring remedial work to be carried out.

The penalty for not complying with this provision is also fairly substantial, and we hope that it would not be necessary for the Authority to carry the matter to that extent. Nevertheless, there must be some provision within the legislation to ensure that safety of life and property is paramount. That is the purpose of this notice requiring remedial work if it is considered by the Authority that the structure is unsafe. There is no right of appeal as such written into the legislation.

Mr S.G. EVANS: I am disappointed that a right of appeal is not in the legislation and I hope members in another place will try to make sure that there is such a right of appeal. Where an officer is to make a decision of this kind there must be an opportunity for the owner to be able to at least seek a second opinion through some form of appeal. I put it to the Minister that, even before notices are given, I believe the property owner should be given the opportunity to seek a second opinion if he believes the conditions laid down by the Department or Authority are unreasonable and it will put him to great cost, for example, where the Authority says that it believes a dam is dangerous and that the water should be let go and that person's livelihood is dependent upon the water to grow a crop.

It is all right to say that those things do not happen but I know of properties in the Hills which were taken on with a large mortgage and the owners were just getting to the point of being able to make a go of it when the Department moved in and said, 'We are going to take the property over and knock down the house, that's it.' A person's circumstances are seldom considered by the Department when it comes to the crunch. That is a reflection not on Government officers, but on the overall operation of Government departments.

I ask the Minister to consider, between now and when this measure gets to the other place, providing not only a right of appeal but also for a second opinion before the order is given if the property owner is concerned about the terms and conditions of an order regarding costs or maybe his livelihood might be threatened because he has a crop growing which is dependent on his water supply.

The Hon. P.B. ARNOLD: The situation in this instance is virtually the same as that referred to earlier in the debate—we have the Authority being put in the position of virtually being infallible if there is no right of appeal provision. Obviously, the Authority will not be any more infallible than is the E&WS Department. Engineering problems are like medical or legal problems: the more engineers or lawyers one asks the more different answers one gets. For a person to be confronted with an instruction that could cost an enormous amount of money and have no appeal provision is certainly not satisfactory. It does not do justice to the community or people at large. I urge the Minister to consider this matter. If he does not, I hope it will be considered further in another place.

The Hon. J.W. SLATER: In administering the Act the occasion might arise where an owner may wish to appeal against the refusal to grant a licence, the conditions attached to the licence or a number of things specified in regard to remedial work for a dam. We considered having an appeals tribunal written into the legislation. One of the main reasons for not doing this was the lack of suitably qualified technical personnel who may not be involved in the Dam Safety Authority. The experience of the New South Wales Dam Safety Committee indicates that there is no need for an appeals tribunal. All owners will be encouraged to negotiate with the Dam Safety Authority, and they have a resort through normal legal channels.

The Hon. P.B. ARNOLD: The Minister has made two or three cunning points. In one instance he said that we are so thin on the ground as far as engineering expertise is concerned in this State that we do not have enough people to effectively put together a tribunal to hear an appeal against a decision; in another instance he said that he believes that, as it has not been necessary in New South Wales it is not necessary in South Australia. We have a responsibility to see that justice is done in relation to a person required by the tribunal to undertake certain activities and that life and limb are protected. If we do not have the expertise to man a tribunal, then the Minister's comment earlier today that we are so good in this State that we do not need an authority to oversee State-owned dams is refuted by his own words.

The Hon. JENNIFER ADAMSON: Every time the Minister opens his mouth during the Committee stage he reinforces the very clear perception on this side of the Chamber that he has made a complete botch of this legislation. Whatever the good intentions and the merits of the principle underlying the Bill, and whatever work was done by way of advice to the Government in the preparation of the Bill in respect of these specific areas (namely, small dams in the Adelaide Hills) it was the job of the Government, the Minister and Cabinet to look at a few matters of basic principle underpinning the whole legislation.

One of those basic principles is the right that should be built into all legislation that imposes severe penalties and requirements of the nature that this Bill does for an appeal by people who will be affected by those decisions. As the member for Chaffey has said, no engineer is infallible. Second and third opinions are often essential when it comes to highly technical matters that involve great cost.

The Minister in his answers to questions as to why there is no appeal provision has just delivered an unbelievable piece of gobbledegook by saying that there is no appeal mechanism built into the Bill because we do not have anyone to administer it. What an admission—no expertise available! The more we hear the more worried we become, and the more worried the community of South Australia will rightly be when it hears of the inadequacies which clearly exist, and which the Minister has no intention of attempting to redress.

At first glance the contents of the Bill seemed to have merit. The deeper we get into it, the more it appears that the basic legislative foundations, principles and ethics, which should underline legislation of this nature, are completely missing. The Minister's admission in relation to the lack of technical expertise is a serious admission: one that should concern his colleagues deeply, as it concerns us. Mr Acting Chairman, you may be sure that our colleagues in another place will certainly take action to attempt to bring the Minister into line. If ever there was a complete dereliction of duty on the part of a Minister in respect of three important principles, that dereliction has been demonstrated by the Minister of Water Resources in respect of this Bill.

Clause passed.

Remaining clauses (21 to 33) and title passed.

Bill reported without amendment. Committee's report adopted.

The Hon. J.W. SLATER (Minister of Water Resources): I move:

That this Bill be now read a third time.

The Hon. P.B. ARNOLD (Chaffey): This is a sorry piece of legislation as it passes through the House of Assembly. Its original intent was good, but that has been absolutely slaughtered in the way in which the Government has put it together. The concept of ANCOLD in promoting this legislation had a good foundation. As it leaves this Chamber all we have is an Authority which will cost probably $250 000

per annum to run. In his own words, the Minister admitted that it will cost $180 000 but, with the normal overrun of this Government, that will be $250 000 per annum. Therefore, there will be a $250 000 authority to administer a handful of small dams in the Adelaide Hills—to stand over a few dams that are privately owned. That is an appalling situation and it should be condemned by the public at large. No-one in this House would support more than I would the safety of dams and the protection of human life.

This legislation in no way comes to grips with the problem that exists—and a problem does exist out there. In denying that, the Minister is burying his head in the sand. I only hope to goodness that a major disaster does not occur in South Australia, but if one does occur a Government owned dam will be responsible for that disaster, because I know of no other major dam, apart from those that are Government owned, which could cause a disaster in South Australia. All the major dams are owned by the State Government. Some privately owned dams can cause loss of property, but very few of them would be likely to cause loss of life. But certainly dams owned by the Government have the potential to cause an enormous loss of life in the event of a catastrophe. I do not believe that the Minister has any concept of what could occur, and for that reason I oppose the third reading of this Bill.

Mr BLACKER (Flinders): I, too, oppose the third reading of the Bill. I do not believe that the Government has been able to justify the need for the existence of a dams authority. It would have been much cheaper and more simply arranged if the appropriate delegative powers had been given to the Engineering and Water Supply Department. I certainly question the Minister's comment that the authority can be operated at a cost of $180 000. I do not think that that amount would pay the wages of the personnel involved, as described in the Bill, let alone the wages of the officers seconded and co-opted to the authority under the powers of this Bill. On a brief analysis of the information provided by the Minister, using his figures, it appears that monitoring and surveillance will cost $1 800 per dam throughout the State, and with any sort of escalation at all monitoring costs could be several thousand dollars for each dam, just to maintain a bureaucracy over and above the E&WS Department. I believe that a statutory authority is to be set up to achieve a means of providing a way in which the Minister can get an extra line in the Treasury Budget to assist in normal financing, because, after all, by the Minister's own admission, the predominant personnel will probably be E&WS personnel as such.

I oppose the Bill for that reason and for many other reasons. I do not think I received an answer to my question concerning where farmers stand in relation to Government dams that have been handed back to private ownership—and there are many of them. I refer to cases where a Government dam has been handed back because of the Government's being unable to maintain it because of lack of revenue. Under this legislation, individuals who have acquired those dams will therefore be hit with the total maintenance costs, at the request of the Government. I oppose the third reading.

The Hon. JENNIFER ADAMSON (Coles): Had the Minister brought into this place a piece of legislation designed to fulfil the purposes that he previously stated such legislation would fulfil, and had it been structured in such a way that those purposes would have been met, that legislation would have received the Opposition's full support. As it is, this Bill is a fifth rate botch up, and I oppose it, on three grounds. It fails the principal tests that such legislation should meet. On the first ground, it does not bind the Crown, and debate during the second reading and the Committee stages demonstrated the absolute futility of legislation being introduced with the purpose of protecting life and providing safety measures that does not bind the Crown.

On the second ground, the so-called independent authority is to be subject to the written direction of the Minister—what absolute nonsense for independence to be compromised in this political fashion. On the third ground, the Bill has the potential to impose enormous costs on individuals at the say so of an Authority which is relying on technical expertise and which cannot be challenged by way of appeal. On each of those grounds the legislation is grossly deficient. it should be opposed, and it will be opposed by my Party in both Houses of Parliament.

The House divided on the third reading:

Ayes (20)—Mr Abbott, Mrs Appleby, Messrs L.M.F. Arnold, Bannon, Crafter, Ferguson, Gregory, Groom, Hamilton, Hemmings, Keneally, and Klunder, Ms Lenehan, Messrs Mayes, Payne, Peterson, Plunkett, Slater (teller), Trainer, and Wright.

Noes (17)—Mrs Adamson, Messrs Allison, P.B. Arnold (teller), Ashenden, Baker, Becker, Blacker, D.C. Brown, Chapman, Eastick, Goldsworthy, Lewis, Olsen, Oswald, Rodda, Wilson, and Wotton.

Pairs—Ayes—Messrs M.J. Evans, Hopgood and Whitten. Noes—Messrs Ingerson, Mathwin and Meier.

Majority of 3 for the Ayes.

Third reading thus carried.

CONSTITUTION ACT AMENDMENT BILL (No. 2)

(Second reading debate adjourned on motion.)

(Continued from page 4011.)

Mr OLSEN (Leader of the Opposition): Copies of the amendments standing in my name have been distributed to members of the House. They provide an opportunity for this Bill to be amended to ensure that any Government cannot manipulate the Constitution.

The DEPUTY SPEAKER: Order! Before we proceed further with this debate, I feel that I have allowed the Leader to talk enough about amendments that will be dealt with during the Committee stage. I point out that it is not the appropriate time, during a the second reading debate, to talk about or debate amendments, although they may be canvassed.

Mr OLSEN: The Bill is silent as it relates to manipulation of the Constitution. It is silent in that it does not address a principal problem that is highlighted in the community at the moment. That problem relates to where a member of the Government (a Minister of the Crown no less) who is prepared to play musical chairs with the Constitution in an attempt to shore up the flagging stocks of this Government which are reinforced clearly by successive polls. Any Government that is prepared to be so blatant about its manipulation of the most important Statute in this State (the Constitution) is a Government that does not deserve to stay on the Treasury benches. The question would never have arisen relative to this matter had the Government not in recent weeks indicated publicly that it was prepared to abuse the Constitution in this manner.

Mr Groom interjecting:

Mr OLSEN: The member for Hartley interjects out of his seat. I am sure he will not wish to continue to do so. A Government using its powers in this way is one that ought to be condemned. This matter would not have arisen had the Government not indicated publicly how it was intending to abuse the Constitution. The existence of this shortcoming, the fact that the Constitution is silent and the fact that any

Government that has no principle behind its actions and is prepared to abuse the Constitution in this way having identified that shortcoming, means that it would be irresponsible of this Parliament, and more particularly the Opposition, not to point that out and to close the loophole.

I stress to the House that this is not a matter of closing a loophole in one case: it is closing a loophole for ever, or until such time as the Constitution is again debated in this Parliament. The point is that the amendments put forward by the Liberal Party are based on one thing alone, and that is principle. Enshrining that principle in the legislation clearly takes in all cases, all individuals and all political Parties in the future. We should not avoid our obligations as members of this Parliament, whether elected on a Party ticket or independently. There is no greater responsibility than that of ensuring that the Constitution of this Parliament is fair, democratic and has the capacity to ensure that where there is abuse and manipulation (which this Government is seeking to do) that will be addressed. There is a clear democratic principle at stake and it is important that this matter be addressed and not ignored.

There is no greater fundamental responsibility facing any member of Parliament than to address issues and questions of this nature. You have rightly asked me, Mr Deputy Speaker, to specifically refer to my amendments and argue them during the Committee stage of the Bill. However, I wanted to point out to the House how this Bill is silent on a matter that is currently being publicly debated. I urge members of the House to consider my amendments and the basic principle behind them; that is the important matter before this House at the moment, the principle contained in my amendments on file. I will seek the support of the House for my amendments when we debate them.

Mr BAKER (Mitcham): I rise principally to congratulate the Government on the measures involved in the Bill. It is rare that I find myself able to congratulate a Government on its legislation because I believe that there should be less legislation and more action and decision-making by Governments. I have long believed that three year terms for Governments have been part of the cause of the demise that has struck the Australian economy and the Australian population. I believe that there has been a need for many years to change the base upon which we operate and, principally, to extend Parliamentary terms by an additional year. That proposition relies on one premise, that is, the way in which Governments operate.

As members on both sides of this House are aware, the three year Parliamentary term has one major impediment—a Government has to face the electorate after a short term of three years. The wisdom of Governments is that in the first year they make the hard decisions, in the second they try to prepare for an election and the last year is a waste of time because the Government is facing the people and that is the time when the lollies are trotted out. We will see that happen once again this year. I will not debate this matter with the Minister representing his colleague in another place, because everyone here is well aware of the problems faced under this system.

We have totally disjointed decision making by Governments. We do not have Governments ruling in the best interests of the people concerned and quite often decisions are made for reasons of political expediency rather than being related to the fundamental needs of the economy and the people who make up the nation. I was a little disappointed that changes to the Australian Constitution did not include extending the term of office of Federal Governments to four years irrespective of which Government was the first to claim a four year term. We know that there are countries in the world where the Government serves a five year term and others where it serves a four year term. I was intending to present a list of these countries, but that has already been done.

I would like to see something a little firmer rather than calling it an 'optional four year term'. I would prefer the Bill to specifically nominate a four year term, realising that there will be occasions when Governments will go somewhat earlier than that. I also realise that because of changes that have been made the firmness of the three year fixed term is a little less firm than was originally envisaged. What we are saying to the people of South Australia in this Bill is that we believe that Goverments should serve four year terms because that would be in the best interests of the people. We are also saying that Governments, unless there are unusual circumstances, should serve a minimum three year term.

I think that that would be a healthy advance and believe that in 10 years, when we look back on constitutional change, this will be considered to be one of the most fundamental changes to appear in a Bill brought before the Parliament. I believe that somewhere Governments will say that they have two and a half years, perhaps even three years, to make the right decisions, that they will not be judged by the electorate, they will be willing to make decisions that are hard and necessary for the benefit of all and they will be able to take the time they need to make the right decisions. There will not be the helter-skelter we have seen over past years. During the 1950s and 1960s when we had the one Government, the decision-making process did not have an effect.

We had one continuum of Liberal leadership State and federally and I am not going to debate the wisdom of that. Principally, we had stability in government. We also had periods of very strong economic growth. In those days government was an easy matter. There were no major decisions to be made. It was a matter of how one managed growth. There were no real problems regarding taxation or imposts on the people, because we knew we could manage them owing to the strength of the economy.. That situation has changed today. No longer are Governments entrenched for 17, 20, or 27 years. No longer can Governments, irrespective of their political persuasion, guarantee themselves more than perhaps two years. There are some very healthy aspects in regard to that situation, but there is also the real problem of instability.

Government instability means unstable decisions. We have seen a number of unstable decisions made by Governments in the past few years, particularly since the onset of high unemployment. We are saying that the four year term offers some breathing space; it offers the opportunity for Governments, whether Liberal or Labor, to govern in the best interests of the people. Whilst I believe there will be a Liberal Government in the next term, irrespective of the result of the next election I think all members of this House will welcome this Bill.

I will round off my short speech. So that Government members will not think I have risen without making some remarks about their performance, it would be useful to reflect on what the Leader of the Opposition has said this afternoon in relation to the honesty of the Government and the way in which it operates. We know that this Bill should contain some reference to the means by which people can move between Houses and the sort of abuses that can occur. When we are altering the Constitution, we should take the opportunity to shore those up to ensure that we do not see the sort of abuses that have been discussed in the press. It is again a matter of Government manipulation. The people can see what it is. Some politicians and members of Government believe that it is acceptable, that it is the sport of

the day. They believe that they are above the people, but they know that what they are doing is fundamentally wrong.

I do not say that we have not done things wrong or that the Labor Party does everything wrong: I am saying that it is about time that Governments and Parliament became more accountable to the people. That is the only way in which the institution of Parliament will survive. Therefore, it is my proposition that a vital element is missing from this Bill. Whilst we have the Constitution Act before us, we should attempt to stop some of the abuses that may occur. I think it has been mentioned recently in the press. The Government of the day should take these concerns on board and make changes accordingly in the Constituiton Act to prevent those abuses from occurring. We are elected by the people for the people, and it is about time that 47 members in this House and 22 in the other place realised that.

I congratulate the Government for bringing forward this constitutional reform in relation to the four year term. It is not quite as simple as it first appeared. I was one of those persons who thought that the original Bill was very adequate in the way which it approached the problem. Since some changes have been made, I think it will effectively say that, if you go early, you are going to have to bear the consequences. Governments can now look forward to using those four years in pursuing good Government.

Mr PETERSON (Semaphore): The early debate about the three year or four year term seemed a little odd, because when elected in this House we are automatically given a three year term, so we are virtually locked into that three year period. The option to shorten that time has always been at the whim of Governments. It seems that this Bill confirms what it is all supposed to be about, which is at least a three year term and it extends to a four year term.

One other change that this Bill may make is that somebody may be able to remove himself or herself from the Legislative Council, creating a casual vacancy, to contest a House of Assembly seat. There is no argument as to the right of any member of Parliament to do that. However, some concern has been raised regarding the suggestion that a seat would be retained in the Legislative Council if that person was unsuccessful in the House of Assembly contest. There should not be the opportunity for two bites at the cherry in this Parliament.

In my opinion any situation which guarantees a person a seat to which to return is wrong. If you are elected to the Legislative Council and then opt out, you are abandoning the will of the people who first put you there. You are elected for a six year term. The people put you on the red seats of the Legislative Council to represent them for six years, and you should not opt out at will. It seems that that is a desertion of the responsibility that is given to you when you undertake to sit in the Legislative Council. I do not believe our Constitution ever envisaged this possibility. When the provision for a casual vacancy to be filled was inserted under the Constitution, it envisaged the death or incapacity of the member whilst still in that position. It was not placed in the Constitution Act originally so that it could be manipulated by politicians or a political Party.

If we look at the recent move by a member from this House, Mr Peter Duncan, the ex member for Elizabeth, into the Federal seat, we see that he had to resign and then contest that election in his own right. There was certainly no second chance to step back into a cosy seat in any Parliament if he was unsuccessful. I do not believe that that chance should be given to any other person, either.

The number of persons who have been given the privilege of serving in the Parliament of South Australia over the years is not very great. That privilege should not be abused by any member of either House. I sincerely believe (and I know many of my constituents also believe) that, if a Party is perceived by the electorate to be manipulating the system, the constituents will react with their vote. Any Government that tries to do that will suffer the consequences at the poll.

The Hon. G.J. CRAFTER (Minister of Community Welfare): I thank members for their contributions to this debate on this important measure. Although I note the Leader of the Opposition has foreshadowed an amendment, I thank the Opposition for its support of the Bill. I thank the member for Mitcham in particular for his comments in support of this substantial change to the way in which Parliament will operate in the future. In my second reading explanation, I pointed out a number of advantages that would flow to the proper working of the Parliament and indeed to the community as a result of the measures that we have before us. I will not go over those measures again.

All members are aware of the difficulties that have been experienced in the past, and it is hoped that a four year term, subject to the provisions of this measure, will bring about that degree of predictability and stability in the electoral cycle within this State which we all seek. The lengths of Parliaments over the past 20 years have given rise, I believe, to a great deal of concern in the community about the unpredictability, instability and lack of certainty prevailing under the Constitution Act.

The Leader of the Opposition has raised some hypothetical situations with respect to the possibility of members changing from one House to another, citing the case of people seeking to return to the House from which they came. The member for Semaphore has also referred to such hypothetical situations. The Leader has sought to try to devise some legislative technique to cover particular political situations that he predicts may occur, and I can only quote the Hon. Mr Milne's statement that hard cases make bad law. I think it should be a lesson to all of us to try to avoid writing laws around particular situations that may or may not occur. I particularly caution members here in connection with a hypothetical situation.

The history in this country over the past 15 years of tampering with the Constitutions of the various State and Federal Legislatures is unfortunately a sad one. We still live under the cloud of that massive slashing of the fabric of our society in November 1975 when the very fundamental principles of a democratic system of Government were set aside by the then Prime Minister and the Governor-General. Prior to that time, we saw the irresponsibility of the Premiers of Queensland and New South Wales with respect to the filling of casual vacancies occurring in the Senate. We saw the disrespect that that brought to those offices and indeed to the Parliamentary system, resulting in very sad periods of office of those persons sent to the Parliament in those circumstances.

We have seen the opportunism that has arisen, including the early retirement of certain members of Parliament just after elections, whether it be to occupy a diplomatic post or simply to retire, and I think that also has attacked the very fundamental principles of our Constitution. Indeed it is the will of the people clearly expressed at the ballot box which returns a successful candidate to a seat in the respective Parliaments, and it should only be in exceptional circumstances that such a person should set aside that mandate given to him by the people. In his foreshadowed amendment the Leader of the Opposition needs to pay particular concern to the way in which the will of the people is expressed in the voting system concerning another place, and to attempt to set aside the clearly expressed will of the people in circumstances such as those that he described is, once again, an attack on our very fundamental principles of democracy

and, indeed, our Constitution, in which we have placed so much faith and which has served us so well.

We have hopefully set aside the unfortunate circumstances that I have described with respect to the filling of casual vacancies by persons other than those from the Party from which the previous member came, and that situation thankfully has now been settled in this State. However, the Opposition wants to tamper now with that tradition and convention so clearly established and, in the Government's view, widely accepted by the people of this State. To tamper with the will of the people and set aside a period of office in such a way is, I think, a most serious departure from that convention.

However, when the Leader of the Opposition addresses this matter in Committee, I can comment on that aspect further. I thank the Opposition for its support of this measure.

The DEPUTY SPEAKER: As this is a Bill to amend the Constitution Act which provides for an alteration of the Constitution of the Parliament, its second reading requires to be carried by an absolute majority. In accordance with Standing Order 298, it will be necessary to ring the bells.

The bells having been rung:

The DEPUTY SPEAKER: In accordance with Standing Order 298, I have counted the House, and, there being present an absolute majority of the whole number of members of the House, I put the question: 'That this Bill be now read a second time.' For the question say 'Aye', against 'No'. I hear no dissentient voice, and there being present an absolute majority of the whole number of members of the House, the question therefore passes in the affirmative.

Bill read a second time.

The DEPUTY SPEAKER: I declare the second reading to have been passed with the requisite absolute majority, and it may now be proceeded with.

In Committee.

Progress reported; Committee to sit again.

DAM SAFETY BILL

Mr GROOM: It has been drawn to my attention that, in the previous two divisions, by accident my name was not recorded. We have a reputation as a hard-working Government, and I think that is reflected in the size of the number of Parliamentary Papers which has obstructed the teller's vision between myself and the member for Florey. I ask that the record of votes for the previous two divisions be corrected.

The DEPUTY SPEAKER: The honourable member for Hartley having brought this matter to my attention, I am satisfied that the honourable member was present during the last two divisions, and I direct that the vote be altered accordingly.

[*Sitting suspended from 6.2 to 7.30 p.m.*]

INDUSTRIAL CONCILIATION AND ARBITRATION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 3 April. Page 3831.)

The Hon. E.R. GOLDSWORTHY (Deputy Leader of the Opposition): This Bill is concerned basically with the issue of unfair dismissal. In 1984, amendments that were passed relating to unfair dismissal did a number of things. That Bill transferred the jurisdiction from the Industrial Court to the Industrial Commission and introduced additional remedies of employment in another position or compensation. That was a new idea. The Bill required a pre-hearing conference to try to resolve difficulties between employer and employee.

In his second reading explanation, the Minister has assured us that those provisions are working well but that amendments are required to facilitate further the operations of those provisions and so that, as he promised earlier, all industrial matters would be referred to the Industrial Relations Advisory Committee. However, the only snag is that the whole Bill did not go to IRAC and that the Minister managed to sneak in one provision after the Bill had been to IRAC: the definition of 'employee' in respect of owner/drivers. The only reason given in the second reading explanation for the inclusion of that provision is that it is requested by the Transport Workers Union. That tends to make a farce of the Minister's promise that all industrial matters would be referred to IRAC. Here is the State Government following the lead of its Federal counterpart on the conciliation and consultation kick by saying, 'We won't do anything until we have had a pow-wow at a committee meeting to thrash out the problems.'

However, the only problem concerns the important provision in respect of the definition of 'owner/drivers' as employees, and the amendment enables the Transport Workers Union to go hell for leather and validate what it has been doing: forcing employees into a union would become legal. I consider that that tends to make a farce of this business of referring everything to IRAC. The Government says, 'We will refer to IRAC the bits that we think we can reach agreement on, but the bits on which we do not think we will reach agreement we will not refer to IRAC.' What nonsense!

The Hon. J.D. Wright: Where did you get that from?

The Hon. E.R. GOLDSWORTHY: From the second reading explanation. The Minister does not even know what he said in the House.

The Hon. J.D. Wright: I wasn't even here.

The Hon. E.R. GOLDSWORTHY: Then, it was whoever was the Minister's spokesman whilst the Minister was absent because of ill health. The Minister does not know what was said in his name. He does not even know what he has put to the House. What sort of fiasco is this? Let me read the appropriate bit that has come before the House in his name while he lay on his sick bed of pain. This is the passage:

> As a result of discussions with the Transport Workers Union, the Government intends to amend the definition of 'employee' in the Act to include certain lorry owner/drivers (not being common carriers), who are presently enrolled as members of the TWU—

illegally—

> These owner/drivers are people who are very similar for industrial purposes—

that is, for the purposes of the union and the Labor Party—

> to employees. A provision in the Commonwealth Conciliation and Arbitration Act allows federally registered unions to include in their constitution members who are defined as 'employees' under respective State legislation.

And so it goes on. Maybe it was an earlier reference to which I wish to refer.

The Hon. J.D. Wright: What is said about IRAC?

The Hon. E.R. GOLDSWORTHY: It is here somewhere because, when I read the passage first, it was indelibly printed on my memory in large block type in striped coloured letters. I cannot find it because I did not think I would have to. I could not imagine a Minister having had a speech delivered on his behalf in this House without knowing what was in it. Here it is:

> The desirability of making these amendments has been raised primarily by employer interests represented on IRAC, and members of IRAC have agreed unanimously to these provisions, with the

exception of the amendment concerning lorry owner/drivers to which I will refer later.

The second reading explanation does refer to it later, but it was not agreed. Here is the Minister, who trumpeted to this House about this new spirit whereby we would all love one another under the big consensus kick, whereby nothing would come to this House before it was accepted and agreed on.

Members interjecting:

The Hon. E.R. GOLDSWORTHY: I am putting to the House the spirit of consensus with which the Minister sold the IRAC Bill by saying that nothing would come before the House before it had been agreed on. That was when consensus was popular federally, and we were all to agree and have no conflict. Yet here is a provision on which no agreement has been reached. I understand why, because this provision seeks to validate the strong-arm tactics of the TWU in forcing people, despite their wishes, to remain free of the union, to join the union. We hear all this hoo-hah from the Labor Party about preference to unionists.

Mr Ferguson: Hear, hear!

The Hon. E.R. GOLDSWORTHY: The great democrat from Henley Beach says, 'Hear, hear', but preference to unionists means that, if you do not join the union, you do not get work and, in the case of owner/drivers, you do not get your truck loaded. I have some of these people in my district and I would have had more telephone calls from them about this matter in the past 2½ years since this Government has been in office than about any other. Take the case of someone doing contract work at Gepps Cross for the Highways Department.

Mr Ferguson: You can't have a busy office.

The Hon. E.R. GOLDSWORTHY: I have, especially on this question. I had a telephone call from someone living in the north-eastern suburbs where the father and son each have a truck and do contract carting. They were told by the Highways Department fellow, 'If you don't join the union you get no work.' We have the great democrats in the Labor Party saying, 'If you don't join the union you don't get work.' That is preference to unionists. Can any fair-minded citizen in this country stomach that? We certainly cannot.

While I am speaking about the big consensus kick (except for the bits the other side do not like, and we will put them before the House anyway), I can say that in the past two days I have had two telephone calls about this very matter. I am not exaggerating. I received a general circular from the Royal Institute of Architects, professional people. It is relevant because it deals with the question of validating these illegal acts of the TWU in forcing these owner/drivers, with a reprisal of getting no work, to join the union. The circular, which someone dropped in my office only last evening, states:

> It appears that the Association of Drafting, Supervisory and Technical Employees (ADSTE) has begun a recruitment drive to compel architects (and other professional consultants) to join ADSTE. In Victoria, architects working in the architect's office on the site of the new remand centre in Melbourne were refused admission to the site and locked out of their office, because they had refused to join ADSTE.

The Hon. J.D. Wright: Was that in Melbourne?

The Hon. E.R. GOLDSWORTHY: It has come from South Australia. Let the Minister be patient because it is in South Australia.

Members interjecting:

The Hon. E.R. GOLDSWORTHY: I am being accurate. I will get on with it if honourable members will listen. How can I get on with it when Hollywood, who is interested in the Film Corporation, will not stop interjecting?

The DEPUTY SPEAKER: Order! The Deputy Leader will not refer to members as 'Hollywood', or anything else.

The Hon. E.R. GOLDSWORTHY: I was told that that was his nickname, Sir, and I thought that it was apt. However, he would not get first prize in a popularity poll on this side of the House.

Mr Ferguson: I bet he won't sleep for a year now.

The Hon. E.R. GOLDSWORTHY: He is not too popular in his own show either—he is taking a long time to get to the front bench. The letter continues:

> There are indications that similar action is being contemplated on other projects. It is likely that this could become an issue in South Australia. Members of the RAIA involved have sought the Institute's assistance in what they see as an infringement of their personal freedom.

That is what it is all about—freedom in a so-called free country. The letter continues:

> The RAIA regards this as a matter of the utmost seriousness, not only for individual architects but also for the profession. Arrangements have been made for the Institute President . . .to address a meeting to be held at the AMA Hall.

