HOUSE OF ASSEMBLY

Tuesday 27 May 2003

The SPEAKER (Hon. I.P. Lewis) took the chair at 2 p.m. and read prayers.

WATER RESOURCES (MISCELLANEOUS) AMENDMENT BILL

Her Excellency the Governor, by message, assented to the bill.

APPROPRIATION BILL 2003

Her Excellency the Governor, by message, recommended to the house the appropriation of such amounts of money as might be required for the purposes mentioned in the bill.

CAPITAL INVESTMENT PROGRAM

A petition signed by 348 residents of South Australia, requesting the house to urge the government to respect the written promise made by the previous Minister for Education to include Colonel Light Gardens Primary School in the 2003-04 Capital Investment Program with an estimated cost of $2.8 million, was presented by Mr Hamilton-Smith.

Petition received.

PAPERS TABLED

The following papers were laid on the table:

By the Treasurer (Hon. K.O. Foley)—

Regulations under the following Acts—
Public Corporations—
Land Management Corporation Variation
Transmission Lessor Corporation

By the Attorney-General (Hon. M.J. Atkinson)—

Rules of Court—
District Court—Rules—Legal Representation

By the Minister for Consumer Affairs (Hon. M.J. Atkinson)—

Regulations under the following Acts—
Liquor Licensing Act—Long Term Dry Areas—
Goolwa Skate Park
Mannum

By the Minister for Health (Hon. L. Stevens)—

Medical Board of South Australia—Report 2001-02

By the Minister for Education and Children's Services (Hon. P.L. White)—

Regulations under the following Acts—
Children's Services—Baby Sitting Agencies Variation

By the Minister for Transport (Hon. M.J. Wright)—

South Australian Marine Spill Contingency Action Plan.

ENERGY SA

In reply to **Hon. W.A. MATTHEW** (4 December 2002).

The Hon. P.F. CONLON: A review of Energy SA was part of the Labor Party's 'Nine Point Plan' released as part of its election platform prior to the February 2002 State election.

In October 2002 Cabinet approved the establishment of a review team to undertake a strategic review of the functions and programs of PIRSA's Energy SA Business Group. The team was asked to make recommendations to the PIRSA Chief Executive and the Minister for Energy. Cabinet also empowered the review team with the responsibility of ensuring the transfer of the energy policy functions and associated resources from Energy SA to the Department of Treasury and Finance. The review team consisted of six members, including representation from PIRSA Corporate, PIRSA Energy SA and the Department of Treasury and Finance.

The review team tabled a report in mid December 2002 recommending five options. In late January 2003 the Minister for Energy approved option 'D' which entailed a merger between two PIRSA business groups, namely the Office of Minerals and Energy Resources and Energy SA. The merger took effect on 29 January 2003. A multi-member integration group is currently overseeing the implementation of the merger. The merged group is called Minerals, Petroleum and Energy.

No additional funding is required to complete the merger. The main advantage seen with the merger is that interrelated areas such as petroleum, energy planning and emergency management will benefit immensely, due to vertical integrations and the greater exchange of knowledge, leading to a more effective utilisation of resources.

Emergency management is a core government responsibility and in this context covers immediate to short term emergencies in gas, electricity and petroleum. The Minister for Energy is responsible for all three energy sources. Energy planning covers all three energy sources and is concerned with longer-term interactive coordination with appropriate stakeholders, such as industry, to ensure necessary energy supply levels well into the future. The review team presented a strong view that a merged group, due to existing interrelated expertise, can deliver the most efficient and cost effective outcomes for the benefit of the State.

Energy policy functions along with the associated budgets were transferred to the Department of Treasury and Finance in early December 2002.

TAFE

In reply to **Mr BRINDAL** (3 April).

The Hon. J.D. LOMAX-SMITH: All staff at Marleston TAFE were offered the option of undertaking health checks, via an invitation to an information session.

The testing was to be undertaken at Government expense.

A regular check of buildings at Marleston TAFE Institute in October 2002, revealed the presence of asbestos fibres in the roof space of one building. Further testing results reported in February 2003, as part of a management plan, confirmed the presence of asbestos, but there was no airborne material that might have posed a risk to staff or students.

The Institute implemented ongoing air monitoring, and full and open discussion with staff, including the offer of health checks, beyond the normal required protocols, to allay staff fears. This offer, which so far has been taken up by three staff, will be honoured by the Department of Further Education, Employment, Science & Technology in this instance.

In reply to **Mr WILLIAMS** (26 March).

The Hon. J.D. LOMAX-SMITH: On taking office I instructed my department to undertake an assessment of the Capital Works Program in TAFE to determine the condition of the capital infrastructure and to understand the funding basis for the program. This necessitated delays being ordered on a number of aspects of the program—major works, minor works and equipment.

In a situation of great pressure on TAFE Institute budgets the decision was made to restrain the overall capital budget for the Department of Further Education, Employment, Science and Technology for 2002-03.

Institutes were invited, however, to submit requests for funding for their highest priority minor works and equipment needs. The Onkaparinga Institute did so and its request has been considered along with those from other Institutes. The funding referred to in the honourable member's question is related to that request.

Minor works and equipment funding totalling $4 million—including funding for the Onkaparinga Institute—will be provided to Institutes by 30 June 2003 to offset previous Institute expenditure within the financial year.

LOCAL GOVERNMENT RESEARCH DEVELOPMENT SCHEME

In reply to **Mr BRINDAL** (4 December 2002).

The Hon. R.J. McEWEN: I am advised that the honourable member is referring to the Local Government Research and Develop-

ment Scheme. The scheme is funded by payments equivalent to company tax made by the Local Government Finance Authority (LGFA). The payments are paid into a statutory account with the state Treasurer, the Local Government Tax Equivalents Fund, and, as provided in the Local Government Finance Authority Act 1983, these funds and the interest accrued are then made available for local government development purposes recommended by the Local Government Association (LGA) and agreed to by the Minister for Local Government in accordance with principles agreed between the minister and the LGA.

As agreed between previous ministers and the LGA, the Local Government Association established the Local Government Research and Development Scheme through which these funds may be allocated, within the parameters of the various agreed purposes. An advisory committee considers applications for grants finding through the Scheme and makes recommendations to the state executive of the LGA for its consideration and decision.

In 2000-01 the LGFA paid $1.2 million into the fund, and in 2001-02 $1.1 million.

The LGA advises that the allocation of funds through the Local Government Research & Development Scheme in 2002 is as follows:

Local Government Research & Development Scheme
Approved Projects—2002

Project Name	Funds Approved
Upgrading Environmental Performance in Country Landfills	$24 000
Environment Protection (Waste to Resources) Policy—Facilitating Local Government Input & Planning	$50 500
Country Statutory Planning Pilot Project	$36 000
Equity, Enterprise Bargaining & Employment Outcomes in SA Local Government	$45 850
Commissioning Public Art—A Guide for Local Government	$8 500
Has the Social Vision & Action Plan for Pt Augusta made a Difference	$48 000
Preparation of a Practitioners Manual for Council Rates Officers	$9 000
Road Funding: Identifying the Funding Gap	$55 000
A Blueprint for Remote Access Services to Rural Councils	$5 800
Local Government Interactive Education CD Rom	$50 500
LGA Support for the Minister's Local Government Forum	$100 000
A Framework for Customer Service Standards in Local Government	$40 000
SA Community Groups Risk Management Project	$50 000
Promotion of the 2003 Local Government Elections	$80 000
LGA Committee on Waste—Future Policy Directions	$35 000
Review of the use by Councils of the 'informal gatherings' provisions	$15 000
A Better Practice for the Development of Retirement Housing	$15 000
Integrated Coastal Management—Strategy Development	$24 000
Accessing Australian Bureau of Statistics Data	$30 000
Rating Review	$25 000'

LOCAL GOVERNMENT DEPOSIT ACCOUNTS

In reply to **Mr BRINDAL** (4 December 2002).

The Hon. R.J. McEWEN: I am advised that the balance of cash on hand and in Deposit and Special Deposit Accounts of the Office of Local Government as at 30 June was:

	2002	2001
Office of Local Government Deposit Account	$231 000	$428 000

The reason for the variance of $197 000 in the Office of Local Government's deposit account is that the balance of $428 000 as at the end of the 2000-01 financial year was an overstated amount. The overstated figure was due to the following:

- Changes in personnel that caused delays in the Nepabunna Project (a joint project with DOSAA to develop local governance principles with the Aboriginal Community). The delays meant that the project was not completed by 30 June 2001 although in progress at that date and the $40 000 allocated for the project remained in the deposit account until the 2001-02 financial year;
- A planned project to design a national website for local government research through the Local Government Ministers Conference was cancelled. The cancellation came about due a number of factors including the current Internet developments that enabled information to be linked from sites that already existed. The unspent project funds remained in the deposit account until they were returned to the commonwealth during 2001-02. The returned funds for the project amounted to $44 000;
- A misunderstanding with the Office of Local Government's financial service provider. A number of accounts remained unpaid at the end of the 2000-01 financial year, and no accrual entry was made to reflect this. The delay in the payment of these accounts further contributed to the overstated cash balance.

In keeping with current government policy the Office of Local Government is continuing to monitor the level of funds in the deposit account to ensure that they are maintained at the level required to meet operating expenditure and plans to reduce its cash balance again during this financial year.

LOCAL GOVERNMENT FINANCE AUTHORITY

In reply to **Mr BRINDAL** (4 December 2002).

The Hon. R.J. McEWEN: I am advised that the Local Government Finance Authority (LGFA) is a statutory authority established under the Local Government Finance Authority Act 1983. As provided in the legislation, the LGFA is managed and administered by a board of trustees constituted in accordance with the act. The LGFA is established for the benefit of councils and other prescribed local government bodies. All councils are automatically members of the authority and the authority's primary accountability is to the councils through the members of the board, the annual report and the annual general meeting. As the honourable member would be aware it is not part of the crown or an instrumentality of the Crown.

The board of the LGFA consists of two persons elected by the members of the LGFA, two persons appointed by an annual general meeting of the LGFA, one person appointed by the minister [Minister for Local Government], one person appointed by the Treasurer, and the secretary [i.e. executive director] of the Local Government Association ex-officio.

The LGFA Act is committed to the Minister for Local Government but, apart from certain very specific approvals that may be required, the minister does not have power of direction or control.

The LGFA is empowered to appoint such officers and employees as it considers necessary to carry out the Authority's purposes. The board of the LGFA is responsible for the appointment of a chief executive officer and for the terms and conditions of that appointment.

The chief executive officer of the LGFA, in order to manage the authority's functions successfully, is required to have financial management, lending and investment knowledge, experience and skills of a very high order. To attract an appropriate person to this position requires a salary equivalent to those applying to similar positions in the broader financial and banking fields.

The chief executive officer of the LGFA is employed by the board of the LGFA. He is not employed by, nor does he report to, the Minister for Local Government and he is not a PSM Act employee.

EDUCATION DISTRICTS

The Hon. P.L. WHITE (Minister for Education and Children's Services): I seek leave to make a ministerial statement.

Leave granted.

The Hon. P.L. WHITE: Yesterday in a question without notice, the member for Bragg asserted that there had been no public announcement that there would be 17 FoCIS (that is, Focus on Connected Integrated Services) clusters under the Futures Connect Strategy. I advise the house that, in fact, on the very day (last year) that the press conference to announce this new state government strategy was held, the information brochure, entitled *Futures Connect: Our Strategy for Young People Leaving School*, was distributed to the media.

That brochure was also provided to every public school in South Australia and clearly stated that there would be 17 FoCIS clusters. A memo was also circulated to all district offices, which describes in detail the implementation of 17 FoCIS clusters. Senior departmental staff met with the Catholic education and independent sector representatives and provided them with copies of the information document. This information document was also placed on the department's web site and made publicly available via that medium. Currently, over 600 hits and 350 downloads have been recorded.

Further, at least one circular about Futures Connect which referred to the 17 FoCIS clusters was distributed to every staff member in the Department of Education and Children's Services on 7 November 2002—that is, around 25 000 people. This means that the information that the honourable member claimed was not publicly announced was, in fact, distributed by the widest possible means, in several media and on more than one occasion.

FORESTRY FIRE TRUCKS

The Hon. R.J. McEWEN (Minister for Forests): I seek leave to make a ministerial statement.

Leave granted.

The Hon. R.J. McEWEN: I wish to provide the house with further information in relation to a question that was asked of me yesterday, without notice, by the Leader of the Opposition. As I made clear yesterday in response to the honourable leader's question, the forestry fire truck replacement program is continuing. There have been some technical matters that have caused a delay in supply, but the first of the new trucks is scheduled to arrive early next year. It should be noted that the existing fleet is still serviceable and suitable for the upcoming fire season, because obviously we would not put either our forests or people's lives at risk in the interim.

As part of the new firefighting initiative to help both fight and prevent bushfires in South Australia, the government is undertaking a major upgrade of Forestry SA fire trucks. Over the next 2½ years we will be taking delivery of 14 new first attack fire trucks. On the issue of price variation, which was raised yesterday, negotiations have continued as the vehicle design has been developed through to detail specification. The price estimate of $9.3 million is subject to rise and fall clauses but is expected to be closer to the final price than the $9.78 million mentioned by the Leader of the Opposition yesterday in the house. I am sure you will be delighted to hear that, Mr Speaker.

Delivery of the first vehicles will be subject to a timetable factoring in delivery of engines and other components, as well as fabrication of the vehicles. The proposed contract, due to be signed over the next couple of days, indicates that the final truck is scheduled for delivery in October 2005. The Forestry SA budget has been structured accordingly.

Finally, I indicate that the trucks will be utilised predominantly in the South-East and the Mount Lofty Ranges—areas that are currently under-resourced and at risk of suffering immense destruction should a fire take hold. The new fire trucks will provide a superior way of preventing and fighting bushfires inside our national parks and adjoining properties, thereby reducing the risks to people, property and wildlife should a fire take hold.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE

Ms BREUER (Giles): I bring up the 48th report of the committee, on the Urban Growth Boundary.

Report received and ordered to be published.

QUESTION TIME

PRISONS, ADELAIDE WOMEN'S

The Hon. R.G. KERIN (Leader of the Opposition): Will the Attorney-General inform the house what actions the government has undertaken to overcome significant staff shortages at the Adelaide Women's Prison at Northfield? As early as 19 February, the Attorney-General said on radio that additional funds would be needed for correctional services but, as recently as last Friday, staffing levels at the Adelaide Women's Prison hit crisis level.

The Public Service Association was forced to impose work bans and, as a result, new prisoners were not being accepted. The prison went into lock-down, with only emergency and essential movement of prisoners occurring, and weekend visitation rights were placed under threat. As Jan McMahon of the Public Service Association pointed out:

> The whole prison system in South Australia has a general shortage of correctional services officers. However, at the Women's Prison it's become critical.

The Hon. M.J. ATKINSON (Attorney-General): The correctional services minister is not in this house and I am not responsible for that portfolio. However, I will undertake to get in touch with the correctional services minister and get some useful information for the honourable member. Secondly, some useful information will be contained in the budget, which is almost upon us.

HOSPITALS, WHYALLA MENTAL HEALTH UNIT

Ms BREUER (Giles): My question is to the Minister for Health. How will the new mental health facility at the Whyalla Hospital extend the provision of in-patient mental health services and how will it provide an alternative to

detention under the Mental Health Act and the transfer of sufferers to a designated mental health facility?

The Hon. L. STEVENS (Minister for Health): I thank the honourable member for Giles for her question and for her advocacy in relation to these matters. I also pay tribute to the work of the member for Wright, who represented me as parliamentary secretary to the Premier, but also assisting me in health, at the opening of this unit at Whyalla last week.

This new facility will improve access to health services for mental health sufferers, particularly from rural and remote communities. The government recognises that, for a long time, there has been a need to extend the provision of services to mental health consumers, particularly those needing in-patient services. The facility at Whyalla incorporates the development of mental health beds within the Whyalla Hospital under the concept of rooming in.

This involves a confidant, family member or carer staying with the mental health client during admission and is aimed at reducing anxiety. The role of the confidant encompasses many aspects, such as carer, advocate, supporter, protector, translator and companion. The facility has specific admission criteria where it is anticipated that the patient may be stabilised within a few days and so avoid detention to an approved facility in Adelaide.

At a regional level this has resulted in a number of positive mental health initiatives, including four registered nurses commencing postgraduate mental health studies in the second semester of 2003. This facility has been planned and designed with input from consumers, carers and health care staff, and I congratulate them on developing such an asset to the health services in that region.

SEXUAL OFFENCES

Mrs REDMOND (Heysen): Does the Attorney-General stand by his statement on Adelaide radio late-night talk back last week that:

> There is great doubt about whether the sexual offender rehabilitation programs which they have in other countries work. They're still studying them to see if there's any beneficial effect whatsoever.

The recently released Layton Report on the Review of Child Protection in South Australia devotes an entire chapter to protecting children through sex offender treatment. The Attorney-General's own department's Justice Advisory Group's submission to Ms Layton stated:

> Unless sentencing also serves to protect children from repeated abuse when the perpetrator is returned to the community, it is a costly activity with little tangible result.

The review recommends that a rehabilitative approach must be put in place and cites a number of examples of the success of cognitive behavioural treatment programs, including one which found that, while 60 per cent of untreated offenders reoffended over a five-year period, only 15 per cent of treated offenders reoffended. The review specifically referred to research showing that:

> Sex offenders differ from most other criminals in that treatment can often reduce their propensity to reoffend.

The Hon. M.J. ATKINSON (Attorney-General): Yes.

STUDENTS' MENTAL HEALTH

Ms CICCARELLO (Norwood): My question is to the Minister for Education and Children's Services—

Mr Brindal interjecting:

The SPEAKER: Order, the member for Unley!

The Hon. K.O. Foley interjecting:

The SPEAKER: Order, the Deputy Premier, for the second time!

Ms CICCARELLO: What initiatives are being employed so that schools can best support the mental health and well-being and learning of students?

The Hon. P.L. WHITE (Minister for Education and Children's Services): I thank the honourable member for her important question. A little earlier today the Premier and I attended the launch of an important project in South Australia. Sixteen public and private schools in South Australia are set to take part in a research initiative that aims to reduce the incidence and impact of depression on young people. It is called the Beyondblue schools researching initiative. It is a partnership between school systems, local communities, the health sector and academics. Also present at the launch was the Chairman of the Beyondblue Board, the Hon. Mr Jeff Kennett, former Premier of Victoria.

Each year almost 100 000 young Australians suffer from depression. This partnership planned in this initiative will include 16 public and private schools in South Australia to reduce levels of depression experienced by young people, promote emotional well-being and social connectedness and increase awareness and understanding as well as the capacity of school communities to plan and evaluate any future initiatives. The initiative will help teach young people how and where to get help, how to build positive expectations and better views of themselves, develop social skills and teach them how to reduce stress. It will build on work already being done in our schools in this area and guide decisions about what does work.

As part of the initiative, schools will hold a community forum to talk about adolescent depression. Some schools will take part in a comprehensive intervention program while others will continue programs and community mental health awareness raising activities. The program's introduction reflects the border role of schools in the 21st century. The 16 schools to take part in the project in South Australia include Adelaide High, Blackwood High, Charles Campbell Secondary, Craigmore High, Glenunga International, Immanuel College, John Pirie High, Le Fevre High, Loxton High, Murray Bridge, Para Hills, Smithfield Plains, St Aloysius College, St Mary's College, Trinity College South Campus and Willunga High School.

JUVENILE DETENTION CENTRE

Mrs HALL (Morialta): How does the Minister for Social Justice justify a proposal to build a new juvenile detention centre near a prison, when international conventions for juvenile care prohibit such proposals? Public sector workers have met today to protest at the proposal to build a juvenile detention centre near a prison. Land has already been purchased for a new centre to relocate the Magill Youth Training Centre on vacant land near Cavan. The government proposes to build a new juvenile detention centre adjacent to the women's prison and to sell the Cavan Juvenile Detention Centre, which has been operating for about 10 years. The former government was briefed on a number of occasions by the Department of Human Services that it was unacceptable even to detain young juveniles with other juveniles, let alone near a prison that holds, among others, perpetrators convicted of violent crimes.

The Hon. K.O. FOLEY (Deputy Premier): We have seen today an opposition that has got its first question, I think,

from 5AA or the *Advertiser*; the next question was from 5AA. It is now getting its third question out of the *Advertiser*. I say to the member for Morialta—

Mr BRINDAL: Sir, I rise on a point of order. In replying to a question, the minister is required to address the substance of the question. I ask whether the minister is addressing the substance of the question.

The SPEAKER: I uphold the point of order. The minister needs to address the subject matter that was the basis of the inquiry, rather than speculate as to where the notions might have come from.

The Hon. K.O. FOLEY: The member for Morialta has on many occasions in this house raised the issue of the Magill detention centre, which is in her electorate. But I say to the member for Morialta, and I say to all members: you can read the *Advertiser*—look at page 3 or 4—and see what Jan McMahon from the PSA might be speculating about. But it is pure speculation. On Thursday, we will deliver a budget. When the budget is brought down, members will be able to review it and see what decisions the government has taken. Until that time, you will just have to wait and see.

Members interjecting:

The SPEAKER: Order!

SOUTH AUSTRALIAN SPORTS INSTITUTE

Mr CAICA (Colton): My question is directed to the Minister for Recreation, Sport and Racing. How were the 2002 achievements of our South Australian Sports Institute athletes celebrated?

The Hon. M.J. WRIGHT (Minister for Recreation, Sport and Racing): The South Australian Sports Institute is the state's specialist high performance sport organisation. SASI has developed and maintained a strong and successful reputation and history in the support and development of sporting talent in this state. The SASI awards for 2002 achievements were celebrated this year at a combined athletes' breakfast which was held at the West Beach Woolshed on Saturday 24 May.

The year 2002 was an exciting and successful year for the South Australian Sports Institute, and included a number of world champion performances. The award winners for the 2002 SASI awards highlighted performances by individual athletes, teams, coaches and programs in a range of different categories. In 2002, SASI athletes won the titles of female junior world cycling champion and male world championship sprint cyclist. In addition, a number of our Paralympic athletes also have had success on the world stage, and the awards recognised their performances in athletics and cycling. The SASI awards also celebrated the back-to-back world championship performances of South Australian lightweight rowers. They won awards for the team of the year category, and jointly won the female athlete of the year award.

SASI coaches play a vital role in preparing our athletes for competition, and this year's awards recognise the efforts and contribution of the SASI coaching staff to the 2002 Australian open and under 23 world championship rowing teams. The SASI tennis program was awarded best program of the year for the excellent service that it has provided to its players. SASI also recognises the extremely valuable role volunteers play in the area of recreation and sport. This year, Jim Murphy received the Volunteer of the Year Award for his role with South Australian and Australian canoeing. I also acknowledge the parents for their great support of their children. I seek leave to have the following table setting out the names of the SASI award winners inserted in *Hansard* without my reading it.

The SPEAKER: Leave is not granted, because a table cannot be inserted in *Hansard* unless it is purely statistical. Since no data of a statistical nature is included in a prize list, under standing orders it cannot be incorporated into *Hansard*. The minister might need to be reminded that he can table the list, but that does not incorporate it into the record. Does the minister seek leave to table the list?

The Hon. M.J. WRIGHT: Yes, sir, I do seek leave to table the list of SASI award winners.

Leave granted.

FAMILY AND YOUTH SERVICES

The Hon. DEAN BROWN (Deputy Leader of the Opposition): My question is also directed to the Minister for Social Justice. Will the minister now insist that the $56 million over four years cut from the social justice portfolio is reinstated due to the staffing crisis in family and youth services? FAYS workers are considering industrial action due to the staffing crisis (and they are FAYS' words) within FAYS. A leaked statement from a FAYS worker states, in part:

> In some district centres, children under the guardianship of the minister do not have an allocated worker.

It is outrageous that the minister's children are not looked after as they should be under the legislation. FAYS has made—

Members interjecting:

The Hon. DEAN BROWN: Just listen to this, because these are the most vulnerable children in our state.

The SPEAKER: Order, for the third and final time! The deputy leader.

The Hon. DEAN BROWN: FAYS has made decisions to remove children from unsafe home environments but has left the children at home and at risk, because there are no placements in alternative care. In some cases, FAYS continues to receive notifications, including at the extremely serious tier 1 level.

The Hon. S.W. KEY (Minister for Social Justice): The first part of the question relates to the budget and funding for the portfolio, and therefore the deputy leader would know that I will not discuss that part of the question, as that will be revealed after the state budget has been announced. The second part of the question relates to children under the guardianship of the minister. I think that members would be aware that some 1 275 children are under my guardianship as the relevant minister; 275 of those children have been under my guardianship for 12 months, and 1 000 of those children will be under the guardianship of the minister until they are 18 years old.

This is a very serious issue. One of the reasons why we commissioned the Layton report is our concerns involving child protection and neglect. Most of the notifications we receive relate to neglect. There are two parts to the issues before us. We also need to re-examine how we deliver services, and this is what we have been working on. I have been working with my ministerial colleagues to make sure that we come up with a proper response.

I remind the deputy leader that the information collected for the Layton report, which I think was quite shocking, particularly some of the statistics relating to notification and the support needed as well as some of the follow-up issues

associated with child abuse, related to the years 2000-01 and—

Members interjecting:

The SPEAKER: Order!

The Hon. S.W. KEY: I point out, too, that the data also refers to the years 2001 and 2002. So, whilst I am not detracting from the seriousness of the Deputy Leader's question, I want to assure the house that I see this as a challenge that we need to address urgently. I remind the house that some of the accusations and comments that have been made recently have involved issues that have been around for a long time—at least for the last 10 years. We all need to work together on these issues to come up with proper services and support.

There have also been misinformed views from other members of the shadow ministry, ones about which, quite frankly, I am appalled because they do not add to the importance of this debate but, rather, politicise the very serious issue of child protection, including child abuse and child neglect, an issue that all of us in this house need to work on together.

The answer to the first part of the question, which refers to the finances and the programs that our government will put in place and will continue to enhance in this area, will be revealed shortly. However, please be assured that this is a paramount issue for our government and one which we are all committed to working on together.

SOUTHERN SUBURBS

Ms THOMPSON (Reynell): Will the Minister for the Southern Suburbs advise the house what work is being done by the Office for the Southern Suburbs to develop new opportunities for the south?

The Hon. J.D. HILL (Minister for the Southern Suburbs): I am very delighted to have the opportunity to answer this question, because it is obviously of great interest to members opposite. As you know, Mr Speaker, over a number of question times they have attempted to ask me questions about this subject, but they have missed the mark. So, today I want to inform them about what has been happening in the southern suburbs—and indeed a lot has been happening.

The Office of the Southern Suburbs was created in the last budget and, at about Christmas last year, the former small business advocate, Ms Fij Miller, was appointed Director of the southern suburbs office. The office has been operational now for about four or five months, and later this week it will be formally opened. A number of members opposite have been invited, and I note that the member for Bright has declined to come. His presence will be missed, but I am sure that he will be—

Mr Brokenshire interjecting:

The Hon. J.D. HILL: Is the member for Mawson saying that if his party was in government the office would be closed down? Is that their policy position?

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: I think that is interesting. If the opposition does not like the southern suburbs office, let the community know that it would close it down. I am sure that the councils in the southern suburbs—

Members interjecting:

The SPEAKER: Order, the member for Mawson, for the third time!

The Hon. J.D. HILL: —would be most disappointed. The office is in its early days, but already a lot of work has been done on a number of key projects. For example, a feasibility study is being undertaken at the moment with Food SA to develop the local fresh food and produce industry to complement the McLaren Vale wine region—a study in which the member for Mawson would be most interested. Work is also under way to investigate the potential of a green business incubator for start-up businesses in the south—another great initiative.

Improving the experience of education in the south is also a key priority for the office. A project officer from the Open Access College has been appointed to develop clever communities, which will be trialled later this year. It will be a new initiative to change the way young people—and the whole community—think about education and learning. As one of the fastest growing regions in the state, there are key planning pressures that need to be managed for the long-term success of the outer southern suburbs; for example, the recent release by the local council of land for hundreds of new homes around Aldinga and Sellicks Beach needs to be managed to ensure adequate services and infrastructure. I should perhaps clarify that the land has been zoned and council has been involved in the planning process—

The Hon. I.F. Evans interjecting:

The Hon. J.D. HILL: It is, of course, very interesting that the honourable member says this, because policy issues can be learned from the southern suburbs and then applied to other areas. The council is in the process of considering applications for new developments. We need to make sure that the infrastructure is in place, and we will welcome that. I have asked the Chief Executive of the Department of Transport and Urban Planning, who is the Chief Executive responsible for the office of the south, to convene a meeting—

The Hon. W.A. Matthew interjecting:

The SPEAKER: The member for Bright will come to order.

The Hon. J.D. HILL: —of senior executives from across government agencies to meet in the south to review services and infrastructure. I was saying—and the member for Bright may not have quite understood—that we are using the experience in these outer southern suburbs to develop some processes that can be applied elsewhere in the state. That meeting took place early this month, and it was agreed that Planning SA will develop a population projection for the region and recommend that long-term extra investment may be needed.

Another planning issue is transport in the south. An audit of transport needs of business in the southern suburbs is currently being conducted, and my office has a role in that. Local employers, such as Mitsubishi and Boral, the shopping centres and business associations are being consulted about local transport needs. The audit will review the transport systems from rail to road and look at the desirability of establishing a transport hub in the south. The Office for the Southern Suburbs has a very broad brief—from economic development to improving the experience of education.

Of course, the office has been intimately involved with discussions over the Port Stanvac site and its future. Those discussions, of course, have been led by the Treasurer. The government is excited about the future opportunities for the southern suburbs. We want this new office to work with local councils. We have established good relations with businesses

to leverage maximum benefits for the people who live and work in the south.

SOUTH-EAST SURGICAL SERVICES

The Hon. DEAN BROWN (Deputy Leader of the Opposition): My question is directed to the Minister for Health. What action is the minister taking to ensure that surgical services in Mount Gambier are maintained now that two of the three general surgeons have indicated that they will stop services at the end of June (just a month away), and why has the minister not renewed the contracts for the medical specialists over the past six months? For six months the minister—

The Hon. R.J. McEwen: Tell the truth this time.

The Hon. DEAN BROWN: I am telling the truth; that is what is hurting the government. For six months the minister still has not tabled the letter. For six months the minister and her department have failed to renew the contracts for medical specialists at Mount Gambier. A copy of a letter sent to the minister yesterday from Dr Barney McCusker states:

> I cannot over-emphasise the crisis this will create in the provision of surgical services to the people of the South-East. If it has not been the intention of the department for these three gentlemen (i.e. the surgeons) to leave this area but indeed to retain their services, then this is an unmitigated disaster. Whatever the department's objectives were, I see this turn of events as being an unmitigated disaster for the people of Mount Gambier and the South-East.

The third general surgeon, who has not yet announced his intentions, was the doctor whom the minister criticised in this parliament during the last week of sitting, and the letter, containing his explanation, has not yet been tabled by the minister in this parliament.

The Hon. L. STEVENS (Minister for Health): I am very happy to answer this question. I also have a copy of the letter from which the deputy leader has read. I got my copy of the letter from the *Border Watch*. I find it interesting that that is where I would first hear about the letter. However, I also notice that a lot of people got copies of the letter. However, the name of the deputy leader was not on the list of about 12 people, which included the Premier, my colleague the member for Mount Gambier, a couple of my other colleagues and a whole pile of other people.

An honourable member: Allan Scott?

The Hon. L. STEVENS: Allan Scott as well. Interestingly, the deputy leader's name was not on the letter, but I am sure he was involved in the arrangements. However, let me focus on the substance of the question. As the house knows, there have been protracted negotiations between resident specialists at Mount Gambier and the board of the South-East Regional Health Services. We are offering very good jobs to specialists to work in the South-East region. I spoke earlier today with both the chair of the Mount Gambier Hospital board, Ms Ann Mulcahy, and the Chief Executive Officer of that hospital. A number of matters are being discussed. The chief executive has been talking with the lawyer representing the surgeons concerned and is working through issues that are of concern to those doctors. The contracts run out at the end of June, so there is still time. I understand that one of the concerns of the specialists is the issue of—

The Hon. Dean Brown interjecting:

The Hon. L. STEVENS: If the deputy leader will remain silent, I can answer the question. I understand that one of the major issues for the surgeons—and I understand their concern in this respect—relates to medical indemnity. The federal government last week announced a package which I hope will help and, certainly, the state government is presently working as hard as it possibly can on a package to help rural fee-for-service specialists, and we will make that public as soon as we have finally consulted with all the stakeholders and received the approval of the Treasurer.

So, this has been going on for some time, and there is still time to go. We are absolutely committed to having fee-for-service specialists in Mount Gambier and other areas of rural South Australia. The most important thing about this is that these are not issues to be made political footballs, and we would prefer to see a more constructive approach to the matter from the deputy leader.

INTERNET ACCESS, REMOTE AREAS

Ms BREUER (Giles): My question is directed to the Minister for Administrative Services. What is being done to help remote Aboriginal communities access the internet, given that access to this valuable resource is not currently available in most remote communities?

The Hon. J.W. WEATHERILL (Minister for Administrative Services): I thank the honourable member for her question, and pay tribute to her commitment to the indigenous people of this state. I recognise in particular the important work that she carries on in her own electorate. The state government is obviously aware of inequality of access to internet services which occurs in low socioeconomic areas as well as in remote communities. Recently, the government has, through the Department of Administrative and Information Services, provided $22 000 in funding to the Eyre Regional Development Board for the Wangka Wilurrara Online Project. This project encompasses the Wangaka Wilurrara ATSIC regional council area, and includes the communities of Yalata, Oak Valley, Koonibba, Scotdesco and Tia Tukia, and two community organisations—Port Lincoln Aboriginal Community Council and the Tjutjunaku Worka Tjuta. The project objectives are to:

- increase the number of indigenous people with access to the internet;
- provide access to indigenous communities to online services, such as government agencies, etc.;
- allow indigenous communities to participate in and benefit from the information economy;
- assist indigenous communities with the development of their IT employment and educational skills;
- provide an online presence for indigenous communities and individuals; and
- provide indigenous communities with access to training for web development and maintenance.

Over the next few weeks, the first computer systems will be delivered and installed in the region, and training of local peer volunteers will begin. This project will rely heavily on local community management, and it has become very clear that the communities in this region are extremely enthusiastic about the project.

The ability to use the internet as a source of information and communication is seen as a long overdue innovation for these communities. Focusing on local involvement in management will bring, and indeed already is bringing, a sense of ownership to these activities, which is an essential ingredient to the project's success.

NURIOOTPA LAND

Mr VENNING (Schubert): My question is to the Minister for Health. Given that health is a priority for the Rann Labor government, can the minister assure the house that land earmarked by the former Liberal government for a new hospital in the Barossa Valley will not be sold? Mr Speaker, with your leave and that of the house I wish to explain my question.

The SPEAKER: Order! I thought that is what the member did when he introduced the proposition. By saying, 'given the priority ascribed by the Rann government to health', presumably that explains the question. The practice is not one to be encouraged.

Mr VENNING: Thank you, sir. There has been recent publicity about the establishment of a 170-dwelling Barossa Valley retirement estate by a private company, Awahoa Pty Ltd. The land mentioned is owned by the government—or it was—at Lot 102 Schaedel Street, Nuriootpa, the same area that was set aside by the previous government for the new Barossa hospital.

The Hon. L. STEVENS (Minister for Health): I thank the member for Schubert for his question and I know of his great interest in this matter. The honourable member will recall that he rang my office shortly before question time in relation to this matter. We have done a bit of checking, but we need to do some more. I am advised that the land is owned by the South Australian Housing Trust and my department's initial advice is that it has not been advised of any sale, but we will certainly check it through and get back to the honourable member.

MURRAY RIVER

Mr BRINDAL (Unley): My question is to the Minister for Environment and Conservation. In view of the water crisis facing South Australia, what steps is his government taking to assist primary producers and human users in the lower reaches of the river and lakes to survive the months ahead? This year, salinity counts in many areas of the lakes rose to levels in which the water could not be used, and some users were forced to relocate pumps. These actions were necessary during a year in which we were still receiving South Australia's entitlement flows. Next year, the minister has estimated that flows into South Australia could be 20 per cent below entitlement and this means that flows into the lakes will be less and there will be continuing evaporation. I point out to the house that, last week, the salinity readings at Goolwa reached 5 640EC units.

The SPEAKER: Order! The matters canvassed in the question and its explanation are clearly those matters to be dealt with in the bill to amend the Water Resources Act 1997. Even though that is not one of the orders of the day, notice of it is given and, in this instance, in view of the uncertainty as to whether it is to be debated, I will allow the question, but I remind the house that it is not appropriate to ask questions that pre-empt debate.

Members interjecting:

The Hon. DEAN BROWN: I understand that. I am taking a point of order that the only notice that this house has had so far is the notice of motion for a bill to amend the Water Resources Act. That is the only notice the house has had, and there is no indication as to what that might be about.

The SPEAKER: It is for that reason that I sought some advice and took a few seconds to deliberate on it. It appears on the *Notice Paper*, but it is not yet an order of the day. I am allowing it for that reason, but I alert the house to the fact that standing orders forbid it. Had notice been given, I would have ruled it out of order. This is a grey area, in that the government has indicated that it wishes to give notice of this legislation, put it on the *Notice Paper* but has not yet provided that. It is on the *Notice Paper* for that reason. The chair cannot pass it by without remark, yet no formal notice has yet been provided—a matter perhaps for the Standing Orders Committee to examine more carefully in the near future.

The Hon. J.D. HILL (Minister for Environment and Conservation): I thank the member for Unley for his question and I acknowledge his serious interest in this issue and his continued bipartisan support in relation to matters to do with the River Murray. The member said in his question by way of explanation that there is a chance of a 20 per cent reduction in the entitlement flow to South Australia this year. To correct the record, the advice the government has received is that currently there is a 60 per cent chance that we will get less than our entitlement flow in the coming season. Our entitlement flow, as most members would know, is 1 850 gigalitres.

On the basis of that advice, we have taken a conservative approach to water management in the River Murray and have announced a preliminary reduction of 20 per cent in water use. If we are to equate that to water allocations, we would be talking about a 40 per cent reduction in water allocations for the start of the season. We will review this on a regular basis at least monthly (or even more than that) and let the community know. We would expect by around September or October to have a fairly good understanding of what the season will hold. The advice I have is that there is a 70 per cent chance that we will be able to do better than the 80 per cent, or the 20 per cent reduction. There are a number of statistics, but we are working on the best advice we have at the moment. I know it sounds confusing, member for Bragg, but that is the reality. There is a 60 per cent chance we will not get our full entitlement, so we are setting the figure at 80 per cent of use, but by September or October we expect to have a better understanding, and there is a 70 per cent chance we will be able to upgrade the level available.

