HOUSE OF ASSEMBLY

Wednesday 9 July 1997

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

ROADS, UPGRADING

A petition signed by 23 residents of South Australia requesting the House urge the Government to upgrade the Mannum to Bow Hill and Purnong to Walker Flat Roads was presented by Mr Lewis.

Petition received.

AUDITOR-GENERAL'S REPORT, MODBURY HOSPITAL

The SPEAKER: I table the report of the Auditor-General on the Summary of Confidential Government Contracts under section 41A of the Public Finance and Audit Act 1987 relating to the Modbury Hospital.

The Hon. G.A. INGERSON (Deputy Premier): I move:

That the report be printed.

LEGISLATIVE REVIEW COMMITTEE

Mr CUMMINS (Norwood): I bring up the twentieth report of the committee and move:

That the report be received.

Motion carried.

Mr CUMMINS: I bring up the report, together with minutes of evidence, of the committee on regulations under the Education Act 1972 relating to materials and services charged and move:

That the report be received.

Motion carried.

QUESTION TIME

FINANCE MINISTER

The Hon. M.D. RANN (Leader of the Opposition): Will the Premier honour the undertaking given to witnesses to the Anderson inquiry that the report of the inquiry would be tabled in Parliament and, if not, why not? On 11 April 1997, an advertisement in the *Advertiser* and in the national media invited people to give information to the Anderson inquiry. The advertisement said:

The principles, the report and the Government response will be tabled in Parliament.

Yesterday, the Premier told this House that he would table his response to the report. What has changed?

The SPEAKER: The first thing that has changed is that the Leader started off by commenting, which is out of order.

The Hon. J.W. OLSEN: I refer the Leader to my answer to similar questions yesterday.

An honourable member interjecting:

The SPEAKER: Order! I suggest to the Deputy Leader of the Opposition that he not continue in that vein: it is unparliamentary.

EMPLOYMENT, HIGH-TECH

Mr CAUDELL (Mitchell): Will the Premier explain to the House the Government initiatives to ensure that South Australia is able to meet the increasing demand by local companies for high-tech professional staff?

The Hon. J.W. OLSEN: Only now are we seeing the real legacy of the incompetence of the 1980s being inflicted upon young South Australians, incompetence in relation to training policies and inadequate infrastructure planning by Labor Administrations between the 1980s and 1990s. There is a dearth of talented, qualified and skills-based young South Australians to meet emerging job opportunities in the defence and electronics industries. One might well ask why we are in that position today. If there had been a Government with an adequate policy for the planning and targeting of future job opportunities for South Australians, we would not have this difficulty today. Let me refer to the evidence.

I am talking about the wasted years in which we did not train young people for high-tech professions. There were clear warning bells in the 1980s and 1990s. In an article in the *Advertiser* of 19 April 1990, when the then Employment and Further Education Minister (now the Leader of the Opposition) was asked about research which showed that South Australia's training was lagging for high-tech industries—there was a warning back in 1990 that there was an emerging difficulty and problem—he was complacent. He said at that time that 'South Australia [was] well placed to meet the demand for high-tech graduates.' That is how far out the then Government's policy configuration was. It had no idea and no plan to create jobs for young South Australians in the future.

It is that complacency of the 1980s and early 1990s that is now costing our kids jobs and the right opportunities in the defence, electronics and IT industries. Today, Drake issued a press release which indicates that growth in the number of professionals in that sector of the community in South Australia is outstripping the rest of Australia. The former Labor Administration's policy and actions are in stark contrast with the policy direction taken by this Administration over the past 3½ years. The Government's policy is creating a lasting competitive advantage for South Australian kids. We are matching future investment and emerging job opportunities in our defence, electronics and IT industries with skills-based migration.

I note that former Premier Don Dunstan also said during the course of the past few days that migration does not take away jobs from other Australians. To that extent I agree with him. That is why, contrary to what the Deputy Leader says, we have skills-based migration. Perhaps I ought to send former Premier Dunstan's speech to the Deputy Leader so that he can understand about matching skills with emerging job opportunities. Perhaps he can take a lesson from Don and come into the real world in respect of jobs creation for South Australians in the future, because what the former Premier says is right—that is what we are attempting to do. The rate of inquiry from London, in particular, has been quite significant. The contrast between the policy of the former Labor Government and what this Liberal Government is delivering in terms of emerging job opportunities for South Australians is like chalk and cheese.

Mr Foley interjecting:

The SPEAKER: Order! I suggest that the member for Hart not continue along that line.

Members interjecting:

The SPEAKER: Order!

FINANCE MINISTER

The Hon. M.D. RANN (Leader of the Opposition): Will the Premier release a copy of the letter appointing Mr T.R. Anderson QC to inquire into allegations concerning the former Minister for Primary Industries, and will he today confirm that this letter specifically informed Mr Anderson that his report would be tabled in Parliament?

The Hon. J.W. OLSEN: I will seek advice from the Attorney.

The Hon. M.D. Rann: You are so weak.

Members interjecting:

The SPEAKER: Order! There are too many interjections from both sides of the House. They commenced on my right, and I do not want it to happen again.

LABOR PARTY, REGIONAL DEVELOPMENT

Mrs PENFOLD (Flinders): Will the Premier indicate whether he is aware of a current Labor Party position on regional development?

The Hon. J.W. OLSEN: Regional development has been a profile issue, particularly by the Deputy Leader of the Opposition in recent times, so we thought that it was appropriate to go back in history and look at the policy contrast between the former Labor Administration and those being implemented and delivered for regional South Australia by this Administration. The Leader of the Opposition has repeatedly called for the reintroduction of enterprise zones as a central plank of Labor's regional development strategy.

The Leader seems to have a fixation about enterprise zones being the salvation of anywhere he visits in country South Australia. He talks about a new enterprise zone to assist them. It is an outdated concept, and it does not recognise the disadvantages it creates in those areas excluded in South Australia, those areas disfranchised from the enterprise zones. The Leader did not tell the people that the previous enterprise zone policy was an eleventh hour pilot program by the Arnold Labor Government, released in 1993 and aimed at propping up the State, which was demoralised and discouraged by the State Bank financial collapse. It was part of Labor's 'pain for gain' package as reported in the *Advertiser* in April 1993.

In that same article other nasties of the former Labor Administration likely to be in the package were highlighted, as follows:

> Education and health services will be affected by the changes. Senior officials at the Flinders Medical Centre have been warned by the Health Commission of imminent cuts.

This is the policy that the former Labor Administration sought to implement. This is what South Australians need to contrast: the track record and performance of the former Labor Government with the track record and performance of this Liberal Government and what it has been delivering and achieving.

The enterprise zones mentioned by the previous Labor Government were at three locations throughout South Australia. As Mr Rann visited country areas, he said that we need another in Port Augusta and another one in Port Pirie; in other words, it was an evolving policy with each city and town he visited in country regional areas of South Australia. However, it did not include Naracoorte, Berri or Renmark and a host of other towns. They were totally disfranchised by this policy—an outdated policy which is being recycled. This Opposition has learnt nothing in 3½ years. It has no new policy ideas, and no new initiatives to rejuvenate and rebuild the economy of South Australia. Members opposite are still living in the discredited 1980s.

FINANCE MINISTER

Mr ATKINSON (Spence): Will the Premier confirm whether, in addition to the findings on the former Minister for Finance, the Anderson report contains adverse material given to the inquiry about another Minister, and will he name that Minister?

The Hon. J.W. OLSEN: I restate the position put to the House on a number of occasions. I have just received the report. I will consider the report and report to the Parliament. In contrast, I simply point out to the House that the former Labor Administration on the Wiese inquiry took 10 days to consider the position and report to the Parliament.

WATER OUTSOURCING CONTRACT

Mr LEGGETT (Hanson): Will the Minister for Infrastructure explain to the House the potential costs for State taxpayers of the Government withdrawing from the contract between SA Water and United Water? I understand that the Leader of the Opposition is advocating that, as part of the Labor Party's policy platform for the next election, he will default on the State's contract with United Water.

Members interjecting:

The SPEAKER: Order!

The Hon. G.A. INGERSON: That is one of the most amazing statements given that it comes from a man who was part of a Government that lost $3.8 billion in its last four or five years in office and which today is still costing this State $1 million a day, every single day of the year, in lost opportunity costs and real interest costs. That was all created by the Leader of the Opposition and the previous Government—they were in charge of that $3.8 billion debt. The same Leader of the Opposition is prepared to try to get out of a contract which is in place for 15 years and which will deliver $628 million worth of export opportunity and $150 million in savings to the taxpayers of South Australia. This is the same man who was involved with the former Government which is still costing us $1 million a day. Every South Australian—

Members interjecting:

The Hon. G.A. INGERSON: I said $700 000 yesterday, but I have been advised that, if you add in the opportunity costs—

Members interjecting:

The SPEAKER: Order!

The Hon. G.A. INGERSON: —it is $1 million a day. The discredited Opposition is costing every South Australian $1 million a day in interest. Everybody should remember that. Nobody should forget that it is costing us $360 million a year in interest. We are still paying $1 million a day, because of the discredited mob opposite. Members opposite have the gall to suggest that we should try to get out of this contract, which is sure to cost a lot more—

Mr CLARKE: I rise on a point of order, Mr Speaker. The Minister is unaware that this is his own dorothy dixer. He has to answer the substance of the question.

The SPEAKER: Order! That is a frivolous point of order. I suggest to the Deputy Leader that he look carefully at a

number of Standing Orders, but particularly that which refers to interruptions and interjections, otherwise he will come to understand what happens when he ignores them. The Deputy Leader has had a fair go today, and he has continued to interject; I suggest he not continue on that line.

The Hon. G.A. INGERSON: I sum up by saying that the Leader of the Opposition is suggesting that we should get out of a contract that will give us $630 million over 15 years and save $150 million, when the same discredited Leader of the Opposition was part of a government that is costing us $1 million a day. I want every South Australian to remember that: every single day of this year the discredited Opposition is costing us $1 million a day in interest—just straight interest.

FINANCE MINISTER

Mr ATKINSON (Spence): Under what terms did the Government agree to pay the former Finance Minister's legal costs associated with the Anderson inquiry? What is the estimate for these costs, and will the former Minister be required to return these payments to the taxpayer if he is found to have had a conflict of interest and does not return to the ministry?

The SPEAKER: Order! The honourable member has asked a number of questions. Does the Premier care to answer?

The Hon. J.W. OLSEN: The honourable member would full well know that those matters are dealt with by the Attorney-General as the senior legal officer of the State. I will seek advice from the Attorney-General in relation to the matters contained in the numerous questions.

Members interjecting:

The SPEAKER: Order! I do not want any further interjections.

HOUSING TRUST HOUSES

Mrs ROSENBERG (Kaurna): Will the Minister for Housing and Urban Development provide details of the Government's strong commitment to improving maintenance on Housing Trust accommodation? A number of my constituents who are Housing Trust clients have expressed concern to me about rumours being deliberately spread which misrepresent the Government's efforts in this area.

The Hon. S.J. BAKER: Being an election year, I am sure everybody is aware that the ALP, its candidates and members will be trying to terrorise Housing Trust tenants as they have done in the past.

Members interjecting:

The Hon. S.J. BAKER: They have been. Prior to the last election, a collection of material was provided to Housing Trust tenants about what a Liberal Government would do. Of course, it has already started now on what the Liberal Government is supposed to be doing, and it is all wrong. It is one thing to play the game of politics but it is another thing to use it at the expense of 60 000 tenants in South Australia, and I find that quite distasteful. I hope that tenants will judge us on our record and members opposite on their rhetoric.

This Government has a very proud record in terms of delivering a quality product to Housing Trust tenants in this State. There have been suggestions that we are undertaking a sale of Housing Trust stock wholesale. That has been put in letters and material distributed in marginal seats. The record sales for the trust occurred in 1993-94 under the previous program, when some 1478 houses were sold. The former Government sold over 1 000 houses back in 1988-89. So, selling houses is nothing new and, to suggest that we are selling houses wholesale is, again, totally incorrect, because the figures are lower than in the last year of the former Labor Government. We actually say that we are targeting our sales to give people the opportunity of home ownership. What can be better than that?

As to claims that rents are going so high that they are forcing people out of trust accommodation, that is total rubbish and has to be repudiated. As the Prime Minister of this country has said, and as I have said on a number of occasions, rents are limited to 25 per cent maximum of income. That level is there for everyone to see. Those statements have been made and they have not been departed from. A maximum of 25 per cent of income applies irrespective of what income the people concerned are receiving. For people on higher incomes, the market rental prevails. Claims have been made that people are being forced out of trust homes, but no-one has been able to find anyone who has been forced out, and they will not find anyone, because we have told tenants, 'You have security in your public housing accommodation.' Again, the claims made are a total fabrication. Security will be enjoyed by trust tenants. That should go on the record and people should realise that perhaps that is the Labor Opposition's agenda; it is certainly not ours.

In terms of rental structures, traditionally it is 16 per cent of maximum income for bed sitters, 18 per cent for cottage flats and 25 per cent for other forms of housing. That has not altered. As to the commitment to maintenance, this Government is spending more on maintenance than any former Government spent. We see some $55 million being spent this financial year on maintenance, which is about $3.5 million higher than last year. I have provided the member for Napier, the shadow spokesperson on this matter, with details for her to scrutinise. In terms of our commitment, we are about urban renewal; we are not building as many houses, and that is deliberate policy. When we have 60 000 houses and flats and find that a large number built during the 1950s and 1960s are in need of repair, we say that as a matter of priority we have to give trust tenants a better deal, and so maximum effort is being focused in areas where people need it. It is a proud record, and the material being distributed by ALP candidates, with the help of members here and on South Terrace, does them no credit.

FINANCE MINISTER

Mr ATKINSON (Spence): Can the Premier confirm that, even though the former Premier was invited as a key witness, the former Premier declined to give evidence to the Anderson inquiry about why he dismissed the Minister for Primary Industries, and did the Premier have any discussions with the former Premier on this matter?

The Hon. J.W. OLSEN: The simple fact is that Mr Anderson was given a clear opportunity to pursue the inquiries unfettered. He has done so and has now reported. Show a little patience and all will be understood.

HEALTHPLUS

Ms GREIG (Reynell): Will the Minister for Health inform the House of the reaction of the public to the Government's Healthplus initiative?

The Hon. M.H. ARMITAGE: I thank the member for Reynell for her question about this groundbreaking initiative, to which there has been very positive community reaction. At the recent launch, supported by the Federal Minister, Dr Michael Wooldridge, Mr John Williams, a long-term asthma sufferer, testified that Healthplus principles which he and his general practitioner had been putting into place recently had led to a very significant improvement in his condition and he was delighted.

A survey on community attitudes to coordinated care indicated that an overwhelming 83 per cent of people supported Healthplus and the Healthplus principles. Even the Opposition supports Healthplus, because the Opposition spokesperson told a meeting recently that the Opposition will build on and will extend Healthplus. That is terrific, but the Opposition's continual copying of Government policy does concern me. The Government makes an announcement—

An honourable member interjecting:

The Hon. M.H. ARMITAGE: Well, it does not have any policy, so when we make an announcement about a groundbreaking initiative such as this the Opposition says, 'Me, too'. It is exactly the same in the matter of tobacco control. In the ALP State platform which was released last year Labor undertook to 'continue to strongly encourage the establishment of smoke-free premises in the hospitality industry'. The Government went much further than that: we legislated for smoke-free eating places, and after—

Members interjecting:

The Hon. M.H. ARMITAGE: The fact is that the Government legislated for smoke-free eating places. What did the Opposition do? It said, 'Me, too'. Members opposite are now running around supporting the legislation, having been brought—

The Hon. J.W. Olsen interjecting:

The Hon. M.H. ARMITAGE: Absolutely; that is correct. As the Premier says, it saves them doing any research; just say, 'Me, too' when the Government brings out something. In disability services, late last year the Government announced the creation of the first Minister for Disability Services in Government. Labor did not have a spokesperson on disability; yet, 'Me, too', and a shadow Minister was appointed very soon after the Government announcement.

The Opposition is indeed lacking in substance. It is lacking in policy ideas. In fact, the best it can do is try to surf in on the coat-tails of Government policy. That is very flattering, but I am sure the people of South Australia will ask themselves why they would vote for a Party with no policies of its own.

FINANCE MINISTER

Mr ATKINSON (Spence): Will the Premier—

Mr Brindal: Will you shut up!

The SPEAKER: Order! The member for Unley is out of order.

Mr Brindal interjecting:

The SPEAKER: I sincerely hope that the member for Unley was not transgressing Standing Orders.

Mr Brindal: Mr Speaker, I apologise.

The SPEAKER: The member for Spence.

Mr ATKINSON: Will the Premier cooperate with the Legislative Council select committee inquiry into matters relating to the former Minister for Primary Industries and release to the committee an unexpurgated copy of the Anderson inquiry report?

The Hon. J.W. OLSEN: The Opposition has decided that it has no questions on economic development, rejuvenation of the economy of South Australia, or job generation and job creation for South Australians. It is absolutely stonkered in relation to questions. We saw it scramble about late yesterday when we had something like 31 questions in the Parliament. It ran out of questions in the top drawer and now we are getting a series of questions about a report which I have indicated I have only just received but which I will consider and report on to the Parliament.

FARMERS' PROGRAMS

Mr VENNING (Custance): What programs has the Minister for Primary Industries put in place to assist in arresting the decline in services to our farmers which occurred during the Labor years?

The Hon. R.G. KERIN: I thank the member for Custance for his interest and the question. As members well know, when we came to office, the primary industries portfolio had plenty of good people. However, it was absolutely lacking in true direction or clear commitment from the Government of the day. There had been massive cuts to services, staff morale was certainly low, and the infamous McKinsey report, commissioned by former Premier Lynn Arnold and, no doubt, his chief adviser, was sending mixed messages to the department, primary producers and the value added food chain in this State. As many of us know, that review was commissioned to do no more than cut millions of dollars from primary industry while the Government wasted billions elsewhere. We arrested that decline and we now have agencies which are clearly focused on the job at hand in helping this major sector of our economy to continue to develop. It is becoming far more market focused.

Liberal Government initiatives such as the Young Farmers Incentive Scheme, stamp duty exemption on intergenerational transfers, exceptional drought assistance at a regional level and new training and education packages have all helped the sector to improve its viability. In fact, the second rural debt audit, which was conducted early last year, certainly showed a marked turnaround in the performance and equity of our farmers. The report credited much of the turnaround to positive Government policies, which were changes in policy direction.

The platform put out last year by the Opposition again lacked direction and clearly had not been costed. Indeed, it would take away the momentum we have built up in developing a business based and market focused sector. The only positives in the policy are the 'me too' policies, as referred to by the Minister for Health, which basically is an endorsement of the policies we have put in place. I have said a number of times in the House that primary industries is a vital cog in the State's economy. This Government recognises that and is doing something to enhance it. Labor cut and slashed, and it has shown us in its policy put out last year that nothing has changed. It offers no direction.

APPRENTICES

Ms WHITE (Taylor): My question is directed to the Minister for Employment, Training and Further Education.

Mr Clarke: Take it on notice!

The SPEAKER: Order! I will not speak to the Deputy Leader of the Opposition again. He knows what the consequences are.

Ms WHITE: Can the Minister explain the difference between her claim to this House yesterday that 7 098 young South Australians began apprenticeships and traineeships in 1996 and the official Australian National Training Authority figures which show that, for the whole of 1996 plus the second half of 1995, only 6 190 persons began apprenticeships and traineeships in South Australia?

The Hon. D.C. KOTZ: Perhaps the difference can be related to the fact that South Australia did exceptionally well. In fact, it took in another 1 600 young people more than the quota. Perhaps if those figures are added to the ones the honourable member already has, she will find that South Australia took in over the quota given to it, and that would rationalise the figure that the honourable member has.

TOURISM DEVELOPMENT

Mr EVANS (Davenport): Will the Minister for Tourism please update the House on the progress of tourism infrastructure redevelopment throughout the State, in particular the Wilpena redevelopment?

The Hon. E.S. ASHENDEN: Yes, I am very pleased to be able to address the question which the honourable member has asked. This Government has—

Members interjecting:

The Hon. E.S. ASHENDEN: Well, it is interesting to hear members opposite interject about the Prairie Hotel and on matters related to tourism. With respect to Wilpena, we have been able, in conjunction with private enterprise, to bring about a major redevelopment of what is one of the key tourism areas of South Australia. When the previous Government was in power, what did it do? It said it would spend $50 million at Wilpena. I do not know what on earth it could possibly have done. All it did was talk. It did absolutely nothing—just like up at Mount Lofty, where it said it would spend $20 million. It did absolutely nothing. For $4 million, this Government has been able to establish a magnificent facility at Mount Lofty.

So, just looking at Wilpena and Mount Lofty alone, we can see that this Government, instead of just talking, has acted, unlike the previous Government which said it would spend $70 million—but what is $70 million when that is compared with the State Bank disaster, the Myer-Remm development, and so on. That was just chicken feed to them. I can reassure the honourable member that this Government is determined to provide the best possible tourism infrastructure and tourism support for this State. Unlike the previous Government which had total ineptitude, no vision, no plans, and did nothing for tourism, at the end of its four year term, this Government will have many tourism developments of which this State can be truly proud.

KANGAROO ISLAND, FERRY SERVICE

Ms WHITE (Taylor): My question is directed to the Premier. Will a decision be made today by the MFP on the successful tenderer for the Kangaroo Island ferry service, will tenderers be advised of the decision by close of business today, and can the Premier guarantee that the service will be operating by September-October, as the Government has previously promised?

The Hon. J.W. OLSEN: No, yes, and maybe.

Members interjecting:

The SPEAKER: Order!

EMPLOYMENT

Mr ROSSI (Lee): Will the Minister for Employment, Training and Further Education detail some of the outcomes of successful programs contained in the Government's employment policy?

The Hon. D.C. KOTZ: This Government, unlike the Opposition, has a very strong employment policy and strategy, which reflects our commitment to the people of South Australia and our focus on real jobs. We have a $30 million youth employment strategy. We have Job Shop, Community At Work, Regional Job Exchange, IT Skills Advantage, Upskill, Kickstart for Youth, Self Starter, the Group Training Scheme, the Local Government Employment Program, the Public Sector Youth Recruitment Program and the one stop shops for apprentices and trainees. This is in direct contrast to anything that the Labor Government ever had during its term of office.

The contrast was made very clear in an *Advertiser* article of 6 May 1991, when the current Leader of the Opposition was the Minister for Employment and Training. In that article the Leader clearly demonstrates his own incompetence, and I quote:

> Mr Rann said it was imperative South Australia maintained its training momentum, the area in which it had failed in the past.

He went on to say:

> We have always dropped the ball on our training effort.

Mr Rann also said that the State Government was investigating a range of employment programs to ride out the next few months. This was at a stage when the highest unemployment had been recorded in this State for a decade, and when training and employment programs were very necessary for this State. But even worse, two days later, not only was the Leader of the Opposition making his own statements about his incompetence but the Federal Minister for Employment, Training and Further Education at that time had this to say about his South Australian counterpart:

> Mr Dawkins has accused his South Australian counterpart, Mr Rann, of holding up Federal funds for the training of unemployed young people.

It is apparent that, at that time, $4.5 million of Federal funds was sitting in Canberra waiting for the Leader of the Opposition to sign off those funds and bring them into South Australia, which he did not do. The Federal Minister went on to say that the State Government had not yet signed an agreement with the Federal Government on how the money would be spent. He also criticised severely the South Australian prevocational training programs, which he said were outdated. That is in contrast to this Liberal Government, which has provided and will continue to provide real job opportunities through the programs, which are not outdated, are flexible and meet the needs of industry. I have outlined some, but there will be plenty more that will come out of this Government in the next few months.

APPRENTICES

Ms WHITE (Taylor): Will the Minister for Employment, Training and Further Education say what action she has taken to ensure that companies which have won major contracts on the Mount Barker Road upgrade, the Adelaide Airport expansion and the Southern Expressway project have met their obligation to ensure that at least 10 per cent of their work is carried out by trainees or apprentices?

Mr Brokenshire interjecting:

The SPEAKER: Order! The member for Mawson is out of order.

The Hon. D.C. KOTZ: It is somewhat enlightening to know that the member for Taylor is up with some of the schemes of this Liberal Government. However, if she was as up with the scheme as she appears to be, she would also know that that scheme is still at the development stage and it will be some weeks before that portion will be implemented. But, when it is, it will add to the other real jobs that young people will be able to gain through this Liberal Government's programs.

INFORMATION TECHNOLOGY INDUSTRY

The Hon. W.A. MATTHEW (Bright): Will the Minister for Information and Contract Services advise the House of details of the latest projections in growth in the information technology industry in South Australia and whether these projections reflect success for the Liberal Government where the previous Labor Government failed?

The Hon. DEAN BROWN: There can be no argument at all about the failure of the previous Labor Government when it came to developing an information technology industry in South Australia. We had Information Utility No. 1, we had Information Utility No. 2, and then we had Southern Systems, and we had negotiations with companies on and off for seven years. First it talked to EDS—

An honourable member interjecting:

The SPEAKER: Order!

The Hon. DEAN BROWN: —then it talked to IBM and other companies. By 1993, the information technology companies—both locally owned and international—were throwing up their hands in absolute despair at the former Labor Government. If we look at the latest results out today, in terms of employment projections within the information technology industry, there can be no more appropriate body to ask as to how that industry is going than the company out there that is engaging people to put into the industry—Drake International. It has highlighted that, for the second quarter in a row, employment growth in South Australia is likely to be greater than 8 per cent. The State Managing Director of Drake said the following:

> The continued proactive stance of the State Government and the recent announcements by EDS that it intends increasing employment by a further 100 replacements adds even greater weight to IT employment expectations. I believe that with industry, Government, universities and colleges now working in close cooperation, South Australia will continue to lead the field in this industry well into the next millennium.

This industry has grown to something like 10 700 jobs in South Australia—an industry two-thirds of the size of the motor industry and an industry that has taken on something like 2 400 jobs in the past two years and yet, for each of the past two quarters, has shown a projected growth rate of 8 per cent, compared to a national average of just 3 per cent. Clearly, this State is now the industry leader in terms of growth in information technology, and it is the information technology strategy that we put down in March 1994 which has led the way for this State to grow.

HILLCREST CAMPUS SERVICES FOR THE ELDERLY

Ms STEVENS (Elizabeth): Is the Minister for Health concerned that aged people under psychiatric care at the Hillcrest Campus Services for the Elderly are suffering because there is a defective heating system and, if so, what action has the Minister taken to correct this situation? The Opposition has received a complaint from the family of a patient at the Hillcrest campus that the building has defective heating and cooling and that, while night time temperatures in the bedrooms often hover around 6° (or sometimes even lower), patients are only issued with thin cotton blankets. The complainant says that, while correspondence to the Minister early in June has been acknowledged, no action has been taken.

The Hon. M.H. ARMITAGE: Earlier on today I pointed out that the Opposition likes to say 'Me too' in relation to the Government: now it is saying 'Me too' to the Democrats, because this was the subject of a media release from the Democrats earlier this morning. So, it really is saving—

Members interjecting:

The SPEAKER: Order!

The Hon. M.H. ARMITAGE: —on research, as the Premier said earlier. The nub of the matter is that, despite the fact that the member for Elizabeth indicates that nothing has been done, she is incorrect.

Ms Stevens interjecting:

The Hon. M.H. ARMITAGE: That is what the member for Elizabeth said. I am delighted to tell her that that is not correct, that in fact she is wrong.

An honourable member: Again.

The Hon. M.H. ARMITAGE: Yes, wrong again. Work has been done on this matter over the past two weeks. As part of the minor capital works program, which occurs at this stage every year during the budget cycle, I am informed that a report will come to me next week and that this project is high on the list and is one of those likely to be funded. In the meantime, I have requested that appropriate action be taken, and I am informed that it will be, so that low temperatures at night will no longer affect the people concerned.

GULF ST VINCENT

Mr OSWALD (Morphett): My question is directed to the Minister for the Environment and Natural Resources. What is the State Government doing to address environmental protection issues in Gulf St Vincent? The Department of Environment and Natural Resources estimates that over the past 25 years there has been a decline of 40 per cent in seagrass in Holdfast Bay and a further 25 per cent decline in seagrass in other sections along the metropolitan coastline.

The Hon. D.C. WOTTON: I thank the member for Morphett for the interest that he continues to show in the well-being of Gulf St Vincent.

Members interjecting:

The Hon. D.C. WOTTON: The member for Morphett certainly shows a lot more interest than members on the other side of the House. It is regrettable that we know very little about seagrasses and the causes of their decline, but the best scientific advice to date indicates that nutrients that are washed into the gulf from waterways, stormwater outlets and effluent outfalls have a considerable amount to do with the degradation of seagrasses along our coastline. Obviously, this problem cannot be solved overnight, but regrettably the previous Labor Government seemed to avoid tackling it at all.

After 11 years of Labor procrastination, one of the first actions of this Government upon coming to office was to stop discharging sludge from Holdfast Bay. We followed that up by establishing catchment boards for the Torrens and the

Patawalonga. They have been successful in reducing stormwater pollution throughout the entire catchment area and therefore improving the quality of the water that goes out to sea. Of course, the work of those catchment boards continues. That is being followed up by a significant environment improvement program initiated by the Environment Protection Authority with SA Water.

A $170 million capital works program is under way to upgrade all SA Water waste water treatment plants along the metropolitan coast. That is a significant commitment on the part of this Government that will reduce nitrogen loads to the gulf by 80 per cent. In short, this is a further example of a problem which Labor left in the too-hard basket but which this Liberal Government has tackled successfully because of the importance of Gulf St Vincent in so many different ways.

WAGES, MINIMUM AWARD

Mr CLARKE (Deputy Leader of the Opposition): Does the Premier support the view of Prime Minister Howard that Australia's minimum award wage levels are too high? If so, does that mean that his Government will go to the next State election advocating a lower minimum award wage for South Australian workers?

The SPEAKER: The Minister for Industrial Affairs.

Mr Clarke: Ah, not the Premier.

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order! I want the House to come to order. Yesterday, the House conducted itself in a responsible manner. I do not want members to revert to unruly behaviour.

The Hon. DEAN BROWN: Everyone, including the Deputy Leader of the Opposition, knows that the Government is currently appearing before the State Industrial Commission arguing for an increase in the minimum wage that applies in South Australia. So, why would the Deputy Leader want to raise this question in the House today? I highlight the fact that under this Liberal Government there have been four increases in the safety net for workers on the minimum wage.

Mr Clarke interjecting:

The SPEAKER: Order! I will not speak to the Deputy Leader again. He knows the consequences. It will be four days next time.

The Hon. DEAN BROWN: This Government is at present arguing for an increase so that many of the workers who are on the minimum wage will get a $30 a week increase. The workers of South Australia can be grateful for the fact that this Government has done much more than the Labor Government ever did to increase the minimum wage in this State, and it will continue to do so.

GOVERNMENT ACCOUNTING SYSTEMS

Mr BUCKBY (Light): Will the Treasurer inform the House of the improvements that are being made to Government accounting systems to assist agencies in their budgetary process?

The Hon. S.J. BAKER: It was quite clear when we entered Government that the accounts were in a mess. The Audit Commission reflected upon not only the quality of the accounts but also the inadequacy of the public sector to have skilled and competent people running the books. The Audit Commission said that, of those people employed to deal with the financial aspects of departmental budgets, only 18 per cent were qualified to do so. That was another legacy left to us by the former Labor Government. Not only were the books in a dreadful state but the previous Government did not train people to meet the needs of common and current accounting practices. That is another area where this Government has had to spend an enormous amount of time and resources.

I note that in the State platform of the ALP there is an accusation that the State Liberal Government has been able to hide major reductions in the provision of Government services by inadequate public reporting in its budget and other financial documents. I ask members opposite to read the 1992-93 Auditor-General's Report on their performance and then look at what the Liberal Government has done since it came to power. In 1992, the former Government said that it was committed to accrual accounting, but it did nothing—it did not introduce one initiative dealing with accrual accounting. So, this Government started off at the base with nothing to work with, but it will have it fully implemented during the coming financial year. The Government already has those conditions in place due to the hard work of my Treasury officers and the assistance of all other agencies.

In terms of whole-of-Government reporting, again the Government has met the needs specified by the Commission of Audit for whole-of-Government reporting and budget outcomes. The issue of budget outcomes and output budgeting is high on our agenda. It is the next major reform that will be introduced as a result of our increased capacity to do so. Common financial management software has been introduced through the Computer Associates Masterpiece and AccPac 2000 suite of programs. Our banking contract is now a modern day contract which meets the needs of the public sector. Our purchase card is also providing us with enough information, more information than was ever provided by the previous systems. Not only will it more speedily deliver purchases but there will also be greater accountability than has prevailed in the past.

There is a whole range of reforms. Internal audits are now becoming more commonplace within the public sector. That will help management to get it right in areas where in many cases they have got it wrong. I am reminded of the story about the Clothing Factory.

The Hon. Frank Blevins interjecting:

The Hon. S.J. BAKER: Yes, the member for Giles' pet organisation. It had 120 different sizes of trousers in stock and enough epaulettes to last 20 years. That was typical of the way in which the former Administration ran Government. That has changed.

STATE PRINT

Mr CLARKE (Deputy Leader of the Opposition): My question is directed to the Minister for Information and Contract Services. Given the failure of the first privatisation bid for State Print, will the Government now abandon its plans to sell off Sprint and commit to operating the printer as a publicly-owned and managed enterprise, and will he rule out closing State Print? A memo to all State Print employees dated 8 July from the Director Malcolm Jones indicates that responses to the tender request had been evaluated and no tender had been accepted. The memo states:

> The number of organisations responding to our tender was disappointing.

One of the options for the future of State Print listed in the memo is to:

. . . close State Print in the short term and assist customers to transfer their work to alternate suppliers.

The Hon. DEAN BROWN: Everyone acknowledges the very dramatic change in printing that has occurred throughout the world due to new technology, and as a result of that the previous set up of State Print with big printing presses doing specialised printing and large runs is no longer applicable. The cost of that to the State Government is likely to be huge the longer we try to hold on to that older technology. Therefore, it is appropriate to move to newer technology which focuses on modern forms of electronic printing close to the organisations involved.

The Government still has a substantial work force in this area. The Government went to tender, but the offers that came in were unsatisfactory. A couple of other parties have talked to the State Government and we are having discussions with them. I can give no further indication beyond that, except to say that talks are continuing. However, to continue to maintain a Government printing organisation like the old State Print and maintain it indefinitely using the old technology is entirely out of the question.

That is not to say that all of the technology is old, because some has been upgraded. In particular *Hansard* is printed using a bank of Xerox printing machines, which are some of the best one will find anywhere in the world. The printing of *Hansard* was to be retained by the State Government. Only the larger commercial organisations were be sold. We are still looking at those options and it depends very much on the final outcome from ongoing discussions with various parties.

IRRIGATION SCHEMES

Mr ANDREW (Chaffey): Will the Minister for Infrastructure advise the House of recent major changes in relation to the transfer and operation of Government irrigation schemes in this State?

The Hon. G.A. INGERSON: I thank the member for Chaffey for his very important question relating to the district that he represents. The Government has received applications for conversions from irrigators in Berri, Cadell, Cobdogla, Kingston, Moorook, Mypolonga highland and Waikerie. Under the Act we are required to get a simple majority of irrigators to come forward and support the scheme. Some 84 per cent of all irrigators have voted in favour of this move.

In addition, the irrigators in all districts have agreed to the conditions of conversion and the terms. The legislation came into effect on 1 July, and these boards will be managed effectively by the Central Irrigation Trust, which has been set up to coordinate the whole program. The conversion gives the irrigators a greater degree of responsibility and management. It removes the bureaucracy control from the city back to irrigators in the area who know how to make the program work. It is a positive move of decentralisation from the Government. The Government will meet 40 per cent of the infrastructure costs of rehabilitation out of consolidated revenue. We expect the whole program to be finalised in early 1998-99.

MEDICARE, SEFTON PARK OFFICE

Mr CLARKE (Deputy Leader of the Opposition): Given the answer yesterday by the Minister for Health to my question on the planned closure of the Sefton Park Medicare office, and his advice to the House that he had already discussed this matter with the Federal Minister for Health, what were the views of the State Minister for Health that he conveyed to his Federal colleague and what was the response?

Members interjecting:

The SPEAKER: Order! The Minister for Health is being drowned out by his colleagues.

The Hon. M.H. ARMITAGE: I discussed a number of matters with the Federal Minister, all of which revolved around ease of repayment of Medicare benefits and included things like the potential for having doctors as Medicare agents. I am always trying to do things that make things easier and better for the populace of South Australia.

KANGAROO ISLAND, SOUTH COAST ROAD

Mrs PENFOLD (Flinders): Will the Minister for Tourism advise what impact the sealing of the South Coast Road on Kangaroo Island has had on tourism on the island? The South Coast Road on Kangaroo Island was mostly an unsealed dirt track when our Government came to power and has been a great source of complaints.

The Hon. E.S. ASHENDEN: I am delighted to answer the question of the honourable member and thank her for her strong interest in her electorate. The point the honourable member made at the end of her question is very true. The South Coast Road on Kangaroo Island has been unsealed for a long time—certainly for the entire time of the previous Labor Government. We can see a stark difference between the previous and present Governments in the desire to provide infrastructure for tourism, particularly in key areas such as Kangaroo Island. One of the first tasks this Government undertook was to seal the South Coast Road.

Members interjecting:

The Hon. E.S. ASHENDEN: I assure the honourable member that it was not sealed before that. It is now sealed right down to Vivonne Bay, so people wishing to visit Seal Bay and other areas in the vicinity are able to travel the entire distance on a bituminised or sealed road. This has had a major impact on tourism on the island in that larger buses and more frequent services are available and it is safer for tourists to visit that key area of the island.

Mr Becker interjecting:

The Hon. E.S. ASHENDEN: Yes, as the honourable member interjects, it provides easy access to view the koalas. The work that this Government has done will be repaid many times over in that the tourism income that will be derived because of that work will be very great. Obviously it will have a major impact on tourism on Kangaroo Island.

ISLINGTON WORKSHOPS

Mr CLARKE (Deputy Leader of the Opposition): My question is directed to the Premier. In his Government's negotiations with the Commonwealth Government with respect to the transfer of the railways with the privatisation of AN, what agreements has the State Government entered into to ensure that the remediation of the Islington contaminated land operated by AN will be protected and that the funds set aside by the Commonwealth Government for that remediation will be dealt with?

The Hon. J.W. OLSEN: The Deputy Leader clearly demonstrates to the House that the Opposition has run out of questions again today. It is up to the Deputy Leader to scramble together some new ideas to pad out and complete

Question Time today. The remediation of Islington is one of the MFP Development Corporation projects.

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. OLSEN: The Deputy Leader knows full well that several millions of dollars have been allocated for the environmental clean up. The Deputy Leader might recall, with half an ounce of brain work, that only last week I was asked a question about this and referred to the Deputy Leader's district and to the Islington clean up and the work being done by the MFP. I also referred to work being done in the districts of the Leader and the members for Hart and Taylor. If they do not want the capital works spent to clean up their area, plenty of other districts can be allocated those funds. The Deputy Leader ought not talk with forked tongue. He cannot have a clean up by the MFP and then bag it at the same time. He should make up his mind: does he want it cleaned up? If he does, give MFP some encouragement to get on with the job.

MEMBER'S LEAVE

Ms HURLEY (Napier): I move:

That three weeks leave of absence be granted to the member for Price (M.R. De Laine) on account of ill health.

Motion carried.

GRIEVANCE DEBATE

The SPEAKER: The question before the Chair is that the House note grievances.