And so on it goes. The letter continues:

> This will provide members with up-to-date information on developments taking place throughout Australia and will enable an opportunity for an exchange of views on the issue. It is anticipated that the meeting will also be addressed by a representative of the newly formed Association of Architects of Australia. All members and student members are urged to attend this vital meeting. Be there. If architects don't act, others will decide their future for them.

I also received today another complaint—one last night and one as recently as this morning. That complaint states:

> A representative from the Building Workers Industrial Union called on a western suburbs building site and requested that the subcontractors on site join the union or the site would be black banned. The representative said that you can join the BWIU for around $60 or the BLF for around $120.

That is $60 as against $120. So, the Builders Industrial Union is offering a bargain. It continues:

> Reluctantly to enable completion of the job the subbies joined the union.

If they did not join there would be no work. This subcontractor employed about three people and told me that he was so fed up with it that he was going to cut his losses and get out of it. That is how far some people will go when they are fed up to the back teeth with a Government that encourages these strong-arm tactics. That was two complaints in the last 24 hours.

I exaggerate not when I quote the number of people who have rung me, including small independent owner/drivers and subcontractors in the building industry as well as others, and asked what to do. My advice is that the best thing they can do is change the Government for starters because this Government openly supports such strong-arm tactics. That is what this clause in the Bill seeks to do: it seeks to validate the strong-arm tactics of the Transport Workers Union in forcing these people to join their union, without authority, or to not work. It is as simple as that: join the union or go out of business.

I have met people from the Hills who have to do business in the city. They come down to the city and are told to join or they will not be loaded. What a wonderful advertisement for democracy that is! Those people do not want to join.

An honourable member: Bludgers.

The Hon. E.R. GOLDSWORTHY: The honourable member can call them bludgers or call them what he likes. The honourable member is not forced to join a football club, a church or an association if he does not want to. He should not be forced to join a union if he does not want to—it is an absolute denial of rights. He was not forced to come into this place. In a free country it is an absolute affront to about 80 per cent of citizens, if members like to read the polls. It is an affront to all except the dyed in the wool unionists who have had nothing since birth. To about 80 per cent of people it is an absolute affront to be forced

against their will to join an association whose strong-arm tactics are anathema to them. That is what his Bill seeks to do.

Not only does the clause seek to define these people's employees so that the unions can have open slather but it also seeks to validate what this thuggery has been seeking and doing illegally for some years in South Australia. So much for the Minister and his promise that all industrial matters will go off to IRAC, where we will reach consensus before it comes to this House. There is no consensus in relation to this matter. The matter in itself is enough for the Opposition to say, 'To hell with this Bill.' We believe it is a matter of fundamental principle which in no way will we deny the people of this State. So much for the consensus of making dismissal provisions work more fluently! So much for the employers requesting this!

We know darn well that this provision slipped in on the tail end and it is absolute poison to 80 per cent of people of this State. That alone is enough for us to say what the Government can do with the Bill as far as we are concerned. No way will I or members of the Opposition vote for a Bill which pushes further the strong-arm Mafia tactics of unions which force people against their will to join their ranks or starve through not working. That is what it does.

Mr Hamilton interjecting:

The Hon. E.R. GOLDSWORTHY: Yes, it would do justice to Hitler. Hollywood would do it justice. He could march down the street with a swastika on his chest in a Nazi salute and say, 'Join the union or do not work.' Yes, Hollywood would do well.

The Hon. J.D. Wright interjecting:

The Hon. E.R. GOLDSWORTHY: Maybe Bjelke-Petersen has gone too far, but I bet the honourable member that, with all the hoo-hah about what he has done—and his legislation is poorly drafted—if we took a poll around Australia we would find that 80 per cent of people would not have a bar of compulsory unionism, would agree that the unions have gone too far in this country and that the day of reckoning is at hand. So, good luck to him!

Let us deal with the other measures in the Bill to which the Minister seeks to get our concurrence. The Bill seeks to do a number of things. We do not disagree with what the Government is trying to do. I made it clear to the member for Henley Beach that, whatever the rest of the Bill contained, if we are going to have strong-arm compulsory unionism, the Government can forget the rest of it as far as we were concerned. However, let us talk about it.

Mr Ferguson interjecting:

The Hon. E.R. GOLDSWORTHY: I did not hear what the honourable member said, but he sits there and nervously laughs.

The DEPUTY SPEAKER: Order! The honourable member should not be interjecting and the Deputy Leader should not be answering the interjections.

The Hon. E.R. GOLDSWORTHY: That is wise counsel, Mr Deputy Speaker. The honourable member is out of order most of the time. The Bill seeks to do a number of things with which employer groups would agree, although there appear to be a number of mistakes and faults in the way in which it has been done.

There appears to be some doubt in relation to the ability to mount appeals. Section 97 allows for appeals by various groups of employees and, in some limited cases, individual employees and employers. It does not contemplate a general appeal by an individual employee, which is what these sections are really all about: a situation likely to arise in this unfair dismissal jurisdiction. The Bill seeks to provide for specific appeals. It requires clarification of the time period in which these appeals should be mounted. The Bill also seeks to clarify the jurisdictional base for unfair dismissal of employees. It is suggested that the present provisions in the Act do not allow for that. There is also an amendment that changes the concept of re-employment in relation to continuity of service, particularly regarding long service leave, sick leave and other matters that would have been finalised at the time of dismissal.

As I mentioned a moment ago in opening my remarks and as a result of interjections by members opposite, which I dealt with rather more fully than I had to at that stage, it also seeks to validate the strong-arm tactics of the Transport Workers Union. It would come as no surprise to the Minister and the Government that we will not have a bar of the provisions to alter the definition to include owner/drivers as employees.

The Hon. Ted Chapman: That is what clause 3 does.

The Hon. E.R. GOLDSWORTHY: That is what they are on about. They did not manage to get consensus on that. The ground rules are a bit wobbly: one gets consensus on what one can and where one cannot one trundles it in anyway. That is what this Bill does, and we will not have a bar of it.

In relation to clause 3 *(d)* (section 6 of the Act)—the definition of an industrial matter—the Government seeks to include the 'dismissal of an employee by an employer' as an industrial matter. In my view and that of some others, this will lead to a degree of confusion, because the provisions of section 31, which deal with the question of unfair dismissal, are specific. The ground rules are laid down specifically in section 31. The Commission is told clearly what it can and cannot do. By including in the definition of an 'industrial matter' this business of the dismissal of an employee by an employer, the section that deals with an industrial matter comes into play and the discretion and the scope for operation of the Commission under that section is wide.

So, here we have the Government seeking to remedy this problem by making sure that the Commission has jurisdiction by saying, 'Let us call this an industrial matter', but that brings into play a whole range of new forces and a whole scope of jurisdiction under 'industrial matter', which is not peculiar to section 31, which is circumscribed, as I say, in terms of its operation.

A far better way, I suggest to the Government, to accommodate this point would be to put in a simple statement at the start of section 31 along the lines that the Commission has all the authority required to hear these dismissal claims. Instead of going back to the definition clause and mucking about by putting in this business of dismissal of an employee by an employer as an industrial matter, which then gives the Commissioner all the jurisdiction under the definition regarding what he can do in an industrial matter, whereas section 31 is limited and circumscribed in relation to dismissal, we will introduce a degree of ambiguity in relation to the scope and purview of the Commission in hearing a dismissal case.

I am not disagreeing with what the Government is trying to do, but it is not the right way to do it. In due course, the Minister will find that my amendment copes with the situation far more adequately and sensibly than the Bill does. That is the question of the jurisdiction: this doubt about the jurisdiction of the Commission to hear an unfair dismissal claim and the way that the Government has gone about it. Of course, I am assuming that the Bill will pass the second reading and I will move these amendments. As I said earlier, we will vigorously oppose the Bill because of that confidence trick—I suppose that that is the way to express it—that the Minister has brought in this business—

The Hon. J.D. Wright: What if I don't let you move an amendment?

The Hon. E.R. GOLDSWORTHY: I can move an amendment to this because it is the subject matter of the Bill. The Minister cannot stop that: it is democracy. We will not change the ground rules midstream.

The Hon. J.D. Wright: They are extraneous matters that you have brought in—

The Hon. E.R. GOLDSWORTHY: I am not talking about that: the Minister is asleep.

The Hon. J.D. Wright: —without any consultation with anybody.

The DEPUTY SPEAKER: Order!

The Hon. E.R. GOLDSWORTHY: The amendments have been circulated.

The Hon. J.D. Wright: Whom did you consult with?

The Hon. E.R. GOLDSWORTHY: I consulted with myself. What next? I gave notice yesterday. Do not tell me that the Minister will refuse to allow us to discuss them! What a travesty of democracy that will be!

The Hon. J.D. Wright: I did not say that I would.

The Hon. Jennifer Adamson interjecting:

The DEPUTY SPEAKER: Order!

The Hon. E.R. GOLDSWORTHY: The Minister posed the threat—

The Hon. J.D. Wright: Don't get too upset!

The DEPUTY SPEAKER: Order!

The Hon. Ted Chapman: He was raised in the trade union scene.

The DEPUTY SPEAKER: Order! This is supposed to be a second reading debate. It is not a question of the Minister, the Deputy Leader or any other member of the House having some sort of conversation during a second reading debate. I ask the Deputy Leader not to bait interjectors and certainly not to answer them, and to get back to the second reading debate.

The Hon. E.R. GOLDSWORTHY: Thank you, Mr Deputy Speaker, for your wise counsel, as usual.

The DEPUTY SPEAKER: Flattery will not get you anywhere, either.

The Hon. E.R. GOLDSWORTHY: The Minister interjected. I was just pointing out that yesterday I gave notice that I would seek to introduce new material and I circulated the amendments in plenty of time for everyone to look at them.

The Hon. J.D. Wright interjecting:

The Hon. E.R. GOLDSWORTHY: I had the amendments circulated as soon as they were available.

The Hon. J.D. Wright interjecting:

The DEPUTY SPEAKER: Order!

The Hon. Jennifer Adamson: The Minister is a bit testy.

The Hon. E.R. GOLDSWORTHY: The Minister is not doing badly. I do not know whether he will deny us the opportunity to debate them or not, but if he does it will be an absolute travesty of democracy because I gave every opportunity for the House to look at these amendments. They were distributed as soon as they were available.

I talked about the way in which the Government seeks to clarify the jurisdiction of the Commission to hear appeals: it has clouded the issue. I have suggested what I believe is a far more satisfactory method of fixing this. The next provision that the Bill seeks to introduce is this idea of continuity of service in relation to long service leave and the like. I do not argue with what the Government is trying to do, but again I do not think that it has gone about it in the right way. The honourable member can chortle in his beard, but the Government might want to fix this up itself. The fact is that—

An honourable member: Chortle, chortle.

The Hon. E.R. GOLDSWORTHY: Well, the honourable member is chortling away there on the back bench. He should make the most of it because there is every chance that he will not be there after the next election and Parliament will be a fond memory for him, despite the fact that he is a heavy in the Labor Party and a strong-arm man in the union movement.

The Hon. Ted Chapman: He used to be.

The Hon. E.R. GOLDSWORTHY: He is the bag man for the Labor Party: let us face it. He is indispensable, but the fact is that he will be past history, along with the member for Unley and a few of those other people around the fringes.

Members interjecting:

The Hon. E.R. GOLDSWORTHY: No-one is getting carried away. The member for Henley Beach, too, has gone, and the member for Mitchell may just survive—not Mitchell, Ascot Park.

Mr Trainer: In another 15 years you will get the district right.

The Hon. E.R. GOLDSWORTHY: The fellow over there in the Whip seat, that is. If an employee is retrenched for some reason or another and is paid out his long service leave, accumulated holiday pay and all the rest of it, according to the Bill there should be an appeal within 14 days, but it may be some time before things get under way and it is clear that he will be reinstated. There is every chance that he has spent the long service leave money.

As I read the Bill, the chances are that if that person is re-employed, the employer has no real legal clout to recover that money. However, in due course when the employee does retire and his accumulated benefits or long service leave are paid out, the employer could well be faced with having to pay twice, yet that is not addressed in the Bill. It should be. This new concept of the original contract being resumed seems to create some difficulties. The present arrangement is that the contract is terminated, then on re-employment a new contract is arranged.

The Bill seeks to interfere with that arrangement. I do not, for one moment, argue with the basic principle in this amendment. It is only reasonable that if the judgment is in favour of the employee and he is re-employed, service should be continuous, but the amendment introduces a difficulty. That matter should be addressed and in Committee it will be.

I referred to jurisdiction and continuity of service. I do not think it unreasonable under clause 6 that there should be consultation regarding the appointment of the Chairman of the conciliation committee. This is enunciated elsewhere in the Act and it is not unreasonable that there be consultation between the parties in setting up a conciliation committee in the first instance. That matter should be addressed in due course.

Clause 9 *(d)* relates to appeals to the Full Commission against the decision of a Commissioner and does not appear to limit the Full Commission in the way in which the original hearing is constrained. From the way in which this Bill is drafted it appears that the Full Commission, in hearing an appeal, has a wider scope in relation to orders and decision-making than is available to the Commission as first constituted when it hears an appeal. That appears to be anomalous. I suggest that there be some slight amendment in due course in relation to that matter.

No rational argument has been advanced on behalf of the Minister, in his absence, in the explanation of this Bill, as to why the prerogative of the Commission should be limited in that the Commission will not be able to execute an order for a stay of re-employment pending an appeal. The Bill baldly states, as does the second reading explanation, that this option will no longer be available to the Commission. I can see no reason for that. The Commission has the prerogative or the option to order a stay in relation to payment of compensation pending an appeal but, pending

an appeal by the employer in relation to re-employment, the Bill provides that the Commission shall no longer have that option. It is a farcical situation where an employee who has been dismissed is ordered to be re-employed, is re-employed (according to this Bill) and then on appeal it is said, 'No, you are not to be re-employed,' and so he is off again.

The present situation does not provide that the Commission shall order that a person is to be re-employed: it provides that the Commission has that option. This Bill provides that that option will not be available. It seems completely farcical to limit the ability of the Commission in relation to re-employment for no good reason. The Bill does not state that the Commissioner has to order in that way: it simply states, 'We will tie his hands. If the Commission says he is to be re-employed, he is to be re-employed, whether or not there is an appeal.' That person could get his job back and lose it again, which I believe would exacerbate the situation even further.

No explanation is given for the inclusion of that provision. It limits the options available to the Commission in trying to come to grips with what can be a very difficult situation—where there is an argument between employer and employee. We do not intend to support that provision. All in all, the Bill seeks to remedy a number of situations which we agree need clarification, but I suggest not in the most felicitous and appropriate manner. The Bill goes about it in a way that will lead to a situation where in 12 months, if the Government is so minded, we will have to clarify the position yet again. I suggested an alternative that accommodates the Government's thinking, but in a way in which ambiguity is minimised.

However, I return to my initial point. Having said all that: if that was as far as the Bill went, I dare say that the Opposition would support it, however, this provision seeks to validate the strong-arm tactics of the union movement in forcing people against their will to join a union, negating everything in this Bill with which we may agree.

The Hon. Ted Chapman: It absolutely destroys it.

The Hon. E.R. GOLDSWORTHY: It certainly does, to my mind—no way. The Government pussy foots around publicly on this issue and, if it takes any notice of the polls in this country, it will recognise that 80 per cent of the public of this nation deplore the strong-arm tactics of these union heavies. I do not intend to support the Bill at the second reading stage, but I will seek to canvass a number of other matters in due course. The Minister has had notice of these: he knows perfectly well what they are and that there is a major difference of approach between the Liberal Party and the Labor Party.

The Hon. J.D. Wright: You canvassed them all last night.

The Hon. E.R. GOLDSWORTHY: I will continue to canvass them at every opportunity available to me. As the Minister knows, he is in a position to decide whether or not we canvass them. However, I will seek every opportunity to canvass those matters, because if the Minister is looking for consensus in this community—this magic word 'consensus'—he knows darned well that he will discuss those matters with the people who count and he knows he will have to back off. This consensus bit is all fine and dandy. I read an interesting article in England when I was there last year. They are on the consensus kick there—some of the people who are anti-Thatcher, including some Conservatives who are a bit weak at the knees, and also one of the sacked Ministers.

The Hon. J.D. Wright: Most of them are.

The Hon. E.R. GOLDSWORTHY: The Deputy Premier could learn a thing or two from Margaret Thatcher.

Members interjecting:

The DEPUTY SPEAKER: Order! The Chair has been very patient but it has been patient long enough. I point out to the Deputy Premier that, if he is going to keep on interjecting and carrying on conversations, he will earn the wrath of the Chair. I do not want that. I ask the Deputy Leader to come back to the second reading debate.

The Hon. E.R. GOLDSWORTHY: I come back to the matter which is so fundamental to us and to which I referred in my opening remarks, that is, consensus—between big unions and big business. The article I read in Britain suggested that that is exactly what happened in that nation. The sacked Minister in Britain has written a book. He was on the consensus kick. There was a critique of the book, and a jolly good one it was too.

But when it is all boiled down, what part does Joe Blow in the street play in this consensus? He plays no part in the compulsory unionism question. Who is party to the Minister's much vaunted IRAC? There are some employer representatives and some union representatives. Where is the person in the street represented? Of course, the person in the street is not represented. Where is the man in the street in relation to the Prime Minister's consensus? We had a summit soon after the Federal Government was elected, and we are to have another summit on tax. Who is to be represented? Everyone from the ACTU is represented—

The DEPUTY SPEAKER: Order! I will not allow the Deputy Leader to carry on with his remarks in relation to taxation and all the other Federal matters that he might like to bring up. We are dealing with a specific Bill, and I hope that the Deputy Leader will deal with that Bill.

The Hon. E.R. GOLDSWORTHY: Thank you, Mr Deputy Speaker—I am linking up my remarks with the reference in the second reading speech to the Bill having been discussed at IRAC and to consensus having been reached. That is what I am talking about. However, where does the man in the street figure in all this? His representation is zilch. This consensus is between the powerful in this nation—powerful Governments, big business and big unions. The man in the street has no say. So, where does one go? One goes to the opinion polls and what do they indicate? As I said earlier, they indicate that people will not have a bar of being forced to join an organisation, the penalty being that if one does not join one does not work. That is what the Government subscribes to, but the Liberal Party will not have a bar of it. As I said earlier, if the Government is trying to achieve consensus, it will back off from its adherence to the policy of joining a union if one wants to work. With those remarks, I oppose the Bill.

The Hon. TED CHAPMAN (Alexandra): At the outset, I indicate my opposition to clause 3 of the Bill, which provides for an amendment to section 6 of the principal Act. That section defines the various terms applicable to industry employment, and in particular it cites and defines the awards that apply to the industry generally, referring to the courts, the Commission, employers, employees, industrial disputes and other inspectorial and legal aspects of the Act. It is proposed to insert a new paragraph (ba) in the definition of 'employee', as follows:

> any person engaged to transport goods or materials by road (not being a common carrier or a person who employs or engages others in a business of transporting goods or materials) whether or not the relationship of master and servant exists in consequence of the engagement;

That provision widens the definition of 'employee', and indeed widens the scope in which the trade union movement can enter the field and make its dictates and demands, as referred to by the Deputy Premier. I object to that activity in particular. As an employer of probably more personnel than all the rest of the members in this Chamber put

together over the past 25 years I have been involved in industrial affairs to a considerable extent. I have gained experience in industry and in the field as an employer of labour, and accordingly I have had some involvement and association with the nature and extent of industrial interference that can and does occur on the South Australian industrial scene.

The industry in which I was involved was one in which there was a high level of sensitivity, and traditionally the industry has involved frequent industrial disputes, considerable industrial tension and, more especially, trade union attention. During the period I was involved with the industry I experienced the sort of harassment, dictating and thuggery tactics to which previous speakers have referred. This provision indeed enhances the opportunity for the trade union heavies to widen their attack on those involved in industry, and indeed their attack on people who, in the state of fear, invariably succumb to the demands of a trade union representative urging them to become a member of an organisation or association. I believe that the Liberal Party has a responsibility to defend that sort of action at the local level and to act on behalf of the ordinary individual who has little or no protection in such a situation. We in the Liberal Party believe that we must speak up for those people. I have seen people approached in the field by representatives of the trade union movement employing more bluff tactics than one could poke a stick at, insisting that people join a union. I have seen people attempt in their own way to respond to such attacks by union members.

I saw this in 1971 and again in 1972 in particular, when on that occasion a trade union representative came in so heavily that the community at large took up the case for the emplyees involved who had expressed a desire not to be part of the trade union membership.

On that occasion the whole community found itself black banned by the union when unionists' demands were not met. That case involved, I regret to say, a former member of the South Australian Parliament who is now deceased. Therefore, I do not propose to talk about the details of that case. However, I shall never forget the circumstances surrounding the black banning of the Kangaroo Island community which ultimately led to the State bailing out the unionist (at public expense) to prevent his going to goal.

Quite clearly, during those years in particular, too often people were intimidated to the point where their livelihoods and opportunity to be involved in the work force were threatened unless they joined a union. In the case to which I refer, the Australian Workers Union was involved. So, I know first hand what can and does happen in the field. Incorporating yet another part of the community, as provided in the additional definition of 'employee', is indeed widening the opportunity for those in the union movement to apply their dictates.

This evening a member opposite referred to the situation prevailing in Queensland at the moment. The extent to which Premier Joh Bjelke-Petersen has found he has to go to protect the Queensland community at large, and in particular those people who want to work and who do not want to be harassed in the way that I have described (whether or not Joh Bjelke-Petersen is right or wrong, or even partly right) is quite irrelevant. The thing is that on behalf of the people of Queensland he has found himself in a position where he sees no alternative but to defend the rights of the public at large. That is precisely what we are doing here in South Australia as a political Party: we are seeking to protect and defend the public at large from placing these all-embracing additional provisions in the principal Act, laying a platform for the union movement to further exploit the work force.

In the past the Australian Labor Party has been the political Party that purported to look after those ordinary little people at the community level, but that was for convenience: it coerced those people into believing that it was the political Party those people should support. It did that for its own industrial interests. It has not only used those people, but it has abused or ignored them—walked right over the top of them and set out in this place, as the Deputy Leader said, to get into bed with big business and the trade union movement to expand the Industrial Conciliation and Arbitration Act in order to lay a platform for it to spread its message with licence. As has already been stated, we on this side of the House do not propose to extend that sort of licence to the Labor Party so that it may continue to exploit people in the community.

Quite apart from my own experience and that of my colleagues on this side of the House, generally in Australia the whole community is suffering from the infringement of the trade union movement in Australia. In the industrial sense we seem to be a joke at an international level. We can no longer compete with suppliers and producers in a whole range of industries in other parts of the world. No longer can we put our own produce in their market places because of the costs that are associated with producing those goods in Australia. No longer can we be relied upon at the port level, because of the industrial strife that is stirred up and cultivated by the trade union movement—this monster in the community that we have accepted and tolerated. I am not prepared to tolerate further any extension of their intervention and interference in the industrial work place where the ordinary person seeks to go about his business and earn an honest living. It is in that context that those people who genuinely want to work in the community should be protected to the point where, if they desire to join an association or union, they may freely do so. If they do not desire to join an association or union, they should be protected from the harassment that we have witnessed only too often. It is in that specific respect that I am disturbed about the direction in which the Government proposes to move with this measure.

There are other elements in the Bill that may well be desirable and in the industrial interests of the community at large, but the whole exercise has been destroyed by sneaking in this part of the Bill which seeks to provide finance and a manipulating arm for the trade union movement. Against that background I have no hestitation in supporting the Deputy Leader's remarks and indeed joining with my colleagues on this side of the House to oppose the measure.

Mr BAKER (Mitcham): I also support the remarks made by the Deputy Leader. The Deputy Premier has very sticky fingers indeed. He has been caught with his hand in the lolly jar, and he expects us to wipe his hands clean. Let me assure members on the other side of the House that we are not going to do that tonight. I will not only talk about the Transport Workers Union, but will also mention the landslide that will be created if the provision in question, which is totally opposed to the fundamental precepts of the Bill, is included in the measure. It is not even in keeping with the Minister's second reading explanation which mentioned members of the TWU seeking recognition, because it sets a general precedent. In fact, it sets a precedent far wider than its mere insertion in this Bill.

Members on this side have made it quite clear that we are happy to join with the Deputy Premier in tidying up some anomalies in relation to unfair dismissal; we see the general resolutions contained in this Bill as being in keeping with that. Some explanation is perhaps needed of one or two clauses, but we are not opposed to that, because in principle Parliament has already agreed that unfair dismissal

should be a matter for consideration by the Industrial Conciliation and Arbitration Commission. We have already agreed to certain provisions.

Members on this side have canvassed the issue of the Transport Workers Union. I do not have to reiterate the comments that have been made, but I express my dissatisfaction with industrial relations in Australia. Admittedly, in South Australia we have a very good record.

Mr Groom: The best in Australia.

Mr BAKER: Yes, that is right. If anybody studies industrial records, they will go back and find out where it all started. There is no doubt that one person can be congratulated for that effort, and his bust is sitting out in the corridor of this Parliament. I refer, of course, to Sir Thomas Playford. If we go back and examine the industrial records of the States, we will find that States like New South Wales and Victoria have always suffered from a high incidence of industrial disputation because of their very foundations. If you want to check the figures—

Mr Groom interjecting:

Mr BAKER: Perhaps you should check them. Whilst I accept that industrial relations in this State are better than in the rest of Australia, I do not believe that they are satisfactory. The industrial record of Australia is perceived by almost every overseas country as being poor. Most members have been overseas and, if they have ever bothered to talk to some of the Government officials they meet, they are no doubt told, 'We are quite happy to have you as friends, but we really don't want some of your diseases.'

Members interjecitng:

Mr BAKER: Let us get down to the fundamental principle: the Government. You made a mess of the first Act, so you have come back to the Parliament and said, 'Look, we didn't do it very well; we now need your help to correct it.' We say we are quite happy to do that. Unfortunately, however, the Minister could not contain himself. We do not know whether he could not get a ride on a petrol tanker; we really do not know why he introduced this legislation; and we do not know what deals were done down at the football club or the bar. What prompted the Deputy Premier to bring in this legislation which deals with the transport of goods and materials?

Mr Groom: Why have you abandoned the Menzies and Playford policies on preference to unionists? You go back into history and have a look at who passed those preference clauses.

Mr BAKER: It is a very unusual situation when an interjector gets the microphone turned on. The member for Hartley is a sort of master of generalisation.

The DEPUTY SPEAKER: The member for Hartley is out of order, and I hope that the honourable member for Mitcham is not going to be out of order as well.

Mr BAKER: Thank you, Sir; I will not bother wasting my time by responding to nonsense from the other side. We are fundamentally opposed to this provision, because not only does it address the issue of the Transport Workers Union, with all its warts and some of its industrial record in the constituency, but the provision also raises the question of who is the next in line. Quite clearly the definition of 'employee' has been set down. We are now making an exception; we are setting a precedent. It is the first time that I can see where the Act has actually taken into account a specific group of people.

The Bill ensures that a certain group does not have legitimate representation before the Commission, because it provides that to get legitimate representation a person must be a member of the Transport Workers Union. The Conciliation and Arbitration Act also prescribes those people who may appear before the Commission as parties. The procedure is outlined as well as the bodies that can be represented before the Commission.

So, if a person is sucked into the system of being represented by the TWU, that is the only body that can represent him. It would be interesting to know whether an owner/driver can get joint representation as a member of the union and of the owner/drivers association. Not only are we fundamentally opposed to having this cover a specific area of owner/drivers whom the Minister conveniently calls 'employees':, we want this practice to stop. Are the delicatessen owners to be brought in because they are delicatessen owners and may be only a single employee, so that they should be a member of the Shop Distributive and Allied Employees Association? Where does it stop? Obviously the Government is intent on making inroads into the very basis on which this legislation was formed.

When the Minister responds to remarks that have been made in this debate by members on this side, he may tell us which organisations were consulted. Did he talk to the people who would be primarily affected by the legislation, the members of quarrying companies, security companies, transport companies and other areas where owner/drivers are involved? Did he consult such people on this issue?

The Hon. J.D. Wright: You tell me whom I should have consulted and I will tell you whether I consulted them.

Mr BAKER: I do not know who the Minister consulted. Perhaps the Minister could say. My information from someone who has checked is to the effect that it is news to them and that no-one knows what is coming up. Perhaps there is poor communication from IRAC or it cannot tell or someone has not been consulted. What are the practical ramifications of this amendment? As a member, I cannot be expected to understand legislation. However, a certain segment of the working population (namely, self employed people) is being divorced from legitimate representation by an organisation merely by saying that they belong in the union. The provision says 'employee' and then there is talk about employee organisations. I should like to have some of those items cleared up.

I will not proceed along these lines any further other than to say that our industrial record will not be improved by this measure because by this measure the Government is starting to divide what has been a reasonably homogeneous group of owner/drivers. Perhaps when the Minister responds he will explain the meaning of clause 10, which amends section 99 of the principal Act which, under the heading 'Stay of operation of award', provides:

> When an appeal has been made against an award or part thereof, the Full Commission may on such terms and conditions as it thinks fit order that the operation of the whole or any specified part or parts of the award shall be stayed, pending the decision on the appeal or until further order of the Commission.

Section 99 then goes on to outline general provisions. Concerning unfair dismissal, the Bill provides:

> Where an appeal has been made against an award or decision of the Commission on an application under section 31, the Full Commission may only stay the operation of an order of the Commission for the payment of compensation.

Under the normal appeal provisions, there can be a stay of proceedings (that is, all the proceedings), but on this one the Full Commission is precluded from doing so. I cannot understand that. The Minister may have a good reason for the new precedent in the Bill. Clause 12 deletes subsection (2) of section 133, which was designed to solve some of the problems identified in the *Moore v Doyle* case. Some members from the trade unions know what was covered by that case: a problem associated with joint registration in State and Federal jurisdictions.

That provision stated that the Industrial Commission would be allowed to ignore some of the extraneous matters on dual registration and inconsistencies in the rules, so that

they would not be disadvantaged under the Commission, but there would be a two-year sunset provision. Everyone agreed that that anomaly should be fixed up, but then the period was extended to three years, four and six years, and now finally the Government has said, 'We don't care what anomalies exist in State and Federal jurisdictions. We can't come to grips with *Moore v Doyle* or with industrial relations so we will delete the whole subsection.' There will be no sunset clause and the Commission will be able to overlook such anomalies.

That is not good enough. Justice Sweeney made recommendations that were not taken up. In fact, some people said that his recommendations were deficient. Mr Cawthorne, the Bible for the Minister, came up with firm recommendations and said that we could fix them up by an additional two measures. In the past, the Minister has taken parts of the Cawthorne Report and acted on them, and he has twisted other parts. Now he says, 'It is all difficult. In principle we couldn't care less. We can't grapple with the problem, so we will remove the provision and leave this anomalous section 133 in the Act to provide that it doesn't matter what mistakes are made: they can be overlooked.'