The reality is that we in the Murray Basin area of South Australia are facing a drought. This drought has been experienced by other states for two years. We have been on entitlement flows since December 2001. The eastern states of New South Wales and Victoria have had drought conditions and there have been considerable reductions in allocation and usage from the River Murray in those states. We are now catching up with those other states.

The question about compensation or assistance is one for my colleague, the Minister for Agriculture, Food and Fisheries, but I will be delighted to pass on the question to him. Whether or not the commonwealth will regard those areas affected in this way by reductions to be drought affected—

Mr Brindal interjecting:

The Hon. J.D. HILL: I do not necessarily disagree with the member, but that is the responsibility of my colleague the Minister for Agriculture to take up with his federal colleagues.

SCHOOLS, COROMANDEL VALLEY PRIMARY

Ms CHAPMAN (Bragg): Will the Minister for Education and Children's Services advise whether it is now government policy to proceed with capital works programs, notwithstand-

ing the direct written request of governing councils in government schools and, if not, why should this apply to the Coromandel Valley Primary School? In 2002 the previous government approved a $2 million redevelopment of the school. The incoming government subsequently withdrew that project. However, when the federal minister (Hon. Brendan Nelson) gave notice to the state minister that funds could be withheld in those circumstances, the minister announced in November last year that she would proceed with the project with the specific allocation of the $1.2 million of federal funding.

In February this year, the governing council met in the school with respect to this issue, and advised the department that it did not agree to the progressing of the project without the $0.8 million (or thereabouts) in funds being allocated from the state funds. Notwithstanding that, the minister gave written notice to the school that she had directed her department to proceed with the project at the school to the extent of the $1.2 million. Last week, I asked the minister about the progress of this work. She advised that the redevelopment was proceeding and, in fact, that it had commenced in the last school holidays. No further advice has been given as to the $0.8 million.

The Hon. P.L. WHITE (Minister for Education and Children's Services): Sir, I am not sure what the question was, after all that.

The SPEAKER: No, I had some difficulty myself.

The Hon. P.L. WHITE: However, I will do my best to provide some information to the house. The question had something to do with the Coromandel Valley Primary School major works project. The member for Bragg mentioned that redevelopment work had started at that school. That is exactly right: the school had been asking for redevelopment work, so it should not be surprising that it has started. However, I think the point the honourable member is raising is that the project was on a previous capital works program under the former Liberal government as a $2 million program, which was published in budget papers of the former Liberal government. That project amount was decreased by the former education minister (Hon. Malcolm Buckby), and the school, believing that it had the right to $2 million of funds, regardless of what the project cost or other government priorities around the state, took the attitude with my department that it would not allow my department to start work on the site unless it received all its demands.

It might sound like blackmail to members of this house, but that is not how this Labor government operates. Priorities are allocated on the basis of statewide needs. They are allocated against asset management plans, and those schools with the greatest need are first on the list to receive capital works programs.

The member talked about the federal Liberal government's withholding funds from the state government, and that is indeed the case, since August last year. Normally, monthly payments are made to each state government. The federal Liberal government has now withheld over $12 million—in fact, it is much more than that, because it was due to pay us $18 million this financial year: it has paid only about $2 million in connection with that work. The reason that has been given by the federal minister (Hon. Brendan Nelson) has changed three times. Initially, he said that the reason involved projects which were supposed to have been built by the former Liberal government and which were not, but which were paid for in terms of federal allocations in previous years. So, the current state government advanced those projects. Then the federal minister came back and said, 'No, not those projects: it is some more.' So, we advanced those projects. And the bar kept being changed. The most recent advice from the federal Liberal minister (I might say, I received the advice in an article in the *Advertiser*) was that there were five projects for which he was holding the entire state allocation of funds—something that, if we do not receive more funds, will have amounted to $16 million.

Of course, the total cost of those five projects did not amount to even $16 million. Further, Mawson Lakes Primary School was one of the five projects included in his list. Despite the *Advertiser* journalist being told that the construction of that school was almost complete, the federal minister continues to withhold those funds from South Australia. This means that funds are being withheld from South Australia for projects that were on the former Liberal government's published capital works programs dating back to 1999. These projects were supposed to have been completed before this Labor government took office. So, on the one hand, we have this huge backlog of projects that were supposed to have included in them some federal funding. The federal funds were acquitted by the former Liberal state government, yet those projects were not built.

So, we have that backlog, plus the additional backlog of all the projects that the former Liberal government told schools would be on the capital program, as well as the slippage from all the programs dating back about 10 years. If you put all that together, you see that there is just not enough funds to do all the works that all the schools would like.

Mr BRINDAL: I rise on a point of order, Mr Speaker. I am most interested in the minister's answer, but I cannot hear because of the number of ministers opposite who are conducting audible conversations.

The SPEAKER: The member for Unley obviously has very selective directional hearing, because it is the member for Mawson who is interfering with my hearing of the answer!

The Hon. P.L. WHITE: The redevelopment of Coromandel Valley Primary School has begun. In fact, I made a statement to parliament last week indicating—

Members interjecting:

The Hon. P.L. WHITE: A whole building has been redeveloped at Coromandel Primary School. That work has been started—

An honourable member interjecting:

The Hon. P.L. WHITE: It's actually all state funds, because the federal funds that were allocated to that project have been used to fill some of the backlog that the former Liberal government was supposed to have dealt with.

SCHOOLS, AREA

Ms CHAPMAN (Bragg): My question is also directed to the Minister for Education and Children's Services. Does the minister have any intention of pursuing a review of area schools in South Australia with enrolments of less than 200 students, particularly in relation to the Education Act? I particularly refer to the Brown's Well District Area School. In a letter to the minister's office dated 8 April, I asked whether a list of area schools in South Australia with enrolments of less than 200 students was currently being reviewed, or was under consideration of being reviewed, that could see their closure or amalgamation. This request was ignored. Instead, the minister issued the same statement twice

within a matter of days (9 and 14 May) saying that the suggestion of school closures was 'baseless and untrue'.

I am now aware by way of a letter from one of the schools about which I had specifically inquired (in particular, the Brown's Well District Area School) that it was being considered for review by the Department of Education and Children's Services with the intention of reducing it by 2006 from an R-10 area school to an R-7 primary school. The school, which is considered to be the centre of that community, is understandably opposing that move.

The Hon. P.L. WHITE (Minister for Education and Children's Services): For the information of the house, the member for Bragg is talking about a press release which she issued quite recently and which claimed that 21 area schools (and she named them) were up for closure. I immediately put out a press release stating that there is no such state government plan to close 21 area schools. There was no suggestion, basis or documentation for the honourable member's allegation: it just came out of thin air. Not only was it extremely mischievous but it was quite destructive. Picking on smaller area schools which at the best of times often struggle for enrolments, and spreading rumours indicating that those schools are about to close, has an impact on those school communities.

I inform the house and the member for Bragg that the principals of many of those schools and the school communities have been extremely angry about this scaremongering. Fancy putting out a press release naming schools and saying that they are about to close! There is no basis for it whatsoever—I have said so publicly—and the communities know that. On behalf of the Liberal Party, the member is undermining the viability of those schools because, once parents think that a school is about to close, what happens? They sometimes remove their children from those schools. So, it was a very irresponsible thing for the member to do, and I said so in my release. The fact that, representing the Liberal Party, she has stood up in this chamber and repeated that claim is absolutely scurrilous, mischievous and untrue.

SCHOOLS, INVACUATION PROTOCOLS

Dr McFETRIDGE (Morphett): Can the Minister for Education and Children's Services outline for the house the department protocols for invacuation in schools?

The Hon. P.L. WHITE (Minister for Education and Children's Services): I really must ask for some explanation of the question.

Dr McFETRIDGE: I understand that, at a recent governing council meeting at Brighton Secondary School, the protocols for invacuation were discussed. I am asking the minister to outline department protocols for invacuation in schools.

Members interjecting:

The SPEAKER: Order!

The Hon. P.L. WHITE: I will obtain a comprehensive answer for the member and bring it back to the house.

Members interjecting:

The SPEAKER: Order! Regardless of what journalists or anyone else in the community may write, words that do not exist cannot form the substance of an inquiry.

ROADS, LOCK-ELLISTON

The Hon. M.R. BUCKBY (Light): Can the Minister for Transport advise the house whether the remaining 20 kilometres of the Lock-Elliston Road to be sealed will go ahead during the next financial year? If so, when will it occur and how much funding has been allocated to complete the job? The Lock-Elliston Road is the only remaining road to be sealed under the former government's promise to seal all arterial roads in South Australia by 2004. At the present time, approximately 20 kilometres remain to be sealed. On 29 August, the minister advised in writing that '$1.2 million was committed to the project, which will complete 10 kilometres of reconstruction. The project will then be completed during the 2003-04 financial year'. The 2002-03 works were delayed until May 2003 so that works to complete sealing could continue into 2003-04, as it would be more cost effective to shift equipment once, rather than having to return to complete the job. I have now been advised that the District Council of Elliston has been told that only 4.5 kilometres of road, instead of 10 kilometres, will be sealed.

The Hon. M.J. WRIGHT (Minister for Transport): The member for Light knows that this government is a great supporter of country South Australia—

Members interjecting:

The SPEAKER: Order!

The Hon. M.J. WRIGHT: —probably the greatest supporter of country roads since Federation. Nonetheless, the member for Light has been a minister, and he knows how the game is played. I say to the member for Light: two more sleeps until the Treasurer announces the budget! I am sure that we will all be delighted by it.

BUSHFIRES

The SPEAKER: I remind the member for Mawson and all members of the house that in future any member called to order three times during the course of question time will not get the call for the remainder of the week. The member for Mawson can count himself as the lucky last.

Mr BROKENSHIRE (Mawson): I will remember your advice, sir. Will the Minister for Environment and Conservation outline to the house what the extra $10 million funding, announced at the Premier's bushfire summit to increase fire management capacity in national parks, will specifically be used for?

The Hon. J.D. HILL (Minister for Environment and Conservation): I am pleased that the honourable member has brought the attention of the house to this fantastic commitment by the government to bushfire management, particularly in relation to national parks. It is a $10 million package. I will pleased to obtain some detail for the honourable member, and it will be available in the budget process.

Mr BRINDAL: I rise on a point of order. Sir, can you clarify the ruling that you made a moment ago? I understand you said that any member who is cautioned three times will not receive the call. In the course of question time today, I believe that you cautioned the deputy leader three times. What will happen if ministers transgress?

The SPEAKER: I am sure that the member for Unley will not want his questions to go unanswered. It would be equally obvious to the member for Unley that no minister may ask a question. The house will note grievances.

MEMBERS' REMARKS

Mr BRINDAL (Unley): I seek leave to make a personal explanation.

Leave granted.

Mr BRINDAL: Today, in answer to a question, the Minister for Social Justice said:

> There have also been other misinformed views from other members of the shadow ministry, ones about which, quite frankly, I am appalled, because they do not add to the importance of this debate.

With lack of evidence to the contrary, I assume that I am the member referred to by the minister. Because I spoke on ABC radio, I have sought this leave, under standing order 116, to make a brief personal explanation. It is true that I am concerned about this issue, and I addressed the house on it yesterday. It is equally true that I believe that there are people who are wards of the state—

The SPEAKER: Order! The honourable member will resume his seat. The minister seeks to take a point of order.

The Hon. S.W. KEY: I do not believe that members can make a personal explanation unless they have particularly been identified. In the statements that I made, I do not believe that I identified this shadow minister.

The SPEAKER: A number of issues arise from this exchange, and it is the duty of the chair to intervene to prevent quarrels. I remind all members of that, in that it may be relevant in this context; and, secondly, if an honourable member believes himself or herself to be misrepresented they may seek the leave of the house, through a personal explanation, to lay that matter to rest without debating it by stating the relevant facts to it.

The third observation I would make is that neither the conventions of this parliament nor the constitution of South Australia recognise shadow ministers. There are ministers and other members. It is not appropriate to refer to anyone as a shadow minister of anything or a shadow anything—it is demeaning.

In the circumstances, I do not uphold what I think has been the point of order of the minister. I will listen carefully to what the member for Unley says in attempting to explain the circumstances by providing the house with the benefit of the facts relevant to it. The member for Unley.

Mr BRINDAL: I very much thank you for your ruling, sir, because it is in that context in which I seek leave to make the personal explanation. Simply, it is this: the house knows that I contributed to this debate yesterday. I went on ABC radio this morning and, so that no member here can misunderstand me, I stated that I clearly believe there are wards of the state who have been physically and sexually abused. Secondly, I believe that there are instances where children have lost their lives not because of staffing levels but because of wrong process. I would not like to be misunderstood by anyone in that respect. I just hope that this house will consider the matter in its processes in its time. I simply do not believe that this is a matter of politics or politicking—

The SPEAKER: Order! The honourable member has now strayed into debate in a blatant way and is not making a statement of facts. The house will note grievances. The member for Goyder.

GRIEVANCE DEBATE

VICTORIA SQUARE

Mr MEIER (Goyder): Many months ago, when the Adelaide City Council announced that it would close Victoria Square to east-west traffic, I stood in this house and condemned the move. I indicated my strong opposition to it and said that I felt it was a retrograde step. It is therefore very pleasing to note that, at last night's council meeting of the Adelaide City Council, that motion was rescinded or, shall I say, the new council voted to continue to leave Victoria Square open to traffic, both east-west and north-south. Members might be surprised—why would a rural member be interested in the closure or non-closure of through traffic in the City of Adelaide?

I can tell members that, at times, I find driving in the city annoying and, certainly, on many occasions, frustrating. I well recall when Victoria Square was closed for a period of time (I think it was due to the Festival of Arts) that, on two occasions, I wanted to travel through the Victoria Square precinct, and it was nothing short of chaotic, because the traffic had to divert to the surrounding streets. On one occasion (I think it was in a relatively quiet period of the day), I had to wait a considerable time to get through. On another occasion I remember travelling to parliament along West Terrace and wondering why the traffic was so intense.

Certainly, it took a huge amount of time to get from West Terrace, along North Terrace and into Parliament House, and the reason was Victoria Square's closure. I thought, 'How horrific will it be in future years if that square is closed permanently.' I thank the new city council for its foresight and initiative in deciding (by six votes to two) to continue to allow traffic to flow through the square.

If we had decent freeways around the city I might well take a different attitude. However, we do not have any freeways, no thanks to the previous Bannon government, which sold off so much of the land that could have been available to spread the traffic around the city. When one drives through other cities one fully appreciates that.

The other matter I want to highlight in the time allocated to me today is a memo from Transport SA in which it makes recommendations in relation to the roads that should become 100 km/h speed limited roads. I am extremely upset to find that the following roads are suggested for my electorate: the Kulpara to Bute road; the Kadina to Moonta road; the Kulpara to Maitland road; the Yorketown to Warooka road; the Edithburgh to Coobowie road; the Minlaton to Port Vincent road; the Minlaton to Maitland road; the Minlaton to Yorketown road and the Yorketown to Edithburgh road.

I travel those roads on a very regular basis, as do thousands of other people. I have found it difficult enough to get from A to B with the current speed limit of 110 km/h and, in most instances, I find that it is very safe. I also grew up in the period when speed limits were not enforced in the way in which they are today. Police were allowed to use their discretion in cautioning people; or, shall I put it another way, motorists were allowed to use their discretion in determining whether it was safe to exceed the formal speed limit. In fact, invariably that was the case: you could exceed the speed limit as long as you could argue in a court of law that you were not endangering other people.

In this day and age, of course, we are so tied to the law that if you exceed the speed limit you are subject to a fine, or

if you are exceeding it by too much you are subject to losing your licence. I would hope that the respective district councils, which have those roads within their boundaries, oppose the lowering of the speed limit or, shall I say, more importantly, argue even more strongly that money needs to be spent on upgrading those roads if Transport SA feels that they are not up to the required conditions for 110 km/h speeds. Modern cars are designed to handle pretty rough roads. I would be the first to acknowledge that there are some pretty rough roads in my electorate, but the modern cars are vastly superior to what they were 10 years ago and definitely 20 or 30 years ago.

WASTE WATER

Mr CAICA (Colton): I would like to acknowledge that I am on Kaurna land. Today I wish to spend the short time available to me to talk about water, in particular waste water, which, of course, in the state of South Australia, is an oxymoron. We are willing to use the word 'waste' and, worst, treat such a precious resource as such. Why is it waste water and what makes it waste water? I believe it is the fact that it is not used. So, the reality is that what we commonly refer to as waste water is in fact wasted water. The same applies to stormwater. Of course, it only becomes stormwater once it hits the drain. Before that stage it is the most precious resource called rainwater.

This house is soon to consider the matter of water restrictions. I will not comment specifically on this issue as it is now a matter that is in the hands of the house. However, in a more general sense, I do want to talk about water restrictions and, in particular, the restrictions that we can impose upon ourselves with respect to our water use and a few of the initiatives that each of us can adopt to restrict our reliance on filtered tap water.

We know it is likely that water restrictions will be imposed, and I am supportive of such a move, but we can also restrict our own use and reliance on this most precious resource. I remember that, as a child, my mother made our family members stand in a washing basin-type bucket when showering, and when that little basin was full the shower was over. This reduced our family's water usage for showering. Today I am much more disciplined than I was in those days, and I can limit the amount of time I spend in the shower. As the house would also be aware, many different types of shower roses are available, and the flow of water is greatly restricted by the use of these shower roses.

I would argue that all houses should be required to install and use rainwater tanks. I was very pleased to see in the *Sunday Mail* this last weekend that rainwater tanks will be sold interest free to householders under a state government plan to combat South Australia's water supply crisis. The minister referred said that we are working on a scheme to make it easier for the people to have water-saving devices. There will be no requirement to pay up-front costs for the use of such water-saving devices: it will be paid with your bill over time. So, that is a very good initiative and I, like other members of this house and, indeed, South Australians, would applaud it.

But I would argue that rainwater tanks are next to useless, particularly in metropolitan areas, unless the tank is emptied, or close to it, when it rains. So, for each of us who have rainwater tanks, it is necessary to ensure that these tanks are emptied regularly, and certainly before significant rains. I remember shopping with my wife Annabel recently when the woman at the check-out said, 'You are looking good, Annabel. You have been working out.' The fact is that she does not work out, but she empties our rainwater tank by the bucketful and carts it around the yard to use it on the garden. I know that our garden is the better for it, and she is as well. She also uses biodegradable washing detergents and, by using the drip-dry cycle, empties the washing machine water on the garden. As I said, our garden is the better for it.

But there are other water-saving initiatives which can be adopted and which result in restricting our personal and household reliance on filtered tap water. So how do we encourage people to adopt such initiatives? I talked about the minister's recent initiative, but it seems that incentives are required. I would argue that if reducing our reliance on water extracted from the River Murray is not enough incentive, having to pay water bills in this day and age should be enough to encourage people to adopt some of these initiatives. As a government—no, as a parliament—we need to be active in promoting water-saving initiatives. The amount of water that heads out to sea on an annual basis is criminal, and that needs to be addressed.

As I said earlier, all houses must have rainwater tanks, but I also said that it is useless unless the tank is emptied when it rains. The other alternative is, of course, that through proper planning processes and in suitable locations we allow—no, insist—that rainwater tanks be installed so that the overflow injects into the aquifer. Members should remember that it is clean, precious rainwater at that stage and is waste water only when it hits the drain and runs off to sea.

I welcome the work being progressed collectively by Ministers Hill, Weatherill and McEwen regarding the more efficient and effective use of the precious, life-sustaining resource that falls from our sky. Detention, retention and reuse: that is our future. Enough water falls in Adelaide and South Australia, if captured and harvested, to reduce our reliance on the sick and dying River Murray—to not only meet the needs of our personal and household use of water, but also the needs of agriculture and industry. We only need to look at the work being undertaken by Michells in the Salisbury area as to water-saving initiatives that can be undertaken. It can be done and must be done, and as householders we can each, and without much effort, certainly play our part.

MOUNT BARKER PROJECTS

Mr GOLDSWORTHY (Kavel): Today I want to talk about a couple of functions that I recently attended in my electorate at which I had the pleasure of being part of the official proceedings. Obviously, as members carry out activities in our electorates we all attend many functions, but I want to specifically focus on just two in my electorate.

On the weekend of Saturday 17 May and Sunday 18 May, I had the pleasure of opening what is regarded at Mount Barker as the SteamUp Steam Ranger Festival. It is a festival weekend of activities and heralds the commencement of the steam season following the end of the fire restriction period. Steam trains depart from Mount Barker station from now until November, travelling to Strathalbyn and Victor Harbor each month. SteamUp Steam Ranger is similar to the Cockle Train, and no doubt the member for Finniss, the Deputy Leader of the Opposition, knows about the Cockle Train which runs from Victor Harbor to Goolwa and back. The Steam Ranger at Mount Barker performs a similar function.

Steam Ranger is operated almost entirely by volunteers and supports at least four people in paid and part-time work, which is quite an achievement. The weekend of 17 and 18 May was the first time that a passenger carriage, called the 'Centenary End Loader Suburban Car', was used since a successful restoration project, bringing it back to life from its original assignment as a commuter train in Adelaide.

Steam Ranger volunteers have another restoration project in progress—the RX Class Locomotive 224 is currently being restored at the Mount Barker depot. While funds are always needed to help keep projects such as this moving along, the volunteers and supporters of Steam Ranger do a tremendous job in keeping that piece of our heritage alive and ensuring that the skills and expertise required in restoring and operating these trains are not lost.

I congratulate all the volunteers for their fantastic service and work they provide the community. I also congratulate the District Council of Mount Barker, which assists and supports the weekend. Also, the Mount Barker SteamUp Steam Ranger Festival saw the introduction of the inaugural Mount Barker JazzFest, and part of that festival was continued at the railway station on the opening of the SteamUp season. The member for Heysen was present at those festivities.

Also, I want to talk about a function that I attended yesterday. I had the privilege of opening the new Woolworths store at Mount Barker. Again, I congratulate the developers (Mr Peter Palmer and Mr James Sexton), the development company Maton Investments, the architects, the construction company, the District Council of Mount Barker again and, of course, Woolworths stores. I think it takes real courage, commitment and vision to undertake a project such as we have seen at Mount Barker. The town really is a major regional centre. I understand that people come from as far as Karoonda and Pinnaroo to Mount Barker to do their shopping, which is obviously a real boost to our local economy and everybody benefits. We see improvement in employment opportunities in the town, which obviously improves living standards and overall prosperity in the district. With this new development (the Woolworths store) and another development just across the road, 200 new jobs will be created, which obviously will further enhance our local economy.

The township of Mount Barker certainly has a strong reputation in the hills and it is a credit to those people who have built the town into what it is today. There are four major shopping centres in the town, which obviously give shoppers and consumers real choice at competitive prices.
Mount Barker, and the Adelaide Hills in general, is really going ahead and it is a privilege to represent such a great part of this state.

Time expired.

GENERATIONS IN JAZZ

Ms BEDFORD (Florey): I report to the house today the outstanding success of this year's Generations in Jazz held, as it is annually, in Mount Gambier on the weekend of the Adelaide Cup Holiday. From the time I arrived on the Friday evening until the late Sunday afternoon, there was a jam-packed schedule of activities where I am pleased to say South Australian public schools performed fabulously and achieved results to match.

At Friday night's concert I was greeted by my parliamentary colleague the member for Mount Gambier, who plays an integral role in ensuring the committee is given the necessary resources. The Australian Army Band from Melbourne whetted our appetites for the great weekend of jazz to come and showed the 1 500 participant student musicians where music can take them. MC Malcolm Bromley showed his total dedication to the concert, as usual, and turned in another professional weekend, along with the dedicated team of the committee led by Karen Roberts (who received her Centenary of Federation Medal for services to Generations in Jazz in front of the crowd that night).

The committee puts in hundreds of hours of work and all participants appreciate their efforts, along with those of Leigh and Sally O'Connor and Dale and Marianne Cleves, whose son Paul manned the control panels all weekend to provide us the best sound possible. Many locals and local businesses support the event and have done so for years. Without their support, the event would not happen. It would not be the same event, either, without the participation of James Morrison and his brother John, the internationally renowned jazz musicians, who give generously of their time in mentoring our young people here in South Australia and, indeed, from all over Australia. The event patron is Daryl Somers, whom members will remember from national television fame, and adjudicator Graeme Lyall was his musical director for many years. They also do a great deal of work in adjudicating the bands over the weekend. The event grows each year and we see bands travel from Western Australia and Queensland. One of the new schools this year was Sheldon College from Brisbane, the students of which made a 37-hour bus trip to participate.

There are three divisions in the competition. South Australia's own special interest school, Marryatville, topped division 1, and I point out that Benedict, the son of our own librarian, Howard Coxon, plays trombone there and was selected for the super band from the first division this year. Marryatville topped the weekend and took out the Mount Gambier National Stage Band Award. Division 2 saw Brighton High School take out second place, and one of my local schools, St Paul's College, under the direction of Tim Donovan, was involved in the play-offs for that division.

My electorate's star musicians are from Modbury High School, and they played their hearts out and delivered a fantastic performance under the direction of Reg Chapman, ably assisted by Shirley Robinson. Our driver for the weekend was Brendan Harris, who looked after transportation and all other tasks as required in his usual efficient and friendly manner. Among a number of former band members and family who made the trip down to support this year's band, I must also mention and pay special tribute to principal Jay Strudwick, as well as to Leisel Chapman, who quietly shows that behind every man there is a great supportive woman.

Sunday's concert featured the finalists from all over Australia and the announcement of the winner of the James Morrison Scholarship. A super band is formed by picking outstanding musicians from each division, and, this year, two Modbury High School students and one student from St Paul's were lucky enough to be included in the Div. 2 performances. One of the most exciting things we saw on the weekend was an 11-year-old young man who impressed everyone with his musical ability and stage presentation. He played with the James Morrison Set and made a couple of appearances over the weekend. Each time he wowed the crowd. He was discovered by James in one of his master classes, and he and every other student who attends this great weekend in Mount Gambier benefits from the exposure to top-class musicians, not to mention the dedication of family

and teachers who support these people in their musical endeavours.

I cannot recommend this weekend enough to members, and everyone involved in looking after the needs of the 50 bands and the support people who travel down to Mount Gambier each year are to be commended. Despite the inclement weather over the last two years, we have managed to stay dry. Anyone who has seen 1 500 meals served in less than half an hour, or even knows the amount of work involved in that, has some idea of what goes on at Generations in Jazz. We look forward to going down next year, and perhaps we will have sunny weather! However, I know that the organisers are putting in extra wet weather precautions for the event. Despite what goes on outside the marquee, it is a fabulous weekend for all the young people involved, and the amount of fabulous, top-class jazz just cannot be believed for the reasonable prices that are charged at the door. I recommend that all members go to Mount Gambier if they can.

Time expired.

NURIOOTPA LAND

Mr VENNING (Schubert): Today in question time I sought an assurance from the Minister for Health that the land in Nuriootpa that has been set aside for the new Barossa health centre or hospital would not be sold. I rang Mr Loveday, her chief of staff, this morning, and the answer that came back did not give me any assurance, because he did not know. The answer that the minister has just given me indicates that she does not know, either. I am very concerned that, two days before the budget, when one is hopeful that this hospital will receive some attention and some priority, a strong rumour is going around that, if the land has not been sold, it could be earmarked for sale.

I have contacted the council in an attempt to establish what the situation is, and it assured me (a matter of only five minutes ago) that this land is not exactly the same site as that for the hospital, but near it. I am still not totally happy, because I do not want to see this hospital jammed in. I envisage a new facility with enough space for future expansion in a park-like atmosphere. I do not want to see development right alongside, hemming this hospital in, landlocking this new hospital, which will have a definite lie. I will be doing all I can in the coming hours and days to make sure that the new hospital, when it is announced (and it must be soon), will not be encumbered or locked in by a development alongside because the government has sold off some of the land to private enterprise.

I am very concerned because the Barossa is a huge growth area. The minister has visited the Barossa, she has inspected the Angaston Hospital, as did the shadow minister when he was minister, and both ministers have given an accreditation certificate to the Barossa Area Health Board. That is amazing when one considers that the Angaston Hospital is archaic. It is an old house that has been converted several times over into a hospital. When you see the conditions in which the staff work, it is amazing how they can give such fantastic care. Not only has that work been accredited officially by the two ministers, both Liberal and Labor, but the public cannot speak highly enough of the care they get in this worn out, aged and, dare I say it, almost dangerous facility.

I believe that an incident will happen in this hospital because of its condition. Not only is the airconditioning totally outmoded, but it is not sufficient, particularly in relation to the operating theatres. The kitchen facilities—without using scare tactics—are way below parity. Money was to be spent years ago, but the decision was made not to spend any money, because it was not worth spending good money after bad. As the former minister knows, the only solution was a new hospital. If the government had not changed, I was assured (and I have no reason to doubt) that that hospital would be under construction right now. I only hope that, in the budget in two days' time, on Thursday in this place, the government will announce some priority in relation to providing a new hospital for the Barossa region.

I do not think it is fair to the people of the Barossa to have to work in a facility that is clearly below standard. No money has been spent on repairs or upgrades; not even a coat of paint has been applied in the last two or three years. When several of the Department of Human Services administrators appeared before the Public Works Committee a few weeks ago, I asked them what the priority was for this hospital. They told me they would send me a list. I have not seen that list, but I will seek it, because, if this hospital is not on the top of the list, I will want to know why not.

MEMBER FOR BRAGG

Mr KOUTSANTONIS (West Torrens): I have been informed of a bit of turmoil that is occurring opposite. From the advice that has been given to me by a very close friend in the legal profession, it seems to me that the member for Bragg is looking for another career. I am not sure how true this is. I have heard that there is a vacancy in the Family Court.

The Hon. Dean Brown: You are a despicable pig.

Mr KOUTSANTONIS: Madam Acting Speaker, I ask the deputy leader to withdraw that as a racist remark. You are a racist. Withdraw it.

Members interjecting:

The ACTING SPEAKER (Ms Thompson): The comment was unparliamentary and I ask that it be withdrawn.

The Hon. DEAN BROWN: I am not quite sure what you are objecting to, Madam Acting Speaker.

Mr Koutsantonis: The word 'pig'.

The Hon. DEAN BROWN: I will withdraw the statement, but I point out that the honourable member is simply using the protection of this house for scuttlebutt, for which he has no basis whatsoever. He has a reputation for that in this house.

The ACTING SPEAKER: Order! That is a sufficient withdrawal. The member for West Torrens.

Mr KOUTSANTONIS: I am stunned at the remarks of the deputy leader.

An honourable member: The glass jaw.

Mr KOUTSANTONIS: The glass jaw of the deputy leader, given that he sends out his attack dog in the upper house to attack not members of this house but staff and people who are in relationships. So take a look at yourself first, you fool. You fool!

The ACTING SPEAKER: Order!

Mr KOUTSANTONIS: I have been reliably informed that the member for Bragg is seeking alternative employment. After the effort that the member for Finniss made to get his protege into this house, it seems that there might be a by-election in the wind. I wonder what will be the cost of a by-election to the good people of this state and how the electors of Bragg will feel about having their newly appointed, from head office, super, rising star withdraw to the Family Court.

Ms Bedford interjecting:

Mr KOUTSANTONIS: No, you wouldn't brag about it, would you! The Liberal Party is in turmoil. They are not sure who will replace the current leader. Some are looking to the failed policies of the former leader, the man who could not run a budget, the man who could not run the health system and who left people waiting in corridors to be looked after in our public hospitals. The back to the future option is not being discussed as much as it used to be, and the member for Davenport is now gaining ground. I am stunned that the member for Finniss, the deputy leader, is so outraged about my raising this matter. I have not attacked anyone personally. I have not criticised their appointment or conduct, but the attack dog of the member for Finniss in the upper house gets up regularly and attacks not only unelected people who work for the government but also people's personal relationships. The deputy leader condones that. He sits in silence now, not saying a word. He is aware of his own hypocrisy. This is the hypocrisy of the former failed premier, the only man who could win 37 seats—

Mr MEIER: On a point of order, Madam Acting Speaker, when the member opposite says that the deputy is sitting there and not saying anything, obviously that is because he does not have the call and is not allowed to say anything. The member opposite well knows that.

The ACTING SPEAKER: Order! There is no point of order. The honourable member will resume his seat.

Mr KOUTSANTONIS: I am stunned that my words send shivers down the spines of the two jellybacks opposite. You sit and look at the future of the Liberal Party: a former failed premier and a man who has aspired to Government Whip—the future of the party! What do they do as a constructive opposition? They attack people who are not in this house. They attack people who are not elected members of parliament. They attack people in relationships and their family members. That is the height of hypocrisy of members opposite.

The interesting question is: why does the member for Bragg want to leave parliament? Why is she seeking alternative employment? Is it because she is unloved? Is it because it is all too much for her, or is it because her leadership ambitions have been quashed? I would like an answer from members opposite. Which one is it?

Ms Bedford: Maybe she hasn't got the ticker.

Mr KOUTSANTONIS: Maybe she does not have the ticker for the job. Maybe she cannot cope with the pressures of high office. She has risen to the dizzy heights of a shadow spokesperson.

Time expired.

STATUTES AMENDMENT (WATER CONSERVATION PRACTICES) BILL

The Hon. J.D. HILL (Minister for Environment and Conservation) obtained leave and introduced a bill for an act to amend the Water Resources Act 1997 and the Waterworks Act 1932. Read a first time.

The Hon. J.D. HILL: 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.

It is well known that South Australia is the driest State in the driest inhabited continent on Earth. It goes without saying that the sustainable use and management of water is critical to the State's development and prosperity, our social well being, and the conservation of natural ecosystems and wildlife.

In recognition of this, successive Governments have supported, through legislation, systems for the management of the State's water resources, which require the use of caution and safeguards to minimise the detrimental effects of water use and its management. However, while there are legislative provisions to restrict water use in certain circumstances, there are limited powers to ensure that water is used wisely.

Despite Australia currently experiencing one of the worst droughts in recorded history, there have not been widespread water restrictions in South Australia. This has been due to the State's conservative approach to allocation of water and the provisions of the Murray Darling Basin Agreement, which ensure that South Australia receives an entitlement flow of water from the River Murray, except under extreme conditions.

South Australia's Entitlement Flow from the River Murray is 1 850 Gigalitres per annum. However, the median flow received is approximately 4 850 Gigalitres per annum.

South Australia has been receiving only the Entitlement Flow since December 2001, resulting in reduced volumes of water (compared to the median annual flows) being available for the river and lake systems in the State. The most striking impact of this has been the significant restriction of flow through the Murray Mouth. It is only through action taken to dredge the Murray Mouth that has prevented its closure. South Australia now faces a real risk of not receiving even its entitlement flow in the coming water year.

In view of the high level of uncertainty attached to water resource availability in 2003/2004, a range of options to manage low flows and the impact on water quality, quantity and water levels are currently being examined.

On the basis of these considerations, the Government has now announced its intention to impose restrictions on the amount of water diverted from the River Murray using section 16 of the *Water Resources Act 1997*. These restrictions will also impact on the amount of water taken from the River by SA Water, which will in turn limit SA Water's ability to supply its customers at current levels of use.

The Government has also initiated the Waterproofing Adelaide study aimed at determining longer-term solutions for reducing Adelaide's dependence on water sources such as the River Murray.

Importantly, it is the responsibility of all people in this state to value our water resources and use them wisely. The current circumstances in the River Murray and other water storages in South Australia serve to highlight the need for sustainable use of the water resources. However, this Bill is not targeted only at management in drought conditions but seeks to generally ensure that water use in the State is based on sound water conservation practices.

The Bill establishes and clarifies the legislative basis on which controls may be placed on the quantity of water that can be taken and used, the purposes for which water can be used, and the manner in which, or the means by which, the water may be used. These 'regulated use controls' target the conservation of high waste and non–critical water use, and may include restrictions on use in times when water availability is low. For example, the controls may restrict the watering of gardens in the heat of the day, and the hosing down of paved areas in all but emergency situations.

Regulated use controls may comprise both temporary or short term controls, put in place from time to time to respond to changing conditions, and permanent or base-line controls which will reflect the need for certain minimum levels of water conservation practices to be met at all times.

This Bill proposes an amendment to *Water Resources Act 1997* to provide the head power to ensure that regulated use controls may be established for all water users in the State. The *Waterworks Act 1932* effectively only applies to the customers of SA Water.

Section 33A together with section 10 of the *Waterworks Act 1932* provide the power to introduce certain controls for SA Water customers.

Section 10 of the *Waterworks Act 1932* gives powers to the Governor to make regulations under the Act and includes a list of purposes for which regulations may be contemplated. Amongst the purposes is clause XI which states '*. . . the Governor may make regulations—for preventing the waste or misuse of water, whether supplied by meter or otherwise*'. While it could be argued that section 10 currently has the flexibility to allow regulations to be

made for any purpose of relevance to the Act it is considered desirable to add an additional clause specifically to ensure that regulations may be made for the purposes of '*water conservation*'.

The legislative option has been chosen because while an education program and voluntary controls may achieve some short-term changes to water use practices, based on interstate experience, these changes are unlikely to be sustained over time. Nor does the voluntary option achieve the levels of reduction that regulated use controls are able to produce.

In addition to regulated use controls, an effective and practical management response to achieve water 'savings' in the short term is to place restrictions on the amount of water taken for use. The power to do this is found in the *Water Resources Act 1997* under section 16 and, to some extent, in the *Waterworks Act 1932* under section 33.

In the context of the need to place restrictions on taking water from the River Murray, utilising section 16 of the *Water Resources Act 1997*, it has become apparent that the full range of penalties available under the *Water Resources Act 1997* may not be applied for contravention of a section 16 notice of restriction. For example, the ability to apply financial penalties (set each year) for overuse of water is not available for transgression of section 16 notices of restriction. This Bill, therefore, contains an additional amendments to section 132 of the *Water Resources Act 1997* to provide for financial penalties to be applied in relation to contravention of a section 16 notice of restriction.

Section 33 of the *Waterworks Act 1932* may be limited in its application in contemporary circumstances due to the inclusion of a threshold condition that is required prior to the powers of the section being invoked, namely that the '*quantity of water stored in any reservoir has been diminished to such an extent as to render it necessary or expedient in the opinion of the Corporation to lessen the quantity of water supplied*'. The lack of a definition of *reservoir* within the Act reflects the age of the statute, predating as it does the construction of pipelines from the River Murray to supplement the water supply to Adelaide. A literal interpretation of the current *Waterworks Act 1932* may preclude the powers of section 33 being used except in extreme situations where water cannot be supplemented with River Murray supplies. This limits the flexibility of SA Water to use the powers in any situation where a water supply is threatened whether it is a reservoir, river or groundwater supply and irrespective of whether it can be readily supplemented from another source or not. The Bill, therefore, proposes an amendment to section 33 of the *Waterworks Act 1932* to provide a broader threshold that allows consideration of the state of a water supply source separate from any other related sources.