Mrs HALL (Coles): Yesterday during Question Time the Minister for Infrastructure referred to the outstanding safety achievements of Optima Energy. I thought it appropriate today to follow up on this issue of safety. As a community and as a Parliament we do not focus very much on the role of public utilities unless it is in a controversial manner. Occasionally, this is under very intense media spotlight. However, rarely do we as a community congratulate public utilities on their outstanding achievements; in fact, rarely do we celebrate success. However, it is appropriate to do so now in the case of Optima Energy, formerly known as the South Australian Generation Company. It has achieved a record of remarkable safety performances at all its work sites; it is one of South Australia's leading public utilities, and it is appropriate that we acknowledge that.

Optima has placed a high priority on safety as a prime business driver, and the board and the Chairman (Mr Fraser Ainsworth) have been involved in the planning and creation of clear lines of responsibility in relation to occupational health and safety. Recently, a specific safety milestone was reached by Optima Energy, and the work force should be congratulated on this achievement. In fact, 29 June—which was just a couple of weeks ago—was a day for the record books, because a new record was set at the Torrens Island power station: a safety record of two years of injury-free days, which is an important milestone.

The Torrens Island power station employs 227 people, and it has the capacity to produce 1 280 megawatts of electrical energy. The extraordinary improvement in the safety records and safety standards of Torrens Island have not only prevented injury and pain for its employees but has resulted in higher quality work methods and much greater productivity. It is appropriate that we congratulate the management and the employees on such a tremendous achievement for such a large and significant State industrial site.

In addition to the Torrens Island power safety achievement, Optima has been awarded the maximum WorkCover level 3 rating in preventions performance standard and, again, that is something we should celebrate. It is a milestone, because it joins just nine other public sector organisations to achieve an overall level 3 rating. Of the 50 private exempt employees in this State, only 20 have been rated overall at level 3. This high standard of safety performance is a significant factor in Optima being competitive as it moves towards the national electricity market in March next year. Optima says that high standards of occupational health and safety performance are invariably associated with lower costs, better systems and improved employee morale. The overall objective of Optima is to provide a safe workplace for its work force, and it has set a target of zero injuries by mid-1998.

Optima Energy owns and operates Leigh Creek, Torrens Island and Port Augusta power stations, as well as those at Dry Creek and Mintaro. In total, it has a work force of more than 800 and has a generating capacity of more than 2 200 megawatts. This significant public utility of our State has achieved well in the area of safety, and we ought to congratulate the board, management and its work force on this safety performance milestone.

In conclusion, I would like to say that good news stories are important, and they become even more important because of this extraordinary Opposition, which has developed knocking into an art form. In particular, the Leader of the Opposition has a constant knocking capacity. He avoids and knocks good news and impressive achievements of this Government. He and his Party deserve to be seen, recognised and then condemned for the destructive and negative outcomes this deliberate action can create. These remarks ought to be heeded, because the people of South Australia are getting entirely sick and tired of the constant knocking of the Australian Labor Party in South Australia.

Ms HURLEY (Napier): I want to talk today about the Prime Minister's suggestion that we drive the minimum wage down in Australia. This morning, we heard a modicum of good news in that a modest increase is expected in the number of jobs in the information technology area in South Australia. This is a matter of some hope for us, because information technology—as well as defence—is one of the jobs areas this Government and previous Governments have targeted. These jobs are well paid and will increase in number in the future. In view of that, it must be disappointing for this Government to have its Liberal Prime Minister seemingly trying to push Australia down into a low wage country, such that people can only look forward to obtaining jobs offering low wages and requiring poorly skilled workers in factories and areas where the minimum wage applies.

Indeed, I wonder how this will come about. John Howard talks glibly about driving down minimum wages but many people in my electorate—partly because of the low land and housing prices—have chosen to live there because they are on a low wage and often only a single wage. Some families are surviving on a wage of between $20 000 and $30 000 and I would defy any member in this House to live on that amount

for any length of time with any comfort. For example, one constituent well known to me is part of a family with three children, and the main breadwinner earns $25 000 a year. Because of various cutbacks, they are not eligible for a number of concessions any more, including schoolcard. They get the Federal family allowance, and so on, and they live in a Housing Trust house for which, because of the new market rent structure, they are paying a greatly increased rent—around $130 a week. They pay rent of $130 a week; they pay full school fees for their children—they are supposed to, but they are struggling to do that—and they manage to bring up three very delightful children on that wage.

The Prime Minister is trying to drive down that wage even further, without—so far as I know—any supporting statement which suggests that additional help should be provided to those families, particularly those families where there is only one wage earner. Indeed, there probably would be two wage earners in this family if that other person could get a job, but jobs are difficult to find, particularly because the cost of child care has now also been increased dramatically by the Federal Government. Our Prime Minister has been going around making conflicting statements, encouraging people to go out to work, while taking away the supports that enable them to work.

This is the case for many families in my electorate, and I vigorously oppose—as would any member of my Party—a reduction in the minimum wage. We would support the Federal Government's putting more money into education and training, and supporting more companies having a decent industry policy under which jobs would be created, possibly not so much for the constituents to whom I am referring but certainly for their children. I would like to think that those children are encouraged into decent jobs with decent wages, as people have been in other high wage countries such as Germany and Japan, the economy of which has nevertheless boomed and which seem to have made their way in the world without driving down the wages of their people.

Mr ANDREW (Chaffey): I rise today to applaud the decision taken by the Government and Riverland irrigators to move to self-management of the State Government's Highland irrigation districts. I was delighted to have the Premier come to the Riverland last Friday to officiate at the handover of the Government Highland irrigation areas to the new Central Irrigation Trust. The conversion to private irrigation district has been facilitated by changes to the Irrigation Act, and I have been pleased to be a positive part of that process over the past two years in this place. I reiterate that that was a firm pre-election commitment by this Government. The most recent amendments, passed I think back in December last year, have provided a smooth transition period between January and 1 July and, while the districts remained Government owned during that time, management arrangements were changed to come under the control of irrigator representatives in this interim period, thereby enabling preparation for the change of ownership.

Pre-existing elected members of the grower irrigation advisory boards were appointed as presiding officers of each trust during this transition period. The districts concerned are Chaffey, Berri, Cobdogla, Moorook, Kingston, Waikerie, Cadell and Mypolonga. During the latter part of 1996 more than 85 per cent of the growers involved applied for self-management, and I think this is absolutely commendable. The process to grower ownership has now seen $150 million worth of assets, debt free, being handed over to growers as irrigators, and it will enable them and the industry to determine service levels and the price of their own irrigation water. The Government Highland Irrigation Board has been satisfied with the Government's terms and conditions, which have included growers continuing to make a 20 per cent contribution to the remaining requirement for upgrading of infrastructure rehabilitation of all those areas concerned.

I particularly want to praise the leadership of the Government Highland Irrigation Board, chaired by John Petersen, which has played a vital part in developing a private trust proposal and supporting a cooperative approach between growers, SA Water, the Minister and the Government. I was heartened to see the positive and overwhelming response by irrigators to the board's self-management proposal. As part of the proposal the board has developed a business plan for future management in all the areas and has provided for future sustainable management of the infrastructure, which includes rehabilitation and also establishes a direct relationship between the operating expenditure and the price of water. Prior to 1992-93 this did not exist; the process has now involved negotiating a business plan with the State Government, and what the growers have achieved is, I believe, a very good deal for them.

By forming trusts we have followed the example of current private irrigation trusts in this State like the Renmark Irrigation Trust, Golden Heights and Sunlands Irrigation Trust. Also, growers will democratically elect the local boards of management that will set the priorities for work and management of their trust in their respective districts. At the grower level there has been strong guidance from individual district boards, and I want to compliment those individual members and also reflect on the fact that, whereas 10 years ago the Government Highland irrigation scheme had one of the highest costs of delivering water, it now has one of the lowest. The boards have been involved in gaining approval for the completion of the irrigation rehabilitation programs in Loveday, Mypolonga and Cadell based on the 40:40:20 financing arrangement of Federal, State and grower contributions.

I want to commend the current Minister for Infrastructure, and more particularly the former Minister and now Premier, for their involvement; SA Water officers and staff, the Government Highland irrigation boards and the growers for their total cooperation; and all the groups involved during the consultation, legislative reform and implementation process for their tremendous efforts. Personally, I have been pleased to assist with the self-management proposal and to follow it up with support for the legislation in the Parliament.

I want to stress the economic and environmental benefits to the Riverland and the Murray River to be gained by increased efficiency and accountability in irrigation management, where the cost of water is now linked to operating expenditure. The self-management process up to now has been achieved through significant structural improvements, and I anticipate that much more will be achieved through private irrigation trusts. Moreover, with this new management and now with the achievement of rehabilitation of the infrastructure and improved grower efficiency, there will be substantial water savings. There will now be a tremendous opportunity with the new trust to provide significant potential for these increased water savings to be used for additional development in the region.

The ACTING SPEAKER (Mr Becker): Order! The honourable member's time has expired.

Mr CLARKE (Deputy Leader of the Opposition): I am particularly pleased that the Minister for Health, the State member for Adelaide, is in the Chamber to hear what I am about to say. The Minister can correct me if I am wrong, because I have given the Minister two opportunities over the past two days with respect to his declaration of whether or not he supports the closure of the Medicare office at Sefton Park, which is on the border of not only my electorate but his own. The member for Adelaide, the State Minister for Health, has the overwhelming bulk of people who live in Prospect, Nailsworth, Collinswood and, dare I say it, even Walkerville residents who deign from time to time to journey north to use the Sefton Park Medicare office.

On two occasions I have put clearly to the Minister whether or not he has spoken to the Federal Minister for Health, which he said he has done, in terms of ascertaining from him whether he has spoken up in support of retaining the Sefton Park Medicare office for the benefit of its nearly 1 000 clients who use it weekly, and he has been conspicuous in the way he has slid around answering that question directly. I put to the House that the member for Adelaide, the State Minister for Health, has not addressed that specific question with the Federal Minister for Health. He does not even know about it, unless he happens to read the *Messenger Press* and, frankly, he could not care less whether it opened or closed, notwithstanding the attitude of his constituents. I am glad I have been given the opportunity to raise this matter directly with the Minister over the past two days,because his electors will certainly know of his absolute lack of support for them in trying to retain that office. Ultimately, as we all will, he will be answerable to his voters on that matter.

Also, I want to thank the Government for its inane savaging of the Opposition. Reading this morning's *Advertiser* and the article that said 'Opposition savaged in Question Time', I wondered in which State this had occurred and then I thought, 'It's only the *Advertiser* and of course it must be South Australia.' We were supposed to have been savaged—gored—by this hoard of dead sheep, flailed alive by them with a warm lettuce leaf yesterday. Time after time Government backbenchers get up and ask their dorothy dixers: 'Mr Minister, why are we blessed with you as our Minister?' or 'Isn't the Labor Party terrible! It's the cause of the drought, the pestilence—the black plague or the mice plague.' Anything remotely connected to what happens in this State is blamed on the Labor Party.

I was delighted to read in today's *Advertiser* the extent of this savage attack being launched by all these backbenchers, many of whom will of course not be here after the next election, Sir, including yourself, although that will be voluntary on your part. We have only been trying for 27 years to get rid of you and we have now succeeded. We have bored you absolutely to the pits, and you have finally decided to leave because you, Sir, can no longer stand the factional-ridden Party to which you belong. Returning to the so-called savage assaults on the Opposition, we had the Minister for Infrastructure, the Deputy Premier—a person known not to have too many facts at his fingertips—berating us yesterday about costs amounting to $700 000 a day. I only wish he would not keep hitting his head—it makes too much noise. There is the Minister shouting, 'It is costing us $700 000 a day.' Today he got up and had to apologise—if he had any decency he would. He now says it is $1 million a day. The Deputy Premier has discovered interest payments, and now his cry is '$1 million a day', and he is still knocking his head—thud, thud, thud. Alex Kennedy was quite right when she described the Deputy Premier as a bumbling, hapless individual. Alex Kennedy backed the wrong horse for Premier: she got the mule.

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

Mr ROSSI (Lee): Today, I would like to talk about the problems facing the West Lakes Bowling Club and the community club with respect to the City of Charles Sturt. Today, I spoke with Mr John Quinlan and I spoke with another member yesterday about the lack of cooperation and negotiation between the club and the local council. I have been told that Mr Jack Foley, Acting Secretary of the club (and father of the member for Hart), and Mr Cam Opie on behalf of the council have been trying to negotiate—

Mr Atkinson interjecting:

Mr ROSSI: As the member for Spence says he is a top bloke; he must therefore be a Labor supporter, otherwise he would not have said that. I have been told that Mr John Dyer, the Mayor—

Mr Atkinson interjecting:

Mr ROSSI: As the member for Spence says, he is another top bloke and other Labor member for whom the member for Spence helped letterbox pamphlets for the last council election. Mr John Dyer has not shown a willingness to negotiate between the club and council regarding the leasing arrangements, the cost and the term of the lease.

Mr Atkinson interjecting:

Mr ROSSI: I might also tell the House that all the Labor members on the council, up to this morning, had not tried to help the negotiation process go further ahead. Mayor John Dyer, Mr Gerard Farrao (whom the ALP helped get elected last May), Mr Ralph Johnson (another ALP member and supporter who, I understand, is also a cousin of Rod Sawford, the member for Port Adelaide), Ms Barbara Wasylenko (who ran as an independent Labor candidate at the last election and who, I understand, was assisted by the member for Spence who photocopied all her election material), Mr Kevin Hamilton (the former member for Albert Park), Mr G. Ienco (the Labor candidate for the seat of Colton at the last State election) and Mr Lyle Gilligan (Acting Deputy Mayor and, I believe, another Labor supporter) have not approached community groups in relation to negotiating a resolution with the council.

Some of these council members in the past 18 months have done nothing to approach the local community clubs of West Lakes Shore to negotiate a proper lease. My understanding is that the council does not want to renew any contracts with the clubs, even though the clubs have made cost analyses of their budgets and have spent $8 000 to get advice and a business plan, which the council has refused to accept as workable. This negotiation has stalled over a period of 18 months.

I point out to the House that Fitzroy Football Club was also in financial difficulty and wanted to negotiate with the council. Yet, after a similar period the club was forced into bankruptcy, on my understanding. I cannot see why the council should interfere in the management of community clubs or restrict the years of lease for which they can renew their contracts.

I understand that several soccer clubs and other winter sporting clubs have been invited to use the area, provided that there are proper toilet and change room facilities in the vicinity. However, I understand that the council is not prepared to build these new facilities for winter sports and is

not prepared to extend the lease to potential clubs for more than 12 months. I believe that any person—or group of people—would be a fool to enter into a lease contract for less than five years.

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

Ms STEVENS (Elizabeth): During the health Estimates Committee hearing, the Opposition asked the Minister for Health some questions about waiting times and, particularly, about the latest statistics which had been released by his own department and which showed that the number of urgent patients experiencing a long wait across the major hospitals had increased from 26.7 per cent at June 1996 to 27.4 per cent in September 1996 and then a big increase to 37.4 per cent as at December 1996. We said that included in the statistics were increases of 64 per cent at Flinders Medical Centre, 28 per cent at Royal Adelaide Hospital and 26 per cent at the Queen Elizabeth Hospital and we asked him to explain why this was the case.

After going into a huddle with his advisers, he asked, 'From which document did you get this information?' As I said before, we were quoting from his own document published in April this year. The Minister was not able to answer the question. The next day, the Opposition did a press release and some media interviews on the same matter. I would point out to the House—because it is very interesting—that the Minister has not been able to say anything to negate what we said. The reason why, of course, is because what we said is direct from his own publication.

What his own publication states—and perhaps members opposite might like the Minister to look at it—is that waiting times for urgent and semi-urgent surgery in the State's public hospitals are on the increase. The latest figures as published in the Minister's own publication show that 37.4 per cent of urgent patients, that is, people classed by their doctors as needing elective surgery within 30 days, had to wait beyond 30 days for this to occur—an increase from 27 per cent in September last year. The data also states that for semi-urgent patients, more than 20 per cent had to wait beyond the recommended 90 days before they were able to access the treatment they required. This figure was up 17 per cent from September last year.

The figures do appear, as I said, in the Health Commission's own document, 'Waiting for Elective Surgery', Issue No. 3, April 1997, of which the Minister was unaware during Estimates. The document makes a play about telling us that the best way to describe these matters is to talk about waiting times rather than waiting lists and, by their own admission, these statistics show that a higher percentage of people are waiting longer. Out of 396 urgent patients, 148 had to wait longer than 30 days for surgery; of the 1 271 semi-urgent patients, 262 had to wait more than 90 days.

It is very interesting that when the Minister was approached by the media to comment on our claims, his only comment was that he would have a briefing. This is really interesting because the day before he was asked this question in Estimates. He did not know the answer then, he did not know the answer the next day, and has said nothing since. We understand and know why he has said nothing since: because there is nothing that he can say to take away the veracity of the information that was written in his own publication.

So, in summing up, what is quite clear and what his document shows is that after more than $200 million of cuts by this Liberal Government under this Liberal Minister, after getting rid of more than 2 200 jobs, including 1 000 nurses, and closing beds and wards all over our health system, the system is under real stress, and the stress is showing in his own statistics.

PARTNERSHIP (LIMITED PARTNERSHIPS) AMENDMENT BILL

Second reading.

The Hon. S.J. BAKER (Treasurer): I move:

That this Bill be now read a second time.

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

Leave granted.

This Bill amends the *Partnership Act 1891* ('the Act') to recognise and regulate limited partnerships, and to make other minor uncontroversial amendments to the Act.

A limited partnership as generally understood is an ordinary partnership with limited liability passive partners added on. The essence of a limited liability partnership is that the passive partners contribute equity to the firm but do not take part in management and are limited in regard to their liability to third parties to the extent of their subscribed capital. Therefore, there is a degree of separation of the ownership of the partnership and control of the partnership. Once the limited partner becomes involved in management that partner loses the benefit of the statutory limit on liability. However, a limited partner is not to be regarded as taking part in the management of the business (so as to incur unlimited liability) merely because the limited partner acts in a number of other roles, such as the giving of professional advice to the partnership, or providing a guarantee or indemnity.

Limited partnerships provide a relatively simple and inexpensive commercial vehicle for attracting risk or venture capital. While limited partnerships may be subject to some aspects of the corporations law in regard to their dealings, on the whole limited partnerships provide a less regulated alternative to incorporated companies.

In early 1992, limited partnerships were being increasingly used as they had a number of advantages. They were a relatively simple business structure to raise capital for major projects and for small business and, most importantly, there were significant tax advantages for partners.

However, in the 1992-93 budget the Federal government announced that limited partnerships would be taxed at the corporate rate, and the tax advantage was lost. Around the same year, the Corporations law was amended to provide that certain limited partnerships were required to produce a prospectus in compliance with the Corporations Law. The change to the taxation law and the corporations law reduced the attractiveness of limited partnerships as a vehicle for raising risk or venture capital. However, at a recent meeting of the Joint Legislation Review Committee (a committee comprising Chartered Accountants and Certified Practising Accountants) participants indicated that there is still a use for limited partnerships, and that South Australia was suffering economically through failing to enact limited partnership legislation. Most other States in Australia have limited partnership legislation and therefore investors were taking their money interstate to invest.

Limited partnership legislation will mean that entrepreneurs who wish to use limited partnerships will no longer need to establish a limited partnership interstate. The abolition of this obstacle will improve South Australia's investment potential, because there will be an alternative business vehicle to raise risk and venture capital.

This Bill provides statutory recognition of limited partnerships, and alters the general law of partnerships as far as necessary to accommodate limited partnerships. However, the Bill does not intend to completely regulate limited partnerships. Much of the detail should be left to the partnership agreements, and the general laws of partnership. More particularly, the Bill provides for the formation and composition of limited partnerships, when a partner is a limited partner, the rights and obligations of the limited partner and the requirements that must be complied with for limited partnerships not registered in South Australia to be recognised by South Australian

law. Also, it provides for the cessation and dissolution of limited partnerships, the obligations of limited partnerships and the requirements for changing partners or liabilities.

The Bill is consistent with interstate limited partnership legislation, which appears to have been implemented without problems interstate. In fact, this limited partnership structure is common in many major overseas countries including the United States, the United Kingdom, Canada, New Zealand, and South Africa. Consistent legislation will facilitate the recognition of the South Australian legislation in other States through mutual recognition provisions. This recognition will assist with the development of limited partnerships carrying on business and raising capital in more than one state, or one country.

The Bill also makes some consequential amendments to the *Business Names Act 1996* (to prevent unnecessary duplication in the registration processes) and makes Statute Law Revision amendments to the general partnership provisions of the *Partnership Act 1891*.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Insertion of Part

This clause updates the format of the principal Act by moving the short title and interpretation provisions from the end of the Act to the beginning of the Act (in keeping with modern drafting practice).

Clause 4: Substitution of heading

This clause substitutes a new heading into the principal Act.

Clause 5: Substitution of heading

Clause 6: Substitution of heading

Clause 7: Substitution of heading

Clause 8: Substitution of s. 45

These clauses substitute new headings in the principal Act.

Clause 9: Substitution of ss. 47 and 48

This clause repeals sections 47 and 48 of the principal Act and substitutes a new Part dealing with Limited Partnerships. Section 47 is now obsolete. Section 48 is the short title provision, which is now proposed to be inserted at the beginning of the Act (under clause 3 of this measure).

New Part 3 contains provisions as follows:

PART 3

LIMITED PARTNERSHIPS

DIVISION 1—PRELIMINARY

47. Definitions

Various terms used in the provisions on limited partnerships are defined. In particular, a limited partner is defined as a partner whose liability to contribute to the debts or obligations of the partnership is limited.

48. Application of general law to limited partnerships

The other Parts of the principal Act apply to limited partnerships (except where modified by this Part).

DIVISION 2—NATURE AND FORMATION OF LIMITED PARTNERSHIPS

49. Composition of limited partnership

There must be at least one general partner and one limited partner (either of which may be a body corporate).

50. Size of a limited partnership

There may be any number of limited partners but the number of general partners is limited by the outsize partnership provision of the *Corporations Law*.

51. Formation of a limited partnership

Limited partnerships are formed by registration.

DIVISION 3—REGISTRATION OF LIMITED PARTNERSHIPS

52. Application for registration

The procedure for applying to the Corporate Affairs Commission for registration of a limited partnership is set out. Where the partnership would also be required to register its firm name under the *Business Names Act 1996*, the application under this section also operates as an application under that Act.

53. Registration

The procedure for registration is set out, including the particulars of a limited partnership that are to be included in the Register.

54. Register of limited partnerships

The 'Register of Limited Partnerships' is to be kept by the Commission. The Register may, on payment of the prescribed fee, be inspected by members of the public.

55. Changes in registered particulars

Changes must be notified within 28 days after the change occurred. The Commission will record changes notified in the Register unless the partnership has become ineligible for registration or the change impacts on the *Business Names Act* registration, in which case the Commission may postpone recording the change pending registration of the name under that Act. Failure to notify a change is an offence punishable by a fine of $1 250 or an expiation fee of $160.

56. Certificates of registration, etc.

The Commission will issue certificates as to the formation and composition of a limited partnership or as to any other particulars recorded in the Register and certificates so issued are conclusive evidence of the particulars set out in the certificate (although for particulars not relating to formation of the partnership, the certificate is rebuttable).

57. Commission may correct Register

The Commission may correct errors or deficiencies in the Register or in certificates issued under this Act.

DIVISION 4—LIMITATION OF LIABILITY OF LIMITED PARTNERS

58. Liability of limited partner limited to amount shown in Register

The total liability of a limited partner is limited to the amount shown in the Register as that partner's liability.

59. Change in liability of limited partner

A reduction in a limited partner's liability does not apply to debts or obligations that arose before the reduction was recorded in the Register, but an increase in a limited partner's liability extends to debts or obligations of the limited partnership arising before or after the increase was recorded in the Register.

60. Change in status of partners

If a general partner becomes a limited partner, the limitation on liability does not apply to debts or obligations arising before the change of status but if a limited partner becomes a general partner, the limitation on liability no longer applies in relation to debts and obligations that arose before that change of status.

61. Liability for business conducted outside the State

The limitation on the liability extends to debts or obligations incurred outside the State.

62. Liability for limited partnerships formed under corresponding laws

A limitation on liability under a corresponding law extends to debts or obligations incurred in this State.

The law of another State or Territory may not be declared to be a corresponding law unless the Minister has certified to the Governor that the law is similar to this Part and that the law provides for reciprocal recognition of a limitation under this Part. The law of another country may not be declared to be a corresponding law unless the Minister has certified to the Governor that the law provides for the limitation of liability for partners in certain partnerships.

63. Contribution towards discharge of debts, etc.

A contribution by a limited partner towards debts or obligations of the partnership is to be in the form of money. If the contribution (or part of it) is returned to the limited partner, his or her liability is restored accordingly.

64. Limitation on liability may not be varied by partnership agreement, etc.

The provisions relating to limitation on liability may not be varied by the partnership agreement or by consent.

DIVISION 5—OTHER MODIFICATIONS OF GENERAL LAW OF PARTNERSHIP

65. Limited partner not to take part in the management of partnership

A limited partner must not manage the business and does not have power to bind the partnership. If, however, a limited partner does take part in management, the limited partner will be liable as a general partner for debts and obligations incurred while so taking part.

A limited partner may access and inspect the books and examine the business of the partnership and advise and consult with other partners in relation to such matters.

This provision may not be varied by the partnership agreement or the consent of the partners.

66. Differences between partners

Differences as to ordinary matters may be decided by a majority of the general partners but this provision may be varied by the partnership agreement or the consent of the partners.

67. Change in partners

A limited partner may (with consent) assign his or her share in the partnership. A person may be admitted as a partner in a

limited partnership without the necessity to obtain the consent of any limited partner.

These provisions may, however, be varied by the partnership agreement or the consent of the partners.

DIVISION 6—DISSOLUTION AND CESSATION OF LIMITED PARTNERSHIPS

68. Dissolution not available in certain cases

Subject to the partnership agreement—

- A limited partnership is not dissolved by notice given by a limited partner or by the death, bankruptcy or retirement or, in the case of a body corporate, the dissolution of a limited partner.
- The general or other limited partners cannot dissolve the partnership because a limited partner has allowed his or her share to be charged for separate debts or obligations.

A court cannot dissolve a limited partnership because a limited partner has been declared to be of unsound mind unless the partner's share in the partnership cannot be otherwise ascertained or realised.

69. Cessation of limited partnerships

A limited partnership ceases if there are no limited partners or the partners agree that it will no longer be a limited partnership (in which case the business, if it continues to operate, will no longer be taken to be formed under this Part).

70. Registration of dissolution or cessation of limited partnership

The general partners must lodge with the Commission a notice of the dissolution or cessation as soon as practicable after dissolution or cessation occurs. Failure to do so is an offence punishable by a fine of $1 250 or an expiation fee of $160. The Commission will then record the dissolution or cessation in the Register.

71. Winding up by general partners

Any winding up is to be carried out by the general partners unless a court otherwise orders.

DIVISION 7—MISCELLANEOUS

72. Signing of documents to be lodged with Commission

This makes provision for the signing of documents by authorised persons or for acceptance of documents where it is not possible to have them signed by the appropriate person.

73. Model limited partnership agreement

The regulations may prescribe a model limited partnership agreement.

74. Certain convicted offenders not to carry on business as general partners

A person who has been convicted of an offence in connection with the promotion, formation or management of a body corporate, an offence of fraud or dishonesty punishable by imprisonment for at least three months or a prescribed offence against the *Companies (South Australia) Code* or the *Corporations Law*, must not, within five years after the conviction or release from prison, continue or commence business as a general partner without the leave of the District Court. The penalty for this offence is a fine of $5 000. The Commission must have notice of any application to the Court and may be represented at the hearing.

If the Court grants leave, it may impose conditions and breach of the conditions is also an offence punishable by a fine of $5000.

75. Identification of limited partnerships

A limited partnership must identify itself as such on any documents described in this provision and must display its certificate of registration. Failure to do either of these things may incur a fine of $1 250.

76. Registered office

A limited partnership must keep an office to which all communications may be addressed in accordance with this provision. Failure to do so may incur a fine of $1 250.

77. Service

A notice, process or other document may be served on a partner at the registered office of the partnership.

78. Entry in Register constitutes notice

An entry in the Register of any fact constitutes public notice of that fact.

79. Giving false or misleading information

It is an offence to provide the Commission with false or misleading information (and this is punishable by a fine of $5 000).

80. Statutory declaration

The Commission may require that a document be verified by a statutory declaration.

81. General power of exemption of Commission

The Commission may extend any limitation of time or exempt a person from an obligation under the Act.

82. Immunity from liability

Immunity from liability for persons engaged in the administration or enforcement of the Act is provided (but such liability lies instead against the Crown).

83. Regulations

The Governor may make regulations for the purposes of this Part.

Clause 10: Further amendments of principal Act

This clause provides for the Statute Law Revision amendments set out in the schedule.

Clause 11: Amendment of Business Names Act 1996

This clause makes two consequential amendments to the *Business Names Act 1996*. The first provides that notice of a change of registered particulars given to the Commission by a limited partnership under the *Partnership Act 1891* will also constitute notice for the purposes of the *Business Names Act 1996*. The second amendment provides that limited partners are not taken to be 'carrying on business' in the limited partnership for the purposes of the *Business Names Act 1996*, so that the limited partners will not need to be registered as proprietors of a business name under that Act.

SCHEDULE

Further Amendments of Principal Act

The schedule makes various statute law revision amendments to the principal Act.

Mr ATKINSON secured the adjournment of the debate.

STATUTES AMENDMENT (ATTORNEY-GENERAL'S PORTFOLIO) BILL

Second reading.

The Hon. S.J. BAKER (Treasurer): 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.

There is a need for minor, uncontroversial amendments to several Acts administered by the Attorney-General which can conveniently be dealt with in the one Portfolio Bill.

Criminal Law (Sentencing) Act 1988

While section 13 provides that the Court must not make an order requiring a defendant to pay a pecuniary sum in certain circumstances, the Act does not clearly state that the Court may order a defendant to pay a proportion of that pecuniary sum. It does appear that the Court could order part payment of the pecuniary sum under the current section. However, the proposed amendment will make it clear that the Court may order part payment, which should eliminate litigation on this issue.

Enforcement of Judgments Act 1991

Currently, a sheriff is permitted to break into property to execute warrants issued in the Superior Courts or the Magistrates Court Criminal Jurisdiction, or warrants for the seizure and sale of property. However, the Sheriff is not permitted to break into premises to execute a warrant for contempt issued in the Magistrates Court Civil Jurisdiction. In practical terms, if a warrant for possession is issued in the Magistrates Court Civil jurisdiction the sheriff could break in. However, if the person from whom the property is taken, resumes the property, and therefore commits a contempt of the court, the sheriff would be unable to break into property to execute the warrant of arrest for the contempt. The amendment will rectify this anomaly.

Evidence Act 1929

Under section 71a of the *Evidence Act 1929*, the identity of a person accused of a sexual offence and evidence relating to the sexual offence is suppressed until the person has been committed for trial or sentence in a higher court, or until the charge is dismissed or proceedings lapse for any reason. This means that if a person is accused of a summary sexual offence or a minor indictable sexual offence that is to be treated as a summary offence, there is no point at which the identity of the person and evidence relating to the sexual offence may be published. The amendment creates a point at which

the identity of the accused person and evidence relating to the sexual offence may be published if the matter is dealt with summarily.

In addition, the *Evidence Act* provides that the evidence in a preliminary examination relating to sexual offences will be suppressed automatically until the specified dates. The rationale is that a person should not be publicly associated with sexual offences until it has been determined that there is sufficient evidence for the accused to have a case to answer. However, changes to the categories of offences has resulted in some sexual offences being classified as summary offences. Other provisions allow a minor indictable offence to be dealt with summarily, unless the accused elects otherwise. Because summary offences do not have a preliminary hearing, there is no automatic suppression of evidence. Therefore, there is inconsistency between the release of evidence for sexual offences dealt with in the Magistrates Court and indictable sexual offences dealt with by a superior court. The proposed amendment will eliminate the hole that currently allows the former to be reported, and will ensure that the accused is not publicly linked to the sexual offence until it is certain that the accused has a case to answer.

Fences Act 1975

There is unfairness to primary producers in fringe rural/urban areas due to the *Fences Act 1975*. Under the *Fences Act* home owners are able to seek contributions from their neighbours for the cost of 'adequate' fencing. However, what is adequate for the home owner's purpose, and what is adequate for the primary producer's purpose may differ. The amendment deals with the problems associated with the rural/urban interface by providing that, in such a case, the person against whom contribution is sought under the Act will only be liable for half of the cost of erecting or maintaining a fence fit for the primary producer's purpose or for the home owner's purpose, whichever costs less. The contribution required will not change for fences in urban/urban or rural/rural situations. The main effect of this provision is that primary producers, whose fencing needs are most often less than their residential neighbour, will not be forced to subsidise the needs of their neighbour.

Law of Property Act 1936

Under the Act, the Supreme Court is given jurisdiction in all matters arising under the Act. On the face of it, therefore, parties must incur the higher expense of the Supreme Court to enforce their rights, and the expensive resources of the Supreme Court are being used for comparatively minor matters. However, because the District Court has the same civil jurisdiction as the Supreme Court, and the Magistrates Court may determine 'an action (at law or equity) to obtain or recover title to, or possession of, real or personal property where the value of the property does not exceed $60 000', the lower courts may already also possess the power to determine matters under the Act. The amendments will take away the uncertainty that currently exists in relation to the jurisdiction of the District Court and Magistrates Court under this Act. However, the Supreme Court will retain exclusive jurisdiction in respect of class closure, perpetuities, and accumulations.

Further amendments to this Act, of a Statute Law Revision nature, are included in the schedule to the Bill.

Magistrates Act 1983

Currently, despite the Chief Magistrate being responsible for the general management of the magistrates, the Act gives the Chief Justice the duty of directing a stipendiary magistrate to perform special duties. This is inconsistent with the supervisory role which the Chief Justice generally takes in the Magistrates affairs. The proposed amendment which allows the Chief Magistrate, with the concurrence of the Attorney General, to direct that a stipendiary magistrate perform special duties, will ensure that the Chief Justice only has a supervisory role, and the Chief Magistrate has the management duties.

Statutes Amendment and Repeal (Common Expiation Scheme) Act 1996

Minor amendments to the *Fisheries Act* and *Travel Agents Act* were omitted from this Act which made minor amendments to a number of Acts in preparation for the Common Expiation Scheme. These proposed amendments will amend the Act to cater for the introduction of the Common Expiation Scheme.

Summary Offences Act 1953

Section 15A was inserted in this Act by the *Statutes Amendment (Attorney-General's Portfolio) Act 1995* (assented to on 27 April 1995). The provision came into operation on 27 April 1997 by virtue of section 7(5) of the *Acts Interpretation Act 1915*. The commencement of the provision had been delayed because of a potential conflict with the *Mutual Recognition Act 1992 (Cth)* which aims to promote freedom of movement of goods nationally, without restrictions being imposed by individual States.

To overcome this problem, a national approach to the regulation of body armour was considered. At the Australasian Police Ministers' Council ('APMC') meeting in 1996 it was resolved that each jurisdiction would legislate so that the sale, manufacture, distribution, supply, possession or use of body armour is prohibited, other than in circumstances involving the membership of an approved occupational category or the granting of a specific exemption to an individual.

The model legislation proposed by APMC is largely based on the South Australian provision, however a minor amendment is required for section 15A to properly conform to the APMC model. Section 15A currently permits the Commissioner to exempt individual persons from the operation of the section, but does not permit the exemption of an entire occupational group.

The proposed amendment will allow the Commissioner of Police to give an approval to a person or a class of persons to sell, manufacture, distribute, supply, possess or use body armour.

Explanation of Clauses

PART 1

PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Interpretation

This clause is standard for a statutes amendment Bill.

PART 2

AMENDMENT OF CRIMINAL LAW (SENTENCING) ACT 1988

Clause 4: Amendment of s. 13—Order for payment of pecuniary sum not to be made in certain circumstances

This clause amends section 13 of the principal Act to make it clear that where that section applies the court may order the payment of a reduced pecuniary sum.

PART 3

AMENDMENT OF ENFORCEMENT OF JUDGMENTS ACT 1991

Clause 5: Amendment of s. 12—Enforcement of judgments by proceedings in contempt

This clause amends section 12 of the principal Act to give the sheriff power to enter or break into land when executing a warrant for contempt of court issued under the Act.

PART 4

AMENDMENT OF EVIDENCE ACT 1929

Clause 6: Amendment of s. 71a—Restriction on reporting proceedings relating to sexual offences

This clause amends section 71a of the principal Act to make it applicable to summary offences and minor indictable offences that are to be treated as summary offences (because the defendant has not elected for the matter to be heard by a superior court).

Subsection (1), which currently applies to preliminary examinations, is broadened to apply to any proceedings before a magistrate or justice in relation to a sexual offence. The 'relevant date' (before which information described in subsections (1) and (2) cannot be reported) is defined, in relation to summary offences and minor indictable offences that are treated as summary offences, as the date on which a plea of guilty is made or the date on which an accused is found guilty following a trial.

PART 5

AMENDMENT OF FENCES ACT 1975

Clause 7: Amendment of s. 12—Powers of court

This clause amends section 12 which deals with court orders for contribution to the cost of fencing work. The amount that a neighbouring land owner is liable to contribute is based on the cost of an 'adequate fence'. What is 'adequate' is then determined by reference to the locality in which the fencing work is to be performed. The amendment provides that, in the case of a fence dividing primary production land from land used for residential or other purposes, an adequate fence is a fence that is adequate for the primary production purposes or a fence that is adequate for the residential purposes, whichever would cost less.

Clause 8: Amendment of s. 16—Damage to or destruction of dividing fence

This clause amends section 16 of the principal Act to ensure that the contribution payable for repairs to a fence will not exceed the amount that a person would be liable to pay if the fence were completely replaced.

PART 6
AMENDMENT OF LAW OF PROPERTY ACT 1936

Clause 9: Amendment of s. 7—Interpretation

This clause replaces the definition of 'court' with a definition that includes the District Court and the Magistrates Court as well as the Supreme Court. The Magistrates Court is given jurisdiction to determine matters involving property with a value not exceeding $60 000.

Clause 10: Amendment of s. 55a—Enforcement of rights against mortgagor

This clause ensures that the new definition of 'court' applies in relation to this section by removing references which would be inconsistent.

Clause 11: Insertion of section 58a

This clause inserts a new provision in Part 6 of the Act ensuring that jurisdiction under that Part (which deals with perpetuities and accumulations) will remain exclusively with the Supreme Court.

Clause 12: Repeal of s. 85

This clause repeals section 85, which provides that the Supreme Court may make rules in relation to partition proceedings. The reference to the Supreme Court would be inconsistent with the new definition of 'court' and the section is, in any case, now unnecessary.

Clause 13: Amendment of s. 105—Questions between husband and wife as to property

This clause ensures that the new definition of 'court' applies in relation to section 105 by removing references which would be inconsistent.

Clause 14: Further amendments of principal Act

This clause implements the amendments set out in the schedule.

PART 7
AMENDMENT OF MAGISTRATES ACT 1983

Clause 15: Amendment of s. 13—Remuneration of magistrates

This clause amends section 13 of the principal Act to remove the reference to the Chief Justice and substitute a reference to the Chief Magistrate.

PART 8
AMENDMENT OF STATUTES AMENDMENT AND REPEAL (COMMON EXPIATION SCHEME) ACT 1996

Clause 16: Amendment of Schedule

The new expiation scheme established by the *Expiation of Offences Act 1996* came into operation on 3 February 1997. The consequential amendments to various Acts contained in the Schedule of the *Statutes Amendment and Repeal (Common Expiation Scheme) Act 1996* also came into operation on 3 February, except that the operation of the amendments to the *Fisheries Act 1982* and to the *Travel Agents Act 1986* was suspended. The suspension was necessary to enable the amendments set out in this clause to be made.