I should have thought that the Minister would take this on board because it came from the Bible of the Cawthorne Report, and would have tackled it. Admittedly, the operation of the section finished some time in 1984, so conceivably someone could have gone to the Industrial Commission and questioned the rights of certain unions to appear in proceedings there. I should be happy if the Government had made an honest attempt to clear up the anomaly.

There are too many unions in Australia and there are too many anomalies in the area of dual registration. It is time that unions were amalgamated and became professional in their operation rather than continue as tin-pot shows. They have a drive for new members which inevitably ends in a dispute and such disputes are destroying the country. Unions try to grab members when their numbers are falling, not only because people do not want to join unions but also because Australia's productive capacity has fallen as a result of unions destroying the country. That is a vicious circle. The unions should amalgamate and we should remove the anomalies and provide in the Industrial Conciliation and Arbitration Act the means of facilitating union amalgamation, and then perhaps we would have decent industrial relations in this country.

I hope that the Minister responds, although I see that he has thrown up his hands and apparently says that it is too hard. However, he should give an undertaking that he will try to overcome the anomalies which have been created and which are identified by the *Moore v Doyle* case. He should tell the House that he will look seriously at industrial relations in this State. We may have a good record, but it could be improved. We do not have to have some of the demonstrations of bad behaviour: most unions in South Australia are run by reasonable people and have reasonable members.

There are a few thugs around and the Minister, by not taking action against, for example, the BLF or Australian Construction Workers or whatever they call themselves these days, condones those activities. Perhaps as Labour Minister he ought to take on board some of his responsibilities in this department. Perhaps he will not bring these sort of things before the House and get members on this side quite irate but will look to doing something more productive such as fixing up some of the anomalies that do exist.

Mr MEIER (Goyder): I wish to make a few remarks on this Bill to amend the Industrial Conciliation and Arbitration Act. I support the comments made by other members on this side of the House and make some comments in relation to the negative aspect of this Bill, namely, a further extension of union power in South Australia. I have no objection to the unions increasing their power in a legitimate voluntary capacity. I believe that each one of us here in this House and every person in South Australia, hopefully, respects the democratic rights we have.

If a person from the Australian Democrats comes along and says, 'You will join our Party', we have the right to say, 'Yes' or 'No'. If a person from the National Party comes along and says, 'You will join our Party', we can say 'Yes' or 'No'. From the Liberal or Labor Parties we can say the same, but it is getting to the stage where, if it is from the union organisation, one still has the right to say 'Yes' or 'No', but if one says 'No' one will be black banned.

Mr Klunder: How would you get on in the seat of Goyder without being in the Liberal Party?

Mr MEIER: Do I have to go through my argument again? We have the choice. If we are asked to join we have that choice. People have been approached to join the Liberal Party and have said that they would prefer not to do so. Many people have been asked to join the Labor Party and an increasing majority will not have a bar of it, which is understandable. An increasing majority of people are being asked to join the unions and are also saying 'No', but are told 'That is your choice, but if you do not, life will become very tough for you.' I hope that that explains what I have been talking about.

The situation really comes home to me when I speak with transport drivers who have told me that they have no wish to be associated with the union. That is their democratic right. They say, 'John, if I wanted to exercise that right I would be out of business—my employer could not employ me—I would be useless to the employer.' In fact, some of them have said that they refused to join but that the employer has decided, in order to keep the business going, that he will join the employee and pay the union fee. That is a sad state of affairs in a supposedly democratic country. Maybe, when Australia does go to the extreme left, we may get some sanity back into certain areas. Unfortunately, our freedoms will disappear in many other areas, and I hope that that never happens.

For that reason, I believe, the definition of 'employee' is designed to validate union efforts to conscript subcontract drivers as members. The conscripting will not allow a choice because, if they do not join, it is a case of 'Too bad, driver, we will not load you or unload you.' It is sheer blackmail—a heavy-handed tactic. Why should that occur in South Australia? I suppose the reason is obvious. It is obvious that the Labor Party represents a large section of the trade union movement—certainly the executive of the unions. Many of the rank and file will not have anything to do with the unions, but they realise that they have to be members to keep their job.

The union executive therefore has said to the Government that it wants this and that. This is one of the sections that they have cited. I hear sniggers from the Government benches, but I will be interested to hear from the Deputy Premier—he will probably be the Deputy Leader of the Opposition before the end of the year—about the promises of consultation that we heard before this Government came to power that no longer would we see legislation brought in that was not fully dealt with by members of the community. It was said that there would be consultation with all appropriate persons in the community. I will be interested to hear whether the Minister has consulted with all appropriate people—whether he has consulted with some of the major hauliers, the South Australian Road Transport Authority, and other organisations of employers who run road transport firms.

I believe we will find that the Minister cannot say that he has consulted with those people. If he has, it might have

been simply a phone call to say that the Government is bringing in a Bill and that if they are interested they had better ring back. If that is consultation, the public was deceived prior to the last election. It is another thing on which time will tell. With this Bill coming into the public arena and there being some time before it will be debated in another place, we will find out to what extent consultation has occurred. Certainly, it will have occurred with the unions—I have no fears about that—but that is only one side of the coin. One would hopefully consider the other side of the coin as well.

At a time when we are trying to build up productivity in the State this sort of measure can only be a counter to the increases in such productivity. We have heard the member for Mitcham say that many overseas people are not very impressed with the way we run our businesses here. I am well aware that unions have brought in many positive conditions for workers and many of them I would openly applaud, but it grieves me that one of the so-called positive measures that have been brought in is the continual wage increases at the expense of everything: at the expense of no increase in productivity or of fewer people being employed because wages are so high that firms cannot employ others.

I have spoken with countless numbers of rural people, including farmers, who have said that they would love to employ someone except for the astronomicaly high rates of pay and high cost conditions such as long service leave, holiday pay and other loadings. They say that it is not practical to employ anyone.

The Hon. J.D. Wright: You are advocating getting rid of holiday pay?

Mr MEIER: Excessive holidays. When the 17.5 per cent holiday loading was introduced, I was employed by the Education Department. I recall, upon its being introduced, saying to some of my colleagues—that I could understand the 17.5 per cent loading, and that as we were not working during holidays it was fair enough to have a 17.5 per cent wage cut. I could accept that. It was to my disbelief that I found out that it was not a wage cut during the holidays; it was a 17.5 per cent increase.

An honourable member interjecting:

Mr MEIER: At that stage, as I was very new in the work force and was not involved in the political arena at all. I had no say. I probably did not even know who my local member was at that time. It was a long time ago. Legislation at that time set the scene for a gradual decline in South Australia's economy.

Members interjecting:

Mr MEIER: Members opposite laugh at that: 'That's right; we would be voted out of office if we campaigned on it,' they say. Unfortunately, people are greedy and do not appreciate the fact that so many people are out of work because of holiday loadings for people such as ourselves (although I do not think we get holiday pay here). Some people get a 17.5 per cent holiday loading, yet others are out of work. Members laugh at the unemployed. I see more than enough in my own district, and it grieves me.

It was interesting to hear this Government, before coming to power, saying 'Bring us in and we will decrease unemployment. We will not allow things to go along in the same way.' The figures will be released tomorrow, and then we will see how things are looking. I hope that unemployment is tens of thousands down, because the Government has taken so much money from the taxpayer. I hope that some of that has gone to the unemployed as well. If it is down tens of thousands, we will be the first to congratulate the Government on that. Tomorrow will be another day when we can see the figures produced.

I hope that the Minister will take cognisance of what has been said on this subject and that moves such as those I have highlighted and others have mentioned will help the development of South Australia. Despite the fact that the Government may say, 'We want South Australia to win,' we have seen for 2½ years that we are going backwards—we are losing. If we hope to get back into a reasonable position in South Australia, that cannot be allowed to proceed. I hope that the House takes due note of the debate in this respect.

Mr GREGORY (Florey): Earlier this evening we heard the member for Mitcham talk about *Moore v. Doyle*, as though the situation could be fixed up. He referred to various amendments made to the Act extending the period, and he more or less suggested that it would not be beyond the wit of some lawyers to produce a solution. He referred to proposals by Sweeney, Cawthorne and other lawyers. I suggest to him that the provision in this Bill is about the best way that the matter in question can be rectified.

One of the things the honourable member refused to accept is that our Federal system in respect of industrial relations, registration of bodies and their corporate status can run into real conflict when one has Federal and State Acts. This has been well written up in law reports over the years, and lawyers have waxed very wealthy over the affairs of trade unions in this matter. It has been the considered opinion of certain people that perhaps this is the only way we can solve the present problem that exists instead of coming back every three years and wanting to extend the period. That action needs to be taken.

A long time ago the advice I received in relation to the *Moore v. Doyle* situation was that, until we had only one industrial relations system—either State or Commonwealth—we would not be able to resolve this matter. If one were to consider some registrations in the State Industrial Commission it is more for convenience than anything and more reliant on the self-will of people registered there who have not appealed against registration. It is not the employees but the employer organisations that are stuck with it.

It is one of the problems with which we have been confronted in our country for a long time and which we will overcome. We have done very well. I listened with some amazement to my friend from Goyder who would be the most industrially naive person I have ever come across in my life. Last night I took him to task because he was complaining about the inefficiency of inspectors from the Department of Labour in ensuring that people worked in safe workplaces. Tonight he talks about how people should not get a 17.5 per cent holiday loading and says that if it were given back we could employ more people. I would like the member for Goyder to draw some comparisons between working conditions here in Australia and those in Chile or Brazil. He should look at the majority of the black people in South Africa and at what they are paid and how well they are living.

Mr Meier: What about the United States?

Mr GREGORY: If we look at the United States, the level of poverty there is increasing and the level of wages is decreasing. The gross national product has decreased and will continue to decrease, and poverty has increased. They have taken away a whole range of assistance programmes for people most in need and those who are least able to protect themselves.

As a matter of fact, the honourable member would be better off living here as an unemployed person than living in America, whose growth rate is slipping back below ours at the moment. Do not hold America up as a standard: do not suggest to anyone that, because we have a trade union movement that protects workers' rights, suddenly the enterpreneurial expertise of business in Australia has collapsed in a great heap and we cannot compete overseas. If that is

really the fault of the trade union movement, let us put that movement in the boardrooms of those companies where they make all those decisions, and then perhaps the honourable member could level the complaint at the trade unions and say, 'Look at the crook decisions you've made that have allowed overseas countries to get ahead of us.' The very argument he used tonight about wages suggests that someone can go back to employing people at starvation wages.

What really gets me is that the honourable member represents an area of people where my father used to work when he first came to this country. My father once asked after he had worked all day in the summertime, 'Where's my tea?' and he was told, 'There's a rifle; go out and shoot a rabbit and cook it.' That was not the Depression; it was 1922, yet the honourable member is saying we should go back to those days.

The Hon. E.R. Goldsworthy: He's not saying that at all.

Mr GREGORY: He implied it. That is exactly what members opposite are on about when they talk about preference to unionism and the provision in respect of the transport workers to which they object. They cannot deny that, because their national leader (Peacock) has now swung so far to the right that Santamaria is waking up and wondering if he has moved to the left. Recently, I heard Andrew Peacock and John Howard make it quite clear that they do not want a central wage fixing system: they want a contract between employer and employee.

I do not know whether the schoolteachers in this Chamber learnt history, but that was the whole problem in the United Kingdom until the trade unions could be formed. There was objection to trade unions being formed, because they had a *laissez-faire* approach to the contract between employer and employee. The Liberal Party has adopted a policy of saying that workers who are not organised should have to engage in contracts between employers and themselves and that in that way we will get wages down. That is what Howard meant when he was interviewed on radio a week or so ago. That is precisely what is going on opposite in this Chamber—let us get wages down! What the Liberal Party is really saying is, 'Let's make people work in poverty.'

The member for Mitcham referred to preference to unionism and to a great leader of South Australia, Tom Playford. Many people in this State have fond memories of the things he has done for this State. Some of the things he did were quite smart, but one of the smartest was when he got money off the Commonwealth Government to build air raid shelters and instead bought some cement pipes and put them into North Terrace. He used the rest of the money to fix up Royal Adelaide Hospital. However, air raid shelters were actually built in other cities closer to where the bombs were likely to fall. Tom Playford took a gamble: like punting on horses, sometimes you win and sometimes you lose—in this case he won. He also took other initiatives and gambles, and not all the things he did turned out right, but one of the things that he did that was right was to support the concept of people working in certain industries and enterprises being members of unions.

His political mentor on the Federal scene also allowed the Industrial Conciliation and Arbitration Act to be amended so that the Commission could award preference to workers and trade unionists in particular in certain industries and under certain awards. That occurred, but the Liberal Party has done its best to stop that from happening in this State. Therefore, members opposite cannot say that they support everything that was done in the past, because members opposite are actually trying to prevent much of that from occurring now. In this State we have a system that works, but members opposite are trying to mess it up.

Considerable play has been made tonight of the method of consultation. The Deputy Leader was going on about consensus. I always smile to myself when he talks about that—he gets terribly excited about it. However, it is an initiative of the Labor Party, and it is something that has had considerable success. Also, the Industrial Relations Advisory Council established by the present Government has had considerable success. The relevant Act stipulates that the Minister is required to place matters before the Council, but the Minister does not have to get its agreement to bring matters before the Parliament.

The employer representatives and the trade union representatives on the Council accept that. They have discussed this matter of people engaged in road transport activities. They did not agree with it, although they agreed with everything else in the Bill. Members opposite referred to consultation with other parties: perhaps we need to go through this again. One of the advantages of having organisations set up is that people can be members of those organisations, and members of organisations can participate in the election of representatives who can then represent the members in relation to all sorts of matters under the Constitution or within an organisation. However, if a person is not a member, whom do they represent except themselves?

Consultative arrangements require that consultations be undertaken with the elected leaders of organisations. One cannot suggest that we must consult with all the people who are not members, because what one would be really saying is that everything decided in this Parliament should go to a total vote of the whole of the State. That has never been a concept of this Parliament or of the common law in this country.

This point has been determined by the High Court in the matter involving the Professional Engineers Association. A meeting was held and the decision was taken to go for a wage increase. The Professional Engineers Association has members who are employers and managers, and so on, of companies, as well as employees. What happened on the night when the decision was made to go for a wage increase was that most of the people involved were employees. The people in senior management positions objected to that decision on the basis that the number of people who made the decision was limited. However, the High Court found, on appeal from those people who objected to the decision, that the meeting had been duly advertised under the terms of the Association's rules, that people had been advised of the meeting well in advance, and that those people who chose not to go automatically were deemed to accept the decision of the meeting. That has been determined by the High Court, and it is really the common law as it applies to the conduct of organisations.

In relation to whom the Minister should consult with regarding certain matters, he consults with people who are representatives of organisations or groups of people, and he does not have to consult with everyone, because that would be impossible. It was ironic that the Deputy Leader suggested that had the transport provision been agreed to by IRAC it would have been all right, but that, because IRAC had not agreed, it was not all right. He then referred to a few of his own suggested amendments. The last time there was a Bill before the House concerning IRAC, members Opposite derided IRAC and called into question the integrity of the people on it who represent the employers. All I can say is that tonight's performance was typical of that occasion.

I suppose that the question of wages is the root cause of all the problems in our society. It is only because unions have been successful enough in negotiating reasonable wages and conditions that some employers object to providing those wages and conditions. I might add that at the moment in relation particularly to youth workers and youths seeking

work there is a lot of exploitation occurring in the community. This has meant that at times young people work up to six weeks without being paid, on the basis that the boss will try them out to see if they can do the job, but they are then told that they are not suitable, although in some cases they have been doing the job for some time.

One of the problems that we have in this State concerns the way in which the Act is framed. I am not sure about this, but I suggest that, if one is at a place of work and is not being paid, one is not regarded as an employee. However, under the Commonwealth Act, if one is working at a workplace, one is regarded as being an employee and has to be paid. It is simply a matter of difference between the State and Commonwealth laws. The whole approach from members Opposite is advocating a return to the dark days of employment in this State.

That is what members opposite are trying to do: they are not attempting to go forwards, but backwards, back to a time when juniors worked for very low wages, where workers worked for very low wages supposedly on the basis that if everyone is working for low wages the economy will boom and there will be so much work we do not know what to do with it. As I said earlier, the real problem with our economy has a lot to do with the mismanagement of the economy by Liberal-Country Party Federal Governments and their lack of desire to institute reforms.

Mr Baker: Do you reckon Gough did all right? He had inflation up to 20 per cent, and the unemployment rate increased by 14 per cent per annum.

The DEPUTY SPEAKER: Order!

Mr GREGORY: The honourable member's imagination knows no bounds. I now refer to the concept of people who are in industry. Tonight the Deputy Leader more or less said that people were not forced to join football clubs, churches, or other sporting clubs, and that people were not forced to come into Parliament, for example. I just cannot understand why he had to say all those things. I know darn well that if you are not a member of the Port Adelaide Footballers Club you cannot get into that club; if you are not a member of a football club you cannot go to the annual general meeting. In relation to this place here, if one is not elected to Parliament one cannot get in here.

The member for Goyder was cheeky enough to suggest that people ought to have access to all sorts of facilities, whether or not they are members. I would like to see the honourable member resign from the Liberal Party and try to get Liberal support for endorsement as a Liberal candidate. I do not think that that has yet occurred in relation to the Liberal Party. If one is not a financial member of the Democrats, or not in the Party that the member for Flinders represents in this House, for example, one cannot walk up and demand to be made a candidate. That is just not on.

The whole question of what has happened in this area of trade unionism is that trade unionists determined a long time ago that they would not pay their fees and expend their energies in improving wages and conditions of people who were not also members of the union. What we are saying to some of these people who do not want to join is that, if they want to come around and play in a certain league club, for example, and join in, they must join the club. We are saying that if they do not want to do so they can go off somewhere else.

When democracy is mentioned, people always talk about democracy of the individual but never about the democracy of a group. Regarding the Transport Workers Union, obviously members opposite have never seen meetings of owner/drivers demanding that their officials represent them with their employers—and they do do it. It is a fact of life that many of these drivers are members of their union, very active in their union, and that they are very good union members. But the small-minded members opposite want to stop them having the benefits of the award and the Act.

Members interjecting:

Mr GREGORY: You do! If you want them to have the benefits of the Act, you agree to clause 3 of the Bill instead of opposing it. When Mr Cawthorne prepared his report, he made certain recommendations in respect of employees and truck drivers. The matter has been mentioned in various places. We have used the argument that the report is good enough, but when we had further consultations we found that the report was lacking. Members opposite have said, 'It is not in accordance with the Cawthorne report, therefore it is no good.' I have been advised that, when the definition that is now in the Bill was being negotiated and amendments proposed, and when the Hon. Dean Brown was involved in the matter, he gave certain undertakings to people, but at the last moment those undertakings were withdrawn. Those undertakings were that there would be amendments to the Industrial Conciliation and Arbitration Act which would overcome the problem the Transport Workers had in this area of the owner/driver. The comments of the Deputy Leader when he was interjecting—and I could not hear the comments of the other people who were interjecting—indicate their inexperience and lack of knowledge of the operation of these Acts. It is all very well to say they are amendments, but there are legal problems involved. This overcomes the problems.

Mr Baker: It creates further ones.

Mr GREGORY: It does not create further problems; it just overcomes those problems. There are some rational people on the other side who understand the problems that are created and who wish to overcome them, but then what happens with the backwoodsman is that you mention unionism to the irrational people and down comes the shutter, on comes the flashing red light, and off they go. Members on the other side do not have any concept of what can and should happen. They are all jealous of Mr Duncan and what he has done in running his business.

Mr Ashenden: With the Government buying his shares? That's good business, that is.

Mr GREGORY: What about your friends in Queensland who were getting prior knowledge about Comalco shares, buying them at a premium price and then selling them at the market price, which happened to be a lot higher? Then, when they were challenged about it, they said, 'So what? That is good business.' Members opposite have very convenient blanks when it comes to certain matters. They hold themselves up as running businesses, but how many of them have run successful businesses, with the exception of chemist shops?

Mr Ashenden: Name names.

Mr GREGORY: Look at the honourable member's expertise at Chrysler. If he claims any expertise there, just let us examine the record of Chrysler's industrial relations when he worked there. All the problems stopped when he left and the Japanese took over. This Bill is a very small one and overcomes a number of deficiencies in the current Act.

Members interjecting:

The DEPUTY SPEAKER: Order!

Mr GREGORY: I think it will overcome further difficulties that people in industry may be experiencing. I ask honourable members to recall that when this provision in clause 3 was rejected in the Upper House in 1984 there were a few people out the front of Parliament who were very upset about that outcome. There were a lot of people and at a moment's notice they were able to get those self-employed people in their trucks. There were no union officials driving those trucks. They were self employed people who had been to the unions for protection from the people they were working

with. When members opposite have worked in the road industry—and understand how people are being exploited—

The Hon. E.R. Goldsworthy interjecting:

Mr GREGORY: I thought they would want to do something about it, because they are so concerned about protecting the interests of the little people, but they are really protecting the interests of the big employer, but go around masquerading and saying that they are looking after the little business man. They have yet to engage in any act that looks after little people. All they have done is wipe out the props that help the small employer and employee. They talk a lot about it, but they never really have. I support this Bill.

Mr ASHENDEN (Todd): We have certainly heard a nice little diatribe from the honourable member opposite, the sort of thing we have come to expect from that member; pure emotionalism and very little, if any, fact at all in the arguments he was putting forward before the House tonight. I want to address one aspect of the Bill, and, because of that, there is no way I would be able to support the Bill before the House. This is not even a well hidden attempt to compel any owner/driver to join a union, whether that owner/driver wants to join the union or not.

We heard the previous speaker talking about football clubs and, if you are not a member of the football club, you cannot drink in the bar; if you are not a member of the Liberal Party, you cannot run as a Liberal Party candidate; if you are not a member of the Labor Party, you cannot run as a Labor Party candidate. You do not have to. We have two independent members in the House who became members of Parliament without being members of any political Party: in other words, this Parliament is not a closed shop. It is open to any person who wishes to nominate to become a member of Parliament and, if he or she is able to get enough votes, then that person will represent the electorate that he or she is elected for, whether or not he or she is a member of a political Party.

The Hon. J.D. Wright: Two out of 47 is not a good average.

Mr ASHENDEN: But the point is they are still members of Parliament and they are not forced to be a member of any Party. That is the point I am making. If some owner/drivers wish to be members of the union, then let them, but we say that under no circumstances should we have introduced into this Parliament legislation which is going to compel all owner/drivers to be members of unions.

Small business men, owner/drivers, whatever you want to call them, have approached me. I will be honest and say I have had one group that has made representations to me saying that it agrees with this legislation, but unfortunately the leader of that group was less than honest in the representations he made to me some years ago.

The Hon. J.D. Wright interjecting:

Mr ASHENDEN: The Minister has interjected. Let us put the cards right on the table.

The Hon. J.D. Wright interjecting:

Mr ASHENDEN: Yes, because the Minister tabled a letter which that person provided to the Minister after I wrote it to him, believing the discussions that we were having were confidential. But I did write the letter to the then Minister of Labour and Industry because of the information that person gave me which has subsequently proven to be quite incorrect.

Based on the information given me by that person at that time, I do not deny that I wrote a letter to the then Minister supporting this legislation but, if the person had been honest in giving my letter to the Minister, then in Opposition, he would also have explained that I had indicated to him that I could no longer support the premise that he had given me because the information that I had been given at that time was not full and not accurate. I was going to support it but, when certain other information became available to me, my stance changed and it is still changed. I do not deny that I wrote a letter: in fact, I agree that I wrote it. However, I have never been more let down by anyone in my life. I acted in good faith on information that was only partially correct. Then, because I changed my mind, that person handed over to the then Opposition the correspondence I had had with him in good faith. I could not forget that. No-one has ever done that to me before and, fortunately, that breach of trust has not been repeated during my time as a member, and I hope that it never will be. As the Minister was interjecting, I thought that I should clarify the situation and say what had happened.

Subsequently, I have been approached by persons representing other owner/drivers as well as by individual owner/drivers who have made clear that they do not want to join a union. The Opposition says, 'Okay. If some owner/drivers want to join a union, let them, but why compel those who do not wish to be a member of a union to join a union against their wish?' I look forward to the Deputy Premier's explaining what is democratic about forcing small business men to join a union when they do not wish to do so. They are not employees: they pride themselves on the fact that they own their own trucks and operate their own businesses. They have chosen to do so. Some owner/drivers have told me that, if they had wanted to work for an employer, they would have done so. However, they wanted to be their own boss and to have their own business. They do not want to join a union and they believe that they should not have to do so. If the Deputy Premier does not believe me, he should go outside and find out what is the true situation.

At a citizenship ceremony held at Tea Tree Gully on Monday evening, a person owning his own transport business spoke to me along those lines. I did not raise the matter with him: he raised the matter with me. The Opposition believes in freedom of choice. One thing that the member for Florey did not indicate was that the provision of the United Nations Charter concerning freedom of association states that there should not be compulsory unionism. Does the honourable member say that the United Nations does not know what it is on about?

Mr Gregory: You don't understand the term.

Mr ASHENDEN: I do understand it. There is a group of people out there that own their own trucks and their own businesses and they do not want to join a union, yet this legislation compels them to join a union or they will not get a job. It is as simple as that. Do Government members call that democracy? If they do, they must use a totally different dictionary from the one I use. In this instance, the Government is kow towing to the unions. A small group of owner/drivers, having had a brilliant idea, comes to a Government that believes in compulsory unionism, and the Government has seen an excellent opportunity to show its union bosses once again that it is only too happy to go along with legislation that will force more and more people into the unions. Of course, one could be cynical and say that many unions have their sustentation funds from which the Labor Party is paid. This has led to the Labor Party being by far the wealthiest political Party that we have. The ALP can even afford to pay $1 million for a floor in a Canberra Hotel. That is not bad. I wish that the Liberal Party had one-tenth of that sum to invest.

The Government is bowing to the pressure of trade union bosses while at the same time saying, 'If we can bring this about, it will mean more sustentation fees and we will have more money to use within the Party.' This is what members opposite call democracy. When the Deputy Premier closes the debate on second reading, I ask him to explain how the United Nations Charter is wrong in its provision concerning

freedom of association. Why does this Government not provide freedom of choice? Why does it believe that owner/drivers who own their own trucks and businesses and who do not want to join a union should be forced to join one?

Let us hear no nonsense about the Government's not believing in compulsory unionism. Today, I received a telephone call from a constituent who owns his own business. A subcontractor, this morning he went on to the site on which he has been working with two of his employees who are members of the relevant union. Because he himself is not a member of the union, he was told that he could not enter the site unless he joined the union. It is as simple as that. He owns his own business, but he was told that that did not matter and that either he would join the union or he would not be allowed on to the site to work. That is the Labor Party version of democracy at work. He is not an employee working for wages, so how does the member for Florey explain the position when he says, 'These people expect to get the wages and conditions that the union has won for them, so they should be members of a union?' After all, this man owns his own business and does not earn wages. He is a proud man who is prepared to fight. He said that he refused to join the union and that he was an employer not an employee. He owns his own business. I will do what I can for that constituent, because the union is out to break him and force him to join a union. Is that what honourable members opposite call democracy? I ask the Deputy Premier to address himself to that matter because owner/drivers are small business men and do not work for a wage. They take contracts and work for themselves. Many of them do not want to join a union.

The Hon. E.R. Goldsworthy: If they want to join the union, let them do so.

Mr ASHENDEN: I agree. I have no argument about that. Yet members opposite say that owner/drivers who do not want to join a union must do so, and the Government is determined to push ahead with some of the most undemocratic legislation that could be introduced in this House. I shall be joining with the present Deputy Leader who, after the next election, will be Deputy Leader of the Government and not of the Opposition, and will have great pleasure in supporting him and the rest of my colleagues in doing all that I can to support the rights of these small business men.

The Hon. J.D. WRIGHT (Minister of Labour): One can certainly guarantee that any piece of industrial legislation that is introduced in this House, irrespective of how innocuous it may be, will certainly raise the anger of the Opposition. One can depend on a relatively fiery debate, although that does not necessarily mean that the statements made in the debate are accurate or that any member opposite understands the legislation. That is a difficulty that Opposition members are having: not one speaker on the other side has grasped what is happening in the TWU.

The Hon. E.R. Goldsworthy: You explain it.

The Hon. J.D. WRIGHT: Not one person on the other side of the House understands what is happening. First, the Deputy Leader got up and made a fool of himself. It was not one of his better speeches tonight—I sometimes get some amusement out of his speeches, but tonight it was a great tirade of abuse, misunderstandings, mis-statements and downright untruths. The first allegation that the Deputy Leader made was that I did not take the matter to IRAC. I am referring to the Transport Workers Union as the rest of the debate can be answered in Committee. Not only did I refer it to IRAC but also I referred it to the Employers Federation and the Chamber of Commerce and had quite lengthy discussions with both organistions.

The Hon. E.R. Goldsworthy: You got the thumbs down in both cases.

The Hon. J.D. WRIGHT: Let us get IRAC into perspective. I never said that it had to have the total agreement of every member on that committee to every piece of legislation. IRAC is simply an advisory body. If I do not want to accept the advice of IRAC—although I do in most cases—I do not have to. I never said that I would, and never said that when I introduced the legislation.

The Deputy Leader went on to ask what say the man in the street has. He suggested that the man in the street has no say whatsoever and that we consult only with big business and trade unions. I defy any honourable member opposite to say when they last went out and talked to the man in the street about their legislation. I would say that the amendments the Deputy Leader intends to move later in this debate have not been the subject of consultation with anyone, let alone the man in the street.

The Hon. E.R. Goldsworthy interjecting:

The Hon. J.D. WRIGHT: I will get some polls in a minute which may surprise the Deputy Leader. When the IRAC legislation was before this House—one of the very first actions the Government took in regard to setting up the statutory body—neither the Deputy Leader nor any member of this Government moved for the man in the street to be added to that body. In fact, I do not recall them moving any amendments about any bodies at all. I think they were satisfied with the legislation as it was. If they did move some other body, they did not move for any single person. They have had opportunity to do that or to bring in a private member's Bill.

It is complete hogwash for the Deputy Leader to get up and say that the man in the street is not consulted. We consult the man in the street through the various organisations that represent the man in the street and represent employers in this State. I have heard it said by employers and trade unions in this State that this is the most consultative Government in the history of South Australia. That is a fairly big wrap for any Government to receive. It is quite clear that it has been a very consultative Government.