The introduction of regulated use controls, provided by the Bill, will have a positive impact on the environment by ensuring that water use is underpinned by conservation practices, and wasteful and inefficient water use is discouraged. This will also ensure that our State's precious water resources are used to their best effect for human use, the environment and economic development. All sections of the South Australian community will be able to play a part in the conservation of this essential and valuable natural resource. In addition, a community education and information strategy will be developed which will be run in harmony with drought related strategies for the River Murray and the Water Proofing Adelaide study.

The Bill provides that regulated use controls which would be more permanent in nature would be prescribed by regulation. In situations involving a water shortage, the Minister would be able to act by notice issued in the *Gazette* and an advertisement in a newspaper generally circulating throughout the State. This scheme is similar to the scheme presently applying under the *Waterworks Act 1932* with respect to SA Water's customers, and the use of regulations would enliven coordination through the Cabinet process.

The Bill makes it an offence to not comply with a regulated use control requirement. It establishes an appropriate penalty for non-compliance that is consistent in both relevant Acts. The maximum penalty will be $5 000 for natural persons and $10 000 for bodies corporate.

The Bill also provides for expiation notices to be issued by authorised officers for people who fail to comply with the requirements established by the legislation. The expiation fee will be $315.

I commend this bill to honourable members.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Amendment provisions

An amendment under a heading specifying a particular Act amends the Act so specified.

Clause 3: Amendment of section 16—Restrictions relating to the taking of water

These amendments relate to the imposition of restrictions or prohibitions with respect to the taking of water. An amendment will provide that the Minister can act if the Minister is of the opinion that the quantity of water available, or likely to be available, in a watercourse, lake or well is such that measures should be imposed so as to provide for the conservation or efficient use or management of water. It will now be possible to issue expiation notices under the section.

Clause 4: Insertion of Part 4 Division 1A

The Governor will be able to introduce water conservation practices by regulation under proposed new section 17A. The Minister will also be able to act on the basis of a determination that it is necessary to address a situation that may affect the quantity of available water in particular circumstances.

Clause 5: Amendment of section 132—Declaration of penalty in relation to the unauthorised or unlawful taking or use of water

The Minister will be able to use the penalty system under section 132 of the Act to support the measures promulgated under section 16.

Clause 6: Amendment of section 10—Regulations

These amendments will allow measures for the control of the use of water to be introduced by regulations under the Act.

Clause 7: Amendment of section 33—Power to lessen or discontinue supply

Section 33 is currently limited in its operations to situations where a reduction in water has occurred in a reservoir. This is to be revised.

Clause 8: Amendment of section 33A—Restrictions on the use of water

These amendments will ensure that the powers of the Corporation in relation to the conservation or efficient use or management of water can be consistent with the scheme under the *Water Resources Act 1997*.

Clause 9: Amendment of section 35A—Reduction in water supply to cope with demand

Clause 10: Amendment of section 43—Interfering with or by-passing meter

These amendments ensure consistency with the other penalties that are to apply in relation to the conservation or use or management of water under the Act.

Mr MEIER secured the adjournment of the debate.

SHOP TRADING HOURS (MISCELLANEOUS) AMENDMENT BILL 2003

The Hon. M.J. WRIGHT (Minister for Industrial Relations) obtained leave and introduced a bill for an act to amend the Shop Trading Hours Act 1977 and to make related amendments to the Retail and Commercial Leases Act 1992. Read a first time.

The Hon. M.J. WRIGHT: 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 government is committed to introducing more flexibility for consumers in relation to the times that shops can open in South Australia.

The government's position has been shaped by:

- the election commitment not to fully deregulate;
- providing a balanced package of reforms;
- listening to the concerns of the stakeholders; and
- safeguarding competition policy payments whilst acting in the best interests of the South Australian community.

The government showed its commitment to reform in this area with the introduction of a Bill that provided a moderate package of reforms in August 2002. That Bill was defeated in the Legislative Council.

At the time I stated that the government was committed to achieving an outcome for shop trading reform in South Australia and indicated that the government would try again to deliver greater

flexibility so that families can shop together and up to $54 million in competition policy payments can be safeguarded.

The *Shop Trading Hours Miscellaneous (Amendment) Bill 2003* demonstrates the government's commitment to resolving this issue.

Sunday Trading

The Bill provides that Sunday trading for non-exempt stores in the metropolitan area will be introduced from the commencement of daylight saving this year.

Sunday trading will be available on the same terms as the Central Business District and the Glenelg Tourist Precinct. That is from 11 a.m. to 5 p.m.

The Bill also provides for:

- an extension of week-night trading within the wider metropolitan area to 9 p.m.;
- the implementation of a "prohibition notice" regime for breaches of the Act. Additionally, penalties for a range of other offences in the Act, such as hindering an inspector in an investigation, are increased;
- outmoded and irrelevant definitions to be removed from the Act. For example the definition which seeks to use employee numbers as a measure to decide if an exemption is warranted [s4], is identified as inappropriate and can be seen to limit employment within the sector and has been removed. Similarly, s15(1)a, which allows a "shop keeper of a shop situated in a shopping district outside the metropolitan area" to sell goods to a person "who resides at least 8 kilometres from the shop", provides a loophole within the Act that is virtually impossible to enforce and has been removed;
- the current complex system of exemptions contained within the Act to be streamlined and criteria applied for assessing applications;
- exemption powers to be moved from the Governor to the Minister;
- the implementation of the recent practice in relation to Easter trading to be made permanent in the Greater Adelaide area by the legislation, by making Easter Saturday a trading day for non-exempt stores and prohibiting trading on Easter Sunday for non-exempt stores;
- the Act to be reviewed in 3 years.
- complementary changes to the *Retail and Commercial Leases Act 1995* which will reduce core hours to 54 hours, and provide that core hours cannot be on Sundays. Existing voting arrangements for the determination of core hours are to be retained; and
- amendments that enhance the existing provisions, consistent with the approach taken for tenants, with the aim of ensuring that Sunday work is voluntary from employees.

The Bill has been developed after consultation with stakeholders.

It is not proposed to alter the existing trading hours for country areas. Those arrangements allow country areas to determine their own trading hours through a democratic process.

This government has heard and taken account of the views of all contributors to the debate on shop trading hours. This Bill represents a balance of the needs of all stakeholders and I commend it to the House.

Explanation of Clauses

Part 1—Preliminary

Clause 1: Short title

Clause 2: Commencement

Clause 3: Amendment Provisions

These clauses are formal.

Part 2—Amendment of Shop Trading Hours Act 1977

Clause 4: Amendment of section 4—Interpretation

This clause amends section 4 of the principal Act—

- to remove any requirements in the definition of "exempt shop" relating to the number of persons employed in a shop;
- to remove from that definition the paragraph relating to shops having a Ministerial certificate of exemption (consequentially to the proposed substitution of section 5 of the principal Act discussed below);
- to insert a definition of the "Greater Adelaide Shopping District";
- to remove the definition of "normal trading hours" (which will no longer be used).

Clause 5: Substitution of section 5

This clause repeals section 5 (which empowers the Minister to issue certificates of exemption to shopkeepers) and substitutes new provisions as follows:

5. Exemptions

This clause gives the Minister power to grant or declare exemptions from the operation of the Act, or specified provisions of the Act. An exemption may relate to a specified shop or class of shops or to shops generally. This power is, however, subject to the following limitations:

- An exemption that relates to a class of shops or shops generally or that applies generally throughout the State or to a specified shopping district or part of a specified shopping district, cannot operate in respect of a period greater than 14 days (unless, in the case of an exemption granted in respect of a particular shopping district or part of a shopping district, the Minister is satisfied that a majority of interested persons desire the exemption to be declared for a period greater than 14 days (or indefinitely) and gives a certificate to that effect or the exemption relates to a group of shops in respect of which each shopkeeper has made a separate application for the exemption or the regulations prescribe circumstances in which the exemption need not be limited to 14 days).
- An exemption cannot enable all shops, or a majority of shops, in the Metropolitan Shopping District to open pursuant to the exemption.
- An exemption cannot operate in a manner contrary to a Ministerial notice under section 5A.
- An exemption cannot operate with respect to section 13A.

The clause also sets out matters the Minister is to have regard to in considering an application for an exemption and provides for the imposition of conditions on the exemption and for the variation of revocation of exemptions or conditions. Failure to comply with a condition is an offence with a maximum penalty of $100 000.

5A. Requirement to close shops

This clause gives the Minister power to issue Ministerial notices requiring the closing of a specified shop or class of shops or shops generally over a period not exceeding 14 days. Such a notice may be varied or revoked by subsequent notice. Contravention of a notice is an offence punishable by a maximum fine of $100 000.

Clause 6: Amendment of section 6—Application of Act

This clause is consequential to new section 5.

Clause 7: Amendment of section 8—Powers of Inspectors

This clause amends the powers of inspectors under the Act to clarify those powers and to make them correspond more closely with inspectors powers under other legislation. The penalty for failing to comply with the requirements of an inspector is increased to $25 000 and the offence has been broadened (consistently with other legislation) to encompass hindering or obstructing an inspector or using abusive or threatening language.

Clause 8: Amendment of section 9—Inspector not to have an interest, etc.

This clause increases the penalty in section 9 of the Act (which requires inspectors to disclose financial interests) from $500 to $5 000.

Clause 9: Substitution of section 10

This clause substitutes a new provision protecting inspectors from liability consistently with the protection given to inspectors or officers under other legislation.

Clause 10: Amendment of section 11—Proclaimed Shopping Districts

This clause is consequential to the introduction of a definition of "the Greater Adelaide Shopping District".

Clause 11: Amendment of section 13—Hours during which shops may be open

This clause amends section 13 of the Act to remove the proclamation making power under that section, to alter the trading hours for the Metropolitan Shopping District, to allow motor vehicle traders to trade until 5 p.m. on a Saturday (without the need for a proclamation) and to make various minor consequential amendments.

Proposed subclause (2) deals with the new shopping hours for the Metropolitan Shopping District. Under the proposed changes shops in this District will be able to open—

- until 9 p.m. on every weekday; and
- until 5 p.m. on a Saturday; and
- from 11 a.m. to 5 p.m. on each Sunday from the commencement of Daylight Saving at the end of 2003.

Clause 12: Amendment of section 13A—Restrictions relating to Sunday trading

This clause extends the current restrictions applying to Sunday trading in the Central Shopping District and the Glenelg Tourist Precinct to Sunday trading in the Metropolitan Shopping District.

Clause 13: Amendment of section 14—Offences

This clause increases the maximum penalties in section 14 of the Act from $10 000 to $100 000, and adds a defence to such offences, consequentially to the introduction of exemptions under proposed new section 5.

Clause 14: Amendment of section 14A—Advertising

This clause increases the maximum penalty in section 14A of the Act from $10 000 to $100 000.

Clause 15: Amendment of section 15—Certain sales lawful

This clause amends section 15 of the Act to remove the exemption for shops situated outside the metropolitan area selling goods to persons who reside at least 8 km from the shop.

Clause 16: Amendment of section 16—Prescribed goods

This clause increases the maximum penalty in section 16 of the Act from $10 000 to $100 000.

Clause 17: Insertion of sections 17A and 17B

This clause inserts new provisions as follows:

17A. Prohibition notices

If the Minister believes, on reasonable grounds, that a person has contravened the Act in circumstances that make it likely that the contravention will be repeated, the Minister may issue a notice requiring the person to refrain from a specified act, or course of action.

Contravention of a notice is an offence punishable by a maximum penalty of $100 000 plus $20 000 for each day on which the offence is committed.

A person to whom a notice is directed may, within 14 days, appeal to the Administrative and Disciplinary Division of the District Court.

17B. Power of delegation

This clause inserts a power for the Minister to delegate functions and powers under the Act.

Clause 18: Amendment of section 18—Procedures

This clause inserts an evidentiary provision relating to the measurement of the floor area of a shop.

Clause 19: Amendment of section 19—Regulations

This clause inserts a regulation making power dealing with the service of notices under the Act (consequentially to other changes included in the measure) and increases the maximum penalty that may be set for contravention of a regulation from $500 to $10 000.

Schedule

It is proposed to amend section 61 of the *Retail and Commercial Leases Act 1995* to set a maximum of 54 hours as core trading hours in retail shop leases relating to shops in enclosed shopping complexes. Core trading hours cannot include any time on a Sunday. It is also proposed to initiate a review of the *Shop Trading Hours Act 1977* (as amended by this Act) after a period of 3 years.

Mr MEIER secured the adjournment of the debate.

GAMING MACHINES (ROOSTERS CLUB INCORPORATED LICENCE) AMENDMENT BILL

The Hon. J.W. WEATHERILL (Minister for Gambling) obtained leave and introduced a bill for an act to amend the Gaming Machines Act 1992. Read a first time.

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

That this bill be now read a second time.

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

Leave granted.

This Bill seeks to amend the *Gaming Machines Act 1992* to permit the Roosters Club to continue to operate in its present location for a further 12 months while it finds an alternative site for its gaming machine operations.

Following application to the Liquor and Gambling Commissioner, the Roosters Club was granted approval, on 7 January 2002, to move its gaming machine licence to premises at 255 Main North Road, Sefton Park. The Roosters Club commenced operations at this location on 23 October 2002.

Subsequent decisions of the Supreme Court, following legal action initiated by the Northern Tavern Pty Ltd have pronounced the grant of the licence to the Roosters Club to be void. The Court considered the granting of this licence was in breach of Section 15A of the *Gaming Machines Act* which prohibits granting of a licence under the same roof as a shop or within the boundaries of a shopping complex.

While the Roosters Club had indicated its intention to seek leave to appeal to the High Court on this issue the Supreme Court last week ruled it could not grant a stay of proceedings and the Roosters Club is now without a gaming machine licence.

This is a complex and difficult position for the Government.

It is not desirable to introduce specific legislation to assist individual parties, particularly following adverse court decisions, nor is it the desire of the Government to provide for more gaming venues to operate within shopping areas.

This outcome preserves the ban on additional gaming machine venues in shopping centres but gives the opportunity for the Roosters club to continue to operate while it finds alternative suitable premises.

I stress that this is considered a special case and no other gaming machine licensee should expect similar action should the Court find that its licence has been invalidly issued. The Supreme Court has ruled on this matter and other gaming machine licensees should be fully aware of this decision.

The Government however recognises the special circumstances of the Roosters Club. It is the first venue on which the shopping centre provision has been substantially tested. A licence was granted by the Liquor and Gambling Commissioner and that decision was subsequently upheld by the Licensing Court. The Chief Justice considered that the Club acted reasonably in acting as it did.

I also note the representations made by the club about its reliance on gaming machine revenue to meet its financial commitments and the support that the Club provides to the community.

Under the provisions of this Bill the Roosters Club can continue to operate its gaming machine business in the premises at 255 Main North Road, Sefton Park until 31 May 2004. Prior to that date the Roosters Club would need to transfer the licence to an alternative suitable location. That new location would be required to meet all provisions of the *Gaming Machines Act*, including the shopping centre provision.

If the Club has not moved premises by 31 May 2004 the Roosters Club gaming machine licence will be suspended.

Clubs licensed to operate gaming machines have raised a range of other broader issues with respect to gaming machine operations within the club industry. These issues are the subject of the current Independent Gambling Authority *Inquiry into the Management of Gaming Machine Numbers* and the Government will consider these issues once it has received the report of that inquiry—expected September 2003.

I commend the bill to the house.

Explanation of Clauses

Part 1—Preliminary

Clause 1: Short title

Clause 2: Amendment provisions

These clauses are formal.

Part 2—Amendment of Gaming Machines Act 1992

Clause 3: Amendment of heading to schedule 1

Schedule 1—Gaming machine licence conditions

Clause 4: Amendment of heading to schedule 2

Schedule 2—Gaming machine monitor licence conditions

These amendments are of a statute law revision nature only.

Clause 5: Insertion of schedule 3

Schedule 3—Special provision for licence for Roosters Club Incorporated

The gaming machine licence purportedly granted to The Roosters Club Incorporated in respect of premises at 255 Main North Road, Sefton Park, is deemed to have been validly granted despite section 15A of the Act.

If the licence has not previously been surrendered, or otherwise ceased to be in force, by 31 May 2004, it is deemed to be suspended on and from that date, but may subsequently be surrendered, if necessary, to enable the Club to take advantage of section 14A(2)*(b)*.

The new schedule will expire on a day to be fixed by proclamation.

Mr BROKENSHIRE secured the adjournment of the debate.

STANDING ORDERS SUSPENSION

The Hon. J.W. WEATHERILL (Minister for Urban Development and Planning): I move:

That standing orders be so far suspended as to enable the Shop Trading Hours (Miscellaneous) Amendment Bill and the Gaming

Machines (Roosters Club Incorporated Licence) Amendment Bill to pass through all stages without delay.

The ACTING SPEAKER (Ms Thompson): As a quorum is not present, ring the bells.

A quorum having been formed:

The SPEAKER: Is the motion seconded?

An honourable member: Yes, sir.

The SPEAKER: Then I put the question. Those of that opinion, say aye, against no.

An honourable member: No.

The SPEAKER: There being a dissentient voice, there must be a division. Ring the bells.

The house divided on the motion:

While the division bells were ringing:

The SPEAKER: The member, covered, seeks the attention of the chair.

Mrs REDMOND: Sir, I apologise. Can I withdraw that vote of 'no' on the motion.

The SPEAKER: The call of 'no' is withdrawn. There being no dissentient voice, the motion for suspension is agreed to.

Motion carried.

GAMING MACHINES (ROOSTERS CLUB INCORPORATED LICENCE) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion.)

Mr WILLIAMS: Sir, I rise on a point of order. We have just had the extraordinary event where the government has introduced a bill, and now it has suspended standing orders and wants to go straight into the second reading debate on that bill. I think the minister sought leave to have his second reading explanation inserted in *Hansard* without his reading it. I am not too sure if the chair asked the house whether it would give that leave. We also have the extraordinary circumstance where opposition members have not even been provided with a copy of that second reading explanation, and the minister is now expecting us to debate the issue. Mr Speaker, I ask that the members of the opposition at least have some time to consider the minister's second reading explanation.

The SPEAKER: The member for MacKillop has the remedy in his hands—or, indeed, it is in the hands of the house, more especially—namely, that if they do not agree that the resumption of the debate ought to occur they can take the matter to a division and see whether the house agrees with that view.

Notwithstanding my explanation to the member for MacKillop, can I make this observation to the house—especially for ministers: the practice that has grown up over the last 20 years of introducing legislation and incorporating the whole of the second reading explanation in *Hansard* without reading it, to my mind, and in my personal experience, has meant that on many occasions ministers have not read that explanation and, accordingly, do not understand it. More importantly, they often send to *Hansard* a copy of a speech that they never intended to make, and have that incorporated in the record, only to beg the indulgence of the chair and *Hansard* to remove that copy, with a view to replacing it with another. That is an abuse of the process of the house, and it has occurred more than once over the last decade.

Having made that observation, for the benefit of honourable members, I further explain that it does deny any honourable member, regardless of whether or not they belong to a party, the chance to understand what the minister and the government would have us believe are the real reasons for the proposition being put and the explanation provided for the change in the law that is being proposed. The solution to the problem is in the hands of the house, and its standing in the public's eyes, in my judgment, will be determined by the way in which the public perceives the practices in which the house engages. Having said all that, does the member for MacKillop still have a point of order?

Mr WILLIAMS: No, but I would seek your guidance, sir. I ask if you would accept a motion from me that the house calls upon the minister to read his second reading explanation into *Hansard.*

The SPEAKER: That has all happened. For the benefit of all honourable members, not the least the member for MacKillop, if a minister seeks leave to incorporate a second reading explanation in *Hansard* without reading it, any member may call 'no' and the minister does not get leave. The minister must then give the explanation, so far as the minister believes it is necessary to do so. The minister, I see, in this instance, is willing to provide an explanation of the proposition to the house in order that the house can understand it, and that may be the simplest course of action to follow. However, the house has decided, and it would involve the house in a process of rescinding the leave by a proposition to withdraw leave retrospectively.

Mr WILLIAMS: I understand that the minister intends to now proceed to read his second reading explanation.

The SPEAKER: The minister cannot do that unless the house decides to do so by putting an appropriate motion.

The Hon. P.F. CONLON (Minister for Government Enterprises): I move:

That the leave granted by the house to the minister to insert the second reading explanation be rescinded.

The SPEAKER: Is the motion seconded?

An honourable member: Yes, sir.

The SPEAKER: There being an absolute number of the whole number of members of the house present, I will put the motion. Those of that opinion say aye, against no. There being no dissentient voice, the motion is agreed to, and the minister may now proceed—indeed, is required to proceed—to give the second reading explanation of the measure.

Motion carried.

Mr BRINDAL: Mr Speaker, I was a bit muddled. Do I understand that you just said that, if a bill comes before the house, it is still possible, under our current standing orders, to have the second reading explanation incorporated in *Hansard* without its being read, despite the fact that the house is then debating the bill and has not had any explanation? I am just asking whether that is the point that you made?

The SPEAKER: Indeed, that is the case. The decision is always in the hands of the house. I can tell the member for Unley that, at that point, unless some prior discussion has occurred in the lobbies, members of the house may not know of the intention of the government to seek to suspend standing orders. Any such suspension, of course, is at the discretion of the house and does not automatically pass. Indeed, if there is a dissenting voice, as the member for Unley has just witnessed, there must be a division. There was not, in any circumstance, at the time that leave was sought to incorporate the second reading. Leave was granted because no member called against leave being granted.

By way of explanation of what has transpired, let me summarise simply. If a bill comes into the house and the house agrees to allow the minister to incorporate the second reading speech and the explanation of the clauses without reading it, the minister may proceed to do so. Beyond that point, the minister, or the leader of the house, may move that the house proceed through all stages of the legislation forthwith, after having moved and successfully obtained a suspension of standing orders to enable that course of action to be followed, because standing orders would otherwise require the debate to be adjourned for at least a day. The government's having done that, the matter must proceed, and the house will be dealing with the measure blind of the government's intention, since no speech would be available to it in the *Hansard* record. With that clarification, I invite the minister to give his second reading explanation.

The Hon. J.W. WEATHERILL (Minister for Gambling): Thank you, Mr Speaker. No discourtesy was intended to members of the house. I understood that the material that had been provided to certain representatives of those opposite would have been distributed more broadly, but we are more than happy to supply this information.

This bill seeks to amend the Gaming Machines Act 1992 to permit the Roosters Club to continue to operate in its present location for a further 12 months while it finds an alternative site for its gaming machine operations. Following application to the Liquor and Gambling Commissioner, the Roosters Club was granted approval on 7 January 2002 to move its gaming machine licence to premises at 255 Main North Road, Sefton Park. The Roosters Club commenced operations at this location on 23 October 2002.

Subsequent decisions of the Supreme Court, following legal action initiated by the Northern Tavern Pty Ltd, have pronounced the grant of the licence to the Roosters Club to be void. The court considered that the granting of this licence was in breach of section 15A of the Gaming Machines Act, which prohibits granting of a licence under the same roof as a shop or within the boundaries of a shopping complex. While the Roosters Club has indicated its intention to seek leave to appeal to the High Court on this issue, the Supreme Court last week ruled that it could not grant a stay of proceedings, and the Roosters Club is now without a gaming machine licence.

This is a complex and difficult position for the government. It is not desirable to introduce specific legislation to assist parties, particularly following adverse court decisions, nor is it the desire of the government to provide for more gaming venues to operate within shopping areas. This outcome preserves the ban on additional gaming machine venues in shopping centres but gives the opportunity for the Roosters Club to continue to operate while it finds alternative suitable premises.

I stress that this is considered to be a special case, and no other gaming machine licensee should expect similar action should the court find that its licence has been invalidly issued. The Supreme Court has ruled on this matter, and other gaming machine licensees should be fully aware of this decision. However, the government recognises the special circumstances of the Roosters Club. It is the first venue on which the shopping centre provision has been substantially tested in a higher court. A licence was granted by the Liquor and Gambling Commissioner, and that decision was subsequently upheld by the Licensing Court.

The SPEAKER: I ask the Minister for Transport to acknowledge the chair and depart the chamber rather than discuss matters across the gallery. The minister.

The Hon. J.W. WEATHERILL: The Chief Justice considered that the club acted reasonably in acting as it did. I also note the representations made by the club about its reliance on gaming machine revenue to meet its financial commitments and the support the club provides to the community.

Under the provisions of this bill, the Roosters Club can continue to operate its gaming machine business in the premises at 255 Main North Road, Sefton Park, until 31 May 2004. Prior to that date, the Roosters Club would need to transfer the licence to an alternative suitable location. That new location would be required to meet all provisions of the Gaming Machines Act, including the shopping centre provision. If the club has not moved premises by 31 May 2004, the Roosters Club gaming machine licence will be suspended.

Clubs licensed to operate gaming machines have raised a range of other broader issues with respect to gaming machine operations within the club industry. These issues are the subject of the current Independent Gambling Authority inquiry into the management of gaming machine numbers, and the government will consider these issues once it has received the report of that inquiry, which is expected in September 2003. I commend the bill to the house. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

The SPEAKER: Leave is sought for the explanation of the clauses to be inserted in *Hansard* without the minister reading it. Is leave granted?

An honourable member: No.

The SPEAKER: Leave is not granted. The minister.

The Hon. J.W. WEATHERILL: The explanation of clauses is as follows:

Part 1—Preliminary

Clause 1: Short title

Clause 2: Amendment provisions

These clauses are formal.

Part 2—Amendment of Gaming Machines Act 1992

Clause 3: Amendment of heading to schedule 1

Schedule 1—Gaming machine licence conditions

Clause 4: Amendment of heading to schedule 2

Schedule 2—Gaming machine monitor licence conditions

These amendments are of a statute law revision nature only.

Clause 5: Insertion of schedule 3

Schedule 3—Special provision for licence for Roosters Club Incorporated

The gaming machine licence purportedly granted to The Roosters Club Incorporated in respect of premises at 255 Main North Road, Sefton Park, is deemed to have been validly granted despite section 15A of the Act.

If the licence has not previously been surrendered, or otherwise ceased to be in force, by 31 May 2004, it is deemed to be suspended on and from that date, but may subsequently be surrendered, if necessary, to enable the Club to take advantage of section 14A(2)*(b)*.

The new schedule will expire on a day to be fixed by proclamation.

The SPEAKER: For the benefit of the opposition, unless someone else in the house wishes to make some remark in response to the second reading speech, I will put the question and we will proceed to the committee stage forthwith. The Minister for Tourism.

The Hon. J.D. LOMAX-SMITH (Minister for Tourism): Thank you, Mr Speaker. I rise—

Mr BROKENSHIRE (Mawson): I was already standing.

The SPEAKER: When one member sits down, if another member wishes to speak, in every Westminster parliament I have been in, the Speaker recognises someone from the opposite side if they rise. However, if no-one rises, the Speaker looks to the other side and recognises the person first seen on their feet to get the call. In this case, I say to all members of the opposition that, the moment the minister sits, one of the members of the opposition, if they wish to speak, should be rising to take the call. The member for Mawson.

Mr BROKENSHIRE (Mawson): Sir, I accept your ruling but, in clarification, I did rise, although I acknowledge that I may not be in as bright attire as that of the member opposite. I will talk directly about the bright attire of the member opposite. I am disappointed to see that cheap, political point scoring is going on in relation to what is a difficult and extraordinary issue. In the years I have been in this house, I cannot recall such an extraordinary bill as this coming before the parliament. In fact, I would challenge the government to point to such a bill ever being introduced in the history of this state.

The opposition has agreed to debate this bill at short notice because of extraordinary circumstances that have put organisations in very difficult circumstances. I refer not only to the club concerned (the Roosters Club) but also to the Northern Tavern (and the ramifications thereon), which has operated in that particular area for 30 years. I highlight to the parliament that, in his second reading explanation, the minister said that, as a result of the circumstances around the introduction of this bill today, the Roosters Club is currently trading without a gaming machine licence.

In itself, that is quite extraordinary. In fact, I know that letters have been sent to the minister, the Attorney-General, the Independent Gambling Authority, the liquor and gambling commissioner, and quite a few others, pointing out that there are no licensing provisions at law to allow the operation to occur. However, not one of those entities (including the Attorney-General) has responded to that letter indicating that they are trading technically illegally at this time.

The second reading explanation stated that this is a complex and difficult position for the government. It is a complex and difficult position for the parliament, for the people who own the tavern and for those who own the Roosters Club. From my understanding of the court cases and appeals, primarily it has come about as a result of some very ordinary work by some of the agencies. I hope that we do not see government agencies working in this way ever again.

As shadow minister, having been the minister for gambling, I point out that I am not saying that the present minister has the ultimate responsibility, because some of the responsibilities are divided amongst other government departments. Notwithstanding that, from my understanding, at the end of the day it is this government, via its agencies (and I challenge anyone to say that I am wrong) that has caused the major concerns, the angst, the media coverage, and the huge costs and the imposts on businesses going about their lawful duties, because of the inadequacies of the government agencies. In due course, I will seek some indication from the government as to what it intends to do about these matters in relation to these agencies and their incompetence from day one that has caused a lot of this concern.

The second reading explanation states that it is not desirable to introduce specific legislation to assist individual parties, particularly following 'adverse court decisions', nor is it the desire of the government to provide for more gaming venues to operate within shopping areas. It continues as follows:

> The outcomes preserve the ban on additional gaming machine venues in shopping centres, but gives the opportunity for the Roosters Club to continue to operate while it finds alternative suitable premises.

Indeed, under this bill the club has, at the latest, until 31 May 2004 to find alternative premises. Clearly, the second reading explanation states that, if any other organisation is in a situation where things have not been worked through properly in relation to government agencies and licensing, those organisations will not have the same opportunity as this bill allows the Roosters Club.

I now want to highlight another point that I wish to go into *Hansard*. Until recently, issues such as gaming, illicit drugs, euthanasia, prostitution, and so on, have always involved conscience votes. This is the second bill to come before this parliament in recent times where the government—again in an unprecedented way—has moved en bloc; therefore, it does not have a situation where its members can exercise a conscience vote. I believe it is also of great concern in the long term for this state and this parliament that these issues, which have always been conscience issues for the individual member of parliament, are introduced as a government bloc vote.

I also want to raise some other points that I highlighted earlier. It is interesting to the see the Minister for Tourism wearing a North Adelaide scarf. In fact, I always understood that members were not allowed to display—

The SPEAKER: Order! Items of apparel such as the member's tie represent no more or less. It is not out of order in that context. What is out of order, and what the member is alluding to, is when other material display is undertaken in the chamber of something that is not part of one's apparel. Rather than allowing the member to proceed along that path which, in other respects, is out of order if it becomes a disparaging remark about an honourable member's disposition or character because it is not based on a substantive motion, I invite the honourable member not to go there.

Mr BROKENSHIRE: Thank you for your advice, Mr Speaker. Clearly, I have interpreted 'display material' in a different way. Obviously, I abide by your ruling. However, I will talk about a point in relation to the Minister for Tourism and the member for Enfield. Very early in the piece, the member for Enfield raised the problem faced by the Roosters Club. In fact, the member for Enfield said that he would introduce a private member's bill in this chamber if, indeed, he could not get an agreement or a consensus in his caucus about how he believed, as a local member, this matter should be addressed. If that is not quite correct, the member for Enfield has the right to qualify that.

However, my point is that, when the announcement was made about the government's decision to introduce this bill, the member for Enfield was pushed to the back. In fact, I did not see or hear any mention of the member for Enfield, who had championed the cause from the government's side. All of a sudden, it was the Minister for Tourism who was with the Premier during the fanfare surrounding the media announcement on Thursday or Friday of last week.

I think that is an interesting point because, if the government agencies have indeed made mistakes that have caused

enormous angst to organisations and a great number of patrons and members of those organisations, one would have thought that politics should be kept out of this issue. However, the Premier, the government and the member for Adelaide cannot help but bring direct politics into an issue which should be above politics. Members on both sides of the chamber support the North Adelaide Football Club and, indeed, have done so for a long time. I think it is simply appalling to mix politics with sport, particularly in these circumstances. I want to get it on public record because—

The Hon. J.D. Lomax-Smith: Tell John Howard!

Mr BROKENSHIRE: The Minister for Tourism says, 'Tell John Howard.' I am not telling John Howard anything, because he is not in this chamber. However, I am saying that the Minister for Tourism (the member for Adelaide), together with the Premier, has played this for all its political worth, at a time when this issue should have been without that sort of politics in a marginal seat.

The Hon. W.A. Matthew: A shallow political stunt!

Mr BROKENSHIRE: It is a shallow political stunt, as my colleague, the member for Bright, has said. I cannot remember having seen these political stunts becoming involved in sport before; we are seeing it now, but I hope that we do not see it again.

I will have some questions to ask at the committee stage of the bill, but I want to reinforce the following point. Under schedule 3, the special provision for the Roosters Club Incorporated provides:

> Despite section 15A, the gaming machines licence purportedly granted—

and I reinforce the word 'purportedly'—

> by the Commissioner to the Roosters Club Incorporated in respect of premises at 255 Main North Road, Sefton Park, is to be taken to have been validly granted.

We need to talk about that a little in committee. I have given an overview of my personal position with respect to this situation. As the shadow minister, I carry the bill on our side of the chamber but it is a conscience vote. We have not done a bloc on this as the government has done. I look forward to following up this matter further during committee.

Mr RAU (Enfield): I support this bill. I do so with a great deal of pleasure and, in doing so, I would like to congratulate the minister and his ministerial colleagues on reaching a solution to this problem, which gives some relief to the North Adelaide Football Club from what would otherwise have been a crushing burden of debt. Before I go into matters really specific to the provisions of this bill, I would like to address a couple of the remarks made by the member for Mawson who, unfortunately, appears to have just left us. First, he said that I said that I would be advancing a private member's bill irrespective of the attitude of the government, and that is not the case.

At all stages I have said that I would sponsor a private member's bill and take it to the party room, which I did, and that I would advocate the position of the North Adelaide Football Club in the party room, which I did, and that is what has occurred. That must have been a modest misunderstanding on the part of the member for Mawson. The member for Mawson also intimated that I had somehow been pushed—I am not sure what the football term is—out of the action at some stage by the member for Adelaide. I can assure members that that is not the case at all.

The Hon. P.F. Conlon interjecting:

Mr RAU: I know that it is not a football team. That is not the case at all. In fact, so far as I am concerned, I greatly appreciated being approached in a collegiate fashion regarding the problem of solving this debt issue for the North Adelaide Football Club and, indeed, the final solution to the problem—which was arrived at by the government in discussions with the Premier, the minister (who is sitting here today having carriage of the bill) and representatives of the club—came from the member for Adelaide, if I can refer to her in this context in that way.

It was the member for Adelaide who found a way of resolving the difficulty the minister had with my proposed solution. I must admit having learnt something as a new member from this process, because what I proposed was a rather crude, primitive solution to the problem. My solution was simply to exempt the Roosters, full stop, and not to pay any attention whatsoever to the consequences that that might have for other interested parties, clubs and so on across the state. The member for Adelaide actually proposed a solution, which was a different solution but which found middle ground basically between two black and white positions.

In that sense it was perfectly proper that, to the extent there was media coverage of this matter (whenever it was that the meeting was held, I think Thursday of last week), appropriate coverage was given to the people who, at that stage, were most active in resolving the matter. Whilst I am very proud to have been the individual who probably initially put this matter on the agenda of the government party room, I am more than happy to acknowledge that I was not ultimately the person who resolved the impasse between good policy and a solution for North Adelaide's problems.

What I would like to say is that the solution is fair in that it gives North Adelaide an opportunity to continue for over 12 months to trade as it has always expected to be able to trade. It is a solution which gives the minister, through his advisory body, the Independent Gambling Authority (which is presently conducting a review of all gaming issues), an opportunity to consider whatever the report might recommend in the fullness of time, but well before 31 May next year, and none of us has any idea what that recommendation might be, nor do we have any idea what the government's response to that recommendation might be, because that is even further crystal-ball gazing.

What we do know is that, between now and 31 May next year, there is a guarantee that, if this legislation is passed by the parliament, the Roosters Club will be able to continue to trade; it will not be placed in an impossible financial position and crushed by debt. In the meantime, there will be an opportunity for people from all walks of life who have an interest in this poker machine issue to make submissions to the Independent Gambling Authority; and, in due course, the minister will consider what the outcome will be. Whether this ultimately means that the Roosters remain at those premises for ever and a day, I do not know; none of us does. However, in the fullness of time, we will see what happens. What we do know is that, between now and 31 May next year, this is not a matter that need trouble the Roosters: the club will continue to be able to have a position where it can trade as a liquid organisation.

I would also like to place on record, for what it is worth, my personal view about poker machines. I do not like poker machines, and if I were given an opportunity to remove all of them tomorrow I would take it. I realise that would involve hardship for individuals and that, in fairness, there would have to be compensation. I also realise that that is very

unlikely to happen, but that is not the point; that is where I am coming from. I am only sorry that I was not in this parliament 15 or 10 years ago, whenever it was—

An honourable member interjecting:

Mr RAU: Yes, that is right: I still would have been at school: that is quite right. But I am sorry that I was not here at least to vote against that measure when it came before this parliament in the first place. I also do take some note of what the member for Mawson had to say about conscience votes. I actually share his view. I do think that, with respect to issues of gambling, as far as I am concerned, it is appropriate that that is the way it proceeds. However, I am a member of a team and the team resolves that we play the game in a certain way, and that is what happens. But, for my own part, I am very sympathetic to that proposition.

I would like to explain my thought process in relation to this. I do not like poker machines, but I have the problem where two venues in my electorate have poker machines. They are very close to each other. They are both in the vicinity of the Sefton Plaza shopping complex. One of them is a hotel and one of them is the Roosters clubroom. One of them got a licence before the shopping centre legislation was introduced in this parliament and passed, unanimously, as I understand it. The other entity thought that it was getting a licence because it was told so by the commission and, on appeal, Judge Kelly, as I understand it, said, 'Yes, you're okay; you can go in there', and that is why the club is there.

It is not there because it ignored the licensing commission. It is true that the Supreme Court then made a different pronouncement on the subject, and that is why it finds itself in its present predicament. But I am faced with one operator, undoubtedly in a shopping centre, which uses as a weapon against another operator in the same shopping centre a piece of legislation to which it is not subject because it got in before it happened. I am a lawyer, and that is the law; and it is entitled to do that and good luck to it. It played its cards as it should and I applaud its legal representatives for playing the game as it should be played.