The amendments to the *Fisheries Act 1982*—

- remove references to the special fisheries expiation scheme from sections 5(1) and 28(9)*(ca)*; and
- provide for expiation of offences against sections 41 and 42 of the *Fisheries Act 1982* (these offences are currently expiable under the regulations).

The *Travel Agents Act 1986* was amended after enactment of the *Statutes Amendment and Repeal (Common Expiation Scheme) Act 1996* but before 3 February 1997, rendering the amendments in the Schedule obsolete. The amendment to section 46(2) places a limit on the level of expiation fee that may be imposed by regulation, similar to the limit that applies in other occupational licensing legislation.

PART 9
AMENDMENT OF SUMMARY OFFENCES ACT 1953

Clause 17: Amendment of s. 15A—Possession of body armour

Under section 15A of the principal Act, it is an offence to manufacture, sell, distribute, supply, deal in, have possession of or use body armour without the approval of the Commissioner of Police. This clause amends section 15A to allow the Commissioner to grant an approval to an individual or to a class of persons and to impose conditions or limitations on such an approval. If an approval relates to a class of persons, the giving, variation or revocation of the approval must be notified in the *Gazette*.

SCHEDULE

The schedule makes various amendments of a Statute Law Revision nature, to the *Law of Property Act 1936*.

Mr ATKINSON secured the adjournment of the debate.

JURIES (MISCELLANEOUS) AMENDMENT BILL

Second reading.

The Hon. S.J. BAKER (Treasurer): I move:

That this Bill be now read a second time.

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

Leave granted.

This Bill makes minor, uncontroversial amendments to the *Juries Act 1927* ('the Act').

The provisions of this Bill repeal outdated and cumbersome procedural provisions so that the Act or regulations made under the Act will reflect the current practices of jury management and other miscellaneous amendments.

New section 12(1a) requires the Commissioner of Police, on the sheriff's request, to assist the sheriff in determining whether or not a person is disqualified from jury service. In practical terms, in order to check compliance with section 12 of the Act, which disqualifies persons from performing jury duty if they possess a specified criminal history, the Commissioner of Police's assistance is necessary. The police are in the best position to access this information. While the Commissioner of Police already gives such assistance in practice, the practice has no legislative backing. As a result, it is possible that the disclosure of a person's status which disqualifies him or her from jury service may breach the Privacy Principles. One option to overcome this problem would be to require all potential jurors to sign a release which allows the police to give the sheriff information regarding a person's criminal history. However, this would be costly and time consuming. The preferred option is to legislate to require the Commissioner of Police to release information regarding a person's criminal history. This option is the least costly or time consuming, and overcomes possible breaches of the Privacy Principles.

Sections 16 to 19 of the Act are replaced by a provision which will have the effect of increasing the sheriff's powers to excuse jurors or prospective jurors from attendance in compliance with their summons. Currently, Section 16 of the Act allows the sheriff to excuse proposed jurors from compliance with their summonses. However, the sheriff is unable to excuse a juror from jury duty after the juror has been sworn in. A juror, who applies to be released from compliance with the summons once the juror has been sworn in, can only be released by a judge who gains this power from Section 32(6) of the Act coupled with the common law power of a Judge to excuse generally.

Although a Judge has the power to defer a juror's jury service to another month which the juror prefers within the next 12 months under section 18(1) of the Act, the sheriff does not possess such a power. However, the ability to negotiate the month of service is important because it enables the court system to be flexible, and recognises the difficulties faced by some citizens who are co-opted into serving in it. Given that it is the responsibility of the sheriff to deal with the day to day management of jurors, the inability of the sheriff to excuse jurors who have been sworn in, or to defer a prospective juror's jury service is inefficient, and it causes the Judge to be involved in the minor matters of jury management.

New section 16 gives the sheriff and a judge the power to excuse jurors and defer jury service on application of the juror or potential juror until the juror is serving in a criminal trial. It will also place the provisions regarding excusing jurors or prospective jurors prior to empanelment in a criminal inquest into one provision.

Currently, the sheriff prepares the annual jury list with the assistance of the Electoral Commissioner. Jury summonses are issued, and applications for deferrals and excusals are considered, followed by the issue of replacement summonses if required. The potential jurors are divided into sections, by ballot. However, it is proposed that this function be conducted by computer selection. Only sufficient sections are called in on any one day. Jury sections may be combined to become temporary sections. Once jurors are released from their trial they return to their jury section, and attend for further service next time their section is required. At the end of the jury service, all jurors not previously excused by direction of a Judge are released from further attendance. This procedure is an efficient and effective method of jury management, yet some elements of this practice are not prescribed in the legislation. Clause 5 repeals the obsolete provisions in section 32 so that an accurate reflection of the

court procedure can be enacted, and by placing the procedures in the regulations, it will allow for greater flexibility in court procedures.

The amendment to Schedule 3 is a result of recent outsourcing of some tasks related to the handling of prisoners. At present, 'persons employed in a department of the Government whose duties of office are connected with the investigation of offences, the administration of justice, or the punishment of offenders' are ineligible for jury service. However, outsourcing of some tasks related to the handling of prisoners means that some persons employed in this area will be eligible for jury service as they are not employed by a Government Department. The amendment will ensure that persons traditionally ineligible for jury service will remain ineligible.

A general regulation making power has been inserted for flexibility, as well as being necessary for the proposed amendment to Schedule 3.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

Clause 3: Amendment of s. 12—Disqualification from jury service

The amendment requires the police to investigate the criminal record of potential jurors.

Clause 4: Substitution of ss. 16 to 19

New section 16 brings together the powers of a judge or sheriff to excuse prospective jurors or jurors. The sheriff's power is expanded but is subject to review by a judge.

The power of a judge to excuse a jury who is serving on a jury in the course of a criminal inquest remains regulated by section 56.

Clause 5: Substitution of s. 32

The substituted section allows the processes for establishing and regulating jury panels to be governed by regulations.

Clause 6: Insertion of s. 93

The new section provides general regulation making power.

Clause 7: Amendment of Schedule 3

The amendment adds to the list of persons excused from jury service certain persons employed by a prescribed body to cater for outsourcing relating to the administration of justice.

Mr ATKINSON secured the adjournment of the debate.

COOPERATIVES BILL

Second reading.

The Hon. S.J. BAKER (Treasurer): 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.

The purpose of this Bill is to provide a consistent legislative framework for the formation, registration and corporate governance of co-operatives, and to repeal the *Co-operatives Act 1983*.

The Governments of the States and Territories have for some time been considering proposals for uniform legislation for co-operatives in Australia. A concern has been that the legislation for co-operatives does not facilitate interstate trading and fundraising by co-operatives.

The South Australian Co-operatives Act does not recognise the interstate activities of co-operatives. Also, a co-operative is subject to the *Corporations Law* prospectus provisions if it wishes to raise funds outside of South Australia. This can be a complex and expensive process if a co-operative wishes to extend its membership base outside of South Australia.

Earlier proposals for uniformity were initiated by New South Wales and focussed on a mutual recognition approach. These proposals were not proceeded with because they did not provide for an acceptable measure of State accountability in relation to interstate co-operatives trading in a host jurisdiction.

Early last year, Victoria advised that it proposed to draft new co-operatives legislation for intended introduction during its Spring 1996 Sitting, based as uniformly as possible on the New South Wales co-operatives legislation. Subsequently Victoria proposed that the States participate in a uniform scheme for co-operatives, by the making and maintaining of consistent legislation based on the core provisions of the proposed Victorian legislation.

Most jurisdictions have participated in the development of the Victorian legislation, and have demonstrated considerable co-operation in the compromises necessary to settle it. All South Australian active co-operatives were provided with an exposure draft of the Victorian Bill for comment before its introduction on the basis that it could serve as the model for proposed consistent legislation in South Australia.

The Victorian Co-operatives Act was passed on 10 December 1996 and is expected to commence operation on 1 August 1997. A number of jurisdictions are committed to the making of legislation in the next few months based on the Victorian Act, with a view to commencement on 1 August 1997 or as soon as possible thereafter. The Northern Territory has secured passage of its consistent legislation.

The South Australian Bill is consistent with the Victorian Act. In following the New South Wales Co-operatives Act, it will provide for a more up-to-date system of corporate governance, and a strengthening of the regulator's role. This is also necessary to achieve an acceptable interface of the legislation with the *Corporations Law*.

If South Australia does not participate by making consistent legislation, it will disadvantage South Australian co-operatives by severely limiting the ability to procure foreign registration in a host jurisdiction. It could also result in the Commonwealth not excluding South Australian co-operatives from the scope of the fundraising provisions of the *Corporations Law*.

There are many positive aspects to the legislation. The key elements of the Bill are as follows:

- The Bill provides that incorporation as a co-operative is a right available to any group wishing to have the benefits of co-operation and willing to abide by traditional co-operative principles.
- The powers of a co-operative are clearly stated. Such powers may be exercised both within and outside the State.
- The rules of a co-operative must provide for a grievance procedure in relation to disputes and application may also be made to the Supreme Court to settle disputes. Remedies are provided for in relation to oppressive conduct of affairs, similar to those in the *Associations Incorporation Act 1985*.
- The Bill includes active membership requirements. This arises from the co-operative principle of member economic participation and ensures that only those members actively participating in the affairs of a co-operative may control the co-operative. These provisions assist co-operatives to manage takeover risks, and also have relevance to the fundraising provisions of the Bill, such that the level of disclosure to members in relation to various proposals is less than to non-members.
- Provision is made for the issue of shares, the disclosure of beneficial and non-beneficial interest in shares, and the procedure involved in the transfer or repurchase of shares. Part of the interface arrangements with the Commonwealth has an effect that shares may not be held by non-members.
- Each active member of a co-operative has only 1 vote. At least 2 co-operatives currently have rules first registered under the repealed Industrial and Provident Societies Act which depart from this principle. Transitional provisions will allow these rules to continue for 2 years after commencement.
- The legislation requires a special postal ballot to be held in relation to any proposals for a conversion of a share capital co-operative to a non-share capital co-operative, a transfer of incorporation, a sale of major assets, and a takeover, merger or a transfer of engagements.
- Provisions relating to the management and administration of co-operatives have been enhanced so as to provide for similar general standards as those applying to directors of corporations. A specific insolvent trading offence is included which places an obligation on directors not to incur debts if insolvency is expected.
- The regulations may make provision in relation to any matter provided for in the accounts and audit requirements of the *Corporations Law*, the application of accounting standards, and requiring the submission of accounts to the Australian Accounting Standards Board.
- New co-operatives will not be able to accept deposits. However, deposit taking for existing co-operatives will be permitted if the co-operative had a specific deposit taking power in its rules before commencement. Offers to non-members of debentures and subordinated debt, whether intrastate or interstate, will require a *Corporations Law* style prospectus to be registered by the

Commission. In relation to fundraising in the form of non-share securities offered to members, or to members and employees, a reduced disclosure regime will apply. In such circumstances, the Commission will have to approve a disclosure statement before the issue of the securities.

- The Bill provides for accountability to, and protection for, members of trading co-operatives in connection with the control and possible takeover of co-operatives generally based on selected provisions of the *Corporations Law* relating to acquisitions of shares. The making of an offer to purchase a co-operative's shares in certain circumstances will not be able to proceed without approval by special resolution held by special postal ballot, and approval by the Commission. Other provisions prohibit reckless, manipulative or irresponsible public announcements, and require additional disclosure in respect of an offer to purchase shares in a co-operative relating to a proposal for registration of the co-operative as a company. A 20 per cent relevant interest will apply as a limitation of shareholding and the limit may be increased by order of the Commission.

  It may also be increased for particular holdings if approved by special resolution held by special postal ballot. If the interest is held by other than a co-operative, the approval of the Commission will be required.
- Voluntary mergers, transfers of engagements and conversions to companies are catered for and include requirements for adequate disclosure of the proposal with a disclosure statement to be approved by the Commission. A transfer of engagements to a co-operative may be directed by the Commission but only with the approval of the Minister.
- The provisions of the *Corporations Law* relating to 'voluntary administration' which have been in operation since 1993 are adopted in relation to co-operatives. These provide for the affairs of an insolvent or near insolvent co-operative to be administered in a way that maximise the chances of the co-operative or its business continuing in existence, free of mandatory Court involvement except in a supervisory jurisdiction. In addition to voluntary administration, the Commission will be able to appoint an administrator, upon which the directors will cease to hold office during the period of administration. The grounds for such appointment are similar to those for a winding up by the Commission or a directed transfer of engagements.
- There are provisions in relation to foreign co-operatives similar to corresponding provisions in the Financial Institutions and proposed Friendly Societies (South Australia) Codes. A foreign co-operative will not be able to carry on business in South Australia unless it is registered under the South Australia Act. A foreign co-operative so registered will be subject to at least the core consistent provisions which are to be prescribed. Reciprocal arrangements will apply in the consistent legislation of participating jurisdictions. Provision has also been included for a South Australian co-operative and a foreign co-operative to consolidate all or any of their assets, liabilities and undertakings by way of merger or transfer of engagements.
- External administration provisions are similar to those in the Financial Institutions and proposed Friendly Societies (South Australia) Codes. The Commission is given powers of inspection and special investigation similar to powers in the current Act.
- Savings and transitional provisions provide for the transition between the requirements of the current Act and the proposed legislation.

A significant number of co-operatives operate in the agricultural sector and in many instances a member's livelihood is related to a co-operative's viability. The South Australian Government is supportive of the objective of maintaining viable co-operatives which can contribute to the progress of the South Australian economy and which provide an alternative democratic structure to companies.

The Co-operative Federation of South Australia is very supportive of the proposals.

I commend the Bill to the House.

Explanation of Clauses

PART 1

PRELIMINARY

DIVISION 1—INTRODUCTORY

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides for commencement of the measure on a day to be fixed by proclamation.

Clause 3: Objects of this Act

This clause sets out the objects of the measure.

DIVISION 2—INTERPRETATION

Clause 4: Definitions

This clause defines terms used in the measure.

Clause 5: Qualified privilege

This clause defines 'qualified privilege'.

DIVISION 3—THE CO-OPERATIVE PRINCIPLES

Clause 6: Co-operative principles

This clause sets out the co-operative principles.

Clause 7: Interpretation to promote co-operative principles

This clause provides that the measure is to be interpreted so as to promote the co-operative principles.

DIVISION 4—APPLICATION OF CORPORATIONS LAW

Clause 8: Corporations Law applying under its own force

This clause describes the provisions of the *Corporations Law* that apply under their own force to co-operatives.

Clause 9: Corporations Law adopted by this Act or the regulations

This clause provides that a provision of the *Corporations Law* may be adopted, with or without specified modifications, by this measure or the regulations.

Clause 10: Interpretation of adopted provisions of Corporations Law

This clause provides that provisions of the *Corporations Law* adopted by this measure apply with any modifications that may be necessary or appropriate for the effectual application of the provisions to co-operatives.

Clause 11: Implied adoption of regulations and other provisions of Corporations Law

This clause provides for the implied adoption of regulations and other provisions of the *Corporation Law* arising from the application of a provision of the *Corporations Law* to co-operatives.

Clause 12: Effect of amendments to adopted provisions of Corporations Law

This clause provides for the effect of amendments to provisions of the *Corporations Law* applied to a co-operative.

PART 2

FORMATION

DIVISION 1—TYPES OF CO-OPERATIVES

Clause 13: Types of co-operatives

This clause provides that a co-operative registered under this measure may be either trading or non-trading.

Clause 14: Trading co-operatives

This clause requires a trading co-operative to have a share capital and a minimum number of members.

Clause 15: Non-trading co-operatives

This clause provides that a non-trading co-operative may or may not have a share capital, but must not give returns or distributions on surplus or share capital other than the nominal value of shares (if any) on winding up.

DIVISION 2—FORMATION MEETING

Clause 16: Formation meeting

This clause provides that a formation meeting must be held before a proposed co-operative can be registered, and specifies the matters that must be considered at the meeting and the persons who must attend the meeting.

DIVISION 3—APPROVAL OF DISCLOSURE STATEMENT AND RULES

Clause 17: Approval of disclosure statement

This clause provides that a draft disclosure statement of a proposed trading co-operative must be submitted to the Corporate Affairs Commission at least 28 days before the formation meeting is due to be held. If the Commission does not otherwise notify the person who submitted the draft disclosure statement at least 5 days before the formation meeting is due to be held, the Commission is to be considered to have approved the statement.

Clause 18: Approval of rules

This clause provides that a draft of the rules proposed for the co-operative must be submitted to the Commission at least 28 days before the formation meeting is due to be held. The Commission may approve or refuse to approve the rules and must give notice in writing of its decision to the person who submitted the draft rules.

DIVISION 4—REGISTRATION OF PROPOSED CO-OPERATIVE

Clause 19: Application for registration of proposed co-operative

This clause deals with the making of an application for registration of a proposed co-operatives.

Clause 20: Registration of co-operative

This clause deals with the registration of co-operatives.

Clause 21: Incorporation and certificate of registration
This clause provides that the incorporation of a co-operative takes effect on the registration of the co-operative.

DIVISION 5—REGISTRATION OF AN EXISTING BODY CORPORATE

Clause 22: Existing body corporate can be registered
This clause provides that a body corporate may apply to the Commission to be registered as co-operative under the Act.

Clause 23: Formation meeting
This clause provides for the holding of a formation meeting by a body corporate, at which a special resolution approving of the proposed registration must be passed.

Clause 24: Application for registration
This clause deals with the making of an application for registration of a body corporate as a co-operative.

Clause 25: Requirements for registration
This clause deals with the registration of a body corporate as a co-operative under this Division.

Clause 26: Certificate of registration
This clause requires the Commission to issue a certificate of registration to a body corporate that has been registered as a co-operative and publish notice of the issue of the certificate in the *Gazette*.

Clause 27: Effect of registration
This clause describes the effect of registration and incorporation of a body corporate as a co-operative.

DIVISION 6—CONVERSION OF CO-OPERATIVE

Clause 28: Conversion of co-operative
This clause provides that a co-operative may convert from a co-operative with share capital to one without share capital (or vice versa) or from trading to non-trading (or vice versa).

DIVISION 7—APPEALS

Clause 29: Appeal against refusal to approve disclosure statement
This clause provides that the person who submitted a draft disclosure statement to the Commission may appeal to the District Court if the Commission refuses or fails to approve the statement.

Clause 30: Appeal against refusal to approve draft rules
This clause provides that the person who submitted draft rules to the Commission may appeal to the District Court if the Commission refuses or fails to approve the rules.

Clause 31: Appeal against refusal to register
This clause provides that the applicants for registration of a proposed co-operative may appeal to the District Court if the Commission refuses or fails to register the co-operative.

Clause 32: Commission to comply with Court determination
This clause provides that the Commission must comply with a determination of the District Court under this Division.

DIVISION 8—GENERAL

Clause 33: Stamp duty exemption for certain co-operatives
This clause provides a stamp duty exemption for certain co-operatives.

Clause 34: Acceptance of money by proposed co-operative
This clause requires money accepted by a proposed co-operative to be held on trust until the co-operative is registered, and to be returned if the proposed co-operative is not registered within 3 months of acceptance of the money.

Clause 35: Issue of duplicate certificate
This clause provides for the issuing by the Commission of a duplicate certificate of registration under certain circumstances.

PART 3
LEGAL CAPACITY AND POWERS
DIVISION 1—GENERAL POWERS

Clause 36: Effect of incorporation
This clause describes the effect of incorporation on a co-operative.

Clause 37: Power to form companies and enter into joint ventures
This clause provides that, in addition to other powers, a co-operative has power to form companies and enter into joint ventures.

DIVISION 2—DOCTRINE OF ULTRA VIRES ABOLISHED

Clause 38: Interpretation
This clause provides guidance in the interpretation of this Division.

Clause 39: Doctrine of ultra vires abolished
This clause provides that the objects of this Division are to provide that the doctrine of *ultra vires* does not apply to co-operatives and to ensure that a co-operative's officers and members give effect to the provisions of the co-operative's rules relating to the primary activities or powers of the co-operative.

Clause 40: Legal capacity
This clause provides that a co-operative has the legal capacity of a natural person and specifies certain particular powers of co-operatives.

Clause 41: Restrictions on co-operatives in rules
This clause provides that a co-operative's rules may contain restrictions or prohibitions on the exercise by the co-operative of a power, and that the clause is contravened if a co-operative exercises a power contrary to an express restriction or prohibition in its rules.

Clause 42: Results of contravention of restriction in rules
This clause provides that the exercise of a power or the doing of an act in contravention of clause 41 is not invalid merely because of the contravention.

DIVISION 3—PERSONS HAVING DEALINGS WITH CO-OPERATIVES

Clause 43: Assumptions entitled to be made
This clause provides that a person is entitled to make the assumptions in clause 44 in relation to dealings with a co-operative and persons who have or purport to have acquired title to property from a co-operative.

Clause 44: Assumptions
This clause specifies the assumptions which a person is entitled to make, as provided by clause 42.

Clause 45: Person who knows or ought to know is not entitled to make assumptions
This clause provides that a person who knows or ought to know that an assumption is incorrect is not entitled to make that assumption.

Clause 46: Lodgment of documents not to constitute constructive knowledge
This clause provides that a person is not to be considered to have constructive knowledge of documents (other than those relating to registrable charges) lodged with the Commission.

Clause 47: Effect of fraud
This clause provides that a person's entitlement to make assumptions under this Division is not affected by the fraudulent conduct of, or forgery by, a person, unless the person attempting to rely on the assumption has actual knowledge of the fraudulent conduct or forgery.

DIVISION 4—AUTHENTICATION AND EXECUTION OF DOCUMENTS AND CONFIRMATION OF CONTRACTS

Clause 48: Common seal
This clause provides that a document or proceeding requiring authentication by a co-operative may be authenticated under the common seal of the co-operative.

Clause 49: Official seal
This clause provides that a co-operative may have one or more official seals, each of which must be a facsimile of the co-operative's common seal, to be used in place of its common seal outside the State where the common seal is kept.

Clause 50: Authentication need not be under seal
This clause provides that a document or proceeding may be authenticated by the signature of a director and a director or officer of a co-operative, and need not be under seal.

Clause 51: Co-operative may authorise person to execute deed
This clause provides that a co-operative may authorise a person as its agent or attorney to execute deeds on its behalf.

Clause 52: Execution under seal
This clause provides for the validity of documents executed under seal where a person attesting the affixing of the seal was in any way interested in the matter contained in the document.

Clause 53: Contractual formalities
This clause provides that a person acting under the authority of a co-operative may make, vary or discharge a contract on behalf of the co-operative.

Clause 54: Other requirements as to consent or sanction not affected
This clause provides that this Division does not affect other legal requirements as to consent or sanction in relation to contractual procedures.

Clause 55: Transitional
This clause provides for the transitional operation of this Division.

DIVISION 5—PRE-REGISTRATION CONTRACTS

Clause 56: Contracts before registration
This clause provides for the entering into on behalf of a proposed co-operative, and the later ratification by a co-operative, of pre-registration contracts.

Clause 57: Persons may be released from liability but is not entitled to indemnity

This clause provides that the person who entered into the pre-registration contract may be released from liability but is not entitled to an indemnity.

Clause 58: This Division replaces other rights and liabilities

This clause provides that this Division replaces any rights or liabilities anyone would otherwise have in relation to a pre-registration contract.

PART 4
MEMBERSHIP
DIVISION 1—GENERAL

Clause 59: Becoming a member

This clause provides for the admission of persons as members of a co-operative.

Clause 60: Members of associations

This clause provides for the admission of co-operatives and other bodies corporate as members of an association.

Clause 61: Members of federations

This clause provides for membership of a federation.

Clause 62: Qualifications for membership

This clause prescribes qualifications for membership of a co-operative.

Clause 63: Membership may be joint

This clause provides that membership of a co-operative may be joint.

Clause 64: Members under 18 years of age

This clause provides for the membership of a co-operative by natural persons under 18 years of age.

Clause 65: Representatives of bodies corporate

This clause provides that a body corporate that is a member of a co-operative may appoint a person to represent it in respect of its membership.

Clause 66: Notification of shareholders and shareholdings

This clause requires a body corporate that is a member of a co-operative to notify the board of directors of the co-operative (if requested) of the body corporate's shareholders and shareholdings.

Clause 67: Circumstances in which membership ceases—all co-operatives

This clause prescribes the circumstances under which membership of a co-operative ceases.

Clause 68: Additional circumstances in which membership ceases—co-operatives with share capital

This clause provides additional circumstances in which membership of a co-operative with share capital ceases.

Clause 69: Carrying on business with too few members

This clause prescribes the minimum number of members allowed for co-operatives, associations and federations and provides that the directors of a co-operative which carries on business for more than 28 days after the number of members falls below the minimum are guilty of an offence.

DIVISION 2—RIGHTS AND LIABILITIES OF MEMBERS

Clause 70: Rights of membership not exercisable until registered etc.

This clause provides that rights of membership are not exercisable until the member's name appears on the co-operative's register of members and payment is made and shares acquired by the member.

Clause 71: Liability of members to co-operative

This clause describes the liability of members of a co-operative.

Clause 72: Co-operative to provide information to person intending to become a member

This clause requires the board of a co-operative to provide certain information to each person intending to become a member of the co-operative.

Clause 73: Entry fees and regular subscriptions

This clause provides that the rules of a co-operative may require the payment by members of entry fees and regular subscriptions.

Clause 74: Members etc. may be required to deal with co-operative

This clause provides that the rules of a co-operative may contain provisions requiring members to have any specified dealings with the co-operative for a fixed period, such as the sale of products through or to the co-operative or obtaining supplies or services through or from the co-operative.

Clause 75: Fines payable by members

This clause provides for the imposition of a fine by a co-operative on a member for any infringement of the rules of the co-operative, if the rules of the co-operative so provide.

Clause 76: Charge and set-off of co-operative

This clause provides for charges on certain property of members and ex-members where a debt is owed to a co-operative, and the set off of any amount paid towards satisfaction of that debt.

Clause 77: Repayment of shares on expulsion

This clause provides for the repayment of the amount paid up on a member's shares when the member is expelled from the co-operative.

DIVISION 3—DEATH OF MEMBER

Clause 78: Meaning of 'interest'

This clause defines a deceased member's 'interest' for the purposes of this Division.

Clause 79: Transfer of share or interest on death of member

This clause provides for the transfer of a member's shares or interest in a co-operative on the death of the member.

Clause 80: Transfer of small shareholdings and interests on death

This clause provides for the transfer of a member's shares or interest in a co-operative on the death of the member, where the total value of the shares or interest is less than $10 000 (or such other amount as prescribed).

Clause 81: Value of shares and interests

This clause provides that the value of the shares or interest of a deceased member is to be determined for the purposes of this Division in accordance with the rules of the co-operative.

Clause 82: Co-operative protected

This clause provides that any transfer of property made by the board of a co-operative in accordance with this Division is valid and effectual against any demand made on the co-operative by any other person.

DIVISION 4—DISPUTES INVOLVING MEMBERS

Clause 83: Grievance procedure

This clause requires the rules of a co-operative to provide for a grievance procedure, which must allow for the application of natural justice, for dealing with disputes under the rules between members and the co-operative and between members of the co-operative.

Clause 84: Application to Supreme Court

This clause provides that a member of a co-operative may make application to the Supreme Court for an order declaring and enforcing the rights or obligations of members or the co-operative.

DIVISION 5—OPPRESSIVE CONDUCT OF AFFAIRS

Clause 85: Interpretation

This clause provides for an extended definition of 'member' for the purposes of this Division.

Clause 86: Application of Division

This clause provides that this Division does not apply in respect of anything done under or for the purposes of Part 6 (Active membership).

Clause 87: Who may apply for court order?

This clause specifies who may apply to the Court for an order under this Division.

Clause 88: Orders that the Supreme Court may make

This clause provides that the Court may make any order it thinks fit in respect of an application under this Division, including but not limited to the orders specified.

Clause 89: Basis on which Supreme Court makes orders

This clause describes the basis on which the Court may make orders under this Division.

Clause 90: Winding up need not be ordered if oppressed members prejudiced

This clause provides that the Court need not make an order for the winding up of a co-operative if the winding up would unfairly prejudice an oppressed member.

Clause 91: Application of winding up provisions

This clause provides for the application of the winding up provisions of the Act where an order for winding up is made by the Court under this Division.

Clause 92: Changes to rules

This clause provides for the effect of an alteration of a co-operative's rules resulting from an order of the Court under this Division.

Clause 93: Copy of order to be lodged with Commission

This clause requires an applicant for an order under this Division to lodge a copy of the order with the Commission within 14 days after it is made.

DIVISION 6—PROCEEDINGS ON BEHALF OF A CO-OPERATIVE BY MEMBERS AND OTHERS

Clause 94: Bringing, or intervening in, proceedings on behalf of a co-operative

This clause specifies who may bring or intervene in proceedings on behalf of a co-operative.

Clause 95: Applying for and granting leave

This clause provides that a person referred to in clause 94 may apply to the Supreme Court for leave to bring or intervene in proceedings,

and specifies the circumstances in which the Court must grant the application.

Clause 96: Substitution of another person for the person granted leave

This clause specifies the persons who may apply to the Court for an order that they be substituted for a person to whom leave has been granted under clause 95.

Clause 97: Effect of ratification by members

This clause provides for the effect of a ratification or approval of conduct by members of a co-operative on an application under clause 95.

Clause 98: Leave to continue, compromise or settle proceedings brought, or intervened in, with leave

This clause provides that proceedings brought or intervened in with leave must not be discontinued, compromised or settled without the leave of the Court.

Clause 99: General powers of the Supreme Court

This clause empowers the Court to make orders and give directions in relation to proceedings brought or intervened in under this Division.

Clause 100: Power of Supreme Court to make costs order

This clause empowers the Court to make a costs order in relation to proceedings brought or intervened in with leave under clause 95.

PART 5
RULES

Clause 101: Effect of rules

This clause describes the effect of the rules of a co-operative as a contract under seal between the co-operative and each member, between the co-operative and each director, the principal executive officer and the secretary, and between a member and each other member.

Clause 102: Content of rules

This clause prescribes the required form and content of a co-operative's rules.

Clause 103: Purchase and inspection of copy of rules

This clause provides for the purchase and inspection of a co-operative's rules.

Clause 104: False copies of rules

This clause provides that a person who gives a false copy of the rules of a co-operative to a member or a person intending to become a member is guilty of an offence.

Clause 105: Model rules

This clause provides for the approval of model rules by the Commission by notice published in the *Gazette*.

Clause 106: Rules can only be altered in accordance with this Act

This clause provides that the rules of a co-operative cannot be altered except in accordance with this measure.

Clause 107: Approval of alteration of rules

This clause provides that a proposed alteration of a co-operative's rules must be approved by the Commission before the passing of the resolution to alter the rules.

Clause 108: Alteration by special resolution

This clause provides that the rules of a co-operative must be altered by special resolution unless otherwise specified in this Part.

Clause 109: Alteration by resolution of board

This clause provides that certain alterations to a co-operative's rules may be effected by a resolution passed by the board.

Clause 110: Alteration does not take effect until registered

This clause provides that an alteration of a co-operative's rules does not take effect unless and until it is registered by the Commission.

Clause 111: Appeal against refusal to approve alteration

This clause provides for an appeal to the District Court against refusal by the Commission to approve an alteration to a co-operative's rules.

Clause 112: Appeal against refusal to register alteration

This clause provides for an appeal to the District Court against refusal by the Commission to register an alteration to a co-operative's rules.

Clause 113: Registrar to comply with Court determination

This clause requires the Commission to comply with a determination of the District Court on an appeal under this Part.

PART 6
ACTIVE MEMBERSHIP
DIVISION 1—DEFINITIONS

Clause 114: Primary activity—meaning

This clause defines the expression 'primary activity'.

Clause 115: What is active membership?

This clause defines 'active membership' for the purposes of the Act.

Clause 116: What are active membership provisions and resolutions?

This clause defines what active membership provisions and resolutions are.

DIVISION 2—RULES TO CONTAIN ACTIVE MEMBERSHIP PROVISIONS

Clause 117: Number of primary activities required

This clause states that a co-operative must have at least one primary activity.

Clause 118: Rules to contain active membership provisions

This clause requires the board of a co-operative to ensure that the rules of the co-operative contain active membership provisions in accordance with this Part.

Clause 119: Factors and considerations for determining primary activities

This clause specifies the factors and considerations for determining which of a co-operative's activities are its primary activities, and for determining an appropriate activity test in relation to each primary activity.

Clause 120: Active membership provisions—trading co-operatives

This clause provides for the active membership provisions required for trading co-operatives.

Clause 121: Regular subscription—active membership of non-trading co-operative

This clause provides that payment of a regular subscription is an adequate active membership requirement for a non-trading co-operative.

DIVISION 3—ACTIVE MEMBERSHIP RESOLUTIONS

Clause 122: Notice of meeting

This clause provides for the giving of notice of a meeting at which an active membership resolution is to be proposed.

Clause 123: Eligibility to vote on active membership resolution

This clause specifies which members are eligible to vote on an active membership resolution.

Clause 124: Eligibility of directors to vote on proposal at board meeting

This clause specifies which directors are eligible to vote at a board meeting on a proposal to submit an active membership resolution to a meeting of the co-operative.

Clause 125: Other entitlements of members not affected

This clause provides that this Division does not affect other entitlements of members.

DIVISION 4—CANCELLATION OF MEMBERSHIP OF INACTIVE MEMBERS

Clause 126: Cancellation of membership of inactive member

This clause provides for the cancellation of the membership of an inactive member.

Clause 127: Share to be forfeited if membership cancelled

This clause provides that the shares of a member are to be forfeited at the same time as the member's membership is cancelled under clause 126.

Clause 128: Failure to cancel membership—offence by director

This clause provides that failure by the board of a co-operative to cancel a membership as required by this Part renders a director who did not use all due diligence to prevent that failure guilty of an offence.

Clause 129: Deferral of forfeiture by board

This clause provides that cancellation of a membership may be deferred by the board for periods up to 12 months.

Clause 130: Cancellation of membership prohibited in certain circumstances

This clause provides that cancellation of a member's membership is prohibited in certain specified circumstances.

Clause 131: Notice of intention to cancel membership

This clause provides for the giving of notice to a member of the intention to cancel their membership.

Clause 132: Order of Supreme Court against cancellation

This clause empowers the Supreme Court to order against the cancellation of a membership.

Clause 133: Repayment of amounts due in respect of cancelled membership

This clause requires a co-operative to repay certain amounts to a former member or otherwise apply those amounts within 12 months after the cancellation of the former membership.

Clause 134: Interest on deposits and debentures

This clause provides for the accrual of interest when amounts owed to a former member are applied as a deposit with the co-operative

or the co-operative allots or issues debentures to the former member in satisfaction of the amount owed.

Clause 135: Repayment of deposits and debentures

This clause provides for the repayment of the deposits and debentures referred to in clause 139.

Clause 136: Register of cancelled memberships

This clause requires a co-operative to keep a register of cancelled memberships.

DIVISION 5—ENTITLEMENTS OF FORMER MEMBERS OF TRADING CO-OPERATIVE

Clause 137: Application of Division

This clause provides that this Division only applies to trading co-operatives.

Clause 138: Former shareholders to be regarded as shareholders for certain purposes

This clause provides that former shareholders are to be regarded as shareholders for certain purposes.

Clause 139: Entitlements of former shareholders on mergers etc.

This clause provides for the entitlements of a former member whose shares have been forfeited within 5 years of a merger of, or a transfer of engagements by, the co-operative of which he/she was a member.

Clause 140: Set-off of amounts repaid etc. on forfeited shares

This clause provides for the set-off of amounts repaid to a person under clause 134 (repayment of amounts due in respect of cancelled membership) or clause 135 (repayment of deposits and debentures) against any entitlement of the person under clause 134.

Clause 141: Entitlement to distribution from reserves

This clause provides for the entitlement of former members to any distribution from the reserves of the co-operative that takes place within 5 years after the person's membership was cancelled.

Clause 142: Registrar may exempt co-operatives from provisions

This clause empowers the Commission to exempt co-operatives from all or some of the provisions of this Division.

PART 7
SHARES
DIVISION—NATURE OF SHARES

Clause 143: Nature of shares in co-operative

This clause describes the nature of a share or other interest in a co-operative.

DIVISION 2—DISCLOSURE

Clause 144: Disclosures to members

This clause requires the board of a co-operative to provide a member with a disclosure statement, in the specified form, before shares are issued to the member.

DIVISION 3—ISSUE OF SHARES

Clause 145: Shares—general

This clause provides for the amount of share capital, the value of shares and the classes of shares of a co-operative, and states that, with certain exceptions, shares must not be issued to a non-member.

Clause 146: Minimum paid-up amount

This clause provides that a share must not be allotted unless at least 10 per cent of the nominal value of the share has been paid.

Clause 147: Shares not to be issued at a discount

This clause states that a co-operative must not issue shares at a discount.

Clause 148: Issue of shares at a premium

This clause provides for the issue of shares at a premium.

Clause 149: Joint ownership of shares

This clause allows joint ownership of shares.

Clause 150: Members may be required to take up additional shares

This clause provides that members may be required to take up additional shares. Clause 156 provides for the issue of bonus shares by a co-operative.

Clause 151: Bonus share issues

This clause places a number of restrictions on the issuing of bonus shares by a co-operative.

Clause 152: Restrictions on bonus shares

This clause specifies the content of the notice which must be given to members of the meeting or postal ballot at which a special resolution is to be proposed for the approval of a bonus share issue.

Clause 153: Notice in respect of bonus shares

This clause provides that notice of non-beneficial ownership of shares (where this is reasonably expected) must be given at the time of the transfer of those shares.

DIVISION 4—BENEFICIAL AND NON-BENEFICIAL INTERESTS IN SHARES

Clause 154: Notice of non-beneficial ownership at time of transfer

This clause provides for the notification of non-beneficial ownership of shares where this was not notified at the time of transfer.

Clause 155: Notice of non-beneficial ownership not notified at time of transfer

This clause provides that, where notice of non-beneficial ownership has been given under clause 154, but on registration of the transfer the transferee holds some or all of those shares beneficially, notice of that fact must be given to the co-operative.

Clause 156: Registration as beneficial owner of shares notified as non-beneficially transferred

This clause requires notification of a change in the nature of a person's shareholding.

Clause 157: Notification of change in nature of shareholding

This clause provides that, for the purposes of this Division, a person is presumed to have been aware of a circumstance of which an employee or agent of the person was aware.

Clause 158: Presumption of awareness

This clause specifies certain circumstances in which non-beneficial ownership of shares will be presumed.

Clause 159: Presumption that shares held non-beneficially

This clause requires the noting of beneficial and non-beneficial interests in a co-operative's register of members.

Clause 160: Noting of beneficial and non-beneficial interests in registers of members

This clause provides for the registration of a trustee, executor or administrator as the holder of a share in a co-operative previously held by a person who has died.

Clause 161: Registration as trustee etc. on death of owner of shares

This clause provides for the registration of an administrator as the holder of a share in a co-operative previously held by a person who has become mentally or physically incapable.

Clause 162: Registration as administrator of estate on incapacity of shareholder

This clause provides for the registration of the Official Trustee in Bankruptcy as the holder of a share in a co-operative previously held by a person who has become bankrupt.

Clause 163: Registration as Official Trustee in Bankruptcy

This clause provides for the registration of an administrator as the holder of a share in a co-operative previously held by a person who has become mentally or physically incapable.

Clause 164: Liabilities of persons registered as trustee or administrator

This clause providers for the liability of persons registered as holders of shares under clauses 161, 162 and 163.

Clause 165: Notice of trusts in register of members

This clause provides for the noting in the register of members, with the consent of the co-operative, of shares held on trust.

Clause 166: No notice of trust as provided by this Division

This clause provides that no notice of a trust is to be entered on a register except as provided in this Division.