We heard from every speaker opposite the insinuation that the purpose behind this legislation was simply to force owner/drivers to join the Transport Workers Union. That was the allegation. Nothing is further from the truth. Already some 1 673 owner/drivers belong to the Transport Workers Union in this State from whom the Opposition is denying legal coverage if it votes against this legislation. That is the situation the Government is trying to overcome. It is not about trying to force anyone into the Transport Workers Union if they are not now a member.

The Hon. E.R. Goldsworthy: How many?

The Hon. J.D. WRIGHT: The number of owner/drivers currently belonging to the Transport Workers Union is 1 673. I refer to some agreements that exist in South Australia. Agreement exists with the following: Alltrans Railfast; Ansett Freight; Brick Cartage; Cadbury-Schweppes; Grace Bros Transport Division; IPEC; Pre-mix Concrete; and, TNT, to mention but a few. The simple situation is that in the real facts of industrial law those people do not have legitimate coverage. That is what the Government's amendments are trying to achieve: we are trying to give to those 1 673 members who have chosen, for whatever reasons, to join their organisation a legitimate coverage and to give them the opportunity to become officials of that union if they want to, either by getting on to the committees of management or acting as organisers, secretary or president, etc.

Currently membership is not recognised and in those circumstances they do not have the right to run for an official position. They are the facts of the matter. The Government is not trying to set up a monopoly and isolate the Transport Workers Union to go out and willy nilly cover people. I do not run away from the fact, and never

have, that I believe anyone who works under a coverage obtained by that union ought to belong to that organisation. I have said it consistently in this House and publicly over the years. That is where the absolute confusion comes in with this piece of legislation.

The Deputy Leader went on to refer to the architects and building industry contactors being forced into unions. Our friend from Kangaroo Island dealt with the dispute there. That dispute is now over 12 years of age and is not very relevant to this debate. I am not sure why it was raised other than for something to say. Whether or not the Opposition likes it, there will always be some difficulty with subcontractors. Historically that has been the case almost since Federation. Subcontractors either have no legitimate coverage, no union that covers them, or, in some cases, they do not want to join the union. There may be dispute about whether they ought to join and pressure is exerted on some occasions. Is it not a better proposition to give the opportunity to those people to be regulated the same as every other worker in the State is regulated by an award?

The Hon. E.R. Goldsworthy: Not if they don't want it.

The Hon. J.D. WRIGHT: I am not suggesting that they have to: I am suggesting that the 1 673 people who have joined the Transport Workers Union ought to be able to go to the Indusrial Commission and obtain an award. That is all I am suggesting. Surely the Deputy Leader, with his philosophical views that are totally opposed to trade unionism, would not deny the right of these people to obtain an award. That is what the Bill does. As I said, the Opposition does not understand what the amendments are doing.

Finally, I refer to the Transport Workers Union, subcontactors and the owner/driver situation. I remind honourable members opposite that approximately five years ago it was the intention of the then Liberal Government to introduce a very similar clause. The honourable member who tried to get out of his own situation a while ago was party to it. The Government had the legislation ready and, because of interstate contractors, it was stood over and did not go on with it. However, at least the Government of the day (or the Minister of the day) saw the wisdom in doing this, because I honestly believe that the Minister at that time understood this situation and that all it was doing was regulating a non-regulated industry and giving an opportunity to those people to have award coverage.

I believe that the member for Todd understood that at the time, although he tries to back away from the situation now. However, I believe that he was a supporter of the right of those transport workers drivers to get a legitimate coverage. The member for Todd was obviously forced to back off by a Government decision after pressure had been exerted by interstate contractors.

Mr Ashenden interjecting:

The Hon. J.D. WRIGHT: Evidence suggests that that is a fact of life: we all know that to be true. I ask honourable members on the other side to reconsider their position. They are not understanding it. They are running away with a one track mind about it, attempting to say that Government is trying to coerce and force people to join a union when we are simply not.

I remind honourable members that, after a full inquiry by the Industrial Commission of New South Wales, a recommendation was made to give the owner/drivers a legitimate coverage under the award, and that has brought about peace in the industry.

The Hon. E.R. Goldsworthy: What about peace to the union? Did it win?

The Hon. J.D. WRIGHT: The unions will have a win here, too, but whether or not they have the win on this occasion, I am not in a position to say. However, ultimately and subsequently there will be no question that the Transport Workers Union covering these owner/drivers will some day have legitimate coverage of their members, and so they should. They should not be placed at a disadvantage to any other organisation in the industry that has the right to go to the Industrial Court and make application for award rates.

Currently, they have to have a round table conference and try to get agreements, to which I have referred. All we are trying to do is to rectify that situation. The Deputy Leader and members on the other side can misconstrue that as much as they like, but they are not telling the truth or understanding what the Government is trying to do.

The Deputy Leader criticised insertion of 'dismissal' in the definition of 'industrial matter'. His terminology was, 'It would be confusing'. I believe that the Government's amendment would put beyond any doubt that the Commission has jurisdiction under section 31. In fact, the Commission in the Salisbury council case (I do not know whether the honourable member is familiar with that or not, but I advise him to read it) found that the wrongful dismissal under the old provisions was an industrial matter. The Government wants to put this issue beyond any doubt in relation to new section 31 in the form suggested by the amendment. We certainly believe that that will cover the situation.

The Deputy Leader further said, in his sixth point, that the Government had not properly fixed up the matter of referring the continuity of service for leave except where a worker is reinstated under section 31. He talked about the possibility of the employer paying twice. The Government has been advised that the Bill as amended only reinstates continuity of service. If the worker had been paid some of his accrued rights, he cannot claim payment twice. That would put beyond any doubt the argument that we will make the appropriate amendments. I notice that the honourable member is not listening, although he made those points and I wanted to answer him in this debate.

His seventh point was that there should be consultation when the President appoints the Chairman of the Conciliation Committee. I agree that there is a need to do this and an amendment along these lines would be acceptable. He can see that I am in a benevolent mood: I am happy to accept one of the amendments suggested by the Deputy Leader, but he is not listening, so he is not aware of that.

The Hon. E.R. Goldsworthy: Good on you!

The Hon. J.D. WRIGHT: Thank you. The Deputy Leader talked about the proposal of not extending stay orders to re-employment of a dismissed worker where this was an appeal. We heard a great deal about IRAC tonight and that body agreed that stay orders would apply only to compensation on a wrongful dismissal, and recognised that there should be no economic cost to the employer, but there should be financial cushioning for the problem of the worker. Finally, the Deputy Leader criticised the lack of consensus between the Government and big unions. I dealt with that earlier and I will not traverse that ground again, except to say that the amendments were referred to IRAC and other employer organisations. It is clear in my mind that in relation to the proposed amendments with which we will deal later there has not been any consultation with anyone in South Australia because there was no time to do so.

The member for Mitcham made the point that his Party was happy to fix up technical amendments to matters passed in 1984 that his Party may not have liked, but he recognised that Parliament had agreed to it. In my view, the Opposition is being inconsistent. The preference matter was fully debated in 1984, yet we are about to debate the whole thing again tonight. Since May last year any member opposite could have brought in a private member's Bill which would have

attended to the matters about which they want to speak tonight. No-one has chosen to do that.

They have waited until the Government, in its sincerity, is tackling the mechanisms that are at fault in this legislation—and that piece of legislation is very long and prolonged, so clearly there will be technical mistakes made by somebody in those areas. The member for Mitcham said that as to the owner/driver amendment this was the first time subcontractors were covered under the Act. Again, that is a display of ignorance on the part of the Opposition: first, about what we are trying to do about owner/drivers; secondly, about private contractors being already covered. It is not the case: the Industrial Conciliation and Arbitration Act has for many years covered contract cleaners and taxi drivers. The concept is not new. Regulation of contract drivers has operated in New South Wales for many years, following an extensive inquiry by the New South Wales Industrial Commission.

Mr Baker: What about South Australia?

The Hon. J.D. WRIGHT: I am talking about South Australia—contracts for taxi drivers and cleaners—and giving the honourable member another analogy, if he will just listen, about New South Wales where the very thing we are trying to do here has been in existence for quite some time. I move:

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

Motion carried.

The Hon. J. D. WRIGHT: Further, the member for Mitcham said that the Minister should say which groups he consulted on the legislation. The member for Goyder also raised this question. I will tell them again in case they were not listening: I do not think that the member for Goyder was in the House. Lengthy discussions were held with the Employers Federation, the Chamber of Commerce and the members of IRAC, who included representatives from the MBA and the RTA.

The Liberals on the other side would not have had time to consult with anyone on their amendments, certainly not with the unions. I defy anyone on that side of the House to bring any evidence before the House that the Opposition has had consultation with anybody on its proposed amendments. I doubt whether there was any consultation in the Party room, with the great rush with which they were brought into the House yesterday. In fact, the required notice was not given about those amendments yesterday: it was only because of the schemozzle that occurred about the business of the House that those amendments are in time in accordance with the Standing Orders as they operate in this House. Again, we see a total and absolute display of ignorance by the member for Mitcham in relation to *Moore v. Doyle.*

No-one has put more time into trying to understand and pick up those points made by the late Justice Sweeney, Clyde Cameron and others who have been involved in the *Moore v. Doyle* case over many years, and subsequently Cawthorne. In all probability, the best Minister for Industrial Relations that Australia has ever seen would be Clyde Robert Cameron and even he admitted finally that constitutionally would be the only way that the *Moore v. Doyle* could be overcome. Justice Sweeney made certain recommendations that were just not practicable in the final analysis; neither were the suggestions of Acting Justice Cawthorne.

The member for Mitcham said that we were throwing our hands in the air, taking it out of the Act, and leaving it to the wind. Nothing is further from the truth. We have been consistently, over a period of many years—and the Liberal Government did it on one occasion when it was in office—extending the life of the control of the *Moore v. Doyle* situation. Now, we are putting it in there forever: it will not have to be amended again. The honourable member understands it at last, does he? That is very good: I am pleased that the honourable member understands.

The member for Goyder says that he knows many owner-drivers who do not want to join the TWU. All that this piece of legislation does is give the opportunity to the owner-drivers to join an organisation that can legitimately cover them. There are 1 673 people—and I repeat this for the member for Goyder, because I do not think that he was in the House—who are now members of the Transport Workers Union and who have no legitimate constitutional coverage. They cannot go to the Industrial Court and obtain an award formula. I do not want to accuse the member for Goyder of displaying ignorance, because normally in this place he tries to do his homework and understand what the legislation is about, but on this occasion he has proved that he did not do his homework. I bet that he did not ring up the Transport Workers Union and ask it what the real situation was and how many illegitimate members it had for whom it could not act. So, it is no good the honourable member coming into this place and saying that I did not have any consultation because clearly, by the look on his face, he did not have any himself.

I have answered all the points that were made—and I have taken them down—but I will refer to a couple of things before I conclude. The member for Todd alleged—I am pleased that I picked it up—that the United Nations Charter did not allow for closed shops and for compulsory unionism.

Mr Ashenden: I did not say that: I said that it says that we should not have compulsory unionism.

The Hon. J.D. WRIGHT: I will read for the honourable member exactly what this Charter says. I will not read it all, only the pertinent part to answer the member for Todd. It states:

The question of whether or not Article 22 of the International Covenants excludes any coercion to join a labour union has been raised as an issue with the United Kingdom by the United Nations Human Rights Committee. The finding on this was that the International Covenants did not contain any prohibitions against closed shop arrangements, and that the absence of any prohibitions was deliberate. There is also an authoritative ruling of the ILO that closed shop arrangements do not infringe the rights of freedom of association.

Mr Ashenden: That is not what the Charter says.

The Hon. J.D. WRIGHT: The honourable member was talking about freedom of association a moment ago. Now, when I give it straight from the horse's mouth, he does not want to accept it. The Opposition's allegations that our rather modest preference for unionists provisions infringe the International Covenants is simply wrong. No compulsory unionism exists in South Australia. No compulsory unionism exists in this piece of legislation: in fact, quite the reverse. So, the allegations made by the Opposition are fruitless and stupid.

We had outbursts by the member for Alexandra and the Deputy Leader of the Opposition, telling us about approval ratings and the percentage of people who are against compulsory unionism, all those people who are hostile against trade unions, and so forth. I do not know whether anybody has bothered to look at the *Bulletin* of 14 May last to see what has happened to that famous Premier of Queensland and his popularity in view of the activities in which he has been indulging lately. The heading is, 'Joh's approval rating hits three-year low', and it states:

The public approval rating of Queensland Premier Sir Johannes Bjelke-Petersen has slumped to its lowest level for three years, the latest Morgan Gallup Poll shows. In a survey of some 1 427 Queensland voters Morgan Gallup found, Bjelke-Petersen's approval rating was 48 per cent, down 5 per cent on the January-February figures.

That is very interesting because it was in January-February that he took this Draconian action against the trade union

movement. Rather than this propaganda that has been spread throughout Australia on how popular this move is, we have seen the Premier slip by some 5 per cent in that period.

The Hon. H. Allison: He still leads the public opinion polls.

The Hon. J.D. WRIGHT: He does not. The Premier of South Australia is the second highest now to Burke: Burke is the highest and John Bannon is the second highest.

Mr Ashenden interjecting:

The Hon. J.D. WRIGHT: The article goes on:

At the time the poll was taken the Premier was locked in bitter battle with the trade union movement over the sacking of power workers in South Queensland . . . The poll also showed that support for the ruling National Party—

listen to this, all you people who want to knock unions and introduce Draconian laws to make it a bit tougher for trade unions to operate—

has fallen 3 per cent to 28 per cent in Brisbane.

That is how popular Joh Bjelke-Petersen is in the State of Queensland! They are not my figures, but those of the Morgan Gallup Poll. Finally, I refer to an article which appeared in today's *Financial Review* headed 'Business leaders prefer the stability of industrial consensus'. The article, by Michael Stutchbury, states:

Australian business leaders have revealed an aversion to confrontationist industrial relations strategies in favour of the stability provided by the consensus approach of the prices and incomes accord. While they are very worried about a perceived shift in the balance of power to unions and the scope for unions to ignore Arbitration Commission decisions, many business leaders are sceptical about whether sanctions would be effective in harnessing industrial disruption.

Those comments were made by employers. The article continues:

These are the chief findings of a major study of management industrial relations attitudes by Professors John Niland and Dennis Turner of the University of New South Wales and sponsored by the Committee for Economic Development for Australia.

So, it was not sponsored by the trade union movement. The article continues:

The study of 219 top executives concludes that Australian corporate leaders prefer the predictability and stability of the co-operative approach to industrial relations adopted by the Hawke Government rather than the confrontationism of the Fraser years.

That great glorious Leader of the Liberal Party, one Malcolm Fraser! The article continues:

Australian business favours a softly-softly approach, preferring measures to improve the functioning of the industrial relations system and favouring improvements in its own company practices rather than punitive measures such as the use of 45 (D) of the Trade Practices Act or tort liability prosecution of unions.

That is the very thing that the Liberals want to introduce tonight; they want to go back to the tort system. However, here is this prestigious committee making this recommendation. The article continues:

The study, the most detailed examination undertaken of Australian management industrial relations attitudes implies that business would be wary of any spread of the anti-union Queensland Government strategy supported by the Federal Opposition.

So, let members opposite put that in their pipe and smoke it—it is supported by the Federal Opposition. The article continues:

Many managers saw the Fraser Government as inept in industrial relations because of ill-timed intervention in particular industrial disputes, which smacked of grandstanding rather than genuine efforts to get matters sorted out. Indeed, some managers even suggested that the Liberal/Country Party Governments of the 1970s sought political advantage from industrial relations turmoil.

There is more of that article, and I advise members opposite to obtain a copy of today's *Financial Review* and read the whole of the article, because it is very interesting. It is particularly interesting to me, because it is directly in line with the philosophies and stance taken by the ALP Governments, both Federal and State throughout Australia. I hope that I have been able to induce members opposite to reconsider their position, particularly in relation to the owner-driver situation, because they have got the matter completely wrong, and do not understand what the legislation is about. I have now given members opposite an opportunity to understand it.

The House divided on the second reading:

Ayes (21)—Mr Abbott, Mrs Appleby, Messrs L.M.F. Arnold, Bannon, Crafter, M.J. Evans, Ferguson, Gregory, Groom, Hamilton, Hemmings, Keneally, and Klunder, Ms Lenehan, Messrs Mayes, Payne, Peterson, Plunkett, Slater, Trainer, and Wright (teller).

Noes (19)—Mrs Adamson, Messrs Allison, P.B. Arnold, Ashenden, Baker, Becker, Blacker, D.C. Brown, Chapman, Eastick, Goldsworthy (teller), Gunn, Ingerson, Lewis, Meier, Olsen, Oswald, Wilson, and Wotton.

Pairs—Ayes—Messrs Hopgood and Whitten. Noes—Messrs Mathwin and Rodda.

Majority of 2 for the Ayes.

Second reading thus carried.

The Hon. E.R. GOLDSWORTHY (Deputy Leader of the Opposition): I move:

That it be an instruction to the Committee of the whole House on the Bill that it have power to consider new clauses relating to preference to unionists, tort actions and harassment of persons who are not members of unions.

Without prolonging the proceedings of the House, I think it is necessary to discuss these matters which we believe are of fundamental importance to the community. I would seek the indulgence of the Government, without unduly delaying the House, that I have the opportunity of raising these new matters.

The Hon. J.D. WRIGHT (Minister of Labour): I do not want to oppose the proposition. I am prepared to accept the motion, but I draw attention to the fact that the legislation before the House is very prescriptive. It deals with two matters only.

Members interjecting:

The DEPUTY SPEAKER: Order!

The Hon. J.D. WRIGHT: The House was going well until the member for Mallee arrived, so if he leaves again we may get back to an even keel. Under normal circumstances where a Bill is of a very broad spectrum, I would not object to bringing in new matter, but there has been plenty of opportunity for the Opposition to bring in its own measures in relation to these three matters the honourable Deputy Leader wants to raise. It chose not to do that. Although the harassment matter was not debated, two of the three matters were debated fully in both Houses of Parliament last May.

They received the sanction of the Parliament. Almost 12 months has elapsed, in which time the Opposition could have brought in private members' legislation if it had wished to do so, but it chose not to do so. It sat back and waited until the Government brought in some mechanical amendments and, except for one major amendment in relation to the owner/drivers, that is what these amendments are; they fix up mistakes that were made in drafting and other areas. We see the Opposition wanting to grandstand on these three points. I do not think it is a fair proposition. As I said, I am not going to use my numbers to stop it.

Members interjecting:

The Hon. J.D. WRIGHT: I could conceivably do that, and I do not think I would receive much criticism for doing it. I have sufficient numbers to stop this, so do not challenge me.

Mr Olsen interjecting:

The DEPUTY SPEAKER: Order!

Mr Olsen interjecting:

The DEPUTY SPEAKER: Order! There will be a few other people in this House going down in a moment. This is not a debate about polls, Hereford or otherwise. It is a question of a motion that has been put to the House by the Deputy Leader, and I hope the debate revolves around that motion.

The Hon. J.D. WRIGHT: I do not intend to use the numbers to stop the debate on this matter. I am prepared to allow it to proceed, but I think it is reasonable to say to members opposite that they should not wait until the Government brings in legislation to grandstand about some legislation which they believe in and which was defeated only last May in both Houses of Parliament.

Motion carried.

In Committee.

Clauses 1 and 2 passed.

New clause 2a—'Transitional provisions relating to abolition of preference to members of registered associations.'

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

Page 1, after line 15—Insert new clause as follows:

2a. The following section is inserted after section 5 of the principal Act:

5a. An award, or part of an award, made before the commencement of the Industrial Conciliation and Arbitration Act Amendment Act, 1985, directing that preference shall be given to such registered associations or members of registered associations as are specified in the award shall, on the commencement of that amending Act, cease to operate.

This is the first of a number of amendments which I bring before the Committee and which seek to strike out from the Industrial Conciliation and Arbitration Act the so-called preference to unionists clauses. In fact, we know perfectly well that those so-called preference to unionists clauses mean that if you do not join the union, you do not get a job. In practice, that is the way it works out. It is the way it works out in relation to instructions which this Government sends out to the authorities over which it has control. We know that this Government encourages unions in their actions to ensure that, if people do not join the appropriate union, they do not work. In my opinion, that is nothing short of compulsory unionism under duress.

I thank the Minister for allowing us to move these amendments and I do not intend to take an inordinate amount of time in canvassing them, but it is a fundamental principle on which we part company probably as sharply as on any other matter which divides these parties. There are occasions when the Labor Party gets a few political commentators to suggest that there is no difference between the Parties. It likes to blur the difference between the Parties, but there is no clearer distinction between the Parties—and there are many of them—than in relation to this question, in a free country, where the people are forced to join an association, in this case a union, against their will, the penalty being that, if they do not join, they do not work. As I say, we raise this matter again, not as exhaustively as last time, but we will raise it on every possible occasion. In government we will seek to give effect to freedom in a democracy where, if a person wants to join, let them join. The suggestion was made, particularly by the member for Florey, that we are seeking to deny people the right to join and have any privileges that may accrue from union membership. That is not the argument. It is not a union bashing exercise. It is an exercise in democracy and freedom of choice.

Mr Lewis: Human rights.

The Hon. E.R. GOLDSWORTHY: In basic human rights. If an employee wishes to join, we will not attempt to impede him, but if he does not wish to join, we will not force him to do so. We will certainly not deny him a job if he says, 'No, I do not want to join,' but that is precisely what this Bill seeks to do. Despite the protestations of the Deputy Prem, when he says that the Bill is about employees being able to go to the Industrial Commission to seek an award to regulate subcontractors, or in this case owner/drivers, what it is really all about is at least validating the actions of the TWU in illegally forcing people, by strong-arm tactics, to join that union.

The Hon. J.D. Wright interjecting:

The Hon. E.R. GOLDSWORTHY: We are talking about the principle of what preference means.

The Hon. J.D. Wright: Stick to the clause.

The Hon. E.R. GOLDSWORTHY: The Chairman is doing all right.

The Hon. J.D. Wright interjecting:

The Hon. E.R. GOLDSWORTHY: He is in charge and he is doing all right. The fact is that we will never subscribe to the principle that in a democracy we will force people to join associations against their will; nor will we stop them from joining. The member for Florey waxed very loud and eloquent about the Liberal Party seeking to deny people the right to join a club. That is absolute nonsense. If they want to join a club or union, let them join. We do not force them to join the football club if they do not want to. We do not force them to join the Anglican Church if they do not want to. We do not force them to join the women's sewing circle if they do not want to, and we do not believe we should force them to join a union if they do not want to. There was the specious argument that if they get the benefits, they ought to join. If they do not want the benefits of the football club, they do not have to join. If they do not want the benefits of the union, they do not have to join. If they are prepared to be subcontractors or owner/drivers and make their own way, why should they not be allowed to?

The Hon. J.D. Wright: We are not talking about that. We are talking about preference.

The Hon. E.R. GOLDSWORTHY: Yes, but that is what it means: if you do not join a union, you do not get a job. I have had literally hundreds of calls, since I have been a member of Parliament, from people who have suffered from the strong-arm tactics of the TWU, which is referred to in the Bill, the Builders Labourers Union and other unions, and they have had no choice but to join the union or they do not work. That policy has been actively encouraged by this Government. The Opposition says, 'If they want to join let them join but, if they do not want to join, do not deny them work for that reason.'

The Deputy Premier referred to a poll which he said showed that Sir Joh Bjelke-Petersen had lost support in Queensland. That was a smart tactic, except that the Deputy Leader was not referring to the matter that I had raised: specific polls dealing with compulsory unionism. The question asked was as follows: 'Do you support people having to join unions against their will?' Over 80 per cent of Australians have replied with a clear 'No' to that question. So the Deputy Premier should not try to confuse the issue by referring to another sort of poll. The Labor Party has failed to gain a majority in Queensland State elections for many years.

The Hon. J.D. Wright: How about the gerrymander?

The Hon. E.R. GOLDSWORTHY: The Deputy Premier is good at playing dumb when he wants to, but I remind him that, with all the hoo-hah about gerrymanders, the Labor Party has failed to get majority support and therefore has not deserved to govern in Queensland for many years. My amendment draws as clearly as possible, on philosophical grounds, the distinction between what the Labor Party stands for and what the Liberal Party stands for in the matter of choice and on the question of what one is allowed to join and what one need not join.

The Hon. J.D. WRIGHT: Last year, the Deputy Leader's amendment was debated in both Houses and not carried.

One must go back to 1947, when the present provision was first introduced in the Commonwealth Act. That provision was amended and probably strengthened in 1964. For all the years between 1949 and the end of the Fraser era, Liberal Governments in power did not see fit to amend that legislation, because many employers supported preference to unionists.

Mr Lewis: They would screw the primary producer.

The Hon. J.D. WRIGHT: I did not know that they were worth screwing. It is nasty to say that someone was screwing the primary producer. I have never knocked rural industry, and to say that someone was screwing the primary producer was a nasty thing to say. Most employers would prefer to see the opportunity for the courts to write in preference for unionists. That is what this legislation does. To a large extent it does away with demarcation disputes.

The Hon. E.R. Goldsworthy: How about fewer unions?

The Hon. J.D. WRIGHT: I have been a strong supporter of fewer unions for a long time. I have agitated for that over the years, but it is difficult to achieve. The Deputy Leader referred to the philosophical difference between the two Parties on this matter, but I would remind him that his Party is happy to have someone working alongside a unionist and enjoying the same rates of pay and conditions as the unionist who pays his way, while the non-unionist, whom members Opposite support, is not paying his way.

I do not believe in compulsory unionism or that a person should join if he does not wish to, but I believe that any person who does not want to join the organisation that covers him and who rides on the backs of the people who are paying his way should go to work somewhere where there is no award covering employees. Let him work on tree-cutting, fencing or building dams on a farm where no award operates. Of course, he does not wish to do that: he wishes to work for wages and conditions that have been obtained by someone else before the court. He chooses to do that because he is assured of a regular income, knows that the boss cannot rob him, and enjoys annual leave, sick leave and long service leave. Further, he knows all the conditions that the union has gained and he wants them for nothing. He will not pay.

If that person does not want to pay into an organisation, there is provision for him to pay somewhere else. My experience is that people who do not want to join a union do not want to pay their water rates, dog licence fee or motor vehicle registration fee.

Such a person would not pay anything. It is a matter of finance: he wants to put the money in the sky rocket. It is not a matter of conscientious objection to joining a union. He does not want to pay: he wishes to ride on the backs of other people. Such a person gets no sympathy from me. He should work somewhere where he will not violate the conditions that have been won for him by the hard work of the trade unions. I oppose the new clause.

The Committee divided on the new clause:

Ayes (19)—Mrs Adamson, Messrs Allison, P.B. Arnold, Ashenden, Baker, Becker, Blacker, D.C. Brown, Chapman, Eastick, Goldsworthy (teller), Gunn, Ingerson, Lewis, Meier, Olsen, Oswald, Wilson, and Wotton.

Noes (21)—Mr Abbott, Mrs Appleby, Messrs L.M.F. Arnold, Bannon, M.J. Brown, Crafter, M.J. Evans, Gregory, Groom, Hamilton, Hemmings, Keneally, and Klunder, Ms Lenehan, Messrs Mayes, Payne, Peterson, Plunkett, Slater, Trainer, and Wright (teller).

Pairs—Ayes—Messrs Mathwin and Rodda. Noes—Messrs Hopgood and Whitten.

Majority of 2 for the Noes.

New clause thus negatived.

Clause 3—'Interpretation.'

The Hon. E.R. GOLDSWORTHY: The amendment I have circulated indicates we will be opposing this clause. One would not have to be very smart to understand why, from what we have said in the second reading debate. Paragraphs *(a), (b), (c)* and *(e)* are all part of the move to define owner-drivers as employees. Without reiterating at any length what I said in the second reading debate, it is perfectly clear that we are totally opposed to this concept and, therefore, totally opposed to these paragraphs.

It also happens that we are opposed to paragraph *(d)* for reasons not quite so vehemently held, because we are in sympathy with what the Government is trying to do but do not believe that it has gone about it in the best way by seeking to insert, as the definition of 'industrial matter', 'the dismissal of an employee by an employer'. I shall not elaborate on my remarks in relation to the definition of 'employee' because that is simply to validate the strong arm tactics of the TWU and validate the current situation where it has enrolled 1 673 members. I would be interested to know how many members have been forced to join against their will.

The Deputy Premier recited a list of firms that had reached agreement with their employees that they joint the TWU. As a result of guerilla tactics, one can understand that firms eventually have to cave in. If they do not cave in and agree to the unions' demands, their operation is completely disrupted. That argument cuts no ice whatsoever with the Opposition. Those agreements have been largely forced upon them.

Clause 3 *(d)* appears to introduce a degree of ambiguity into the matters whereas, if this dismissal is defined as an industrial matter, a whole range of matters can be considered by the Commission, under the scope available to it, in relation to an industrial matter, whereas section 31 dealing with dismissal is quite clearly constrained. Although I agree with what the Government is trying to do, a better way would be to indicate at a start of section 31 that the Commission has full authority to hear the matter.

The Hon. J.D. Wright: We'll have a look at it.

The Hon. E.R. GOLDSWORTHY: All right, you will look at it. I am certainly opposed to paragraphs *(a), (b)* and *(d)*, because they give effect to that part of the Bill to which we are totally opposed. We agree with what paragraph *(d)* tries to do, but in our judgment and the judgment of others, although it does what the Government wants, it further clouds the Commissioner's jurisdiction.

The Hon. J.D. Wright interjecting:

The Hon. E.R. GOLDSWORTHY: If one looks at the Act, the options are limitless in terms of what a Commissioner can do in industrial matters. They are certainly not limitless, however (they are well constrained in terms of what the Government can do), under section 31. All we are saying is that the Commission has authority to act: let us say it in section 31. We have to oppose this clause, but paragraph *(d)* can be fixed up more simply without the confusion that this will bring about. As far as paragraphs *(a), (b)* and *(d)* are concerned, we will not have a bar of them.

Mr BAKER: The Deputy Premier was very naughty when he claimed that there was some ignorance on my part and explained that we were not setting a precedent by this Bill. He said that taxi-drivers are included under the definition of 'employee', but he did not say that, in the case of people working for owners of taxis, owners are not covered under this definition in the Act.

The Hon. J.D. Wright: They are.

Mr BAKER: According to my reading it states—

The Hon. J.D. Wright: The Port Pirie case established that.