But, if one looks at it from my point of view, I am trying to look at the interests of the community. I have a private operator in there which is running a private concern and I have what is basically a part of South Australian history, which is the North Adelaide Football Club, along with other SANFL clubs, which put money back into junior sport, which support community activities and which are, in fact, representatives of that very fragile thing we have in our societies these days, the community. The community is under attack everywhere. It is under attack through economic rationalism which says that, if it does not stack up, you get rid of it; and it is under attack from big business. Of course, one might say that many of the problems that all the SANFL clubs now have may be traced back to the introduction of the AFL into South Australia, because there is no doubt that at that point the number of people who turned up at local games diminished and interest in local clubs diminished—I understand that it is now increasing, and that is terrific. There is a number of reasons why clubs find themselves in these positions. Anyway, I digress. My point is simply this: as a person who does not like poker machines, I nonetheless find myself in the situation of having to choose between a couple of evils. By far, in my opinion, the lesser evil is the operation of these machines in the Roosters Club which will support the local community—money will go into junior sport and building community in a local area, which is a tradition that has been going for over 100 years.

Of course, if this club disappeared overnight, what would it mean for the local competition? It could not possibly be healthy for the local competition. So, both as a person representing this district and as a person who is concerned about South Australian institutions and South Australian history being maintained, I think it is important that we do something in this parliament to maintain the SANFL in its present form, at least during the important phase of consideration that is going on with regard to the Independent Gambling Authority, and in particular the North Adelaide Football Club.

In conclusion, I am very happy to support this amendment. I think it provides the only available solution to this problem. I cannot impress on members enough the fact that this club will disappear if this solution is not implemented by parliament. It is not even a question of many weeks—it is a question of days or a couple of weeks. We do not have time to mess around. If we do not do something, the club will go. Some people might say, 'So what?', and that is fair enough, because everyone is entitled to their own opinion about these things. For my part, it is not a matter of 'So what?': it is very important that this club is given an opportunity to continue to operate and that the South Australian National Football League is given some opportunity to have a viable, ongoing competition. I strongly support the bill.

Ms CHAPMAN (Bragg): I rise to speak in respect of this bill. The government introduced this bill this afternoon, and comment has already been made in relation to the short notice given to the parliament to address it. Obviously we can count, but the opposition has acceded to that request. However, I place on the record my disappointment also at the very short notice given to members to debate these matters, which are important, especially when they attempt to set a single precedent.

In opening on this matter, I state that I listened with interest to the contribution made by the last speaker. It seems that there is very much a difference between the government and the opposition on this matter: this is clearly a conscience vote for members of the opposition. However, it is quite clear that government members are required to deal with this matter as a government bill and will vote en bloc. On a very important issue—both as to the precedent that it proposes to set and as to the subject matter, namely, gambling—I would have thought that there would have been continued respect for the opportunity for members to vote on a conscience basis. But there it is: that is the position of the government, and it has made that position quite clear.

I now turn to the substance of the bill before us. It is probably stunning in its brevity, but I think it is important that it has quite a significant consequence. The minister has outlined that the matter comes before us to remedy the predicament of a football club allegedly facing financial ruin unless there is legislative intervention, and that this arises out of the exceptional circumstances in which the club appears to have been placed—that is, there are circumstances which justify legislative intervention and that somehow the club has been placed in this position as distinct from the club's placing itself in these circumstances, implying that there are circumstances beyond the control of the club which would justify this intervention.

Secondly, unless parliament were to act in these exceptional circumstances, and even if no exceptional circumstances were found, the impecunious outcome for the club—it has been classified by one speaker as ruin—would itself

attract the need for intervention. I want to comment briefly on those matters, because I think the facts are pretty well known. I suggest that the facts do not support the argument of the government, and I propose to briefly address an alternative way of dealing with this matter.

First, in respect of the factual position, it is well known that the provisions of section 15A of the Gaming Machines Act, which was inserted over five years ago, were in response to a very clear understanding by this parliament that the operation of gaming machines in shopping centres was not acceptable. It is clear that when the club moved into the shopping centre in October 2002 it did so in the full knowledge that it was fully within the precincts of the shopping centre—not half over the boundary or a little bit over, or anything of that nature. We know from the information already provided that it relied upon—quite reasonably—the fact that on 7 January 2002 the Liquor and Gambling Commissioner granted approval.

If it was just those things in isolation—that it was granted approval, and that it moved and commenced its operation in October—and they were all the facts, and subsequent court proceedings in the Licensing Court were supported by a determination of the Supreme Court, finding the granting of the licence to be invalid, it would seem reasonable for the government to look at this situation and say, 'How can we remedy this?'

The distinguishing feature of this set of facts which undermines the argument for justification of exceptional circumstances is the fact that in May 2002 the club became aware of a challenge to the Supreme Court decision. This was months before it had moved into the new premises. So, it was clearly on notice, notwithstanding that it was successful on its first application, that the decision would be reviewed by a superior court, and they faced a circumstance where, if they did attempt to proceed, they would incur expenses and ruin their other option in relation to the existing premises from which they were operating (albeit that they claimed to be without sufficient profit), and they were at risk because of that proceeding and subsequent interruption by a negative Supreme Court determination. So, it is important to note that in these alleged special circumstances the club had clearly acted in the full knowledge that progressing into the shopping centre and operating there was a risk and, obviously, it either knew or ought to have known that there were significant financial consequences in doing so. It is fair to say that it is also asserted that the club says, 'We need relief and we need the relief of this parliament because we will otherwise face financial ruin.' It is important to place on the record that this claim is not consistent with the determinations of the Full Court of the Supreme Court. The court considered the financial material of the club in relation to this matter on an application for stay and otherwise, and in dealing with that I am reminded of what the court said, as follows:

> (The Chief Justice) I am unable to quantify the loss, because the material from the Appellant is lacking in relevant detail, but I accept that the loss will be significant. . . there is a risk of the Appellant (Club) having to close its business if it cannot operate the gaming machines, but I put it no higher than that. I am not prepared to make a finding that it will occur. I am not prepared to act on the claims made about the impact on the North Adelaide Football Club of the loss that might be suffered by the Appellant (Club), or of the closure of the Appellant's business. There is insufficient evidence to enable me to make a finding about that.

Justice Bleby went on to say:

> I am not persuaded that the Appellant would necessarily have to close its business.

This is all in the light of a circumstance where the applicant, in this case Northern Tavern Pty Ltd, proceeded to seek a determination by the Supreme Court to declare the granting of this licence invalid, in which it was successful. It is a party that has an interest in this matter in that it is a competitor in relation to the gaming machine business side of the club and, therefore, it has a vested interest in dealing with this matter. It had quite lawfully and appropriately taken its claim to the Supreme Court, and the Supreme Court upheld its arguments.

We have a situation where the club is operating, it claims that it will face financial ruin if it is closed down, and it is currently acting illegally. It seems that all the agencies, police included, do not seem to be acting on the illegality of what is occurring. In the circumstance of coming to get some relief from this parliament, perhaps that in itself is not something of which one can be overly critical, because clearly the government has taken the view that, by introducing this bill and allowing the club to continue to trade for 12 months, it will do two things. The government says that it will enable the club to continue to generate income which it needs, again to ensure that it does not lapse into some impecunious state, and secondly to give the club time to relocate.

I suggest that there is an alternative way of dealing with this matter, and that is, having recognised that, as the Full Court has determined that the new licence is not valid and is not lawful, it does not exist, and, given that the club had vacated its operation at the Prospect Oval under the surrendering of the gaming licence that it operated there (that surrender having been conditional upon the new licence being lawful), the new licence not being lawful it could relocate and continue to operate at the oval.

I understand that, again, the club says that is just simply not financially viable for it to do. Even if it were to close down its operation at the shopping centre and revert to the oval, it did not make any money there before and it will not do so again, so it is not a financial option for the club. We must bear in mind that the Full Court of the Supreme Court did not accept that argument. Nevertheless, if the government were persuaded that there was some validity in that argument, it could in those circumstances make some assessment in the short term to identify a shortfall that would be necessary to continue to give the club some financial support, pending its relocation. It may not need to be 12 months; it may need to be for only three months or six months.

That is a clear alternative rather than going down the path of coming to the parliament and saying, 'Let us pass a piece of legislation to specifically provide for this club.' That is a clear alternative. It is an alternative that the government has decided that it will not take, and doubtless that is because the club itself has said that it is not an option that it prefers.

One of the reasons why I suggest the government is seeking to proceed with this option is that the club does not want to vacate these premises. It is waiting for the IGA's recommendations and for the government's position on those recommendations, and that freeze on gaming machines has itself been put on hold for another 12 months. I wonder what is happening in this government, because everything seems to be taking a long time. In the meantime, the government has said, 'Let the club trade here.'

One advantage to the club is that the government might look at taking some alternative decisions and directions as a result of the Independent Gambling Authority's recommendations. Secondly, after 11½ months, the club may come back to the government, having remained in that place, and say that it has not found another place; or that it has found some other

place but it will take another year to relocate; that it simply cannot get access to other premises that are available to it; or, if something somewhere else is available, it will not produce the same financial revenue and therefore the club does not want to move there.

All those ifs mean that this approach to a remedy is clearly a problem. I do not dispute that the club's situation is a problem. Notwithstanding that I have outlined to the house my concerns about the validity of arguments that the government has put, I do not doubt for one minute that the club has a problem, and it wants this house to remedy it by way of the government's bill. What I say to the house is that the formula for relief for the club is not the only one and it is the not the appropriate one. There is an alternative, and it ought to have been used by this government.

The Hon. J.W. Weatherill: What is that? I do not understand.

Ms CHAPMAN: Haven't you been listening? Notwithstanding that the government has elected to go down this path, I add one other word of caution. To introduce bad precedent leaves the government and the parliament vulnerable to further claims in the future by others. I appreciate that the minister on this occasion has said this is a one-off—that it is exclusively for the benefit of the North Adelaide Football Club—but how does he know that there are not other sporting, football and volunteer organisations, and any other number of community organisations, which may seek relief in these types of circumstances? They may not be exactly the same, but they will come along and say, 'We are a very special case. We are in financial difficulties. The future of our club is at risk and we need help. We need a bill to go through to deal with our club.' That is not the way to deal with this matter, in my view. It sets a very bad precedent.

Just in the very brief time that notice of this has been on the agenda, we have received correspondence and submissions, and I will put one on the record. Robert J. Jury, who resides at O'Halloran Hill, has a longstanding association with and is the club President of the W and W Dance and Social Club. The W and W Dance and Social Club has a problem with an unfair dismissal claim. It has gone through some litigation and it has been unsuccessful. It feels aggrieved and believes that the financial future of the club, presumably to provide wonderful social and dance activities with live music, is under threat. That club finds itself in such a circumstance that it has written to the Hon. Michael Atkinson seeking some parliamentary relief. This is only on day one: the bill has only been introduced today. We have known about it for only 24 hours. Mr Jury is quick off the mark, I might say.

What is to say that there are not a dozen other clubs out there waiting in line, saying, 'Okay, government, you have put this through for the North Adelaide Football Club, now we want you to help us.'? We will be back here over and over again to deal with these matters because we have created bad law in the first instance.

I conclude by saying that the approach is wrong. The basis upon which it is presented is fundamentally flawed. A clear alternative is available to the government which it has not elected to take up, albeit with or without the support of the club, and it is setting a bad precedent for the future of this parliament being deluged with applications to deal with the special circumstances of any number of persons who are unsuccessful in the court system or who feel otherwise aggrieved by the operation of a government service. That is an unacceptable way to go. I leave the house with those remarks.

The Hon. J.D. LOMAX-SMITH (Minister for Tourism): I rise to speak in support of this bill because I feel strongly that this is a matter where perhaps lawyers make life too difficult. They can analyse the precedents and problems and sometimes fail to see the commonsense solution. This issue is in many regards an intersection between ideology and commonsense. The idealogues and many people who support this motion are probably opposed to poker machines, maybe vehemently opposed to them, and would not support an expansion of their presence in either shopping centres or our community. However, the circumstances are quite extraordinary and require a commonsense solution.

It is true that in many regards those of us who are elected often have to find a pragmatic solution to a complex problem, and the solution to this problem was arrived at following the advocacy of the member for Enfield and the requirement to find a solution that brought about none of the ills that have been suggested by many of the lawyers who have spoken. The solution was one which does not set a precedent, does not encourage other clubs to take action but has a very clear sunset clause which is specific and time limited and which allows a transition out of an untenable position. The problem with taking an ideological response to this and saying that we are opposed to poker machines and want to uphold a legal decision is that you often fail to see the commonsense of the proposition behind the move.

The reality is that the club in question was not cavalier and foolhardy. In fact, it took the view that it had approval from the Liquor Licensing Court; it had overturned a Supreme Court decision; and it was in a position where it felt confident, on the advice of its legal advisers, to move into this location. It has taken over a year and a half since the first application and some two and a half years since the beginning of the attempt to find premises. When one looks at the club, it is ironic that the major objectors to its premises being occupied by gaming machines are other gaming machine premises within the very confines of a shopping centre. I understand the legal delicacy here: it is inappropriate for government to override a Supreme Court decision—I respect that view. It would be improper to undermine the legitimate, albeit idiosyncratic, and metachronous rights of the objectors, the people who at a different time and under different laws did gain approval to operate gaming licences within a shopping centre.

The metachronicity of their ability to operate is the crux of this issue. It would be unthinkable if we did not act. In many regards our role is to put in place laws and policy and recognise that occasionally there are unforeseen consequences and outcomes where individuals, weaker clubs as opposed to hotels, become disadvantaged. The opportunity we have is not to overcome all the issues between the clubs and poker machine venues such as hotels or to put right all the injustices that some people claim have arisen through the unfair disadvantage clubs have in the face of gaming licences—we cannot do that. In the middle of an inquiry, it would be entirely inappropriate that we should attempt to do that. However, we can simply find a transitional holding situation that will allow one club, one small club run by volunteers, not for personal profit or private gain, to maintain its assets. To do nothing would be unthinkable because if we did nothing its assets would be lost and it would have no tradeable assets, no useable licences and nothing but debt.

Those consequences would be unthinkable not only for the club but also for its supporters.

Let us remember that the profits do not go into yachts, holiday homes or imported cars but are spent on 15 000 children in 54 schools who attend coaching clinics at the club. It supports 5 500 members and 2 000 children involved in kick to kick and long-bomb competitions run by the club. It supports 2 000 children in AusKick clinics for reception to year 3 students run by the club. The profits support 200 volunteers in running the club. It supports 150 players in under 13, under 14 and under 15 special squads; it supports 30 teams and 12 schools involved in nine-a-side competitions for years 8 and 9 students; and, it supports 25 teams from 10 schools involved in primary schools competitions supported by the club. Further, there are 20 employees.

Even if you do not support the Roosters (and I understand that members may not), this is not specifically about one club but about an injustice to a sporting organisation and a group of volunteers. It cannot be not undone forever or not changed indefinitely. The law will not be changed by this measure. It is only about a transitional holding situation to give the club one year in which to find alternative premises.

The proposition put by the member for Bragg is just another example of a big spending, big giveaway, big handout, big buck solution. Why would we want to be in the position of supporting the club for maybe a year to run all these functions? The solution is not about government handouts but, rather, it provides a level of equity, a level of justice and a level of fairness to people who, through no fault of their own, have been put in an untenable position. It would be unthinkable if we promoted legislation that took away the rights of the objector who has spent money in the legal process. It would be unfair if we allowed the Roosters to continue in operation indefinitely. Yet, it would also be unfair if we allowed them to go bankrupt overnight. This solution will allow a transitional period.

Let us not be mistaken: it will not be easy for the club. We have not handed it its future on a platter but allowed it breathing space only. The difficulty in finding premises that could not be construed as ever being near a shopping centre on a main road will not easily be resolved. Under the current legislation, it is almost impossible to find a main road site from which it could operate in the period we have allowed it. The reality is that in order to secure premises it would have to make an expression of interest, would have to lodge an application with the Liquor Licensing Court, would have to make planning applications, would have to wait for appeal rights and then be in a position where it could make a payment and start negotiations to buy premises. Few premises will be happily vacant for six months while this occurred. We are setting a difficult task and the bar is still high, but at least we know the Roosters will still be in business tomorrow morning.

I reassure anybody who is considering whether or not to support the government's legislation that this is not about overturning the law and allowing the Roosters to operate indefinitely in the future; nor is it about taking away the rights of the tavern that has spent good money in preserving its legal rights to operate. Rather, it is about an interim measure for the short term. I can understand the ideology of those lawyers who are uneasy about our implementing this amendment and in some ways taking away the rights and decisions of the court, but this is a commonsense compromise that will allow the football club to operate. Further, the club has been in operation since 1893, had 13 premierships, 14 Magarey medallists and is essential as part of the infrastructure for the SANFL teams.

An honourable member interjecting:

The Hon. J.D. LOMAX-SMITH: It is not always about winning. It is about a community club that plays a strong part in North Adelaide and Enfield, and also across the whole of the metropolitan and regional areas. In fact, if one looks at the supporters—the signatures and addresses of those thousands of people whose names appear on the petition that is currently being collected—it is quite clear that this is not a cynical move about the seat of Adelaide (as has been suggested), because there are Roosters supporters throughout the whole of the metropolitan area. Indeed, there are Roosters supporters in Mawson and Bragg, and they were out in force on the day of the march to say, 'We want commonsense, not ideology, not a lack of sensitivity, not uncaring and not harsh government.' This is about a simple, sensible, caring and, above all, commonsense solution.

Mrs REDMOND (Heysen): In rising to speak to this bill, can I first place on the record (as have a couple of others) my concern about the lack of notice in bringing this bill before the house for debate. I also express some concern about the lack of a conscience vote on the other side—although how they conduct their affairs, I guess, is up to them. Like the member for Enfield, I do not have a great liking for poker machines. Had I been in this place at the relevant time, I would have strongly advocated poker machines going into clubs and not into pubs in this state. But the horse has bolted, and it is no use shutting the stable door now. I have every sympathy with community clubs, and I acknowledge, in the case of the Roosters, that it has strong roots in its community and that it is a major part of the community, especially with respect to the introduction of young players to SANFL football through its various programs.

However, having said that, I oppose the bill. In my view, it is bad law. It has clearly been unlawful, under section 15A, for over five years (as the member for Bragg already mentioned) to place additional gaming machines licences within the boundaries of a shopping centre complex. Any applicant for a liquor licence, or transfer of a liquor licence, would know that, or would be deemed to know that, or would be advised of that by their advisers. Furthermore, the club was on notice from May, but proceeded in August to purchase the building, notwithstanding that it was on notice, by the issue and serving of proceedings on it, that it potentially faced the problem that it would not get the licence there at all. However, it proceeded not only to purchase the building but also to spend a lot of money fitting it out. So, it is not entirely without fault, as has been suggested by a number of people. In fact, I refer specifically to the comments of Justice Bleby in his findings, as part of the Full Court of the Supreme Court which considered the ultimate appeal. He said:

> Like its own gaming patrons, it (the Club) gambled—in this case, on the chance of winning the case. I would be loath to extend the aid of the Court in protecting the Appellant from its own gambling loss. . . .the interest of the Appellant (the Club) must be balanced against the interest of the public which the legislation is designed to protect. . .

Yesterday, and again in his second reading explanation today, the minister made it quite clear that this favour is being extended only to this club. I would be quite happy to vote in favour of this proposal if the minister were to say that all the clubs in my district—the Kangarilla, Echunga, Macclesfield, Mount Lofty and Bridgewater football clubs and all the sports

and social clubs around my electorate—would receive the same benefit. But it is bad law to make law which differentiates one group from another. This club has nothing special about it compared to any other sporting or social club throughout the state. The minister made the position quite clear yesterday, when he said:

> . . . we need to make it completely clear to other clubs, which may wish to rely upon the government's coming to their aid in what they may argue is a situation where they wish to rely on poker machines to deal with their financial difficulties, that we see the situation with respect to the Roosters Club as being an exceptional set of circumstances. . . There can be no complaint by other clubs that they do not know the law as it presently stands.

In my view, there can be no complaint by the Roosters Club that it did not know the law as it stood when it applied for its gaming licence, and it already had notice of the proceedings that were issued and served against it.

I was astonished by the statement by the member for Adelaide that this law is not about one club. That is precisely what it is: it is about one club, and that is why it is bad law. It treats people differently, and it interferes with the proper process of the law. There was a wrong decision originally by the Liquor Licensing Commission—

Mr Brokenshire: A very wrong decision.

Mrs REDMOND: An absolutely wrong decision, and I would have no difficulty in supporting a government proposal to compensate the club for relocation. But this is not the way to correct the mistake—and that is what the government is trying to do: correct the mistake by a piece of legislation. I am also surprised by the comments of the member for Enfield. I am paraphrasing here, but he basically said that he did not know what the future might bring, and whether the Roosters might retain these premises as their permanent home. That concerns me greatly, because my understanding of the minister's second reading explanation was that this was to be absolutely for one year only.

Mr Brokenshire interjecting:

Mrs REDMOND: I wonder about that. The member for Mawson says they have to be out by one year. I would like to minister to explain to me one part of the bill that I cannot understand. With respect to clause 5, where we are inserting the new schedule 3, I understand subclause 1(1), which provides:

> Despite section 15A, the gaming machine licence purportedly granted by the Commissioner to The Roosters Club Incorporated in respect to the premises. . . is to be taken to have been validly granted.

But I do not understand the next subclause, which provides:

> The licence to which subsection (1) applies is, if it is still in force, to be taken to be suspended on and from 31 May 2004—

no problem with that—

> and may be surrendered for the purposes of this act by the licensee after that date, despite its suspension.

I do not understand why the words 'after that date' appear in there—or why all the words in brackets appear there. If the minister can answer my question in his response at the end of the second reading contributions, it may save us a little time during the committee stage. If this is only for one year, why does it not just say that it is for one year?

There are a number of other things that I should mention. As the member for Bragg said, there are other possibilities apart from compensation, which I have already mentioned. The fact is that the grant of the licence transferring to the new location—the surrender of the original licence at Prospect Oval—was conditional upon the granting at the new location. It is reasonable to interpret that as meaning that, if the granting of the licence at the new location was, therefore, unsuccessful (and the Supreme Court has now said that it was), the licence at Prospect Oval was not given up. So, they can go back there with no need for any legislation at all—although a bit of help from a government whose agency screwed up and misled them in the first place would probably not go astray.

One of the other difficulties with this law is that it penalises unreasonably the hotel owners. They have done nothing wrong in this: they have been blameless. The member for West Torrens laughs at the comment that they have done nothing wrong. I will just put that on the record, because I would be interested to hear the member for West Torrens speak to this bill and explain what it is that he asserts the owners of the Northern Tavern have done wrong. They have been entirely—

Mr Brokenshire: What would the businesses in his electorate be thinking when they read this?

Mrs REDMOND: That is right.

Mr Brokenshire interjecting:

Mrs REDMOND: That is right. It is a business: it has done nothing wrong. It was operating lawfully, and it continues to operate lawfully. It has invested a lot of money. It has operated there lawfully, as I understand it, for something like 30 years. I ask the government to account for why it is allowing something to continue that is clearly illegal, and why it has taken no action. As a result of the illegal competition located in close proximity to the Northern Tavern, the Northern Tavern has now lost the equivalent of six local employees. The hotel has done nothing wrong, but it is the one which the government is choosing to penalise. It does not make good law to bring in special legislation, especially legislation that is designed to overcome a hiccup for a particular club. I am a great supporter of community clubs, but I am also a great supporter of the idea that we must be even-handed in what we do. We cannot give privileges to specially chosen groups. It is simply not a proper way for any government to act, and I urge the government to reconsider its position.

Mr KOUTSANTONIS (West Torrens): I will comment briefly on the recent uproar in the house by members opposite. I support their right, which is based on the past practice in this house of adjourning the debate after a second reading explanation has been given to allow members opposite to consider the bill. The following are a few examples of when members opposite have done exactly that. On 26 July 2001, the former premier, the Hon. R.G. Kerin, moved without notice that standing orders be so far suspended to enable him to introduce the Hindmarsh Soccer Stadium Bill forthwith and to enable its passage without delay through all stages. We on this side of the house had a lot of problems with the Hindmarsh Soccer Stadium.

Mr HAMILTON-SMITH: I rise on a point of order, Mr Speaker. The member has just informed the house that in July 2001 the Hon. R.G. Kerin was the premier, and I am not sure that that information is correct.

The ACTING SPEAKER (Mrs Geraghty): There is no point of order.

Mr KOUTSANTONIS: All right; at the time the Hon. Mr Kerin moved the motion he was the deputy premier. I apologise for accusing him of being the premier of this great state. The bill was read and presented, and the second reading explanation was inserted without being read, and the bill passed through all stages immediately without dissent.

On another occasion, the then minister for environment and heritage moved that standing orders be so far suspended as to enable the introduction of a bill forthwith and for it to pass through its remaining stages without delay. The Water Resources (Allocation Plans) Amendment Bill is another example where a bill was introduced, the second reading explanation was inserted without its being read, and the bill was passed. After consultation with the then opposition, it was agreed to by the shadow minister and both parties. It is my understanding that the then minister consulted with the then deputy leader—

Mr Brokenshire interjecting:

Mr KOUTSANTONIS: I understand that, but I put it on the record, because when listening in my office and in the chamber I noted that every opposition speaker mentioned how outraged they were about the way in which we are proceeding with this matter. However, they will debate the bill, anyway. I just want to point out that this is not normal practice; it is an exception to the rule. I agree with members opposite that it should not be the norm, but this is an exceptional circumstance.

Despite my hatred of the North Adelaide Football Club, it is a great football team. Despite having gone many times to Prospect Oval with my brother, who is an avid Roosters supporter, to watch those so and so's defeat my beloved football club (although that has not happened for a while), that club is a special circumstance. I agree with the member for Heysen that the decision we made back in 1993 or 1994 was wrong, but, having said that, SANFL clubs are a precious and integral part of our community—more so than some other community clubs.

Mr Brokenshire interjecting:

Mr KOUTSANTONIS: Yes, such as the Liberal Party. Despite the North Adelaide Football Club's appalling colours and its appalling tradition of football, it is an integral and important part of the community. The club deserves the support of this parliament and members opposite. I am surprised by members opposite because, if they cannot see the distinction between our SANFL clubs and other local community clubs and groups, they just do not get it. Hundreds of young South Australian children grow up loving their football clubs.

An honourable member interjecting:

Mr KOUTSANTONIS: Do not give me this holier than thou, you know better than the rest of us, attitude. I refute this whole attitude that some clubs are more important than others as long as they are your clubs. The North Adelaide Football club is a very important part of South Australian life. The club has a great tradition and a great history and, despite whom you support (whether it be SANFL or the AFL), it is an important local community club, and more so than others. This club deserves special treatment, and this government will go ahead with it.

I acknowledge what the member for Heysen has said. As usual, she has brought a level of wisdom to the debate. However, the one point she has missed is that we are not talking about the Kilburn Football Club or the Gumeracha Football Club: we are talking about the North Adelaide Roosters, which is different.

Mr WILLIAMS (MacKillop): Before the member for West Torrens leaves the chamber, as I suspect he might, I raise the issue that this matter has been brought on very rapidly. In fact, the minister sought to have his second reading explanation inserted in *Hansard* without reading it. For the benefit of the member for West Torrens, I do not have a problem with the matter being brought on, because I know that it is very urgent. The problem the opposition had is that we had not seen the bill, nor were we furnished with a written copy of—

The Hon. Dean Brown interjecting:

Mr WILLIAMS: The point I am raising is that I had not seen a copy of the second reading explanation, and I point out to the house that I think there was an error from the chair. I pointed out to the Speaker that my understanding is that the second reading is moved and the minister then seeks leave to have the second reading explanation inserted. My recollection of what happened is that those two individual things were handled as one by the chair and there was no opportunity for leave to be refused. I wanted to place that on the record to clear up that point.

Members interjecting:

The ACTING SPEAKER: The member for MacKillop will continue and ignore the interjections.

Mr WILLIAMS: Thank you, Madam Acting Speaker, I will certainly ignore the interjections, as I always do. I want to raise a number of issues. First (and I think the shadow opposition spokesman pointed this out), this is the second time recently when, on a matter which has traditionally been held by both major parties in this place as a conscience issue, members of the government have been whipped into submission.

I will quote from *Hansard* of Tuesday 9 December 1997, when, during debate on the Gaming Machines (Gaming Venues and Shopping Centres) Amendment Bill, Mr Foley (the then member for Hart) said:

> I am the lead speaker for the opposition on this bill. As the Leader of the Opposition and, as I understand it, the Premier have said, this issue is a matter of conscience for all members of the house. So, in that spirit, my contribution will be as a private member.

What has changed? The Labor Party in 1997, in the words the now Deputy Premier, recognised that the issue of gaming machines in shopping centres was a conscience issue. Today, a very bad piece of legislation is being enacted by this parliament, and government members have been whipped into submission on an issue which is normally held as a conscience issue. I wonder how many government members would really support this bill if they were allowed to act according to their conscience. I am sure that a lot of government members feel very uncomfortable with this bill.

The Roosters Football Club has my full sympathy. I am not suggesting that it is a totally innocent party in this matter, but it does have my sympathy. Section 15A(1) provides:

> Despite any other provision of this act, the commissioner cannot, after the commencement of this section, grant an application for a gaming machine licence in respect of licensed premises. . .

Paragraph (b) provides:

> . . . anywhere within the boundaries of a shopping complex.

A shopping complex is defined as follows:

> A shopping complex means a shop or shopping centre, together with all parking and other areas adjacent and ancillary to and intended primarily for the use of persons attending the shop or shopping centre.

That sounds pretty plain to me. Section 15A(4) provides:

> For the purposes of subsection (1)—

which was the first subsection I quoted—

> licensed premises will be regarded as falling within the boundaries of a shopping complex if the land on which the premises are situated—
>
> (a). . .

(b) shares a common boundary with the complex;

It beggars my imagination how this licence was granted in the first place. The Roosters Club may not necessarily be totally innocent, but it may have relied simply on advice. I say to those supporters and members of the Roosters Club who might at some stage read these comments, or who may be in this place listening, that the advice they received was not only poor: it was abysmal.

If the committee of the club had cared to consult the act, it would have been quite clear that what it was endeavouring to do fell well outside the intentions of this parliament. How the committee reached the conclusion that the club could move to those premises is beyond my understanding. Notwithstanding that, the licensing commissioner granted the club a licence; therefore, I think that the state bears some responsibility, because an agency of the state granted the licence which I have no doubt induced the Roosters Club to purchase the property and invest a large sum of money. I have no doubt that the club did that, having been granted a licence because it won the initial appeal.

The member for Heysen quoted the words of Justice Bleby, who formed part of the Full Court of the Supreme Court of South Australia, and I think they are worth repeating as follows:

Like its own gaming patrons, it (the club) gambled, in this case, on the chance of winning the case. I would be loath to extend the aid of the court in protecting the appellant from its own gambling loss.

Those are very wise words, and it is a pity that the government does not share the wisdom of the Full Court of the Supreme Court of South Australia. It obviously does not, because the government has taken the attitude that a member of the public can take a great gamble and fall over and the government will come to their aid. Those are not the exact circumstances of this case, because the government is not really coming to the club's aid, but I will refer to that in a moment.

Certainly, the government has picked up this issue, and I would argue that it has done so for none other than base political purposes. In spite of the member for Adelaide's protestations, I do not think you have to be a cynic to understand why the government has brought this matter to the parliament in this form and has whipped its members into submission: it has done so because it sees a political upside.

The nature of politics is always to look for political upsides, but I have a great concern that this parliament is being used in this manner. This smacks of capriciousness. There are a number of instances where people in this state who feel aggrieved would love the government to come into this place and change the law overnight to satisfy their grievance.

The member for Bragg raised the issue of Robert Jury, who has written to all members about the W and W Dance and Social Club. I understand that three members of that club's committee are being sued for unfair dismissal and underpayment of wages, which seems to me a most unjust impost being placed on the members of that dance club. When will the Attorney-General come into this place and sort out that mess? I suspect that that will not happen, because the W and W Dance and Social Club does not really command the same public attention as the Roosters Football Club commands.

The member for West Torrens would have us believe that the Roosters Football Club is more important than the W and W Dance and Social Club. The Roosters Club is noticed by many more people and it is, indeed, part of the culture of South Australia, but will this parliament sit here today and treat one South Australian completely differently from another? That is what it is being asked to do. I suggest that the members of the W and W Dance and Social Club have every right to expect their grievance to be treated in the same way as that of the Roosters Football Club. As a member of this place, I have great difficulty seeing the parliament being abused in this way.

I repeat my earlier remarks about having sympathy for the Roosters Football Club. I am sympathetic, because I think that it has been very badly advised and has received some bad judgments from the licensing commission on which it based its actions. In that case, the government should have offered compensation to the Roosters Club. It should have said to the club, 'We will reverse what has been done. We will compensate you to the tune of putting you back to where you were before this whole sorry saga began. We will pay the costs of reverting your machines back to their former location. We will right and redress any wrongs that you have suffered and any costs involved in disposing of the property that you bought on poor advice, including the advice from the licensing commissioner.'

That is what the government should do, but what is it doing instead? The member for Adelaide said that there should be no government largesse or handouts. The government is saying that the Roosters Club needs to be compensated because it got bad advice and has lost a fair amount of money. In spite of the fact that it was the government's agency that made the mistakes and provided the poor advice, that money will not come out of the public purse. The government is saying that it will impose the burden of cost on a businessman just down the road—the Northern Tavern. That is who is paying for these mistakes made by an agency of this government, and it is being asked to pay the penalty for those mistakes. The owners of the Northern Tavern are innocent bystanders and have done absolutely nothing wrong.

Members opposite might argue that we should not have allowed poker machines into hotels. That is a spurious argument and has nothing to do with the principle of this case. The Northern Tavern has a licence to operate poker machines on that site, and it has the rule book governing the operation of those machines: the Gaming Machines Act 1992. As an innocent bystander, it has invested under the guidelines of that rule book, and it is now being asked to pay the price of mistakes made by this government's agency. The government does not have the guts to redress that matter but is asking other citizens—the owners of the Northern Tavern—to pay for its mistakes.

This is not ideological: this is a principle of justice. I contend that the member for Adelaide does not understand the meaning of the word 'justice' or 'injustice'. The honourable member talked about injustice to the Roosters. The Roosters club, I contend, has befallen the fate of its own decisions, unlike the owners of the Northern Tavern, who have been the innocent bystanders. This piece of legislation is one of the poorest I have seen in the short time I have been in this place. I have seen some funny things done by this parliament but, as I say, this is capricious and it is based on pure political motive.

This legislation has been brought into this place today for all the wrong reasons and sends all the wrong messages. Recently, South Australia held an economic summit and we asked the question, 'How can we get South Australia's economy off the ground and up and running?' A big part of

that is getting investors to come to South Australia. How on earth can we expect a businessman to have the confidence to come and invest in South Australia when we say, 'But beware; at any time in the future we might tear up the rule book. We might threaten your investment.' That is the signal that is being sent to potential investors in this state.

How can the Premier, the leader of this government, stand up and say what he says about the economic development needs of this state and then preside over a party that whips its members into submission on a matter that, traditionally, has been held by the Labor Party to be a conscience issue, and then introduce this tawdry piece of legislation to make an innocent bystander pay for this government's mistakes? I hope that every member of this government is ashamed of what they have introduced here today. I repeat that I have sympathy for the Roosters. I agree with the member for West Torrens that the club is a part of the culture of South Australia. I certainly do not want to see the Roosters damaged. I call on the government to do the right thing: pay the compensation to undo the mess that has been created by its agency.

Mr HAMILTON-SMITH (Waite): I limit my contribution in this debate to a few themes: first, the rule of law; secondly, the circumstance of the Fricker family of the Northern Tavern; and, thirdly, the Roosters Football Club, a state icon. Let me start, though, with the Fricker family. The Fricker family has conducted the Northern Tavern business—it is what many would call a small or medium enterprise—for almost 30 years. Since the Roosters commenced trading at the shopping centre seven months ago, the Northern Tavern's business has been halved. The family has had to put improvements and refurbishments on hold.

They paid an extraordinary amount of money some time ago for an extensive refurbishment, no doubt incurring considerable debt in that process. A number of people had to be put off. Jobs have either been lost or hours cut. The victims of this decision are the proprietors of that hotel. There are two sides to the story. On the one hand, we have the Roosters Football Club which, as mentioned by my colleagues, took a calculated gamble. The club gambled that it would win a court case, which it subsequently lost, it being determined that its presence at the shopping centre location was illegal, and it has been directed to cease trading.

However, this law and order government, this Labor government, is permitting the unlicensed club to continue its gaming operations. For reasons known best to the government and the licensing authority, the police and the Independent Gambling Authority are taking no action whatsoever in regard to the continued unlawful gaming operations that are presently under way. In fact, at present there is an extraordinary concentration of 80 gaming machines within 100 metres of the shopping centre.

One could talk about whether the initial act to ban gaming machines from shopping centres was a wise move by this parliament. One can argue that such constraint on trading should perhaps never have been passed, and that maybe it was a counter-productive step which would lead to the sorts of predicaments we face today. Perhaps, in its effort to curry favour, the parliament should never have passed that bill and thus restricted trading. But, having sought to curry public favour, having sought not to do anything of substance about gaming machines, but rather to give the appearance of doing something, the parliament passed a bill that banned poker machines in shopping centres without making the legislation retrospective.

We enabled the Northern Tavern to continue trading but we restricted the operation of new entrants to the market. Perhaps that was our mistake. Perhaps the Roosters Football Club should have been entitled to relocate and build near the shopping centre. Perhaps country football clubs should be able to move into town. Perhaps it was an unnecessary constraint on trade. But, having attempted to curry favour with the public, having not done what we felt in our hearts was right but, rather, doing what we thought was populist, we now have before us another bill which seeks, by the very same device, to get us out of the problem we created for ourselves in the first place.

We seek to pass a bill today which ventures to curry favour with the public, not because we know it is right but because we think it is expedient. Some other options were open to the government. The government knew that the surrender of the gaming machine licence at the Prospect Oval was conditional on the grant of a new licence at the shopping centre. If the shopping centre licence is unlawful, as the court has deemed it to be, it was, in effect, never granted and therefore the club could revert to the oval. This would require no legislation from the government: it involves simply a request by the club to the Liquor and Gambling Commissioner.