DIVISION 5—SALE OR TRANSFER OF SHARES

Clause 167: Sale or transfer of shares

This clause provides for the sale or transfer of shares.

Clause 168: Transfer on death of member

This clause provides for the transfer of shares on the death of a member.

Clause 169: Restriction on total shareholding

This clause places a restriction of 20 per cent (or a lower percentage specified in the rules of a co-operative) on the total shareholding to be held by a shareholder.

Clause 170: Transfer not effective until registered

This clause provides that a transfer of shares is not effective until registered.

DIVISION 6—RE-PURCHASE OF SHARES

Clause 171: Purchase and repayment of shares

This clause provides for the purchase and repayment of shares by a co-operative.

Clause 172: Deposit or debentures in lieu of payment when share repurchased

This clause provides that a co-operative may apply an amount owed under clause 171 as a deposit or allot or issue debentures in satisfaction of the amount.

Clause 173: Cancellation of shares

This clause requires a co-operative to cancel any share purchased by or forfeited to the co-operative.

PART 8
VOTING
DIVISION 1—VOTING ENTITLEMENTS

Clause 174: Application of Part

This clause applies this Part to all voting whether at meetings or in ballots.

Clause 175: Voting

This clause describes a member's right to vote.

Clause 176: Voting by proxy

This clause provides for voting by proxy.

Clause 177: Restriction on voting entitlement under power of attorney

This clause places a restriction on the voting entitlement under a power of attorney.

Clause 178: Restriction on voting by representatives of bodies corporate

This clause places a restriction on voting by representatives of bodies corporate.

Clause 179: Inactive members not entitled to vote

This clause provides that inactive members are not entitled to vote.

Clause 180: Control of the right to vote

This clause prohibits a person from controlling the exercise of the right to vote of a member.

Clause 181: Effect of relevant share and voting interests on voting rights

This clause provides that a member of a co-operative is not entitled to vote if another person has a relevant interest in any share held by the member or in the right to vote of the member.

Clause 182: Rights of representatives to vote

This clause provides for the rights of representatives of members to vote.

Clause 183: Other rights and duties of members not affected by ineligibility to vote

This clause provides that other rights and duties of members are not affected by ineligibility to vote.

Clause 184: Vote of disentitled member to be disregarded

This clause provides that any vote of a disentitled member is to be disregarded.

DIVISION 2—RESOLUTIONS

Clause 185: Decisions to be by ordinary resolution

This clause provides that, except as otherwise provided, decisions by a co-operative are to be determined by ordinary resolution.

Clause 186: Ordinary resolutions

This clause defines 'ordinary resolution'.

Clause 187: Special resolutions

This clause defines 'special resolution'.

Clause 188: How majority obtained is ascertained

This clause specifies how a majority obtained at a meeting or by postal ballot is to be ascertained.

Clause 189: Disallowance by Commission

This clause permits the Commission to disallow a proposed special resolution before it is passed.

Clause 190: Declaration of passing of special resolution

This clause provides for proof by declaration of the passing of a special resolution at meetings and by postal ballot.

Clause 191: Effect of special resolution

This clause provides for the date from which special resolutions take effect.

Clause 192: Lodgment of special resolution

This clause requires the lodgment of special resolutions with the Commission for registration.

Clause 193: Decision of Commission on application to register special resolution

This clause requires the Commission to register a special resolution if satisfied of certain matters.

DIVISION 3—POSTAL BALLOTS

Clause 194: Postal ballots

This clause provides for the holding of postal ballots.

Clause 195: Special postal ballots

This clause provides for the holding of special postal ballots.

Clause 196: When is a special postal ballot required?

This clause specifies the circumstances in which a special postal ballot is required.

Clause 197: Holding of postal ballot on requisition

This clause provides for the requisitioning by members of a postal ballot.

Clause 198: Expenses involved in postal ballots on requisition

This clause describes the expenses that are to be considered to constitute the 'expenses involved in holding the ballot' for the purposes of clause 197.

DIVISION 4—MEETINGS

Clause 199: Annual general meetings

This clause provides for the holding of annual general meetings by co-operatives.

Clause 200: Special general meetings

This clause provides for the convening of special general meetings.

Clause 201: Notice of meetings

This clause requires the giving of 14 days notice to members of each general meeting.

Clause 202: Quorum of meetings

This clause makes provision for the quorum for a meeting of a co-operative to be specified in its rules and provides that business cannot be transacted without a quorum present.

Clause 203: Decision at meetings

This clause provides for the manner of determining a question for decision at a general meeting.

Clause 204: Convening of general meeting on requisition

This clause provides for the convening of a general meeting on the requisition of at least 20 per cent of members or any lesser percentage specified in the rules.

Clause 205: Minutes

This clause provides for the entering and confirming of minutes of each general meeting, board meeting and sub-committee meeting.

PART 9

MANAGEMENT AND ADMINISTRATION OF COOPERATIVES

DIVISION 1—THE BOARD

Clause 206: Board of directors

This clause provides that the business of a co-operative is to be managed by a board of directors which may exercise all the powers of the co-operative other than those that must be exercised by the co-operative in general meeting.

Clause 207: Election of directors

This clause provides for the election of directors.

Clause 208: Qualification of directors

This clause specifies the qualification of directors.

Clause 209: Disqualified persons

This clause specifies disqualified persons who must not act as a director or directly or indirectly take part in or be concerned with the management of a co-operative.

Clause 210: Meeting of the board of directors

This clause provides for the holding of board meetings.

Clause 211: Transaction of business outside meetings

This clause provides for the transaction of business by the board outside board meetings.

Clause 212: Deputy directors

This clause provides for the appointment of deputy directors.

Clause 213: Delegation by board

This clause allows the board to delegate the exercise of specified functions (other than the power of delegation) to a director or committee.

Clause 214: Removal from and vacation of office

This clause provides for the removal from and vacation of office of a director.

DIVISION 2—DUTIES AND LIABILITIES OF DIRECTORS, OFFICERS AND EMPLOYEES

Clause 215: Meaning of 'officer'

This clause defines 'officer' for the purposes of this Division.

Clause 216: Officers must act honestly

This clause requires officers of co-operatives to act honestly in the exercise of their powers and the discharge of the duties of their office.

Clause 217: Standard of care and diligence required

This clause specifies the standard of care and diligence required of officers of co-operatives.

Clause 218: Improper use of information or position

This clause prohibits the improper use of information or position by officers of co-operatives.

Clause 219: Court may order payment of compensation

This clause empowers a court that convicts a person for contravention of this Division to order payment of compensation by the convicted person to the co-operative.

Clause 220: Recovery of damages by co-operative

This clause provides for the recovery of damages by a co-operative from a person who has contravened this Division, whether or not the person has been convicted of an offence.

Clause 221: Other duties and liabilities not affected

This clause provides that this Division does not affect other legal duties and liabilities relating to a person's office or employment in relation to a co-operative.

Clause 222: Indemnification of officers and auditors

This clause deals with the indemnification of officers and auditors.

Clause 223: Adoption of Corporations Law provisions concerning officers of co-operatives

This clause adopts and applies the provisions of sections 589 to 598 and 1307 of the *Corporations Law* in respect of co-operatives.

DIVISION 3—RESTRICTIONS ON DIRECTORS AND OFFICERS

Clause 224: Directors' remuneration

This clause restricts directors' remuneration to fees, concessions and other-benefits that are approved at a general meeting of the co-operative.

Clause 225: Certain financial accommodation to officers prohibited

This clause prohibits officers from obtaining certain financial accommodation from the co-operative.

Clause 226: Financial accommodation to directors and associates

This clause provides for financial accommodation to directors and associates of directors.

Clause 227: Restriction on directors of certain co-operatives selling land to co-operative

This clause restricts directors of certain co-operatives from selling land to the co-operative.

Clause 228: Management contracts

This clause provides that a co-operative must not enter into a management contract unless that contract has first been approved by special resolution.

DIVISION 4—DECLARATION OF INTERESTS

Clause 229: Declaration of interest

This clause requires directors to declare the nature and extent of any interest in contracts or proposed contracts with the co-operative.

Clause 230: Declarations to be recorded in minutes

This clause requires declarations under this Division to be recorded in the minutes.

Clause 231: Division does not affect other laws or rules

This clause provides that this Division does not affect other laws or rules restricting a director from having any interest in contracts with the co-operative.

Clause 232: Certain interests need not be declared

This clause specifies certain interests which need not be declared.

DIVISION 5—ACCOUNTS AND AUDIT

Clause 233: Requirements for accounts and accounting records

This clause specifies requirements for accounts and accounting records of a co-operative.

Clause 234: Power of Commission to grant exemptions

This clause empowers the Commission to grant exemptions from all or specified provisions of the regulations made for the purposes of this Part.

Clause 235: Meaning of 'entity' and 'control'

This clause defines 'entity' and 'control' for the purposes of this Division.

Clause 236: Disclosure by directors

This clause requires directors to make certain disclosures required by the regulations.

Clause 237: Protection of auditors etc.

This clause provides qualified privilege for auditors and persons who publish documents prepared by auditors.

Clause 238: Financial year

This clause provides for the financial year of a co-operative.

DIVISION 6—REGISTERS, RECORDS AND RETURNS

Clause 239: Registers to be kept by co-operatives

This clause specifies the registers to be kept by co-operatives.

Clause 240: Location of registers

This clause specifies the required location of a co-operative's registers.

Clause 241: Inspection of registers etc.

This clause provides for the inspection of registers.

Clause 242: Use of information on registers

This clause restricts the use of information contained in a co-operative's registers.

Clause 243: Notice of appointment etc. of directors

This clause requires the giving of notice to the Commission of the appointment of a director, principal executive officer or secretary of the co-operative.

Clause 244: Annual report

This clause requires a co-operative to send to the Commission within the required period in each year an annual report containing specified particulars.

Clause 245: List of members to be furnished at request of Registrar

This clause requires a co-operative to provide a list of members at the request of the Commission.

Clause 246: Special return to be furnished at request of Commission

This clause requires a co-operative to provide a special return at the request of the Commission.

DIVISION 7—NAME AND REGISTERED OFFICE

Clause 247: Name to include certain matter

This clause specifies the required components of a co-operative's name.

Clause 248: Use of abbreviations

This clause allows the use of certain abbreviations in a co-operative's name.

Clause 249: Name to appear on business documents etc.

This clause requires the name of a co-operative to appear on its seal, advertisements and business documents.

Clause 250: Change of name of co-operative

This clause provides for the change of name of a co-operative.

Clause 251: Registered office of co-operative

This clause requires a co-operative to have a registered office.

PART 10

FUNDS AND PROPERTY

DIVISION 1—POWER TO RAISE MONEY

Clause 252: Meaning of obtaining financial accommodation

This clause includes a definition of 'financial accommodation' for the purposes of this Division.

Clause 253: Funds to be raised in accordance with Act and regulations

This clause requires fund raising by a co-operative to be in accordance with the measure and regulations.

Clause 254: Limits on deposit taking

This clause restricts the ability to take deposits to those co-operatives which were authorised to do so prior to the commencement of this measure.

Clause 255: Members etc. not required to see to application of money

This clause provides that members are not required to see to the application of money—provided to the co-operative by way of loan or deposit.

Clause 256: Commission's directions re fundraising

This clause empowers the Commission to give directions to a co-operative in relation to the obtaining by the co-operative of financial accommodation.

Clause 257: Subordinated debt

This clause allows a co-operative to incur subordinated debt.

Clause 258: Application of Corporations Law to issues of debentures

This clause provides that the provisions of Parts 1.2A, 7.11 and 7.12 of the *Corporations Law* are adopted and apply to and in respect of debentures of a co-operative, except where an issue of debentures is made by a co-operative solely to members or solely to members and employees.

Clause 259: Disclosure statement

This clause requires a co-operative to provide a disclosure statement, containing the specified matters, where an issue of debentures is solely to members or solely to members and employees of the co-operative.

Clause 260: Approval of board for transfer of debentures

This clause provides that a debenture of a co-operative cannot be sold or transferred except with the consent of the board and in accordance with the rules of the co-operative.

Clause 261: Application of Corporations Law—re-issue of redeemed debentures

This clause adopts and applies section 1051 of the *Corporations Law* in relation to debentures issued by a co-operative to any of its members.

Clause 262: Compulsory loan by member to co-operative

This clause provides that a co-operative may require its members to lend money, with or without security, to the co-operative, in accordance with a proposal approved by special resolution of the co-operative.

Clause 263: Interest payable on compulsory loan

This clause provides for the rate of interest payable on a compulsory loan.

DIVISION 2—CHARGES

Clause 264: Registration of charges

This clause gives effect to Schedule 3 (Registration etc of Charges) and specifies the mortgages, charges and encumbrances to which the Schedule does not apply.

DIVISION 3—RECEIVERS AND OTHER CONTROLLERS OF PROPERTY OF CO-OPERATIVES

Clause 265: Receivers and other controllers of property of co-operatives

This clause gives effect to Schedule 4 (Receivers, and other controllers, of property of co-operatives).

DIVISION 4—DISPOSAL OF SURPLUS FROM ACTIVITIES

Clause 266: Retention of surplus for benefit of co-operative

This clause allows a co-operative to retain all or any part of its surplus for the benefit of the co-operative.

Clause 267: Application for charitable purposes or members' purposes

This clause provides that the rules of a co-operative may authorise the co-operative to-apply a specified proportion of its surplus for any charitable purpose and that the rules of a trading co-operative may authorise the co-operative to apply a part of its surplus for supporting any activity approved by the co-operative.

Clause 268: Distribution of surplus or reserves to members

This clause provides for the distribution by a trading co-operative of surplus or reserves to members.

Clause 269: Application of surplus to other persons

This clause provides for the crediting of a part of a co-operative's surplus to a person who is not a member, but is qualified to be a member, by way of rebate in proportion to the business done by him or her with the co-operative.

DIVISION 5—ACQUISITION AND DISPOSAL OF ASSETS

Clause 270: Acquisition and disposal of assets

This clause provides that a co-operative must not do any of the things specified (relating to the acquisition and disposal of assets) except as approved by means of a special postal ballot.

PART 11

RESTRICTIONS ON THE ACQUISITION OF INTERESTS IN CO-OPERATIVES

DIVISION 1—RESTRICTIONS ON SHARE AND VOTING INTERESTS

Clause 271: Application of Part

This clause provides that this Part applies only to trading co-operatives.

Clause 272: Notice required to be given of voting interest

This clause requires a person to give notice to a co-operative of a relevant interest, or the cessation of a relevant interest, in the right to vote of a member of the co-operative.

Clause 273: Notice required to be given of substantial share interest

This clause requires a person to give notice to a co-operative of a substantial share interest, a substantial change in a substantial share interest, or a cessation of a substantial share interest, in the co-operative.

Clause 274: Requirements for notices

This clause specifies the requirements for notices under this Division.

Clause 275: Maximum permissible level of share interest

This clause specifies the maximum permissible level of a relevant interest in shares of a co-operative.

Clause 276: Shares to be forfeited to remedy contravention

This clause provides that shares held in contravention of this Division are declared to be forfeited by the board of the co-operative to the extent necessary to remedy the contravention.

Clause 277: Powers of board in response to suspected contravention

This clause specifies the powers of the board of a co-operative in response to a suspected contravention of clause 272.

Clause 278: Powers of Supreme Court with respect to contravention

This clause specifies the powers of the Supreme Court with respect to a contravention of clause 272.

Clause 279: Co-operative to inform Commission of interest over 20 per cent

This clause requires a co-operative to inform the Commission of a relevant interest which exceeds the maximum permissible level.

Clause 280: Co-operative to keep register

This clause requires a co-operative to keep a register of notifiable interests.

Clause 281: Unlisted companies to provide list of shareholders

This clause requires an unlisted company (within the meaning of the *Corporations Law*) that is a member of a co-operative to furnish to the co-operative a list of the company's shareholders within 28 days after the end of each financial year of the company and within 28 days after a request by the Commission.

Clause 282: Excess share interest not to affect loan liability

This clause provides that an excess share interest does not affect a loan liability of a member.

Clause 283: Extent of operation of Division

This clause describes the extent of the operation of this Division.

Clause 284: Commission may grant exemption from Division

This clause allows the Commission to grant exemptions from the operation of this Division.

DIVISION 2—RESTRICTIONS ON CERTAIN SHARE OFFERS

Clause 285: Share offers to which Division applies

This clause specifies the share offers to which this Division applies.

Clause 286: Requirements to be satisfied before offer can be made

This clause specifies the requirements to be satisfied before an offer to which this Division applies can be made.

Clause 287: Some offers totally prohibited if they discriminate

This clause prohibits certain discriminatory offers.

Clause 288: Offers to be submitted to board first

This clause provides that offers to which this Division applies must first be submitted to the board of the co-operative.

Clause 289: Announcements of proposed takeovers concerning proposed company

This clause prohibits the public announcement of a proposed takeover involving the conversion of a co-operative to a company where the person making the announcement knows that the announcement is false, is recklessly indifferent as to whether it is true or false, or has no reasonable grounds for believing that the performance of obligations arising from the announcement is possible.

Clause 290: Additional disclosure requirements for offers involving conversion to company

This clause specifies additional disclosure requirements for offers involving the conversion of a co-operative to a company.

Clause 291: Consequences of prohibited offer

This clause specifies the consequences of an offer to purchase shares in a co-operative made in contravention of this Division.

Clause 292: Commission may grant exemptions

This clause allows the Commission to grant exemptions from all or specified provisions of this Division.

PART 12

MERGER, TRANSFER OF ENGAGEMENTS, WINDING UP

DIVISION 1—MERGERS AND TRANSFERS OF ENGAGEMENTS

Clause 293: Application of Division

This clause provides that this Division does not apply to a merger or transfer of engagements to which Part 14 (Foreign Co-operatives) applies.

Clause 294: Mergers and transfers of engagements of local co-operatives

This clause provides that any 2 or more co-operatives may consolidate all or any of their assets, liabilities or undertakings by way of merger or transfer of engagements approved under this Division.

Clause 295: Requirements before application can be made

This clause specifies the requirements which must be complied with before an application can be made under this Division.

Clause 296: Disclosure statement required

This clause requires each co-operative to send to each of its members a disclosure statement approved by the Commission at least 21 days before the ballot papers must be returned by members voting in the special postal ballot required by clause 300.

Clause 297: Making an application

This clause provides for the making of an application to the Commission for approval of a merger or transfer of engagements.

Clause 298: Approval of merger

This clause provides that the Commission must approve a merger pursuant to an application under this Division if satisfied of certain specified matters.

Clause 299: Approval of transfer of engagements

This clause provides that the Commission must approve a transfer of engagements pursuant to an application under this Division if satisfied of certain specified matters.

Clause 300: Transfer of engagements by direction of Commission

This clause provides for a transfer of engagements by direction of the Commission.

DIVISION 2—TRANSFER OF INCORPORATION

Clause 301: Application for transfer

This clause provides for an application for transfer of incorporation of a co-operative to a company under the *Corporations Law* or a body corporate that is incorporated, registered pr otherwise established under a law that is prescribed for the purposes of this clause.

Clause 302: Requirements before application can be made

This clause specifies the requirements that must be complied with before an application can be made under clause 301.

Clause 303: Meaning of 'new body' and 'transfer'

This clause defines 'new body' and 'transfer' for the purposes of this Division.

Clause 304: New body ceases to be registered as co-operative

This clause provides that on the transfer of a co-operative under this Division the co-operative ceases to be registered as a co-operative under this measure.

Clause 305: Transfer not to impose greater liability etc.

This clause provides that a transfer of incorporation under this Division must not impose greater or different liability on the members of the new body who were members of the co-operative.

Clause 306: Effect of new certificate of registration

This clause describes the effect of a new certificate of registration.

Clause 307: New body is a continuation of the co-operative

This clause provides that the new body is the same entity as the body corporate constituted by the co-operative.

Clause 308: Stamp duty

This clause provides that stamp duty previously paid is to be taken into account when assessing the stamp duty payable on an incorporation or registration pursuant to a transfer under this Division.

DIVISION 3—WINDING UP

Clause 309: Methods of winding up

This clause provides that a co-operative may be wound up voluntarily, by the Supreme Court or on a certificate of the Commission.

Clause 310: Winding up on Commission's certificate

This clause provides for winding up on a certificate given by the Commission.

Clause 311: Application of Corporations Law to winding up

This clause provides that the provisions of Parts 5.4 to 5.7 and 9.7 of the *Corporations Law* are adopted and apply to the winding up or dissolution of a co-operative.

Clause 312: Restrictions on voluntary winding up

This clause places certain restrictions on voluntary winding up of a co-operative.

Clause 313: Commencement of members' voluntary winding up

This clause specifies when a members' voluntary winding up commences.

Clause 314: Distribution of surplus—non-trading co-operatives

This clause provides for the distribution of surplus on a winding up of a non-trading co-operative.

Clause 315: Liquidator vacancy may be filled by Commission

This clause provides that a vacancy in the office of liquidator (in the case of a voluntary winding up) may be filled by the Commission.

Clause 316: Review of liquidator's remuneration

This clause provides for application to the Supreme Court for review of the remuneration of a liquidator.

Clause 317: Liability of member to contribute in a winding up where shares are forfeited etc.

This clause provides for the liability of a member to contribute in a winding up where their membership is cancelled within 2 years of the commencement of the winding up.

DIVISION 4—ADMINISTRATION OF CO-OPERATIVE—ADOPTION OF CORPORATIONS LAW

Clause 318: Adoption of Part 5.3A of Corporations Law

This clause provides that the provisions of Part 5.3A and Division 3 of Part 5.9 of the *Corporations Law* are adopted and apply to and in respect of a co-operative as if it were a company.

DIVISION 5—APPOINTMENT OF ADMINISTRATOR

Clause 319: Appointment of administrator

This clause provides for the appointment of an administrator by the Commission.

Clause 320: Effect of appointment of administrator

This clause describes the effect of the appointment of an administrator.

Clause 321: Revocation of appointment

This clause provides for the revocation of appointment of an administrator by the Commission.

Clause 322: Expenses of administration

This clause provides that the expenses of an administration are payable out of the funds of the co-operative.

Clause 323: Liabilities arising from administration

This clause provides that an administrator is liable for any loss incurred by the co-operative which is incurred because of any fraud, dishonesty, negligence or wilful failure to comply with the measure, the regulations or the co-operative's rules by the administrator.

Clause 324: Additional powers of Commission

This clause provides the Commission with additional powers where the Commission has appointed directors of a co-operative under clause 321.

Clause 325: Stay of proceedings

This clause provides for a stay of proceedings against a co-operative where the Commission has appointed an administrator to conduct the co-operative's affairs.

Clause 326: Administrator to report to Commission

This clause requires an administrator to report to the Commission if requested to do so by the Commission.

DIVISION 6—EFFECT OF MERGER ETC. ON PROPERTY, LIABILITIES ETC.

Clause 327: How this Division applies to a merger

This clause provides for the application of this Division to a merger of co-operatives.

Clause 328: How this Division applies to a transfer of engagements

This clause provides for the application of this Division to a transfer of engagements of a co-operative to another co-operative under Division 1.

Clause 329: How this Division applies to a transfer of incorporation

This clause provides for the application of this Division to a transfer of incorporation under Division 2.

Clause 330: Effect of merger etc. on property, liabilities etc.

This clause describes the effect of an event to which this Division applies on the property, liabilities etc. of the relevant bodies.

DIVISION 7—MISCELLANEOUS

Clause 331: Grounds for winding up, transfer of engagements, appoint of administrator

This clause specifies the grounds for a winding up, a transfer of engagements and the appointment of an administrator.

Clause 332: Adoption of Corporations Law concerning reciprocity with other jurisdictions

This clause provides that the provisions of Part 5.7A of the *Corporations Law* are adopted and apply to and in respect of a co-operative.

Clause 333: Adoption of Corporations Law concerning insolvent co-operatives

This clause provides that the provisions of Part 5.7B of the *Corporations Law* are adopted and apply to and in respect of a co-operative.

PART 13

ARRANGEMENTS AND RECONSTRUCTIONS

DIVISION 1—GENERAL REQUIREMENTS

Clause 334: Requirements for binding compromise or arrangement

This clause specifies the requirements for a binding compromise or arrangement.

Clause 335: Supreme Court ordered meeting of creditors

This clause provides for a meeting ordered by the Supreme Court.

Clause 336: Commission to be given notice and opportunity to make submissions

This clause provides for the giving of notice to the Commission of the hearing of an application for an order under this Division.

Clause 337: Results of 2 or more meetings

This clause provides that the results of 2 or more meetings of creditors to be held in relation to a proposed compromise or arrangement are to be aggregated.

Clause 338: Persons disqualified from administering compromise

This clause specifies persons who are disqualified from administering a compromise or arrangement approved under this measure.

Clause 339: Adoption of provisions of Corporations Law and application to person appointed

This clause provides for the application of certain provisions of Schedule 4 to this measure, and the adoption and application of section 536 of the *Corporations Law*, to persons appointed to administer a compromise or arrangement.

Clause 340: Copy of order to be attached to rules

This clause requires a co-operative to ensure that a copy of an order of the Supreme Court approving a compromise or arrangement is annexed to each future copy of the co-operative's rules.

Clause 341: Directors to arrange for reports

This clause requires the directors of a co-operative in respect of which a compromise or arrangement has been proposed to instruct that certain reports be prepared and made available.

Clause 342: Power of Supreme Court to restrain further proceedings

This clause empowers the Supreme Court to restrain further proceedings in respect of a co-operative that has proposed a compromise or arrangement with any of its creditors.

Clause 343: Supreme Court need not approve compromise or arrangement takeovers

This clause provides that the Supreme Court need not approve a compromise or arrangement unless it is satisfied of certain matters.

DIVISION 2—EXPLANATORY STATEMENTS

Clause 344: Explanatory statement required to accompany notice of meeting etc.

This clause provides that an explanatory statement, containing the specified information, must be sent with every notice to creditors convening the court-ordered meeting, and to members for the purpose of the conduct of the special postal ballot.

Clause 345: Requirements for explanatory statement

This clause specifies further requirements for the explanatory statement referred to in clause 345.

Clause 346: Contravention of Division—offence by co-operative

This clause provides that a contravention of this Division constitutes an offence.

Clause 347: Provisions for facilitating reconstructions and mergers

This clause specifies provisions for facilitating reconstructions and mergers.

DIVISION 3—ACQUISITION OF SHARES OF DISSENTING SHAREHOLDERS

Clause 348: Definitions

This clause defines 'dissenting shareholder' and 'excluded shares' for the purposes of this Division.

Clause 349: Schemes and contracts to which Division applies

This clause describes the schemes and contracts to which this Division applies.

Clause 350: Acquisition of shares pursuant to notice to dissenting shareholder

This clause provides for the acquisition of shares pursuant to a compulsory acquisition notice sent to a dissenting shareholder.

Clause 351: Restrictions when excluded shares exceed 10 per cent

This clause specifies certain restrictions to the application of clause 351 where the nominal value of excluded shares exceeds 10 per cent of the aggregate nominal value of all the shares to be transferred under the scheme.

Clause 352: Remaining shareholders may require acquisition

This clause provides that remaining shareholders in the transferor co-operative may require the transferee to acquire the holders' shares.

Clause 353: Transfer of shares pursuant to compulsory acquisition

This clause provides for the transfer of shares pursuant to a compulsory acquisition.

Clause 354: Disposal of consideration for shares compulsorily acquired

This clause provides for the disposal of the consideration received for shares compulsorily acquired.

DIVISION 4—MISCELLANEOUS

Clause 355: Notification of appointment of scheme manager

This clause requires a person appointed to administer a compromise or arrangement to give written notice to the Commission of his or her appointment.

Clause 356: Power of Supreme Court to require reports

This clause empowers the Supreme Court, when an application is made to it under this Part, to require certain reports concerning the proposed compromise or arrangement to be given to it.

Clause 357: Effect of out-of-jurisdiction compromise or arrangement

This clause describes the effect of an out-of-jurisdiction compromise or arrangement.

Clause 358: Jurisdiction to be exercised in harmony with Corporations Law

This clause requires the jurisdiction of the Supreme Court under this Part to be exercised m harmony with its jurisdiction under the *Corporations Law*.

Clause 359: Commission may appear etc.

This clause allows the Commission to appear and be heard in any proceedings under this Part.

PART 14
FOREIGN CO-OPERATIVES
DIVISION 1—INTRODUCTORY

Clause 360: Definitions

This clause contains a number of definitions for the purposes of this Part.

Clause 361: Co-operatives law

This clause provides for the declaration of a law of a State other than South Australia as a co-operatives law for the purposes of this Part.

DIVISION 2—REGISTRATION OF FOREIGN CO-OPERATIVES

Clause 362: Operation of foreign co-operative in South Australia

This clause provides that a foreign co-operative must not carry on business in South Australia until it is registered under this Part.

Clause 363: What constitutes carrying on business

This clause specifies what constitutes carrying on business.

Clause 364: Application for registration of participating co-operative

This clause provides for an application for registration as a foreign co-operative by a participating co-operative.

Clause 365: Application for registration of non-participating co-operative

This clause provides for an application for registration as a foreign co-operative by a non-participating co-operative.

Clause 366: Commission to approve rules of non-participating co-operative

This clause provides that a non-participating co-operative is not eligible for registration unless the Commission is satisfied as to certain matters in relation to the co-operative's rules.

Clause 367: Name of foreign co-operative

This clause provides that a foreign co-operative is eligible for registration if the name it proposes to use in South Australia is not likely to be confused with the name of a body corporate or a registered South Australian business name.

Clause 368: Registration of foreign co-operative

This clause requires Commission to register a foreign co-operative if satisfied that it is eligible for registration.

Clause 369: Application of Act and regulations to foreign co-operatives

This clause applies this measure and the regulations to foreign co-operatives as if they were co-operatives.

Clause 370: Commission to be notified of certain changes

This clause specifies certain changes of which the Commission must be notified within 28 days of the alteration.

Clause 371: Balance sheets

This clause requires the lodgment by a foreign co-operative of a balance sheet within 6 months (or such longer period as allowed by the Commission) of the end of each of its financial years.

Clause 372: Cessation of business

This clause requires a foreign co-operative to notify the Commission within 7 days of ceasing to carry on business as a co-operative in South Australia.

Clause 373: Co-operative proposing to register as a foreign co-operative

This clause provides for the issue of a certificate of compliance by the Commission to a co-operative that proposes to apply to be registered as a foreign co-operative in another participating State.

DIVISION 3—MERGERS AND TRANSFERS OF ENGAGEMENTS

Clause 374: Who is the appropriate Registrar?

This clause defines 'appropriate Registrar', 'Registrar' and 'South Australian Registrar' for the purposes of this Division.

Clause 375: Authority for merger or transfer of engagements

This clause provides for a merger of, or transfer of engagements between, a South Australian co-operative and a participating co-operative.

Clause 376: Requirements before application can be made

This clause specifies the requirements that must be complied with before an application can be made under this Division.

Clause 377: Disclosure statement required

This clause requires that a disclosure statement, containing the specified matters, be sent to each member by each co-operative prior

to the passing of the special resolution approving the merger or transfer of engagements.

Clause 378: Making an application

This clause provides for the making of an application to the Commission for approval of a merger or transfer of engagements under this Division.

Clause 379: Approval of merger

This clause provides for the approval of a merger under this Division by the Commission.

Clause 380: Approval of transfer of engagements

This clause provides for the approval of a transfer of engagements under this Division by the Commission.

Clause 381: Effect of merger or transfer of engagements

This clause describes the effect of a merger or transfer of engagements under this Division.

Clause 382: Division applies instead of certain other provisions of this Act

This clause provides that this Division applies instead of certain other provisions of this measure.

PART 15

SUPERVISION AND PROTECTION OF CO-OPERATIVES

DIVISION 1—SUPERVISION AND INSPECTION

Clause 383: Definitions

This clause defines terms used in this Part.

Clause 384: 'Co-operative' includes subsidiaries, foreign co-operatives and co-operative ventures

This clause provides that, in this Part, 'co-operative' includes subsidiaries, foreign co-operatives and co-operative ventures.

Clause 385: Appointment of inspectors

This clause provides for the appointment of inspectors for the purposes of this measure.

Clause 386: Commission and investigators have functions of inspectors

This clause provides that the Commission and investigators have and may exercise all the functions of an inspector.

Clause 387: Inspector's identity card

This clause requires the Commission to provide each inspector with an identity card, which must be produced by the inspector on request.

Clause 388: Inspectors may require certain persons to appear, answer questions and produce documents

This clause provides that inspectors may require certain persons to appear, answer questions and produce documents.

Clause 389: Inspectors' powers of entry

This clause specifies inspectors' powers of entry to certain premises.

Clause 390: Powers of inspectors on premises entered

This clause specifies the powers of inspectors on premises that they are authorised to enter.

Clause 391: Functions of inspectors in relation to relevant documents

This clause specifies the functions of inspectors in relation to taking possession or making copies of documents.

Clause 392: Offence—failing to comply with requirements of inspector

This clause provides that failure to comply with any requirement of an inspector constitutes an offence.

Clause 393: Protection from incrimination

This clause provides that a person is not excused from making a statement on the grounds that the statement might tend to incriminate him or her, but the statement is not admissible against him or her in criminal proceedings other than proceedings under this Division.

Clause 394: Search warrants

This clause provides for the issuing of search warrants by a magistrate to inspectors.

Clause 395: Copies or extracts of records to be admitted in evidence

This clause provides for the admissibility into evidence of copies or extracts of records relating to the affairs of a co-operative.

Clause 396: Privilege

This clause relates to documents containing privileged legal communications, and allows a legal practitioner to refuse to comply with a requirement under section 388 or 392 under certain circumstances.

Clause 397: Police aid for inspectors

This clause provides for the giving of assistance by police to inspectors.

DIVISION 2—INQUIRIES

Clause 398: Definitions

This clause defines terms used in this Division.

Clause 399: Appointment of investigators

This clause provides for the appointment of investigators.

Clause 400: Powers of investigators

This clause specifies the powers of investigators.

Clause 401: Examination of involved person

This clause provides for the examination of involved persons by investigators.

Clause 402: Privilege

This clause provides for the privilege of an involved person who is a legal practitioner.

Clause 403: Offences by involved person

This clause creates a number of offences by involved persons.

Clause 404: Offences relating to documents

This clause creates a number of offences relating to documents.

Clause 405: Record of examination

This clause provides for the admissibility into evidence of a record of an examination made under section 401.

Clause 406: Report of investigator

This clause provides for interim and final reports to be made by an investigator to the Commission.

Clause 407: Proceedings following inquiry

This clause provides for the institution of legal proceedings following an inquiry under this Division.

Clause 408: Admission of investigator's report as evidence

This clause provides for the admissibility into evidence of an investigator's report.

Clause 409: Costs of inquiry

This clause provides for the payment of the costs of an inquiry under this Division.

DIVISION 3—PREVENTION OF FRAUD ETC.

Clause 410: Falsification of records

This clause prohibits the falsification of the records of a co-operative.

Clause 411: Fraud or misappropriation

This clause prohibits the obtaining of any property of a co-operative by fraud or misappropriation of the assets of a co-operative.

Clause 412: Offering or paying commission

This clause prohibits the offering or paying of a commission, fee or reward to an officer of a co-operative in connection with a transaction of the co-operative.

Clause 413: Accepting commission

This clause prohibits an officer from accepting such commission, fee or reward.

Clause 414: False statements in loan application etc.

This clause prohibits the making of false statements in or in relation to any application, request or demand for money made to or of any co-operative.

DIVISION 4—MISCELLANEOUS POWERS OF THE COMMISSION

Clause 415: Application for special meeting or inquiry

This clause provides for the calling by the Commission of a special meeting or the holding of an inquiry, on the application of a majority of members of the board or not less than one third of the members of a co-operative.

Clause 416: Holding of special meeting

This clause provides for the holding of a special meeting.

Clause 417: Expenses of special meeting or inquiry

This clause provides for the payment of expenses of a special meeting called or an inquiry held under this Division.

Clause 418: Power to hold special inquiry into co-operative

This clause allows the Commission, without any application, to hold a special inquiry into a co-operative.

Clause 419: Special meeting following inquiry

This clause provides for the calling by the Commission of a special meeting following an inquiry under this Division.

Clause 420: Information and evidence

This clause allows the Commission to require information and evidence from an applicant in relation to any application for registration or approval under this measure.

Clause 421: Extension or abridgment of time

This clause allows the Commission to extend or abridge any time for doing anything required to be done by a co-operative under this measure, the regulations or the rules of a co-operative.

Clause 422: Power of Commission to intervene in proceedings

This clause empowers the Commission to intervene in any proceedings relating to a matter arising under this measure or the regulations.

PART 16

ADMINISTRATION OF THIS ACT

DIVISION 1—THE COMMISSION

Clause 423: Interpretation

This clause contains a definition of 'repealed Act'.

Clause 424: Commission responsible for administration of this Act

This clause makes the Commission responsible for the administration of this measure.

Clause 425: Keeping of registers

This clause continues in existence the register of incorporated co-operatives and other registers kept under the repealed Act.

Clause 426: Disposal of records by Commission

This clause provides for the disposal of records by the Commission.

Clause 427: Inspection of register

This clause provides for the inspection of the registers and the obtaining of copies of documents kept by the Commission.

Clause 428: Approvals by Commission

This clause allows the Commission to indicate to an applicant for an approval under this measure that the approval is considered to have been granted at the end of a specified period unless the applicant is otherwise notified.

Clause 429: Lodgment of documents

This clause provides that a document is not considered to be lodged unless all required information is provided and the fee (if any) paid.

Clause 430: Method of lodgment

This clause provides for lodgment of documents by facsimile or electronic transmission.

Clause 431: Power of Commission to refuse to register or reject documents

This clause empowers the Commission to reject or refuse to register documents under certain circumstances.

DIVISION 2—EVIDENCE

Clause 432: Certificate of registration

This clause provides that certificates of registration issued under this measure are conclusive evidence of incorporation and that all requirements for registration have been complied with.

Clause 433: Certificate evidence

This clause provides for the issue of certificates by the Commission certifying that certain matters have or have not been done or that certain requirements of this measure have or have not been complied with.

Clause 434: Orders published in the Gazette

This clause provides that instruments published in the *Gazette* under this measure or the regulations are evidence of the giving or issuing of the instrument.

Clause 435: Records kept by co-operatives

This clause provides for the admissibility into evidence of records kept by a co-operative.

Clause 436: Minutes

This clause provides that minutes purporting to be minutes of the business transacted at a meeting are evidence that the business recorded was transacted at the meeting and that the meeting was duly convened and held.

Clause 437: Official certificates

This clause provides that official certificates and other documents bearing the common seal of the Commission are to be received in evidence without further proof.

Clause 438: The Commission and proceedings

This clause provides that judicial notice is to be taken of the Commission's seal.

Clause 439: Rules

This clause provides that a copy of a co-operative's rules verified by statutory declaration by the secretary of the co-operative to be a true copy of the rules is evidence of the rules.

Clause 440: Registers

This clause provides that the registers of a co-operative are evidence of the particulars inserted in those registers.

PART 17

OFFENCES AND PROCEEDINGS

Clause 441: Offences by officers of co-operatives

This clause provides that officers and directors involved in a contravention of this measure or the regulations by a co-operative are taken to have contravened the same provision.

Clause 442: Notice to be given of conviction for offence

This clause provides that notice is to be given to each member of a co-operative of a conviction for an offence against this measure or the regulations by the co-operative or an officer within 28 days after the conviction is recorded.

Clause 443: Secrecy

This clause imposes obligations of confidentiality, with specified exceptions, on persons involved in the administration of this measure or the former Act.

Clause 444: False or misleading statements

This clause provides that the making of false or misleading statements in a document required for the purposes of this measure or lodged with the Commission is an offence.