Mr BAKER: The definition states:

Any person engaged to drive a motor vehicle, used for the purposes of transporting members of the public, which is not registered in his name, whether or not the relationship of master and servant exists between that person and the person who has so engaged him;

Owner/drivers are owners of their own rigs and contract with various employers for their services. We believe that a precedent is being set. We say that it will go through the building industry and many other industries that can be drawn together under the same principle.

We know that guerilla tactics have been employed. About three weeks ago I had some furniture moved, and I asked the owner of the company who had three employees moving the goods for us if he belonged to the union: he said that he did. I asked him how he got on, and he said, 'Quite well, but if I did not belong to that union (that is, despite the fact that he employs people) I would not get the work I need.' He simply said that he paid his fee grudgingly but that it was a reality of life. It is a poor state of affairs when people are forced into that situation and when their decision-making relies on blackmail used by this union. I am sure that members on the other side of the Chamber can talk about the TWU and some of its tactics and the way it organises its membership.

We are creating a precedent for the owner/driver—the person who owns his own equipment and who is contracting two things: a truck (prime mover or whatever else) and his services, and it is quite different from the person who contracts services only. Nowhere else are the same conditions set down for this employee. The Deputy Premier knows this is a precedent; and he can say that the member for Mitcham is ignorant, but the Deputy Premier is either ignorant or not telling the whole truth. The interesting thing about this exercise is that the Deputy Premier, who is not listening—

Members interjecting:

The ACTING CHAIRMAN: Order! I ask that interjections cease and that the member for Mitcham address the Chair.

Mr BAKER: The interesting thing about this process is that everyone has the right to form themselves into an association if they desire. Obviously, there are problems with bargaining power in the road transport industry. The obvious remedy for those 1 673 people is that they form their own union or association and produce agreements. In fact, agreements have been produced which give them the balance of power in their negotiations. The Deputy Premier is trying to get the whole of that sector unionised.

Once that precedent is set it can be applied to a whole range of other industries. We could talk about, say, a small delicatessen owner who operates a shop, offering goods and services in much the same way. I understand what the Premier has told us here tonight and agree that perhaps he is well meaning, although he has listened a little too long to TWU members.

The Hon. J.D. Wright: Premier or Deputy Premier?

Mr BAKER: Deputy Premier—I was giving the honourable member a temporary promotion. The remedies do not necessarily belong with imposing unionism. This Bill, however, will impose unionism because it gives specific powers for representation before the Commission by a particular body, namely, the TWU, when one links this provision with others in the legislation. For those reasons, and more that the Deputy Leader has mentioned, I and all members on this side of the Chamber are opposed to the clause.

Mr BLACKER: Can the Minister explain whether an owner/operator includes a farmer carting his own produce? Most of the debate has been about an owner/operator supplying equipment, carting somebody else's material. However, is the owner/operator, who is a farmer carting his own grain to a silo or his stock to market, covered by the ambit of this clause?

The Hon. J.D. WRIGHT: No. He is not an employee, for a start: he is carting his own material. How can he be an employee? If he is carting somebody else's material he qualifies, but that does not force him into a union, either. It is important to recite the history of what happened in New South Wales. In 1970 the Industrial Commission in that State, following extensive inquiry into the owner/driver industry, recommended that conditions of owner/drivers be regulated. That is what I am saying: they are now non-regulated. Nobody has had control of them; no court in the land has power to control or regulate their wages and conditions. No-one should be denied that opportunity to have legal coverage.

The New South Wales Industrial Commission's reasons for that view were, first, that the distinction in law between owner/drivers who are truly employees and those who are independent contractors is often a fine one, with the line being difficult to draw. The New South Wales Commissioner said that it was hard to find any justification for using an uncertain and wobbly legal line to separate these owner/drivers for industrial purposes. Secondly, they found that in practice many owner/drivers with one vehicle came under the direction and control of their principal and that it was little different from the case of direct employees.

The New South Wales Commission argued that, although in law they may be independent contractors for industrial purposes, they were akin to employees. Thirdly, such owner/drivers frequently worked side by side with employees doing identical work and subject to very similar controls. Fourthly, the New South Wales Commission found evidence of exploitation as to rates paid to owner/drivers and also in terms of unreasonable working conditions. Real dangers exist under the current system of avoiding standards set for employees. As the New South Wales Commission pointed out, it is substituting them for cheap labour with the use of vehicles to boot. That is what the Opposition is trying to set itself up to support—the very thing that the New South Wales Commission found. If honourable members are fair and just, they will not support that. The New South Wales Industrial Commission added:

The truth is that an owner/driver with one vehicle (on which there is a heavy debt load) and no certainty of work, is in a weak bargaining position and the transport industry is not lacking in operators prepared to take the fullest advantage of his vulnerability.

That is a very sound reason why there ought to be regulation in the industry. The member for Flinders is a very fair man: he has established that over the years that he has been in the House, and he is thinking about this. As I have explained, that is the situation that was found by the Commission in New South Wales. It puts these people in a very weak position when they do not have an organisation that can regulate and control their wages and conditions.

Fifthly, the Commission recognises the chaos that can result when disputes involving owner/drivers occur, and there is no industrial tribunal to which the parties are able or willing to turn. It is in the public interest for such disputes to be speedily settled. The member for Mitcham is supporting chaos in the industry.

Mr Baker: Come on, what has been happening here?

The Hon. J.D. WRIGHT: He is advocating chaos. He does not want these people to have the opportunity to make application to have award rates to cover them.

It is in the public interest for such disputes to be speedily settled and there is no difference in the public dislocation caused by these disputes compared with employer and employee disputes. This is particularly important when it

is recognised what a vital artery transport is in the life of an economy.

Mr Baker interjecting:

The Hon. J.D. WRIGHT: I advise the member for Mitcham to take it home and read it tonight and see whether it is possible for him to absorb it overnight. I can understand it if he is not absorbing it now. It is a finding of a very important Commission—the Commission of New South Wales, not the Commission of the member for Mitcham.

Sixthly, industrial regulation of owner/drivers with one vehicle will put on a proper legal basis what has been for many years an industrial fact of life. Most other people enjoy this proposition that the Government is trying to give them the opportunity to have tonight. The Government is doing nothing about compulsory unionism: is simply giving the opportunity for these people to be regulated.

The second aspect of clause 3 is that it amends section 6 to include the dismissal of an employee by an employer in the definition of 'industrial matter'. Arguments have been put to the Government that the jurisdiction of the Commission must operate within the context of an industrial matter and that the dismissal of an employee may not constitute such a matter. In transferring the unjust dismissal provisions from the Industrial Court to the Commission in 1984, under section 31 of the Act, it has been argued by employer groups that Parliament may have failed to also confer the required jurisdictional base on the Commission. Whilst the Government does not necessarily agree that this is the case, it has been agreed by IRAC, in accordance with employer association wishes, that the definition of 'industrial matters' should be clarified to put the matter beyond any doubt. Such a provision would also make it clear that, in the exercise of its authority under section 31, the Commission is able to exercise the full range of powers normally available to it under section 28 of the Act.

Mr BECKER: I support the remarks of my Deputy Leader. The Opposition is right in the stand and attitude that it has taken tonight on this clause. It comes right down to the one very clear principle of private enterprise. The Transport Workers Union campaign in this regard has extended over 10 years. It started with the Adelaide Airport, and the Union cannot be very proud of what it has done because it put many small operators—owner/drivers—out of business. Those who survived are largely driving delivery vehicles for the Ansett-TNT Group—and there are few owner/drivers left. The people who said they were trying to protect them cost them thousands of dollars because the owner/drivers had the opportunity to work for Ansett or get out. So, they had to sell their trucks and lose the goodwill they paid in buying those small businesses, and they are now driving for Ansett.

I know that it was a very bitter dispute at the Adelaide Airport because it involved several of my constituents. Ansett gave them no opportunity: it was a question of 'take it or leave it'. Ansett, TNT, Ipec all operate by subcontracting their work out. The Transport Workers Union knew it.

There is more to this than we have been told here tonight because the Transport Workers Union, in conjunction with other unions that represent shipping, airlines, road and rail, wants to be able to ultimately tie up the whole of Australia. They want to be able to isolate Australia at any time they want to. This Government and any other Government wants to really consider the facts before they give too much power to some of these unions.

The Hon. J.D. Wright: They've already got the members.

Mr BECKER: I know, because they forced them into it. It was a long, dirty, bitter battle: 1 670 members worth about $125 000 a year plus to Transport Workers Union in this State—not a bad sort of deal.

The Hon. J.D Wright: You are talking through your hat.

Mr BECKER: I am not talking through my hat at all, because the transport unions of this country want to be able to isolate Australia. It has the members and it is worth $125 000-plus to it. How much has it paid this Government to make sure that this legislation comes in today? How much has it paid the other Governments throughout Australia? It is an extremely dangerous piece of legislation and a dangerous principle. If we give in and allow this to happen, not one person in this country who wants to own his own business will be exempt from union pressure.

The latest move in a field similar to this concerns the owner operators of the little post office agencies. They will be forced into a union and will be tied up because Australia Post has seen it as the opportunity to get rid of them and make them contractors. Next, they will be forced into a union, and one can imagine what will happen to the postal rates, charges and services. The Minister knows that this has been going on for 10 or 12 years.

The Hon. J.D. Wright: Rubbish!

Mr BECKER: Yes, it has. I can bring to the Minister people who lost thousands of dollars in goodwill because they bought trucking delivery businesses. They bought franchises and then were forced out of business by the Transport Workers Union—something that it should not be very proud of at all because the Transport Workers Union said, 'We will give you this and that, and all sorts of protection, and help you with your rates.' As soon as they wanted something, where was the Transport Workers Union? It had nothing to do with them! It says, 'You are a sub-contractor.' On one hand, it wants their money and wants to tie them up and on the other hand it is absolutely useless to some of these owner/operators.

The Hon. J.D. Wright: You're slipping.

Mr BECKER: I am not slipping, because I want the Minister to tell this Parliament the truth behind this whole story. It has a long history and is only one part of an ultimate plan to tie up the whole transport system in this country. The Minister knows as well as I do that one thing contributes more to inflation than anything else, and that is fuel, whether petrol, diesel or whatever. Any time there is a rise in petrol as we have just had, one can imagine what that will do to inflation in this country. If one union or group of unions is tying up that whole industry, one can imagine what they will do to any Government in this country. What is going on in Queensland will be nothing!

We do not have those problems here because we have a Government that capitulates every time. I feel sorry for the individual owner/operator who has been forced out of business or has his business tied up. There is no way that this legislation will protect the owner/operator who buys a franchise, whether from Ipec, Ward or anyone else.

I will go back to this dispute with Ansett at the Adelaide Airport. What did we get down there? We got Ward Cargo coming in and some other operator—Ipec—that flies its planes day and night and breaks the curfew. We are the ones who live around the Adelaide Airport and still have to put up with the inconvenience of that because Ansett has tried to control the whole of the transport industry in the State. We put up with it and have to suffer.

An honourable member interjecting:

Mr BECKER: Not much. The unions said they would protect them, and when these chaps want protection they do not get it.

The Hon. J.D. Wright: Ansett put them out of business.

Mr BECKER: The Minister cannot tell me that this is not a sweetheart deal. The Transport Workers Union put the pressure on Ansett and on the owner/drivers. It cost them thousands of dollars in goodwill. Those who bought their vehicles had to get out of the Adelaide Airport, sell

their businesses and work for Ansett and get wages. That is not a very good wage, anyway. Why does not the Minister tell the Committee what wage these poor blokes get? They would be better off.

The Minister knows as well as I do that in regard to the principle of private enterprise in this State, we will support it or we will not. I would like a commitment from the Minister on this matter. We will not throw private enterprise principles out of the window. If the Government does not intend to have such a system, it should outlaw business franchise systems; it should be prepared to go to Ansett, Ipec, Ward Cargo, and everyone else and tell them that they cannot franchise delivery rounds or allow people to buy into the delivery services that they operate. This is a hornet's nest and the Opposition is quite right in opposing it.

I think that the Government should be very careful in relation to this matter. The decision made in New South Wales was very interesting: I think the court in New South Wales was wrong. The more I hear about it and have the matter explained to me the more I am convinced that the New South Wales decision was not correct.

I am very cautious about accepting what happened in New South Wales as a premise on which to hang one's hat in relation to support for this clause. I cannot warn the Government enough about the dangers in this legislation, and I only hope that at some time in the future the Government will reconsider this matter.

Mr BAKER: I refer to the Minister's quoting from a decision handed down by the New South Wales Industrial Court. The Minister's reference to a decision made in a State which has the worst industrial record and the most corrupt judicial system in Australia is testing the intelligence of members of this House. Day after day we see in the paper reports of judges being bought off, commissions, and so on. The Minister is taking the matter too far in suggesting that this is a whirlwind national decision that has been accepted across Australia. In relation to the Minister's bringing this garbage before the Committee as support for what he believes is intrinsically a good amendment to the Bill, that is no justification for the sort of proposition put forward tonight. I would suggest that a decision of the New South Wales Industrial Court in relation to this matter would be a very good reason why we should reject it out of hand because it is either incompetent or has been bought in the process.

The Committee divided on the clause:

Ayes (21)—Mr Abbott, Mrs Appleby, Messrs L.M.F. Arnold, Bannon, M.J. Brown, Crafter, M.J. Evans, Gregory, Groom, Hamilton, Hemmings, Keneally, and Klunder, Ms Lenehan, Messrs Mayes, Payne, Peterson, Plunkett, Slater, Trainer, and Wright (teller).

Noes (19)—Mrs Adamson, Messrs Allison, P.B. Arnold, Ashenden, Baker, Becker, Blacker, D.C. Brown, Eastick, Goldsworthy (teller), Gunn, Ingerson, Lewis, Meier, Olsen, Oswald, Rodda, Wilson, and Wotton.

Pairs—Ayes—Messrs Hopgood and Whitten. Noes—Messrs Chapman and Mathwin.

Majority of 2 for the Ayes.

Clause thus passed.

The Hon. E.R. GOLDSWORTHY: I will not proceed with new clause 3a. This is another amendment that seeks to give effect to preference to unionists. As my first amendment was defeated after debate, there is not much point in proceeding with this.

Clause 4—'Special jurisdiction of the Commission to deal with cases of unfair dismissal.'

The ACTING CHAIRMAN (Mr Ferguson): The first amendment on file is the Deputy Leader's amendment.

The Hon. E.R. GOLDSWORTHY: It would be rather pointless in pursuing this amendment, although the Minister did state earlier that he would look at this matter. I pointed out that I believed that clause 3 *(d)*, which defines the dismissal of an employee by an employer as an 'industrial matter', could well lead to some conflict of jurisdiction in relation to what the Commission could do under section 31: the scope of a Commissioner's jurisdiction would be broadened. My amendment seeks to insert further words. However, as I was unsuccessful in having clause 3 *(d)* deleted, it seems rather pointless to cover the matter twice, and I do not propose to do so. However, the Minister did say that he would have a look at the matter.

The ACTING CHAIRMAN: The Minister's amendment to clause 4, page 3, is almost the same as an amendment proposed by the Deputy Leader of the Opposition. I shall put the Minister's amendment first because it is his Bill. If the Deputy Leader wishes to pursue the matter he will have to amend the Minister's amendment.

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

Page 3, after line 6—Insert new paragraph as follows:

(ab) the employer shall be entitled to the repayment of any amount paid to the employee on dismissal on account of any accrued entitlement to recreation leave or long service leave;

This amendment was prepared after discussion with employer representatives. Some concern has been expressed about the provisions that will preserve an employee's continuity of service upon re-employment for the purpose of determining rights to leave.

Employers point out that the employee may have been paid out on dismissal for accrued leave and are therefore concerned that any such payment can be taken into account for the purpose of assessing future entitlements to leave. The Government has no doubt that an employee could not receive a double entitlement. Both recreation and long service leave may be awarded by payments in lieu, so any payment by the employer on dismissal will be taken into account when further entitlements are to be determined. Furthermore, the Commission has the power to ensure that no injustices ever occur. However, in order to allay the employers' concerns and to be consistent with the policy that an employee should be restored to his previous position, but no more and not less, it has been decided to include a proposed new paragraph that will provide:

Unless the Commission otherwise directs, the employer would, on the making of an order for re-employment, be entitled to receive repayment of any amounts paid out to an employee on account of accrued entitlements to leave.

It is really only making expressed provision for something that can be done by the Commission through the imposition of an appropriate condition and an order for re-employment. That amendment has the support of IRAC.

The Hon. E.R. GOLDSWORTHY: I support the amendment. It is very similar to the amendment standing in my name which has been circulated rather earlier than the Minister's, but my amendment has a slight qualification, which under the circumstances I shall not persist with. We are quite happy to support the amendment of the Government which accommodates a point which I raised in the second reading debate.

Amendment carried; clause as amended passed.

Clause 5 passed.

Clause 6—'Repeal of s. 59 and substitution of new section.'

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

Page 3, line 17—After 'shall' insert ', after consultation with associations representing the relevant employers and employees,'.

I think I heard the Minister's interjection indicating that he was prepared to accept the amendment. He accused me of not listening to what he was saying: the member for Victoria had engaged my attention, but I was still aware of what the Minister was saying. The amendment is consistent with another part of the legislation setting up a commission. If

I heard the Minister correctly, he intends to accept that. If that is the case, there is no need to prolong the proceedings of the Committee.

Amendment carried; clause as amended passed.

The Hon. E.R. GOLDSWORTHY: New clause 6a, which I had intended to move, seeks to give preference to the Liberal Party policy of striking out these references to what amounts to compulsory unionism. As we have not been successful with our earlier amendment, which really was a test case, there is no point in proceeding.

Clauses 7 and 8 passed.

Clause 9—'Notice, hearing of appeals, etc.'

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

Page 4, line 19—Leave out 'Commissioner' and insert 'member of the Commission'.

This amendment may be described purely as a technical one, the President of the Industrial Court having pointed out that the reference to a Commissioner does not include a reference to the presidential members of the Commission and that in some cases it might be appropriate to direct such a member to furnish a report under the proposed new paragraph. I recommend the amendment.

Amendment carried.

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

Page 4, line 29—After 'paragraph' insert '(but no such decision or order shall exceed the powers or jurisdiction of the Commission as it is constituted at first instance)'.

It has been put to me that a degree of ambiguity has been introduced into the legislation in relation to the scope of the Full Commission on appeal: that, in fact, the Act and amendments as they stand would indicate that the Full Commission is not constrained under the same terms of reference as applied to the original Commission that made the judgment. I think it is quite unreasonable to suggest that a Full Commission on an appeal should not be constrained by the same scope of the matters as applied to the original Commission. To put the matter beyond doubt, I think that the amendment should be accepted.

The Hon. J.D. WRIGHT: I am prepared to accept it at the moment, but I am thinking about it, to say the least. I think it is superfluous in the way in which the honourable member has phrased it. It proposes to restrict the Full Commission on an appeal in a wrongful dismissal case to the limits of jurisdiction exercised by the Commission member hearing the case in the first instance. The Full Commission, under my own amendment, is in any case restricted to making decisions that should have been made in the first instance, it is prohibited from enlarging its jurisdiction, and therefore the amendment is superfluous. I am prepared to have another look at that, not at the moment but before it reaches another place. If there is merit in what the Deputy Leader is saying, we can get it changed.

The Hon. E.R. GOLDSWORTHY: I thank the Minister for that consideration. It has been put to me by somebody for whom I have a great deal of respect and whose industrial expertise in my opinion is first class, that there is a degree of ambiguity if one reads the whole of the new subsection (3a) and sees what can happen under appeal. The scope appears to be quite wide indeed.

The Hon. J.D. WRIGHT: Looking at the amendment without having heard the explanation, I came to another conclusion; but, having heard the explanation, I am prepared to look at the matter.

The Hon. E.R. GOLDSWORTHY: My amendment, which is quite simple, puts the matter beyond doubt in terms of just how far the Appeal Commission can go, but if the Minister is prepared to have a look at it I would be satisfied with that for the time being.

Amendment negatived; clause as amended passed.

Clause 10—'Stay of operation of award.'

The Hon. E.R. GOLDSWORTHY: This clause gives effect to the Government's decision to tie the hands of the Commission in relation to being able to stay an order for re-employment even if an appeal is pending. We are not saying that the employee must not be re-employed: we are saying that the option for the Commission should still remain. The Minister has advanced no valid reason for its removal. It is nonsense to say that, if an employee has been dismissed, if there is a re-employment order and if that order is under appeal, which may be upheld, the fellow will be back in his job and out again. So, the good sense of the Commission in the first instance is to be overruled. Its hands will be tied in relation to the re-employment but not in relation to monetary compensation. That seems to be a stupid provision, therefore the Opposition opposes the clause as it stands.

The Hon. J.D. WRIGHT: I support my amendment and oppose that of the Deputy Leader. The Government's amendment is consistent with IRAC's view. It was put to us by the employers that a stay order should be allowed on compensation only. Therefore, this is an employers' proposition. It was submitted in recognition of the fact that re-employment of a dismissed worker would not involve economic loss to the employer but would provide some financial cushioning to a worker who, in the first instance, had been found to be wrongfully dismissed.

Accordingly, the Opposition's amendment must be opposed. I cannot see the validity of the Deputy Leader's proposition. Most of the section 31 actions are consistent with approaches and requests that have been made by employers in order to tidy up doubtful situations that they see could exist. No employer has been back to us wanting to do the things that the Opposition's amendment would allow. If there was a problem after IRAC had made its decision and the Bill was drawn up some time ago, I should have thought that I would hear about it from employer organisations or from individual employers with a request to amend the Bill as the Deputy Leader has suggested it should be amended, but I have received no such request. Whether or not the Opposition has a substantial argument I would like to check, but the provision has been drafted after discussion with employers.

The Hon. E.R. GOLDSWORTHY: Neither of the Minister's two points has validity. He said that the worker on dismissal may be feeling the pinch, but he will get his job back or he will get monetary compensation. It seems that the provision should apply equally in respect of monetary compensation while he is off the job as much as in respect of pay that he will earn when he goes back to work. If one is thinking of the employee's economic circumstances, surely it is unreasonable to leave the option to the Commission for a stay of payment of compensation and not allow the option for a stay of resumption of employment. Therefore, the Minister's argument applies to both or neither, and I believe it applies to neither if the matter is up for appeal.

Further, the Minister said that no employer group had contacted him about this matter but that it had been put forward at the request of employers. Some of the things done by employers from time to time frankly puzzle me. I cannot see how this would benefit employers. One significant employer group has raised this matter with me. I raised it with another employer group when the Bill was introduced and that group said it would examine the provision, but it did not take the matter up. However, another significant employer group, whose view I respect, agreed with my point of view and, concerning the stay of operation decision, said:

We are strongly opposed to the proposed limitation on the Full Commission in regard to ordering a stay of operation of a section 31 decision. The current Bill would mean that, even when an employer was appealing an order to re-employ a dismissed employee, the order would have to be carried out. The above-mentioned anomaly would be particularly obvious where the

Commission had exercised its discretion to re-employ the applicant in a position other than the one in which he/she was employed and, when the employer is appealing on the basis that the position was 'not available'. This would create the absurd situation whereby the decision could be enforced, notwithstanding that the very basis of the decision was under challenge. We are of the view that the proposed restriction upon the Full Commission will fetter that Commission when deciding upon the merits of the appeal itself. That is, if during the appeal the employment relationship has been in existence. we believe that the Commission will be unduly pressured by the fact that, in upholding an employer's appeal, the currently re-employed employee would be dismissed as a result of its decision.

That is saying that this puts extra duress on the Appeal Commission because it will be loath to tip the fellow out for the second time. That is a valid point.

The Hon. J.D. Wright: Have you a copy of the submission?

The Hon. E.R. GOLDSWORTHY: The Minister should ask his officers. There should be a copy in his office.

The Hon. J.D. Wright: I haven't got one.

The Hon. E.R. GOLDSWORTHY: The Minister apparently does not enjoy the happy relations with some employer groups that he should enjoy.

The Hon. J.D. Wright: The employers should approach the Government with any request.

The Hon. E.R. GOLDSWORTHY: Normally they do, but the Minister's 'love and kisses' approach has not worked in this case. If the fellow has been put back into his job and the Full Commission on appeal is faced with the option of upholding the appeal and turning him out of work again, that is a very tricky decision for the Commission to make. The Minister is putting everyone in a most invidious position. The fellow has lost his job, the Commission has ordered that he be re-employed, there is an appeal, and the option is for the Commission to say, 'Don't put him back yet. Let the appeal be heard.' The Government says that he should go straight back to work. That places an enormous amount of pressure on the Commission that is hearing the appeal and it would be most unsettling for that worker to lose his job for a second time. My amendment will allow the *status quo* to prevail.

If the Commissioner in the first instance thinks it desirable for the fellow to wait to see how the appeal goes before he returns to work, he may order that way, whereas the Minister's provision does not allow that option. The Minister is merely taking away the option of the Commission that heard the case in the first instance to say that it will be best for all concerned to stay the hand until the appeal is heard. We do not say that that should be done, but the court should have the option. The Minister's provision would produce a most undesirable situation.

The Hon. J.D. Wright: What's the difference between having the stay and not putting him back in the job, and he still loses his job?

The Hon. E.R. GOLDSWORTHY: No, he has not had the unsettling experience of going back—

The Hon. J.D. Wright interjecting:

The Hon. E.R. GOLDSWORTHY: But he will get his money if he gets his job back.

The Hon. J.D. Wright: But you are saying that if he loses his job a second time—

The Hon. E.R. GOLDSWORTHY: I am saying two things.

The Hon. J.D. Wright: You are trying to keep him—

The Hon. E.R. GOLDSWORTHY: I am not trying to keep him out—that is quite fallacious. I am trying to allow the Commission to retain the option of saying, 'Yes, you should go back to work now despite the appeal' or 'No, I do not think you should go back to work now because under the circumstances, we should wait until the appeal is finalised'. I am not saying that we should do one thing or the other, but that that option should stay with the Commissioner who makes the first judgment because he heard the case and knows the circumstances. If he believes that it is best for both parties—employer and employee—not to send the employee back to work, he should have the ability to say so. The Bill says that he will not. Has the Minister absolutely no faith in the Commission set up to hear these cases, in the judgments given, and its ability to say that, with the trauma in such cases, the fact that it is touch and go, and that we know not how an appeal will go, it is therefore best for the employee not to go back yet? It is a vote of no confidence in the Commission.

The Hon. J.D. Wright: That is rubbish.

The Hon. E. R. GOLDSWORTHY: The Minister always gets abusive when he does not have an argument.

The Hon. J.D. Wright interjecting:

The ACTING CHAIRMAN: Order!

The Hon. E.R. GOLDSWORTHY: If the Minister were like me he would be doing fairly well. He has no faith in the original Commission—he is removing an option from it and could well be creating difficulties. The Minister does not believe that any significant employer group does not agree with him. This significant employer group is strongly opposed to him and states:

Therefore we believe that the proposed amendments to section 99 should be deleted, thereby leaving the discretion regarding the stay order with the Full Commission itself which can decide the issue on the merits of the case.

That is what it is all about. It does not matter what are the merits of the case, as the Government says it will not have that option and that the fellow must go back to work, in effect making it very difficult for the appeal tribunal and making it more traumatic if the appeal tribunal upholds the employer's view and the fellow has to be put off yet again. I cannot for the life of me see any sense at all in removing the flexibility of the Commission to solve these matters with as little trauma as possible. For some unexplained reason the Minister seeks—

The Hon. J.D. Wright: What if the appeal goes on for six or eight weeks?

The Hon. E.R. GOLDSWORTHY: The Minister is not going to allow him to be compensated—that is the first point I made to the Minister. If the argument applies here, why does it not apply to compensation if the matter goes on for six or eight weeks? There can still be a stay of order in relation to compensation. The fellow has been paid out for long service leave and any other accrued emoluments.

The Hon. J.D. Wright interjecting:

The ACTING CHAIRMAN: Order! The Deputy Premier must not interject.

The Hon. E.R. GOLDSWORTHY: I have made my point perfectly clear.

Mr BAKER: I wish to take up the points put very capably by the Deputy Leader and also to make another point. In the case of unfair dismissal, if a person is reinstated he is entitled not to compensation but to salaries and wages that have accrued since his dismissal—if the Minister would listen—

The Hon. J.D. Wright interjecting:

The ACTING CHAIRMAN: Order! Cross interjections will cease. I ask the Deputy Premier to come to order.

The Hon. E.R. Goldsworthy interjecting:

The ACTING CHAIRMAN: Order!

Mr BAKER: If the Minister will take one other point on board—

The Hon. E.R. Goldsworthy interjecting:

The ACTING CHAIRMAN: Order! I ask the Deputy Leader to stop interjecting, please. I ask him to show some respect for his own speaker.

Mr BAKER: In this threatening environment I make one point to the Deputy Premier: if a person is reinstated, he is entitled to receive salaries and wages for the period for

which he has been absent from work during dismissal. In that situation, if an appeal is successful, he or she will then be liable for the reimbursement of all wages and salaries paid not as compensation but for the period for which he was deemed to be employed. The Minister is suggesting to this Parliament that that person shall repay those wages and salaries including the amount he has never received because taxation has been taken out. They could receive $2 000 in hand and have to repay $3 000 because tax has been taken out. There is not only the probability that the person has spent the money but also that he has to repay more than he had in hand. Therefore, if the appeal is successful the employee must repay the sum received, which places further burdens on him.

The Committee divided on the clause:

Ayes (21)—Mr Abbott, Mrs Appleby, Messrs L.M.F. Arnold, Bannon, M.J. Brown, Crafter, M.J. Evans, Gregory, Groom, Hamilton, Hemmings, Keneally, and Klunder, Ms Lenehan, Messrs Mayes, Payne, Peterson, Plunkett, Slater, Trainer, and Wright (teller).

Noes (19)—Mrs Adamson, Messrs Allison, P.B. Arnold, Ashenden, Baker, Becker, Blacker, D.C. Brown, Eastick, Goldsworthy (teller), Gunn, Ingerson, Lewis, Meier, Olsen, Oswald, Rodda, Wilson, and Wotton.

Pairs—Ayes—Messrs Hopgood and Whitten. Noes—Messrs Chapman and Mathwin.

Majority of 2 for the Ayes.

Clause thus passed.

Clause 11 passed.

Clause 12—'Certain matters not to be challenged.'

Mr BAKER: My only parting shot to the Deputy Premier on this issue is that his sole justification for giving up on *Moore v. Doyle* was that the industrial giants—Clyde Cameron and Jack Wright—had looked at every angle and they had not come up with an answer; I could probably say that they did not look very hard and were not capable of looking very hard. How we overcome problems of dual jurisdiction is a fundamental issue. Whilst the Deputy Premier might have spent a long time looking at the issue, it is an issue worth resolving and, if necessary, at the Federal level. We should not leave the present verbiage in the relevant section of the Industrial Conciliation and Artibration Act.