Another option was to pay compensation, as mentioned by my colleague, to assist with the process of relocation. The government could also have introduced legislation granting the club a new gaming machine licence at the oval, or some other lawful place out of the shopping centre and, as has been proposed by my colleagues, some compensation might have been offered to assist with that relocation. However, the government has chosen not to take any of those other options available to it. It is interesting that this law and order government has chosen to neglect and overlook completely in this debate, and in this initiative, the rule of law.

Parliament passed a law, which was upheld in the court and a determination was made. An aggrieved party won that case. What we are now doing is reversing the law. We are retrospectively saying to that aggrieved party, 'You did nothing wrong. You took action to ensure that the law was upheld. You won your case at great expense. Now, like a dictator, like a monarch, who controls both the legislature, the executive and the judiciary, we are simply going to create a new law. We are going to turn back the clock and we are going to run your business into the ground.' Not only that but, by this populist step, following on from our earlier populist step, we walk further away from the principles upon which we stand.

When the member for Mitchell left the Labor Party, he said he felt that he was leaving a party that had left its principles behind. He felt that he was leaving a party that sought to curry public and media favour at the expense of what it truly believed. It is a pity that the member for Mitchell is not here today to contribute to this debate, because I think here is yet another example of that departure from principle in the earnest search for public favour at all costs. Of course, ultimately, you spin a complicated web of backflips, triple pikes and double faults that bring you to a crashing halt. There will be other calls for these steps to be taken, and will the government say yes or no to those requests? We will have to wait and see.

I have some sympathy for the Roosters. I am a great Aussie Rules supporter, and I understand their predicament well. There are a lot of good, strong, emotional reasons to support this bill, but the parliament is not here to make its

decision based on emotion: it is here to make its decision based on what it believes is right. It is here to fairly and equitably represent its constituents. It is here to ensure that everybody gets a fair go. In this case, I do not think the Fricker family and the Northern Tavern have really been given a fair go, and I think they have very good reason to feel aggrieved.

The rule of law is a very important principle in a democracy. When you pass a law—when the parliament enacts a law—it is binding on everybody, including the government, businesses, private citizenry, social clubs and football clubs. It is binding on everybody. The people who put us here have a right to expect some consistency and some integrity in the law-making process. They have a right to expect that if they commit substantial amounts of financial and emotional energy into remedying a wrong and they are successful in court, that remedy will be enacted. They have a right to expect that the parliament and the government will not double-cross them by making special exemptions, the weight of which falls upon any particular business or any particular individual or group of individuals in a community in an unfair way.

This bill will do precisely that. This afternoon, we spit in the face of the rule of law and we undermine the principles upon which we stand if we pass and enact this bill. I am sure that the majority of us will support it. However, I think it stands as testimony to the folly of populism as distinct from good law-making. I am sure that the member for Enfield, when he brought this proposition to parliament, had the best of intentions, but we all know why this bill is before us. We all know that it is a matter of currying electoral support for the member for Adelaide and, to a lesser extent, the member for Enfield. So, I was particularly disappointed to see the member for Adelaide suddenly pretending to be a born-again North Adelaide football supporter. I ask the member for Adelaide how long she has been a North Adelaide football supporter; I ask her if she is a member of the Roosters; I ask her how many games she has been to see; and I ask her how deep, purposeful and genuine this born-again commitment to the Roosters Club really is. I suspect that the Roosters Club will find that it is pretty shallow.

Not only that, but the government also offers no long-term solution to the Roosters, nothing but a 12-month stay of execution. I really wonder whether a government that is so prepared to bend the principles upon which it stands for the sake of populism can be relied upon by the Roosters and whether, at the end of the day, the government will simply dud the Roosters again in a year's time and see them fade away.

Mr BRINDAL (Unley): I accept and support a lot of what my colleagues have said, and I want to make a couple of brief points. We come to this very sad point because of a parliament which sometimes gives in to populism rather than commonsense. The Fricker brothers and Northern Tavern did not seek to have a monopoly trading situation in the shopping centre when they invested in their business 30 years ago. They invested prudently and wisely, and I am told that after this parliament suddenly decided there should be no more poker machines in shopping centres they reinvested because they believed they had a monopoly. Then we have a football club that gets caught because it was adjacent to or in, according to the decision of their honours, a shopping centre and it has to miss out.

Nothing we do here creates one more poker machine: it is about where poker machines can be located. This parliament, I think, has been guilty of populist politics, as many of my colleagues have said, and has created a situation which, on the one hand, is unfair to a community football club and, on the other hand, is unfair to a business which has legitimately obeyed the rules as it sees them and, as a result, is now to be penalised. I think that all of us in this parliament should hang our head in shame and learn a lesson about running down the road of being governed by groups such as the *Sunday Mail* and the *Advertiser* newspapers. It is about time that we made sensible laws that will stick, rather than having to come in here parliament after parliament and change things because we got it wrong and need to appease the *Advertiser* or the *Sunday Mail*.

I will support this legislation, reluctantly, but only in the hope that the minister will reconsider this matter and bring appropriate legislation before parliament, because this is not the end of it. The Sturt Football Club wants to shift its poker machines, for which it has a licence, about 100 metres. In my opinion, as a liberal, it should be allowed to do so. We have stupid law. This patches it up temporarily and I will support the minister's measure, but I do so very reluctantly. I hope the government does give some consideration to the owners of the Northern Tavern because they have been placed in an invidious situation, not through their own fault: it is the fault of this parliament. It is not the fault of the government—we were the government at the time—but the fault of this whole parliament, which made a stupid decision, and we are now ruing the day. It is about time we listened to the wisdom of the parliament, not the wisdom of editors who come and go in the *Advertiser* and the *Sunday Mail* and think they know everything but end up causing us a problem that we have to remedy. Therefore, I will support this measure, reluctantly, and I hope that before 12 months is up the minister will change what I think is an appalling piece of legislation.

Mr VENNING (Schubert): I do not want to repeat what has been said, but as members of parliament we are often put to the test, and in this instance we have a problem because a popular state sports icon is trapped by our own legislation, and so we are going create an escape route for the North Adelaide Football Club. I have a lot of sympathy for the Fricker family: they have made investments. I have been to that tavern. They have made decisions in relation to a situation which was protected by law, and now we are about to change the law to exempt a sports club for 12 months, at least. I agree that, rather than changing the law, we ought to look at some sort of compensation—firstly, compensation for the North Adelaide Football Club to assist it in relocating, or whatever it needs to do; or, failing that, compensation for the Northern Tavern for the loss of clientele because of what we have done.

This is a very dangerous precedent. If we can change the rule for the North Adelaide Football Club, why can we not change the rules for the Palmer Hotel? The Palmer Hotel really needs poker machines to survive. Not only the Palmer Hotel but also the Palmer community need poker machines, but they are locked out by the cap in the legislation. Because someone some years ago decided that they did not want poker machines, does that exclude Palmer for ever? Does it commit Palmer to the doldrums? We have two laws here—one law for the famous and another law for the small country community that really would love to have poker machines in their hotel to create something for their community and

somewhere they could go on a Saturday night, rather than having everyone go past.

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

The Hon. J.W. WEATHERILL (Minister for Gambling): I thank members for their contributions. It is important to address a number of the contributions that have been made this evening, especially by those opposite, because they do not fairly represent the nature of the issue that this place is being called upon to consider. I note that a number of members have made some complaints about the short time period within which to consider this matter. I offer these explanations, and I acknowledge that, in devoting government business time to it, the government is cognisant of the urgency with which it needs to deal with a measure of this sort.

The very reason that many of those opposite proffered in debate a reason for this matter being of some concern, namely, that there is presently an invalid licence—and I note that those opposite raised concerns about the legality of the present circumstances—is precisely the reason why this matter needs to be dealt with expeditiously.

In terms of the notice that has been provided to members opposite, let me say that, as soon as the government's position was known, with all possible haste I personally delivered the proposed amendment and the second reading explanation to the member for Mawson. In fact, I gave him multiple copies and invited him to distribute them, so there can be no complaint about notice to those who are responsible for conducting the debate on the other side. What arrangements they have amongst themselves is a matter for them, but we discharged what we thought were our responsibilities in that regard.

The member for Mawson made a point about the fact that the Liquor and Gambling Commissioner and the Licensing Court came to a view that was different from that of the Supreme Court. It is not unknown in the history of judicial decision making that those matters occur, but we understand that it has led to particular organisations acting detrimentally to their reliance upon that state of affairs, and it is something that will receive our attention. We do not run away from the fact that the Supreme Court has made a decision and that it is at odds with what a number of state agencies have considered, and those matters will receive our consideration.

It was also suggested by the member for Mawson that, somehow, the member for Adelaide was a recent convert to this cause. Nothing could be further from the truth. From the earliest suggestion of difficulties with the Roosters Club, both the member for Enfield and the member for Adelaide, in their proper roles as representatives of their local areas, made representations to me, and the proposition that we are entertaining today was in large measure developed by that collaboration, and it was the initiative of the member for Adelaide.

It was suggested by the member for Bragg, and other speakers as well, that the decision by the Roosters Club to take steps to relocate at these premises in pursuance of the Liquor and Gambling Commissioner's declaration was imprudent, given that there were Supreme Court proceedings that had not been disposed of. That matter is not as clear-cut as has been suggested. There was a particular judicial route which the appellant in those proceedings took. It involved exhausting the appeal process which existed under the legislation through, first, the Gambling Commissioner and the Licensing Court. There is a privative provision in the legislation which prevents appeals to the Supreme Court, so they chose a parallel route, which was to enliven the Supreme Court writ of judicial review which was already on foot. I think it can be fairly said that the Roosters Club was imprudent in not ensuring that all avenues of potential judicial resource had been exhausted. However, I think it is going too far to suggest that they should bear the complete blame for that course of conduct.

This matter was agitated in the context of stay proceedings in the Supreme Court. The matter before the Supreme Court was disposed of last week. The various judges considered the conduct of the parties to decide whether or not a stay should be granted. The court found that no stay could be granted because it was a declaration made by the Supreme Court on a judicial review and that did not provide an order against something which could be stayed. There was no positive order that had an effect on the operations of the Roosters Club which could be stayed. There was a declaration that the licence was void, but it had always been void, so there was nothing that could be stayed pending the High Court appeal lodged by the Roosters Club.

In the course of the debate about whether or not a stay should be granted, two of the Supreme Court judges concluded that the Roosters Club had acted reasonably and they said that, if they had the power, they would have granted a stay of proceedings up to the time when the High Court heard the matter. It is important to note that the member for Bragg chose to quote selectively one of the justices of the Supreme Court but not the majority who formed the opinion that, if they had the power, they would have granted a stay.

The member for Bragg—and I think other members joined in—suggested that there was a simple solution to this matter: that is, that we should hand over some cash to the Roosters Club and simply allow them to go back to where they started from—under the grandstand—and to use their poker machine licence to go back to the position they were in prior to their seeking to be relocated in Sefton Plaza. There are three difficulties with that proposition. First, where would the money come from?

The second difficulty involves the very criticism that members opposite made of the legislative solution to ensure that the licence continues. They say that this measure is put in place to assist the club on an ad hoc one-off basis; therefore, they could not be distinguished from the circumstances of other clubs. The member for Bragg referred to (I think) a particular dance club that was in difficulties and suggested that they were seeking legislative relief and that if we acted in this case we would have to act in that case. The same criticism could be applied to her proposition to hand over money to the Roosters Club to tide them over: why not hand over money to another club? So, that point is a nonsense.

The third and most telling point is that we have Crown Solicitor's advice to the effect that the Supreme Court decision that the Roosters Club was inappropriately (and contrary to the legislation) located in a shopping centre rendered its licence invalid and void and not transferable. The club cannot go back to the position which they enjoyed prior to the surrender of the licence, so they have nothing in relation to which they can continue to operate. If that is the case, the point made by the member for Bragg simply does not hold water. There would need to be a legislative solution—albeit a different one—which, in any event, would put the Roosters Club in the position they were in prior to this

decision. I understand that there may be some legal opinions floating around to the contrary, but that is certainly the government's advice. Even if there were some doubt about that, it would be necessary to ensure that the matter was put beyond doubt. There would always be a need to come to this place and seek a legislative solution, even in relation to the solution promoted by the member for Bragg.

The member for Heysen suggested that the Roosters Club had made an imprudent decision. I do not seek to promote an alternative proposition: certainly it could have acted more prudently, but that is not decisive of the issues we need to weigh up in determining whether to support this legislation. She also asked a question about the specific nature of the legislation, but I might leave that to the committee stage, when I may have the benefit of some assistance. Her question is largely answered by the earlier point I made, namely, that the legal effect of the Supreme Court decision was that the licence is void and not transferable, so to ensure that the stated intention of the legislation is carried out, namely, that the Roosters Club take this licence and transfer it elsewhere, it is necessary to preserve the licence from being void and that is the essence of that provision.

The member for Waite made the point that the Northern Tavern is a small business and through no fault of its own it has been disadvantaged. It is important that the government make clear that we have no grievance with the Northern Tavern. It is not our intention by the passing of this legislation to act in a way that is directed at disadvantaging the Northern Tavern. It may be that this legislation has that effect, but one needs to bear in mind the stated intention and purpose of the head legislation. The gambling legislation, in particular this provision contained within it concerning shopping centres, is a provision about harm minimisation. It is not a provision that seeks to restrict competition from one gaming machine venue in favour of another. It may have that incidental effect, and that may be an effect enjoyed by a particular licensed premises, but that is not the purpose of the legislation. It may also be the case that the same legislation gives rights to licensed premises that allow them to protect their competitive position, not on the basis that the legislation protects them from competition but on the basis of the harm minimisation principle. We need to be very clear about this legislation and the purpose for which it was originally promoted.

Points were also made that those on this side of the house were not permitted a conscience vote in relation to this matter. There is an important distinction to be made about the way in which the conscience vote relates to issues of this sort. How the Labor Party determines its conscience issues and distinguishes between matters of process and matters of fundamental principle is an issue for the Labor Party. There is no suggestion that this legislation seeks to alter any fundamental matter of principle in relation to gaming or gambling machine legislation, and therefore it is a matter which is essentially mechanical and does not bear on these fundamental issues. There has always been a distinction between the way the Labor Party promotes its conscience vote for matters of pure mechanical operation of the legislation compared with issues of fundamental principle. The fundamental question of principle was resolved through the shopping centre provision. This happens to be a short-term arrangement in relation to one premise because of the particular circumstances of the case.

I will conclude my remarks by referring in a general sense to the nature of the contributions that have been promoted by those sitting opposite compared to the contributions of those on this side of the house. We have heard much about the business interests that have been incidentally damaged or will be incidentally affected by the passage of this legislation. We have heard nothing from those opposite about the harm minimisation principles which lie at the heart of the shopping centre provisions. They have not sought to agitate that question, which is the real effect of the legislation.

An honourable member interjecting:

The Hon. J.W. WEATHERILL: It is fundamental to this debate. This provision is about preventing the installation of additional gaming machines in shopping centres, and the purpose of putting that provision in the legislation was a harm minimisation objective to ensure that people who had discretionary income that would otherwise be spent on household items but presumably—and I was not around when the legislation was debated—the motivation was that discretionary spending would now be wasted, in a sense, on poker machines. That was the purpose—

Mr Brokenshire interjecting:

The DEPUTY SPEAKER: Order! The member for Mawson has had his chance.

The Hon. J.W. WEATHERILL: —for which this legislation was promoted. We are seeking to effectively suspend the operation of that provision in respect of particular premises for a period of 12 months. There was not one complaint from those opposite about the harm minimisation principle. However, what they do agitate is the interests of the enterprise that is affected—the Northern Tavern. The Northern Tavern is promoted as an organisation that will suffer from this for a period of 12 months, and its interests are promoted. I make no criticism of raising the interests of the Northern Tavern, but it is peculiar that that is the only contribution members opposite make.

We should compare that to the contributions made from this side of the house. We acknowledge that the Northern Tavern will be affected by this situation. We have no desire to disadvantage it, but it is an incidental effect of this legislation. We balance the harm minimisation objectives of the legislation but we are not prepared to override those on an ongoing basis. We are not entertaining a piece of legislation that overrides the shopping centre provisions. Importantly, we take into account the community interest in ensuring that a club that has rendered so much enjoyment, service and important contributions to a local community and rate those matters as having an important place in this debate. With all those matters heading in conflicting directions, we seek to come up with a solution. It is a sensible conclusion that ultimately protects those legitimate business interests that those opposite seek to agitate, because in 12 months whatever rights the Northern Tavern incidentally has because of this legislation are restored.

The shopping centre restriction on new machines is protected. It is not diminished in respect of any other premises, and in respect of these premises in 12 months it ceases to exist. In respect of the important community interest of ensuring the survival of the Roosters Football Club, a period of time sufficient to allow it to make an adjustment is provided for. It is a sensible conclusion. I have appreciated the important contributions that have been made by the members for Adelaide and Enfield in coming up with what is a sensible compromise for a difficult position. I commend the bill to the house.

Bill read a second time.

In committee.

Clause 1 passed.

Clause 2.

Mr BRINDAL: I was not minded to contribute to the committee stage, but I have been upset—

Mr Brokenshire interjecting:

Mr BRINDAL: I will be as quick as possible, Robert. I was upstairs listening to the contribution of the minister—and, I have to say, I promised him my support with respect to this bill. But if ever a minister almost convincingly and instantaneously changed my mind, it was when I heard the sanctimonious claptrap coming from the minister about harm minimisation principles.

Members interjecting:

The CHAIRMAN: Order! We want harm minimisation in the chamber!

Mr BRINDAL: I will not delay the committee for long. Sometimes, like all of us, I wonder about political policy, political directions; all sorts of things. I am often teased about whether I am in the right party. Occasionally I have those doubts, but tonight the minister quite compellingly convinced me otherwise. When he has to justify his stance on the grounds that he is protecting people from themselves, something is very wrong. When he addresses this chamber and roundly commends the members for Adelaide and Enfield, and anyone on his side who he happens to think makes a little bit of sense, and then condemns everyone on this side for arguing a particular point of view, he is showing a bias that I think is unbecoming of him. All I can say is: I hope he matures in the job, and I think he will do much better in the future. But if he wants to keep getting members of the opposition on side, he should not go down with the sort of socialist rhetoric which died in the Labor Party, I thought, in the 1970s, but which appears to be alive and well in this minister.

Ms Breuer: Vote against it.

The CHAIRMAN: Order! The member for Giles is out of order when she interjects.

Mr BROKENSHIRE: I have a series of questions, some relating to this clause and some relating to schedules 2 and 3. I was disappointed to hear the unfounded rhetoric of the minister—although I know that he is defending a position where his government (which is, at the end of the day, ultimately responsible for the stuff-ups of agencies and departments that they administer) has to come in and try to put forward some non-defendable position. But to say that the opposition did not support or comment on harm minimisation with respect to this bill is an outrage.

Let me highlight why, as I ask this question. I will tell members what the government has done about harm minimisation. The government has said that, even if you are illegally operating with gaming licences, it is all right for an extra year, through a ratification in the parliament, to have a situation where, instead of having 40 gaming machines that were in every way legally approved—legally approved, I repeat—within that shopping precinct, based on the dates when this tavern applied for and received its licences, we now have 80 gaming machines within 100 metres of the boundary of a shopping centre. So, if they want to talk about harm minimisation, they want to have a look at themselves, because the government has refused to talk about harm minimisation at a time when it should have been talking about it.

There are a couple of other things here that are very prudent. First, I ask the minister what directions or correspondence there has been between the government and SAPOL, the minister for licensing and gambling, the IGC or any other government agency with respect to any potential correspondence hold-ups? Letters were written by an organisation that had an interest in this matter, and they have not been received. A certain organisation has made reference to the fact (including writing to the Attorney-General) that, at the moment, the club is operating without a gaming licence. What directions were made for no response to come back through any of those agencies with respect to the matter of operating without a licence?

The Hon. J.W. WEATHERILL: No directions were given by my office not to respond to those propositions.

Mr BROKENSHIRE: I understand the minister says that no directions were given by his office, but is he aware of any directions, discussions, negotiations, correspondence or telephone calls from any other part of his government?

The Hon. J.W. WEATHERILL: I am unaware of any directions of that sort.

Mr BROKENSHIRE:I have a further supplementary question—

The SPEAKER: I point out that technically there are no supplementaries. However, the chair is very tolerant.

Mr BROKENSHIRE: What is the government's current position and attitude towards the fact that at this very moment, I believe due to errors, forgetting where you bring the debate about appeals (and I note at this point that the minister acknowledged that the Roosters Club Incorporated may not necessarily have managed the situation as best it could, which paraphrases what I actually heard from the minister earlier), if you go back to the root cause of this problem, it involves government agencies. We know that, and the community of South Australia needs to know that. I want to know what the minister and this government will do to address the fact that government agencies have made a mistake that has caused enormous financial grief, enormous problems to communities and a lot of hype in the media, and resulted in people losing their jobs.

The Hon. J.W. WEATHERILL: The first proposition is that the Roosters club is presently without a gaming machine licence. That is the present state of the law and we do not seek to suggest anything other than that at the moment. There is some contention that the club is operating illegally. I am unaware of that. We do not seek to suggest anything other than that they do not have a gaming machine licence. In relation to the role of the agencies in this matter, that will be carefully analysed. We are at the moment dealing urgently with an attempt to remedy the situation through this legislation before the parliament. The role of the agencies will be examined.

Mr BROKENSHIRE: Will the minister give an undertaking to the parliament not only that the role of the agencies will be examined but that whatever needs to be put in place to ensure that this sort of situation does not occur again will also be put in place?

The Hon. J.W. WEATHERILL: I give an undertaking that if, after the examination of the role of the agencies, there is proper action to be taken it will be taken.

Clause passed.

Clause 3.

Mr BROKENSHIRE: With respect to the validity granted within this clause, will the minister say what consideration the government has given to the provision of financial assistance, first, in respect of relocating the Roosters Club Incorporated to other premises without it being a financial burden on the club, given that this problem was

caused by government agencies? What consideration has the minister given to financially assisting this club, which I understand has to vacate by the end of May next year, if indeed this bill is passed in the form in which the government has put it up?

Secondly, notwithstanding the minister's remarks at the end of his second reading speech, a significant financial burden has also been placed on the Northern Tavern. In fact, under this legislation, that burden will continue for up to one more year. I understand that that burden has reduced the profits of that tavern by 50 per cent and that there are members of six families now without a job in that tavern. I have also been advised that opportunities have ceased for builders and subcontractors in that area, opportunities that would have generated money for their businesses. What consideration has the government given to not only financial support to assist the Roosters Club Incorporated to relocate but also to the financial impost on the Northern Tavern as a result of its significant financial loss over period of time?

I ask this question at a time when, over the past 12 months, the government has had record windfalls from super taxes from gaming in every way possible. This government has had one of the greatest increases in its tax revenue base of any government. With money available, what consideration has been given to looking at a fair and equitable outcome for these two organisations that, through no fault of their own, have been severely affected, especially in view of the fact that it was due to a government agency's mistake?

The Hon. J.W. WEATHERILL: The member for Mawson would be aware that it is not proper to disclose the deliberations of cabinet. It can properly be said that all relevant considerations have been taken into account. We are proffering legislative solutions to the parliament today, and we have provided our reasons. We took into account all proper considerations, and this is our solution.

The CHAIRMAN: I put the question that clause 3 stand as printed.

Mr BROKENSHIRE: Mr Chairman, if you are saying that clause 3 stands as printed, does that include line 23?

The CHAIRMAN: Basically, it is a heading and the schedule, which ultimately relate to clause 5. These three are really a package, so members can speak to any of them under clause 5.

Mr BROKENSHIRE: Based on that advice, sir, I do have further questions for the minister with respect to clause 5.

Clause passed.

Clause 4 passed.

Clause 5.

Mr BROKENSHIRE: Just to clarify, and in fairness to the minister, I acknowledge that he is not the minister responsible for all these agencies. I also put on the record the reason why some of my colleagues did not receive a copy of the second reading explanation. It was because I did not provide them with a copy, not because the minister did not make it available prior to today.

Notwithstanding everything else I have raised in committee in the last 10 or 15 minutes, I am particularly concerned that, as I understand it, if this bill were to go through as the minister has put it to the parliament, by 31 May 2004 the Roosters will have to be located elsewhere and that this will be the case no matter what happens with the review from the IGA (which the minister will receive in September and which will, I understand, be tabled in parliament in October), and notwithstanding any subsequent amendments needed or further debate within the parliament around the issues of the review with respect to gaming freeze matters (which I understand will come into this parliament in February so that we will have plenty of time to debate it before the freeze ends on 31 May 2004). I would like the minister to confirm for me something relating to Schedule 3—Special provisions for licence for Roosters Club Incorporated. Subclause (2) provides:

> The licence to which subsection (1) applies is, if still in force, to be taken to be suspended on and from 31 May 2004 (and may be surrendered for the purposes of this act by the licensee after that date despite its suspension).

When members look at the act, I think section 14 (or thereabouts) talks about that suspension. However, the minister in his second reading contribution said:

> Under the provisions of this bill, the Roosters Club can continue to operate its gaming machine business in the premises at 255 Main North Road Sefton Park until 31 May 2004. Prior to that date, the Roosters Club would need to transfer the licence to an alternative suitable location. That new location would be required to meet all provisions of the Gaming Machines Act, including the shopping centre provision.

Therefore, I need to know whether it can be categorically stated in parliament tonight that, under no circumstances—if indeed the parliament was to support this bill—can the Roosters stay located within that shopping centre precinct after 31 May 2004.

The Hon. J.W. WEATHERILL: The first thing to say is that it is not possible for me to give a commitment about what the parliament may decide to do upon receiving a report from the Independent Gambling Authority. I would be very surprised if there were changes of the sort that would trouble the honourable member, but I cannot give a commitment about what the parliament will do over this period. What needs to be understood about this provision—and it is probably what is causing the difficulty in the minds of members opposite—is that what will happen as at 31 May is that the Roosters Club will have to cease trading. There is no way that it can continue to trade as a gaming machine venue because its licence will be suspended as at that date. However, it may be that there is some interregnum between then and when it organises other premises.

The effect of this legislation—and this is the essence of the difficulty in which the club now finds itself—is that, once you run foul of the shopping centre provision, it means that you have a void licence, and once you have a void licence you cannot transfer it anywhere else; you cannot go back to where you came from—

Mr Brokenshire: As is the case at the moment.

The Hon. J.W. WEATHERILL: Yes, you cannot go to other suitable premises that would be proper within the meaning of the legislation. One could imagine a situation where logistically, or for some other reason, the Roosters Club was unable to formalise the transfer prior to 31 May and, rather than its ceasing to have a licence that is capable of being transferred to other lawful premises after that date, essentially this leaves something in operation for it to transfer. It ceases trading as at 31 May, but it still has a thing which is capable of being transferred. The difficulty with the current situation and one of the reasons why the member for Bragg's proposition does not work is that, at present, it does not have anything that it can use at the Prospect Football Club, nor does it have anything that it can locate elsewhere.

Mr BROKENSHIRE: Just to get this absolutely right, because this is fundamental to any decision to support this

bill or otherwise, effectively this clause preserves the right for the Roosters Club Incorporated to be able to utilise the 40 gaming machines elsewhere after 31 May 2004, if indeed it has not relocated by then; but, no matter what, if it is still operating and trading at the premises at 255 Main North Road Sefton Park at midnight on 31 May 2004, its licence for operational purposes will be totally and permanently negated for that facility.

The Hon. J.W. WEATHERILL: Yes, save for any subsequent legislative change, which I am not suggesting is likely or in the contemplation of anyone.

Mr WILLIAMS: Clause 2—expiry of schedule—of schedule 3 provides:

> This schedule will expire on a day to be fixed by proclamation.

Am I to assume from that that it is the expectation of the government that this 12-month reprieve will not be used at the earliest convenience by the Roosters Club to find an alternative site and to move to that site but that this will give them the opportunity to trade at least until 31 May, with the opportunity to start looking for an alternative site after that? Clause 1(2), which the shadow minister has just been asking questions on, certainly gives some surety after 31 May if the club has not made arrangements to go to different premises, and then clause 2 holds this schedule over, and particularly subclause (2), for an indefinite period after 31 May. I would have thought that the parliament, if it passes this bill, is being very kind and generous to the Roosters Club in giving them a whole 12 months, plus a few days probably, to find a legal premises; whereas it seems to me that the minister and the government are saying that the club does not have 12 months to find new premises, but that it has 12 months, plus a few days, to trade in what the parliament has already decreed should be illegal premises and then after that they have an unlimited time to find new premises.

The Hon. J.W. WEATHERILL: There are a number of different parts to that. Taking the penultimate point, clause 2—expiry of schedule—is merely an administrative provision to ensure that this schedule can be removed from the act after it has done its work. You do not want to have a whole lot of disused provisions—

Mr WILLIAMS: Why does it not automatically expire on 31 May?

The Hon. J.W. WEATHERILL: Because it may have some work to do after 31 May.

Mr WILLIAMS: My point exactly.

The Hon. J.W. WEATHERILL: No; the work that it has to do is the work that I explained earlier—that is, the provision may be necessary to enable the club, for a short period of time, to organise the circumstances of the transfer. It would be silly for the club to wait until 31 May to seek to trade, because it will have a period when it will be unable to trade, certainly at these premises, by virtue of this provision. So, it is not in the interests of the club to wait until the last moment to transfer. However, one can imagine a short period in relation to which the club may have to organise certain arrangements to facilitate the transfer to another premises. So, there may be an interregnum. To avoid the situation we are currently in, where the club has an invalid or void licence, which means that it is unable to trade if it goes past 31 May, we have put in this clause which provides that the licence can be surrendered after the period when they cease trading. It is merely a provision to seek to preserve the club's contingent right, which is the right to find another lawful premises. However, that does not give the club the right to operate at these premises.

Mr WILLIAMS: My point is that the minister is seeking to give the club the opportunity to keep trading at these premises right up until 31 May. If the minister was being honest with the parliament, if it was the minister's wish to give the club 12 months, plus a few days, to get its house in order, so to speak, surely clause 2 would say, 'This schedule will expire on 31 May'? The minister is asking the parliament to be exceedingly generous to the Roosters Club, yet now he is saying we are not only giving them 12 months to get their house in order, but also giving them 12 months not to get their house in order. Then we are giving them an extended period after that—and the parliament has no idea how long the extended period might be—to get their house in order.

Notwithstanding the minister's comment that they would not want to be not trading (and I accept that point), I am absolutely certain that the Roosters Club will want to trade on this site until 31 May. I am absolutely certain that the club will endeavour to trade until the last possible day. It sees this as a very advantageous site, and this gives the club the ability to do that with plenty of head room if it made a few mistakes in the arrangements to move forthwith at that date to another site. Basically, instead of giving it a bit of head room to get its house in order, the minister is giving the club the opportunity to trade for another 365 days at an illegal site and then extended head room to get its house in order after that. I wish the minister would be honest with the parliament.

The CHAIRMAN: I should point out to the member for MacKillop that he should be careful not to reflect on the minister.

The Hon. J.W. WEATHERILL: I did not discern a question in that contribution.

Mr BROKENSHIRE: When we use the word 'trade' (and I hope we use the word in a looser sense, given the provisions of the act at present), we do not intend to say that this trade is pre-empting the review. We have not yet discussed at this stage the matters about transferability. Therefore, I want the minister to clarify that the word 'trade' (as I have already highlighted and the minister has answered) means ceasing trade absolutely and categorically, the only caveat being if something happened in the parliament as a result of the Independent Gambling Authority's review. Apart from that, absolutely categorically the Roosters Club Incorporated would have to cease trading on 31 May 2004. As I understand the minister, they are then able to hold in abeyance their 40 gaming machines, if they cannot immediately transfer to another facility. So, they would not be trading, but they would be held so that they could trade again on another date—an unspecified date, as I read the bill. They could hold the machines for five years and do nothing if there is a goodwill factor, or whatever. Whatever happens, they could not on-sell the machines at that stage: they would have to hold them pending shifting to a new facility and not trade at this address.

The Hon. J.W. WEATHERILL: It might be useful to clarify some of the terms being used. In relation to 'trade' in the sense that it has been used for the transfer, if you like, of the licence, the language of the legislation is to surrender and to have a grant of a new licence. When in debate a number of us have used the phrase 'transferring the licences' or 'trading the licences', it is used in that sense. There is a surrender and a grant. That is why these terms are used in this legislation.

The other sense in which the word 'trade' is being used—and I accept that it is the sense in which the member for Mawson used it just then—is to operate. In that sense, we understand that from 31 May 2004 this venue cannot operate its gaming machines from these premises. But in any period during that time they can surrender their licence and obtain a grant at a proper location.

Mr BROKENSHIRE: Clearly, it is acknowledged that the problem lies with the government agencies at the beginning, irrespective of whatever else has happened to cause angst, financially and emotionally, to both the Roosters Club Incorporated and the Northern Tavern. Taking into account the minister's answers, would it not be better for the cabinet—if this bill were to pass this chamber tonight and before it reached the other chamber—to reconsider financially assisting the Roosters Club Incorporated to relocate its premises immediately? That would assist the club because, from my understanding of this whole debate, it has been in an extraordinary situation as a result of decisions made by government agencies at the outset.

Would consideration be given to assisting the Roosters financially to relocate, which would also assist the Northern Tavern, which is a victim in this situation? The situation would therefore not be pushed out for a year and the Northern Tavern would not continue to lose 50 per cent of its profits, in addition to loss of jobs and problems with building renovations. If this bill passes tonight, would the minister consider taking that proposal back to his government before there is an opportunity to debate the bill in another place?

The Hon. J.W. WEATHERILL: I thank the member for Mawson for his suggestion, but the government has come to this house with its solution to this issue. That is a different solution but this is the one the government proffers.

Clause passed.

Title passed.

Bill reported without amendment.

Bill read a third time and passed.

STATUTES AMENDMENT (ROAD SAFETY REFORMS) BILL

Consideration in committee of the Legislative Council's amendments.

(Continued from 26 May. Page 3095.)

Mr BROKENSHIRE: Mr Chairman, I draw your attention to the state of the committee.

A quorum having been formed:

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

That the House of Assembly insist on its disagreement to the Legislative Council's amendments.

Motion carried.

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

That a message be sent to the Legislative Council requesting a conference be granted to this house respecting certain amendments from the Legislative Council in the bill and that the Legislative Council be informed that, in the event of a conference being agreed to, this house will be represented at such conference by five managers, namely, the Hons M.J. Atkinson and M.R. Buckby, Mr Goldsworthy, and the Hons R.B. Such and M.J. Wright.

Motion carried.

SHOP TRADING HOURS (MISCELLANEOUS) AMENDMENT BILL 2003

Adjourned debate on second reading (resumed on motion).

(Continued from page 3114.)

The Hon. I.F. EVANS (Davenport): The minister will be pleased to know that my contribution on this topic tonight may not be as long as it has been on other occasions. I will go through a bit of the history of this issue, because I know that members of the business community will look to this debate to see why the parliament took the decision it is about to take over the next fortnight or so in relation to retail shop trading hours, and I know there have been strong views in the house about this issue over the past decade. I thought it would be opportune to at least retrace some of the history about why we are debating this legislation tonight when the house addressed this issue only in the past 12 months, in about September or October last year.

The house will recall that in about September or October last year the government introduced a bill that proposed what was generally known in the public debate as the 'summer of Sundays' concept, where there would be five Sundays of trading before Christmas and five afterwards. Roughly, that was the concept, and in essence that would have dealt with the national competition issues for that year, according to the government. The opposition and others in the upper house ultimately defeated that measure on the basis that we had concerns about the industrial relations issues that were simply not addressed in that bill at that time.

During the break between that bill and the introduction of this bill, I took the opportunity to do a lot of research on the national competition issue, looking at some of the evidence that Graeme Samuel from the National Competition Council had given to various select committees and looking at public statements. I came to the view that South Australia would lose a significant amount of competition payments if it did not move to deregulate shop trading hours. I will retrace a little of the history in respect of that, and I will quote from Mr Samuel. I am unsure whether this was a speech given by Mr Samuel or evidence he gave to a select committee, but I think it outlines the philosophy behind what the National Competition Council has attempted to do in relation to reform.

I will quote this for the record so that those business people reading the *Hansard* understand where this debate has come from. Before I start quoting, I remind members that this concept of national competition policy was developed with the Hilmer reforms in 1992 under the then Keating Labor government. In this document Mr Samuel says:

All governments in Australia have, since 1995, undertaken perhaps the most comprehensive economic reform package in the nation's history—the National Competition Policy. The essence of the reform package has been to ensure that every aspect of the economy, every business enterprise, whether private or public, is subject to the disciplines of competition unless it can be demonstrated that competition should be restricted in the overall public interest. The reforms have been wide and far-reaching, covering basic utilities such as gas and electricity, water management, restructure of government business enterprises, establishing practices to ensure that government businesses compete with the private sector on a level playing field, and reforming anti-competitive laws and regulations to ensure that competitive disciplines apply across all sectors of business in the context of a truly competitive business environment.

Why have we done all this? Well first and foremost, we have been focusing on the economic well being of the country as a whole. And, in this context, the results of the implementation of this reform package has been nothing short of outstanding. Let me give you just a few brief statistics.

Mr Samuel continues:

It is pertinent to note that, during the period of implementation of this reform package, the Australian economy has been through its

longest sustained growth period since the 1960s. Inflation now seems to be well and truly controlled at less than 3 per cent per annum—compare that with the average of 9 per cent per annum over the '70s and '80s. The unemployment rate over the past decade has dropped from nearly 11 per cent to now 6 per cent and our annual productivity growth is running at about two to three times that applicable in those same two decades.

But fundamentally these reforms are about providing benefits to consumers, that is to say the community at large. For vigorous competition is all about providing consumers with choice, information to enable the choice to be made, convenience, higher quality and lower prices for goods and services.

Implementing this reform package has not been easy for governments for, in many cases, it has involved breaking down long-established anti-competitive barriers which, over many decades, have protected sectors of business, including government business, from the rigours and disciplines of competition. Perhaps the most complex area, in political terms, for the implementation of the reform package has been in relation to issues affecting small business. Small business is an important and integral part of the economy. It contributes almost one-third of our gross domestic product and employs over 50 per cent of the work force.

For the most part, small business is an integral part of vigorous competition and the interests of small business are concomitant with those of consumers. But the principles of competition policy enshrined in both the Trade Practices Act and the National Competition Policy stress that the primary purpose of a vigorous competitive economy is the protection of the interests of consumers.

Entirely consistent with this objective is that businesses that are able and motivated to take advantage of the competitive environment by innovation and vigorous competition will thrive. And for the most part, small business is able to respond to the competitive environment more quickly and with more flexibility than many of its larger competitors. The corollary is that businesses unable or unwilling to respond to the challenge of competition will languish and may ultimately fail.