Clause 445: Further offence for continuing failure to do required act

This clause creates a further offence for a continuing failure to do a required act.

Clause 446: Civil remedies

This clause provides that a contravention by a co-operative of this measure, the regulations or its rules in making, guaranteeing or raising any loan or receiving any deposit does not affect the civil rights and liabilities of any person, but the money becomes immediately payable.

Clause 447: Injunctions

This clause provides for the issuing of injunctions by the Supreme Court on the application of the Commission or an affected person on certain specified grounds.

PART 18

GENERAL

Clause 448: Exemption from stamp duty

This clause provides an exemption from stamp duty in respect of certificates of incorporation of co-operatives and share certificates and other instruments issued or executed in connection with the share capital of co-operatives.

Clause 449: Co-operatives ceasing to exist

This clause requires the Commission to register a dissolution of a co-operative and cancel the registration of the co-operative.

Clause 450: Service of documents on co-operative

This clause provides for the service of documents on a co-operative.

Clause 451: Service on member of co-operative

This clause provides for the service of documents on a member of a co-operative.

Clause 452: Reciprocal arrangements

This clause provides for the reciprocal exchange of information between the Commission and the Registrars of other States and the Territories.

Clause 453: Translation of documents

This clause requires translations of documents that are not in English that are required to be furnished or lodged.

Clause 454: Regulations

This clause empowers the Governor to make regulations.

PART 19

REPEALS

Clause 455: Repeal of Co-operatives Act 1983

This clause repeals the *Co-operatives Act 1983*.

Clause 456: Amendment of Security and Investigation Agents Act 1995

This clause amends the *Security and Investigation Agents Act 1995* to change the reference from *Co-operative Act 1983* to this measure.

SCHEDULE 1

Matters for which rules must make provision

This schedule sets out the matters for which the rules of a co-operative must make provision.

SCHEDULE 2

Relevant interests, associates, related bodies

This schedule sets out how to determine relevant interest, whether persons are associates of each other and whether bodies corporate are related.

SCHEDULE 3

Registration etc. of charges

This schedule deals with the registration of charges over the property of co-operatives.

SCHEDULE 4

Receivers, and other controllers, of property of co-operatives

This schedule deals with the powers, duties and liabilities of receivers and other controllers of property of co-operatives.

SCHEDULE 5

Savings and transitional

This schedule contains savings and transitional provisions.

Mr ATKINSON secured the adjournment of the debate.

EQUAL OPPORTUNITY (SEXUAL HARASSMENT) AMENDMENT BILL

Second reading.

The Hon. S.J. BAKER (Treasurer): I move:

That this Bill be now read a second time.

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

Leave granted.

This Bill amends the *Equal Opportunity Act 1984* to extend coverage to sexual harassment by Members of Parliament, members of the judiciary and members of local councils.

In late April 1994 Mr Brian Martin QC was appointed to conduct a review of the Act. This review was consistent with the Government's 'Law and People' policy and the 'Women's Policy,' which were released prior to the 1993 election.

Mr Martin QC provided his Report in October 1994 and it was released in December 1994. The Report contained a detailed analysis of existing legislation and of possible amendments to that legislation. Mr Martin QC stressed that the recommendations should not be considered in isolation and further consultation should occur with interested persons and bodies before drafting any legislative amendments.

Following release of the Report, a Reference Group was established with the following terms of reference:

> *'To coordinate responses to the Martin Review into the Equal Opportunity Act and to consider the consequences of implementing the recommendations'.*

The Reference Group was not expected to examine issues anew but rather to consider responses to the Report from organisations and interested parties.

One of the recommendations made by Mr Martin QC dealt with an extension of the provisions relating to sexual harassment to certain relationships not currently covered by the Act. The recommendation dealt with a wide range of relationships including harassment:

- between workplace participants,
- of employees of incorporated associations by members of the management committee;
- of staff in the hospitality industry by patrons of hotels, clubs, motels and restaurants;
- of employees at retail outlets and of service deliverers by customers;
- of hospital staff by medical consultants.
- of a member of staff or a student at an educational institution by senior students (aged 16 years or more).

As part of his recommendation on the extension of the sexual harassment provisions, Mr Martin QC also recommended that acts of sexual harassment against staff by Members of Parliament, members of the judiciary and members of local councils should be prohibited.

The Government agrees that sexual harassment is unacceptable and that sexual harassment by Members of Parliament, members of local councils and members of the judiciary should be unlawful. However, it has also taken note of submissions made on this matter to the Reference Group. While the submissions were mainly favourable, a number of issues were raised for consideration.

For example, the former Crown Solicitor warned that there could be difficulties in merely extending the provisions of the *Equal Opportunity Act 1984* to cover the judiciary. He advised that members of the judiciary should be protected from complaints of sexual harassment where they have made statements of a sexual nature in the presence of court staff during court proceedings, if the statements are in the context of the proceedings.

Further, while the Judges of the Supreme Court and District Court did not oppose the extension of the Act, they cautioned that there would need to be a clear distinction drawn between acts by a judge in a personal capacity and things said or done by a judge in an official capacity while sitting in court or in chambers. The Judges acknowledged that it would be unlikely that a complaint by court staff against a member of the judiciary could relate to the discharge of strictly judicial functions. However, they considered it to be an area in which caution is required so as to ensure that the discharge of judicial functions is not subject to external control or investigation.

The Judges also suggested that documents and papers relevant to the discharge of functions should not be liable to seizure or inspection. This would put the judicial officers in the hands of inspectors and officers appointed by the Executive arm of Government. There is a constitutional principle that the Executive arm of Government should not interfere with the exercise of judicial discretion by judges and magistrates.

Problems could also arise from the extension of provisions to cover Members of Parliament as issues of parliamentary privilege would need to be considered. The use of the phrase 'parliamentary privilege' is not one which should be construed as being similar to a 'perk' of office. It is a basic constitutional principle that ensures that Members of Parliament are not inhibited by Executive Government from raising issues and taking action in the interests of the people.

Therefore, this Bill deals with the issue of sexual harassment by Members of Parliament, members of the judiciary and members of local councils but takes the issues of judicial independence and parliamentary privilege into account.

Clause 3 amends section 87 which deals with sexual harassment. New subsection (6a) makes it unlawful for a judicial officer to subject to sexual harassment a non-judicial officer or member of the staff of a court of which the judicial officer is a member.

New subsection (6c) covers sexual harassment by a Member of Parliament of a member of his or her staff, another Member of Parliament, a member of the staff of another Member of Parliament, an officer or member of the staff of the Parliament or any other person who in the course of employment performs duties at Parliament House.

New subsection (6e) makes it unlawful for a member of a council to subject to sexual harassment another member of the council or an officer or employee of the council.

While extending the Act to cover sexual harassment, the amendments seek to protect judicial independence and parliamentary privilege. The amendments contained in section 87(6b) and (6d) make it clear that the new provisions do not apply in relation to anything said or done by a judicial officer in court or chambers or anything said or done by a Member of Parliament in the course of parliamentary proceedings, and clause 6 of the Bill provides that the Commissioner cannot require the production of books, documents and papers that relate to the discharge of judicial functions or parliamentary proceedings.

Clause 4 of the Bill sets out a procedure for dealing with complaints alleging sexual harassment by Members of Parliament. It provides that if a complaint is lodged against a Member of Parliament, the Commissioner must seek the advice of the appropriate authority. The appropriate authority will, in the first instance, be the Speaker or the President, depending on which chamber the Member belongs to. The clause provides for the appointment of an alternative person to act as the appropriate authority if the appropriate authority is for some reason unable to act.

If the Commissioner, after consulting the appropriate authority, forms the opinion that dealing with the complaint under the Act could impinge on parliamentary privilege, the appropriate authority must investigate and deal with the matter as the authority thinks fit. The appropriate authority may request the Commissioner to assist in investigating a complaint or to attempt to resolve a complaint by conciliation, and the Bill deals with the conciliation powers of the Commissioner when assisting the appropriate authority in dealing with a complaint.

Complaints against Members of Parliament that do not impinge on parliamentary privilege will be dealt with under the Act by the Commissioner in the normal way.

The Bill sets out a framework for dealing with complaints against Members of Parliament that seeks to take into account the special constitutional nature of their public office. The Bill also gives the appropriate authority the same powers to investigate a matter as the Commissioner has under section 94 of the Act, and gives the appropriate authority protection similar to that given to the Commissioner by section 16 of the Act, so that no personal liability attaches to the appropriate authority for any act or omission in good faith in the exercise of powers or the discharge of duties.

The Government supports the inclusion of a special procedure for dealing with complaints alleging sexual harassment by Members of Parliament. However, the Government considers that the Bill in its current form does not go far enough in addressing the issues of judicial independence and parliamentary privilege. The Government indicates that it will move amendments to provide for the special procedure to also apply to complaints alleging sexual harassment by judicial officers and for the appropriate authority which is, in the first instance, to be the Chief Justice, to deal with such complaints instead of the Commissioner, if dealing with them under the Act could impinge on judicial independence. The amendments will also make the appropriate authority, not the Commissioner, responsible for determining whether a complaint against a Member of Parliament

or judicial officer should be dealt with by the appropriate authority or the Commissioner.

The Government will also move amendments to delete the provisions of the Bill that extend the scope of the Act to complaints of sexual harassment by a Members of Parliament against another Member of Parliament and by a member of a council against another member of the council.

I commend the Bill to the House.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Amendment of s. 5—Interpretation

This clause inserts definitions into the principal Act. Court is defined to include a tribunal and judicial officer is defined to mean a member of a court or tribunal.

Clause 3: Amendment of s. 87—Sexual harassment

This clause amends section 87 of the principal Act to make it unlawful for—

- a judicial officer to subject to sexual harassment a non-judicial officer, or a member of the staff of, a court of which the judicial officer is a member;
- a member of Parliament to subject to sexual harassment a member of his or her staff, another member of Parliament, a member of the staff of another member of Parliament, an officer or member of the staff of the Parliament, or any other person who in the course of employment performs duties at Parliament House;
- a member of a council to subject to sexual harassment another member of the council or an officer or employee of the council.

However the section does not apply—

- to anything said or done by a judicial officer in court or in chambers in the exercise, or purported exercise, of judicial powers or functions or in the discharge, or purported discharge, of judicial duties; or
- to anything said or done by a member of Parliament in the course of parliamentary proceedings.

Clause 4: Insertion of s. 93AA

93AA. Manner of dealing with complaints of sexual harassment by judicial officers and members of Parliament

This proposed section provides as follows:

If a complaint alleging sexual harassment by a member of Parliament is lodged with the Commissioner, the Commissioner must seek the advice of the appropriate authority as to whether dealing with the complaint under the Act could impinge on parliamentary privilege.

If, after consulting the appropriate authority, the Commissioner is of the opinion that dealing with the complaint under the Act could impinge on parliamentary privilege, the appropriate authority must investigate the matter, no further action can be taken under any other provision of the Act and the Commissioner must notify the complainant and the respondent that the complaint will be dealt with by the appropriate authority.

If, after consulting the appropriate authority, the Commissioner is not of the opinion that dealing with the complaint under the Act could impinge on parliamentary privilege, the Commissioner may proceed to deal with the complaint under the Act.

The Commissioner may, at the request of the appropriate authority, assist the appropriate authority in investigating the complaint or attempt to resolve the subject matter of a complaint by conciliation. If the Commissioner is not successful at an attempt to resolve the subject matter of a complaint by conciliation, the Commissioner may make recommendations to the appropriate authority regarding resolution of the matter.

For the purposes of investigating a complaint that is to be dealt with by the appropriate authority, the authority has the same investigative powers as are conferred on the Commissioner by section 94 in relation to the investigation of a complaint by the Commissioner.

For the purposes of conciliating a complaint that is to be dealt with by the appropriate authority, the Commissioner has the same powers as are conferred on the Commissioner by section 95 in relation to the conduct of conciliation proceedings under that section.

The appropriate authority is required to notify the complainant and the Commissioner of the manner in which it has dealt with a complaint.

No personal liability attaches to the appropriate authority for an act or omission in good faith and in the exercise, or purported exercise, or the discharge, or purported discharge, of powers or duties under the section and liability lies instead against the Crown.

Clause 5: Amendment of s. 93A—Institution of inquiries

This clause ensures that the power of the Equal Opportunity Tribunal to refer a matter to the Commissioner for investigation does not apply in relation to an alleged contravention of the sexual harassment provisions by a judicial officer or a member of Parliament.

Clause 6: Amendment of s. 94—Investigations

This clause prevents the Commissioner from requiring the production of books, papers or documents relating to parliamentary proceedings or the exercise, or purported exercise, of judicial powers or functions, or the discharge or purported discharge, of judicial duties, by a judicial officer in court or in chambers.

Ms HURLEY secured the adjournment of the debate.

RETAIL SHOP LEASES AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 July. Page 1807.)

Mr ATKINSON (Spence): The Opposition has been anxious in the past few years about the danger that retail tenants will lose their business through the non-renewal of a lease in a shopping centre. We know that there are many occasions when, let us say, a five-year lease is coming to an end, and the tenant has invested everything in the shop, and the landlord then requires the tenant to sign a new five, 10 or 15 year lease (five plus five or five plus five plus five), in which the rent is increased extortionately.

So, having invested everything in the shop in the shopping centre, the tenant is faced with the choice of paying the extortionate rent or surrendering the business to the landlord and allowing the landlord in effect to sell the business to a new tenant. If you have had a shop in, say, Westfield Arndale for five or 10 years, it is not as though you can just fold up the business and go out onto Hanson Road or Torrens Road and try to continue the business there. There may be exceptions to this rule. Maybe a tenant can do that in some circumstances, but in the vast majority of circumstances, if the tenant cannot keep the shop in Arndale or in the major shopping centre, then he or she is out of business.

I know that many members of the Government support the endeavours of both the Opposition and the Democrats to give a retail tenant the first right of refusal on renewal of a lease. I know that the member for Florey and the member for Kaurna support us on that endeavour. I know that because of previous votes in the House and I know it because I served on a joint select committee of the Parliament on retail tenancies where the member for Kaurna supported that position and, had the member for Florey been on that select committee, I am sure he also would have supported it.

Mr Bass: You never know.

Mr ATKINSON: He says, 'You never know', but I just think he would have supported the majority position. On the joint select committee on retail tenancies, only one member was militantly opposed to a shopping centre tenant's ability to have the first right of refusal on the renewal of a lease, and that was the Attorney-General. The Attorney-General was somewhat put out when the great majority of the committee disagreed with him and recommended that a retail tenant have a first right of refusal upon the lease coming up for renewal. He prevailed for a while in the Party room by delaying and obfuscating, but eventually, I am pleased to say, Liberal backbenchers—such as the members for Florey, Kaurna, and perhaps Reynell—started to pin him down. So, in order to play for time, he set up a stakeholder committee to bring all the parties together and have a look at the question. They had not been able to agree in the past, but he decided to bring

them all together to agree on a first right of refusal for a retail tenant.

That is a bit odd, since many of the members of that committee were, like the Attorney-General, militantly opposed to any right of renewal. One only has to look at names such as Mr Lindrum from Fisher Jeffries, Mr Bryan Moulds from the Property Council of Australia, and Mr McCarthy from Westfield, to realise that those kinds of people were not going to agree to a realistic first right of refusal for a tenant because it was profoundly opposed to their interests and the interests of the organisations they represent.

So, the committee went away for months and months, but we knew that the Attorney-General would have to come back with something before the election because the members for Florey, Reynell and Kaurna had to show something to their constituents before the election. They really could not go without something to offer shopping centre tenants. Just recently, with talk of an election in the air, the Attorney-General came back with some amendments to the Act. One did not have to look at them for very long to realise that the Attorney-General was not giving much away.

The Hon. S.J. Baker interjecting:

Mr ATKINSON: The Treasurer says, 'Come on.' I reiterate: the Attorney-General was not giving much away. There was a first right of refusal for a retail tenant, and there was the broadest possible range of reasons for a landlord to offer a lease to someone else—and we expected that. But the really interesting part was the transitional provisions; it was the timing. The Attorney-General and the committee arranged it so that the only leases to which this first right of refusal would apply were those entered into after the commencement of the Act.

The Hon. S.J. Baker interjecting:

Mr ATKINSON: The Treasurer interjects that that is normal. He may have the faintest recollection that when we last considered this Act—which I believe was in 1995—some of the provisions applied straight away.

The Hon. S.J. Baker interjecting:

Mr ATKINSON: There were key provisions in that which applied straight away. They did not all apply on the signing of a new lease—some did and some did not.

The Hon. S.J. Baker interjecting:

Mr ATKINSON: I have got it right, have I? Some did and some did not.

The Hon. S.J. Baker: At last.

The DEPUTY SPEAKER: It would be better if these responses were formal, at the end of the member for Spence's speech.

Mr ATKINSON: Time flies when you are having fun.

The DEPUTY SPEAKER: In the interests of good reporting by *Hansard*, it is very difficult for them to catch up in a running commentary from both sides.

Mr ATKINSON: In 1995, when we last dealt with this Act, some provisions came into force straight away, and some provisions had to await the renegotiation of the lease. If this first right of refusal is to be of any use at all to retail tenants—and especially to be of use to them before the general election, which will soon be upon us—it has to come into effect straight away; it cannot be staggered. What the Government is proposing is that it applies only to new leases. So, the soonest it could possibly come into effect is five years from the proclamation of the Act—

The Hon. S.J. Baker interjecting:

Mr ATKINSON: —because the minimum term for a lease is five years, in case the Treasurer cannot recall what was in the Act last time. The Treasurer is deep in the detail of today's edition of the *Financial Review* but, if he concentrated for a moment, he would realise that the Bill which he is currently piloting through the House will apply five years after the proclamation of the Act. Good grief, there will have been two general elections before the first right of renewal comes up! Glory be, the parliamentary Labor Party might have even formed a Government by then! We might be superintending this process if we win the election after next, which I am sure the member for Reynell would have to concede is some kind of a possibility, even if there may be no possibility at the coming general election—which I do not concede, of course.

It may be well into the next century before this provision comes into effect, if it comes into effect in the form in which the Government wishes it, because some tenants have signed five by five leases: they are in a five year lease and they have an option to renew for a further five years. Some are in a five plus five plus five: in those instances, the first right of refusal would not come in until 15 years after the proclamation of the Act.

In another place, I am pleased to say that the Democrats and the Labor Party got together to give effect to the intentions of the joint select committee. The Democrats introduced a clause to bring the Bill into effect straight away. That was achieved by deleting the words 'entered into after the commencement of this division'. So, in a way, we are trying to do some of the marginal Liberal backbenchers a favour by giving them a feather to fly with in respect of their shopping centre constituents, and by giving them something to show for their efforts before the State election. But, more important than that, it is a matter of justice, in our view.

The amendment was vigorously opposed by the Attorney-General, and I notice that the Treasurer has an amendment on file to get rid of the amendment from the other place, to reinsert the words 'entered into after the commencement of this division'. I say to the member for Lee, the member for Colton and every other marginal Liberal backbencher in the House that, if they vote to restore these words to the Bill, they will defeat all of the benefits that might flow to retail tenants in the next five years. Their vote in the division on the amendment will be recorded by *Hansard*, as it normally is; but, more than that, it will be circulated to retail tenants across the State.

I have been pleased to be able to promote the recommendations of the select committee and the Labor Party policy on retail tenancies by going into shopping centres—Arndale and West Lakes Mall, for example—and distributing a leaflet to all small tenants in those buildings, and others, explaining the Labor Party's position on this and contrasting it with the Attorney-General's position. I am sure that there are many Labor candidates who will be looking for issues over the next few weeks who will be delighted to emulate me in important shopping centres such as Colonnades, West Lakes Mall, Marion and many others—Tea Tree Plaza would, I believe, be a good place to distribute such a leaflet. So, the vote here will have electoral consequences. It is a happy conjunction of good politics with economic justice.

The Attorney-General, as he often does when he is in a tight political corner, looks for a way out by getting testimony from the Public Service or stakeholders in a trade. In this case, he had Bryan Moulds, the Executive Director of the Property Council of Australia and the secretary, I believe, of

the Retail Shop Leases Advisory Committee, fax around a statement that every member of the Retail Shop Leases Advisory Committee agreed to the Bill in the form in which it was introduced by the Government, and that they would be upset if it were changed in any way. The Attorney-General has tabled that in another place and it was tabled in this House yesterday.

The only problem with relying on the advisory committee to justify the Government's version of the Bill is that the key person representing small retailers, Mr Max Baldock, was not present at the meeting, where it was slipped in that the Bill would apply only to leases signed after the commencement of the Bill. So, Max Baldock who gave a great deal of evidence to the select committee on behalf of small retailers—I am sure that the member for Kaurna will recall that—was not present at the meeting when this decision was taken. The funny thing is that the Attorney-General reproduced this statement in a ministerial statement, the key words of which are:

> The members of the Retail Shop Leases Advisory Committee have expressed concern at the statements made by the Hon. Michael Elliott and the Hon. Anne Levy and have provided me with a statement prepared and agreed by the industry members of the committee with a request that this be read into *Hansard*.

So, this was read into *Hansard* amidst great triumph by the Attorney-General. There was only one problem with that. On the same day, Mr Max Baldock, representing the Small Retailers Association, repudiated it and said that he was never a signatory to that statement. The Attorney-General has not succeeded in allaying the fears of the Small Retailers Association about this Bill. The fact is that the Small Retailers Association prefers the Opposition's amendment. That is the position it supports—that is as clear as a bell. The Treasurer will not be able to introduce anything to the House to show that the Small Retailers Association does not support the Opposition's position. Be quite clear: if members opposite vote for the amendment which the Treasurer is canvassing, they will be diametrically opposed to the position of the Small Retailers Association.

Finally, I want to deal with the cry that will go up from the Attorney-General and the Treasurer that somehow the Opposition's position involves unacceptable retrospectivity in law-making. I agree that retrospective enactments by Parliament can be most undesirable and contrary to the rule of law. I quote from my old law lecturer, Geoffrey Walker, and his book *The Rule of Law: Foundation of Constitutional Democracy* in which he criticises retrospective enactments most severely. He says at page 315:

> A statute cannot be certain if it is retroactive. . . It cannot guide a person's conduct and therefore cannot be obeyed.

He goes on to say at page 316:

> Besides the certainty idea, retrospective legislation infringes another requirement of the normativism principle, that of generality. When a statute is designed to act on past events, it is possible to have a reasonably clear idea of who will be affected by it. This gives it the character of particular legislation analogous to a Bill of Attainder.

I am sure that the member for Florey would know what a Bill of Attainder is because in the old days it would have been left to him to enforce one after it had been enacted. I go on to Dr Walker's explanation of what is retroactive legislation and what is not. Let us see whether the Bill before us in the form in which it comes from another place is retroactive. In this respect, Dr Walker states:

> Before proceeding further we should be clear about what we mean by retrospectivity. One can argue that a statute is retrospective if it takes away or impairs an existing right or creates a new obligation. People who have made plans or arranged their affairs on the basis of the existing pattern of rights and obligations might find their expectations confounded or their plans defeated. But, in varying degrees, most legislation, especially legislation of a remedial kind, has some effect on existing rights and obligations. It is therefore better to confine the concept to statutes which give to conduct occurring before enactment a different legal effect from that which it would have had in the absence of the statute.

My sentiments exactly. The Bill in the form in which it is currently before the House does nothing more than affect rights for the future. It is like any enactment. Sure, we are upsetting the expectations of a few people—in this case, landlords and the Westfield Trust in particular—but we are doing so for the future. No-one will be offered a right of renewal in the past. The only right of first refusal they will get is that which occurs after the proclamation of this legislation.

Let us make no mistake about this Bill's being retroactive in the strict sense. It is nothing of the kind. I urge members to support the Bill in the form in which it is currently before the House and to resist the Government's amendment which would mean, if it succeeded, that the rights of small retailers would come into effect only five, 10 or 15 years from now.

Mrs ROSENBERG (Kaurna): As we know, the history of this saga of retail leases has been going on for some time. A joint committee was established on 25 July 1995 with a range of criteria to consider including the rights and obligations of parties at the end of a lease, allegations of harsh and unreasonable rental terms, and the rights and obligations of parties in terms of relocation and refitting. The Attorney introduced a retail shop leases Bill in the Legislative Council on 30 November 1995 following extensive consultation with key stakeholders within the retail industry. The debate on the issue of Sunday shop trading in the city ended up in an agreement to establish a joint select committee and to further consider tenancies.

The Retail Shop Leases Act covered premises where goods were sold to the public or services provided but excluded premises where the rent exceeded $250 000 per annum or the lessee was a public company, bank, building society, insurance company, the Crown or a council, or a class of retail shop that was excluded by regulation. It was generally agreed that changes made to the Retail Shop Leases Act had gone some way towards improving the process of negotiation between the tenant and the landlord. However, there were still areas of major disagreement to be examined by the select committee.

The Act provided generally for a five year lease and for the length of the lease in any renewal option to be set out in a disclosure statement. Landlords said that they required flexibility to be able to change the tenancy mix, and they stated that very few leases were not renewed. Tenants argued for amendments to the Act to increase protection for them at the end of a lease period. There was some evidence that tenants with five year leases had loans over seven years, some even 10 years, and therefore were indirectly caught with the need to renew the lease simply to repay the loan. Tenants argued that they should be entitled to be offered a renewed lease unless they had performed badly as a tenant.

The committee took the view that the Act should be amended to provide that the landlord must give the existing tenant first right of refusal on a new lease unless it could be established that the landlord would be disadvantaged, that the tenant had breached the lease, that the landlord planned to

redevelop the centre or to change the tenancy mix, or that the landlord could obtain a higher rent for that same tenancy. The committee believed that the tenant had the right to know why a lease was not renewed, and it implied that the landlord must have a valid reason for non-renewal.

Tenants complained about the size of rent increases. Rental increases occur at the time of lease renewal when a tenant is most vulnerable. The committee recommended that the Magistrates Court could have jurisdiction to review if rent was deemed to be harsh and unconscionable. The committee further agreed that information about the determination of outgoings should be extended to apply to leases. It seems fair and reasonable that a tenant should know the details about the outgoings for which they pay. The committee felt that it would be fair and reasonable for a tenant at the time of signing a lease to be informed in the disclosure statement of the current tenancy mix and any changes that were being planned if they were known at the time.

Refits and relocations impose considerable cost on a tenant. This is especially a problem if it occurs late in a lease period. The committee recommended that the disclosure statement have the landlord state if a fit-out is required, at whose expense, at what cost and how it would be calculated to give some certainty of investment to the tenant. Following the presentation of the select committee's report to both Houses of Parliament, the Hon. Mike Elliott introduced a Bill in the Upper House which sought to implement a number of recommendations of the select committee but went a lot further and appeared not to have general support in that House.

The member for Spence introduced another Bill—the Retail Shop Leases Select Committee Recommendations Amendment Bill—in this Chamber which basically reflected all the recommendations of the select committee. At the same time the Attorney was preparing other legislation, including that of first right of refusal, in the Upper House.

A key feature of the Bill introduced by the Attorney-General in the Upper House was the provision for a statutory right of first refusal for an existing tenant who had no right or option to extend the lease. That would have made it a rather unique statement for South Australian and Australian tenancies. This provision will only apply to leases under that Act entered into after the commencement of this section. The Government's view also was that the statutory right should relate only to retail shop leases and not to leases of a commercial nature, and this will be dealt with in regulations.

A number of amendments relate to the information required to be disclosed to a potential lessee. The Bill requires the lessor to disclose in a disclosure statement whether a margin is being added to the cost of supply of services or if the lessor is obtaining services at a price different from the price being charged to the lessee and, if so, the amount of difference and the method used to calculate that difference. Current tenancy mixes would need to be disclosed as well as any proposed changes to that mix. Fit-out requirements would be required to be disclosed, with an estimate of the likely cost of that fit-out.

Importantly, in the consideration of the Hon. Mike Elliott he stated that clause 20B provides the world's two largest loopholes in relation to statutory right of first refusal. There was considerable debate about the suitability of that clause and what it meant in terms of improving the situation for tenants. Following that, the Attorney made a ministerial statement on Thursday 6 March 1997 in the other place and talked about the introduction of the Retail Shop Leases Amendment Bill 1996, which he had introduced, and then detailed that he had proceeded to set up a committee—the retail shop leases advisory committee—which would be given the opportunity to come together and discuss and agree on alternatives to the wording of the first right of refusal provision in the Bill. The committee met on 11 December and at that meeting maintained its commitment to working through the issues themselves rather than having the Parliament impose conditions on it.

The small group, which ended up being what I will call from here on in 'the subcommittee', comprised David Shetliffe, Max Baldock, Steve McCarthy and Steven Lendrum. It was recognised that a code of conduct, that is, an agreed code of conduct entered into voluntarily by both the tenants and landlords, was a preferable option to having Parliament impose some legislative regime without the support of the industry. In this code of conduct we are dealing with shopping centres in particular that have five or more shops together in one site and have one owner. The agreement reached by the subcommittee was presented to Parliament as being signed off by all members. Apparently there is some confusion as to whether that was correct. That aside, that agreement was presented to Parliament as part of the amended Bill when it was further discussed in the Upper House.

I will spend a few minutes going through some of the major issues contained within that new Bill. A new subclause (7) deals with the issue of capital obligations and the requirements on a lessee regarding reimbursement. A new section 13(1)(b) is of particular importance because it requires the lessor to disclose not only the nature of a proposed refit but also sufficient detail of what will be required to permit the lessee to assess the likely costs of that refit.

Part 4A comprises one of the most significant amendments, reflecting the agreement between the parties, and would be an advance on anything we have currently seen within Australia. It was inserted to achieve some appropriate balance between the expectations of a landlord and those of a tenant at the time of lease renewal. New section 20B is the existing unamended section 17 of the previous Act and deals with the term of the lease relocated into this Part. New section 20C deals with the application of the Part, and new section 20D establishes the right of an existing lessee of premises to be accorded a right of preference over other possible lessees to those premises.

New section 20E provides that between six to 12 months before the end of a lease the lessor must begin negotiations with the lessee to renew or extend the lease and must, before entering into a lease with another person, make a written offer to renew or extend the existing lease on terms and conditions no less favourable to the existing lessee than the terms and conditions proposed for a new lessee.

New section 20F deals with a situation where the lessee does not have a right of preference and provides that the lessee must be advised in writing as to why there is no right of preference. New section 20G deals with the situation of a lessor failing to begin negotiations or to give notice of the absence of a right of preference. Under new section 20H, if the lessor fails to comply with the rules of conduct at the end of the term of the lease, the lessee has been prejudiced and the dispute may be mediated in the Magistrates Court.

The main question in this consideration is whether people who already have leases will be protected or whether the right of renewal applies only to people who will enter into new

leases after the passage of the legislation. If a landlord has made a written offer to renew or extend the lease on terms and conditions no less favourable to the existing tenant than the terms and conditions of a proposed new lease with another prospective tenant and that offer is rejected, there is obviously no second chance for the existing tenant, unless the offer that comes back is less than the first offer made.

The overriding problem with this Bill as it stood was dealt with by the Hon. Mike Elliott, and the member for Spence has already indicated that he moved an amendment to take out in new section 20C(1) the words, 'entered into after the commencement of this division'. This effectively meant that those leases currently in place would be covered by this legislation immediately. The key question is whether a person in a current lease should have the first right of refusal. I have not hidden my feelings about the first right of refusal in all the debates in which I have taken part on retail leases legislation and indeed in the select committee. I am of the opinion that a person who is currently in a lease should have first right of refusal.

Ms GREIG (Reynell):

> The lease represents a valuable asset since it is the only security which the tenant has for the time and money he has invested in the business.

I have taken this statement from the 1981 report of the South Australian Working Party on Shopping Centre Leases. It is interesting to note that the problems alluded to in the report have remained on an open agenda not to be addressed again in detail until this Government, through the Joint Committee on Retail Shop Leases, delivered a comprehensive report that sets out a number of recommendations.

Without reiterating the historical events that have led to this landmark decision, it is important that we acknowledge the great lengths to which the joint committee has gone to ensure a fair outcome for both landlord and tenant. On 6 March 1997 the Attorney-General, in a ministerial statement to the Parliament, reported on the progress of the Shop Retail Leases Advisory Committee. He advised us that the industry would prefer to develop a legislative regime which was industry developed and supported. The committee recognised that it was too large a group to undertake developmental work and, to that end, a small working group consisting of Mr David Shetcliffe, Mr Max Baldock, Mr Steve McCarthy and Mr Stephen Lendrum took on the task. The working group met on numerous occasions to work through the issues, and it quickly became apparent that the work being undertaken was at the leading edge of retail leasing legislation.

I am aware that considerable work was done in researching possible international models for legislation, in developing concepts for legislation and in refining areas of agreement and difference between landlords and tenants. An extensive and time consuming drafting process has been undertaken, and we are now in a position where the industry parties have agreed on a range of amendments to the Bill. I have a large number of retail tenants within my electorate. This Bill is of major significance to them. Last year I hand-delivered a number of copies of the Retail Shop Leases Amendment Bill to businesses in Reynell. I also hosted an evening for retail shop tenants and invited representatives of the Retail Tenancies Unit. I had also invited the Small Retailers Association of South Australia to participate in our discussions. This proved to be a worthwhile exercise for both me and the retail tenants, as we went through the Bill page by page.

In a submission presented to the 1995 parliamentary select committee inquiry into the retail shop leases legislation, I found a statement that has summed up the feelings of many small retailers and, for the benefit of all present, I would like to quote it, as follows:

> For too long, the small retailers of South Australia have had to accept the weaknesses of their situations and have complied with the demands of the landlords and their agents, remaining silent for fear of future recriminations. Excessive increases in rent, the threat of non-renewal of a lease and thus the total loss of their investments, have been enough to keep the retailers in their place. It has only been the guarantee of complete anonymity for some of the retailers that has enabled the association to gain their stories, such is the fear of reprisal within the industry.
>
> The power wielded by landlords and their agents, some in particular, is frightening. And it exists, to a very large extent, because of the oligopoly that is in the major shopping complex sector of the industry. The oligopoly has operated to the disadvantage of retailers (and the public) involving massive asset transfers from retailers, increasing occupancy cost levels, and a code of behaviour that has seen the exploitation of the retail market. These existing complexes generally dominate their retail catchment area, having catastrophic impact on smaller centres, strips, main street or stand-alone retailers.

I have taken this statement from the Small Retailers Association submission, because I know it is the feeling of many small retailers, and I know that the SRA does get out and about and visit the many retail tenants throughout the community.

The ABS figures derived from the 1992 census reveal that there were 14 250 shop front retailers in this State, 97 per cent of them deemed to be small retailers. They employ 82 400 people or 13 per cent of South Australia, many of whom are young people. They turn over $7.3 billion annually, and the annual wage bill is in excess of $850 million. For dollar-for-dollar turnover, small retailers employ three people for every one person employed by the large companies. The amendments agreed to should represent a fair balance between the interests and aspirations of landlords and tenants. All members of the committee, the committee representing both landlords and tenants, have indicated their support for the amendments by signing off on the amendments, which I hope the Treasurer representing the Attorney-General will clarify. Our job is to ensure the passage of this Bill and allow the industry itself the opportunity to make it work and, by working, I mean for both the tenants and the landlords.

The Hon. S.J. BAKER (Treasurer): In thanking members for their contributions, I would like to put one or two matters on the record. It is important for members debating this Bill to understand clearly some of the history. The ALP seems to have got a touch of religion.

Members interjecting:

The Hon. S.J. BAKER: Yes, I can understand that coming from the member for Spence, but he is joined by so many of those members who were committed agnostics and atheists concerning the treatment of small business. The Labor Government was in power in this State for 11 years and did nothing whatsoever to help small business. Everything it did was to set out to destroy small business. It could see the enormous potential of small business, but all the time, in just about every piece of legislation, it worked against these people who do so much for this country. The ALP Government took no initiative to support small retailers. Nothing whatsoever was done.

The member for Spence has been here for that period and, even if he did have any feeling for small retailers, he had no

sway within Cabinet or Caucus to change his Government's attitude, which was to knock small business around all the time. Of course, that changed with the change of Government from our side of politics, simply because we recognised that there was an uneven balance between landlord and tenant. Significant reforms have been made by the Attorney in relation to retailers. Everyone in this House would recognise the enormous efforts made by the Attorney to bring the various parties together.

Mr Atkinson interjecting:

The Hon. S.J. BAKER: The member for Spence may well laugh, but it is a fact of life that, for the first time, the Attorney brought together all the competing interests in order to broker a deal in relation to changes. It is a great tribute to the efforts of the Attorney that we have reached this stage. That has happened without any thanks to the member for Spence. He was incapable of getting any change, even if he wished to have change, prior to this time, and he has not had any remarkable impact on his colleagues to date.

Mr Atkinson: He has been re-elected.

The Hon. S.J. BAKER: Yes, he has been re-elected, but I expect that that would be a *fait accompli* in his seat. I take note of the contributions of his colleagues on this matter. The issues relate to some important facets of dealings between two parties. The member for Spence chose to quote on the issue of retrospectivity: he said that it is retrospective or retroactive if it takes away existing rights. That is exactly what the ALP wishes to do in the circumstances—take away existing right. Contracts have been entered into in good faith in relation to the rules that shall prevail between tenant and landlord, and they are a big improvement on where we were previously. We no longer see monthly tenancies or people on limited tenure such as three years prevailing in the marketplace. A great deal more fairness prevails now than prevailed prior to changes introduced by the Attorney-General.

As the member for Spence would well recognise, the issue of disclosure was taken up immediately by this Bill, because it does not affect the rights of the tenant or landlord. It is quite clear that those provisions that do not impact on the rights of individuals take effect immediately the Bill is proclaimed. The other matter is whether, indeed, a contract should be broken.

I draw a parallel with the situation where, for example, we say that there are contracts in relation to the Cooper Basin gas supply. We say we have negotiated in good faith, we believe we have contracts in place, but the ACCC and certain people over in New South Wales, with some support from elements in the Federal Government, suggest that those contracts should be broken for what they class as national competition. We believe those contracts were entered into in good faith and serve the best interests of both parties concerned. The matter turns on what is a contract, whether the contract should prevail and whether the rights of individuals should be affected.

I bring to the attention of the House the fact that there may well have been changes in train when this legislation was brought into the House. The member for Spence is saying, and perhaps other members should reflect on it, that that all goes out the window and we want a whole new deal that all contracts are voided as a result of the changes here. Whilst it is fair game in the Parliament to blame landlords for almost every ill that besets tenants, that is not the market reality. The market reality is that most landlords deal fairly with their tenants. We have had a few notable exceptions and we are dealing with this legislation because of the notable exceptions.

Is the member for Spence saying that, for all the people who have negotiated in good faith and who have done a good deal, we should change the balance of power once more? I ask members to reflect upon that because there will be people in the marketplace who will come under the auspices of this legislation far sooner than the member for Spence suggests, simply because they have had contracts in train which have not been brought under the provisions of the 1996 legislation.

So, if the landlord has reached a point where changes have to be made to a shopping centre or the landlord is dissatisfied with the performance of a tenant and has been in the process of informing that person that there are changes in train, then the member for Spence would say that this legislation should overrule the rights of the landlord. As I said, we have had some notable examples of where the landlord has not treated the tenant properly. With the reforms that the Attorney has put in place we have seen the restoration of the balance between the two parties. In legislation we cannot suddenly wipe out the rights of one party.

Certainly, one of the critical issues facing South Australia is the issue of investment and, if by legislation we wipe out the rights of one party or another, it will concern people interstate. We have enough difficulty with bankers and people with money invested in this State and so the issue is whether, as a matter of principle, we write out or wipe out those rights simply by legislative fiat. I suggest that the issue is far more complex than that and it is important for this House to ensure that the integrity of the legislation is maintained to ensure that contracts in place are actually conformed with.