Clause passed.

New clause 13—'Repeal of s. 143a.'

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

Page 5, after line 14—Insert new clause as follows:
Section 143a of the principal Act is repealed.

I indicated to the Deputy Premier that I would not spend much time on the matters canvassed previously. We certainly have not done that: we had only one speaker on the earlier matter. This matter was canvassed previously. The Government interfered with this section last year and successfully removed or emasculated the provisions that allowed citizens and organisations to take tort action, to seek court injunctions, to restrain unions or seek compensation for damage done to them, economic or otherwise, as a result of the actions of those unions. This cannot happen until we have been through the whole thrash of talk in the Commission and indeed with the permission of the Commission.

This amendment seeks to restore the proper rights of citizens and organisations to take court action where they believe they have been damaged by unions economically or otherwise. In other words, all we seek is to restore one law for all people within the community and to ensure that the law that applies to other citizens and rights of other citizens should apply to unions. We believe strongly in this principle and that this section introduced by the Government should be repealed so that the rights of citizens are restored, that is, to allow them to take action when they have been damaged economically. The Minister said earlier that the *Dunford v. Woolley* case was stale—past history.

That is where this matter started in this State—with the AWU of which the Minister is a member. Woolley won against Dunford, and he had been damaged quite grievously. There has been a relentless pursuit of removing this right from citizens since then. It was brought to a successful head last year. We believe that that right should be restored.

The Hon. J.D. WRIGHT: I do not want to belabour too much: the matter has been debated in this House over a long time. My opposition to direct access to the Supreme Court, which is what this amendment would do, is on record. Of course, the Cawthorne Report recommended against that: it recommended that industrial disputes ought to be settled in the appropriate place—the area set apart for industrial disputes, the Industrial Court.

The Hon. E.R. Goldsworthy: You recommend what you did?

The Hon. J.D. WRIGHT: It was not exactly that: that was a compromise situation involving IRAC. The employers and unions went away and worked it out; I did not. The certificate idea was theirs. Members should not laugh, because they are barking up the wrong tree. That is one of the 87 clauses they worked out. I did not work it out. I would not have had enough brains: the employers and unions did it. That can and did happen. If an employer is not satisfied after the Industrial Commission has dealt with the matter, he still has the opportunity to go on to the Supreme Court. The philosophy of this Party is to ensure that an industrial dispute is confined to an area in which there is expertise. I do not in any way belittle the abilities of Supreme Court judges and District Court judges or anyone else, but they are not experts in the industrial relations field.

The Hon. E.R. Goldsworthy: They are experts in justice, though.

The Hon. J.D. WRIGHT: The judges in the Industrial Court are experts in justice as well, but they are certainly experts on industrial matters. Surely, that is where the dispute should go in the first place. I say that 95 times out of 100 the dispute would be settled in the Industrial Court. I read from that inquiry and report earlier in which it was stated that employers were very much opposed to tortuous actions. I do not believe that they solve disputes: they exacerbate them. The amendments carried only last year are on the right track. In fact, they have already been successful and I am sure that they will continue to be successful in future.

The Committee divided on the new clause:

Ayes (19)—Mrs Adamson, Messrs Allison, P.B. Arnold, Ashenden, Baker, Becker, Blacker, D.C. Brown, Eastick, Goldsworthy (teller), Gunn, Ingerson, Lewis, Meier, Olsen, Oswald, Rodda, Wilson, and Wotton.

Noes (21)—Mr Abbott, Mrs Appleby, Messrs L.M.F. Arnold, Bannon, M.J. Brown, Crafter, M.J. Evans, Gregory, Groom, Hamilton, Hemmings, Keneally, and Klunder, Ms Lenehan, Messrs Mayes, Payne, Peterson, Plunkett, Slater, Trainer, and Wright (teller).

Pairs—Ayes—Messrs Chapman and Mathwin. Noes—Messrs Hopgood and Whitten.

Majority of 2 for the Noes.

New clause thus negatived.

New clause 14—'Harassment of non-members of registered associations.'

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

Page 5—Insert the following new clause:

14. The following section is inserted after section 144 of the principal Act:

144a. No member or officer of a registered association shall harass any person, or cause any person to be harassed, in relation to whether or not that person is willing to become a member of the association.

Penalty: Two thousand dollars.

This matter has not been canvassed before. It was not canvassed last year, but it is really carrying further the argument advanced in the second reading debate in relation, particularly in this case, to the strong arm tactics of the officials of the TWU in forcing people against their will to join that union. So, not only are we opposed to that, but we think that there should be a sanction against such behaviour. As we say, we are perfectly happy if people are willing to join a union of their own volition, but in no way should they be denied work if they are not prepared to join it. It is going on throughout the community, daily. There is no apparent way to stem this activity without putting some real sanction in the Act to deter people from this strong-arm action.

The Hon. J.D. WRIGHT: I oppose the new clause. This is really approaching industrial relations with a big stick. Going back to what Cawthorne said about this in his discussion paper—

Mr Baker: Make sure you read it all this time.

The Hon. J.D. WRIGHT: If I read everything I bring into this House the honourable member would be here all night. It is ony because I have a great deal of respect for people's right to go to bed that I do not read everything out.

Mr Baker: Don't read selected bits.

The ACTING CHAIRMAN: Order!

The Hon. J.D. WRIGHT: Mr Cawthorne states:

> Any attempt to legislate generally in this way in areas where strong attitudes prevail will never, given the experience to date, engender a high degree of success.

He added:

> For that reason, it is suggested that legislative codes of conduct or heavy fines do not provide any more than answers on paper.

That is exactly what they do. Sanctions have not worked. They have been tried over a long period. In fact, they exacerbate disputes rather than solve them. I read earlier a paper in relation to the Michael Stutchberry article in the *Financial Review*, where employers came down very heavily opposing a confrontationist point of view, which the Deputy Leader now puts forward—because this philosophy is clearly confrontationist: there is no question about that.

If we look at the Queensland situation and ours, and the way in which we have managed our industrial affairs here, we will find that Queensland has lost up to 10 times more time in industrial disputes than we have in South Australia. There must be something going for us in the approach that we have been taking over the years in South Australia. That has not just happened over night. So, why create a further situation of confrontationist attitudes by moving this piece of legislation when we do not need it? There is no evidence of any need for it. Merely to place it on the books would upset people in the industry. I oppose it: I hope that it never comes in in this State, because it will not work. I have never thought that sanctions work, but, more importantly, why create a situation that we do not have to control in any case?

The Hon. E.R. GOLDSWORTHY: I do not wish to prolong this argument, but there is ample evidence of people who ring us almost daily—

The Hon. J.D. Wright: They don't ring me.

The Hon. E.R. GOLDSWORTHY: They know that they are wasting their time.

The Hon. J.D. Wright: I get more phone calls in a day than you get in a month.

The Hon. E.R. GOLDSWORTHY: That is quite beside the point. The fact is that people ring, and the wives of people who have been harassed to join unions ring, most upset because the option is 'join or don't work'. We do not allow people to harass others in other areas of our society. The Minister says that sanctions will cause problems. If we spread that argument in the broad we would say that we would not fine people for other misbehaviour because it would cause problems. Of course, people who are fined do not like it; of course, the union heavies will not like it because it will put a curb on them, but the people who are being harassed will like it. They do not like what is going on at the moment, but they would like to know that they could go about their business without being harassed, heavied and threatened.

That is a particularly weak stance of the Minister, who has turned his eye to harassment in other areas. We do not allow citizens in this community to be harassed in other areas: there are sanctions against that. I do not believe that the argument is any different in relation to whether they want to join a union or not or whether they want to go about their business peacefully, particularly these owner/drivers to whom this Bill refers.

An honourable member: We passed an Equal Opportunity Bill a few months ago.

The Hon. E.R. GOLDSWORTHY: Yes, they are talking about a Human Rights Bill at the Federal level, so I do not accept the Minister's argument. A lot of people are upset at the harassment that they suffer at the moment. If we adopt that weak attitude in relation to this, the argument is equally valid in other areas where we will not tolerate for one moment the harassment of the citizens of this State.

The Committee divided on the new clause:

Ayes (19)—Mrs Adamson, Messrs Allison, P.B. Arnold, Ashenden, Baker, Becker, Blacker, D.C. Brown, Eastick, Goldsworthy (teller), Gunn, Ingerson, Lewis, Meier, Olsen, Oswald, Rodda, Wilson, and Wotton.

Noes (21)—Mr Abbott, Mrs Appleby, Messrs L.M.F. Arnold, Bannon, M.J. Brown, Crafter, M.J. Evans, Gregory, Groom, Hamilton, Hemmings, Keneally, and Klunder, Ms Lenehan, Messrs Mayes, Payne, Peterson, Plunkett, Slater, Trainer, and Wright (teller).

Pairs—Ayes—Messrs Chapman and Mathwin. Noes—Messrs Hopgood and Whitten.

Majority of 2 for the Noes.

New clause thus negatived.

Title passed.

Bill reported with amendments; Committee's report adopted.

The Hon. J.D. WRIGHT (Minister of Labour): I move:

That this Bill be now read a third time.

The House divided on the third reading:

Ayes (21)—Mr Abbott, Mrs Appleby, Messrs L.M.F. Arnold, Bannon, M.J. Brown, Crafter, M.J. Evans, Gregory, Groom, Hamilton, Hemmings, Keneally, and Klunder, Ms Lenehan, Messrs Mayes, Payne, Peterson, Plunkett, Slater, Trainer, and Wright (teller).

Noes (19)—Mrs Adamson, Messrs Allison, P.B. Arnold, Ashenden, Baker, Becker, Blacker, D.C. Brown, Eastick, Goldsworthy (teller), Gunn, Ingerson, Lewis, Meier, Olsen, Oswald, Rodda, Wilson, and Wotton.

Pairs—Ayes—Messrs Hopgood and Whitten. Noes—Messrs Chapman and Mathwin.

Majority of 2 for the Ayes.

Third reading thus carried.

[Midnight]

CONSTITUTION ACT AMENDMENT BILL (No. 2)

Adjourned debate in Committee (resumed on motion).

(Continued from page 4022.)

Clause 1 passed.

Clause 2—'Commencement.'

Mr OLSEN: I move:

Page 1, lines 14 to 16—Leave out this clause and insert new clause as follows:

2. (1) Subject to subsection (3), this Act shall come into operation on the day when Her Majesty's pleasure thereon is publicly signified in South Australia.

(2) Her Majesty's pleasure may be so signified by proclamation.

(3) Section 4 shall come into operation on the day on which the House of Assembly is next dissolved, or next expires, after the commencement of this Act.

This amendment, in effect, will ensure that the amendments that I will be moving subsequently come into effect when this Bill is assented to. If this amendment is successful, it will mean that the principle that we are trying to embody in the legislation will come into effect on the next election day. The Opposition has identified shortcomings in the legislation which require a series of amendments that the Opposition will be moving and which, if successful, will have the effect of ruling out the manipulation of the Constitution currently proposed by the Government.

The Minister's comment that we are talking about a hypothetical case is arrant nonsense, as well the Minister knows. He knows the Government has foreshadowed publicly that it intends to play musical chairs with the Constitution and abuse principles embodied in it to try to shore up its flagging stocks and to ensure that we do not have the first Independent Labor member for Whyalla. The Government would do well to be concerned about that. We only have to read page 3 of the *Advertiser* today where it says that the South Australian Cabinet is meeting in Whyalla in June to meet the people. After 2½ years, it has decided to go to Whyalla to meet the people.

There is only one reason to go to Whyalla to meet the people. Mr Max Brown, currently Deputy Speaker, might be the last Labor member for Whyalla; so, in a last ditch attempt to scramble together the hanging threads, Cabinet is going there to meet the people. I can tell them what sort of message they are going to receive when they go to Whyalla to meet the people. It will start with the electricity tariffs and then go to E&WS rates, particularly with the excess water bills most South Australians have been receiving in the last few weeks.

The Minister may well look rather painfully across the Chamber, because it is his actions as a Minister of the Crown which have touched the hip pocket nerve of South Australians and which will be the undoing of the Government of which he is a member. If there is anything that jades the electors of South Australia it is touching their hip pocket nerve to the extent that this Government has been prepared to do over the last 2½ years and is continuing to do.

The Hon. G.J. CRAFTER: On a point of order, I am not quite sure what the price of water has to do with the Constitution Act Amendment Bill currently before us, including this amendment of the Leader of the Opposition which I believe he intends to debate.

The ACTING CHAIRMAN (Mr Klunder): I do not uphold the point of order. However, the honourable Leader is broadening the matter beyond the purport of this clause, and I ask him to come back to the matter before the Chair.

Mr OLSEN: The reason for this series of amendments is the track record of the Government, and if one looks at the report on the Cabinet meeting at Whyalla, one sees that the headline above it tells the story: 'Opposition gains ground on the Bannon Government.' Too true it is gaining ground. There were only one or two people on the opposite side who I thought were oncers, but it even extends to the member—

The ACTING CHAIRMAN: Order! I ask the honourable Leader to confine himself to the matter before the Chair.

Members interjecting:

Mr OLSEN: I can well understand the sensitivity of the Government to the latest opinion polls, and it is showing plainly on their faces.

Mr Hamilton: You don't even know, you goose, and you're the Leader.

The ACTING CHAIRMAN: Order!

Mr OLSEN: The member for Albert Park's margin is cut from 16 per cent to at least 12.5 per cent, and it might be sinking a little lower than—

The ACTING CHAIRMAN: Order! I have asked the Leader to come back to the substance before the Chair, and I will not ask him again.

Mr OLSEN: Thank you, Sir. The substance before the Committee is an amendment that we are proposing to this Bill, and we are proposing that amendment because of the base manipulation of this Government of the Constitution of this State. It is playing around with the most important Statute in this State, and it is doing so because of the headlines on page 3 of the *Advertiser* today. It is all the Government's own doing; it is its own track record and actions. The Government does not like it, because the reality will really sink in on election day. This amendment and subsequent amendments will ensure that the Government cannot abuse the Constitution of this State and cannot manipulate the procedures of the Constitution.

I hope that the Government, once this legislation is passed presumably enacting a four-year term, seeks the assent of Her Majesty, because I would hate Government members, after reading the polls today, to retreat from having this legislation proclaimed and assented to, thereby denying us a four-year Parliamentary term. I can well understand the Government's reluctance to proceed with this legislation. Having introduced it, it expected to get a four-year Parliamentary term. Since introducing the legislation, clearly the tides have changed. Unless this Bill comes into effect and the subsequent amendments proposed by the Opposition also come into effect when the measure is assented to by Her Majesty, it renders ineffectual amendments as they relate to the next election and to the so-called hypothetical case of the Minister, which is not hypothetical at all, because the Government has clearly identified what it intends to do with the Constitution. The Government may wish to ride roughshod over the ALP Whyalla sub-branch, but I notice that the President of that sub-branch is not so keen for them to do that. The oncers are now about to leave the Chamber, having read page 3 of the *Advertiser*. I can imagine why they want to leave the Chamber and not remain to hear the reality and truth of the position.

Ms Lenehan: Do you want to know why we're leaving? It is called motivation.

Mr OLSEN: It would be quite wrong for me to respond to an interjection from a member who is not in her seat and ought not to be interjecting in the first instance. I stress that this amendment is an important one because it embodies the principle and brings into effect those subsequent Opposition amendments on file which clearly give this Parliament the opportunity to rule out the object of the Government to manipulate the Constitution in this State. The purpose of the amendment is to ensure that the electors of this State have, in the final analysis, a say in who the members might be in another place.

The Minister, in his reply, said that, in effect, if there was a vacancy, in allowing the electors to decide through the ballot box who should fill the twelfth position, we are denying the Party represented by the member being elected to this Chamber the right to renominate that member. We are not denying that right at all. We are giving the right to the people, and there is no greater principle in democracy than giving the electors a say. For the Minister to say that we are denying a principle, in which we believe, is incorrect.

He was not gracious enough to acknowledge in his second reading reply that the Liberal Party supports the principle that, if there is a vacancy in another place through, say, resignation or death and an unexpired term remains, the political Party of which that person was a member ought to have an opportunity to nominate the replacement. That is not in question or in doubt.

The Hon. B. C. Eastick: We upheld that in 1981.

Mr OLSEN: Indeed. He was not gracious enough to acknowledge that the Liberal Party was prepared to support that principle. That is not what we are talking about. We are not talking about a casual vacancy brought about by death or some other means beyond the control of any individual: we are talking about abusing the system, and in that instance the people of the State ought to be deciding who the replacement shall be. That is not a denial of any principle. That is not a denial of democracy: rather, it is the principle of democracy. That is exactly the basis and motivation behind the Opposition's amendments on file tonight—the preservation of democracy.

I reiterate one other aspect, namely, that in applying this principle to the Constitution, whilst we have a case example in mind at the moment as has been quoted in this Chamber, this principle once established will apply to all individuals from all political Parties from here on in. The fact that this Government has been prepared to embark upon a course that it has publicly announced has highlighted the shortcomings that exist and the way in which our Constitution is open to abuse. It would be an abdication of responsibility on the part of not only the Opposition but also any member of this Chamber not to seek to redress a shortcoming in the Constitution or to thwart any attempt by a Government or political Party, as well as any individual or member of this Parliament, to abuse that system. To walk away from the problem, whether it involves an individual or any Party, is an abdication of the responsibility that each and every one of us elected to the Parliament is bound to accept.

There is no greater principle that we can be debating at any time in this Chamber than that involving the Constitution as it relates to ensuring that democratic principles are always brought to the fore. For that reason I urge the Committee to support the amendments on file relating to clause 2.

The Hon. G. J. CRAFTER: If this matter were of such great constitutional importance and did embrace the fundamental principles to which the Leader of the Opposition refers, one wonders why it was not introduced and debated in another place but has only been introduced in this Chamber at this stage of the debate. I will be interested to hear the explanation for that. The Leader of the Opposition has in fact argued against his own proposition as I understand from what he is trying to achieve in his amendment, namely, to take the twelfth position, as he referred to it, into a different franchise, a different election. The people at one election will have decided that a certain number of candidates were elected and that they were elected at that election under a certain franchise. He wishes to remove the will of the people as expressed in that election and put one of those positions before a subsequent election. He is tinkering with the will of the people in a most destructive way. Hard cases make bad law.

Mr Lewis interjecting:

The Hon. G. J. CRAFTER: What is being attempted here will create very bad law indeed. If one looks back at the history of tinkering with the Constitution and changing the delicate checks and balances that exist within it, removing the expressed will of the people in this way is undesirable. The Leader said that he accepted the principle that, in the case of a person elected to represent a Party in the Parliament, when a vacancy occurs a person of the same political Party should then be chosen to fill that vacancy. This amendment is quite contrary to that. It is asking that the people then decide, and they could well choose a person of another political Party to fill that vacancy.

Mr Lewis: What's wrong with democracy? Can't you face it?

The Hon. G. J. CRAFTER: That is contrary to the Constitution, which says that persons are elected for certain periods of time.

Members interjecting:

The ACTING CHAIRMAN: Order! The Chair has been very lenient with the member for Mallee. He should not interject, and he knows that.

The Hon. G. J. CRAFTER: Political neuters, as they were called, were elected to the Federal Senate some years ago as a political trick or opportunism of the Premiers of that time. Surely we would have learnt a lesson from that. As this Bill comes to this House it will serve the community well if it is not tinkered with. The fundamental principles which underlie our Constitution are sustained and maintained. The community's confidence in our democratic system is vital. There will be no quicker way to lose the confidence of the people, who are quite capable of expressing their wishes from time to time without having tricks used to try to rearrange the structure of our Constitution in this way. The sanctions, if one is looking for them out of hypothetical situations to which the Leader referred—

Mr Olsen interjecting:

The Hon. G. J. CRAFTER: Well, I suggest that the political arena is where those decisions should be taken. We are prepared to face the political arena as we have always been and do not associate with those who try to tinker with the Constitution—the most fundamentally important document in our political structure. It is with confidence in the electors of this State, rather than with trickery, that we oppose the amendment.

The Hon. MICHAEL WILSON: The Minister talks about the will of the people. All that the Minister can do in answer to the Leader's speech is trot out the tired old cliche that 'bad cases make bad laws'. He talks about the will of the people. What does the Minister think the people who elected the Minister of Agriculture three years ago will feel when they find he wants to use the Constitution as a play thing and opt out of the House to which they elected him, and then he will try to scuttle back into it if he does not get elected into the House of Assembly?

He talks about the will of the people. Does the Minister really believe that that is what those people wanted to happen when they elected the Minister of Agriculture? What a lot of nonsense! I would have thought that the Minister, with his training in the law, would have been able to come up with at least some reasons of credibility, but of course he has not and he cannot. He talks at the end of his speech about tinkering with the Constitution. What does he think the Minister of Agriculture will do? He is using the Constitution as a play thing.

The Minister then says, 'Why was this not brought up when the Bill was in another House?' Of course, it is brought up now because it has been drawn to our attention and what is more important to the people of South Australia is how a certain member of the Upper House wants to tinker with the Constitution—not the Liberal Party tinkering with the Constitution but a Minister in this Labor Government tinkering with the Constitution. Let us have no more of that clap trap or talk from the Minister about cliches and bad cases making bad laws. The Minister made no answer to the case put by the Leader of the Opposition. There is no doubt that this amendment is necessary and that the people of South Australia will understand that it is necessary.

Mr BLACKER: I support the amendment that is put forward because I believe the Government is trying to fiddle around with our Constitution and our laws and, more particularly, with the precedents that have been set over generations in this country. To my knowledge, there is no other Parliament where any member can have two bites of the cherry. It is just not on.

This is a disgraceful and despicable piece of legislation that the Government is trying to get away with. Let us point out the folly of it. What would happen if the Hon. Martin Cameron wanted to become Premier, for argument sake, and moved down to a safe House of Assembly seat here? Honourable members can laugh about it, but that is exactly what the Government is doing. It is fiddling with it and trying to manipulate the system to help itself.

Mr Groom: Would you support Cameron for Premier?

Mr BLACKER: It is not a matter of whether or not I support the Hon. Martin Cameron for Premier. My point is that it can be just as easily manipulated, and would be scorned by the Government if they did so, by other Parties. It is quite wrong and despicable. According to my recollection, section 13 of the Constitution states that, subject to the provisions contained in that Act, as at the dissolution of the Legislative Council every member of the Council, except the member chosen to fill a casual vacancy, shall occupy his seat for a term of six years, at least, calculated as from the first day of March in the year in which he was last elected and for such further period as is provided for the next succeeding session. It goes on, but that sets out quite clearly and plainly exactly what is the intent of the people and that an honourable member went to the people on the basis that he was going to be elected for a six year term of Parliament.

Mr Groom: So did Malcom Fraser and David Tonkin—they pulled out.

Mr Olsen: David Tonkin did not go early.

The ACTING CHAIRMAN: Order! The member for Flinders has the floor.

Mr BLACKER: Thank you, Sir. I point out—

Members interjecting:

The ACTING CHAIRMAN: Order! Interjections are out of order and the member for Flinders has the floor.

Mr BLACKER: Two names have been mentioned by way of interjection—the Hon. Malcolm Fraser and the Hon. David Tonkin. In both cases when they vacated their seat they were not hanging onto the option of one seat and contesting another; they got out of politics.

Mr Groom: But they told the people—

Mr BLACKER: The honourable member is only creating smoke screens now, but we have a member in the Upper House who is trying to hang on to one seat and contest another. If he misses out he will whip back into the other. It cannot be done in any other Parliament. If any member here wanted to go to another House, it could not be done. If any member wanted to go to the Federal or another State Parliament it could not be done. One has to break the ties, and, in effect, be a clean skin. The amendment of the Leader of the Opposition should be supported strongly because it is a very serious and grave principle embodied in our Constitution about the rights of individuals.

Mr Groom: So is the President's power.

Mr BLACKER: The honourable member has done his level best to get the subject of this debate away from the real crux of the matter. Honourable members opposite should be condemned roundly. Immediately the Hon. Mr Blevins' attempt became known publicly (it occured when I was out of the country but by the time I got back within a couple of days I had numerous contacts at my office saying, 'What is going on? How can he do it?'), frankly every one of us probably had a similar reaction from the community and really did sit down and wonder how they could do it.

I would almost guarantee that there would not have been one member of the Government who, in the first instance, would have known how he could have done it until they went back and had it checked out. They knew darn well it was not the right thing to do. There may be some technicality in the system, but the conscience of that person and their own consciences are in this instance under question. I have been to a number of meetings of various kinds around the community and this subject has come up on numerous occasions. I suppose that there has been the feeling that the honourable member should have been blocked off and prevented from going back and being handed a seat because he happens to be a loser.

Mr Groom: Keith Russack changed over.

Mr BLACKER: The member for Hartley raised the name of the Hon. Keith Russack. He did change, but he vacated the position and could not get back into it. He had to resign and could not return to that position without contesting another general election. It was not possible to be reappointed in those days. He contested before the people in his own right and did not have the option of going from one House to the other should he succeed or fail, whatever the case may be. He did not have a fall back position and the Government should be questioned seriously on its motives, its integrity, and the right of every citizen to be able to do that, because it is just not possible under any other system, except the one that seems to have been concocted in this instance.

It has been applied under an anomaly in the first drafting of the Constitution, and I suppose many Acts of Parliament go on to the Statute Book believing that every option has been covered, but invariably something crops up. In this instance it has cropped up: it has been drawn to the attention of the public of South Australia and this Parliament by the Minister of Agriculture and it is right that this Parliament should now act to correct that situation and make sure that some sanity prevails. I strongly support the Leader of the Opposition's amendment in this case because it is a very serious situation that has occurred. I do not think that any member of this Chamber can honestly and sincerely say that they believe the situation as it presently stands is right and has any integrity at all.

The Hon. B.C. EASTICK: The Minister talked of the will of the people and how important it was, but he is prepared to move into a situation by the denial of the passage of this amendment of allowing a card vote to determine a direct position in the Parliament of this State—a card vote for determination of a position rather than a vote by the people of this State.

For a Party which talks about one vote one value and which campaigned on that issue in respect of the Legislative Council to suddenly turn around and want to allow a decision to be taken after a defeat by the people in the seat of Whyalla as to who would go back there on a card vote, where someone puts up a ticket of 1 000 and another of 13 500—

An honourable member: It does not.

The Hon. B.C. EASTICK: It does. Any member of the Labor Party worth their salt will openly admit it: if the member for Brighton wants to deny reality, be it on her head. The decision would be made and a person elected into another place by a completely undemocratic method which is completely against the principles that a principled ALP a few years ago was prepared to put to the test to the people. It won that argument: now it wants to turn it over because it does not suit its purpose, which is to fiddle around with the Constitution.

Mr Groom: What do you think the President is doing up there?

The Hon. B.C. EASTICK: I am particularly glad that the member for Hartley woke up again and interjected, because I have a little note here and I want to ask him where is the courage of his Government to follow through a promise, made to the people of this State less than two years ago, that it would test precisely what was the position of the President in another place and the Speaker in this place. It has done nothing, because it knows that right is not on its side. If the member for Hartley wants to trot that red herring out again, he should follow it up by making sure that before we rise next week there is a Bill to test that issue. I know and he knows that the Government will not bring that one forward because it recognises that the advice that it tried to trot out in the first instance is wanting and does not hold water.

Members interjecting:

The ACTING CHAIRMAN: Order! The debate in this Chamber will be carried on far more effectively seriatim than simultaneously. The honourable member for Light has the floor.

The Hon. B.C. EASTICK: The same member for Hartley indicated across the floor of the House that the Hon. David Tonkin went early. The Hon. David Tonkin went to the people of this State more than three years—

Members interjecting:

The ACTING CHAIRMAN: Order! I ask the honourable member for Light to resume his seat. The debate in this Chamber is getting to a rather ridiculous level. I will ask the member for Hartley and the member for Mallee especially to keep quiet and not interject, and I ask that the members of this Chamber allow the speaker on his feet to conduct the debate in an orderly fashion.

The Hon. B.C. EASTICK: Thank you, Mr Acting Chairman, for your protection. The member for Hartley clearly intruded into the debate earlier, on the basis, because that was the context in which it was received, that the Hon. David Tonkin had gone to the people early. The Hon. David Tonkin went more than three years after he was elected. He waited until he was more than three years into his term of office, and there is no denial at all that he could have gone almost five months later.

Mr Groom interjecting:

The Hon. B.C. EASTICK: I trust that the member for Hartley would give the member on his feet the opportunity to develop the argument and to answer the idiocy that the honourable member himself injected into the debate by his inane interjections. The Hon. David Tonkin took his Government into an election situation after it had gone beyond a three year period, but what has the present Premier publicly stated?

The Premier of this State (Hon. John Bannon) has very clearly indicated within the past week that he is contemplating an election less than three years from when he was elected. The member for Hartley talks about people going early, and he is a member of the Government that has indicated that it could go to the people in October 1985. The member for Henley Beach shakes his head: he had better read the papers and listen to the news media.

Mr Ferguson: I am running a book on it.

The Hon. B.C. EASTICK: The member for Henley Beach will not make the determination, so I would not say that his book would be any good. The odds that he gives will not be worth a thing. We have a position that the denial of the passage of what is completely understandable to the people of South Australia and what is completely safeguarding the position of the people of South Australia ought to be accepted by every member in this Chamber, because it gets back to the basic principle that a person elected to Parliament does not have two bites at the cherry at the one election.

Members of the Government, in denying the passage of this issue, seek to misuse the intent of the Constitution. They deny the closing of a loophole which has been identified and which gives an opportunity for one of their own colleagues, albeit from another place, to tamper with the constitutional intent of this State. I make the point very clearly, as my colleague the Leader did, that the clear evidence coming from the seat of Whyalla is that, whether the Premier himself stands or the Minister of Agriculture from another place, when we reconvene an Independent member for Whyalla will be sitting on this side of the House.

The Hon. JENNIFER ADAMSON: I support the amendment moved by the Leader of the Opposition. How bankrupt can a political Party be when there is no talent on its existing front bench in the House of Assembly, where the Government is formed, and when that Party has to manipulate the Constitution in order to attempt to bring a member from another House into the House of Assembly to provide some kind of deputy leadership? How utterly bankrupt and unethical can a Party be when the talent is spread so thinly that it has no-one in this House on whom it can depend for the deputy leadership, let alone a candidate for a seat which should normally be a safe Labor seat and which it is now seriously threatened with losing.