Mr Samuel continues:

This is not to say that small business has no protection under the act or under competition policy, for competition policy is about encouraging lawful, vigorous, competitive behaviour to benefit consumers, this is to say the public interest. On the other hand, small businesses that are subjected to unfair. . . behaviour that is inherently anti-competitive and disadvantages consumers, are entitled to protection from that unfair. . . behaviour under our competition policy laws.

The difficult task for governments and competition policy regulators is to distinguish between vigorous, lawful competitive behaviour that is likely to lead to significant benefits for consumers and unlawful, inherently anti-competitive behaviour that is likely to disadvantage consumers. This is a task that needs to be undertaken independently, rigorously, transparently and objectively to ensure that the primary focus is on the interests of consumers, that is to say the community at large, and not on insulating certain sectors of business from the normal competitive disciplines.

In conclusion, Mr Samuel says:

The bottom line is that competition policy is directed towards enhancing the power of, and the benefits flowing to, consumers from the imposition of competitive disciplines on business. If, consistent with this, protection should be afforded to certain competitors as a necessary mechanism for preserving and promoting competition for the benefit of consumers, then protection of those competitors is entirely consistent with competition policy. However, where the protection of certain competitors is not consistent with promoting competitive outcomes for the benefit of consumers, competition policy does not have the result of protecting those competitors from the normal disciplines of competition.

I have read that into *Hansard* because it is important that those small businesses which have heard the words 'national competition policy' but which do not understand it in detail need to comprehend that it is really about, if you read through what Mr Samuel says from which I have just quoted, benefiting consumers. That is why retail shop trading laws come under the microscope of national competition policy, because retailing is an area that depends on consumers and it is an area that greatly affects consumers. Hence, it comes under the national competition policy guidelines.

The issue for this state and Western Australia is that the National Competition Council, through its annual report in August 2002 and Mr Samuel, advised the government and, through the government, the parliament, of its policy. I will quote from that report so that the parliament is clear. It states:

The council stresses that this is the last NCP assessment for which it will accept assurances on future legislation review and reform action. It does not anticipate addressing review and reform activity in NCP assessments after 2003. The 2003 assessment will consider only completed review and reform activity. Review and/or reform activity that is incomplete or not consistent with NCP principles at June 2003 will be considered to not comply with NCP obligations. Where non-compliance is significant, because it involves an important area of regulation or several areas of regulation, the council is likely to make adverse recommendations on payments. Governments should ensure they provide adequate reporting in time for the 2003 assessment, to show they have met the review and reform obligations.

The NCP made it clear to everyone in August 2002 that we had until June 2003 to deliver. I have no doubt that, in part, that is why the government came to the parliament not long after that (in August, September or October) with its summer of Sundays concept knowing full well that we had until June 2003 to deal with the issue of retail shop trading hours. So, the government's response to those documents to which I have referred was the summer of Sundays concept. I will come back to that later. Mr Samuel of the National Competition Council wrote to the Treasurer (Hon. Kevin Foley) on 26 August 2002, as follows:

The council considers that implementation of the reform proposal introduced into the parliament on 14 August 2002 would address South Australia's competition obligations for the 2002 assessment. Upon implementation of the reform proposal, the Council will recommend to the Federal Treasurer that South Australia receive its full competition payments for the 2002-03 financial year.

The letter goes on to state:

The Council considers, however, that there is additional work for South Australia in relation to trading hours, as recognised by the Government in the second reading explanation commitment, to further action to streamline South Australia's current complex system of exemptions. The Council will look for South Australia to have considered and implemented this foreshadowed reform of the restrictions by the time of the 30 June 2003 NCP assessment.

The letter continues:

I look forward to advice from you confirming that the legislation introduced into the parliament on 14 August has been fully implemented and confirming that South Australia will address the remaining competition questions by the time of the 2003 assessment.

It is clear from that letter that Graeme Samuel said to the government immediately after the introduction of its summer of Sundays concept that that was not enough to satisfy the National Competition Council. So, the government's summer of Sundays package, if it did nothing else between then and June 2003, would have put at risk the NCP payments.

That is one of the reasons why we are here today. It is obvious from this letter that the government clearly understood that 30 June was the deadline, that we did not meet the requirements of Graeme Samuel and the NCP, and that the government's solution simply was not enough. Having researched through those documents over that period, I also looked at the evidence given by Mr Samuel to the Legislative Council's Select Committee on Retail Trading Hours. I have checked with upper house officers, and this is a public document so I can quote from it. I refer to some of the evidence in this document which further crystallises the position in which we find ourselves.

In essence, Mr Samuel was asked about the level of the likely penalty. He highlighted the points I have already made by quoting his previous letters about the 30 June deadline and the fact that the government's previous package was not enough. He then stated:

> To this end, if the South Australian government did not proceed with appropriate reform in relation to retail trading hours prior to 30 June 2003, the council would need to assess the significance of that failure in making recommendations to the federal Treasurer concerning competition payments for the 2003-04 years and all subsequent payments until these outstanding reform matters are resolved.

In his evidence, Mr Samuel makes the point that there are, I think, three more years of competition payments remaining but that this is the last year for the assessment of those payments. So, essentially, he would make his final recommendations this year, and then they would go off to the federal Treasurer to consider the penalty that would apply. Mr Samuel goes on in evidence to state:

> However, the principles of competition policy enshrined in both the Trade Practices Act and the National Competition Policy Agreements stress that the primary purpose—

and I emphasise 'primary'—

> of a vigorous competitive economy is the protection of the interests of consumers and to provide the benefit to consumers in terms of choice, information to enable that choice to be made, lower prices and higher quality of goods and services.

He then continues:

> The bottom line is that competition policy is directed towards enhancing the power of and the benefits flowing to consumers from the imposition of competitive disciplines on business.

I highlight the whole concept of national competition policy being about benefiting consumers, which is a point picked up by many of the businesses involved in the public debate. When they hear on the radio something about national competition policy they think it is purely about deregulation and strict competition. It is not as easily defined as that.

There is a strong emphasis for Mr Samuel on what benefit ultimately comes to the consumer out of the whole process. He is then asked a question with regard to the likely level of penalty. This makes interesting reading for those on the committee and for the house. This was back in April, so this information was available to the government some time ago. He is asked about the level of the likely penalty and says:

> Without wanting to bind the council, I will give you a feeling. First, it will not be $1 million; and, secondly, it will not be $55 million.

I point out that $55 million is the estimated figure for the national competition payments next year. It varies slightly from year to year. Sometimes the figure of $57 million is used and sometimes $55 million. Mr Samuel uses the figure of $55 million. He continues:

> One of the factors we take into account is what I call the incentive factor.

He then goes on to give an example of the New South Wales rice industry and states:

> I will give you an example to give you a bit of a feel for what I am talking about. We had to deal with an issue (this is public; it is on the record) involving domestic deregulation of the rice industry in New South Wales. The council determined that the sort of reductions in payments that should apply then—and we are talking about domestic deregulation not export deregulation—should be about $10 million plus. That was for a single industry of rice and domestic marketing of rice within New South Wales. That will give you a feel for what is involved.

He is then asked about how much of that $10 million for New South Wales is payments, and Mr Samuel responds (referring to the total figure of competition payments for New South Wales):

> About $250 million. Back then it was different. I do not think that we should necessarily measure these in percentage terms. At the time we took into account the economic impacts of the failure to undertake reform, and what I call the incentive impact. The idea of the payments is to provide a dividend for reform. If the dividend is too low so that the government does not undertake the investment, the dividend does not serve the purpose that the nine Australian governments intended in 1995. So, the dividend has to be significant enough to warrant undertaking the investment.

Mr Redford from another place then asks:

> I am not sure that you have helped me. I think I have it down to somewhere between $10 million and $56 million, I suppose.

He is talking about the level of penalty we will suffer. Mr Samuel says:

> I do not want to lock in those numbers, because it could be less than $10 million and it could be nowhere near $56 million. All I am trying to indicate is that the significance to the economy, consumers and employment, combined with the level necessary to provide a relevant incentive, are the sorts of factors we have taken into account. I think you said that, if it was be $1 million or $2 million, you would probably cop that and not worry about it.

Mr Samuel continues:

> You said that you might. I think that factor would be taken into account when looking at the incentive factor. . . All I can say is that, if you take into account one of the criteria (the incentive factor), then it would be fair to say that there would be a sufficient incentive in the level of the reduction to allow you to seriously think that it would be worth while dealing with an appropriate reform program.

What Mr Samuel is saying there is clear to all of us, namely, that if the parliament does not deal with this issue in an informed way to his liking by 30 June he will recommend that what he calls a significant incentive factor be taken off our national competition payments. All this information was essentially out there in one form or another when the government brought in its Sundays concept. One would have to wonder why the government brought in the Summer of Sundays concept if it did not intend to deal with the issue again before 30 June. The government will need to address the issue of why it chose to bring in this interim step, knowing full well that we would cop a national competition payment penalty at 30 June if it did nothing else.

Some would suggest that the government was going to run the Summer of Sundays concept for one year, claim it to have been an outstanding success and then bring in a more deregulatory approach post that event. However, things have moved on, and we are now back debating retail shopping trading hours tonight as result of the minister's bill.

That gives a little background as to how the national competition policy was set up, how it is judged, its basic operation and a likely level of penalty. Mr Samuel—and I have met with him, and I know the minister has met with him—and his officers are careful not to put a figure on the likely level of penalty. I am sure he has made clear to the minister that he considers that the benefit to consumers of the deregulation of retail shop trading hours in South Australia is a significantly more important issue to the National Competition Council than the deregulation of the New South Wales rice market, because more consumers are affected by the deregulation of the South Australian retail industry. If you combine that factor with the fact that Tasmania, Queensland, New South Wales and Victoria have in their own models deregulated retail shop trading hours, it becomes clear that, in my judgment, we will suffer a significant penalty, and my

guess is that it would be well over the New South Wales rice penalty which was $10 million a year. So, over the next three years, that would be well over $30 million. It would be significantly higher than that. I should clarify that that is my best guess, not what Mr Samuel has indicated. He has not indicated a figure.

On that basis, I took a position to the Liberal Party that it was difficult for the parliament to defend cutting tens of millions of dollars out of schools, hospitals or other services, therefore we should deal with the issue. In the last fortnight, the Liberal Party has taken the view that we should look at further deregulation of retail shop trading hours, and we have made public our position in regard to that. Of course, the government has been dragged to the alter of deregulation, and over the weekend it has had lots of meetings and come up with its own package of partial deregulation of retail shop trading hours, and we will go through that bill as we speak. While all this has been happening over the last eight or nine months, the minister and his officers have been very enthusiastic about putting out lots of press releases about the deregulation of shop trading hours. Perhaps the one that will most interest the minister tonight is the one the minister put out in relation to how Clare Valley trading hours were deregulated, and where the minister goes on to say that the Clare region's decision to move to unrestricted shop trading hours was a good thing. One would have to ask: why is it that Clare can move to restricted trading hours but the minister's own bill does not do that?

The minister does not adopt the same position for Adelaide that he is necessarily adopting for Clare, Cobdogla, Kadina, Murray Bridge, Penola, Berri or all those other towns and suburbs he has mentioned in his own press release. When it suited the minister he was a great deregulation advocate, saying that we should have totally unrestricted retail shop trading hours. However, when it comes to Adelaide, a different position is adopted by the minister, and I am sure the minister will comment on that in due course. It is an interesting observation that, when the country areas fully deregulate, they certainly deregulate more than the minister is proposing for Adelaide, and that is a good thing. However, somehow in Adelaide that is not necessarily the same position.

I now wish to comment on industrial relations matters. It is no secret in this house that I have generally not supported the concept of deregulated shop trading hours, and I have been consistent for 10 years. Those who read my speeches will see that, essentially, I have said that one of the reasons why, in general, I have not supported deregulated shop trading hours is that the penalty rate issue has not been addressed. It was not addressed by the former Liberal government when it reformed retail shop trading hours—although, of course, it did introduce the regime of enterprise bargaining, which assisted many businesses.

It is an interesting observation for the house that 110 000 people are employed in the retail industry and, as I understand it, of the 65 000 employees, 35 000 are under enterprise bargaining agreements and only 30 000 are under the award. So, we are now in a position where more employees in the retail sector are under enterprise bargaining agreements than are under the award. That is another reason why I think that the award ultimately needs to be reviewed as part of this process.

The fact that I am now supporting the deregulation of shop trading hours is due to a combination of factors. I have included in my amendment to the minister's bill a requirement for the Industrial Relations Commission to deal with the penalty rate issue by reviewing the award—and I will speak to that in more detail when I come to the amendment later. I know that some people have the view that parliament should not interfere in the Industrial Relations Commission, and that the setting of awards and penalty rates should be left to the Industrial Relations Commission. I make the point that my amendment does that, and I will speak more fully to that later. My amendment leaves the setting of the penalty rate and the award conditions to the commission.

However, just for the sake of interest, there is a case where the parliament did interfere with the penalty rate, where the parliament did override the full bench of the Industrial Relations Commission. It was the Wran Labor government that overrode the full bench of the Industrial Relations Commission. Before the minister jumps to his feet and says, 'That is not right,' it was the Neville Wran Labor government that did it. It did it, would you believe, minister, with respect to retail shop trading issues—the retail award in relation to weekend penalty rates. The full bench of the Industrial Relations Commission ruled that the penalty rate for Saturday afternoon trading should be a 25 per cent loading. The then Neville Wran Labor government did not support that concept and went into the parliament and legislated for a 50 per cent penalty rate.

So, for those opposite who advocate that it is outrageous for parliaments to intervene on the penalty rate issue, I draw their attention to the fact that that has not always been the case, particularly from the Labor side of the equation. I again emphasise that I am not advocating that tonight, but I am advocating that the parliament has a duty to put in place a process. If the parliament is saying that retail shop trading hours will, basically, be deregulated in one form or another—a significant change to the trading regime—I believe it is our duty to ask the commission to then review the retail awards to see whether the awards and the conditions are relevant and should still apply to the new trading regime. By putting it to the commission, we allow unions, employers and other interested parties to put submissions and make their case, and the commission ultimately makes its judgment. That is part of the amendment.

I will now quickly address some of the issues raised by the minister's bill. Those who read the *Advertiser* this morning would assume that the whole bill streamlined retail shop trading hours. That is not my reading of the bill. I should say that, in fairness to the minister, yesterday we approached each other, I guess, and the suggestion was that if he introduced the bill today we would deal with it tonight. There was a general view that the parliament had a pretty good understanding of all the issues, given that we went through the debate not that long ago, and it has been debated a number of times over the past few years. So, we are here tonight probably a little quicker than would normally be the case with a bill—and I do not criticise the minister for that.

I draw members' attention to the case. It has not always been the case, particularly from the Labor side of the agenda, and I again emphasise I am not advocating that tonight. However, I am advocating that parliament has a duty to put in place a process: if parliament is saying that retail shop trading hours are going to be deregulated in one form or another (a significant change to the trading regime), then I believe it is our duty to ask the commission to then review the retail awards to see if the awards and conditions are relevant and should still apply to the new trading regime. By putting it to the commission we allow unions, employers and other

interested parties to put submissions and make their case, and the commission ultimately makes their judgement, and that is basically part of the amendment.

Now to quickly address some of the issues raised by the minister's bill. For those who read *The Advertiser* this morning you would assume the whole bill is streamlined—the retail shop trading hours. That is not my reading of the bill and I should say, in fairness to the minister, that we actually approached each other yesterday suggesting that if we introduced the bill today we would deal with it tonight. There was a general view that the parliament had a pretty good understanding of all the issues, given we went through the debate not that long ago, and it has been debated a number of times over the last few years. So we are here tonight probably a little quicker than we would normally be with a bill (and I do not criticise the minister for that).

However, I want to walk through some of the issues with the bill that the minister may wish to explain in response to the second reading debate. These are not in any particular order, but they are issues that I believe need some explanation. As I understand the bill put forward by the minister, hardware stores, furniture stores, floor covering stores and automotive parts stores are still treated differently from electronic stores and clothing stores. I will give an example as I understand it: under the minister's bill what I would call general stores can open from 11 a.m. to 5 p.m. on Sundays but hardware stores, automotive stores, floor covering stores, and furniture stores get to open between 9 a.m. and 5 p.m. I would have thought if we were streamlining the bill we should let them all open at the same time. Why have a differential?

I raise this point because the minister's bill increases the penalty on employers tenfold. The current penalty on an employer is $10 000 but under the minister's bill it becomes $100 000. To put the ridiculous case to the house, an electronic store that wants to open at 9 p.m., because a hardware store may be selling similar goods, faces the penalty but the hardware store does not. I would have thought if we were streamlining the act to try to deregulate as best we could and get rid of some of the inconsistencies, that was an obvious one that needed attention. I know that in the minister's previous bill (and I do not want to reflect on a decision of the house), he was bringing electronic stores under the same umbrella as hardware stores, and I do not understand why he has back-flipped, and now they are not the same as hardware stores. Nine months ago the minister was convincing us that they should be, whereas today he is trying to convince us that they should not be; I do not quite understand that. So, the minister might want to address the matter of the different hours, and why electronics are treated differently in that respect.

I will quickly walk through the bill. As I understand the amendments to section 4, the minister is dispensing with the requirement that the shops are judged as exempt shops if they have a certain number of employees. We do not have a problem with that. It is another restriction that has basically gone, so we support that in principle. However, the minister should not interpret that as our supporting his hours concept. We still reserve the position that the Liberal Party has made public over the last fortnight. It is our view that shops should be able to trade when they wish, except for Christmas Day, Good Friday, Easter Sunday and the morning of Anzac Day. I will come to that point now and talk about the hours.

The minister's concept is this: we are going to deregulate shop trading hours to make it simpler and streamline it, so we will allow shops to trade between one minute past 12 and nine o'clock at night. We are going to allow shops to trade 21 hours. Apparently, the Liberal proposal, to let them trade the last three hours, is outrageous. That last three hours becomes a real difficulty for the minister. Shops, shopkeepers and workers, the inspectors who are going to have to go out and inspect the shops that are trading these 21 hours, or 24 hours, are apparently happy to do it for 21 hours. The union is happy for them to be involved in a 21 hour enterprise but, as soon a you go to a 24 hour enterprise, there is a problem. That is an issue, and I do not understand it. I cannot understand why, if businesses can trade from one minute past midnight on Monday, Tuesday, Wednesday, Thursday and Friday until 9 o'clock, they cannot trade the last three hours.

Why is there the 9 o'clock cut-off? The minister and I know that Rundle Mall can open from 9 o'clock from any night it wants now. The reality is that it does not do so because the sales are not there. However, they have got the option. In deregulating hours, the minister wants to set in place a process where at the 21 hours mark of the day the business must shut, and the inspectors then take over. If the business trades past 9 o'clock, they do not face a $10 000 fine anymore: they face a maximum $100 000 fine. I accept that it is a maximum fine. It used to be a maximum of only $10 000. Now it is a maximum of $100 000. So, I say to the minister that I cannot quite work it out. If you have taken the step to say, 'Let's deregulate; let's make it simpler,' why does a business shut at 9 o'clock?

As many businesses will open between 9 p.m. and midnight as will open between midnight and 6 a.m. There will not be too many, but why do they get a discretion to open between midnight and 6 a.m. when they get no discretion to open between 9 p.m. and midnight? It makes no sense to me. The Liberal Party's philosophy on deregulation is to try to simplify it for business and to simplify it for the administration of the act. Under the minister's proposal, the 13 or 15 industrial inspectors who will go out and inspect all the business enterprises will be sitting around waiting for that three hours. The Liberal proposal (which is in an amendment) basically says that, if they can trade 21 hours, let them trade 24 hours. The inspectors would not have to worry about a whole range of matters, as they would under the minister's bill. That simplifies the administration of the act and makes it easier for everyone.

So, I think that there is an issue there for the minister to explain, in a deregulated environment, why there should suddenly be the 9 o'clock cut-off. Why, for goodness sake, should there be a time on Saturdays different from that on Sundays? It seems madness to me that you can open at midnight on Monday to Saturday but not on Sunday. On Sunday, you are restricted from 11 a.m. to 5 p.m. If you own a hardware or floor covering store, or if you are an automotive parts salesman or you own a furniture shop, you have a discretion to open at 9 a.m. If you operate a business in a country region, you can open whenever you want and, if you are in a country proclaimed area, there is a difference set of circumstances again.

I do not think that we have necessarily simplified it. That is why I advocate the Liberal Party model which says that they can trade whenever they wish; they have to pay the appropriate penalty rate or wage rate regime on those days; and we will protect what I think the minister, I and the community would agree are special days, namely, Christmas Day, Good Friday, Easter Sunday and Anzac Day. It makes it a far simpler model for everyone to administer and

understand. So, there is an issue in regard to the hours, and the minister knows that we have tabled amendments to that effect.

The minister has also introduced a range of exemptions. There used to be an exemption power for the Governor, as I recall. The minister's bill clarifies these exemption-making powers and puts them with the minister and not with the Governor, which simplifies the act. Again, you do not necessarily need to use exemption-making powers; at least, they would not be used as often if the minister did not have so many rules still applying to what the government is trying to sell as a deregulated package.

The minister picks up the right to close shops. There are already provisions in section 13(12) of the current act for the Governor, in certain circumstances, to close shops. Under this legislation, the minister would pick up this power, and we do not have a problem with that concept.

We then get to the powers of inspectors, and the philosophy just amazes me. If the government believes its own media, it wants to deregulate—but, whatever you do, do not let them deregulate that last three hours. We are going to increase the penalty 10 times for that last three hours, and then we are going to give the inspectors more powers for the last three hours of each day. Why, for goodness sake? Why are we doing that when we can simplify the legislation for everyone by adopting what we thought was a sensible and realistic proposal? There are new powers for the inspectors whereby they can, for instance, remove any book, paper, document or record (as I read it, combining that amendment with the act) from any building.

To take it to the ridiculous extreme—and I want the minister to address this either in committee or in his response—the way I read that amendment combined with what is in the act, the inspectors can actually go into someone's home and remove their bank statements. I do not know why the government would want to go into someone's home and remove their bank statements. We do not support that concept. The minister may need to take another look at the drafting. Maybe I have interpreted it wrongly, I do not think I have, but the minister might reconsider the powers of inspectors. For goodness sake, we are talking about three hours on Monday, Tuesday, Wednesday, Thursday and Friday, a few hours on Saturday and a few hours on Sunday just because we do not want the shops to trade the last three hours. We will let them trade 21 hours but not 24. It seems an extraordinary position to me. We could simplify these issues for everyone.

At this stage, we do not support the concept of the inspectors having power to take banking details. We want to know why they need the power to take banking details and to remove books, papers, documents and records. It is a different argument, but we think that power should be restricted to copies of books, documents, records and so on, not the originals. What can happen is that an overenthusiastic inspector—and others might describe them in other ways—might take an original book, for example, the wage records—

Mr Hamilton-Smith: The roster.

The Hon. I.F. EVANS: The rosters. The business may need those for operational purposes, but under this bill the increased power of the inspector gives them the chance to take the originals. If they need copies of them, that is a different argument, but again I would want to know why they need copies of banking details. We have some differences in relation to the powers of the officers and why they need to go into people's houses and take their banking details, which is an extreme example but theoretically possible, as I understand it, under section 8(1)(c) of the bill. Not only does the minister introduce higher penalties for a short number of hours and give the inspectors increased powers but he also penalises the shopkeeper for reacting to the inspector. It says that the person must not hinder or obstruct an inspector, use abusive or threatening language, refuse or fail to answer or refuse or fail to comply.

There is a whole range of things for which a person will get pinged if they do not comply with the inspector's request—and guess what, they will get pinged $25 000. I know what I would say to an inspector who rolled up at my home asking for my banking details. I reckon that it would cost me $25 000. This is all for the sake of three hours essentially, that is, in most circumstances, three hours on Monday, Tuesday, Wednesday, Thursday and Friday nights and a couple of hours on Saturdays and Sundays. Why are we putting these powers into the act when we can simplify it so much by not worrying about it but by leaving that three hours at the end of every night and by not making it consistent hours on Saturday or Sunday? Ultimately the minister seeks more power for the inspectors for fewer hours. It seems to be a really unusual approach if the approach is genuinely about deregulating, streamlining and simplifying the industry and retail hours. There are some minor changes to the protection for inspectors and their having no personal liability. We do not necessarily have an issue with that. Then we come to the hours debate. In my earlier contributions on this bill, I think I have probably addressed the differences between the various parties.

The other issue I want to talk about is section 13A concerning restrictions relating to Sunday trading. The minister has said that anyone who does not want to work on Sundays will not have to work. The bill says that a person who is employed to work in a shop in any shopping district is entitled to refuse to work on Sundays unless he or she has agreed with the shopkeeper to work on a particular Sunday. The act talks about 'unless there is industrial agreement'. There is a difference here. I put to the minister that this bill and this particular clause are unworkable, and I will explain why.

If I am a retailer with 50 employees and I enter into a retail enterprise bargaining agreement with those employees and it is stamped by the commission and signed off, under this clause the employees can all say that they do not wish to work on Sundays. The act says that they do not have to work on Sundays unless there is an enterprise bargaining agreement in place that requires it. Of course, enterprise bargaining agreements entail consultation, balloting processes and so on. So, we think that that provision weakens the bill quite considerably, because it allows all the employees to negotiate an enterprise agreement but walk away from it in relation to Sunday trading.

Employers can give up certain extra benefits to employees for the Monday to Saturday trading regime. For example, they may offer differing rostering arrangements, such as more family-friendly rostering arrangements, or different pay regimes. Ultimately, however, they do not apply to the enterprise bargaining agreement in relation to Sunday trading, so we see that the legislation is stronger in that area and offers the right level of protection.

Not only does the minister introduce this concept of '21-hour trading is all right, but 24-hour trading is terrible'; not only does he increase the powers of the inspectors and the maximum penalty from $10 000 to $100 000 but he also

introduces a system of prohibition notices, for which the maximum penalty is $100 000, plus $20 000 a day. The most ridiculous scenario is that, if a business dares to trade those last three hours for a couple of days, it could be fined $100 000, plus $20 000 a day.

Whilst I accept that the government has been dragged kicking and screaming to rush the bill together over the weekend to try to get the march on deregulation, the reality is that I think that the bill has some real problems with respect to what it does and does not do to streamline the industry and make it simpler for everyone. That is a quick summary of the bill.

The other issues I want to address are core hours and the Retail and Commercial Leases Act, which currently sets out the core hours at approximately 65. The government and industry generally agree that 54 hours is appropriate. In principle, we do not have a problem with 54 hours, but I am aware that the industry was meeting today to work through a few issues. Whilst tonight we will support the government's concept of 54 hours, it may be that we will arrive at a different position following discussions within the industry and during the transmission of the bill to the other place.

However, one issue that I do not understand (and we will question the minister about this during the committee stage) is the amendment to section 61 of the Retail and Commercial Leases Act 1995. Section 61(4) is deleted and the following is substituted:

> A lessee may apply to the lessor for exemption from the provisions of the retail shop lease regulating trading hours.

I think that I understand that provision. Is it retrospective? If there is already a lease that regulates trading hours, does this provision override it? It is different to the provision in the act, and I think it will open it up for leases that deal with not only the outside areas of complexes but also the inside areas, although I am not sure. I have some concerns about that clause, and we will not support it in this house unless we have some very clear explanation as to its purpose.

It may be that we oppose it here and discuss it between houses—and we may well support it when it gets to the other house. The minister's officers briefed me and I accept that we have had it for only a day—and that is not a criticism—but, if we oppose it tonight, it may be that we have to work with the industry to work through that issue. I am not convinced that industry understands what that is about. Why the change? There does not seem to be a lot of detail in relation to that.

The government's position on hours is that 9 o'clock trading will be introduced virtually as soon as the bill is proclaimed. If the bill is passed in the next couple of weeks, I guess sometime in June or July they would proclaim 9 o'clock trading. The Liberal Party's original position was that 9 o'clock trading would commence on 1 August. So we are relaxed with the government's bringing in 9 o'clock trading. Our transitional provision was that 9 o'clock trading would start around August and proceed, but that Sunday trading should not start until 1 July 2004.

I think there are problems with the government's model, which says that we are going to deregulate fully from 26 October. The government's bill does nothing for the penalty rate or industrial relations issues. Let us adopt Labor's perfect model tonight, let us say the parliament adopts it without amendment, then small businesses are locked into a 93 per cent penalty rate regime forever. There is no guarantee that the Industrial Relations Commission will actually deal with it. They can, but there is no certainty they will. I accept that the small business community can apply, of course, but the problem is that there is no end date. The commission might take 12 months, 18 months or two years to go through all the awards. There is no end date for the final cut-off. Under the minister's model, we do not know whether small businesses will be paying current penalty rates for six months, 12 months, 18 months or 24 months. We just do not know. There is no end date to the government's proposal. They start paying penalty rates on 26 October and it goes on until a process delivers a commission decision, whether that be one, two, three or four years.

On the other side, we put this argument. We have met a lot with the industry over the past three months on this issue, and I am confident saying that the business community wants a transition period. The house knows I have been involved in retailing. I have had the pleasure—if you want to call it that—of working in seven days a week retailing in the paint and hardware field. There is no way the retailing industry can prepare properly for the deregulation that the government is proposing in 16 weeks or 17 weeks—four to five months away. If you are running a business that needs to change its operations to deal with deregulated trading hours, then 16 weeks or 17 weeks is simply not enough to prepare properly.

There are issues one needs to look at. There are issues about rostering and staffing. You have to advertise for extra staff if you are going to open. Then you have to interview them; you have to product train them; you might have to skill train them in selling; and you have to till train them. Some shops will decide to do a new layout for their store, for whatever reason. Some shops that are under competition, particularly in the food area, will move to differentiate themselves by way of different product. They will say, 'Okay, if I can't beat Coles on the day-to-day basics, I will knock them off because I will stock boutique specialist goods and knock them off on different product and service.'

What the government is asking business to do in 16 weeks is source those goods, work out what product range they want to get, organise contracts, organise buying prices, organise product training, and have it on the shelf in 16 weeks ready for full deregulation. I do not believe that will work. I know that the industry does not believe it will work. I know that the industry supports a transition. The government had the summer of Sundays concept. My consultation about the summer of Sundays concept was that the industry preferred more Sundays before Christmas than after, and that is why I went for the 9-1 mix that I have included in our amendment. The industry wants a transition period, and then it needs time to deal with all those issues. I therefore suggested a year because, in the amendment relating to industrial relations, we have said that the commission needs to deal with the awards by 31 May.

That essentially gives the industry, unions and other interested parties 12 months to prepare their submissions and go to the commission with their submissions, and for the commission to consider and deal with the issues and to make its decision as it sees fit. The minister and I know that there are something like 10 or 12 awards dealing with shops—the delicatessens and all those businesses. There is more than one award, and the commission would look at them.

I know that other members will make contributions about other issues. For example, if you deregulate all Sunday trading, other services related to the retailing industry might need to be looked at. I know that the industry groups want to raise the issue of child care and those sorts of services to

support the staff who will now be working 51 Sundays instead of the number they are working now. All those issues can be dealt with over the 12 months, which is a reasonable time. Someone would even argue that it is not enough, but I think that one must draw the line somewhere, and I picked 12 months. To have to do this in 16 weeks, I think, is unreasonable. I believe it shows a lack of understanding of the industry, and it shows a lack of understanding of the significance of the deregulation issue and what pressures particularly the small retailers will be under.

It is all right for the big players: they have experienced deregulation in Queensland, Victoria and Tasmania. The big players will pick up their 'how to change a shop in a deregulated environment' manual, and they will just repeat it in South Australia. However, the stores which do not trade interstate—the family-owned stores that have only one or two stores—and which have not gone through that process will be exposed to a range of new pressures. Our model says, 'Let the commission deal with it until 1 May; have the new award come into place on 1 July, which gives all the businesses 12 months to adjust.'

It gives time for enterprise bargaining agreements to be put in place. It allows the business community to deal with lease negotiations, contract buying and supply buying. All those issues can be dealt with. I sincerely say to the minister, that, if the proposal is to be permanent as from 26 October, I believe a range of issues will come out of this. I raise that issue of time with the minister, and we encourage the minister to think about it. I know that some of the media might be encouraging the parliament to introduce full deregulation more quickly than I am proposing. However, if we are to introduce it, we must make best endeavours to get the process as right as we can.

With respect to the industrial relations issues, I know that the business community will want to raise a range of matters. My amendment talks about the commission's reviewing the awards in relation to shops and retailing and, essentially, it talks about a fair remuneration for the employees. The amendment talks about keeping businesses competitive within South Australia; it asks the commission to look at the current enterprise bargaining agreements; and it asks the commission to look at current penalty rate regimes and award regimes in other eastern states that are similar to South Australia.

We ask the commission to consider those issues. The amendment does not instruct the commission to fix a particular penalty rate. We do not nominate the penalty rate: we simply say that the industrial relations issues need to be dealt with through a process. We do not believe that it is in the best interests of the business community or, indeed, the employees to go into a deregulation environment with that uncertainty around them.

I note with some interest today the Premier's comments about how important small business is for the state. I am interested in that, because the Premier, of course, is a great advocate of letter writing, and he wrote to a lot of retail businesses prior to the last election about retail shop trading. In the letter Mr Rann states:

> Labor is opposed to further extension of Sunday trading. We believe Sunday trading in the suburbs will just put further pressure on shop assistants, small retailers and their families, while bringing no greater economic benefit to the state.

He then states:

> We cannot afford to lose any more jobs and businesses to Sunday trading. We also support the right of retailers and their staff to spend time with their families and enjoy quality of life.

Having enjoyed the spotlight of the media in the last week saying that the Liberal Party has somehow backflipped, I just make the observation to the minister that his leader wrote to the small business community prior to the last election saying they would not bring in Sunday trading. Then, in what some would describe as a backflip, they brought in the summer of Sundays and decided that that would meet the National Competition Council's requirements for deregulation. All the evidence suggests that it would not. So now, of course, when the Liberal Party says it is prepared to support deregulation—a far simpler model than the government is proposing—the Premier is out there saying he supports deregulation of Sunday trading and small business is important.

So, there are at least two backflips there by the Premier. The Premier wrote before the 2002 election saying they would not bring in Sunday trading. They then proceeded to bring in the summer of Sundays, which included 10 Sundays of trading, and now of course they are bringing in, as reported in the media tonight, 51 or 52 Sundays of trading. We all know the reasons for that, but I draw it to the attention of the house, and I am sure that the media will fairly report that the Premier himself has been involved in a monumental backflip in relation to this issue.

That is all I need to say in the second reading debate. Unlike the last bill, minister, there will be a committee stage in relation to this bill, and I look forward to other members' contributions.

Mr KOUTSANTONIS (West Torrens): Talking about backflips, it is interesting to see how time has changed people's contributions in this place. I was going through *Hansard* of Wednesday 31 May 1995 in which a young member for Davenport made his contribution on shop trading hours. His opening remarks—

An honourable member interjecting:

Mr KOUTSANTONIS: I will go on the record and say that I do not for one minute criticise the intent or the character of the member for Davenport—I believe he is doing what he believes is right. But, because he raised the Premier's so-called backflip, I think I should advise the house of other backflips. The member for Davenport started a quite impassioned speech on that Wednesday afternoon in 1995 and said:

> The vote on this matter will show that I am consistent in what I say. The electorate can count on my word. If people criticise me for this, then so be it.

Those were his opening remarks in his opposition speech on the deregulation of shop trading hours: 'They can count on me.' He gave the reason he has been opposed to deregulation of shop trading hours, which is the only thing he has been consistent on—and I am paraphrasing; I could be wrong and may have to correct myself—and that is penalty rates. If we can deregulate penalty rates, he would be in favour of deregulation of trading hours. He makes some interesting points on the record. He says that if he pays $22 per hour, the extra two hours of Sunday trading by opening 9 to 5 and not 10 to 4 will cost an extra $6 800 per year. That is what he said in 1995.

An honourable member interjecting:

Mr KOUTSANTONIS: Yes. I could be misinterpreting this because it is in *Hansard*, but I will try my best. He goes on to say:

If I enterprise bargain down to the normal hourly rate, it will cost me an extra $3 800 a year. These are not big dollars, but we are not talking big business-we are talking small business.

So, he says these are not big dollars over a 12-month period. I found pretty interesting the great principle that the member for Davenport was relying on for his apparent Greg Louganis-like back-flip.

An honourable member interjecting:

Mr KOUTSANTONIS: I will talk about me in a minute. This is a bit prophetic from the member for Davenport, when he goes on to say:

Ultimately, there is no doubt that the free market thinkers will dominate the agenda and we will find somewhere down the track—I suggest within the next five years—

it is eight years, but that is not bad—

that the market will be totally deregulated.

Who would have thought that the person who uttered these words would be the person calling for total deregulation? Who would have thought that that bright-eyed young man who came into this house, who wanted to change the world for the better, who uttered the words that the free market thinkers would be pushing for deregulation would be the man here today calling for total deregulation? Talking about Westfield not opening on Sundays, he goes on to say:

If any small business thinks that that will happen for long, they are kidding themselves. The small businesses of this world should understand clearly that ultimately this parliament will deregulate shopping hours. I wish to put on the record that I will not support that. . .

But he is consistent: he mentions here the deregulation of the labour market. So, the member for Davenport has not been as consistent as we would like on these issues.

In terms of my position, I am not exactly overwhelmed with joy over what the government is doing today, but I understand the needs of the modern capitalist market, as the free traders are thinking now. They have converted their staunchest opponent. If on the road to Damascus the member for Davenport can see the light, maybe we all can. I will say that, in terms of back-flips and going to the community, we went into the election campaign and made a commitment that we could not fully deregulate, and that is still our commitment: we will not fully deregulate trading hours. Another famous promise was made in an election campaign in 1993, when the Hon. Graham Ingerson stood out on these steps. I was in the crowd with my father, who was a small retailer at the time, as I was, and he was opposed to extended trading hours. We heard Graham Ingerson speak the words on behalf of the Liberal Party that while the Liberal government was in office it would not deregulate trading hours and there would be no Sunday trading.

Of course, they back-flipped; once they won the election they tried to get it through by regulation and the STA took them to the High Court and won and forced them to take it into parliament to force their hands. Only a few brave members opposite did the right thing. One of those young, brave, men was the member for Davenport, who made that impassioned plea to the house not to allow the free traders of this world to have their way, to protect small businesses and their families, to protect those who were most vulnerable, to protect the workers, who in a deregulated market could not compete, to protect the small retailers, who in a deregulated market could not afford their rents against the Coles Myers, Woolworths and Westfields of the world. These conversions are remarkable, but I take the honourable member at his word: that his conversion is legitimate and not merely a stunt; I believe his conversion is real.