It is not a matter of simply saying, 'Yes, it should be applied right now because there are a number of people now where changes are in place which are clearly understood and the Parliament should not have the right to suddenly say, "Irrespective of those contracts and the deals done, they should be changed by the Parliament and therefore affect people's rights".' That is exactly what the member for Spence is alluding to.

From my point of view, I clearly understand the points of view of the members for Kaurna and Reynell and there may be others in the Parliament who share the same views. I can only point out to all members that this Bill will obviously have to go to conference. There will be a difference of opinion between the Upper House and the Lower House and the views of members will be clearly communicated to those people managing the conference.

I reiterate: it is easy for people to give away rights but people should clearly understand the ramifications of what they are doing. If this Parliament, by legislation, takes away rights, about which the member for Spence is saying, 'Well, it is okay in this case, but it is not okay in other cases,' then the member for Spence should go back to law practise and get some integrity for a change, rather than supporting the cheap fix which he is attempting to achieve through this piece of legislation.

Clearly, we have come a long way in balancing the rights of tenants and landlords. Clearly, the changes here will obviously be to the benefit of tenants and I suspect landlords in the longer term because the rules will be clear and we will not have the levels of aggravation we have seen in the past.

Mr Atkinson interjecting:

The Hon. S.J. BAKER: The member for Spence suggests that pigs might fly. It is probably more probable that they will fly rather than he will, because we are seeing—

Mr Atkinson interjecting:

The Hon. S.J. BAKER: We will wait and see how well you can get airborne. The issue is one of principle. The matter will go to a meeting of minds on this subject. I commend the Attorney for the extraordinary lengths he has taken to bring the parties together. For the edification of the House, there was a representative of the Small Retailers at the meeting to which the member refers. He should tell the whole truth and not half the truth when he is addressing the Parliament. With those few words I commend the Bill to the House.

Bill read a second time.

In Committee.

Clauses 1 to 9 passed.

Clause 10.

The Hon. S.J. BAKER: I move:

Page 5, line 23 [proposed section 20C (1)]—Insert 'entered into after the commencement of this division' after 'centre'.

Clearly, the debate has taken place in the second reading, but it is important to understand that all members from that diverse group actually signed off on the Bill and the matter was raised. It is not good enough to say that some representative was not there at the time because another representative from the same organisation was there at the time. Clearly, every member there understood what they were signing off at the time. They might have suddenly said, 'Hang on, I want a better deal than this,' or 'I want to break the contract.' We had a difficult situation and it was resolved through amicable discussion and agreement. Now the rules have changed for some people and I just say that that organisation was represented at that meeting at which the matter was discussed. It was clearly discussed at the meeting and, if the member for Spence wants to go back to the two people concerned, he will get the same assurance. In terms of where the Government lies—

Mr Atkinson interjecting:

The Hon. S.J. BAKER: There was another representative there, John Brownsea. I do not know that anyone has suggested that John Brownsea is in any way beholden to the Liberal Party, to the Attorney or the views of the Attorney. In fact, if members heard the public discussion on these matters by the Small Retailers, they have certainly had a strong voice and have never lacked an inclination to express it. Those matters were canvassed at the time. I am not trying to look into the minds of the various individuals concerned to see what they were thinking at the time—was it all right or have they had a second thought? I am saying that we had an unusual situation where all parties agreed—it was a contract. It was a contract and now someone is saying, 'Hang on, I want to break the contract because I believe I can get an even better deal', which means that somehow other people's rights will be taken away.

Mr Atkinson interjecting:

The Hon. S.J. BAKER: They did indeed reach an agreement. If I reach an agreement on something, I regard it as a contract. If I contract to achieve something, then I make every endeavour to ensure that is the position that prevails.

Mr Atkinson interjecting:

The Hon. S.J. BAKER: Absolutely right.

The Hon. Frank Blevins interjecting:

The Hon. S.J. BAKER: The member for Giles should also recognise that sometimes they believe I should not keep agreements, because sometimes those undertakings are very difficult to get across the line. It has been previously explained. I will not go through the explanation again in terms of the impact on contracts and the retrospectivity about which the member for Spence is talking. Changes are in train right now and the member for Spence says, 'I want to overrule those too.' The fact is that the Parliament should not do those things, as we would all clearly recognise, but given the situation, I do not believe that the Opposition will be either honest or truthful in the way it approaches this legislation. I commend the amendment to the House.

The Hon. FRANK BLEVINS: I oppose the amendment for the reasons that have already been outlined by the member for Spence. I am sure that he will expand upon that explanation but I want to make a point about this so-called agreement. Because there is some agreement outside the Parliament, does that mean that the Parliament has to slavishly follow something the Attorney-General has cobbled together with a group of people? How many of them understood all of it is another question. If there is some genuine misunderstanding and those people approach members of Parliament to rectify that problem, that is a perfectly legitimate thing for them to do—but it goes deeper than that.

I would not have intervened in this debate—there is no reason for me to do so; the member for Spence is quite capable of speaking on this topic and certainly doing it better than I. However, I was surprised to hear the Treasurer talk about agreements and then coming into the Parliament with a different point of view. I was Minister for Labour in this State for a number of years and I used to get these agreements on a weekly basis in IRAC (Industrial Relations Advisory Council). All the employers would sign off that this was to be the case—retail traders included—the legislation was all okay, I would bring it into the Parliament and up would bob the shadow Minister for Labour, to wit, the now Treasurer, and oppose virtually everything in the Bill—and he had every right to do so.

It was perfectly clear that those who had made the agreement in IRAC had gone running to the shadow Minister for Labour, repudiated virtually everything in that agreement and told the shadow Minister for Labour to get as much out of it to advance their side of the argument as he could. He was quite right in doing so. However, do not let us have this nonsense that, because the agreement is made between a Liberal Minister and some people interested in this area outside the Parliament, it ought to be sacrosanct. If that is the case, then the rules have changed since the now Treasurer was shadow Minister for Labour when he was the biggest offender in advancing amendments and propositions absolutely contrary to the agreements that were ruled in IRAC. I think he was right to do so. I have no quarrel with it whatsoever. The only quarrel I have is with the hypocrisy.

Mr ATKINSON: The amendment is about when a retail tenant's first right of refusal will become operative. Let us say that a retail tenant in a shopping centre in members' electorates has a lease which will come up for renewal in November 1997 or 1998 or 1999 or the year 2000, and that tenant would like to avail himself or herself of the first right of refusal that we have been canvassing and all agreeing on. If the Treasurer's amendment is carried, the retail tenant cannot avail himself of the first right of refusal. If the amendment is carried, the first right of refusal does not become operative until a new lease is signed and the lease period has expired.

If the amendment is successfully resisted by the Committee, the Bill becomes law and the retail tenant can avail himself of the first right of refusal whenever his lease comes up for renewal and that might be, of course, later this year.

So, be clear that that is the difference between the amendment proposed by the Treasurer and the Bill in the form in which the Labor Party and the Democrats currently have it. I do not think the Treasurer will dissent from that description because, as a summary, it is entirely accurate. That is what we are debating.

Let us assume for a minute that the Bill does not pass in the form in which I wish it to pass, but instead the Treasurer's amendment is successful. We will go to a deadlock conference between the two Houses. What will the Attorney-General say when we get to the deadlock conference? He will say that it is dreadful that the member for Spence is delaying the passage of this excellent legislation, that we must have this legislation as soon as possible and that the Labor Opposition, by resisting in another place, is delaying its passage. 'Oh woe! Retail tenants will not get the benefit of this Bill I have devised for them.' That is what the Attorney-General will say but the truth is that if the Bill passes in the form the Attorney wants it, it is not available to retail tenants for at least five years or 10 years or, in some cases, 15 years.

If you think the Labor Opposition will play it tough in a deadlock conference and insist on the Bill in the form it comes from another place, you will be right because that is what is the interests of retail tenants. If the Labor version of this Bill comes into force, retail tenants get the benefit of it sooner than they would in any conceivable case under the Attorney-General's version. Members opposite are doing their constituents, the retail tenants in the big shopping centres, a favour if they resist this amendment and vote with the parliamentary Labor Party.

Mrs ROSENBERG: I would like to comment in relation to the reason we are debating this. I read this morning in the *Advertiser* that Mr Max Baldock claimed he had not made an agreement because he was not present at the meeting. I would like to put on record that I clearly reject that argument. I do not reject the fact that he was not present at the meeting—that is obvious; he was not present at the meeting. But I fail to believe that, with the time that the subcommittee has been sitting to discuss this issue and all other issues, it has only just decided at the very last meeting to discuss this, the most important phase within the whole Bill. I do not believe that, and that is why I reject the comment that they have only suddenly decided, because Mr Max Baldock was not present at the meeting, that they cannot accept this.

I listened very carefully to what the Minister said, and I am still of the opinion that, if you currently have a lease—and, taking the example of the member for Spence, it runs out in 1997—at the end of that period you no longer have a lease. That is accepted. You have a landlord who wishes to re-lease the premises to someone else. You have a tenant who may or may not wish to re-lease the business. So, the landlord can then determine what is the best possible lease he can get for the premises.

The only difference by bringing this in retrospectively is that he has to make that offer once to the current tenant. If the current tenant says, 'I do not want that', he then has the right to take that offer to other potential tenants out in the marketplace and get a better deal. I just fail to see the disadvantage. I accept that they currently have contracts which they both know run out at the end of their five year lease, but what is the disadvantage with having it introduced now so that, when the lease does finish, there is an opportunity for that tenant to have first right of refusal, albeit that it would be under the new conditions that the landlord chooses to set at the end of the tenancy?

The Hon. S.J. BAKER: I think there are issues of timing here which obviously focus the attention differently for different parts of the debate. When I was responding during the second reading debate, I made it quite clear that, if the existing Bill were allowed to pass, it would take away from existing contracts. Some of those contracts occurred prior to the commencement of the last Bill. They will obviously take into consideration people brought in by the new provisions of the last Bill, but we have a whole range of leasing arrangements—some were on a monthly tenancy at the time of the last Bill and others were there for three years. There is a variety of tenancy arrangements.

We feel that they have to give greater certainty, and a right to contract for a further term should the tenant so wish. That was one of the strengths of the previous Bill. Members would recognise that they had a capacity then to sign a contract for five years or five years plus five years or whatever on the basis that it would be negotiated in good faith. There are issues involving those coming up for lease renewal and, if the landlord had made other arrangements, the extent to which the landlord's rights would be completely undercut by this legislation.

There would have been occasions—there may not be many—where the landlord would have said, 'I am going to make other arrangements. I want to change the concept. I have a strip centre. I need something in the centre which will attract more trade. Therefore, as a result of poor performance, I would like to see that changed. I do not want to renew your lease'. If those arrangements were in train right now, this Bill says that that is out. You have no rights—

Mr Atkinson interjecting:

The Hon. S.J. BAKER: No, just hold on a second. That is exactly what it does say.

Mr Atkinson: Turn it up!

The Hon. S.J. BAKER: No.

Mr Atkinson interjecting:

The Hon. S.J. BAKER: The honourable member says the prior right goes to the tenant that is existing—

Mr Atkinson interjecting:

The Hon. S.J. BAKER: Just hold on a second. It goes to the existing tenant, even though there may be arrangements in place now to change that. So then we get into a legal argument about whether the Bill indeed prevails over contract arrangements that have been put in place. There are those issues as well as the longer term issues that people have referred to. I think there are some matters that do need reflection upon.

There is a tremendous risk in saying, 'As a matter of legislation, I want to wipe out certain rights in the process', and it is retrospective—despite what the member for Spence said with his definitions, and I listened to him very carefully—as to the right of a landlord to make decisions in his best financial interest. We have come a long way in 3½ years, and I pay credit to the Attorney in his efforts to bring this debate to the House and to get more evenness in the power relationships between landlords and tenants, particularly in major shopping centres.

We would also reflect that, in terms of the power of shopping centres and the Development Act, the development strategy talks about further concentrations in shopping centres in terms of ensuring that we have more orderly development in Adelaide. That is part of the strategy. We are pushing business in a certain direction. It is important under those circumstances where, if it is not monopolistic power—it is probably not even oligopolistic power—certainly enormous

strength is given to the owners of the shopping centres, the very large regional shopping centres in particular. They do exert an enormous amount of power, because that is where people want to be. That is where they have gravitated over a long period.

Unfortunately, that is where we have seen some of the abuses of power. It is far less prevalent in strip shopping centres. When things have been a bit tough, I know that a number of shop owners in my electorate have allowed the rental arrangements to drop down a bit to accommodate those people. Arrangements are a lot more personal in that type of shopping centre. We do not have managers whose livelihood depends on how much cash they get out of the system. We have owners who want to make a long-term success of their investment. So, there are differences in the various arrangements.

There have been occasions that have been brought to my attention where strip owners have exerted an enormous amount of pressure, sometimes for good reasons and sometimes for bad reasons. There is a whole range of arrangements that exist in the marketplace today. I believe that we are taking an important step forward with this Bill. I do not believe that it is appropriate to accept the view put by the Opposition that, by simply removing the words inserted in the Bill in the other place, it suddenly provides better balance than we had previously, because it creates further anomalies in the way it is being expressed. It is unacceptable to the Government in the form it has come down from the other place for the very reasons I have stated.

If Parliament of its own volition decides that a particular group of people out there will have their contract rights broken simply because it thinks that that is a good idea, and it is not based on sound commercial principles, it would be a reflection on this State. We are not just talking about retail. There are too many shops anyway. There are too many shops chasing too little business. In some areas, we have owners who would love to have a tenant in their premises. Members just have to travel along some of the main roads to see the greater concentration in regional centres. We have a very mixed retailing audience out there.

The Attorney-General has attempted to retain the integrity of the contracts already in place and ensure the future is catered for with a more even balance. However, we do not want to achieve that through legislation whereby Parliament says, 'The tenants are great, the landlords are rotten; we will cut off the landlords.' That is what is implied by the Labor Opposition. As I said—and I will say it again—this problem has been around for the past 10 or 20 years, and for most of that time the ALP has been in Government. The former Labor Government lifted not one finger to assist small retailers in this town, and it lifted not one finger to assist small business in this town. However, members opposite suddenly say, 'Hang on, it is about time we did something because it is politic to do so'.

I do not believe that members opposite have regard for small business people. I do not believe that they have even one semblance of an understanding of the enormous trauma that small businesses go through, and the fact that they are in a competitive marketplace and sometimes the marketplace does not provide sufficient demand for them to make a very good living—in some cases, of course, that living is taken away simply because they go out of business.

So, from the point of view of the Government, it is trying to meet those competing needs by saying that, if contracts are in place, the integrity of the contracts must be preserved. In relation to the future, it is saying there has to be greater evenness and balance in those arrangements. I clearly understand the point made by the member for Kaurna. As I said, the battle will go on, it will be subject to a conference, and I am sure that the matters which have been alluded to by the member for Kaurna will be thoroughly canvassed during that conference.

Mr ATKINSON: The Treasurer said that he listened carefully to the quote from my former law lecturer, Geoffrey Walker. I will read one of those quotes again:

> One can argue that a statute is retrospective if it takes away or impairs an existing right or creates a new obligation.

I interpose there to say that Geoffrey Walker is setting up, if you like, an 'Aunt Sally', and in this case that ground has been occupied quickly by the Treasurer, who quoted that sentence. Now, let us knock it down. Geoffrey Walker goes on to say:

> People who have made plans or arranged their affairs on the basis of the existing pattern of rights and obligations might find their expectations confounded or their plans defeated. But, in varying degrees, most legislation, especially legislation of a remedial kind, has some effect on existing rights and obligations. It is therefore better to confine the concept to statutes which give to conduct occurring before enactment a different legal effect from that which it would have had in the absence of the statute.

Dr Walker then goes on to try to draw a distinction between retrospective legislation, which is of that milder kind that only affects expectations, and retroactive legislation, which gives to conduct occurring before the enactment a different effect. I will not go into the distinction between retrospective legislation and retroactive legislation, because that would be cruel to the Treasurer, and I have done it to him before. But one thing you can say about this Bill and this clause which the Treasurer is seeking to amend is that it is not retroactive, on any interpretation. The worst you can say is that it is mildly retrospective.

I refer to some similar examples. Not long ago, Parliament passed into law section 19AA of the Criminal Law Consolidation Act, which outlawed stalking. Before the passage of that Bill, stalking was not unlawful. So I could, if I wanted to, go around the metropolitan area of Adelaide, stalking an ex-girlfriend. It was not unlawful. But then Parliament changed the Criminal Law Consolidation Act to outlaw stalking—'Oh, dreadful, I have lost my right to stalk people.' This is retrospective, according to the reasoning of the Treasurer, because I have lost a right I had, an expectation I had. Parliament has changed the law. 'Dreadful, the fabric of society is being torn up': that is the argument that the Treasurer is putting to the Committee on this clause.

I refer to another example. Early during the course of the last war, my uncle attended the Inglis sales in Sydney and purchased a yearling called *Veiled Promise*, sired by *Veilmond*, a nag which, the Treasurer might recall, was an adversary of *Phar Lap*. He brought *Veiled Promise* to Adelaide to be trained and to race on Adelaide racecourses. He had an expectation that he could bring his horse to Adelaide from Broken Hill, and that in Adelaide his horse would be able to race and win prize money, if it finished in the placings, and he would bet on it and make money. But what happened? A Baptist called Thomas Playford was Premier of South Australia, and what did he do? As part of the war effort, he banned horse racing for a period. Surely that was a retrospective enactment, according to the reasoning of the Treasurer, because it disrupted all kinds of contractual arrangements into which trainers, owners, jockeys and those

who arranged the agistment of horses had entered into, because they had an expectation that horse racing would continue in South Australia—retrospective legislation, if you believe the Treasurer.

I will give a third example. Let us say that the member for Elder is the landlord of a dwelling which is tenanted by young university students and that he has this habit of going around to the house every day and harvesting the fruit trees and planting the garden and vegetables and using the land for his own purpose—despite the fact that it is tenanted by university students—and talking at unnecessary length to the young university students and generally pestering them. At one time, there was nothing wrong with that, because the lease did not prohibit it. However, along came Peter Duncan, when he was Attorney-General in the South Australian Parliament, and he introduced the Residential Tenancies Act—which the predecessors of the Treasurer opposed vigorously, for abridging the rights of landlords—and, lo, the member for Elder can no longer go around to the property of which he has freehold but which he has leased to the young university students and pester them, because the Residential Tenancies Act requires him to give notice before he visits the premises. The Treasurer says that it is retrospective legislation. He says that the member for Elder has the right under the existing lease, which has possibly years to run, to go around and pester his tenants and potter around in their yard. But this right and this legitimate expectation has been ripped off him by the enactment of the Residential Tenancies Act.

The Hon. S.J. Baker: Don't waste your time, Michael, you are going very badly. Don't give another example.

Mr ATKINSON: I am tempted.

The CHAIRMAN: The Chair will probably rule on repetition.

Mr ATKINSON: If members believe that any of these situations involve retrospective legislation, they are wrong. And all of them, in varying degrees, parallel the argument of the Treasurer. This clause is not retrospective legislation—it applies in the future. It would be retrospective or retroactive if the Bill were deeming a tenant to have had a right of first refusal in 1996, and to be able to exercise that newly created legislative right of first refusal in 1996. But the Bill does not do that: it creates a right of first refusal only in the future.

The Hon. S.J. BAKER: We are going around in circles. We might as well get on with the debate. The honourable member provided three examples. In the first one, he suggested that he had a contract to stalk someone. I cannot believe that he could put up such a—

Mr Atkinson interjecting:

The Hon. S.J. BAKER: The member for Spence, who has had legal training (and I have not), said that he had a contract to stalk some poor woman around Adelaide. That is bizarre. The second example cited by the honourable member was that during the war people's rights are taken away. He clearly understands the power given at both Commonwealth and State level: that during war many of the rights enjoyed by citizens disappear under the provisions of prevailing Commonwealth and State legislation. Regarding the third example that he cited, the honourable member is wrong again. When the member for Elder or his father was picking fruit—or whatever the example was—there was no contract to pick fruit: there was simply an understanding that you could walk onto a property and do whatever you liked because there was nothing else in place.

Mr Atkinson interjecting:

The Hon. S.J. BAKER: No. The honourable member is wrong, and he remains wrong. I do not want him to think of a further three examples until he gets it right.

Mr Atkinson interjecting:

The Hon. S.J. BAKER: Just be careful. The member for Spence is wrong. He could probably think up a few more examples which would be more relevant to this debate, but I do not want to take up the time of the Committee. The next time the honourable member cites examples he should look at the legislation. There is a written, binding contract in place. The honourable member says, 'Blow the lot of you, I want to break it.' That is exactly what the honourable member says.

The Committee divided on the amendment:

AYES (28)

Andrew, K. A.	Armitage, M. H.
Baker, S. J. (teller)	Bass, R. P.
Becker, H.	Brindal, M. K.
Brown, D. C.	Buckby, M. R.
Caudell, C. J.	Condous, S. G.
Cummins, J. G.	Evans, I. F.
Gunn, G. M.	Hall, J. L.
Kerin, R. G.	Kotz, D. C.
Leggett, S. R.	Lewis, I. P.
Matthew, W. A.	Meier, E. J.
Olsen, J. W.	Oswald, J. K. G.
Penfold, E. M.	Scalzi, G.
Such, R. B.	Venning, I. H.
Wade, D. E.	Wotton, D. C.

NOES (10)

Atkinson, M. J. (teller)	Blevins, F. T.
Clarke, R. D.	Foley, K. O.
Greig, J.	Hurley, A. K.
Rann, M. D.	Rosenberg, L. F.
Stevens, L.	White, P. L.

PAIRS

Ashenden, E. S.	Quirke, J. A.
Ingerson, G. A.	Geraghty, R. K.
Baker, D. S.	De Laine, M. R.

Majority of 18 for the Ayes.

Amendment thus carried.

Mr LEWIS: As has been observed by other members, this clause contains the guts of the proposed changes to the legislation, and it addresses those matters that are of interest to me. Had the opportunity presented itself, I would have made these remarks during the second reading debate. In its amended form, this clause provides for a whole array of conditions which must be observed in the preparation and execution of leases for tenants, or lessees.

We come to this sorry position because of our original desire to ration the amount of space available through planning law for retailing purposes. Because we have limited the amount of space available, we now have to find the means of deciding who will get that space. It is taken up by entrepreneurs. Early in the history of planning law there were a large number of small entrepreneurs. However, they have now been aggregated, and there are a few large entrepreneurs who tend to own most of the shopping centres.

That is the unfortunate part, because once a tenant occupies space they believe, quite properly, that in many instances they deserve to be given special consideration for the efforts they have made to cultivate that business on those premises. However, that may militate against the best use, an alternative use, of those premises within the limited space

available to serve the public interest. The purpose for which a particular shop is allocated to a tenant in its original form may no longer be relevant after 10 years, yet the owner (the lessor) cannot do anything about changing it.

This Bill does not really address the underlying malaise which I believe would have been addressed if we had made it compulsory for some of the retail space in shopping centres to be strata titled and not owned by the majority space holder. So, for instance, at least 40 per cent of a shopping centre, established under planning law, should be allocated explicitly to strata title.

That would have served everybody's purpose because it would have enabled those small business proprietors, who established strong businesses in a given locality and who feel that they were being otherwise unfairly discriminated against by their landlord, to use the goodwill of their business as collateral and borrow to purchase one of the strata title shops available in that shopping centre. That would ensure honest rents and fair charges relating to those amenities, with improvements and maintenance on those premises. However, we have compromised with the political interests involved who want to get votes.

We have put in this huge clause that now ties everybody's hands, thanks to the Democrats and the Opposition who think they will get votes out of it in the short run, and we have ended up through this process with more of a mess in my judgment than the mess we set out to address. In short order—in less than three or four years—we will come to realise that. The provisions of this clause will not solve those problems. They are the best mix we can get, but they assume that no other, more basic solution was available and that we had to react in a way that secured some votes in the territory for political Parties and secured some prominence for vested interest people advocating for either lessees and/or lessors.

Clause as amended passed.

The CHAIRMAN: Before I put the remaining clauses, I note an error on the final page: clause 18 is the repeal of the schedule, but it is listed as clause 17. It is obviously a typographical error.

Remaining clauses (11 to 18) passed.

Title passed.

The Hon. S.J. BAKER (Treasurer): I move:

That this Bill be now read a third time.

Mr ATKINSON (Spence): The Opposition is disappointed in the Bill in the form in which it emerges from Committee, but the parliamentary Labor Party will carry the torch for small retailers into the deadlocked conference and we will play it very hard to ensure that they get the entitlements which the member for Florey and others have sought to deny them.

Bill read a third time and passed.

BANK MERGER (NATIONAL/BNZ) BILL

Returned from the Legislative Council without amendment.

BANK MERGERS (SOUTH AUSTRALIA) BILL

Returned from the Legislative Council without amendment.

STAMP DUTIES (RATES OF DUTY) AMENDMENT BILL

Returned from the Legislative Council without amendment.

LIQUOR LICENSING BILL

Adjourned debate on second reading.

(Continued from 2 July. Page 1724.)

Mr ATKINSON (Spence): The Liberal Government regards this Bill as one more step on the way to total deregulation of liquor sales. That is not the basis on which the Labor Opposition supports the second reading of the Bill. Although our civilisation has had more than 3 000 years of coping with the widespread consumption of alcohol, we do not believe that liberalisation of the licensing laws should lead to total deregulation. Alcohol is not a commodity like any other. The principal clauses of the Bill are those that: allow retail liquor merchants to trade until 9 p.m.; allow the serving of alcohol in a restaurant without a meal to a person seated at a table and providing also that any restaurant may become BYO; dispense with sign-in requirements at licensed clubs; no longer require certain clubs to buy their liquor from a specified hotel; no longer require hotels to provide accommodation; no longer require meals to be served by a holder of an entertainment licence; allow increased Sunday trading for hotels and the possibility of applying for trading until 5 a.m. Monday if there is an assurance of no disturbances; require stricter notice to adjacent residents and local government of proposed changes to the licence of a hotel; create wider rights of objection to changes to a licence; impose more severe penalties for serving liquor to a minor or an intoxicated person; introduce a code of practice to try to prevent the harmful or hazardous promotion or supply of liquor; appoint official managers in hotels and retain the exemption from the licence fee for cellar door and mail order sales by wine producers.

The Bill retains the traditional requirement that an applicant for a hotel or retail liquor merchant's licence establish that the licence is necessary for the purpose of satisfying local demand for liquor in the particular area. The Government is seeking to amend the Bill before us to allow 16 and 17 year olds to serve liquor in hotels and clubs. The Opposition will be resisting these amendments.

The Bill includes some of the recommendations of the Government commissioned report of Tim Anderson, QC, entitled 'Review of the South Australian Liquor Licensing Act 1985', but it does not adopt many other recommendations of the same report. This is one report of Tim Anderson, QC, that the public has been allowed to read in full. Indeed, the Attorney-General was kind enough to send a copy bound with a red ribbon around to my Parliament House office. The Attorney foreshadowed that the next Anderson report into alleged conflicts of interest by the member for MacKillop, when he was Primary Industries Minister, would not be released in full, let alone tied with a red ribbon.

Mr Anderson's liquor licensing report is in favour of extending the life of the need requirement in making out a case for a new hotel or bottle shop. He suggests that we continue the ban on supermarket liquor sales in the metropolitan area. Mr Anderson says in his summary:

It has been necessary to weigh the removal of many of the anticompetitive aspects of the Act against the consequences which

may flow from removing the restrictions. I am concerned that an undue proliferation of liquor outlets may lead to harmful practices to meet the increased competitive pressures.

Later he states:

I have recommended that need remain as a test to be fulfilled before the grant of a hotel licence or a retail liquor merchant's licence, to be renamed an off licence.

In the body of the report at page 18, Mr Anderson writes:

One proviso to the principles of the national competition policy is that there may be circumstances where it can be shown that the benefits of the restriction to the community outweigh the disadvantages of the restriction. In other words, it involves the concept of broader community interest or benefit. I believe on balance that South Australia will be best served in the short-term (say, up to the year 2000) by maintaining the need provision for hotels and bottle shops only.

Later, Mr Anderson writes:

There is some truth in the proposition that a total deregulation could literally result in a bottle shop or hotel on every street corner and that would, in my view, be inconsistent with the minimisation of harm principles which I have recommended.

At page 2, Mr Anderson writes:

I am concerned that an undue proliferation of liquor outlets may lead to harmful practices to meet increased competitive pressures.

I have quoted Mr Anderson at length, because I agree with him. I am pleased that the Attorney-General has accepted his recommendation on this point, despite pressure for total deregulation from some Liberal backbenchers.

Mr Anderson also applied the principle of harm minimisation when he declined to recommend that supermarkets be able to sell liquor as they do in other States and Territories. He accepted that this might seem anomalous when some bottle shops are adjacent to the supermarket, but he added:

I am of the view, but very marginally, that this situation should prevail at least in the short-term, but that it should be subject to a very thorough review in three or four years' time.

The report also recommended that neighbours and local government have a widened right to challenge changes to a licence that might result in more customers or increased noise. At page 68 of his report, he writes:

I recommend that it now becomes a requirement that the licensing authority must consider whether it should provide to the local council, at the same time as the application is lodged with the licensing authority, a copy of the application. I would hope that this would be done in all applications where there was a remote chance of interference with the local amenity.

Earlier in the report, he writes:

The local council should notify ratepayers and seek input from local residents. The recommendation that the local council makes regarding trading conditions and hours should be the maximum that the licensing authority should allow.

In the summary of the report, Mr Anderson writes:

The community should be better informed than at present.

Although the Government has accepted these recommendations and advertising of applications may be more extensive than it was, I wonder whether this move will be effective if the Commissioner persists with advertising in newspapers. It seems to me that fewer and fewer people read newspapers, and the more effective way might be to circularise the affected neighbours by personally addressed letters if possible. Speaking as a candidate for Parliament at the next election, I would much rather have a message addressed to the householder in his or her letterbox than the advertisement in the Messenger or the *Advertiser*. Mind you, the Liquor Licensing Commissioner has the ability under the Bill to dispense with the advertising requirement if it is not relevant.

Mr Anderson was aware of a risk of duplication here, namely, that aggrieved residents might oppose a hotel's development application before the local council and then challenge the licence in the Licensing Court. Mr Anderson concluded:

Whilst I originally believed that it may be possible to legislate against potential duplication, I have now decided that this is not practical.

It is understandable that the Musicians Union and the South Australian Music Industry Council should be anxious about these wider rights of challenge, because they might discourage a hotel or club from providing live entertainment lest the neighbours or the local council jump on its back. Worse for the Musicians Union, Mr Anderson recommended that it no longer be a condition of a hotel's trading past midnight that it provide live entertainment. How often have members been drinking at an establishment after midnight while a guitarist strums away in a corner without an audience, just to allow the joint to trade? Mr Anderson writes:

Live entertainment has to be provided to qualify for a late night permit as an endorsement to a hotel licence.

Later, he writes:

It is my view that it is quite inappropriate to require hotels, especially those situated in residential areas, to create noise after midnight to entitle them to have longer trading hours. Most of the contested matters in court involve noise disturbances related to hotels with late night entertainment.

Another recommendation of Mr Anderson's that the Government has accepted is that a hotel or club manager be issued with an official ticket so that the public will know who is the responsible person in the establishment. Mr Anderson hoped that the entitlement to the ticket could be obtained only by completing a manager's course of instruction, but I do not think the Government has adopted this requirement. Mr Anderson, at page 39 of the report, describes the requirement at licensed clubs that visitors be signed in by a member as artificial and proposes that visitors' books be made optional. He writes:

Clubs can then make their premises available for receptions and private functions without the artificial signing-in requirements which are now observed in the breach.

Mr Anderson was of the view that the ability of a few clubs to sell packaged liquor for consumption off the premises should be phased out unless the club was in a locality where members could not conveniently obtain packaged liquor elsewhere without great inconvenience. I understand that that clause was the subject of vigorous debate in the parliamentary Liberal Party rooms—

Mr Venning: How do you know?

Mr ATKINSON: Because it was leaked to me, for the information of the member for Custance. It was leaked to me, I regret to say and, indeed, the Attorney-General threatened to pull the whole Bill if he could not get his way on the question of clubs and packaged liquor. That is the reason the clause comes to us in the form it is. You only have to look at the face of the member for Custance to know that that account is exactly right. So far so good, but there is much in the Anderson report that the Government has not accepted. Mr Anderson's recommendations for liberalising trade have been eagerly taken up by the Government and his suggestions on minimising the harm that may be caused by irresponsible alcohol consumption have been carefully avoided, because the Government sees them as bad for business.

Just one suggestion has been wholly accepted. The rest have been postponed to a code of conduct, the content of

which and the legal status of which are not clear to the Opposition. I will go into a suggestion that has been taken up, because it relates to the new constituency of the Speaker. When Mr Anderson travelled to Coober Pedy, he was told that two of the three licensed premises there were selling port wine to take away by decanting it from a barrel into a plastic milk container or an empty flagon and then replacing the screw-top on the container or the flagon. This was the cheapest method of selling port. Mr Anderson decided this was an irresponsible serving practice, and he writes:

> In my view, this is not the sale of packaged liquor in sealed containers. Just because a lid is put on by the licensee does not mean it is a sealed container. In my view, the legislation should be amended if it is not already clear that that practice is inappropriate.

This is the one suggestion on which the Government has acted in respect of irresponsible consumption of liquor. But elsewhere Mr Anderson's suggestions have been politely ignored pending a code of conduct which, we hope, will be in regulations and, therefore, have the force of law. In other places, his suggestions have been partly taken up.

Mr Anderson suggests prohibiting promotions that could result in the abuse of liquor such as supplying liquor at a loss-leadering discount or *gratis*. Another potential abuse that comes to mind is the practice of one Hindley Street nightclub of serving spirits in a syringe to simulate the administration of heroin. In this case, the drink is squirted into the mouth. I have brought that matter to the attention of the Government but nothing has been done about it.

The Hon. S.J. Baker: You could've moved an amendment if you'd wanted one.

Mr ATKINSON: No; for the information of the Treasurer, I wrote to the Attorney-General about this some time ago. I understand that the code of conduct may well cover that practice. I hope it does.

The Hon. S.J. Baker interjecting:

Mr ATKINSON: The Treasurer says, 'Don't be lazy.' If he wants me to think of every irresponsible liquor serving practice there is from Coober Pedy to the parliamentary refreshment room and to Hindley Street, I am willing to accommodate him, but I suspect that you, Mr Speaker, and others would prefer that I did not. Do I read you correctly, Sir?

The SPEAKER: Yes, you are quite right.

Mr ATKINSON: At page 14 of his report Mr Anderson writes:

> In my opinion there should be a focus and continuing emphasis upon minimisation of harm principles and these principles should be the business of liquor laws and indeed should be a predominant theme in the liquor legislation.

Indeed, this is reflected in the new objects section, which is now clause 3 and which provides:

> The object of this Act is to regulate and control the sale, supply and consumption of liquor for the benefit of the community as a whole and, in particular—
>
> (a) to encourage responsible attitudes towards the promotion, sale, supply, consumption and use of liquor, to develop and implement principles directed towards that end (the responsible service and consumption principles) and minimise the harm associated with the consumption of liquor;

Just in case members thought that was a motherhood statement with no legal consequences, after further research I can tell the House that it is. In the Bill as first presented this object and other objects in clause 3 were to be taken into consideration by the licensing authority when, under clause 53, it exercised its discretion to grant or refuse an application for a licence or variation of a licence. It did not take long for the Government to change the Bill by unhooking the objects from the principal section of the Bill. Now the licensing authority has a discretion unfettered by the objects clause. As one prominent Queen's Counsel said of the objects:

> I am not really enamoured of these legislative statements. They are often in the nature of motherhood or aspirational statements and do not provide much meat to legislation. However, the objects of this Act are linked to some of its provisions. . .

He continued:

> In particular, these objects are linked to clause 53 of the Bill.

Well, not any more they are not. Funnily enough, when the Attorney-General was doing the unhooking he said:

> The objects clause has a permeating effect across the whole legislation.

As to the effect of the objects clause on the rest of the Bill, I reckon it is about as evanescent as a pee in a river.

Mr Anderson noted that 80 per cent of police taskings are liquor related. He suggested a last drinks survey of offenders whereby the arresting officer asked the offender where he last consumed alcohol before being arrested. It is notorious that the Brompton Park Hotel is often the last post in my electorate at night and it has to deal with more than its fair share of intoxicated men on their way home and demanding service irrespective of the law that makes it an offence for a barman or barmaid to serve an intoxicated person.

Adopting a New Zealand project, Mr Anderson suggests an alcohol advisory board funded from a proportion of the licence fees. The board would promote a host responsibility program. I think the Attorney-General would have found this suggestion of hypothecating some of the licence fee more offensive than anything else mentioned in the report. We shall not hear of it again under this Government.

Mr Anderson recommends that the serving of liquor to intoxicated people become a strict liability offence, that is, the prosecution need not prove that a barman, barmaid, manager or licensee served liquor to an intoxicated person knowing that he or she was intoxicated. All the prosecution need establish would be that the customer was intoxicated and was served a drink by the accused. To defend the prosecution, the licensee must raise a reasonable doubt that the customer was intoxicated. Such an offence, which Mr Anderson tells us exists in the Northern Territory, would be resented by the Australian Hotels Association and the Liquor, Hospitality and Miscellaneous Workers Union alike. The Government has retained the existing defence, which is in section 115A of the Act and clause 108 of the Bill, namely:

> It is a defence to a charge of an offence for the defendant to prove—
>
> (a) if the defendant is the person by whom the liquor was sold or supplied—that the defendant believed on reasonable grounds that the person to whom it was supplied was not intoxicated; or
>
> (b) if the defendant is the licensee or manager of the licensed premises and did not personally sell or supply the liquor—that the defendant exercised proper care to prevent the sale or supply of liquor. . .

Under the Act, the penalty for breaching the section was a division 7 fine, namely, a fine not exceeding $2 000 and expiable on payment of $200. Under the Bill, the maximum penalty is increased to $20 000, though the main concern of the licensee will be whether or not he loses the licence rather than how much he or his employee is fined. Mr Anderson also recommended that the offence of selling liquor to minors should be a strict liability offence but, instead of ignoring the

recommendation as it had done on the last point, the Government decided to move a tiny bit in the direction Mr Anderson is suggesting. Under the Act, it is a defence to a charge of selling liquor to a minor that the defendant believed on reasonable grounds that the person to whom it was supplied was of or above the age of 18 years and that person was actually of or above the age of 17 years. The Bill is a little stricter. Clause 110(3) provides:

> It is a defence to a charge of an offence against subsection (1) or (2) to prove that—
>
> (a) the licensee or some person acting on behalf of the licensee required the minor to produce evidence of age; and
>
> (b) the minor made a false statement, or produced false evidence, in response to that requirement; and
>
> (c) in consequence the person who served the minor reasonably assumed that the minor was of or above the age of 18 years.

Under the Act, the maximum fine for serving liquor to a minor was division 6, namely, $4 000, expiable on payment of $300. Under the Bill, the maximum fine will be $20 000 for the licensee and $5 000 for another person, namely, an employee or a manager. This is a steep increase by any measure.