This whole debate has been absolutely illustrative of the complete paucity of talent, ethics and principles in the Labor Party. The Minister has the grace to look embarrassed, and well he might. It is worth contemplating that whatever happens on the floor of this House tonight in terms of the fate of this amendment, the people of Whyalla can be relied on to see through the machinations of the Labor Party and to exercise their sound judgment in terms of the candidate they choose.

Whatever happens, in relation to this amendment, it is a reasonably sure thing to presume that they will not choose a candidate who represents a Party which, as I say, is so bankrupt, so devoid of talent and principles that it is contemplating exploiting the Constitution and its now obvious deficiency in the manner that the Labor Party proposes to do.

Mr PETERSON: As is the case in most debates, there is an element of validity in everything that is said. I must say that I have heard a lot here tonight with which I agree. However, I disagree very much with the principle of one having two bites. I have made this clear in private discussions with many members here tonight, and I have referred to this in previous debates. I am very concerned about this two bite situation. I have discussed this Bill with the Electoral Commissioner in an attempt to obtain a valid opinion as to whether or not this legislation would work. I have also discussed the matter with other people, and unfortunately I am of the opinion that the amendments are not practical.

I agree strongly with what the member for Coles said. I believe that the people of Whyalla will make a decision, if such a circumstance comes about. What has been missed by some speakers in the debate tonight is that this is possible right now, and the Bill as it stands does not change anything. Right now it is possible for a casual vacancy to be filled. Under the two House system it is possible for someone to resign right now, contest an election and be re-appointed. The Bill, as such, does not change that. I have taken advice on this matter and I believe that it is possible to get around the amendments, as proposed. That is the advice that I have received from people. The Leader of the Opposition is in print as saying in relation to the billboard situation that the Electoral Commissioner is a man whose judgment one can trust.

Mr Olsen: I said that he was a fair man.

Mr PETERSON: Well, he is a fair man. That is the opinion that he has given. I am concerned about this situation. I really believe that the Government would be stupid to do this, because I think that the South Australian electorate will react to it. I believe this sincerely, and I publicly state here tonight that I believe it would be stupid for the Government to do this. I cannot support the amendment, because advice from people whom I believe and trust is that it is not possible to apply this correctly, and that it would still be possible to get around it.

Mr INGERSON: I support the Leader, and in doing so I will refer to some comments that have been made in this debate. I refer particularly to comments made about the previous member for Bragg. One thing that should be quite obvious to all members is that, whilst the previous member for Bragg may have resigned a short time after an election, at least a by-election was held following his resignation and another member for Bragg was elected. The people had the opportunity to elect another member for Bragg, and that is called democracy. Reference was made to the former Tonkin Government's term of office: however, there is no question that the former Government went for three years and two months.

Mr Groom interjecting:

Mr INGERSON: The 'mouth for Hartley' often gets things wrong, and in this instance I think he has got it wrong again. It is clear that the Tonkin Government's term of office was three years and two months. As far as I am concerned, in relation to the matter that has been referred to, it is like going to the races and backing horses each way. That is what the Government is doing; it is saying that a member elected to the Upper House for six years who has been a good fellow will be brought down to the Lower House, because a member is needed to help on the front bench. The Government is proposing that the member shall go to the people democratically, but that if he loses that will be all right because he can return to the Upper House. This really is a toffy sort of system—it is a joke! If the Constitution enables that sort of thing to happen, it needs to be changed.

This has been highlighted in the past few days in relation to the seat of Whyalla, and because it has been highlighted the Act should be amended to facilitate changing the system. I think that the Opposition's amendment should be supported by the Committee. It will remove once and for all the opportunity to back individuals each way. This action clearly exposes the moral bankruptcy of the Government, which is prepared to say it is all right to back someone each way, that if the member of the Upper House is unsuccessful in being elected to the Lower House he can return to the Legislative Council and serve his remaining three year term.

In all instances, the will of the people is what a democratic system is all about, and in that regard this proposal is quite hopeless. A comment was also made in relation to Mr Russack. He resigned his position and took his chances in the electoral system, and he was elected by the people to serve in the House of Assembly. We are starting to get used to the sort of nonsense that the member for Hartley puts forward and, again in this debate, in three instances, his comments have been wrong.

Finally, we need a system which clearly provides that one can be elected only to one House and that one must serve one's term in that House or else resign and get out. If a person wants to take up a position in either House one must take one's chances in the same manner as every other candidate. The other thing that the member for Hartley referred to was the position of President in the Upper House. It is interesting that members of the present Government have been mouthing off about the fact that the President of the Upper House does not have a Constitutional vote. The Government has had several opportunities to test that, but what has occurred? All we get is noise, and we get nothing when it really comes to the crunch. The member for Hartley gets up and says, 'What about the President?' What has the Government done about testing this situation? It has done absolutely nothing. It maintains that it is a jurisdiction problem. Government members should test the matter instead of just sitting in this Chamber and mouthing off. Why do they not do something about it?

Mr M.J. EVANS: I support the remarks of the member for Semaphore. There are some difficulties which I will address. First, I for one am very strongly opposed to the principle that a person should attempt to use an opportunity provided by the Constitution, having been rejected by the people, to return to this Parliament. However, that situation has not yet occurred and the present provisions of the Constitution provide for it. I had a recent experience where political Parties used systems and electoral laws and the like for what they thought might be their own advantage. As it transpired, the citizens of Elizabeth made their choice on 1 December last year and I was the beneficiary of that choice. However, my opponent at that time had an option under Labor Party rules to retain his pre-selection for the seat of Briggs. In effect, that would have given him two bites at the same cherry; the same sort of problem we are addressing tonight. That gentleman chose to renounce his option to return to the seat of Briggs.I believe that that was a very appropriate and responsible course of action for him to take.

We have yet to hear whether the Minister of Agriculture will run for the seat of Whyalla, and we have yet to hear whether he will use his option to return to the Legislative Council, which is provided for under the present Constitution. It also seems to me that the amendments drafted by the Leader of the Opposition do not preclude an ambitious and dedicated bender of the rules from returning to the Legislative Council, if he so desired. By simply resigning very close to the death knell for nominations, there would not be time to call additional vacancies. There would not be time—

Members interjecting:

Mr M.J. EVANS: I have studied the amendment.

The ACTING CHAIRMAN: Order! I ask members of the Opposition to pay the honourable member for Elizabeth the courtesy of allowing him to have his say.

Mr M.J. EVANS: As I was saying before that interruption by the Leader of the Opposition, who was heard in silence on my part, we have yet to determine what the situation will be with respect to the forthcoming election. If any member of the Upper House attempts to return to that Chamber, having lost an election for the seat of Whyalla or any other seat, I would say that the people of South Australia would judge that action very severely. If that person does not renounce that right prior to the election, say for the seat of Whyalla, I would expect that the people of Whyalla would also judge him very severely, much the same as occurred in Elizabeth last December.

We need a political solution not a legal solution to this problem. I believe that the people of South Australia would correctly exercise that political judgment. I do not believe that under the system of Parliament that we have under the Constitution of South Australia it is legally possible to prevent what could hypothetically occur in this case, unless—

Mr Ashenden interjecting:

Mr M.J. EVANS: Despite the fact that I have been here for only five months, I am well aware of how laws are made.

Mr Ashenden: You wouldn't think so by what you are saying.

The ACTING CHAIRMAN: I ask the honourable member for Todd to cease his interjections.

Mr M.J. EVANS: It would be quite feasible to abuse the system prescribed by the Leader of the Opposition. I also believe it would be quite unfair on the other people who might have nominated for 12 vacancies in the Legislative Council if that twelfth vacancy were only to become known moments before the close of nominations. Those Parties which had elected a group of people to represent them on the Legislative Council ticket would be at a severe disadvantage if they only became aware of the 12th potential vacancy—and, therefore, lowering of the quota—minutes before the close of nominations, at which stage they would have no chance to nominate further candidates. All other people in this State are entitled to nominate for that twelfth vacancy, as much as any other member, so to change the number of vacancies for an election minutes before the close of nominations in my view is quite inappropriate. If it was possible to produce a reasonable legal scenario for an amendment to the Constitution, I would have felt quite obliged to support that, but I do not believe that what we have this morning—

The Hon. Jennifer Adamson interjecting:

Mr M.J. EVANS: True, I can move amendments, but I am not in the habit of suggesting that we should amend the Constitution of this State on a hypothetical basis in an effort to get one individual—

Mr Lewis interjecting:

Mr M.J. EVANS: I can see that I may have to change my views about interjections in this place.

Members interjecting:

Mr M.J. EVANS: At least I am making my views known, and I believe that certain members should respect the right of other members to make their views known in this place. That is how laws are made and that is why we were elected. I do not believe that the Leader of the Opposition's proposition would ultimately remove that loophole. We have also yet to see that loophole demonstrated. The Minister of Agriculture might win that seat, although in the circumstances which are being portrayed for his return to the Upper House I doubt it. If that were to occur, there would be no problem and no loophole. We have not seen the Constitution abused in that way in the years that it has been available.

I am certainly opposed to the concept that the number of vacancies for the Legislative Council can be changed at five minutes to noon on the day of nomination. I believe that is an entirely inappropriate solution so, unless a more practical means can be devised to prevent this loophole occurring, I think the only solution has to remain political rather than legal. I am prepared to leave that solution to the good judgment of the people of South Australia and, in particular, should the case in point come to pass, to the people of Whyalla.

Mr BECKER: I do not think I have ever heard such a poor argument in all my life. The member for Elizabeth has been here for only five months, but after a few years he will soon find how unprincipled the Party in Government is.

Mr Groom: How can you talk after the way you manipulated electoral reform in this State?

Mr BECKER: I did not do it—I did not manipulate any electoral system. I have not been here to be party to any manipulation of the electoral system. I was in this Chamber when we supported the change to the franchise system.

Members interjecting:

Mr BECKER: The bloody mouth from Ascot Park—the know-all of everything. I think it would be best if he went back to sleep and worried about Dr Jennings. The Leader of the Opposition is quite right in what he seeks to do.

Members interjecting:

The ACTING CHAIRMAN: Order! It is absolutely ridiculous the way this debate is proceeding. The honourable member for Hanson cannot be heard in this part of the Chamber. I ask that all interjections cease.

Mr BECKER: I have always believed in the principle that two wrongs do not make a right. The Leader of the Opposition is quite right in what he seeks to do, that is, to close an obvious loophole. It is unprincipled when a member can be brought from the Legislative Council to seek election to this Chamber and, if they miss out, they can return to the Legislative Council by being appointed to the vacancy that they created. What an insult that is to the electors and the taxpayers of South Australia, who must finance the election for that very purpose.

This is the first Government I have encountered in many years that has awarded its Ministers and members sick leave. I can remember a Premier of this State who wanted to take sick leave but was denied that opportunity and had to resign. What happens if we have the unfortunate situation where a Minister is ill, has to resign his seat and a by-election is called? A member could come from the Legislative Council to contest that by-election. If he misses out, he returns to the Legislative Council. It is rather good mateship, and it is a nice club situation that the current Government is trying to create in South Australia. I think it is an absolute disgrace. The taxpayers of this State are not going to accept this situation and it is high time that we corrected these anomalies that exist in our Constitution.

Mr OLSEN: As the Deputy Premier rightly points out, there is a bit of competition on this side for the Ministry, as we will be there next time. There is a queue to join the front ranks on the other side and I am pleased that the Deputy Premier is prepared to publicly acknowledge that we will be forming the next Ministry in South Australia. The Minister is attempting to defend the indefensible. I do not honestly believe that a person of his legal background and integrity really believes in the argument he is putting forward tonight. I can only assume that it is because of Cabinet solidarity—an attempt to secure the position of the Party—that he is taking this line in the debate.

The member for Hartley sits on the back bench like a chihuahua and will not get to his feet and participate in the debate but, rather weak kneed, is prepared to interject. What is more, he interjects with non-factual information. He has not had any truth on his side with his interjections, which makes his contribution to the House all the more reprehensible. If he has something to say why does he not get up and say it like a man instead of interjecting and chipping away from the back bench. Let us take some of the interjections of the member for Hartley as they relate to Keith Russack, who was a member of the other place and who transferred to this Chamber from the Legislative Council. We heard interjections intermittently from the other side, 'What about Russack, what about Russack?' We will give the record on Russack, a principled person who wanted to transfer from one House to the other. The fact is that he did so. He became a member of this House on 10 March 1973. It so happens that he resigned from the Legislative Council on 28 February 1973: he resigned before he went to the people as a candidate contesting a seat in the Lower House.

The Hon. Michael Wilson: A manly thing to do.

Mr OLSEN: Of course it was a manly thing to do—it was the principled thing to do. He was clearly prepared to put principle first. What about the interjections, 'What about Tonkin and early elections?' That issue has been dismissed and I will not canvass it again. The honourable member has clearly been proved wrong in that.

Members interjecting:

The ACTING CHAIRMAN: Order! I ask the Committee to come to order. It sounds more like a football match than a Parliamentary debate. I ask honourable members to contain themselves and allow each speaker the proper use of the parliamentary floor. The honourable Leader.

Mr OLSEN: I mentioned earlier that the Minister did not have the good grace to acknowledge that we on this side want to preserve the convention that where a casual vacancy occurs in another place for a variety of reasons, the Party of which that person was a member ought to have the opportunity to nominate the successor.

The Hon. G.J. Crafter interjecting:

Mr OLSEN: No, not except in this case at all. Suddenly the hypothetical case has become the case. The Minister is now acknowledging that the hypothetical case will take place. I wish to read an extract from the assembly of members of both Houses to elect a member of the Legislative Council on 1 June 1982 to fill the vacancy in relation to Mr Dunford. The then Premier, David Tonkin, said in nominating Mr Feleppa:

> I am following the broad convention that has been established in recent years for filling casual vacancies in State and Federal Houses. Although this present procedure does not adhere strictly to that established previously, the Government certainly has no desire to object in any way to the Labor Party's selection. On the contrary, it firmly believes that the delicate convention which has been established to fill casual vacancies in this place should not at any time be cast aside.

Let those comments about the performance of the Liberal Party in the Parliament of this State be clearly on the record.

I want to turn to the contribution made by the so-called Independents, and I am disappointed that the member for Semaphore is not here because the remarks I want to make are remarks I would want to make to his face. The responsibility of members is to represent those who elect them. If ever there was a case for the so-called Independents to exercise that right on behalf of their electors in supporting a principle that they both have acknowledged in this Parliament, this was in fact the point of time, the case for the test. It was their opportunity to stand up for a principle: it was their opportunity to express what I have no doubt is the wish not only of the majority of people of this State but also of the people whom they represent. I am sure they would concede that privately, if not publicly.

It seems clear to me that the so-called Independents in this place are not named accurately. They are not independents. They are not independent in mind, thought or deed, and that has been clear in their track record in this House. It is quite clear that in some respects at least that the option to return to the Labor Party when invited must be kept open. For that reason, no-one wants to blot one's copy book for the future, ruling out that opportunity.

I am disappointed that, in view of the fact that both Independents have said they believe in the principle, they have sought an excuse. The excuse of the member for Semaphore was he had had discussions with the Electoral Commissioner and, as I had said he was a fair man, then in this instance his determination ought to be right. I pointed out, (and I point out again) to the member for Semaphore that the amendments before this House today have been drawn up with legal advice. Parliamentary draftsmen drew them up. There was consultation with legal practitioners to ensure they made up a set of laws that the Electoral Commissioner could implement.

As to the filling of the twelfth vacancy, (to quote the member for Elizabeth, at five minutes notice), the honourable member well knows as I do that the major political Parties in this State drew up a team to ensure that that team is greater than the possible number of vacancies that are likely to occur or in relation to the option for that Party to fill that number of vacancies in the House. He well knows that, as indeed I well know that. Five minutes notice in that instance will not make one iota of difference, and well he knows that. We are seeking to give the option to the people of South Australia—

The Hon. G.J. Crafter: You are taking it away from them.

Mr OLSEN: The Minister says we are taking away the right of the people of South Australia. Good grief, man, we are giving the people of South Australia the right to elect an individual to Parliament. That is democracy at work. It is not a denial of democracy.

Mr Trainer: You are changing the franchise.

Mr OLSEN: Changing the fanchise—the franchise has been changed by the individual who wants to hop around between the Houses in this State, who wants to use the Constitution for short-term political gain in an attempt to secure the seat of Whyalla. That is what this case is all about. The Minister asks the question: why did not we argue this case in the Legislative Council? The reason we did not argue it in the Legislative Council, and well he knows it, is that the reality of the position surfaced only in the past week or 10 days. The Labor Party—

Mr Trainer: This legislation came in months ago.

Mr OLSEN: The example that identified the shortcoming was identified by the Labor Party, the State Secretary, and by the resignation of Mr Elkins, I think, who was the endorsed candidate, under marching orders from Trades Hall. He was told, 'Resign your seat, we will give you a job at Trades Hall. Get out of the way, because you are going to go down the tube. To replace Mr Max Brown, we need a Labor Party candidate, not an Independent Labor candidate, because we cannot afford to have any more of them.'

I do not know why Government members are worried about Independent Labor members, because they always vote for them. There is no difference; they just do not have to go to their Caucus meetings. They are always on board, so I do not know what the concern is. We did not debate this issue in another place because the case example had not been identified and the shortcoming of the legislation had not been brought to our attention nor to the attention of the public of South Australia. Well the Minister knows that fact.

Our having identified a shortcoming in the legislation and having identified where the loophole is as a result of the Government's inept handling of the prescribed preselection process in Whyalla it would be an abdication of responsibility not to seek to amend the legislation, not to just take into account Mr Blevins, but to put in the legislation a principle to ensure that as a matter of principle nobody can abuse the Constitution in this State for short term political gain. That is what members opposite are saying and they know it.

Mr Groom: That is what you did in Mitcham.

Mr OLSEN: The member for Hartley has woken up again. It will be interesting to see whether he is prepared to get to his feet in a minute and make a contribution in this debate, or whether he will be spineless enough to interject all the time. If he is not, perhaps he will go back to sleep and we can get on with the debate a little more cohesively and with a little more fact to it than he has been capable of injecting thus far.

Mr Becker: He'll never make the front bench.

Mr OLSEN: Exactly. That is obviously part of his frustration—he is still sitting on the back bench and has not got down to the front bench. I can well understand the frustration with some of the talent on the front bench.

Ms Lenehan: Why do you have to get so mercenary?

Mr OLSEN: The member for Hartley has continued to interject. If the honourable member looks at those interjections, she will see that he is getting back what he deserves. I ask the member for Mawson to have a close look at the

record, and well she would identify that if she did so. The honourable member may not now be aware of it, as she has not been within the Chamber for a considerable amount of time when the member for Hartley has been interjecting. To some extent, I suppose she is excused for not understanding that.

This Parliament now has an opportunity to redress a shortcoming in the Constitution. If it seeks to avoid that opportunity, it is abdicating the responsibility that has been entrusted to members of this Parliament. The set of amendments is workable. The amendments are capable of being put into effect by the Electoral Commissioner without serious disadvantage to any major political Party or individual that would seek to stand for the Legislative Council. That clearly cannot be denied.

The amendment before us ensures that subsequent amendments that I will move later have the capacity to come into effect so that we ensure not only that this principle is placed in the Constitution from hereon in but also that it cannot be abused in the short term. The position has been identified, and in this respect I refer not to a hypothetical case but clearly to the direction that will be followed by the Minister of Agriculture as it relates to the City of Whyalla, given half a chance. What is the Minister at the table proceeding to do?

Members interjecting:

Mr OLSEN: If the President of the Whyalla sub-branch of the ALP has anything to say about it, he will not be nominating, but I suppose they will not say much about it. It seems that the local Labor people do not have much say in their preselection process. Trades Hall has all the say. That is exactly the process that the Minister wants to maintain. A card carrying system of trade union officials will nominate the person to fill the vacancy, not as we want to do—give that right to the electors of South Australia, the voters.

That is where democracy starts, with the people exercising their vote in the ballot box. That is where it should start and end, and that is what the amendments placed on file and proposed by the Liberal Party seek to do. Any individual who denies that opportunity denies a basic fundamental democratic right to South Australians, is prepared to continue to allow any political Party or individual to manipulate the Constitution and the most important Statute that we have in this State.

The Hon. MICHAEL WILSON: I want to comment briefly on the contributions made by the members for Semaphore and Elizabeth, because I am extremely disappointed in those contributions. Both members were elected to this place as Independent Labor candidates and one would assume, as their electorates assumed, that on most occasions they would support the Government or the Labor Party, and that would be a reasonable thing to expect.

However, they were elected as Independent Labor candidates, and there is no way that they can go through their time in this House merely being pale pink acolytes of the Labor Party—because that indeed is what they are. There have been a couple of occasions when both the member for Elizabeth and the member for Semaphore have expressed dissatisfaction and concern about what the Government is doing, and this has been one of those occasions. Both members will be judged by their electors as to whether they are really Independent Labor candidates or not, because they cannot go on supporting the Government willy-nilly when they express grave reservations about what the Labor Party and this Government are doing in South Australia.

They cannot for ever be the tame lap dogs of the Labor Party and expect to retain the respect of their electors. Those honourable members should make no mistake: they will have to face their electors just as much as anyone else in this place. If those two members continue in that manner they will lose that respect as well as the respect of the House. If they want to support the Government on every issue, let them say so and let their electors be in no doubt. The member for Elizabeth said that according to some advice he had received in his discussions, the Leader of the Opposition's amendment was unworkable.

The Hon. B.C. Eastick: Did he demonstrate that?

The Hon. MICHAEL WILSON: He did not—despite having said that he was concerned about what the Labor Party was doing as it was against what we believe are his principles. However, the member for Elizabeth was not willing to let the amendment stand the test. If he really believes this, as his public statements indicate (I include the member for Semaphore in this), and if people are to believe their statements that they are against what the Government is doing, then why are they not willing to let the amendments stand the test? If the honourable member really believes in what he is doing, he would have supported the amendment of the Leader of the Opposition and allowed it to stand the test. It would have shown his electors that he believes in standing up for their beliefs.

This is a sad day for the electors of Semaphore and Elizabeth because, once again, they have seen their elected representatives caving in to the Government when they had their chance: after having informed the Government of their concern—not lobbing it on the Government by surprise—and having informed the Attorney-General of their concern, this indeed was their chance to show their electors that they were really men.

The Hon. B.C. EASTICK: I draw the attention of the Committee to Parliamentary Paper No. 143, which appears in volume IV of the Parliamentary Papers of 1977-78. I refer to a joint sitting of the two Houses for the choosing of a senator. I am not trying to suggest that the choosing of a senator is precisely the same as the choosing of a Legislative Councillor, but there are some very firm principles laid down by a Labor Party that could be trusted, as opposed to what we have had an exhibition of here tonight, on a very strong principle. That strong principle was enunciated by none other than the Premier of the day, the Hon. D.A. Dunstan. On that occasion, there had been the unfortunate demise—

The ACTING CHAIRMAN: The member for Semaphore will please sit down.

Mr Peterson interjecting:

The ACTING CHAIRMAN: Will the honourable member for Semaphore please take his seat. I ask the honourable member for Light to address the Chair, please.

The Hon. B.C. EASTICK: I have never thought of doing otherwise: I was just waiting for the member for Semaphore to enter the debate.

The ACTING CHAIRMAN: I am extremely pleased about that. I am merely requesting that the honourable member address the Chair.

The Hon. B.C. EASTICK: I was pointing out that at this time there had been a resignation from the Senate: Senator Steele Hall had resigned. The Houses, having been advised of the vacancy, met together on 14 December 1977. The Premier, supported by the Hon. Mr Millhouse, nominated Mrs Janine Haines, whose written consent they had obtained. Subsequently, the Leader of the Opposition (Mr Tonkin), supported by the member for Torrens (Mr Wilson), nominated Dr Baden Chapman Teague as the nominee of the joint meeting. That having been put forward to the House, the Hon. D.A. Dunstan said:

> In appointing a senator to fill the vacancy which has been created by the resignation of Mr Steele Hall, it is important that this Parliament maintain the precedents that it has set. It has constantly been the view of the South Australian Parliament that,

in making appointments to vacancies in the Senate, it is requisite that we endeavour effectively to give voice to the views expressed by the electors at the election of the senator.

Transpose that into 'the election of the Legislative Councillor'.

An honourable member: Original.

The Hon. B.C. EASTICK: Original? An election has been interposed between the election of the potentially resigned Legislative Councillor. There is no difference. There has been an election and this is the man who wants two bites at the cherry. We come back to what was being said. The Hon. Mr Dunstan further said:

We are, in effect, trustees for the electors, and it does not simply lie in our right to make a choice of anyone whom we choose. It is our duty to endeavour to give effect to the electors' wishes at the time of the election of the senator whose retirement or death has caused the vacancy.

The Minister might smile, thinking that that has suddenly given him an argument.

The Hon. J.D. Wright interjecting:

The Hon. B.C. EASTICK: I cannot believe that the Deputy Premier is that dense. Certainly, under normal circumstances he is not dense.

The Hon. J.D. Wright: It is 25 to 2 in the morning, of course!

The Hon. B.C. EASTICK: Who are the managers of the House? Further information is covered in the debate to which I referred, which covers some seven or eight pages.

Mr Ingerson interjecting:

The ACTING CHAIRMAN: Order! I call the member for Bragg to order.

Mr Lewis: What about the member for Ascot Park?

The ACTING CHAIRMAN: I am the person in charge of the Committee.

Mr Lewis: You could have fooled me!

The ACTING CHAIRMAN: I would hope that the member for Mallee is not reflecting on the Chair. I ask that all interjections cease. I expect all honourable members to comply with that reasonable request. We are not at a football match; we are engaged in a Parliamentary debate, and I expect members to act with appropriate decorum. The honourable member for Light.

The Hon. B.C. EASTICK: I do not want to refer to the entire debate. I have drawn the attention of members to comments made by the Hon. D.A. Dunstan in the debate clearly outlining a view that we would seek to follow, on the basis of a person having been prepared to accept and maintain his occupancy of a seat. A member who seeks to double dip should therefore be disqualified, and on the basis of the argument put forward by the Hon. D.A. Dunstan and other speakers on a previous occasion, it is right and proper that a person who opts out of the occupancy of a seat should no longer be considered. That is the point that the Opposition makes quite firmly. That is something which we believed members of the Labor Party believed in: it is a shock to find that at this time that they are so unprincipled that they do not respect or accept—

An honourable member: Desperate.

The Hon. B.C. EASTICK: 'Desperate', my colleague says: I was not going to be so uncharitable, but that may well be true.

The Hon. J.D. Wright: Tell us about John Mathwin while you are on your feet.

The Hon. B.C. EASTICK: I have had no indication of where the member for Glenelg comes into this argument. However, he will be re-elected, but he will be looking at the Deputy Premier of today from that side of the Chamber, provided that the Deputy Premier can retain the seat of Price against the Independent candidate.

Mr LEWIS: On a point of order, Mr Acting Chairman, is it permissible for members to eat in the Chamber?

The ACTING CHAIRMAN: It is not permissible for members to eat in the Chamber, and I ask any member who is eating in the Chamber to refrain from doing so.

Mr LEWIS: On a further point of order, Mr Acting Chairman, do you believe that the Deputy Premier is doing no more than ruminating while he chews?

The ACTING CHAIRMAN: I do not accept that as a point of order.

Mr LEWIS: I ask you, Mr Acting Chairman, to rule on whether or not the Deputy Premier is eating.

The ACTING CHAIRMAN: I do not accept that as a point of order. The honourable member for Light.

The Hon. B.C. EASTICK: I hope that not only the members of the Government but the Independents identify that they are Independents and do what is best for the people of South Australia by supporting the amendment put forward by the Leader.

Mr LEWIS: I add my disgust to that of my colleagues in relation to what the Labor Party is doing and what the Independent members of this Chamber are gutlessly happy to do—take their salary and allow the Labor Party to act in this way. While the food from the Deputy Premier's mouth extrudes over his fat bottom lip, in spite of my having drawn your attention to it, Mr Acting Chairman, I will try to continue to concentrate on the merits, or the lack of them, of the arguments presented by my colleagues to the Deputy Premier. In the first instance, we have the bullock's effort from the member for Hartley. We saw a member unwilling to make any contribution other than to cackle, as though he was capable of producing something of substance and excited about the prospect, but was not quite mature or able enough to do so. The feathers fly: the noise comes. But there is nothing of substance presented to the record in the formal sense as required by Standing Orders.

Nonetheless, it is relevant to remind the member for Hartley that the colleague who sits next to him, the member for Florey, had a predecessor who, in unfortunate circumstances, left the Chamber. Yet, the member for Hartley can not only interject about the misfortunes of the former Premier (David Tonkin) who through ill health left the Parliament but also infer that the former member for Florey and the former Premier were equally unworthy of not having served a full three-year term. I think that that is what the member for Hartley was trying to contribute to the debate in the bullock's fashion by interjecting.

I know that he is not the brightest of members or, for that matter, possessed of any great integrity, but I at least believe him capable of recognising that the Tonkin Government served the second longest term of office of any Parliament since the inauguration of the South Australian Parliament. Let us look at what has come from the contribution from the two Independent members—and I am disappointed. I am disappointed to find that the substance of their argument is that there should be a political solution; there must be—we should not attempt a legal solution.

Well, damn it, Mr Acting Chairman, the Constitution was produced by politicians to make rules as to how the State would be governed by the Parliament. It is an inane argument to now put before the Chamber that it is inappropriate to attempt to amend it in a fashion to prevent it, and the practice of Parliament, from being abused. It is not therefore, in any sense a reasoned argument, a reasonable argument or anything that one can hang one's hat on, with integrity. Those Independent members caved in to the demands of the endorsed Labor members in this Parliament. I say this to those Independent members and people whom they purport and are paid to represent.

That shows a complete lack of understanding of how the Constitution came into existence. The process by which it

operates will continue to be amended and affect the way in which Parliament can operate, and it will also affect the laws to be made.

Let me turn to the second point, which requires some exposure. If the member for Elizabeth sincerely believes this amendment put by my Leader is wrong or inadequate, where the hell is his amendment? Does he not have that capability, or is he really admitting to members of this Parliament and to his constituents that he does not have the wit, wisdom or courage to do anything about an identified anomaly? I found the contribution from the member for Elizabeth rather mindless, rambling, wheedling, spineless, unworthy and smugly deceitful in its non-representation.

The circumstances of the former member for Goyder, Mr Keith Russack, were referred to in a disparaging way. The member for Light has given clear evidence that that is irrelevant and spurious. The former member for Goyder acted honourably: he resigned from the Legislative Council before contesting a seat in the House of Assembly. However, it is clearly evident that the Labor Party, its representtives in this Chamber and its members in the other place have no intention of acting honourably at all, let alone Frank Blevins.