The government is in disagreement with some people over the extension of trading hours and shop trading hours reform, but that is because we are not always held captive by lobby groups, unlike, I believe, the political party standing opposite. We argue our views to our friends and allies and also to those people who are not our traditional allies and friends, and then we do what we think is best for the state. No-one can stand here today and say that the Labor Party is in the hands of the unions. The largest affiliate to the ALP is opposing this move, yet this government soldiers on in an example of our preparedness to lead.

The Hon. G.M. Gunn interjecting:

Mr KOUTSANTONIS: That is an outrageous slur, and the member for Stuart, who has been around this place long enough, knows that we are men and women of honour. That remark is completely uncalled for and unnecessary. He might have ruled that out of order had he been in the chair.

The ACTING SPEAKER (Ms Bedford): Does the member for West Torrens require the chair's protection?

Mr KOUTSANTONIS: I will struggle on, Madam Acting Speaker. I will try to lift the tone of the debate. I have travelled the length and breadth of my electorate talking to small retailers, listening to their concerns and views. I have spoken to the small retailers with whom I have a close affinity. I have talked to them about deregulation, and they are all of one voice. They all believe that, one day, the people who come after us in this place will go through speeches we have made (just as I did earlier this week with one of the member for Davenport's speeches) and see the reasons we gave for deregulation.

We talk about increased competition, we talk about competition payments from the NCC, we talk about creating more retail jobs, and I just wonder whether, 20 or 25 years from now, maybe even five years from now, someone will say, 'Maybe that didn't work. Maybe we should restrict trading hours and go back to four days a week. After all, a dollar can go only so far. Maybe this total deregulation of trading hours does not work. Maybe the Samuels and the NCCs of this world were wrong.'

I am not as wise as people in the NCC or Mr Samuel, so I cannot possibly ponder what will happen in the future. However, I will say this: Australia has the highest credit card debt in the world; our families are under financial pressure; they are struggling with an unfair GST (and, whether they are Liberal or Labor, people understand that the GST is unfair); and families are finding it hard to cope. We are saying to them, 'We want you to drive your dollar further. We want you to spend your money on Saturdays and Sundays, not just on Mondays and Tuesdays.' Maybe it will create more jobs, and the government is doing a good thing by guaranteeing that workers will not be discriminated against if they choose not to work on those days.

I hope that the NCC also moves to deregulate banking hours, so that we can have 24-hour banking, and that there is total deregulation of parliament, so it sits 24 hours. We could have all businesses open 24 hours. Perhaps the stock market should be open 24 hours.

Mrs Redmond: The post office?

Mr KOUTSANTONIS: Perhaps the postal service should be open 24 hours, although it already opens on Saturday. Maybe we should have total deregulation of all industries rather than just retail workers bearing the full brunt. However, I understand that we are doing this in the best interests

of South Australia and, indeed, our economy, so I will support this package because I trust my Premier and I trust my minister. I understand why we are doing this.

Members interjecting:

The ACTING SPEAKER: Order!

Mr KOUTSANTONIS: Unlike members opposite, our package has protections in place. We are protecting retail and commercial lessees against unfair practices by Westfield and others who want to force them to open on Sundays. We will protect retail workers against the discrimination of being compelled to work on Sundays because we want to protect families.

Mr Brindal: Rubbish! You'll feed them to the wolves; that is what you will do.

Mr KOUTSANTONIS: I have your remarks from 1995; I will be interested in how you will be voting on this bill. The member for Unley interjected that we will send them to the wolves. I am not proposing total deregulation: the member for Unley is. Who is throwing whom to the wolves? A man of his age, his wisdom, and with such length of service in this place should think before he speaks. I am outraged. I will try to rise above the interjections of members opposite and bring the debate to a higher level which our constituents expect, despite the best efforts of the member for Unley.

I am stunned! When the Liberal Party considered our summer of Sundays package, members opposite said that it was unfair on businesses and unfair on families, but the Leader of the Opposition and the opposition spokesperson (the member for Davenport) said that they would support deregulation if we removed penalty rates. They wanted normal rates of pay on Saturdays and Sundays so that there would be no loading of wages. There was no great stand on principle by the Liberal Party to protect small business because, if there was, they would not be here today calling for 24-hour deregulation. Members opposite cannot say to me that they are for small business and for total deregulation, that they will oppose the extension of Sunday trading if we abolish penalty rates. Hang on a second! Which one is it? Do they want to take loading away from workers' wages or do they want to protect small business?

If we are talking about making a stand, let's be honest. Why does not the Liberal Party say, 'We believe in a free market; we believe in deregulation'—now, eventually, suddenly? I wonder whether the member for Stuart would like to talk about total deregulation for farmers' subsidies and fair competition in international markets? How would he like our wheat farmers and barley exporters competing on a totally deregulated market? Would we see the member for Stuart championing the cause of the free market then? Would we see the member for Chaffey championing the cause of free market deregulation? Would we see any rural representative doing that? Of course not, they cannot—

An honourable member: Why?

Mr KOUTSANTONIS: Because your constituents rely on you to defend their way of life, as usual.

Mrs Maywald interjecting:

Mr KOUTSANTONIS: Okay. The member for Chaffey would be consistent. She is the only one. I take her word on that. Would the member for Schubert support total deregulation? Of course he would not.

An honourable member: On what?

Mr KOUTSANTONIS: Wheat subsidies.

Members interjecting:

Mr KOUTSANTONIS: If members opposite say that they believe in a totally deregulated market in terms of infrastructure and marketing, I wonder how much the government does spend on these industries.

Mr Brindal: They have to survive on the cold winds of international trade.

Mr KOUTSANTONIS: Well, so does small business. Small business will be doing that because the Liberal Party has called for total deregulation. We are not. The Labor Party is not calling for total deregulation; the Liberal Party is. I will be going up and down Unley Road, Goodwood Road and King William Road telling every small retailer that the member for Unley wants those precincts which trade on Sundays to compete with everyone. He does not want only special precincts to be open on Sundays; he wants them to compete with everyone. Then I will go to the member for Morphett's electorate down Jetty Road and tell all his retailers that he wants all those retailers who make their money on Sundays to compete fully with everyone.

The Hon. G.M. Gunn interjecting:

Mr KOUTSANTONIS: That's an outrageous slur. I call on the member for Stuart to go outside this chamber and repeat those accusations, to provide one shred of evidence, or to apologise. The silence is deafening! I call on the member for Stuart to walk outside the chamber and repeat those accusations.

Mr BRINDAL: On a point of order, Madam Acting Speaker, the member for West Torrens is calling on the member for Stuart to interject and to behave in a disorderly manner. It is itself disorderly to incite people to be disorderly.

The ACTING SPEAKER (Ms Bedford): Order! I am sure the honourable member's concluding remarks will show a different demeanour. The member for West Torrens.

Mr KOUTSANTONIS: On a more serious point—

The Hon. G.M. Gunn interjecting:

The ACTING SPEAKER: Order! The member for West Torrens has the call.

Mr KOUTSANTONIS: Not for much longer, the member for Stuart, I will be finished soon. All of us in this chamber have to consider the impact of what happens today on families that are involved in small business and the retail industry. Collectively we are all responsible for the wellbeing of this state. If the honourable member wants to remove himself from that responsibility, he simply needs to send a letter to the Speaker saying that he is resigning his seat in parliament. I am prepared to draft it for him. We must consider those families, and when we do this I fear that, if we leave shop trading hours in the hands of the opposition and total deregulation, apart from a handful of holidays and half of Anzac Day, these people will truly be thrown to the wolves.

Members opposite are yelping that it is our responsibility. The responsibility is on those who move amendments in this place. If it is our responsibility, members opposite should not move amendments. If the opposition takes no responsibility for this, it should not move any amendments. But we know that it will do so. What amendments are to be moved? Members opposite are moving amendments for total deregulation of trading hours. Where does that leave their constituency and small businesses? Where does it leave the heart and soul of the Liberal Party? What would the Hon. Sir Tom Playford think, as he looks down on us disapprovingly, about members who want total deregulation?

Mr Brindal interjecting:

Mr KOUTSANTONIS: What would he think of the interjections by the member for Unley?

Mr Brindal interjecting:

Mr KOUTSANTONIS: Tom Playford. What would he think? I see the member for Heysen gesticulating at his image. At least one person remembers why the Liberal Party was formed: to protect the rights of the individual:those small business owners you want to deregulate, those mum and dad shop owners who have only their business and that small bit of income. What do they want to do? They want trading 24 hours! Only the Labor Party will protect them. Only the Labor Party will stand up for them. We have drawn a line in the sand and said, 'Leave alone the small business owners of this state.' We will set them free and let them go on to the free market to compete with Coles and Woolworths. Good luck! To make one last point: in Victoria there has been total deregulation. Coles and Woolworths have gone back to restricting trading hours. What does that say?

The ACTING SPEAKER: I nearly said 'Thank you, member for Moses.'

Mr HAMILTON-SMITH (Waite): I support the bill, and I hope it will pass with the opposition's amendments, which will make it a better bill. My contribution follows those made in relation to the government's earlier attempt to deregulate shopping hours. When I spoke in the house on 21 August, I put forward the view that the bill at that point was shoddy and needed further improvement. I note that the government has come back with a better bill, thanks to the initiatives of the opposition, but it needs far more improvement. There are a number of key issues, which have to do with competition policy and industrial relations and with making South Australia more competitive and more productive. They have to do with delivering lower prices and more jobs to the South Australian community. These main points seem to have been overlooked in some of the contributions from members opposite.

To start with the issue of deregulation, the member for West Torrens in particular seems not to understand the point. Deregulation is being thrown around by some members of the government as some sort of evil sickness that needs to be extinguished. It is a bit like the way some throw around the term 'globalisation' without any attempt to explain or understand it. You can explain deregulation and put it another way. You can talk about equity, fairer trading practices and a more level playing field. You can talk about giving every trader an even and fair go. You can talk about regulation favouring one group over another.

You could talk about regulation being an impediment to productivity and being an obstacle to business. You could turn it around. You could talk not about deregulation but about fair trading practices, because that is really what the whole initiative is designed to achieve. Regulation of shopping hours inevitably favours one group over another. The member for West Torrens has just spent 20 minutes imploring the house to continue to favour one group over another, to continue giving one group in the business community an unfair advantage over the other. Some government members completely fail to understand what national competition policy is all about. They fail to understand that which Paul Keating understood—that Australia and the states need to become more competitive and that the way to do that is to break down the competitive barriers such as anti-productive shop trading hours. The country as a whole needs to go about doing things more efficiently. That is really what this policy is about. That is really why millions of dollars of commonwealth payments is at risk if we do not make our shopping hours fairer.

The Hon. M.J. WRIGHT (Minister for Industrial Relations): I move:

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

Motion carried.

Mr HAMILTON-SMITH: It is very important that all members of the house understand what national competition policy is trying to achieve, and why it is important for us to move confidently and boldly in that direction. The payments at risk—the millions and millions of dollars we risk losing (and I am sure this will be a matter of considerable concern to the Treasurer)—were constructed there by the Keating government for a very good reason, that is, to encourage us down the road to greater productivity. The vital issue of being competitive and being productive flows from this national competition policy. What we in this state have to do is get business moving. We have just had an Economic Development Board report, and we have just had a summit. It was overwhelmingly recognised at the summit that the business community needed to get on with the future in a deregulated and competitive environment, that South Australia needed to lift its game and performance and pull out all the stops. Such regulations as restrictive shopping practices are part of the problem.

I am pleased to see that the government is finally recognising that by introducing this bill, which is an improvement on its earlier effort. How else can South Australia go forward? How else can South Australia be more productive? This initiative will create more jobs. There is no question that, if you are trading for an additional day, if you are trading on Sundays, people will go shopping; people will shop more. Turnovers will increase, and that has been proven in other states. More business will be done, people will go out when they are free and in a position to shop and they will shop, and more jobs will be created. An argument has been put that some jobs will move from one sector of business to another, that some jobs will move from small to bigger businesses, and that may be so.

Conversely, some jobs may move from big business to small business, depending on how creative businesses are at optimising the less regulated shopping hours environment. And there is a challenge there for small business. Small businesses that are producing and selling the same products as the big supermarkets will be under challenge; there is no question. But small businesses that are creative, that are providing a service that the big traders cannot provide, that are providing innovative products—the small delis, the innovative delis, the speciality shops, the small businesses that fill the niche market need—may well flourish, and are flourishing, and they will find ways in which to blossom in this new, less regulated environment. It is not a given that this will be a negative for small business. One has to look at each small business on a case by case basis. So, I say: go with it, and go with it boldly. It represents an opportunity more than it represents a threat, in my view.

The key issue is that of industrial relations. That is the issue from which the government is trying to run away: that is the issue that the minister does not want to face up to. The minister does not want to acknowledge that South Australia is not competitive at the moment because of the penalty rate regime and that, in fact, we are one of the least competitive states. I have looked at the awards in each of the states of Australia, and I have prepared a statistical chart that shows

how uncompetitive South Australia is at the moment. I seek leave to incorporate this statistical chart into *Hansard* without my reading it.

Leave granted.

South Australia

Calculations based on classification of full-time shop assistant (Schedule 2)

	Start	Break	Finish	Hours Wkd
Monday				0.0
Tuesday	9.00	0.5	17.00	7.5
Wednesday	9.00	0.5	17.00	7.5
Thursday	13.00	0.5	21.00	7.5
Friday	9.00	0.5	17.50	8.0
Saturday	9.00	0.5	17.00	7.5
Sunday	9.00	0.5	17.00	7.5
				45.5

	Hrs Wkd	Rate $	Sub Total $
Ordinary	30.5	13.58	414.19
Saturday	7.5	13.58	101.85
Sunday	0	-	-
Late night	0	-	-
O/T (x1.5)	0	19.37	-
O/T (x2)	7.5	25.82	193.65
		Total	709.69

Note: Ordinary hours cannot be worked on Sunday; therefore 38 hours must be offered Mon-Sat.

Tasmania

Calculations based on classification of full-time retail employee grade 2

	Start	Break	Finish	Hours Wkd
Monday				0.0
Tuesday	9.00	0.5	17.00	7.5
Wednesday	9.00	0.5	17.00	7.5
Thursday	13.00	0.5	21.00	7.5
Friday	9.00	0.5	17.50	8.0
Saturday	9.00	0.5	17.00	7.5
Sunday	9.00	0.5	17.00	7.5
				45.5

	Hrs Wkd	Rate $	Sub Total $
Ordinary	27.5	12.12	333.30
Saturday	7.5	18.48	138.60
Sunday	0	-	-
Late night	3	13.86	41.58
O/T (x1.5)	0	19.37	-
O/T (x2)	7.5	25.82	193.65
		Total	707.13

Note: Ordinary hours cannot be worked on Sunday; therefore 38 hours must be offered Mon-Sat.

Victoria

Calculations based on classification of full-time retail work grade 1 (class A exempt shop)

	Start	Break	Finish	Hours Wkd
Monday				0.0
Tuesday				0.0
Wednesday	9.00	0.5	17.00	7.5
Thursday	13.00	0.5	21.00	7.5
Friday	9.00	0.5	17.50	8.0
Saturday	9.00	0.5	17.00	7.5
Sunday	9.00	0.5	17.00	7.5
				38.0

	Hrs Wkd	Rate $	Sub Total $
Ordinary	38	12.91	490.58
Sat (AM)	3	3.23	9.68
Sat (PM)	4.5	5.06	22.77
Sun	7.5	12.91	96.83
Late Night	3	3.23	9.68
O/T (x1.5)	0	19.37	-
O/T (x2)	0	25.82	-
		Total	629.54

Australian Capital Territory

Calculations based on classification of full-time shop assistant

	Start	Break	Finish	Hours Wkd
Monday				0.0
Tuesday				0.0
Wednesday	9.00	0.5	17.00	7.5
Thursday	13.00	0.5	21.00	7.5
Friday	9.00	0.5	17.50	8.0
Saturday	9.00	0.5	17.00	7.5
Sunday	9.00	0.5	17.00	7.5
				38.0

	Hrs Wkd	Rate $	Sub Total $
Ordinary	38	12.89	489.82
Sat (all day)	1	33.40	33.40
Sunday	7.5	6.45	48.34
Late night	3	3.22	9.67
O/T (x1.5)	0	19.34	-
O/T (x2)	0	25.78	-
		Total	581.23

New South Wales

Calculations based on classification of full-time shop assistant (general shops)

	Start	Break	Finish	Hours Wkd
Monday				0.0
Tuesday				0.0
Wednesday	9.00	0.5	17.00	7.5
Thursday	13.00	0.5	21.00	7.5
Friday	9.00	0.5	17.50	8.0
Saturday	9.00	0.5	17.00	7.5
Sunday	9.00	0.5	17.00	7.5
				38.0

	Hrs Wkd	Rate $	Sub Total $
Ordinary	38	12.89	489.82
Sat (AM)	3	3.22	9.67
Sat (PM)	4.5	3.22	14.50
Sunday	7.5	6.45	48.34
Late night	3	3.22	9.67
O/T (x1.5)	0	19.34	-
O/T (x2)	0	25.78	-
		Total	571.99

Queensland

Calculations based on classification of full-time shop assistant (exempt shops)

	Start	Break	Finish	Hours Wkd
Monday				0.0
Tuesday				0.0
Wednesday	9.00	0.5	17.00	7.5
Thursday	13.00	0.5	21.00	7.5
Friday	9.00	0.5	17.50	8.0
Saturday	9.00	0.5	17.00	7.5
Sunday	9.00	0.5	17.00	7.5
				38.0

	Hrs Wkd	Rate $	Sub Total $
Ordinary	38	12.43	472.34
Sat (AM)	3	3.11	9.32
Sat (PM)	4.5	3.11	13.98
Sunday	7.5	6.22	46.61
Late night	0	-	-
O/T (x1.5)	0	18.65	-
O/T (x2)	0	24.86	-
		Total	542.26

Northern Territory

Calculations based on classification of full-time retail worker grade 1

	Start	Break	Finish	Hours Wkd
Monday				0.0
Tuesday	9.00	0.5	17.00	7.5
Wednesday	9.00	0.5	17.00	7.5
Thursday	13.00	0.5	21.00	7.5
Friday	9.00	0.5	17.50	8.0
Saturday	9.00	0.5	17.00	7.5
Sunday	9.00	0.5	17.00	7.5
				45.5

	Hrs Wkd	Rate $	Sub Total $
Ordinary	38	13.58	516.04
Saturday	7.5	3.40	25.46
Sunday	0	-	-
O/T (x1.5)	0	19.37	-
O/T (x2)	7.5	27.16	203.70
		Total	745.20

Note: Ordinary hours cannot be worked on Sunday; therefore 38 hours must be offered Mon-Sat.

Western Australia

Calculations based on classification of full-time shop assistant (general retail shops)

	Start	Break	Finish	Hours Wkd
Monday				0.0
Tuesday	9.00	0.5	17.00	7.5
Wednesday	9.00	0.5	17.00	7.5
Thursday	13.00	0.5	21.00	7.5
Friday	9.00	0.5	17.50	8.0
Saturday	9.00	0.5	17.00	7.5
Sunday	9.00	0.5	17.00	7.5
				45.5

	Hrs Wkd	Rate $	Sub Total $
Ordinary	38	13.59	516.42
Sat (AM)	0	-	-
Sat (PM)	0	-	-
Sunday	0	-	-
Late night	3	2.72	8.15
O/T (x1.5)	0	20.39	-
O/T (x2)	7.5	27.18	203.85
		Total	728.42

Note: Ordinary hours cannot be worked on Sunday; therefore 38 hours must be offered Mon-Sat.

Mr HAMILTON-SMITH: These statistics show a roster for a full-time shop assistant in each state of Australia. The worker in my statistical chart works a six-day week: Tuesday nine to five, Wednesday nine to five, Thursday 1 to 9 p.m., Friday 9 a.m. to 5.50 p.m., Saturday nine to five and Sunday nine to five. It is a 45.5 hour week, and there is some overtime. The table looks at the award arrangements in each state, and it explains how much the proprietor of that small business needs to pay that shop assistant in each state. The table reveals that, in Queensland, the small business proprietor would be paying that employee $542 per week; in New South Wales, it would be $571 per week; in the ACT, it would be $581 per week; and in Victoria, it would be $692 per week. They are the four cheapest and most affordable employees. They are the most productive states. In Tasmania, it is $707 per week; and in South Australia it is $709 per week. The only two states in which a proprietor would need to pay more for that worker than in South Australia are Western Australia, where it is $728 per week, and the Northern Territory, where the small business proprietor would pay the employee $745 per week.

Under our industrial arrangements at the moment, we are one of the most expensive states in Australia for a small business employer to employ a shop assistant. The states that, arguably, are booming at the moment, the states where the economy is thriving, are New South Wales, Victoria and Queensland. In the case of Queensland, the employees are almost $180 more affordable than in South Australia with respect to a weekly wage packet. The minister might say, 'Well, isn't that notable.' But let me simply say that, if small business cannot compete, it goes out of business. Everyone loses their job, and the workers are on the dole or out of work looking for work.

I speak in this debate not only as a member of the opposition, not only as shadow spokesperson for Tourism, the Arts, Innovation and Information Economy, but as someone who has employed in a small to medium enterprise. I employed 120 people in six businesses in two states. I know what it is like when you try to run a business and you have to pay penalty rates. You do not mind paying the employee that amount of money, because it gives you flexibility. When you are disproportionately penalised for employing them on a Sunday, or an evening, or a Saturday, then how could you possibly open for business? What you would rather do is pay them a higher hourly rate for all of the hours they work and have flexibility to roster them more freely. Interestingly, that is what a lot of employees want, and this is what the government needs to understand.

What the employees want quite often is to work on weekends and in the evenings. Quite often female employees in particular are quite happy to work on the weekend when their spouse or their partner may be free to look after the children. Quite often people choose to work outside what have traditionally been normal working hours, and one of the interesting things that I heard remarked upon at the Drug Summit was a young person who made the point (and he was talking about the need to distribute literature at late night shopping venues, at service stations, convenience stores and so on) that a lot of young people live a 24 hours a day life. They live a 7 day a week life now, not a Monday to Friday nine to five life—they live a 24 hours a day, 7 days a week life. A lot of them are very happy to work at hours that their parents and grandparents find non-traditional hours of work, and they are quite happy to have their recreation time during the week, during the day, whatever. The world has simply changed. Young people have different expectations, and that point is completely overlooked by the government.

I will be quite disappointed if the minister and the government reject the opposition's very worthwhile amendments that seek to refer a range of issues to the Industrial Relations Commission for agreement between employers and employees, so they can be resolved in time for this changed shopping hours regime to come into force. The minister has got up and said these matters should be resolved between employers and employees and that the Industrial Relations Commission is the right place for that to be resolved. That is exactly what the opposition is proposing. It is exactly what the minister has got up and put on the record in this place as being the requirement.

So, I will be absolutely startled if the minister tries to manoeuvre this bill through this house without accepting the very obvious logic put forward in the opposition's amendment. But there are also some startling questions that I will be raising during the committee stage of this bill, particularly when we get to clause 7, which talks about bureaucrats and inspectors being free to take from a business premises:

> . . . copies of any book, paper, document or record or, for that purpose, remove any book, paper or document or record;

What a load of nonsense. I have seen bureaucracy at work in business and I have seen bureaucrats try to seize documentation. The unions would love to seize rosters and employment contracts. Certain bureaucrats would love to seize a business proprietor's documents, the documents they need to run their business. This bill could be misused and abused by bureaucracy to seize tax records, employment contracts and rosters, and to seize the documents required for the day-to-day running of a business and, in so doing, sabotage and destroy a business. The government needs to understand the damage that rampant bureaucracy can do to a small business. If it seeks to copy documents, let the bureaucracy do that under its own arrangement. Let us not foist upon business costs of compliance that vitally affect the viability of those businesses. I know that many members opposite have not run a business, certainly a business where they have employed very many people. I suggest that they talk to people who have done so, because compliance with regulatory impositions can

be a major problem for businesses—and indeed will be if this act passes in its present form.

I am also intrigued by clause 11. Why on earth would the minister not want to enable businesses to trade on Saturday after 5 p.m. or on Sunday before 11 a.m.? The Minister for Tourism is sitting here, and surely she understands. Major events—it might be the Clipsal 500; it might be the Tour Down Under; it might be one of the many festivals we have, such as Womad or the Festival of Arts—are vibrant times for shop traders to do business after 5 p.m. on a Saturday when the streets of Adelaide are full of people attending these events. Why not let shop traders trade when they want to trade?

There are some mysterious restrictions in this bill. I urge the government to carefully consider the opposition's amendments, and let business trade when it wants to trade, and let employees work when they want to work. The drivel that they do not necessarily want to work on weekends or during the evenings is simply not true. The number of employees in this industry employed not under an award but under enterprise agreements is testimony to that fact.

As my colleague the member for Davenport has pointed out, it is equally applicable to week nights between 9 o'clock and midnight. Why would we not want to let those shops who want to trade do so? There is flawed logic in the bill, and it does not go far enough. I urge the minister to carefully consider our proposed amendments. There needs to be flexibility for both employers and employees not only in the area of industrial relations but also in the way in which this bill and the regulations that will flow from it are implemented.

There must be reform, and that reform must lead to a more productive and more creative South Australia. The whole point of this bill is to remove regulatory imposition so that there is a level playing field and the situation where groups that presently have an advantage over another group out there is remedied so that everyone is competing on an equal basis. It strikes at the very principles of equity that I would have thought the Labor Party and the government would uphold.

There are a number of issues of detail that I will raise in committee. I urge members to support the bill, and I also urge them to support the opposition's amendments that will improve the bill. We must go forward with micro-economic reform. It is not enough to have the Economic Development Board produce a report and to have a glossy summit, and avoid the real issues of micro-economic reform. This is a key piece of micro-economic reform legislation. It must be passed, but it must go further than in its present form.

Dr McFETRIDGE (Morphett): I rise to speak about one particular facet of this bill. I support the bill with amendments. As members know, I represent the Morphett electorate, which includes the Glenelg shopping district. On any weekend, 45 000 people visit the Bay (3 million people a year) to enjoy the liberated shopping hours down there. I have spoken to the main street board and shop traders down there, and they realise that they will have to make some readjustments when shopping hours are changed, and they know that they will be changed.

I support the traders in their determination. When one considers the rents they have to pay and the competition they face, they are showing themselves to be vibrant and resilient traders. It is important that this house recognises not only the big players at the Bay but also the family businesses and that they receive support from this government by its making some sane changes to regulations to allow them to operate when they want to. Just as with poker machines, we are here to exercise due diligence and care but not to act as a nanny state. The main problem I have with the government's bill—and I hope that the Liberal Party's amendments are supported—is the situation regarding exempt shops.

The problem we have is that shops over 200 square metres which are selling a range of items outside the exempt list, or a supermarket over 400 square metres, cannot open. That applies even if you are situated at Glenelg where every other shop is open and 45 000 people are wanting to shop. Cunningham's Warehouse, the Reject Shop, Cheap as Chips, Priceline and many more shops at Glenelg that are over 200 square metres would love to be open. They sell a range of goods and, according to the Shop Trading Hours Act 1997, I would have interpreted that they could be open but, no, what do we hear? On Easter Sunday, we had inspectors looking around the Bay. The next thing that these traders receive are letters threatening them with prosecution because they have been doing what they and the people of South Australia want them to do, that is, stay open and sell products.

We cannot pretend that we will free up shopping hours by retaining restrictions on the types and size of the shops that can be opened and the amount of product that they can sell, depending on price, volume and the particular type of product. We cannot continue to hide behind the facade of deregulation when these shops are still being hamstrung by what is really bureaucratic gobbledygook. In the act an exempt shop is a shop with a floor area not exceeding 200 square metres. It can sell live fish, antiques, garden supplies and non-alcoholic drinks. Traders and shoppers in South Australia certainly want the exemption removed. At the Bay, Cheap as Chips, Cunningham's Warehouse and some of the other shops sell a range of hardware, building materials, furniture, floor coverings, motor vehicle parts and tools.

Under section 5(e) of the Shop Trading Hours Act those shops should be able to stay open. Under section 5(f), which refers to the aggregate price of goods sold and to classes of goods, more than 80 per cent of the shop can become an exempt shop. However, according to the inspectors who were at the Bay at Easter, these are not exempt shops and they have to stay shut. We need to sort out this mess. We need to sort it out tonight and we need to sort it out for the people of South Australia, namely, the business owners and people who want to shop when they wish.

Mr WILLIAMS (MacKillop): Here we are again discussing shop trading hours. What a saga this has been and what a saga for this government. The minister in his second reading explanation has given us some very interesting information. He begins by saying that the government's position has been shaped by an election commitment not to fully deregulate. Yes, I agree, they did make an election commitment to do that. Yes, that is what the minister has introduced, twice now—not to fully deregulate—and at least he has stuck to his word. In relation to 'providing a balanced package of reforms', I do not know how he defines 'balanced', or what he is trying to balance.

Mrs Redmond interjecting:

Mr WILLIAMS: My colleague the member for Heysen says that he is trying to balance the Labor factions. Perhaps the first time around he did try to balance the Labor factions, but this time he has been dragged, kicking and screaming, but has not managed to balance the Labor factions, I can assure you. Somebody said to me within the last day or so that the

minister has no chance of fulfilling his ambition of becoming premier of this state now; Don Farrell will see to that. Don Farrell is not a happy man tonight. He was responsible for ensuring that Mike Rann continued to lead the Labor Party, and he must be choking on that decision now. I can certainly assure the house that Don Farrell will ensure that this minister never rises beyond his current position. So, there is no doubt that the minister has not balanced the factions of the Labor Party.

As to 'listening to the concerns of the stakeholders', I do not know why the word 'stakeholders' is plural. I do not think that the minister has listened to the concerns of Don Farrell's union, the Shop, Distributive and Allied Employees' Association, nor do I think that the minister has listened to those of the major retailers because, if he had done so, he would have gone the whole hog and introduced 100 per cent deregulation. I also do not think that he has listened to the concerns of the small retailers, nor am I sure that he has listened to those of the consumers or the shop assistants who are represented by Don Farrell. So, I am not too sure what the minister means by 'stakeholders'.

With respect to 'safeguarding policy payments while acting in the best interests of the South Australian community'—and I hear laughter—to be honest, I am still confused as to why he introduced the earlier bill concerning the Summer of Sundays trading package. At that stage, the minister had no understanding of the competition policy requirements. I understand that, last week, the minister raced off to Melbourne and met with Graeme Samuel to find out exactly what his requirements would be. I can only hope that the minister read Graeme Samuel's thoughts correctly, because I would hate to think that he has put himself through all this pain to still end up with some competition payment fines. However, I will take the minister's word that he has that under control; I sincerely hope that he has.

I still have some concerns with this bill. As a small business operator who has run a small business for most of my working life, it has always fascinated me why the parliament of South Australia feels that it needs to tell people when, where and how they can trade. Over the time that I have been in this place, I have not entered into this debate in any real way, because the reality is that it has very little impact on my electorate. This measure will have no more impact on my electorate than the existing one, and there will be no change for country areas.

The two largest towns in my electorate (Naracoorte and Millicent) both have a population of approximately 5 000. Retail trade in Naracoorte is completely deregulated, and the trade in Millicent is reasonably regulated, as it is in the member for Mount Gambier's electorate, which is just up the road. To all intents and purposes, I can see no difference between the two towns. Whether they are completely deregulated, or whether you go to Mount Gambier where they have restrictions, or Millicent where they seem to have some sorts of restrictions, for all intents and purposes there is no difference whatsoever.

This legislation is of little consequence to my electors, but I have a firm belief that it is not the place of the government or the parliament of South Australia to get in the way of people who want to trade. I said in an earlier contribution today on another matter that the Premier, following his fantastic economic development summit, has said what wonderful things we should be doing in South Australia to drive the economy. He has had all sorts of people supposedly advise him on what we should be doing to drive the economy, yet he still presides over a government that thinks we have to have regulations to tell consenting adults when they can go to the corner shop, the supermarket or the hardware store to carry out a transaction with the proprietor of that business. For the life of me, I cannot understand why a government that purports to want to see the shackles, red tape and inhibitions on transactions and business removed would bring in a measure which certainly releases the shackles to some extent but does not go for the full blown deregulation of shop trading hours—which the Liberal Party has offered.

For years, this debate has dogged both major parties. I will not walk away from that. People on both sides of the house think we should have various forms of deregulation or maintain some form of regulation. We have the one chance right here today, this week, to fully deregulate and, once and for all, get this monkey off our back, but the minister has decided to wimp out. Why has the minister decided to wimp out?

An honourable member: Don Farrell!

Mr WILLIAMS: Don Farrell had a fair bit to do with it, but the minister need not have worried about Don Farrell because Don Farrell already has the minister in his sights. It does not matter what the minister does at this time: he is a sitting duck. If Don Farrell sees the minister climb up the next rung, he will pull the trigger. The minister need not have worried about Don Farrell, because it is irrelevant as far as his political career is concerned. What the minister could have done, and what he should have done in cabinet and caucus, is said, 'Come on fellas, enough of this damned nonsense. We are out there every day of the week championing the cause of enterprise South Australia. Let's get fair dinkum. In one small area, since we have been given the opportunity by the Liberal opposition, let's match the rhetoric with some action.' That would have been good. But what does the minister do? He brings in a half-baked form of deregulation and, lo and behold, he says, 'We will have a review in three years.' In three years, the minister will come back here and we will do the whole thing again.

Mr Goldsworthy interjecting:

Mr WILLIAMS: As my colleague the member for Kavell says, he cannot see much point in it; and I cannot see much point in it. I do not think that any member on this side of the house—and I would like to think that there is enough wisdom on the government side of the house to concur with this—would think it is a brilliant idea.

There are a number of provisions which defy logic. Inspectors will be running around to ensure that people do not open their stores on Christmas Day, Good Friday and Anzac Day morning, or between the hours of nine in the evening and midnight. Lo and behold, if any consenting adult seeks to sell something to another consenting adult between those hours, they will face a fine of up to $100 000.

Yet the Premier will go all over Australia and all over the world and say, 'Come to South Australia and do business.' It is what, in the common parlance, would be termed a farce. Given the opportunity the Liberal Party offered to the minister a week or two back, I cannot believe that we have got this half-baked deregulation. It is not based on any principle. It is not based on any ideology. It does not satisfy one of the stakeholders, let alone five of the stakeholders. It does nothing to promote South Australia as the place where the doors are open for business because, certainly, the doors will not be open for business.

We will continue the nonsense where one is exempted from these regulations depending on the floor area of one's

store. I would love the minister to try to explain the rationale behind that. I would really love the minister to give the house a rational explanation of what in the hell the floor area of the store has to do with the relationship between those consenting adults who want to transact a little bit of business. I have some concerns about full deregulation, although, by nature, I am a person who cannot understand why we would say that people should not be able to transact (those consenting adults, at least) their business day or night on any of the 365 days of the year.

The minister would have us believe that this has been brought about by competition policy. I would contend that it has actually been brought about as a result of pressure from the editor of the *Advertiser*, but I need not dwell on that. I think that every member in the house understands where I am coming from in that respect. But I do have some concerns about the unfettered ability of monopolies. There are two or three major companies in this nation, and probably only two in this state, which have, I believe, an unhealthy share of the market.

Ms Ciccarello: Name them.

Mr WILLIAMS: Name them? Well, they are Coles and Woolworths and their subsidiaries and associates. The honourable member knows who they are. They have, I think, an unhealthy monopoly, and I believe that this measure will only increase their monopoly situation, and I do not think that is in the best interests of anyone. As a primary producer, I can tell members that it is not in the best interests of the farmers of this state. Ask any of the dairy farmers who have recently been through deregulation of their industry. Ask them what they think about the major retailers and what they have done to the dairy industry.

Talk to the egg producers—their industry was deregulated some years ago—and see what has happened in that industry, because I can tell members that the price to the consumer has not come down, but the price to the producer certainly has come down, and it is the middle man who has creamed off the change in price, the growth in that mark-up in the middle. That situation will be exacerbated by this measure, and this is not something about which I think this state parliament will do anything. I would think that we should, as a state parliament, in conjunction with the other states and territories, be calling on our federal colleagues in Canberra to introduce some anti-trust measures into this country. We have the ACCC, which—

Mrs Redmond interjecting:

Mr WILLIAMS: An honourable member interjects that it is laughable, and I would not disagree with that description. I think it is laughable. The ACCC has taken some measures with some industries and, again, I cannot find the rationale for the way in which it has picked on certain people and certain industries. I really do think that we need some decent anti-trust laws to get to the bottom of monopolies in Australia and to curtail the activities of one or two major companies. They are not providing cheaper products to the consumer: they are creating unviability at the production end, whether that be from primary production or from the manufacturers who supply them. So, I hope that this government will use its connections with interstate and territory governments to try to bring pressure on the federal government to look at this matter. That is the only downside I see from total deregulation (I think it is a large downside), and the sooner it is tackled by our federal colleagues the better.

In the meantime, I am very disappointed, obviously, with the lack of distance that this minister has been prepared to go. I am very disappointed that the Editor of the *Advertiser*, who has been very strong on this matter for quite a period, has not been much stronger, because I think the Editor of the *Advertiser* is one person who could have got this minister over the line. But, once the Liberal Party decided to offer full deregulation, the Editor of the *Advertiser* backed off somewhat and congratulated the government for taking one step forward when he should have been demanding that it take two or three steps forward and offer total deregulation to consumers and the whole retailing industry in South Australia. There is absolutely no rational reason why consenting adults in South Australia in the 21st century should be restricted in relation to when they can buy their Weet Bix.

The Hon. J.D. LOMAX-SMITH (Minister for Tourism): I feel compelled to speak, because we have heard some mendacious weasel words trying to justify complete deregulation in this state—weasel words which fail to understand the full meaning of the words 'competitive' and 'efficient' and which certainly are less than honest about the additional jobs that might arise from the changes they suggest.

It is true to say that the member for MacKillop has been very pointed in his comments about the winners in their plan to completely deregulate. But, really, the winners are, quite clearly, as he says, big business and not the small businesses which are the backbone of our state. It is quite clear that the idea of competitiveness is a complete furphy. I am not sure whether we are talking about competitiveness between Adelaide and Salzburg, or competitiveness between Adelaide and Hobart, Adelaide and Sydney, or Adelaide and London.

However, if you look at the rest of the world you see that there is not complete deregulation of shopping hours, even in quite large cities. There are very strict rules about shopping hours, and for very good reasons. In fact, economies cannot sustain complete deregulation and allow small businesses to thrive.