So, it is remarkable in these circumstances that the Government is trying to permit 16-year-olds and 17-year-olds to serve liquor on licensed premises when it is an offence for someone to serve drink to them on the same premises. The Liberal Government expects 16 and 17-year-olds to work for wages considerably less than 18-year-old barmen and barmaids, who receive adult wages under the award, and to assume the risk of determining whether a customer is intoxicated and whether the customer is 18 years of age. Imagine the pressure on a 16-year-old barman or barmaid to serve a fellow 16-year-old or 17-year-old. How many pay packets is it going to take a 17-year-old to meet the $20 000 maximum fine of serving liquor to an intoxicated person? Perhaps the member for Florey will do the calculation. The House should note that there is no discount here for an employee offender as there is for the sale of liquor to a minor. And how many pay packets will it take for a 16-year-old to pay off—

Mr Bass interjecting:

Mr ATKINSON: The minimum wage will be a lot less if the member for Florey and the Prime Minister get their way. And how many pay packets will it take for a 16-year-old to pay off the $5 000 maximum fine for an employee who serves liquor to a 16-year-old? Members should note that the provision for expiation is proposed to be removed from the Bill, so there will be no expiation of the offence. I am sure that this would meet with Mr Anderson's approval but not, perhaps, if he knew that the Liberal Party was proposing to employ minors to serve liquor in hotels and clubs.

The Treasurer should not pretend that the Labor Opposition is somehow ruining the employment prospects of minors. It should be remembered that there are many jobs in hotels, other than serving liquor, and those that readily spring to mind are cooks, kitchen hands, cleaners, food waiters and food waitresses. The Liberal Party says, 'Do not worry about this because minors will be able to serve liquor only if they are in an approved training course, and the approved training course must be prescribed by regulation.' Of course, the Treasurer says that the regulations will be placed before both Houses of Parliament and we will have a chance to disallow them. Well, we will not fall for that. Every time this Liberal Government passes regulations which are disallowed by a vote of the other place, they are repromulgated immediately in the Gazette and, therefore, they just steamroll over the other place's attempt at parliamentary control of subordinate legislation. Let us not hear the Treasurer say that we will have control over the employment of minors to serve liquor because we will be able to veto the training courses in another place. As the member for Peake well knows, we will have no such opportunity to regulate the employment of minors to sell liquor because, any time the parliamentary Labor Party and the Democrats together in another place disallow regulations, the Government will introduce the same regulations either the same day or the next working day.Another feature of this part of the Bill is that it changes the current law which allows the children of a licensee to serve liquor.

Mr Bass interjecting:

Mr ATKINSON: The member for Florey has helpfully interjected to say that, if a minor serving liquor under the amendments proposed by the Government is fined the maximum for serving liquor to an intoxicated person, it will take just over 69 weeks of that minor's wages to pay the fine—if he or she gets the maximum. I thank the member for Florey for that. He is a really good sport to have made that calculation. He is softening my anger now, and he is playing up to me.

Mr Leggett interjecting:

Mr ATKINSON: Well, it seems not only the member for Unley is out of sorts but so is the member for Hanson. Perhaps he has seen this morning's news poll which indicates that he would have lost his seat by a margin of six percentage points if an election had been held last weekend.

The SPEAKER: I warn the honourable member to be very careful. However, that generosity is now coming to an end.

Mr ATKINSON: Thank you, Mr Speaker. Before I was interrupted, I was talking about the children of a licensee. I am familiar with this provision because my wife was the daughter of a publican and, indeed, from a very young age she served liquor in country hotels owned by her father, such as the hotel at Linton in central Victoria. The Government proposes to raise the age at which the child of a licensee can serve liquor to 16. We think that is reasonable. We support it because we think that 16-year-olds and 17-year-olds serving liquor in those circumstances will be under the care and control of a parent, but it is quite different for a person who is a stranger to the licensee and who is aged 16 or 17 to be serving liquor, and we do not support that.

The Government is moving another amendment to try to take away the ability of the Commissioner or the court to discipline a licensee for breaches of the award. We think it is important that this provision be maintained. It is an historic provision in the Liquor Licensing Act. We think that award breaches by a licensee are a very good reason for discipline by the Liquor Licensing Commissioner, if he is so minded, and we want to retain that provision.

Generally, the parliamentary Labor Party is opposed to topless waitressing, both in restaurants and hotels. Some sections of the parliamentary Labor Party are not opposed to strippers in hotels and restaurants, and some of them are not even opposed to table top dancing by naked women in restaurants and in hotels.

Mr Becker: Is it really necessary?

Mr ATKINSON: The member for Peake interjects to ask, 'Is it really necessary?' Is he asking whether it is necessary when drinking beer to have a table top dancer in the area, or is he asking whether it is necessary for me to raise this in the context of the Bill?

Mr Becker: Is it necessary to have those sorts of people entertaining in hotels?

Mr ATKINSON: I agree with the member for Peake; I do not think it is necessary. However, there are members of the Government, including the Treasurer, and members of the parliamentary Labor Party, who have no objection to strippers in hotels or to table top dancing. As it happens I disagree with them. Assuming for a moment that they are right, I would distinguish those situations from the situation of topless barmaids or topless waitresses. I think that is an entirely different proposition. It does not inherently improve waitressing or acting as a barmaid to be topless. Indeed, I think it is an unreasonable requirement to place on waitresses and barmaids. By all means, if you want a strip show and it is in accordance with the law, if that is what you want when drinking, you can have it under the current law and the current Government permits that, despite the remarks of the members for Hanson and Peake.

I think it is a shame that women who apply for a job as a waitress or barmaid can be required or encouraged to work topless. In fact, if topless waitressing became common, the demand for it would increase and more and more young women would be pressured to work topless. That is undesirable and that is why I believe that under the Bill there ought to be a provision which allows either the union or the Government to apply to stop topless waitressing—I will put it as bluntly as that. Under this Government nothing has been done in that direction, and that is something the member for Hanson must answer for, because he has not done anything about this.

The current Act provides that the union can apply to try to have topless waitressing stopped because it is in breach of the award. But what does the member for Hanson's Government seek to do? It seeks to get rid of that very provision—that an award breach can be a basis for discipline. Indeed, the Government is trying to get rid of the ability of the union to intervene in licensing matters—

Mr Venning interjecting:

Mr ATKINSON: The member for Custance says, 'Good on them.' I would have thought that the union representing employees in the liquor industry should have every right to apply to the Liquor Licensing Commissioner on certain matters.

Mr Venning interjecting:

Mr ATKINSON: The member for Custance is interjecting out of his seat, it seems with your permission, Mr Speaker—

The SPEAKER: Yes, the honourable member is quite out of order.

Mr Venning interjecting:

Mr ATKINSON: He says that there are some workplace agreements around the place. There are, but how are those employees to be represented in licensing matters? I put that to the member for Custance. His answer is that he does not want them to be represented at all. He wants them to be disfranchised in liquor licensing matters. As far as he is concerned, they go unrepresented. I ask the honourable member to show me in the Bill where there is provision for the employee advocate to apply on licensing matters. If he can pull out the clause I will respond to it, but he will be a long time looking for it.

The Attorney-General says that clause 43 allows someone to apply to stop topless waitressing or topless barmaids, but the power there to impose conditions on a licence only relates to offensive behaviour and to protect safety, health and welfare—and I do not think that really fits the description. It does not really answer the objection to topless waitresses and barmaids.

Another feature of the Bill is the diminution in matters that will come before the court. The Opposition has no difficulty in that objective of the Government. With those remarks, the Opposition supports the second reading of the Bill. We support the Bill in the form in which it has come from another place, and we will stoutly resist the amendments proposed by the Treasurer.

Mr ANDREW (Chaffey): I rise to support the overall thrust of the Bill, but I want to make special reference to one major aspect—the carry-off provisions. I raise this because it has been of some concern to me. I advise the House that I have given this issue what I believe to be some fairly significant and special attention and assessment. It concerns me because I am keen to see fair competition in trade and also because of the number of representations made to me by clubs and hotels in my electorate, and I have had appropriate discussions with them.

In fact I received a petition, which I have presented to this Chamber, with a fairly large number of signatures. I understand that that petition was organised by the Licensed Clubs Association supporting take-off facilities for licensed clubs. I particularly recognise their desire in terms of wanting take-off facilities, but I assure my constituents and those signatories that I have made appropriate representations and have had discussions with the Attorney-General and many of my Liberal parliamentary colleagues to put their case, and at the same time achieve what I believe would be the best possible outcome for the clubs in my region.

I have wanted to put this so-called public support in context with some local influences with respect to this take-off issue. Some local publicity was given to this issue in April. I quote from a Riverland paper, the *Murray Pioneer*, of 29 April 1997. Under the headline 'Social clubs fight proposed take away alcohol ban', the article states:

> Riverland licensed social clubs may no longer be able to sell take away alcohol to their members if proposed changes to the 1985 Liquor Licensing Act are passed by State Parliament.

I believe this unfortunately gave a very incorrect impression that the existing clubs in the region—and I think I have about seven clubs which already have a take-off facility—would lose that right when in fact that is certainly not the case under this proposed legislation. In fact, clause 3(11) of the transitional provisions provides that the trading rights under a licence are not diminished at all and therefore these clubs will continue to enjoy these rights.

There is no doubt in my mind that the Licensed Clubs Association had embarked upon a campaign for further changes to the Bill. In that same *Murray Pioneer* article to which I just referred, the Licensed Clubs Association Executive Director, Mr Brian Kinnear, is quoted as follows:

> The Licensed Clubs Association had embarked on a campaign to have the Bill amended but gave credit to Mr Griffin for encouraging wide industry consultation on the review.

He also said:

> It is important to remember these clubs are community clubs which put their energy and profits back into the community. What we want to come out of this is the responsible service of alcohol. The Licensed Clubs Association had asked clubs to get their members to sign the petition and lobby their local members of Parliament.

I presume some other clubs around the State did that, and I am conscious that a number of my colleagues presented petitions in this regard.

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

Mr ANDREW: I understand that the Licensed Clubs Association's Executive Officer's comments were made after—I am sure in terms of when the petition was put out—there was agreement with the Licensed Clubs Association, the Australian Hotels Association and the Attorney-General on the Bill as originally drafted.

As well as having many clubs in my electorate—whether they be social community clubs or sporting clubs—there are four major community hotels, which have a very large community support base. I believe there is something in the order of only 11 community hotels in this State, so those four represent a significant proportion of those. I have had discussions with some of them over this issue and, again, to put this issue in context, I am sure that if they had organised petitions against any increase in take-off facilities by the clubs, on the basis of unfair competition, it would have had an impact on the community hotels, in terms of the potential community cash donation to some of the smaller sporting clubs in their communities to which many of them contribute. I suggest that such a petition would also have attracted a fair number of signatories throughout the community.

Whilst I am in favour of fair competition, the fact remains that it simply would not be a level playing field for the majority of clubs to have the take-off facility, bearing in mind their terms of trade, including things like a greater choice as to opening hours, the influence of the supply of volunteer labour and other aspects where they do not have to meet the same requirements as hotels. There is no doubt that we must, and will, progress down the path of greater options and choice for clubs, and the provisions of this Bill indicate that. It is just a matter of how fast that happens. As most legislative history indicates, change must be at a pace which the whole community can accept at a manageable rate.

Notwithstanding these aspects, I believe that, overall, this legislation delivers some very significant and valuable changes to the whole industry, and particularly to the licensed clubs—and I am referring to my earlier comments concerning the community clubs and sporting clubs in my electorate. Under these provisions, the clubs will have the right to purchase liquor, either wholesale or retail, from a supplier of their choice. The clubs' ability to trade with the general public will be increased with the elimination of the stringent signing-in procedures: often these were particularly restrictive on many of the licensed clubs. They will also be able to sell liquor to adjacent areas, and this will involve assisting and working with organisers of local sporting events. I believe that all these changes will contribute very strongly to, and certainly will provide the potential for, increased profitability and efficiency in the operation and management of the licensed clubs.

As a personal example, I refer to my involvement many years ago as Secretary of the Waikerie Gliding Club for a number of years. In that capacity as a public officer, I recall how unimpressed we were at times with the restrictions that applied in terms of buying our liquor from a couple of nominated hotels, and the fact that we could not buy it at what we believed at the time to be appropriate and fair competitive prices. I also recall how precise we tried to be—and sometimes with some difficulty—in observing the signing-in requirements, and how we tried very diligently to ensure that the visitors' book was up to date. We were always conscious of this requirement, in terms of when the licensing inspector may or may not walk through the door.

These proposed changes will undoubtedly make life very much easier, open and competitive and will facilitate, from the licensed clubs' perspective, greater flexibility in their management options. I am sure that it will present a greater opportunity for licensed clubs to be involved in catering and providing that sort of service to other members of local communities, particularly country communities, rather than being, as they were historically, in effect, restricted very much to their own membership base. There is no doubt that licensed clubs in my area will receive significant benefits from these changes, as I have just outlined. I believe that those changes will lead to even further reform and flexibility, and I look forward to working with these clubs with a view to achieving those further improvements. I support the second reading.

Mr BECKER (Peake): I have waited three years for an improvement and reassessment of the Liquor Licensing Act in South Australia. I well remember, after the last State election, approaching the Premier for a better go for licensed clubs in my old electorate and, of course, in my new electorate. Whilst I am very grateful for this review and in-depth study that has been undertaken and the support of all involved in coming up with this legislation, as far as the hotels and the clubs are concerned, there is still not a level playing field, and there never will be a level playing field as long as we allow someone to take advantage of the other. I still believe that the licensed clubs in this State are not getting a fair go, and that belief will remain until the licensed clubs in South Australia are given a freedom similar to that of certain hotels, certainly in relation to the opportunity to sell liquor in bottles off the premises.

I cannot understand why such a provision was not included in this measure, if only for the purpose of giving licensed clubs the opportunity to apply to have that facility. I will not accept any argument that licensed clubs have an advantage over hotels because licensed clubs can provide voluntary labour. You would not have the standard or the number of sporting or voluntary organisations in this State unless those clubs had the opportunity to raise some money. We have found, with the granting of poker machine licences to hotels, that the hotels are not all that generous. It will take a lot of convincing to get me to accept the fact that we have very generous people in the hotel industry. That is just not on.

I ask all members to go back a few years, before 1993, and recall that about one-third of the hotels in this State were struggling to pay their licence fees. The poker machines bailed them out, and our very strict licensing laws kept them well and truly protected. So, I believe that the licensed clubs deserve a go and that they deserve a better opportunity than they have had thus far. Indeed, I will continue the fight to ensure that licensed clubs in this State have the chance to sell liquor off the premises.

As a member of a bowling club, I like to have a few drinks after a game of bowls, but then it annoys me that afterwards I have to get in the car and drive down to the bottle department of the local hotel to pick up a bottle or two to take home. Why can I not do that in my own club? Why can I not buy a bottle of wine, a couple of bottles of beer, or whatever, and then go straight home? Why do I have to go wandering off in another direction?

It does not seem fair to me. The bureaucracy in this State is putting a stumbling block in the way of people who want to exercise their freedom of choice at their local club. What local clubs do for the community cannot be measured in dollars and cents. They employ staff who, on occasion, are assisted by volunteers. Why should clubs not be able to do that? They put all their profits back into the club and the community. Clubs build assets on council owned land, land that belongs to the people. They erect their clubhouse with bricks and mortar, they provide the facilities and they provide the members, yet they own nothing. In contrast, if you have a block of land and a hotel licence, you have a business, and that can be traded. Those who peddle these arguments lose sight of the fact that a lot of volunteer work is provided by the community. Many wonderful things are also provided by private enterprise through the establishment of small businesses. However, it is not share and share alike in our community: it never has been and it never will be.

The member for Spence took exception to the insertion of a new clause to allow 16 and 17-year-olds to sell liquor. Through unfortunate circumstances, I was forced to live with my aunt in a small country town during the Second World War. My father was interned because of the idiotic bureaucracy that ran this country at that time. Anyone who was considered to be an alien was interned in a prisoner of war camp. So, I was brought up by my aunt in the hotel. At an early age I was taught to sweep the floors, clean up the cigarette butts and wash the glasses. When I was old enough, I was taught to pull beer, to change the kegs and lift them up and down from the cellar, to wash the bottles, and to bottle wine. On the edge of the Barossa Valley, we used to bottle red wine, white wine and port. It cost two shillings a bottle, and when it went up to two shillings and sixpence everyone thought that was horrendous. It was the best wine you could buy compared with some of the wine you can buy today for $17 or $18 a bottle let alone $60 or $70 a bottle.

I cannot see anything wrong with being a member of a family that helped me to learn how to run the business. When I was 18 and had the opportunity to seek employment after school, I could have worked in the hotel and run it until my aunt wanted me to take over as manager or go into some form of private enterprise, which I chose to do. I cannot see anything wrong with a 16 or 17-year-old learning the trade, particularly if they are the son or daughter or some other relative of the proprietor of the business. You can have all the theoretical experience that you like, but it is the practical experience that you need. The member for Spence queried how someone of that age could tell whether they were serving liquor to an intoxicated person or how they could pay the penalties or the fines. You are not on your own, you are supervised by the proprietor or manager of the business. It is the business that takes the risk, and the business protects itself against that part of the legislation.

I see no real problem with this provision. I do not see the problems that are being put forward by the Opposition, which is indulging in a bit of nit-picking, nuisance and nonsense creating to sell to the people the perception that there is something wrong with this clause, that we are introducing slave labour. There is no such thing as slave labour in any business, let alone a hotel. You have to start somewhere. What the member for Spence probably would not know is that when I was living in the hotel a very unfortunate document used to be pasted on the wall in the front bar. It was commonly referred to as 'The Blackfella's Act'. It had nothing to do with Aborigines but with people who were banned from being served with alcohol. The local policeman would advise us under the law existing at that time that we were not permitted to sell liquor to a particular person, and the name of that person would be placed on that document. That would take place because of offences committed by that person or because of a statement by the medical profession or the law that alcohol was not in that person's particular interests.

I well remember soon after being elected to this place that we got rid of that provision in the legislation which, as I said, was commonly referred to as 'The Blackfella's Act'—and thank goodness we did. It is not always easy to tell whether a person is affected by alcohol, but I understand the reasons for this provision. If we were to take the matter further and look at what happens overseas, particularly in countries that have very aggressive drink driving legislation, naturally this would follow, because those who sell drinks can be deemed as being irresponsible for having contributed to the condition of that person.

This legislation is long overdue. It has taken a long time to get here. On behalf of the licensed clubs in my area, I am delighted that we can now pick and choose from whom we buy our liquor, whether we go straight to the brewery. Clubs will now be able to shop around and do a little better than they used to. They will not be tied down, they can pick and choose from whom they buy their liquor.

I now refer to a practice that annoys everyone. If you visit your club and take with you your wife or a member of your family (who is not a member of that club) you must sign them in. The signing-in book has always been a nuisance and a bit of a farce. Thank goodness we will get rid of that. It is a bit like when you used to travel through the country, and when you pulled up at a hotel you would have to sign the register. The member for Chaffey would probably remember this, but I can remember that you had to travel 30-odd miles before you could sign in and have a drink at a hospitality establishment. We are slowly altering, improving, updating and modernising our liquor licensing laws.

I do not wish to go through all the amendments. This Bill has had a long and well considered debate in the Legislative Council where the Minister is located. All I want is an assurance from the Minister in the Chamber tonight that within a short period there will be a further review and acceptance of the fact that licensed clubs will be able to sell bottles and that take-off facilities will be provided and this activity made much easier. If the Minister will give me that assurance, I am happy to support the legislation.

Mr VENNING (Custance): I rise briefly to support this Bill. I want to go on the record as supporting the principle of allowing licensed clubs to sell alcohol to their members. I refer to the take-off licence.

Mr Brokenshire interjecting:

Mr VENNING: I will be brief. The member for Mawson would not know the meaning of that word. I am surprised that we have this draconian measure before us this evening. I support the legislation and, along with the member for Peake, I wonder why we are continuing with this part of the legislation. I understand that licensed clubs which currently are allowed to sell liquor to their members to take home will still be allowed to do so. However, what about those licensed clubs which are set up to avail themselves of this privilege but which will not be able to do so? Who is the adjudicator or the umpire who says who will or who will not? As far as I am concerned, just because you are in early is not a correct

basis for legislation. Many recently established clubs would like to have that privilege, and many clubs that are yet to be established would also like to have it, but they will not get it. I believe that we will revisit this legislation in the not-too-distant future to give establishments that privilege right across the board, because I see it as basic democracy.

I have several successful clubs in my electorate which I frequent and it is a joy to go to them. Two have lobbied me in relation to this legislation: the Mannum Club, a very successful club in Mannum; and, the Tanunda Club, which now has a new manager. They spoke to me in relation to this Bill. They play critical roles in the community both at Mannum and in the Barossa Valley. Several others are doing a good job. I agree with the member for Peake that our clubs do much for our communities. I support and commend them. They are usually more generous than most hotels—not all, but most. They are prominent in supporting any community effort, whether it be a charity or some unfortunate person. They are always there.

The greatest mistake this State has made in recent times was that we did not restrict poker machines to licensed clubs only. We have had problems and they should not have been put in the local hotels and pubs. They should have been restricted to licensed clubs. I support that idea. If anybody is prepared to move that way, I will support them. We have a problem on our hands in relation to poker machines. In other States they have been successful and not out of control because they are in licensed clubs. I do not know why we ever considered putting the poker machines across the board in hotels and clubs.

The boards of both organisations, particularly the board of the licensed clubs, let us down when they got into bed with the Hotels Association. They should have stuck out to do it on their own. Even though we were not in Government at the time they would have done us a great service had they stuck to their guns. I support the legislation but believe that we will be revisiting this legislation to see that democracy prevails and allow all licensed clubs the right to sell to their members and others under the take-off licence.

Mr BROKENSHIRE (Mawson): In the interest of all members here tonight I will be brief. I want to get a couple of points on the public record. I have been involved in this Bill behind the scenes in the normal way prior to its coming in. This Bill is great. It is a good step in the right direction. I have a lot of committed and successful clubs in my electorate and in my own right I have been involved in an executive committee running a club, and I have been concerned for some time about the added imposts put on clubs which clearly were draconian, were imposts, and were back in the Dark Ages, and it is time this legislation came up to the 1990s, getting ready for the next millennium. I congratulate all industry representatives who have been involved in the Bill. It is a fair outcome for hotels and clubs and certainly gives clubs a better opportunity than they have in the past. As my colleague the member for Custance said, poker machines have been a disadvantage to many clubs and I believe that these amendments are crucial.

My only other point—because I have promised my colleagues that I will break a record and only speak for two minutes—is that I, too, will be watching with a great deal of interest to see what happens with take-off licences. I understand the situation as it stands in the current Act, and I will look with great interest to see what happens when clubs put in applications for take-off licences. Finally, I want to congratulate all the people in my electorate who work voluntarily in their clubs and also the hotel proprietors who do create a lot of jobs and economic wealth for the region. They have spent a lot of money on building works in the past few years. Whilst we only see doom and gloom in the paper, a lot of jobs and benefits have been created for electorates such as mine in recent years. I have much pleasure in supporting the Bill.

The Hon. S.J. BAKER (Treasurer): I thank all members for their contribution to the debate. Members have canvassed the issues contained in the Bill and have drawn some reflection on one or two of the more significant items. The Bill sets out to achieve a number of aims, that is, to bring trading by our hotels and clubs into the twenty-first century. I am delighted with the efforts of the Attorney-General in recognising the changing demand patterns out there and in recognising the strong community viewpoints being put on the issue of trading and trading practices. Importantly, the Attorney is adamant that, whether it be a club or hotel, we should be encouraging responsible behaviour, which means that care must be taken on which people get served in the process.

Hotels have come a long way in the past 10 years and they have to protect their own clientele. The worst thing that can happen is if someone who has been drinking at that hotel, has drunk far too much, goes out on the road and kills someone. The individual is beyond caring, but for the people who are left behind and the hotel itself it is a poor reflection. There can be some assertion about responsible behaviour on the part of the perpetrator and on the responsibility of the establishment serving the liquor. In talking to Tim Anderson in doing the report on the initiatives taken in new Zealand—

Mr Atkinson interjecting:

The Hon. S.J. BAKER: I was interviewed on the Tim Anderson report in relation to liquor licensing. I was not interviewed on the other Anderson report. The interesting aspect of the New Zealand approach is that, whenever a person is picked up by a breathalyser or is found in an accident to have exceeded the limit, they are required to nominate the last place at which they were drinking. The interesting facet is that over there if there are too many strikes against the establishment it then runs the risk of losing its licence. There is a balance. You cannot take responsibility for other people to the extent that you can prevent them doing damage to themselves but you can go a long way in terms of assisting in the process to ensure that what you are doing is responsible, whether it be hotels or clubs. In clubs you are closer to the person concerned and a wise word or a lift home can often be very helpful.

There is a requirement for wider consultation for liquor licences. There has been increased interest in the placement of hotels and clubs, although probably the more current debate is about poker machines. With the issue of removal in terms of liquor purchases, the current situation is maintained. A number of establishments in South Australia have the right of take away. In response to the member for Spence, I cannot look into the mind of the Attorney or the Liquor Licensing Commissioner in terms of whether it is appropriate to have take away from clubs. There are a number of aspects that run off the tongue very easily. I suggest that that may require changes in club management, which he may not wish. The member for Peake has pointed out to us that one of the great strengths of clubs is the volunteer labour, which assists in the running of the club and service behind the bar.

In clubs in my own area that has been a strong facet of their survival and the service they provide to their membership. We would not wish that to change as a result of saying that we would like this extra privilege. With privilege comes responsibility and greater requirements may be placed on volunteers than there is currently. Some issues need to be looked at. I am sure the Attorney will continue to receive representation and therefore respond to those representations as to whether there should be a change in the take-away provisions. I have extreme reservations about that—although, in Canberra you can buy your liquor at the supermarket. In many countries around the world you can go to the supermarket, buy your alcohol and take it away.

Mr Venning: Hot or cold!

The Hon. S.J. BAKER: Hot or cold, yes. Other jurisdictions handle the supply of their liquor quite differently and I am sure that over the next few years the issue of take away and the dispersal of liquor will be the subject of a number of representations and, indeed, some fierce debate. However, in the past few years we have provided greater strength to the hotel industry, and South Australia has benefited enormously from improvements in hotel facilities. With the added employment provided by hotels, we are now seeing hotels at a standard of which we can be proud. That prevails in both country and city areas.

Mr Venning: No thanks to pokies.

The Hon. S.J. BAKER: I am simply saying you can't have your cake and eat it, too. You now have some good looking pubs in your areas. In the country areas the standard is rising dramatically. I have been to a number of hotels in the Riverland, for example, and they are of a standard such that you can stand up and say, 'Look, I'm really pleased with the changes that have taken place.' We have good quality.

Members interjecting:

The Hon. S.J. BAKER: Indeed, they have been for a long time but they are getting even better. With regard to the standard of accommodation and service, the addition of poker machines has been of great benefit to those hotels and the people visiting the area, as well as the people utilising the facilities on an ongoing basis. It is easy to get involved in these debates and say, 'Look, these are all the black marks.' From a Government point of view, the changes—

Mr Venning interjecting:

The Hon. S.J. BAKER: The member for Custance should be quite fair about this and refer back to the debates on poker machines. Personally, I hate the things. I am simply saying that the legislation changed. The member for Giles brought it in, and this Government actually implemented it. I, as Treasurer, implemented it, so I take full responsibility in terms of getting on with the job. Indeed, there have been some success stories. The taxation base of this State has been improved as a result, and education, health and other facilities have improved.

Members interjecting:

The Hon. S.J. BAKER: Absolutely right! When the member for Mawson or the member for Custance or—

Mr Venning: We were your friends.

The Hon. S.J. BAKER: I am just simply saying you can't have it both ways. If you're getting about $140-odd million from poker machines via the taxation system, which is providing teachers, nurses and police, and all the facilities of Government, it is an hypocrisy to say that poker machines have not assisted in the development of this State. It is time that people became a little more realistic in terms of the net benefits that have been delivered. It is recognised that there have been costs. However, the net benefits include a redistribution of income, dramatic improvements in certain parts of industry, and a good take for the Government in terms of supporting the services of Government. So, let's be fair about the debate and about people putting up their hands and saying, 'Look, I want clubs to be the only ones to have poker machines.' That is not a fair debate, either.

Members interjecting:

The Hon. S.J. BAKER: I can tell the member for Mawson that it would not have made any difference. We had an unusual situation in South Australia where the pubs and the clubs got together and brokered an even deal. Obviously, without that relationship we may still be talking about the issue. It is a great tribute to the Hotels Association and the licensed clubs that sat down and worked their way through the issue. That has never happened anywhere else in Australia. Even though there are reflections about poker machines, at least in South Australia there is a fairness in the way they are distributed, and that result is a tribute to the member for Giles.

In New South Wales they have now talked about letting hotels have a fairer deal, after some 40 or 50 years of clubs only swallowing all the community resources and the pubs falling down around their ears. Even in New South Wales they have recognised the unfairness of the distribution rate. However, this is about liquor, not pokies. When members get wound up by a particular argument, they have a terrible habit of putting only one side of the argument. Sometimes, we have to put it on the record.

The Hon. Frank Blevins interjecting:

The Hon. S.J. BAKER: No, I always put my position clearly. I say that there are clear benefits and they should be recognised, and we will not go back in time.

The Hon. Frank Blevins: Except for the bank.

The Hon. S.J. BAKER: We will keep going back in time on the bank. The trading provisions are much fairer and more appropriate, and they meet contemporary standards. People still wish to discuss and debate some issues but, again, we have updated our trading provisions, and that is generally to the good. A special circumstance licence can apply should the need arise. As I said, there are trading hours extensions that are more in keeping with the changing nature of demand in the marketplace today. In terms of the farce of being a club member or not and getting the book signed, it is great to see that that has changed for the better.

There have been a number of changes in this Bill which I believe most members in this Parliament would support. There are others that will continue to be debated and others which people may take issue with or want to have further updated. Overall, I again congratulate the Attorney-General on a very fine job of bringing together all the elements of the industry, calling on the talents of Mr Tim Anderson Q.C. to provide the background report, which has provided a strong base for the reforms we see in this Bill. I thank all members for their contributions to the debate.

Bill read a second time.

In Committee.

Clauses 1 to 10 passed.

Clause 11.

The Hon. S.J. BAKER: I move:

Page 9, line 30—Insert 'if the information is disclosed in a form that does not identify the person to whom it relates—' before 'to any other person'.

This is in relation to a debate about what disclosure of information is possible. The purpose of the clause is to allow

the commission to release statistical information on industry associations, the media and other interested bodies where it is in the public interest. The need arose because the Crown Solicitor advised that the Commissioner could not release this information under the current Act. This is for the formal disclosure of matters which should be on the public record. It is unexceptional.

Amendment carried; clause as amended passed.

Clauses 12 to 35 passed.

Clause 36.

Mr BECKER: In the lead-up to the introduction of this legislation, 29 petitions were presented to the House signed by 5 872 members of various clubs within the State. In relation to a club licence, clause 36(1)(i) provides:

> . . . if the licensing authority is satisfied that members of the club cannot, without great inconvenience, obtain supplies of packaged liquor from a source other than the club and includes in the licence a condition authorising the sale of liquor under this paragraph—to sell liquor on any day except Good Friday and Christmas Day to a member of the club for their consumption off the licensed premises.

How difficult does this clause make it for licensed clubs to apply for an off licence facility? In other words, can this provision be used by a club to provide bottle sales? What is meant by the term 'without great inconvenience'?

The Hon. S.J. BAKER: That is exactly the current provision within the existing Act and, except for one venue, there are no take off facilities in the Adelaide metropolitan area. I am advised that there are about 80 facilities in country areas where clubs have clearly demonstrated that the level of inconvenience is considerable for members to obtain liquor from an alternative venue and so they have been given authorisation on their licence to sell take away liquor. The stipulation is that they do not become a trading post and do not operate as a liquor retailer. It is there for the convenience of the patrons, and that existing provision is included in the Bill. There is no difference. It is obviously very hard, if not impossible, for anyone in the metropolitan area to obtain that licence. That provision, which is in the current Act, has been included in the Bill.

Mr BECKER: Is it possible, in a future review, to look at this clause? Would we have to have a totally new clause to make it easier for licensed clubs to sell bottles from their licensed premises?

The Hon. S.J. BAKER: For the edification of the member for Peake, clause 36(1)(i) is one of the provisions that affects club licences. My view—and if the Attorney or the Liquor Licensing Commissioner have a different idea, I will be told quickly—is that it just requires modification of the clause, but it is a dramatic change in principle.

Mr BECKER: Can the Treasurer state whether in the next two years this will be looked at? I refer to the second reading explanation and the reference to this provision.

The Hon. S.J. BAKER: I will refer the question to the Attorney, who is the responsible Minister. I am not aware that it will be under review within the next two years. I am sure it is going to be an ongoing issue that will be brought to the attention of the Government, and it will be addressed at some stage if the Government believes it is an appropriate policy. I will not draw my own conclusions on that. I have a point of view, but it is the Attorney who happens to be the appropriate Minister.

The Hon. FRANK BLEVINS: Like the member for Peake, I have some reservations about this provision and, in fact, I oppose it. I think the people who argue that clubs ought to be able to sell packaged liquor are absolutely correct. I would go further: I think anyone should be able to sell packaged liquor. I do not think it should be restricted to hotels or clubs. If supermarkets, delicatessens or even the local butcher want to sell liquor to adults, I do not see that it is any of our business, providing there are all those safeguards in relation to public nuisance. Apart from that it ought to be no different from selling any other commodity.

We are talking about adults here and, if adults choose to buy packaged liquor from a licensed club or supermarket as they do in other States without the State degenerating into some kind of drunken stupor 24 hours a day, I cannot see why South Australians cannot handle it with the same degree of responsibility. The Government really has no role in these areas, other than the normal role relating to minors and public nuisance. Apart from that, I think Governments are impertinent in telling people where they can buy their packaged liquor and where anyone can sell it. I support the general thrust of the Bill because it is a minor advance on what we have at the moment, but it is still an unnecessary intrusion into the lives of adults.

I am concerned about one aspect that I heard before the dinner adjournment when the shadow Attorney-General told the House that the Attorney-General apparently spat the dummy in the Party room. The Party room was clearly influenced by the licensed clubs and the correctness of their argument, I might add, and was going to move significantly in that area. I understand the Attorney-General said that, if there was any interference in this area of the Bill, he would withdraw it. There are descriptions for that kind of activity, and I think it is appalling behaviour by the Attorney-General. It is either his way or no way at all, and I do not think that that is any way to run a State or this legislation.

I have been contacted by a number of clubs who want to sell packaged liquor. I can only say to them that I see no reason why they ought not be allowed to do that. However, the Attorney-General of this State says 'No', even though the majority of Liberals in the Party room have a sensible view on this and would have said 'Certainly'. The days of people maintaining their monopoly in this area ought to be over. Hotels have had a monopoly in certain of these areas for far too long, and I am very sympathetic to the hotels—

Mr Andrew: Is this a second reading speech?

The Hon. FRANK BLEVINS: I am explaining why I disagree with the Treasurer in respect of clause 36(1)(i). The member for Chaffey is not the Acting Chairman at the moment so, if he has a problem, he can take a point of order. It is a great pity that Governments intrude in people's lives in this way.

Mr Andrew: Obviously it's fair comment, because you have responded to it.

The ACTING CHAIRMAN (Mr Bass): Order! The member for Chaffey is out of order. The member for Giles has the call.

The Hon. FRANK BLEVINS: I think it is a great pity that the clubs will not get a fair go and that hotels will maintain their monopoly in this area. I think that is absolutely wrong. I think the bottle shops, again, are badly done by, but the AHA has won the day on this occasion. I just hope that at some time in the future the Attorney-General will be stood up in the Party room and that equity will come into some of these provisions.

Mr VENNING: It is not often that I agree with the member for Giles, but I certainly do on this occasion. Normally, it would rain, so rare are the occasions on which I agree with the member for Giles—and I wish it would rain.

I listened intently to the Treasurer's speech to close the second reading. I was interested in what he said in relation to the other States. When we compare South Australia with other States, South Australia gave hotels the privilege of having poker machines. The contra to that is: why cannot we give clubs the right to have a 'take off' licence? I believe that is basic commonsense, fairness and equity.

The Hon. S.J. BAKER: I am not sure to which side I should be looking at this stage.

Mr Clarke: Always watch your back, Stephen.

The ACTING CHAIRMAN: Order!

The Hon. S.J. BAKER: Without getting into too much heavy debate on the subject, members have made points about clubs and the service that they provide to their constituency. Every member of this place would recognise that. Clubs have never had to go through the same test as hotels to show need.

The Hon. Frank Blevins interjecting:

The Hon. S.J. BAKER: The member for Giles did not introduce any legislation on his own behalf during the 11 years he was associated with the former Government, either in the Upper House or the Lower House. There is a sudden touch of religion once they are out of power to say suddenly that it is time for a fall. The honourable member had 11 years in which to do something. Clubs do not have to go through the same stringent tests faced by hotels. Fair is fair. We liberalised the membership arrangements within the club area. I point out to the member for Giles that his suggestion about the Attorney doing particular things in the Party room is totally wrong.

Mr Atkinson interjecting:

The Hon. S.J. BAKER: Members obtain information, some of which they hang on to and some they store away.

Members interjecting:

The Hon. S.J. BAKER: I suggest to both the member for Spence and the member for Giles that what they are suggesting is not true.

Mr Atkinson interjecting:

The Hon. S.J. BAKER: In terms of the member for Custance, he is saying fair is fair. Pokies have come into clubs and hotels-that is fair. There has been liberalisation of the rules governing clubs—that is fair. So, there has been balance in the system right through. No level of disadvantage has been applied.

Mr ATKINSON: I received correspondence from a club at Mannum which said that it had the right to sell packaged liquor. This club at Mannum wrote to say that, although it had an ability to sell packaged liquor now, it was anxious that it might lose that ability under the amendments. The Treasurer mentioned that 80 clubs in non-metropolitan South Australia were able to sell packaged liquor that could be taken off the premises. Is there any threat in the remarks of the Attorney-General that these clubs might have their right in any way phased out?

The Hon. S.J. BAKER: My advice is that the answer is, 'No'. Once you are there, you are there.

Clause passed.

Clauses 37 to 42 passed.

Clause 43.

Members interjecting:

Mr ATKINSON: I shall just ignore the misogynist remarks coming from the Government ranks.

The ACTING CHAIRMAN: Thank you, member for Spence. I will not. I may have to take some action if it does not desist. The member for Spence has the call.

Mr ATKINSON: As I said during my second reading contribution, the parliamentary Labor Party, although it has different views about erotic displays in hotels, draws a distinction between those people who work as strippers or table top dancers and who are there for the purpose of an erotic display and workers such as barmaids and waitresses who are there to be barmaids and waitresses but who are required by the management to work topless. It is the latter group to which we are unanimously opposed, and the Attorney-General told another place that this clause in the Bill could be used to impose a condition on a licence which would prohibit topless barmaids or topless waitresses. From my reading of the clause, I do not see that that would necessarily follow. Will the Treasurer say which parts of this clause could be used to prevent topless waitressing and topless barmaids in hotels and other licensed premises? Is it the Government's intention to move to have such a condition imposed on licences in South Australia?

The Hon. S.J. BAKER: I have taken further advice on the matter. The Liquor Licensing Commissioner assures me that he has taken action in certain circumstances where it is believed inappropriate for this activity to occur and has imposed conditions on a licence so that it no longer occurred. I cannot respond in relation to general policy on exposed people operating in clubs and pubs. If the honourable member has a concern about the standards set, he should have taken the opportunity to move an amendment. Alternatively, he could move a private member's motion to say, 'I believe any person who is disrobed in any fashion should have no right to be an employee or whatever of a club.' If that is the way he feels—

Mr Atkinson: You have missed the point.

The Hon. S.J. BAKER: I may have missed the point. I am simply saying to the member for Spence that the conditions laid down here and those already provided under the Act allow the Commissioner the discretion to impose on pubs and clubs certain requirements, as I am advised he has already done on a number of occasions.

Mr Atkinson interjecting:

The Hon. S.J. BAKER: I will provide the honourable member with a written response as to which pubs and clubs may have been affected by any orders where people have been in an unclothed state and the Commissioner has felt it inappropriate to continue in that fashion.