It is really tragic that it had to come to an occasion such as this to expose this inadequacy. The Labor Party and other members are now saying that is acceptable because they want to do it to suit themselves and they know they will get away with it. There is no way that a debate at 1.50 a.m. will be properly reported by the press to the people of South Australia. The munching member for Adelaide, or whatever he will be, sits smugly knowing that that is the strategy and that is the reason for us still being here at this hour. The fact is that the Labor Party cannot wear the publicity and wants it minimised. It does not have the courage to face reality when it is given the full glare of daylight. The Government will not get away with it, because it is not a principled position to be taking. I am appalled to find that whereas I thought the Minister of Community Welfare had some integrity, I now find he does not.

He is willing, for the sake of convenience and as a member of his Party, to throw principle out the window and argue a case in which he does not believe. The expression on his face during the course of his contribution on this matter clearly indicated to me, and to anyone else listening, that that was the case. I cannot see how you, Mr Chairman, or any other member of this place, can do other than support what the Leader has put, because it is the intention of this amendment to preclude the kind of event that we know will otherwise take place, and to expose that sort of behaviour to public scrutiny, thereby enabling the public to properly exercise its judgment when its trust is so cynically betrayed in the fashion in which the Hon. Frank Blevins and the Labour Party really want it to be.

Mr PETERSON: Everybody has had their slash at a couple of Independents here tonight, and that is their right. I apologise for any transgression that I may have made towards them or towards the conduct of the Committee this evening.

Members interjecting:

The ACTING CHAIRMAN: Order!

Mr PETERSON: It is their right to have their say, and I am big enough to take what they say, although I was angry for a while. However, I am over that. In reply to the smart, smug way in which this has been done, I say that I still believe that the amendment which has been put forward is not viable.

Members interjecting:

Mr PETERSON: Shut your gob and listen. I suggest that an amendment should be moved to provide that a person creating a casual vacancy in the Legislative Council cannot fill that position at the time—

Mr Ingerson: Why don't you move it?

Mr PETERSON: It is suddenly my initiative and the honourable member wants me to move the amendment. Why not say that that person cannot return to fill that casual vacancy? I have said several times during this debate that I believe that this amendment is not right. I have checked this amendment in the way that is available to me, and my information is that it is not viable. My colleague and I have a right to check out matters and to express our opinion about what we believe the situation is, as have other members.

Members interjecting:

Mr PETERSON: I would say that if anybody's character has been attacked and blackened I would be at the top of the list today. If the smart people in this place cannot see a way to resolve this matter, please let a dumb, uninformed, unrepresentative member who does not care about his electorate and the people of South Australia suggest an amendment that might work to replace one that does not work.

Mr OLSEN: The contribution made by the member for Semaphore is a continuing excuse not to vote. He believes in the principle involved here, but does not want to do anything about it—he does not want to put it to the test. He is prepared to say that he believes in the principle that we are fighting for but that the amendment is no good. He, as a member of this House, has equal responsibility and an opportunity, like any other member of this House, to prepare an amendment. If he believes in the principle, why did he not look at the viable options? He did not do so because he does not want to cross the floor and vote with us. The member for Semaphore has sought an excuse. He believes in the principle but it is not viable and therefore he cannot vote for it. It is a cop out, and well the member for Semaphore knows it.

Mr Peterson: Put up the amendment, big mouth.

Mr OLSEN: I am putting up the amendment. The member for Semaphore has said that he believes in the principle, that my amendment is no good and that he wants that principle embodied in the legislation. As a member of this Parliament, he has as much opportunity as anyone else to amend it, to put in the principle and to put up the viable option that he talks about. Why has he not done it? I know why he has not done it. Clearly, he has not done it because he does not want to cross the floor, and well he knows it. It is clearly a cop out.

An amendment is before this Committee that would have given the members for Semaphore and Elizabeth the opportunity to demonstrate that they believed in the principle and put it to a test, but he is not prepared to do that. Rather, he seeks the excuse and the cop out, because the amendments that have been put forward clearly embrace the principle on which all of us agree. The members for Semaphore and Elizabeth agree with the princple—they have said so during the course of the debate. They agree with the principle that we are trying to establish in this legislation. The amendments, which have been drafted with legal advice, seek to close that loophole and embody that principle in the legislation. If the honourable member believes in that principle, why is it not given the opportunity to be tested and tried? It is not on because the two so-called Independents do not want to cross the floor on this issue.

The Hon. Jennifer Adamson: Or any other.

Mr OLSEN: Or any other. There comes a time when it needs to be clearly identified that 'Independent Labor' is a misnomer. It does not accurately describe those two members in this House. They are not independent at all, and the record shows that. Where there is independence of thought, it is not put into action: there are no deeds to back up the

so-called independent thought. We have had independent thought tonight but no action and no deed to back it up. That is not firmness of approach. It is not having clear direction. Quite the contrary: the principle about which we are talking is not bought, and one cannot stress too much the need for this amendment to be carried.

If it is not carried, clearly we have a position where we can abuse the Constitution of the State. The hypothetical case referred to by the Minister will really be put to the test on the admission of the Minister's own Party. In this respect I refer to Mr Schacht, Mr Elkins and Mr Blevins, all of whom have said publicly that they are playing around with a position at the moment. They are creating the opportunity and opening for the abuse of the Constitution to which I have referred. So, it is not a hypothetical case for the Minister and the member for Elizabeth to refer to this as such. I suggest that the evidence by no fewer than three persons individually quoted in the media takes it beyond a hypothetical case and, in fact, establishes it as a matter of course.

It is going to follow as a matter of course, as well we know. The reason for that is the difficulties the Labor Party has experienced in Semaphore, in Elizabeth, and is currently experiencing in Whyalla (and certainly Price is hot on the heels of those other seats). In the lead up to the State election campaign later this year, here is a scramble to patch up the holes in the ship in an attempt to hold it together at any price.

The Hon. G.F. Keneally interjecting:

Mr OLSEN: The Minister of Tourism, for whom I had some degree of respect until he made certain statements, says this is clean stuff.

Mr Ashenden: Here comes the pressure.

Mr OLSEN: I can assure the Minister that he does not have to speak to the Independents. They have made their position quite clear. The Minister need have no fear; he has their votes. They have made that quite clear. He has their vote tonight and on any other occasion that he wants it. That is why I cannot understand all the fuss about Whyalla, because Independent Labor members always vote with the Labor Party. There is no independence about it at all. The principle behind this provision ensures that, if there are changes to this legislation, it has to come into effect to ensure that the abuse of the system by the Minister of Agriculture as it relates to the forthcoming election can be short circuited. That can only be short circuited if—

Members interjecting:

Mr OLSEN: I will be pleased to. In our Party system we allow the local members of a branch to select their candidates. If the member for Mawson has a close look, she will understand that that is the principle behind Liberal Party preselection. We do not have any union heavies coming in with a card vote of up to 50 000 people. That is simply not the case. The track record will well show it. If the member for Mawson gets beyond the newspaper stories and has a close look at the circumstances, the honourable member will know what I am talking about.

Ms Lenehan interjecting:

Mr OLSEN: I often talk to branch members of the Liberal Party, particularly in the seat of Fisher, and that is well known. In fact, members of the Fisher branch of the Liberal Party had the opportunity, on no fewer than three occasions, to exercise their rights as members of the Liberal Party to choose their candidate for the seat of Fisher. That is more than is ever offered to any branch office bearer in the Labor Party, where one does not even get one bite of the cherry. However, in the Liberal Party that option is afforded to those who are prepared to subscribe to the Liberal Party, and are prepared to pay the membership fee, and it will always stay that way. Branch members of the Liberal Party have the opportunity to decide who should represent them in the Parliament, certainly as candidates on behalf of the Liberal Party. Let us have no more of that nonsense, because what members opposite are talking about is not factually based, and well they know it.

My amendment will ensure that it comes into effect and applies to this election date. If we do not support this clause and the subsequent amendments, it means that we can preclude at any future election someone manipulating or abusing the system, but we cannot preclude it happening in this instance. It is important to repeat what I said earlier, because an important principle is at stake: we ought not to allow any political Party to abuse constitutional provisions in the way in which the Labor Party is seeking to do on this occasion, because to abuse and manipulate the system is to hold the system in contempt.

The Constitution ought not to be abused or held in contempt by actions of individuals or political Parties. It should be above that and we, as members of Parliament, should seek to protect that at all times. I reinforce my view that it is important that these amendments be passed. The Independent members in this Chamber have acknowledged that it is an important principle that we are trying to establish, and that acknowledgement should be backed up with action. The two independent members have put the thought to it, but what about putting the deed to it? It is important in this instance that an opportunity be given for the amendments to be put into effect and at least tried.

Mr GROOM: Honourable members should face the fact that this is nothing more than a cynical political exercise on the part of the Opposition. How dare the Opposition talk about political morality when one examines its record over many years. Let us take electoral reform: where was the Liberal Party's political morality when there were 40 000 people in one electorate and 5 000 in another? Where was its concern about the will of the people? I recall a member in another place, the Hon. Mr DeGaris, talking about the permanent will of the people being reflected in people who owned property protecting restricted franchise in another place. Where was the Opposition's political morality then?

The Hon. MICHAEL WILSON: I rise on a point of order, Mr Acting Chairman. A moment ago you cautioned the Committee to stick to the subject under debate, which is this amendment. I suggest that the member for Hartley is drawing a long bow as far as this amendment is concerned.

The ACTING CHAIRMAN: I am not prepared to accept that as a point of order. I have been extremely tolerant to all members on both sides of the Committee, including the member for Torrens when he spoke on this subject.

Mr GROOM: The whole thrust of the Opposition's debate has been the embodiment of some principle on the grounds of political morality. However, political morality has been found to be wanting on the part of honourable members opposite, and I was simply using electoral reform as an example of the way in which they sought to frustrate the will of the people. The Opposition uses the will of the people as the basis of their political morality, but they stood to thwart the will of the people for many decades in this State, and they idly stand by while a Premier in another State gerrymanders his State.

That is one example of the type of political morality of members opposite. What about the Mitcham by-election? How dare members opposite pontificate in this place in regard to some potential or possible situation in Whyalla when here at their doorstep only several years ago they sought to buy the seat of Mitcham by appointing the then member who held out and who was only prepared to accept a higher appointment (he has been a very fine judge, make no mistake of that; I do not criticise him in any way in that regard). However, there was the cynical attempt of members

opposite to buy that seat, and not one of them, when members on this side raised the question of the Mitcham by-election, rose to speak in defence of the Mitcham by-election—they were silent.

Not one of the then Government members was willing to defend the Mitcham by-election because they knew exactly what they were up to. How dare they point the finger at this side of the Chamber and suggest that members on this side are lacking in political morality. Look what they did in the Mitcham by-election. What about the member for Bragg, the former Premier (Mr Tonkin) who went to the people in November 1982 telling them as an individual member that he would serve three years in this Parliament? As soon as he was sacked as Leader after the election—because he lost that election—he resigned and there had to be a by-election. Where is the political morality in that?

Why did not the honourable member serve out his three years as he told the people he would do when he faced them in November 1982? Where is the political morality in that type of situation? This is nothing more than a cynical move by the Opposition. What about the use of the President's powers in another place? Despite the clear intention of the Constitution, there was deliberate manipulation of the use of the President's powers in another place—all for cynical political gain by members opposite and their colleagues to give the President an extra vote in those circumstances.

Members interjecting:

Mr GROOM: The member for Light knows of the jurisdictional and constitutional problems in testing that matter. There has been a blatant attempt to manipulate the Constitution to give the Opposition an extra vote in another place—make no mistake about that. Where is the political morality there? Indeed, one need only read *Hansard*, the debates in 1973 when that Bill was introduced, to see the blatant attempts at manipulation now undertaken in another place.

The Leader talked about union bosses, but what happened in Fisher when the supposedly democratically preselected candidate was dumped or undermined and the Party heavies came in at executive level and took that seat from the endorsed candidate? Where is the so-called political morality there? This is a disgusting performance on the part of the Opposition.

The Opposition has abused the Independent Labor members in this Chamber and tried to throttle their expressions of opinion. That was a disgusting intrusion into the debate. Opposition members repeatedly in the whole history of their Party have shown a lack of political morality. It is reflected in other States—it is certainly reflected in Queensland.

Members interjecting:

Mr GROOM: Of course it is reflected federally. The situation in 1975 is another example of the lack of political morality on the part of members opposite, who forced a democratically elected Government out by using Senate numbers to block Supply? Where is the political morality in that? What about Malcolm Fraser and Doug Anthony? What happened when they went to the people in February or March 1983? Mr Killen was another one. They all told their electors that they would serve for another three years but, because the superannuation provision were changed—

The Hon. MICHAEL WILSON: I rise on a point of order, Mr Acting Chairman. I suggest that the activities of Mr Malcolm Fraser and Mr Doug Anthony have no bearing on the amendment now before the Committee. I suggest that the member for Hartley should be requested to bring his remarks back to the subject of the debate.

The ACTING CHAIRMAN: I believe that the member for Hartley has fully illustrated his point. I ask him to return to the subject matter before us.

Mr GROOM: Thank you, Sir. I wanted to connect my remarks about the casual vacancy and the suggestion of union bosses dominating pre-selections and what have you, and talking about political morality, with the manner in which Malcolm Fraser, Doug Anthony and Killen all resigned from the Federal Parliament to save themselves $250 000 because under the new superannuation rules they could commute only to 50 per cent. Despite the fact that in March 1983 they faced the people and said, 'We will go three years irrespective', within months they had retired.

The Hon. MICHAEL WILSON: A point of order, Mr Acting Chairman. I submit that the member for Hartley has totally disregarded your ruling. I ask that you request him to adhere to it.

The ACTING CHAIRMAN: I accept the point that is being made and I ask the honourable member to now return to the subject matter that is before us.

Mr GROOM: I have almost concluded. I have made the points that I wanted to make. These proposed amendments that deal with the casual vacancy are nothing more than a cynical political exercise simply to wring as much political mileage out of the Whyalla situation—

Members interjecting:

The ACTING CHAIRMAN: Order!

Mr GROOM: It is nothing more than a cynical political exercise to wring as much mileage out of a potential situation in Whyalla—

Members interjecting:

The ACTING CHAIRMAN: Order! I ask the Committee to come to order. I ask honourable members to give this speaker the same respect that other speakers have had and allow him to be heard in silence.

Mr GROOM: Thank you, Mr Acting Chairman. I want to conclude on the note on which I was trying to finish before. I know that it is painful to honourable members opposite to have to sit here and listen to the lack of political morality that exists in that Party in the examples that I have outlined. They do not want these amendments to pass: there is no doubt about that. They simply want to put it up as a cynical political exercise to get as much mileage as they can out of some potential situation.

Mr GUNN: Talk about political morality! Fred Astaire has nothing on the honourable member: he was so quick on his feet! For the Labor Party to talk about morality! In 1970, as Leader of the Opposition, Mr Dunstan went to the people on an issue that he and his colleagues had no intention of putting into effect. They had the member for Chaffey defeated, yet within a few months they brought the same Bill into the House to have passed. The honourable member talks about other States. Political morality in New South Wales! The stacking of branches, the bashing of Peter Baldwin!

Mr PLUNKETT: A point of order, Mr Acting Chairman.

Mr Gunn interjecting:

The ACTING CHAIRMAN: Would the member for Eyre resume his seat?

Mr PLUNKETT: There is no relevance in what the member for Eyre is speaking about. He has not spoken about the Bill. He has waved his hands around and spoken about every State but not the Bill.

The ACTING CHAIRMAN: I make the same request to the member for Eyre as I made to the member for Hartley: that he return to the subject matter of the Bill.

Mr GUNN: This matter has been debated very broadly. The honourable member attempts to prevent me from clearing up one or two matters to which the member for Hartley exercised his mind for some time. Obviously, other members of the Labor Party were not prepared to get up and try to defend the difficult situation in which the Government finds itself. The honourable member belonged to a union

which is about as undemocratic as one can get. There were always disputes between the Federal body of the AWU and the State body. The Deputy Premier was once expelled from the AWU—that is how democratic it is.

Mr PLUNKETT: On a point of order, Mr Acting Chairman, I would like a ruling from you as to what the unions have to do with this Bill.

The ACTING CHAIRMAN (Mr Klunder): I do not accept the point of order. The honourable member for Eyre.

Mr GUNN: This matter has been brought to the attention of the House because the Labor Party conducted a survey in Whyalla. I happen to know a little bit about Whyalla. I think I am the only person who has done any extensive door knocking in Whyalla.

The Hon. Michael Wilson: I understand that you are well respected.

Mr GUNN: I received a reasonable reception there, although there were some rather nasty dogs in one or two places. However, we learnt to overcome those problems—on some occasions I think I was quicker than Fred Astaire's image in the House here tonight. However, it became very clear to anyone with any knowledge of Whyalla that comrade Elkins was finished, that they had to get rid of him. For months it was debated around Whyalla whether Mr Murphy would win. He was the gentleman who nearly got rid of the present member for Whyalla (and I told the member for Whyalla once in this House that Councillor Murphy would make him unemployed—and that very nearly occurred; on that occasion my grapevine was not bad). This matter came to the attention of the Labor Party. The heavies went up there, conducted a survey, and found that brother Elkins would have to go on his way, and that Mr Murphy was going to win. They then had to put on their thinking caps. The President of the Labor Party got rather angry about this, because he was going to be put out in the cold.

It was suggested that the Minister of Agriculture (the Hon. Frank Blevins) should be eased into the position. However, first they had to get rid of Mr Elkins. They had a little chat to him and said, 'Look Doug, you have to go, but we will create a position for you.' I do not think that he went very graciously, because he is not normally a very gracious character. However, they got rid of him. Of course, the Minister of Agriculture was overseas at the time and various comments were coming back from that part of the State about not being able to get the local branch up to the barrier.

I understand that a great deal of discussion took place and, of course, in the meantime it was suggested that a second Independent Labor Party candidate might run in Whyalla. That is what I was told by my contacts in that area. Furthermore, the Liberal Party had endorsed an excellent candidate—a person who is very popular and who presents himself well. Of course that added another dimension to the problems of the Labor Party: obviously, we were going to get a very high vote in Whyalla. Therefore, it was obvious that the Minister of Agriculture would have to be conscripted.

Mr Olsen: A Cabinet visit will help that, though.

Mr GUNN: Yes. The Minister of Agriculture had to be conscripted, but they had to say to him that if another Elizabeth or Semaphore occurred they would fix up the matter for him so that he would be able to go back to the Council and serve out the remaining three years of his term. They are not bad odds. I am not a person who normally has a gamble, but anyone would have a wager with those odds in one's favour.

The Hon. Jennifer Adamson: A 100 per cent certainty!

Mr GUNN: An absolute certainty; he cannot lose. If he loses the House of Assembly contest he goes straight back into the Council—the only difference being that he will be sitting on the Opposition benches. The Labor Party's trying to justify this matter is absolutely amazing, as is its trying to sidetrack the debate with all sorts of attacks about the Liberal Party's political morality. The facts are clear that for years the unions have exercised their card vote and have dominated the Labor Party, but it has caught up with them, because the thinking public has suddenly realised that the Labor Party is not the democratic body it claims to be. It wants one set of rules to apply to everyone else, with another set of rules to conduct Labor Party affairs, and those rules are gerrymandered in favour of the big unions, such as the Amalgamated Metalworkers Union, the AWU, and others.

When I first came into this Chamber I was told, 'If you want to get into Parliament become an organiser of the AWU. It is a ticket into Parliament.' It does not matter what the people outside think about the endorsed candidate. I understand that the member for Semaphore and the member for Elizabeth are now being counselled. We have seen a procession of Ministers up at the cross benches, obviously counselling. As they need more time I should perhaps move that progress be reported so that there is time available for counselling. It is unfortunate that they have to rush, because we could bring the amendment on very quickly. We could come back tomorrow after the discussions have finished and the few little problems at Semaphore are attended to. Electoral matters could be brought on in the next few hours and attended to. Perhaps the problems at Elizabeth could be fixed by then.

This is nothing more than a cynical trick by the Labor Party to work the system. It is not only unfortunate, but morally wrong. The public of South Australia's rights should be protected. The amendments moved by the Leader of the Opposition are in the best interest of the people of the State. In view of the invitation by the member for Semaphore, I look forward to his support. I thank him for being so forthright.

He clearly stated his position, and I hope he will have an opportunity to indicate that support. It would be unfortunate and sad if a man of principle was not given the opportunity to honour those principles. Obviously his colleague will follow him, and we will be able to rectify this situation. I was surprised that the legal training of the member for Hartley was used in such a negative and devious fashion this evening when he skirted around the subject. He did not address himself to the problems and showed little regard for the welfare of the people of the State.

Mr BAKER: My electorate has been mentioned tonight and it is appropriate that I contribute to this debate. There was muffled reference about a number of electorates and members opposite finally hit on one they thought they could go a little longer on. They got the others wrong, and still got Mitcham wrong as well.

The Hon. Jennifer Adamson interjecting:

Mr BAKER: That is right. I am here by the grace of the democratic process and some members opposite cannot say the same thing. If anyone wants to review history they should look at the result in the Mitcham electorate. There was an offer and acceptance before the event. The people made a decision, which was overturned late in 1982. That demonstrates that democracy prevails. The decision of a Labor Government to shift a person from the Legislative Council to Whyalla with a fail safe mechanism of holding a seat in the Legislative Council fails all the rules of democracy.

The member for Hartley and a number of other people mentioned that things have been crook in the past, and mentioned a few names. I am sure that members on this side of the Chamber can mention a few names of people from both sides who have not performed in the way we would wish and for various reasons have left Parliament, and where electoral systems perhaps did not work in the

most democratic fashion. If the member for Hartley wants to go further back he can look at the Queensland system before Mr Bjelke-Petersen took over. That was the other way around. Democracies are not perfect. In this day and age we should try, as far as possible, to preserve the principle, which has never been broken, that if a member of the Legislative Council seeks other office he shall resign from the Legislative Council.

That is tradition and convention. If there ever was a convention for a person leaving a Lower House seat it has been broken on numerous occasions for numerous reasons. Therefore, it is no longer a convention, although I wish it was. I wish that every member who is elected, if they are well enough, would complete their term. I believe they should. There is a whole range of personal factors that affect people's lives, personal interests and personal pressures, and no-one can determine whether or not Mr Dunstan, for instance, was play acting or was really sick. That is all I want to say on that matter.

The Hon. G.F. Keneally: I happened to be right alongside him.

Mr BAKER: That is what I say: I am not going to be the person to suggest that his leaving was anything but on the line.

Members interjecting:

The ACTING CHAIRMAN: Order!

Mr BAKER: What I was pointing out to the Minister of Local Government—

Members interjecting:

The ACTING CHAIRMAN: Order! If the Chair wanted the honourable member for Todd to speak, it would have nominated him. The honourable member for Mitcham has the floor.

Mr BAKER: I was pointing out to the Minister of Local Government the principle that we cannot judge the motives of people who have left the Lower House, because we do not know what turmoils were occurring at the time and what were the sickness and the pressures. Therefore, we can hardly judge those people, even though we may have personal feelings about the way some people left the Parliament. We are all entitled to have an opinion, but let us not say in principle one was right or one was wrong.

In the case of the Legislative Council, the situation is quite different. No-one in this House can point to a precedent where this situation has arisen in the past. No-one has decided to attempt to gain a seat in the House of Assembly and at the same time keep their options open in the Legislative Council, purely for political convenience. The member for Hartley mentioned political convenience on a number of occasions. In his description of events that have occurred in the past he failed to mention Senatore Gair and Senator Murphy. Of course there have been Governments that have done things for political convenience but in South Australia the Legislative Council has upheld a strong tradition. It has never denied Supply. It has never been faced with a situation where people are moving between the Houses and holding a seat open. I believe it has preserved a great tradition of honour of which we should be proud.

The Minister of Labour said tonight what a wonderful record we have in South Australia and, in an industrial sense, we are far better off than any other State in Australia and I think that is something of which we can also be proud. We can certainly improve that record, but at least the Minister can say, 'Look, South Australia is doing better than the rest of Australia.' In the legislative sense South Australia probably has some pre-eminence in the Commonwealth in the way it has conducted its affairs, for instance, in giving franchise to women. I believe it has demonstrated to the rest of Australia, where there have been some individual problems, that the South Australian Parliament has been above reproach. As a new member, it is important to me that we should preserve some of those traditions. Therefore, I rise on a matter of principle.

I firmly reject the proposition that a seat in the Legislative Council should be left open for someone who would like to try their hand elsewhere. An analogy would be somebody seeking alternative employment and saying, 'I do not really like the job. Perhaps I can come back to the one I had previously.' We know that would not be possible, because we know an employer would not accept that situation. The Upper House would also not accept the proposition of Mr Blevins, for example, going out and saying, 'I would like to try my hand at fishing because I would like to know a little more about the industry, so I will go out fishing, but hold my seat open, because I am going to come back.' That breaks all the rules.

The matters that have been mentioned recently in the press raise a very fundamental question about the way in which this Parliament should operate. I do not believe I would want to be part of a system that manipulates in a way that breaks traditions. Since I have been here we have broken a few traditions and that is very unfortunate. I think we should uphold what we have and what has been shown in the past to be a very strong policy in the way we conduct our affairs.

Ultimately, the South Australian Parliament can be proud of its record over many years. Members can talk about electoral reform, but recalling that we can go back 100 years if we want to trace through the anomalies in the way people treated each other, the way they went to war or the way they conducted their electoral affairs. There are always anomalies. There are anomalies today and there will be anomalies in the future. What about the anomaly of the member for Eyre? Nobody really considers the fact that he has to service two thirds of the State. What about the electors in Eyre? Do they not have some rights in this matter? But, no, we have a principle of one vote one value, whether or not they have adequate representation. They must have the most adequate representation I have ever seen by any member in the form of Graham Gunn. But he is an unusual and extraordinary person. For any human being to do what he does is something that I will remember for many years after Graham Gunn has left this Parliament.

It is beyond human capacity to suggest that a person can do justice to his electors. I can do justice to my electors because they all live within a radius of 4 km and it is easy for me because they are a short step or telephone call from my office. However, some people in country electorates are not in that situation.

Tom Playford, for all his wisdom, said that he believed that the Parliamentary system should be for the people. That decision meant that some people had large electorates and some small electorates. At no time during his reign was the process of democracy denied. In fact, Tom Playford would have been Premier during those years irrespective of boundaries. That is important, because people received representation, something that people in outlying areas suffer from today despite the fact that we have some marvellous members, such as the member for Mallee, the member for Mount Gambier and the new member for Goyder. Those people spend all their time on the road and certainly cannot make the sort of contribution to the Parliament that they want to make in a legislative sense.

I am saying that there are two sides to this coin. I am not saying that we should go back from the present position of one vote one value, but some people win and some lose no matter what decisions we make in this Parliament. I know that my colleagues in the country, and some members on the other side, spend enormous amounts of time travelling and away from home. I admire their dedication to the process. There is no clear-cut answer to this thing called

democracy. But there is a clear cut answer to tradition and morality. Morality and tradition go hand in hand in the case we have heard tonight. The simple thing is that the Legislative Council was formed on a solid base and the principle that a person cannot have a seat left open while he seeks wider afield, whether to get another job or another position in another House, was never envisaged by our forefathers and should not be envisaged today.

The interesting thing is that the member for Hartley recounted all these incidents from the past relating to anomalies that have been created and referred to all the people who have done wrong in his view and created these anomalies, yet he is willing to accept that we should create another anomaly. Not once did he address the question of whether or not a person should be able to shift between Houses at will. During the whole time that he stood there trotting out (and he is always on the trot)—

Mr Groom: I do not go to the trots at all. I do not gamble. Tell us about the Mitcham by-election.

Mr BAKER: I have already told you about that. Had the honourable member been here he would have heard it all. The marvellous contribution by the member for Hartley was really based on the fact that he had said, 'Going back over the years we found a few problems.' The honourable member could go back 1 000 or 2 000 years and find problems. He can go to tomorrow and find problems. There is no such thing as perfection. The member for Hartley wastes the time of this House by telling us that there had been a few difficulties in the past. He did not at any stage address the question of whether—

Mr Groom: I said that this was a cynical political exercise.

Mr BAKER: It is a cynical political exercise! If we had a judge here (and I do not care if it is Mr Justice Millhouse or whoever) and he was sitting in that seat, what would he see as the most cynical exercise? Would it be moving the Minister of Agriculture between seats or the fact that this House is attempting to preserve a tradition? I wonder how the judge would rule on the matter.

Mr Groom: What's cynical about moving between seats? Keith Russack did it.

Mr BAKER: He resigned first.

Members interjecting:

Mr BAKER: They all resigned in the process—they did not keep their options open. We have spent a long time here tonight and the member for Hartley has kept us here longer than he should by extending the debate unnecessarily on matters that are inconsequential. He did mention the President's power in the Legislative Council.

Ms Lenehan: Dean Brown is absolutely enthralled by what you are saying.

Mr BAKER: He is the wisest of us all. The honourable member mentioned the President's power. I wonder at the morality of anyone suggesting that a duly elected member of Parliament should have no say in the decision making of the Parliament. The member for Hartley raised the matter on more than one occasion.

Ms Lenehan interjecting:

The Hon. JENNIFER ADAMSON: On a point of order, Sir; at least one member in this House is well and truly out of her seat and is constantly interjecting. I suggest that you rule on the matter.

The ACTING CHAIRMAN: I ask honourable members not to interject out of their seat. I remind the member for Mitcham that he has a time limit of 15 minutes.

Mr BAKER: How am I going?

The ACTING CHAIRMAN: The honourable member has about one minute to go.

Mr BAKER: I will finish on a powerful note—I would hate to think that I have one minute that I will not use. The proposition that presumably the member for Hartley puts forward is that a duly elected member of either House should not have a say in the proceedings of that House and that that is the basis on which the House should operate. I find that incredible. The person he is talking about was duly elected by the people of South Australia. They elected him and gave him an entitlement. Whilst the Constitution is not quite clear on the matter, he should have a vote as does the Speaker in the House of Assembly on all matters determined within the House. Because the matter is not quite clear, he does not exercise it. He exercises his vote very rarely. Members opposite and the Government of the day have not bothered to test the system, because they know that ultimately no court in this land would deny the right of an elected member to be able to make decisions, for which he was elected.

Progress reported; Committee to sit again.

REAL PROPERTY ACT AMENDMENT BILL (No. 2)

The Legislative Council intimated that it did not insist on its amendment to which the House of Assembly had disagreed.

ADJOURNMENT

At 2.47 a.m. the House adjourned until Thursday 9 May at 2 p.m.