Mr ATKINSON: I am surprised that the Liquor Licensing Commissioner is doing this. Two years ago I was on a Social Development Committee trip to Peterborough with a couple of innocents—the member for Hanson and the member for Hartley—and we were coming back—

An honourable member interjecting:

Mr ATKINSON: —and the Hon. Terry Cameron, who is not innocent, and we were coming back through Gawler and decided to stop off for a drink. We went into this hotel and I bought a round. The members of the committee came in one by one—the member for Hartley, the member for Hanson, and the Hon. Dr Bernice Pfitzner (the estimable Presiding Member of our committee)—and all left when they saw that the barmaids were topless. I was forced to drink the entire round!

So, first, I would like to know why there is a pub in Gawler that has topless waitresses. Furthermore, on a recent Sunday afternoon while doorknocking in my electorate, I called into the Brompton Park Hotel on the corner of First Street and Pickering Street, Brompton, for a quick one. I was having a chat to the publican while I had my pint and he

looked particularly nervous. It was then that I noticed he employed topless waitresses. Not only that, but he had a strip show—which we are not quibbling with. That is also a hotel at which the women did provide prostitution services upstairs after the show.

Why is it that a metropolitan hotel, such as the Brompton Park, at least until very recently, had topless barmaids, and the hotel I referred to at Gawler two years ago had topless barmaids, if it is the policy of the Liquor Licensing Commissioner to impose conditions that would prevent there being topless barmaids? What is the difference between the Brompton Park and other licensed premises at which the Commissioner has intervened to prevent topless waitressing?

The Hon. FRANK BLEVINS: I share the concerns of the member for Spence. I have no objection to topless bar staff or any other particular mode of dress, other than if it is a condition of employment. If people willingly go around topless, bottomless or standing on their heads, provided they are adults, that is their business. If people choose to drink there under those circumstances, it is also their business. It is not somewhere I would choose to drink. The fact is I do not drink anywhere, so it is very easy for me to say that.

I believe there is coercion in this area. It is this: you go topless or you do not work here. That is what concerns me. It is the coercion that concerns me, not the state of undress or otherwise of the adults, provided the adult is doing it of her free will. Nobody seems to be terribly interested in seeing males topless or bottomless or whatever.

Ms White interjecting:

The Hon. FRANK BLEVINS: I have never seen them advertised. Maybe I am looking in the wrong column. As I drive down every week, the Cross Keys Hotel used to have 'Topless' emblazoned across the front. I suspect they were not referring to males. My guess is they were referring to females.

Ms White interjecting:

The Hon. FRANK BLEVINS: Well, the picture was a clue, there is no doubt about that. If this is deemed—and I hope it is—that society would disapprove of women or any person, particularly women, being pressured into working topless in hotels, why do we not have a specific provision in the Act that states quite clearly that anybody attempting to make this mandatory in any hotel will be subject to very stringent penalties provided in the Act? As I say, if it is quite voluntary, no complaints. I do not care what they do, as long as they are adults. I would prefer to see a specific provision making it illegal to in any way make it a condition of working in the industry that the people concerned are anything other than fully clothed. I would like the Treasurer to respond to that. If society is so much against the coercion, then let us have a specific provision against that coercion.

The Hon. S.J. BAKER: I share the sentiments of the member for Giles as I do those of the member for Spence. My understanding is if any element of coercion is suggested—and the Liquor Trades Union has actually brought those matters up—action has been taken.

Mr Atkinson interjecting:

The Hon. S.J. BAKER: Action to restrict the licence or impose conditions which means they cannot go topless.

Mr Atkinson interjecting:

The Hon. S.J. BAKER: My understanding is that the issue concerns what is coercion and whether it is brought to attention. The first issue is what is voluntary and what is involuntary, and those matters are brought to the attention of the Liquor Licensing Commission, often by the union. The second issue is whether the venue is provided for adult entertainment. There could still be voluntary action but the Liquor Licensing Commissioner may believe it is inappropriate and that has to go before the Licensing Court.

So, there are two tests. One is that it has to be above board, and if there is any suggestion that the employees are being coerced by the employer's saying, 'You can't work in this joint unless you take off your clothes', that is a no-no. If that has been suggested to the Liquor Licensing Commissioner, he has taken up that matter. The other issue is whether it is appropriate for someone to be half or fully naked in a club or hotel. That is a matter of then saying, 'Is the area an area that would be generally visited by the public or is it an area that is clearly designated for adult entertainment and specifically set aside for that purpose?'

I think the suggestion by the member for Giles is perfectly sensible. There may be something else I am missing, but I am happy to pursue that matter. I am sure the member for Spence would be pleased if that provision were included in the Act. Unless I have missed something in the law, I think it is a perfectly reasonable suggestion.

Ms WHITE: I have one of the named hotels bordering my electorate, and I refer to the Cross Keys Hotel. I have had cause to pass on complaints of constituents about its advertising of topless waitressing. I know that some action was taken by the Licensing Commissioner, but I am not clear exactly what action was taken, although there was some change to the billboard advertising around that hotel as a result. Could the Treasurer clarify what action was taken and indicate whether conditions were put on that licence regarding the advertising?

The Hon. S.J. BAKER: Yes, the hotel is well known to the Liquor Licensing Commissioner. As has been suggested elsewhere in this debate, there are two areas of contestability on this issue: one is whether it is an adult entertainment venue, and the other is the issue of coercion. It was the view of the Commissioner that the Cross Keys is a general pub that attracts a wide cross-section of the community and, under those circumstances, the Commissioner—

Mr Clarke interjecting:

The Hon. S.J. BAKER: That is right. The Commissioner then sought to impose conditions that, if there were to be topless waitresses in that establishment, they should be restricted to a particular area clearly designated for adults, so that people were well aware—

The Hon. Frank Blevins interjecting:

The Hon. S.J. BAKER: It is the thought. The matter was taken to the Liquor Licensing Court, which did not agree with the proposal by the Liquor Licensing Commissioner, but there were some modifications—first, the advertising; and secondly, the signage—as a compromise. But it is an important issue.

Mr BECKER: This clause states that the licensing authority may impose licence conditions that the authority considers appropriate—for example, conditions to ensure that noise emanating from the licensed premises is not excessive. The Commissioner would know that the residents of Glenelg—particularly Glenelg North—have had a lot of problems with the St Leonards Inn. The Commissioner would know that the residents in that area have complained over the years about the behaviour of some of the patrons of that hotel and the type of entertainment that has been provided there. I would like to know what conditions are now imposed by the Commissioner on certain hotels to protect the residential environment, and how those conditions are enforced. I refer to those hotels previously known as neighbourhood hotels—

in other words, some hotels which were built in the 1950s and 1960s in residential areas and which then, because of the difficult trading conditions prior to the introduction of poker machines, began providing discos and all sorts of entertainment to attract patrons.

The Hon. S.J. BAKER: The St Leonards Inn is a very good example of how even the existing legislation can be used to bring about compliance with hotel operations. There was a similar problem for a while at the Edinburgh Hotel, which is in my electorate. We worked our way through it, and certain conditions were imposed. My understanding is that about 16 conditions were placed on the licence at the time that it was breaking free, and residents were getting particularly upset about the activities of people visiting the venue and the noise emanating from it.

As a result of conferences and grievance settlement procedures, St Leonards spent a large sum of money in changing its whole establishment. It placed computer controls on its music, employed 16 security staff and installed proper insulation and noise deadening devices. I believe that, generally, the view is that there has been a significant improvement as a result of the grievance settling procedures that were put in place.

Mr Atkinson interjecting:

The Hon. S.J. BAKER: This is St Leonards Inn. We sorted out the Edinburgh problem in another way, but generally that has been very successful, too. Under the existing Act, there is sufficient punch to bring people to the table to sort out the differences and say to those concerned that they have a responsibility in this respect—and particularly concerning the St Leonards Inn. In addition to the problem involving certain people who visited the establishment, certainly noise was a major area of complaint, and my understanding is that the situation has vastly improved as a result of that procedure. In some areas the Act looks thin, but it really has a lot of strength to enable some of those problems to be sorted out.

Clause passed.

Clauses 44 to 51 passed.

Clause 52.

Mr BECKER: The information I now seek relates to certain applications to be advertised. I can come back and relate to the St Leonards Inn—and I believe that there is new management there now. Due to the introduction of the poker machines, they are able to put on an over-50s show and, from my observations, at 10 or 11 o'clock in the morning the hotel is surrounded by cars and senior citizens attending those premises. With the advent of tighter controls on cigarette smoking, are we likely to see the reintroduction of beer gardens, where smoking could well be permitted (as I believe it would be)? Would this be the clause under which local residents would have the opportunity to be consulted in relation to the establishment of beer gardens?

The Hon. S.J. BAKER: The issue really is not whether someone wants a beer garden or not: it is whether the establishment of a beer garden could impact on the local constituency, particularly residents. So, the Liquor Licensing Commissioner would look at the application. I know of one or two beer gardens attached to a hotel. I remember seeing an area down Normanville way which could have been used as a beer garden, for example, and the only thing that would be disturbed would be the cows. But, in the case of St Leonards, if it wanted a beer garden to cater for the smokers, or for whatever reason, that would have an impact on a wider constituency and, therefore, there would be a requirement to advertise.

Mr BECKER: Has the Commissioner received any indication from other States that in their experience there may well be a greater number of applications from hotels and licensed clubs seeking the extension of a licence to cover the boundaries of premises to provide for people who wish to smoke and consume alcohol outside the normal premises as we know them?

The Hon. S.J. BAKER: I am advised that that is not our experience and that that experience has not been relayed from interstate. It must be understood that South Australia is now introducing some more restraints on cigarette smoking or tobacco product smoking within premises. Canberra has already done this but, from memory, I do not believe that any of the other States have. It would not be useful at this stage to form a conclusion about that, because I do not think that enough time has passed. From my own experience, whether it be a hotel or a club, I just walk outside—and I think other people do this too—even if people are smoking inside. Whether separate areas are required, only time will tell. There is no requirement at the moment, as the member for Peake knows.

One of the major reasons for expansion is for pubs to serve café style food in a room attached to their premises, and sporting clubs have given an outward look to their clubrooms for the purpose of watching sport, etc. So, there has been a widening of premises to cater for those contingencies. That is the only information that I have at the moment. At this stage, there does not seem to be any evidence of it occurring, but the new legislation will not come into effect until 1999 and it may well be that at that time we will see some changes.

Ms WHITE: This clause deals with applications. It lists the processes that applicants must follow and the notifications that they must give. Regarding the impact that objections from neighbouring hotels or licence holders may have, on a number of occasions I have received complaints from applicants who thought they would have no chance of getting a licence because the surrounding hotels were owned by the one operator who had objected. I want to ask about the weighting that objections from other licence holders have on an applicant for a licence.

The Hon. S.J. BAKER: One of the criteria that has to be looked at is the economic viability of that establishment *vis-a-vis* existing facilities in the area. A strong objection would certainly be raised by anyone who has a hotel in the area. The member for Giles clearly—

The Hon. Frank Blevins interjecting:

The Hon. S.J. BAKER: I am not sure where the provision emanated from. It might have been the experience of Adelaide. People talk about the City of Adelaide being the city of churches. I assure members that, until we started to mow them down, Adelaide had the highest concentration of pubs of any capital city of Australia with a pub on almost every corner. When country towns were vibrant places, there were four, five or six pubs, but today there is perhaps only one viable pub. Whether someone in their wisdom said that we had to stop this stupidity and decided to include that provision in the Act, I am not sure. However, that provision prevails, and the court must be convinced that the application meets a demand and that it will be viable. That is an issue. Anyone who has a hotel within a certain distance would put up their hand and say, 'There is no need for another licence.' That is the world we live in. It is up to the—

The Hon. Frank Blevins interjecting:

The Hon. S.J. BAKER: I do not know. I will seek further advice as to whether a particular weight is given to it. Other than that, the issue of economic viability must be satisfied and residents' concerns and other matters can be brought before the Commissioner. I will check to see whether there is any such thing as weighting in the system.

The Hon. FRANK BLEVINS: This is another provision that I find objectionable. It seems to me that hotels ought not be any different from any other commercial operation. If someone wishes to start one and if it is not creating a public nuisance, I cannot see why it is anyone else's business. I lament the lack of decent capitalists anymore in the socialist State of South Australia. I find it extraordinary that capitalists mouth all this nonsense about how free enterprise is good for us and that competition will make us strong when, at the first whiff of competition, they appeal to some other Government body to protect them from the market. As far as I am concerned, they are miserable specimens of capitalism. I think it was Rupert Murdoch who said that a monopoly is a dreadful thing unless you have one. Rupert has followed that belief. I find it objectionable that people in business have the ability to keep other people from engaging in that business purely on the basis that it might affect their viability. That is what it is all about.

As I said, I support this Bill. It is an incremental step in freeing up some of these areas, but the amount of red tape and legislation that accompanies it is a disgrace. I would have thought that, in 1997, society would not need all this nonsense. It makes work for an awful lot of people and, in the long run, it is detrimental to the industry, although I am sure that you would never convince anyone who was already in the industry of that when they are trying to keep others out. I think it is wrong and quite unnecessary.

The Hon. S.J. BAKER: I have some sympathy for the arguments put by the member for Giles. I am not here to say there will be a change of policy. The honourable member continues to surprise me. At one moment, he is a total socialist and the next minute he is extolling the virtues of the capitalist system.

An honourable member interjecting:

The Hon. S.J. BAKER: A total socialist? Yes. I remember arguing about this in respect of other legislation, particularly industrial relations issues. I suggest to members that it might be useful to look at the arguments that were put forward by the member for Giles at that time. It is a little bit of Jekyll and Hyde, but I admire the way in which the honourable member can move between the various arguments very adeptly. As far as the honourable member's question is concerned, my understanding is that, regarding the demonstration of need and minimal detriment, there is no weighting to any one of those factors. The judge must decide whether these things have been satisfied. If the judge is not satisfied on one or a number of those matters, my presumption is that it will not get a guernsey.

Clause passed.

Clauses 53 to 106 passed.

Clause 107.

The Hon. S.J. BAKER: I move:

Page 54, lines 15 to 17—Leave out subclause (2) and insert:

(2) However, this section does not prevent the employment of a minor to sell, supply or serve liquor on licensed premises if the minor is of or above the age of 16 years and—

(a) the minor is a child of the licensee or manager of the licensed premises; or

(b) (i) the minor is undertaking a prescribed course of instruction or training; and

(ii) the licensee has been given an apparently genuine certificate issued by the person in charge of the course approving the employment for the purposes of the course; and

(iii) the licensee complies with any conditions of approval stated in the certificate with respect to the employment of the minor; and

(iv) the minor is adequately supervised at all times while selling, supplying or serving liquor in the course of the employment.

This clarifies the issue of those persons below the age of 18 years who could be employed within licensed premises. Clearly, there is a strong limitation on this. It must be for a prescribed element of training or must be a child of the licensee or manager of the licensed premises. We have restricted the categories of young people who can be employed. Everyone would appreciate that the age of 18 years is a more appropriate age. Under the circumstances this caters for children of management and for where training is done within hotel premises, and the Liberal Government believes that it is an appropriate change. It restricts the focus somewhat more than the original provision.

Mr ATKINSON: This amendment is nothing more than an attempt by the Liberal Government to drive down wages of employees of hotels and clubs in the State. Under the award, 18, 19 or 20-year-olds are paid adult rates. The purpose of this clause, amongst other purposes, is to try to introduce a junior rate into the trade of serving liquor in hotels and clubs. It is a quite cynical manoeuvre by the Government. Sixteen and 17-year-olds can now work at McDonald's, Hungry Jacks, Kentucky Fried Chicken and Pizza Hut, so there is employment for young people in that age group. Now the Government seeks to open up new vistas for them serving liquor in hotels and clubs. That is most unsatisfactory because they will gain employment at the expense of young people who are slightly older and who must be paid the adult rate.

Mr Venning: The same as Hungry Jacks.

Mr ATKINSON: There is a difference, which I have just explained. The Government is trying to cut wages by this manoeuvre. However, that is not the principal reason for our being opposed to the clause. Under the clause that comes immediately after this one entitled 'Liquor not to be sold or supplied to intoxicated persons', there is a penalty of $20 000. That penalty has been increased, if I am not mistaken, more than 10-fold because under the Act it was an expiable offence. It is not now expiable, not a divisional fine, but fixed at $20 000. So, 16 and 17-year-olds are expected to make a judgment about whether a customer is intoxicated. It is a tough call for a 16 or 17-year-old to be expected to make and that 16 or 17-year-old will be working on a reduced youth wage and yet be expected to pay a vastly increased fine if he or she gets it wrong.

If we go a little further to clause 110, there is also a vastly increased fine for selling liquor to minors. There will be a lot of pressure on a 16 or 17-year-old to serve friends in the same age group. The fine is increased in this case to $5 000. The offence is no longer expiable. So for the reasons I have outlined the Opposition vigorously opposes this amendment and, so far as we are concerned, we would rather the whole Bill be lost than this amendment prevail, and I hope the Treasurer will note that with a view to subsequent discussions.

The Hon. S.J. BAKER: I find that quite fascinating. I am sure the whole industry would be pleased to see the honourable member stand on his principle in these circumstances.

I would have thought that you are kowtowing to your union mates and that is the only issue. The first example of contention about this provision was about award rates. It was not about employment or responsibility but about the unions. I presume that the honourable member gets support from the Liquor Trades Union. I do not know whether he is playing the game—

Mr Atkinson: You pointed that out before in the House that I am a member of that union, to the point of saying I am a crook.

The Hon. S.J. BAKER: No, but I presume some support was coming from the Liquor Trades Union. The last time I looked there was some feeling from my side that they were on the same side out there somewhere—unless they have swapped sides; it is a bit hard to know which is Left, Centre Left or Right. It is a moving feast. However, the last I knew was that there was some camaraderie between the Liquor Trades Union and the SDA.

Mr Atkinson: There still is.

The Hon. S.J. BAKER: So, I was right—I am glad that we have established that. I was right and the honourable member is putting his viewpoint for the trade union movement. In terms of some of the common decencies that we discuss in the House, I would have thought that the issue of people being able to be trained (and we have traineeships and courses in hospitality) would have meant that the member for Spence would have said that the opportunity has to be there for practical experience. In relation to the circumstances under which they are being trained, the training provider can say what conditions a person can be employed under and one of the conditions of all traineeships is that they shall be properly and at all times supervised. I am sure that sometime tonight the member for Spence will tell Big Bob Francis about what he is suggesting. He tells all these fairy stories to Big Bob—

Mr Atkinson interjecting:

The Hon. S.J. BAKER: I am normally working at that hour of the night and do not have time, but the member for Spence probably has plenty of time on his hands to titillate the audience of Big Bob Francis. I am sure that he has a strong audience and I am sure that the member for Spence twists the truth on each occasion to put a point of view. It depends on whether the listening audience believes it: I suspect that they do not. They probably think that he is just another politician. However, if he wants to tell fairy stories he should at least get some of it right. The right parts are that traineeships offer opportunity for employment.

Secondly, he should get it right about people facing a $20 000 fine. He is even wrong about that. I thought he had training in the law! He knows quite clearly that what we set in legislation are maximum penalties; therefore, the sums vary between zero and $20 000. He did not have the honesty to say to the—

Mr Atkinson: I presumed you'd know that.

The Hon. S.J. BAKER: That is not what the honourable member said. I suggest that he check the record. To keep a long argument short, I simply say that I am disappointed by the arguments put by the member for Spence. Given the restrictive nature of this measure, I thought he would welcome the opportunity to provide employment opportunities and a capacity for people to get some practical experience in the hospitality industry without risk and responsibility. There is a supervisory role, which means that any suggestion that the children will take 69 weeks to pay a fine—or whatever time was suggested by the member for Florey—will not prevail, because that person is not the responsible person, and the member for Spence knows it.

Ms WHITE: One of my concerns involves the wording 'minor undertaking a prescribed course of instruction or training'. We should provide the highest quality training to young people. The wording bothers me. Does this guarantee training accreditation? If this involves only courses of instruction rather than accredited training, I am concerned that hotels or other operators might use trainees or young people under this provision basically as cheap labour and not provide high quality training. As the word 'accredited' is not included, will the Minister explain the words 'prescribed course of instruction or training'?

The Hon. S.J. BAKER: What is 'accredited'? There is a character in Western Australia who set up his own province—

Mr Atkinson: The Hutt River Province.

The Hon. S.J. BAKER: Very good, the member for Spence. What is 'accredited'? People could obtain a degree from the Hutt River Province. I will not treat this matter as a farce. We should remember that training is changing its nature and scope as a result of Federal Government changes, so we will have private rather than Government providers in greater numbers, and we are not restricting it to one or the other. If there is a course of training, it will be on the Government's head. It must be something the Government feels is an appropriate course of training; for example, it would not involve a shop assistant being used to serve in a bar—that is totally inappropriate. I do not know whether it is even possible in an Act of Parliament to legislate for the exact conditions that must prevail. It must be a prescribed course, which means that it has to be put in the regulations. So, there has to be a description of the course in the regulations, because it has to be prescribed. I can assure the honourable member and the member for Spence that that has more power than something being accredited.

Mr Atkinson interjecting:

The Hon. S.J. BAKER: It provides for a 'prescribed course of instruction or training'. The Government has to go through the process of working out the appropriate courses.

Mr Atkinson: And then?

The Hon. S.J. BAKER: If the course is appropriate, it qualifies. The Government will not be silly enough—

Mr Atkinson: You're from the Government and you're here to help us.

The Hon. S.J. BAKER: The member for Spence is being quite silly. It must be relevant and appropriate in respect of the sort of training that is involved.

Mr Atkinson: It's your decision as to whether it's appropriate.

The Hon. S.J. BAKER: It is not my decision. I will have nothing to do with it. It will be up to a member of the appropriate authority and, indeed, the Government eventually has to ensure that the prescriptions are appropriate.

Mr Atkinson: And you put it in the regulations.

The Hon. S.J. BAKER: Yes. That is the only way to do it, isn't it?

Ms WHITE: That was a very vague answer.

The Hon. S.J. Baker interjecting:

Ms WHITE: No, it is not because, in this environment of both public and private providers of training in South Australia, we are moving towards national accreditation standards of all training. Basically, what the Minister has said is that the Government will put in the regulations some description about the training course. Does the Minister's

wording 'prescribed course of instruction' ensure that there will be some accreditation, either State or nationally? Will such courses come up to national standards; is that guaranteed?

The Hon. S.J. BAKER: I will be more specific. Before anyone can even think of getting a guernsey under this clause, the course has to be accredited and registered. There will be a listing of the courses which fulfil a basic requirement, and the basic requirement says, for example, 'We believe these trainees would benefit from experience in hotels.' They would say that this is an important part of that education process. However, they would have to be accredited courses. The prescription is in the regulations. So the regulations would have to tell us which courses are appropriate, and they would have to be accredited courses. Mickey Mouse cannot come along and say, 'Hey, have I got a good deal for you.' Someone cannot make up a course, get young children involved and then send them to work in the pubs at some cheap price. That is not the way the world works. I hope the Labor Opposition's vigour in respect of the clause will somehow be mitigated by the fact that it has to be quite clearly an appropriate course.

Mr BECKER: I am amazed at the attitude of the Opposition in relation to this clause.

Mr Atkinson interjecting:

Mr BECKER: Has the Opposition never heard of a family business? Let us think about it. There would not be a farmer in this State who has not had to employ his sons and daughters. There would not be a fish and chip shop, a deli, bakery or any other type of small business that has not taken the opportunity to introduce that business to their children so that they become part of that business. The family business is the backbone of the country; it always has been and always will be.

Whilst I support the amendment, the legislation is a little restrictive, because it provides that a minor is a child of the licensee or the manager of licensed premises. It does not cover a relative. You could have a situation where a relative is under the care and custody of the owner of the premises, the licensee or the manager. It is very rare but it has happened, and it did so in my own case. It also covers a situation where the minor is undertaking a prescribed course of instruction. A prescribed course of instruction can be organised quite easily, so the person can be catered for under that.

It is no good the Opposition saying, 'We want to know what the regulations are'. Unfortunately, in 27 years in this parliament I have had 20 years in Opposition, and half the time we never knew what the legislation was from the Labor Government, because it was always pushed into the regulations under the Minister, and we had to wait until the regulations came along. Nine times out of 10, with some of the Labor Ministers, they would insist on the legislation being passed before they would even consider what would go into the regulations.

What the Government is doing and the intent of it is excellent. A 16 or 17-year-old is quite competent and capable of being trained and prepared for this section of the hospitality industry. Many people are not suited for academic study, and many people in the country will not have the opportunity to pursue further education and, if they wish to be guided by their parents in this field, this is an opportunity for them. Why should they not be allowed to have this training? Every child brought up in a hotel starts by sweeping the floors at about 11 years of age. I remember the many bags of cigarette butts that I swept up, the many glasses and bottles I washed, the many bottles I stacked, and the many kegs I helped change. In the old days we used to pump out the kegs with hot water, salt water and the like.

Things have changed and the whole technology of hotels has changed for the better. The hygiene of the hotel and club industries is moving with the times. Thank goodness we have family businesses in the hotel industry. South Australia has been served very well over the decades. In fact, the history of the hospitality industry includes the Lee family and the Leahy family, and I could go on and mention about a dozen well known pioneer families who established hotels that were truly hospitality hotels that provided the accommodation and the facilities sought by consumers in those days. They met the needs of those days, albeit under very restrictive trading hours such as 6 o'clock closing, then we went to 10 o'clock closing and now we have legislation that provides for extended trading hours and different types of entertainment.

In my opinion there can be no real genuine opposition to this clause, which provides the opportunity for employment and the opportunity for young people to get involved in meeting people and being trained in something. Although they may not stay there, at least they get the basic training. It is well known that young people in the metropolitan area who have the opportunity to work for Pizza Hut, McDonalds, Hungry Jacks and the like are well trained by skilled professionals and, when they reach an age and look for settled and permanent employment, if they have had experience over many months or years in such businesses, they are sought after by the astute employer.

Why should we deny the hospitality industry, hotels or licensed clubs the opportunity to establish accredited courses in serving and dealing with people, in management and in the resale of liquor? Both hotels and clubs are highly competent and capable of handling that. Licensed clubs have courses now for volunteers and managers within their organisation, and doubtless the Hotels Association would be more than competent and capable of setting up a first-class course in this field. It is not a matter of pay or people being used for cheap labour or anything else. It is a matter of giving people the opportunity to pursue the prospect of a career for their future. If the Parliament, the Government and the people of South Australia want to deny this opportunity to young people, what hope is there for young people?

The Hon. S.J. BAKER: I agree.

Mr CLARKE: If the Minister's amendment is defeated and is not in the Bill when it becomes an Act of Parliament, could it be reintroduced by the Government as a regulation under clause 138 of the Bill, which seems very broad?

The Hon. S.J. BAKER: The answer is clearly 'No'. The regulations give power only to the preceding sections and, since this matter is not canvassed in the Act, it could not occur. Clearly, it is out. The provision would have to be included in the legislation before there could be a regulating power in respect of prescribed or regulated courses.

Mr ATKINSON: Was this amendment just a brilliant idea or did one of the stakeholders in the trade ask for it and, if so, who?

The Hon. S.J. BAKER: I have no information about from where it emanated. As it is an infinitely sensible idea, and as we are dealing with infinitely sensible ideas, this is the appropriate place to change the Act to allow for those opportunities to be taken up, and I hope that everyone in the Parliament agrees with that.

Mr BECKER: We are fortunate this evening to have the Commissioner here because he has a long history and experience in the industry. To the best of my knowledge—I am 62 and I can go back a good number of years—this has always been a problem for proprietors of small country and family hotels where people who were considered to be part of the family were brought in or would want to come in and help when the hotel was busy. There were rush periods in the country during harvest, after a football game or sporting encounter.

It was always a grey area, so far as I can remember, where the local policeman, if he was doing his job, would do his round at the hotel at 6 o'clock or during the afternoon and inquire about anyone he found behind the bar or even someone outside the bar sweeping up or washing glasses. I would have thought that this amendment is a natural progression in modernising the legislation. It gets rid of a grey area where families are involved in hotels throughout the State.

The Hon. S.J. BAKER: The amendment removes a restriction and clarifies the position.

The Committee divided on the amendment:

AYES (28)

Andrew, K. A.	Armitage, M. H.
Ashenden, E. S.	Baker, D. S.
Baker, S. J. (teller)	Bass, R. P.
Becker, H.	Brokenshire, R. L.
Caudell, C. J.	Condous, S. G.
Cummins, J. G.	Evans, I. F.
Greig, J. M.	Gunn, G. M.
Hall, J. L.	Ingerson, G. A.
Kerin, R. G.	Kotz, D. C.
Leggett, S. R.	Lewis, I. P.
Meier, E. J.	Penfold, E. M.
Rossi, J. P.	Scalzi, G.
Such, R. B.	Venning, I. H.
Wade, D. E.	Wotton, D. C.

NOES (8)

Atkinson, M. J. (teller)	Blevins, F. T.
Clarke, R. D.	Foley, K. O.
Hurley, A. K.	Matthew, W. A.
Rann, M. D.	White, P. L.

PAIRS

Brindal, M. K.	De Laine, M. R.
Buckby, M. R.	Geraghty, R. K.
Olsen, J. W.	Quirke, J. A.

Majority of 20 for the Ayes.

Amendment thus carried; clause as amended passed.

Clauses 108 to 118 passed.

Clause 119.

The Hon. S.J. BAKER: I move:

Page 60, lines 32 and 33—Leave out subparagraph (vii).

Mr ATKINSON: Is it not telling that the Treasurer rose to move his amendment but could not give a single sentence in support of the amendment? There is no merit in it. For years, this has been in the Liquor Licensing Act and it has been in there for a good reason. This clause provides:

> There is a proper cause for disciplinary action against a person to whom this Part applies—
>
> . . .
>
> (b) in relation to a business that is being or has been conducted under a licence—
>
> . . .
>
> (vii) if a contravention or failure to comply with an industrial award or enterprise agreement has occurred.

In the not too distant past, Governments in South Australia cared about the conditions under which employees worked. It was a responsibility of Government; it was part of being a responsible publican that you looked after employees and that you complied with the award. It seems that treating employees decently and complying with the award is right out of fashion with this Government, so they want to amend the Liquor Licensing Act to remove one of the few provisions which involves the union and protects employees. It is disgusting that this amendment is being moved. I urge members to vote against the change.

The House divided on the amendment:

AYES (28)

Andrew, K. A.	Armitage, M. H.
Ashenden, E. S.	Baker, D. S.
Baker, S. J. (teller)	Bass, R. P.
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Cummins, J. G.	Evans, I. F.
Greig, J. M.	Gunn, G. M.
Hall, J. L.	Ingerson, G. A.
Kerin, R. G.	Leggett, S. R.
Lewis, I. P.	Matthew, W. A.
Meier, E. J.	Penfold, E. M.
Rossi, J. P.	Scalzi, G.
Such, R. B.	Venning, I. H.
Wade, D. E.	Wotton, D. C.

NOES (7)

Atkinson, M. J. (teller)	Blevins, F. T.
Clarke, R. D.	Foley, K. O.
Hurley, A. K.	Rann, M. D.
White, P. L.	

PAIRS

Brindal, M. K.	De Laine, M. R.
Buckby, M. R.	Geraghty, R. K.
Olsen, J. W.	Quirke, J. A.

Majority of 21 for the Ayes.

Amendment thus carried; clause as amended passed.

Remaining clauses (120 to 138) passed.

Schedule.

Mr CLARKE: I refer to clause 3(4). It seems self-explanatory but I want to make absolutely sure that an entertainment venue licence in force under a repealed Act immediately before the appointed day then becomes on the appointed day an entertainment venue licence under this Act. A number of nightclubs are situated in areas such as Hindley Street, and I know that the former Police Commissioner, the former Lord Mayor and various other good citizens believed that they should close at 3 a.m. I personally disagree with that. Every capital city of our size is entitled to one street that is actually alive until the wee small hours of the morning.

I want to make sure that this transitional provision allows such licences with existing conditions to continue in force and that there is no likelihood of the Licensing Commissioner being able to apply new conditions on top of those that existed prior to the introduction of this Act. The Commissioner might do so when the licence falls due for renewal or through complaints or whatever else that may take place, but I want to make sure that everything rolls over.

The Hon. S.J. BAKER: It is like a lot of things in this area: if you have a licence, you have it for life or until you muck up. If they are entertaining today, they will be entertaining tomorrow provided they are good girls and boys.

Schedule passed.

Title passed.

The Hon. S.J. BAKER (Treasurer): I move:

That this Bill be now read a third time.

Mr BECKER (Peake): There will never be a level playing field between the hotels and licensed clubs, but one lives in hope. After this major review and the debate we have had this evening, I hope there will be a continual review of the legislation to ensure there will be a viable and very strong hospitality industry in South Australia. It is over-governed, and it is over-charged as far as fees are concerned. I hope we never have a bed tax introduced, and certainly that we never impose additional taxes on the industry. I look forward to a healthy and viable hospitality and hotel and licensed club industry in South Australia in the future.

Bill read a third time and passed.

ADJOURNMENT DEBATE

The Hon. S.J. BAKER (Treasurer): I move:

That the House do now adjourn.

Mr VENNING (Custance): I rise on a matter of great concern, and I refer to our weather—or the lack of it!

Mr Clarke: Blame us! Go on, blame us for it!

Mr VENNING: This is a very serious matter and not one for frivolity. It is now almost mid-July, and our State is looking down the barrel of a severe drought. I note predictions of enormous losses to the South Australian economy if the drought conditions continue. The Executive Officer of the Farmers Federation's Grain Committee, Mr Michael Thomas, indicated in today's *Advertiser* that at least 20 per cent of the forecast serial crop of 5.1 million tonnes has already been lost. On last year's prices, that means a $260 million loss from the State's rural economy. According to the Farmers Federation, if we do not get good soaking rains in the next two weeks—I would certainly agree with that, and no doubt so would you, Sir—that figure could double, amounting to up to $520 million, or over half a billion dollars.

If it does not rain for a month or more, it will be a total disaster for South Australia. I have not seen it as bad in my 40 years of farming. Three millimetres was the average rainfall in most areas of the State yesterday. On the old scale, that is between 12 and 15 points. Anything above five millimetres (or 20 points) would have been most welcome, but at this stage we really need 15 millimetres, which is 60 points. One inch, or 25 millimetres, of rain is what we really do need very badly, and it would be classed as a drought breaker, but we do not look like getting it.

The driest area of the State is the Upper North, which received less than one millimetre of rain in the 24 hours to 3 p.m. yesterday, and very little overnight. I understand that the Mallee and the Riverland fared about the same. Only about 30 per cent of the crops have been sown in the Upper North, according to Primary Industries sources. Those who have not sown are almost saying, 'Thank goodness we didn't, because it's probably better in the bag.'

Farmers in the Upper North would need about 20 millimetres of rain to plant their crop with some sort of surety. About 80 per cent of the crops have been sown in the Murray-Mallee, but that area received less than one millimetre yesterday. The Mid North received less than five millimetres, and 85 per cent is sown, but how much of it has come up? Very little. Because the weather has been so cold, the crop that has come up has turned blue.

After good opening rains, the last substantial rain for most regions was early in June. However, for some parts of the State, that was back in January, with those storms that we had. But the best parts of the State have recorded only half their normal June rainfall. Other regions have had minimal rain since February. People in the towns are watering their gardens, and it is mid July. This is not good news. There is very little green feed for the sheep, and newly born lambs have to battle it out in the dry and the dust. As farmers, we always try to bed down our lambs in green feed. Who would believe that in mid July they are just in the dust. The weather prediction is for showers only for most of the State for the rest of the week. Tonight we did not get much joy, because there is a big high coming in yet again. Tonight the prediction is for freezing weather—in fact, one of the coldest nights we have had for probably three years. So, it is a very grave situation.

We hear a lot about the El Nino effect, and I gather from some recent reports that we are unlikely to have much rain for the next few months. This would be catastrophic for the State. All I can say is, heaven forbid! However, according to the *South Australian Country Hour News* of last Monday (7 July) that we saw on the Internet tonight, one of the senior meteorologists and researchers at the Bureau of Meteorology in Adelaide has been working on a specific seasonal forecasting model for this part of the continent, where the El Nino effect and the southern oscillation index are clearly not as applicable. The good news, according to the report, is that the current pattern is breaking down and a return to more normal rainfall pattern should occur. Let us hope, on behalf of all the farmers, the primary producers and the State, that it happens very soon.

I have been associated with the land for 40 years (not so much in the past seven years), as have you, Mr Speaker. I can quite honestly say that I have never known it to be quite like this—never as bad as this—as far as the total absence of rain is concerned. Some members say that maybe the seasons have changed and certainly the seasons are later, but these dry, cloudless skies and the frosty nights and freezing temperatures are causing the big problem. Not only are the crops that have managed to get up turning blue but frosts take moisture out of the ground and dry out the soil.

This is very widespread across South Australia: very few areas are enjoying a good season. The problem is that farmers at the moment have no reserves financially, and that is due to a problem with our tax laws. We have huge costs associated with putting in a crop, particularly with the cost of working the soil. Fertiliser is very expensive, because we are using high nitrogenous fertilisers and chemicals which are all used prior to sowing. So, the costs are incurred before the crop is even sown. So, for those who have sown their crop, the crop is in the ground and has partially come up. But the costs are there, and many of them have borrowed the money to put in their crop and now we see this situation.

We have not known it like this before because the last dry year was 10 or 12 years ago and we did not have these costs. The problem today is that we are going to minimum till farming, which means higher costs in relation to fertilisers and preparation. So, it is a very pessimistic time. This pessimism is heightened by the land degradation that is occurring today, and yesterday most Adelaideans would have seen the dust in the sky, which was drift from dust storms. Farmers who farm sandy soils—and my farm is partly

sandy—have real problems with sandy rises. Cereals will not grow in freezing sand. How do you stop drift when it is moving if the crop is not growing? The only way is to harrow it, but try harrowing dry sand—the slightest breeze and away it goes again. We are very fortunate at Bute. My son sowed the crop, when I advised him not to because of weeds, but he did anyway. The crop came up with the weeds, and it is the weeds which are keeping the soil in position. So, I patted my son on the back: it was a stroke of luck. My brother did not. So, my son did his own thing, and we are very lucky because our sandhills are holding and the crops in the Bute area are not bad.

So, I alert the House to a very serious situation. I am concerned that the rank and file members of the community are not concerned, or aware, even after the publicity about our reservoirs yesterday and their past levels and the need for pumping from the Murray River to start shortly. People seem unaware and, therefore, they are unconcerned. Most of South Australia has been blessed with a run of very good seasons—and you would be aware of that, Sir, on the Far West Coast. We were due for a rough one, and it looks as though we are going to have it and in a much worse manner than we ever thought possible.

Many farmers have prepared the soil and have sown their crops but, with the very expensive fertilisers and chemical sprays of today, many would now regret that they have sown. As one farmer told me, 'I am better off with it still in the bag.' I know, Sir, that is not so in your area, because you have been blessed with good rains. The drought will be felt harder than ever before. Farmers have incurred huge costs, and they do not have the cash reserves to cushion themselves against a total loss of income.

I can only hope that in the days ahead we will get some rain. We are only asking for, say, one inch across the State, which will save it. We cannot have a bumper year at this stage, apart from those areas like Mount Cooper and others that have a crop in which is growing reasonably; they can still have a good year. But the rest of the State—I would say 80 per cent of it—cannot. Even Yorke Peninsula, a very favoured area of the State (represented very well by the member for Goyder) is certainly missing out very much. It is a severe situation, and the pessimism of the farmers that I run into is quite distressing. I only hope that in the days ahead we will see rain and that farmers can go out and get a crop.

Motion carried.

At 9.56 p.m. the House adjourned until Thursday 10 July at 10.30 p.m.