The issue for small businesses is quite a stark one. For them, it is quite clear that a large business can put through $1 million of trade employing fewer people. The statistics that come out of the examination of deregulation that has occurred in other states show that to put $1 million through some of the big businesses that the member for MacKillop has discussed requires about 12 full-time equivalent staff, whereas to put $1 million through a small strip shop—a collection of retail operators—would take 20 to 21 staff. You might argue that that is inefficient, but that is one level of inefficiency that would help employment in our state, because many of those people would otherwise not be employed. If you believe it is worth dropping around 50 per cent in our employment levels in retail in order to support deregulation, then you will clearly support the position put by the opposition.

The free market idea of efficiency is not one that helps families and small businesses. In terms of additional jobs, I think it just will not occur, but the idea is not just about supporting small business retailers: it is also about independent suppliers. As the member for MacKillop says, many of the great multinational and national firms are into serious vertical integration, putting serious pressure on their suppliers, cutting margins and diminishing the returns for primary producers, and those independent suppliers would clearly be affected if complete deregulation occurred and major retailers were allowed to completely take over our markets.

The other people who lose, of course, are those strip shop premises owners who have bought shops as their superannua-

tion, keep their rental incomes and their profits within our state and do not repatriate them to other states on the east coast or even to overseas. That is before we even get back to the business of jobs and workers who will be disadvantaged. We should not confuse the issue of trading hours with enterprise arrangements and the ability of an employer to get into an enterprise bargaining arrangement. We should not confuse the markets in those ways. I think the duplicity in the arguments we have heard about competitiveness and efficiency really do not take into account the fact that we have a very small population; we have a preponderance of small businesses and small property owners, and they are the ones who will suffer if the opposition's views prevail and we do have complete deregulation. It will destroy small businesses, small business retail operators, property owners' investments and, particularly, workers' jobs. If you want to reduce employment and get efficient businesses, you would certainly have complete deregulation, but it would not help the economy, it would not help workers in our state and it would not help families. They would suffer if the views of the opposition prevailed.

Mr VENNING (Schubert): I will be very brief this evening, because I think we have heard enough on the subject, and I certainly agree with most of what my colleagues have said. I have always supported open shopping hours, because I am one of those whom my wife calls a shopaholic. I love shops and buying things, and would do most of the purchasing of things other than food for the house. I enjoy it and am a frequent customer of the larger outlets very close to Parliament House. I have always been frustrated about the hours, because I was always unable to shop during working hours, particularly as a member of parliament, because we are locked in here. When late night shopping was on I always appreciated being able to go up the street, browse at leisure and make purchases without having to rush, as is usually the case with the current hours.

As a country person I have also been interested to watch over the years how many of our country regions such as the Clare Valley have dealt with deregulated hours. It amazed me that on the weekends an area such as the Clare Valley, which I first represented 10 years ago, was full of tourists but that the shops were shut. All they could do was go down the street and, if the deli was open, get a coffee, but they were looking through the windows of all these boutique shops. I was never sure whether it was a decision of the people concerned in that proclaimed area whether or not they could open. That brings me to the question. Under this new rule I think all our country regions, particularly the near city regions, will now see changes to their shopping patterns. They may find they have to reassess their situation, particularly as these areas are currently in what we call proclaimed shopping districts. As I see it, the decision is made at that proclaimed shopping district by a ballot of the members. That is how I understand it; I hope the minister will confirm that with us very shortly. I presume that, after a ballot of the members in that proclaimed shopping area is taken, if somebody is in breach of that decision, that person or business—corporate or otherwise—would then be liable to the same penalties as are prescribed in this bill for the metropolitan shopping hours.

I would also seek some discussion and advice in relation to how some of these proclaimed shopping areas are actually established; how are they proclaimed? Are the regulations simply made for a shopping area? I know that in some instances they are made on local government boundaries, but in this instance local government boundaries in the Barossa can cut through communities and cause all sorts of problems, where the Barossa council is on one side and the Light council is on the other and some shopping areas are in both areas.

Amending this very important legislation will cause impacts in all, if not most, country shopping precincts, particularly Gawler, Barossa Valley and Clare Valley—all the areas from which people can commute. If shopping is not open and freely available in Gawler and the Barossa, people will quickly commute to Adelaide, and turnover will drop markedly, particularly with the large shops in Adelaide offering a very wide range of product.

With the amendment to shopping hours, things will change. I hope that the minister, who has just returned to the chamber, can spell out for me whether country shopping centres will have flexibility. The shadow minister said that there will be no change to their arrangements, but they may wish to change them, so by ballot of members in a proclaimed area they can reassess their situation.

Given that we are discussing metropolitan shopping hours, we should throw it open and allow areas under existing ballot systems to have a choice of remaining in the ballot or chucking it all out and doing the same as the metropolitan areas. We should give them that opportunity and a deliberate decision should be made in proclaimed shopping areas as to whether they want the status quo to remain or to abolish it altogether in favour of a laissez-faire, as you wish, situation. I can see frustrations developing in country regions where some people will want to open for longer hours, particularly in the tourist season, and for special events during the year which result in many visitors, but the number of customers can rise and fall quickly.

I congratulate the shadow minister, the member for Davenport, on the huge amount of work that he has done on this issue over a great deal of time. This is not the first time that we have discussed it, but the Liberal Party agreed many times prior to this to go down the path of deregulation of shopping hours, but there has always been the protection of penalty rates. I do not believe that shops should be forced to pay penalty rates for having to open on Saturday or Sunday, and it should be negotiated.

The time has come and things have changed, so we should bring in this legislation, and I hope that the situation will resolve itself, particularly as we know that some people prefer to work in shops on Sundays whereas others do not. I do not believe that anyone should be compelled against their wishes to work on a Sunday, for religious and other reasons, and I note that we will retain non-shopping days, particularly Good Friday—indeed all the days of Easter except Easter Saturday—and Christmas Day. All other days are shopping days if anyone wants to open.

South Australia has been lagging behind. How many times have we seen visitors to our state standing on North Terrace at 6 o'clock in the evening and finding no shops open? It is pleasing, and it is a nice feeling to realise that that is going to change. At last we have been dragged, kicking and screaming, into the 20th century.

An honourable member interjecting:

Mr VENNING: Into the 21st century. We have had a strong shopping union in South Australia, led by none other than Mr Farrell, who has his tentacles into this place and whose influence is everywhere. The shopping union is very strong, well organised and well represented.

The Hon. M.J. Atkinson: His influence is everywhere.

Mr VENNING: You are dead right. Mr Farrell is well known, he gives orders and they are usually obeyed—he who must be obeyed. I look forward to the committee debate. Again, I thank the shadow minister and my colleagues in the Liberal Party generally for being patient and, indeed, the government for eventually seeing the light on the hill and giving way to allow South Australians the freedom to enjoy shopping virtually whenever they like.

Mrs REDMOND (Heysen): I do not intend to speak for long; I just want to place on the record the fact that my views have not changed since the last time I spoke on this matter but, with a gun held at my head by Graeme Samuel of the National Competition Council, I feel that I have no choice but to support the measure. However, I want to say something about the National Competition Council. I note that in this document entitled 'Compendium of National Competition Policy Agreements' it is stated:

> The guiding principle is that legislation (including Acts, enactments, Ordinances or regulations) should not restrict competition unless it can be demonstrated that:
>
> (a) the benefits of the restriction to the community as a whole outweigh the costs; and
>
> (b) the objectives of the legislation can only be achieved by restricting competition.

For a start, I have a problem with the reversal of onus—as I usually do—and I will have something more to say about that later in relation to a provision in the proposed legislation.

I am looking at what the NCC currently identifies as priority issues for assessment. I will not read the entire list but they include: the Agricultural and Veterinary Chemicals (SA) Act, the Agricultural Chemicals Act, the Stock Foods Act, the Stock Medicine Act, the Architects Act, the Barley Marketing Act, the Building Work Contractors Act, the Children's Protection Act, the Chiropodists Act, the Chiropractors Act, the Citrus Industry Act, the Controlled Substances Act, the Conveyancers Act, the Dairy Industry Act, the Dangerous Substances Act, the Dentists Act, the Employment Agents Registration Act, the Fair Trading Act—so the NCC will look at fair trading—the Fisheries Act, the Food Act, gambling acts, the Harbors and Navigation Act, the Land Valuers Act, the Legal Practitioners Act, the Liquor Licensing Act, the Meat Hygiene Act, medical practitioners legislation, the Mining Act, the Opal Mining Act, the Mines and Works Inspection Act, motor vehicles legislation (including driving instructors and tow trucks and compulsory third party insurance), the Occupational Therapists Act and the Optometrists Act. The list goes on and I am probably only half way through it.

I think it is extraordinary that the National Competition Council has been set up by government supposedly to ensure that competition in this country will increase and be enhanced when, in my view, the effect of what we are being compelled to do because of the threat of non-payment of competition payments to this state will inevitably mean less competition and no net increase in jobs in this state. I accept what Woolworths, Harris Scarfe and a number of other big retailers have said about the number of people they will be able to employ; the difficulty is that they have forgotten to tell us about the other half of the equation—the small businesses that will be pushed out of business by this legislation. At the end of the day, those big businesses will largely take their profits into the other states and not keep the money circulating in this state.

Having said that, I will restrict my comments to a very few matters in relation to the bill. As I said, I will vote in favour of the bill notwithstanding my very strong reservations about whether it will actually do anything to improve competition. I believe it will do exactly the opposite, but I will make a couple of comments about something that I believe will be proposed either as opposition amendments in this house or between the houses given the undue haste with which this matter is suddenly being pushed on.

First, I agree with deleting the current requirement that shops with more than four employees can be non-exempt. It is bad enough having shopping hours controlled according to the square metreage of your shop, but to have it based on whether you have four or five employees makes no sense at all. I am not convinced that there is a need to increase penalties and I would like to see from the minister evidence as to what penalties have thus far been imposed and why there is a need to increase the penalties. I favour keeping the penalties where they are. I said I would come back to the issue of the reversal of onus of proof. In clause 18 in a later section of the bill (and I appreciate that part of it is already in existing legislation, as I understand it) it states:

> In any proceedings for an offence against this act, an allegation in the complaint that—
>
> (a) a specified shop is within a specified shopping district; or
>
> (b) a specified shop has a floor area of a specified size—

that is, a complaint alleging that that is the case—

> will be accepted as proof in the absence of proof to the contrary.

That reverses the usual onus of proof. If someone wants to prosecute, the Goliath of the government machine, the prosecutor, has to prove the case. I accept that some of this is already in the existing legislation, but instead of extending it we should be removing it because it makes no sense and it is inequitable to force a small trader to prove their innocence rather than having the government, which will prosecute them, prove the case against them, as would be the normal case.

On the issue of powers, I also have some difficulty—not a great difficulty—with the powers of officers. I agree with their right to go in and take photographs, measurements and so on, and to inspect documentary records, as it may be necessary for them in establishing their case. I do not have any difficulty with their having copies of documents, but I have a difficulty with their having the power to take away a retailer's documents. If an inspector has the power to come in and take the originals of documents such as wage books, rosters and books of account, a business could be thrown into chaos. I have no difficulty with the idea that they can look at those things and can take away copies, but I object to the idea that they can steal the documents and keep them, to the detriment of the trader.

I would like to see some provision for industrial relations improvement. I appreciate, as has been suggested to me, that the idea that one can legislate for industrial control with shop trading hours is a very blunt instrument to use, but it is appropriate for us to consider doing that. In relation to the hours worked, the current provision that provides for people not to work on Sundays unless there is an enterprise bargaining agreement in place is an appropriate one. I have no difficulty with that provision and I do not see why the government wants to change it.

Lastly and briefly, I refer to a technical matter, namely, the provision for the issuing by inspectors of prohibition notices, with which I do not have a difficulty, but there is a

provision in there that allows only 14 days for an appeal to be lodged against the issue of a notice, I think by the minister. In accordance with standard legal practice, it would be appropriate to have that appeal period extended to 28 days. Fourteen days is a short time, if you are trying to run a business, in which to get together with your lawyer and try to work out what you are going to do to institute an appeal. More commonly 28 days would be allowed for lodgment of an appeal.

They are the few matters I wish to comment on, but the main reason for my wanting to make a contribution at all was to have recorded in this place my utter dissatisfaction with the idea that the NCC, which is currently supposed to be there to increase competition and be of benefit to the citizens of this state, will force us into a situation where we will have far less competition and eventually the higher prices that they have in the eastern states where they have much more deregulation.

Mr SCALZI (Hartley): I rise on this important matter and I do not support the measures put forward by the government or the opposition. I do not believe that deregulation is a panacea to increase economic and community wellbeing. I have difficulty with the fact that this independent chamber state has to succumb to threats of the national competition policy, an unelected body. As the member for Heysen has outlined, we will look at 180 different acts. Indeed, we as a parliament have to succumb to those national competition guidelines. I do not believe that Graeme Samuel is the Solomon of shopping hours. Deregulation is a double-edged sword. In the long run it promotes not competition but a greater market share for a few retailers, and that is the factor that concerns me. We will not be better off. The whole idea of national competition policy is that the consumer should be king. The consumer should have the choice, the lowest prices and the highest standard of goods, and competition should be unhindered so that it will promote economic growth—or in this case gross state social product—in which event we will all be better off. I do not believe that is the case. It has not been proven in the past.

We know that at present South Australia has some of the lowest grocery prices in Australia. Why would you succumb to these measures so that you can have a few extra hours at the expense of small business? As I have said, I do not support deregulation. However, I must say that at least this side of the house has been consistent with reforms in industrial relations. In other words, it is very much concerned about true competition to enable small retailers to compete in relation to their costs of production. At the end of the day, if you are not able to have equivalent inputs to production costs (in this case it is the labour factor, and we know that in a lot of businesses the labour component is a big factor in production costs), you will not be able to compete.

I commend the shadow minister, the member for Davenport, for being consistent with wanting industrial relation reform. If there are to be further changes to shopping hours, it is not enough to give small businesses 12 weeks to plan for and adjust to the changes. I do not believe that, in the short time of 12 weeks or so, small businesses can adjust, change and compete on a level playing field with the Coles Myers, and with the Westfields at Marion and Tea Tree Plaza.

I have other concerns about the way in which we are heading regarding these changes. As I said, I do not believe that, in the long run, it brings about lower prices, because that has not been proven. This is not about competition of retailers within the bigger shopping centres: we are giving the landlords greater access to the market share. That is what it is about. If we had strata titles with respect to ownership within the large shopping centres, we could talk about competition. They do not have that market share in other places—for example, the United States and the United Kingdom. They are very much concentrated in Australia. As I have said, they are no better than feudal landlords, putting pressure on the retailers in those shopping centres so that their businesses are not run as the small traders would want them to be run. I have had small retailers come to my office for help because, unlike the big corporates, they do not have access to legal advice and they get themselves in trouble. There is not much compassion from the big corporates of this world, and that concerns me.

When we talk about people wanting these extra hours, let us look at what we have at present. We have one night a week in the suburbs and we have Saturdays from nine to five. We have Sunday trading in the city, and we have the Glenelg tourist precinct, and I think it is working well. There is justification for Adelaide to have Sunday trading, but I cannot see any justification for having it right across the metropolitan area. I do not think that anyone really benefits. If there was such a big demand, why are not the shops in the city centre open until 7 p.m., as they are able to be? Not all of them are open. In other words, a lot of the retailers are not taking advantage of the hours that are available to them now. Why increase those hours? As I said, there is not much difference between the government's position of 21 hours and the opposition's position of 24, which is more consistent. I suppose the government wants to give people free hours so that they can go and watch World Movies on SBS! That is the only logical reason that I can find to have that three hour difference.

What concerns me is that, if we do not deregulate, we are threatened by the National Competition Council with fines, and I find that unacceptable. This is where there should be a bipartisan approach. The states should stand up and say, 'Enough is enough. We will not succumb. We should determine how the state is run. We do not have to bow to a national unelected body that will decide when we can open and when we can close our shops.' As the member for Heysen said, what will happen with pharmacists and all the other groups? Only recently we have seen what has happened with land agents with respect to the national competition policy.

I have great difficulty with going down this path but, as I have said, at least the opposition has been consistent on industrial relations reform, demanding that it take place in conjunction with these changes and ensuring that there is a breathing space for small businesses to adjust. I also have difficulty with the fact that a lot of small businesses and family businesses are going to find it difficult to adjust; they are going to find it difficult to compete with the larger stores because they do not have the economic clout that the larger retailers have.

For example, we all know what is going to happen with Coles Myer getting involved in petrol retailing as Woolworths has—the clout they will have and the impact they will have on the retail sector because they will be able to induce people to go to their stores. No small store is going to be able to compete with that. What is going to happen when the transition has taken place and they have the monopolies in place? I am sure the prices are not going to remain low. I refer to a letter dated 26 August from Graeme Samuel to the Treasurer, as follows:

The Council considers that implementation of the reform proposal introduced into the Parliament on 14 August 2002 would address South Australia's competition obligations for the 2002 assessment. Upon implementation of the reform proposal, the Council will recommend to the Federal Treasurer that South Australia receive full competition payments for the 2002-03 financial year. The Council considers, however, that there is additional work for South Australia in relation to trading hours, as recognised by the Government in the second reading explanation commitment to further action to streamline South Australia's current complex system of exemptions.

As the member for Davenport pointed out, when the government introduced its bill in November it was very much aware that we have to go down this path. The letter to the Treasurer clearly states that. So, I cannot understand why the minister and the government were not up front, did not take action, and in a bipartisan way work out a solution to the industrial relations concerns and at least put small businesses in a better position to deal with the changes. The government had to be grabbed screaming by the member for Davenport and the Liberal party and forced to bring in its own bill, which has many problems as outlined by my colleagues. For example, the inspectors, the increase in penalties from $10 000 to $100 000 and other provisions which will not do anything to resolve many of the concerns of small businesses. The bottom line is that small retailers, their families and consumers will pay a heavy price for the dubious privilege of shopping for a few extra hours.

This is according to Max Baldock, the Small Retailer's Association president. That is what these changes will do. There will be a lot of pain for very little gain. I admit that what is in question is the payments, and I can understand why the changes are taking place. However, I think it is a sad day that as state legislation both the government and the opposition have to succumb to threats by an unelected body to promote competition which, in the long run, will do the very opposite and will reduce real competition and real flexibility, and I ask: for what purpose?

Mr BROKENSHIRE (Mawson): I will try to make my remarks brief, but I do need to spend some time in the chamber tonight, given that this bill is before the chamber and particularly given that over the years I have opposed deregulation of shopping hours, but I now have to take a different position. It is a position I personally regret having to take, but there is no option. I would like to highlight some of the reasons why I see that there is no option. Quite frankly, I do not think that the issues of interaction with and the requirement of the NCC and the government have been handled very well at all since this government took office. I believe that some of the pressures which have been brought to bear have been brought about by the bullying attitude of some the ministers in this government.

I now believe that the community of South Australia will pay a price for that. It will not be a price paid in the next 12 months or so, but it will be paid in the future. I would like to know the real agenda behind some of the government ministers' actions and what else was said outside this parliament to sectors of the retail industry and others who benefit from the retail industry—but, of course, I will never know. If you look at the changes that the government has mooted, and the lack of consultation earlier on, and some of the comments of mainstream media, such as the *Advertiser*, they have had a really strong position on this from day one. They have been quite critical of people like myself when it comes to the position I have taken on shop trading hours from the beginning.

In fact, I was talking to the chief executive officer of one of the big representative organisations in this state about shop trading hours, and he told me to get into the real world. I told that him that I do live in the real world. I am out in my electorate and in the real world virtually every day and between five and six nights a week representing and listening to a balanced cross-section of people who put me into this parliament. Clearly, some of those people have become tired and have given up. I do not believe some of those who represent small businesses have actually got their act together, either, in recent times.

Certainly, some of the other organisations primarily represent bigger business, although one purports to represent small business as well, but I would like to see the true figures on how many small businesses are members of that organisation. They have certainly been consistent and active. I telephoned a senior person in an organisation that represents what I believe is the bulk of the small retailers in this state at the beginning of this year. I said, 'If you really want to stop further deregulation of the retail industry, you'd better get your act together now, because the minister will reintroduce this bill in May.' Here it is May, and I predicted this in January.

I said, 'I will be putting the situation as one individual, not from the point of view of the party position at that time but as one individual. I may have to change and support a bill which fundamentally and principally I do not believe is right. However, it has reached a stage now that, for the state's overall best interest, there is no choice.' They said, 'We do not have the money of the big organisations, the mainstream media and the like.' I said, 'No, but you have thousands of small business people, families, cousins, grandparents and children.' Small businesses employ the bulk of the South Australian employment market. I said, 'Get those people out; rally them and stir the troops. You will have to put some energy into this so that you can show the parliament, the community and the media that small business is absolutely opposed to it and that it will use all its energy and resources to ensure that there is no further deregulation.' What happened? All I saw was one story on the soapbox and another small piece in the media.

I also put on the public record that, unlike other occasions when my electorate has been very active in writing to me, making appointments to see me at my electorate office and ringing the office to talk to me about their opposition to deregulation, this time I received one call and the person also came to see me. That person was pro deregulation. Clearly there has been a change of circumstances, much of which has been talked about in the parliament tonight. However, when driving to Parliament House this morning, again I heard on the radio that, whilst the people who have been consistent in their message for successive years are still saying that more jobs will be created, the net result for South Australia will not be more jobs.

Sure, some jobs may be created in some of the bigger retail sectors. However, one needs only to look at Woolworths in my own area at Victor Harbor for an example. They are open until 11 p.m. There are two people working in the store, plus one person on the cash register. What happens as a result, though, is that some of the smaller towns such as my own home town did not even have a general store for a period because it was not economic and viable. Woolworths would have had two people packing shelves, anyway, but they had

to employ someone on the cash register. I suppose their argument could be that this arrangement was safer and more secure when compared to the situation of a couple of store people packing shelves from the back input area into the main part of the shopping centre.

We have heard and seen much about deregulation. I have seen a great deal, and I am feeling it right now. For example, in relation to electricity, through having the national grid we were supposed to have cheaper power. The principle of that was fine, but the national power grid was fundamentally flawed. As a result of that initiative of Paul Keating when he was Prime Minister, what we are seeing today is higher power prices right across the eastern seaboard and into South Australia. Tasmania, in many ways, is similar to South Australia, given that we have a much smaller population base, we do not have the significant tourism benefits of Melbourne, Sydney and Brisbane and we already have the opportunity to shop in the CBD, Glenelg, Victor Harbor and other places.

I understand that within six months of Tasmania's bringing in its deregulated shop trading hours the government is considering introducing legislation to address what it already views as a diabolical situation with its small businesses. Today we heard that the Coles Myer group has done an alliance with Shell for 500 petrol stations across Australia. What we have is the multi-nationals getting bigger, with the small, privately owned service stations collapsing. Petrol might be a little cheaper as a result, and for a short time Coles and Woolworths may continue to provide some of the items in their stores at a cheaper price. However, I believe that, even now, if members went to an IGA or Foodland store, looked at their specials and compared them across the board with those of Coles and Woolworths, there would be very little difference. However, in the meantime, a few super powers are coming in and small businesses, as we have known them in South Australia, are disappearing.

As a dairy farmer, I have seen the effects of deregulation and the other ramifications when governments introduce other initiatives. This government does not have the guts to do what our shadow minister and our party will do with our amendment concerning award structures. The dairy industry underwent deregulation, and the processes folded quickly into Coles and Woolworths. It all comes back to the farm gate, which is where the farmer gets screwed, because he has nowhere to go. He is at the end of the fodder chain with respect to fair and reasonable pricing.

Of course, we have a government that introduces the River Murray Bill and then secretly introduces tributary zones on the Fleurieu Peninsula and in the Adelaide Hills. Drought combinations occur and, at the same time, a dairy plan is announced by the government, which does not even allow for discussion or assessment in conjunction with the River Murray Bill, which has direct ramifications. What do we see? Already 11 dairy farmers have gone, and the bill has not even passed through the parliament. This is what will happen as a result of a government that is locked into a situation with which the Shop Distributive and Allied Employees' Association and Don Farrell are not happy. Conveniently, it will be reviewed just after the election, and I think that is an absolute nonsense.

A shop in an economically difficult part of my electorate provides good service and, at times, support for some of my constituents (and I am talking about Hackham, an area for which I have a lot of passion but which has gone through difficult times). Occasionally, some of these people have to have a bit of carryover until their salary or their pension comes through. Because this is a privately owned small business, the owner is able to assist, and he has been able to do so because he has had the right to trade seven days a week.

To a great degree that is history now, because those customers will be able to shop at Colonnades. However, I do not think that the multinationals will have much sympathy if some of my constituents cannot get food on the table for two days because they are waiting for their pension or wage cheque. I believe that that sort of social impact has not really been considered in this shop trading hours measure.

As this constituent of mine is a realist, as indeed am I, we have no choice but to accept the basic principles of this bill. Yesterday this person said to me, 'If you have to put a bill through parliament because of the way the government has managed this issue and because of the pressure from the NCC, do me one favour: give me one last chance to try to get through to the age of 60.' He is 56 at the moment, and he would like to retire at the age of 60. He wants to have some goodwill, because he has worked seven days a week, from seven in the morning until nine at night, building up a business, helping people and, what is more, employing 10 to 14 casual and full-time staff. He said, 'At least give me a level playing field on wage structures,' so that he can compete with Coles Myer, Woolworths, and so on. We know that those organisations, both in this state and nationally, have been able to place themselves in a favourable position legally, whereas my constituent, who has not done anything wrong at all, is not able to do that. But what is this government saying in regard to such people? 'To hell with them.' I say, 'To hell with a government that is not prepared to listen to and care for small business, and consider the social impacts at a time when it purports to have a social inclusion unit.' They reckon they are there to look after people, particularly the underprivileged. That is bunkum.

A deal is being done behind the scenes, and we are in here late tonight having to rush through this legislation. Minister, for one time since this government has been in power, show some real substance, stop reviewing everything, consider the social impact of this, consider what you are doing to small business, and support our amendment that will be moved during the committee stage, so at least there is some fair play within this scenario. Otherwise, in a few years' time, it will be on the head of this government when we see small businesses going down the gurgler and the community paying more for commodities they are buying. It is up to the government. We are giving it the opportunity tonight. Members opposite should do the right thing across the board for South Australians—not just for their mates.

The Hon. G.M. GUNN (Stuart): I well recall this matter creating considerable controversy in 1970. I well recall bill No. 11 in 1970. It was my first experience in relation to shopping hours. They had open trading at Elizabeth and the government got itself into a particularly difficult situation by being too smart. They asked a question, to which they got an answer they did not want, and they had to shut the shops. We all recall the Labor Party members of parliament sneaking along the back lane. They got photographed and put in the *Advertiser* where they were called to account. It was a classic. We can all recall a former member for Florey who got himself worked up into a considerable lather at a public meeting in Elizabeth when the community took umbrage that their shops had been arbitrarily closed.

The Hon. M.J. Atkinson interjecting:

The Hon. G.M. GUNN: That is another matter, and we will not go into that tonight. But, knowing the honourable gentleman, I believe he is a man of many talents. However, Mr Speaker, you and I know, of course, that that was the first controversy. The people out there wanted the shops open, but the union did not.

Tonight we are debating this bill, we are told, as a result of rulings and activities of the National Competition Council. I am of the view that the shopping hours of this state are entirely a matter for the people of South Australia. I do not give a damn what Mr Samuel or anyone else says. The only people who should have a say are the members of parliament in South Australia. If they do not make the right decision, the people of South Australia can get rid of them. We should not be held to ransom by some bureaucratic organisation, which is filled up with economic rationalists and people who, in my view, are not in the real world. I have no regard for them. They may have read lots of economic theory books but, at the end of the day, they really are not in the real world. People in a democracy should not be threatened. People should be able to freely come to their own decision without the need to have a cheque book waved in front of them. I will be having more to say about Mr Samuel and his august institution and those who blindly follow him on other occasions. There are other important issues, which will affect the decisions of this house.

When talking about shopping hours, it certainly creates controversy and certainly leads to some rather dubious back room deals. Mr Speaker, I do not know whether you are aware of the situation which we have in South Australia in relation to Don Farrell and the STA. They have a very cosy little arrangement going. I understand that every month they get a cheque from the big retailers. They automatically collect the union dues, so they have an inbuilt collection system.

Members interjecting:

The SPEAKER: Order!

The Hon. G.M. GUNN: They have a cosy arrangement. What the little shop assistants did not realise at the last election was that they were paying for all those tens of thousands of dollars that were spent in the electorate of Stuart. They were not told, but they had to sign up before they got employed. They had to sign up. Do not say that it does not happen because I know that it happens. We know about those hundreds of big flash signs that were decorating all the little country towns and all the accommodation for those heavies and those stand-over people who were imported into the town, including the august former mayor of Broken Hill. Mr Speaker, do you know how much the little shop assistants in South Australia and Don Farrell's group spent? In excess of $200 000.

Mr Koutsantonis interjecting:

The Hon. G.M. GUNN: Yes, they did. They were bragging about it in the pubs—$200 000. Well, while we are on the subject, an interesting document has just been brought to my attention. I am delighted that the member for West Torrens is here because he has addressed this bill before the house. He seemed to stray a bit. I would say to the honourable member that he ought to read the speech that he made in 1998. He ought to read it and so should the minister. He talked about Eudunda Farmers. He has forgotten about that today. He talks about Oodnadatta. It has been brought to my attention that Big W had a certified agreement. The document before me, which is entitled 'Part 8 SDA, 8.1 SDA Recognition and Membership', states:

> For the duration of this agreement Big W recognises the SDA as being the union that has representation of associates in related classifications who are covered in this agreement. This representation will extend to all terms and conditions of employment whether those terms and conditions are subject to this agreement or not. It is the policy of Big W that all of its associates covered by this agreement shall be encouraged to join the SDA.

We know what the encouragement is: you sign up or you do not get a job, and when you sign up we send a cheque straight to Don Farrell. No wonder they do not have any trouble. And they make big donations to the Labor Party. At a later time we will go through this particular document chapter and verse, because I am sure that all those little shop assistants who work in my electorate will be interested to know about this cosy arrangement. I will make sure they all know because Don Farrell was successful at the last election—

The Hon. M.J. Atkinson: He was not challenged; he has four more years.

The Hon. G.M. GUNN: The state government is paying for the Labor Party campaign office in Port Augusta—the state government. There are four employees paid for by the taxpayers, and we will find out the cost before we are finished. We know what is going on. Don Farrell has spent his $200 000.

The Hon. M.J. ATKINSON: I rise on a point of order, Mr Speaker. My point of order is relevance to the question of what hours shops are open and what hours shops are closed.

The SPEAKER: I will listen with interest to what the member for Stuart has to say. I am not sure that his comments are irrelevant to the subject matter of the legislation as the social consequences of the changes to be brought in by the legislation are the matters to which I think he has been directing the attention of the house.

The Hon. G.M. GUNN: This is a far-reaching piece of legislation and, if one examines it closely, it has quite wide and specific terms and conditions of employment. I think it is important that, on occasions such as this, the people of South Australia are made fully aware. I have never been a deregulator, but I certainly understand and appreciate that in my electorate Port Augusta has open trade and the people do not want restrictions put on the trading hours. There has been some reduction in trading hours but that has been a commercial and economic decision, which I think—

Mr Koutsantonis interjecting:

The Hon. G.M. GUNN: The honourable member is interested. The member for West Torrens is interested about the SDA. I thought he was Don Farrell's mouthpiece in this place and that he would understand it. However, if he would like me to read a few—

Mr Koutsantonis: Australia's biggest union.

The Hon. G.M. GUNN: That is right, the biggest contributor to the Labor Party. We have it on record. I know the Government Whip wants me to continue.

The Hon. M.J. Atkinson: Biggest and best.

The Hon. G.M. GUNN: If we look at this interesting document, which I am fortunate to have in my possession, it states:

> (b) It is the policy of Big W that all of its Associates are offered SDA membership. Accordingly Big W undertakes to promote SDA membership at the point of recruitment by recommending SDA membership.

If you do not have a closed shop, what is it? It goes on to state:

> (c) Big W Discount Department Stores undertakes upon receipt of authorisation to deduct SDA membership dues, as levied by the

SDA with its rules, from the pay of those Associates who are members of the SDA. Such monies collected will be forwarded to the SDA at the beginning of each month together with all necessary information to enable the reconciliation and crediting of subscription to members accounts.

(d) This clause will be written into Big W Personnel Policy and Procedures, and will be reinforced at regular intervals through memos from senior management.

Well done! That is compulsory unionism and compulsory Labor Party membership.

We are looking forward to the response of the minister, and on a more appropriate occasion when my voice is a bit better I will complete the reading of these documents, because I think the public should be aware of them. But the brief account I have given clearly indicates there is a cosy arrangement, and I am sure there has been a cosy arrangement between the minister and the union, otherwise we would not see this legislation.

The Hon. M.J. WRIGHT (Minister for Transport): I move:

That standing orders be so far suspended as to enable the house to sit beyond midnight.

The SPEAKER: I have counted the house and, as an absolute majority of the whole number of members of the house is not present, ring the bells.

An absolute majority of the whole number of members being present:

Motion carried.

Mr BRINDAL (Unley): Mr Don Farrell has been mentioned much in this debate, and I am quickly coming to the opinion that he is a deeply religious man, because he has read somewhere that God in heaven is surrounded by the seraphim and cherubim, who continually laud and praise his holy name. Don Farrell obviously emulates God, because he has here the members for Spence, Playford and West Torrens, who do a pretty good job standing in this chamber, chirp, chirp, chirping about how wonderful Don Farrell is. We have not heard much more in this debate.

Mr Koutsantonis interjecting:

Mr BRINDAL: While the member for West Torrens is interjecting, which particular part of Don Farrell he is I do not doubt, because he proved tonight that he wants to be known as the silver tongue of Don Farrell in this chamber. I must let him know that he did not do a particularly good job; it is only because of him that the speaking list tonight is a long as it is. I know of at least—

Mr Koutsantonis interjecting:

Mr BRINDAL: I have disagreed with my own colleague before, I will disagree with him again and he remains my colleague and friend. However, it does not mean he is right about your contribution.

Ms Chapman interjecting:

Mr BRINDAL: The member for Bragg need not tell me to get on with it, because I have 20 minutes, and if I want to take 20 minutes I will. That is my right.

Mr KOUTSANTONIS: I rise on a point of order, sir: it seems to me that the member for Unley is being harassed by members of his own side and badgered by his own members to cease speaking. I believe that is unparliamentary.

The SPEAKER: Was the member for Unley spanking somebody? The member for Unley has the call. I will pay close attention to the conduct of other people in the chamber.

Mr BRINDAL: While I thank the member for West Torrens for his try, I am quite sure that you, sir, can protect me, that I can appeal to you if I need it, and that we do not need him to umpire for us. Having said that, I am prompted to contribute, largely because of what the member for West Torrens said, particularly in relation to the past and present contributions of my friend and colleague the member for Davenport. The fact is that, as the member for West Torrens indicated, the member for Davenport said what he said some time ago, and I think it is either to the credit—or discredit, if you like—of this parliament that we have resisted change for as long as we have. The member for Davenport said some time ago, and I think I would also be on record saying some time ago, that many of us saw this change as irresistible over time, and this parliament has come to that point tonight. Whether we should have got here I am not so sure.

I am reminded that just a few years ago when I went to Vienna I saw that that city, a major tourist destination in the world, still closes at 11.30 on Saturday. Even in central Vienna, you will find that it is almost impossible to get a cup of coffee from 11.30 on Saturday until 9 o'clock on Monday morning.

Mr Koutsantonis interjecting:

Mr BRINDAL: The member for West Torrens interjects and mentions Athens as well. Despite what we are being told in South Australia, there are many places in the world that close their shops on Saturday at lunchtime, open them on Monday morning and no particular harm is done. That is the point that the member for Davenport made some years ago. However, incessantly since then, sections of our community, notably the media, big business interests and Coles Myer, have been assiduously pursuing the line with the public of South Australia that what South Australia wants, what South Australia needs, is deregulated shopping hours. As the member for Davenport said in his contribution all those years ago, there is a certain inevitability about public pressure that does not let up, especially when we live in a democracy and every one of us represents people whose will we cannot afford to neglect.

I previously supported the stance of the member for Davenport, and I understand the logic that he put, but if I go around the streets of my electorate of Unley and ask my electors, 'Do you want deregulated shopping hours?', the answer is clearly and unequivocally yes. Against an electorate that wants it, against media that are demanding, against big business interests that are pushing it, the ability of this parliament to keep saying no in a democracy is limited.

While some of us may regret where we now come to be, because we are in a democratic institution in a democratic society, we are giving the people of South Australia no more than they demand. They do not necessarily have to be right, we do not necessarily have to be right, but it comes to this. I remember a very famous Labor premier, whom you would remember, sir, who went down to Glenelg and said there was not going to be any tidal wave and had photographs taken as he supposedly held back the tide.

Ms Breuer: He did!

Mr BRINDAL: The acolytes say that he did. I doubt whether scientifically he achieved his aim. This parliament has held back the tide of this reform, and it can no longer resist that reform. Having said that, I support my colleague the member for Davenport because he is arguing that, if it is not going to be held back, let us do it properly, and the amendments that he proposes are the proper and logical way to go.

We cannot keep something in part: we either reform it or we keep it. In this case, this house is not minded to keep what

we had. The member for Davenport argued convincingly in our party room and in this parliament that, if we are going to change it, let us change it properly. There is no point in these bandaid measures that see us coming back here year after year, getting further assailed and assaulted because they have not quite got what they wanted. If we are going to deregulate, let us deregulate.

Ms Breuer interjecting:

Mr BRINDAL: The member for Stuart might be having the vapours. If she would like me to get an attendant to bring her something, I will.

Ms Thompson: Giles! You don't know where you are, so you might as well sit down!

Mr BRINDAL: That is a good point. I think my next point would find some sympathy in the chamber. What we seek to address—what we seek to arrest, in many ways—is not a problem that deregulation of shopping hours is necessarily the best instrument for solving. There are problems in our society that I would say are much more fundamental and touch on things that are not necessarily under the direct control of this parliament, and they are things such as should Australia be dominated by two giant shopping conglomerates, Coles Myer and Woolworths?

In America, business organisations of such power and dominance in the market would not be allowed. They have anti-trust legislation to break down what essentially become monopoly practices. One could also ask whether a few very powerful shopping owners such as Loweys and Westfield should be allowed to have the disproportionate influence that they exhibit in Australian society. For that reason, my party has always argued: how can you shield and protect small business and other interest groups from the tendency towards monopoly which we see developing in all aspects of our society? I put to the house that we can no longer do this and, if there is to be a valid answer to that question, it lies not so much in getting shopping hours deregulated as it does in doing something about the total domination of a comparatively small market by a very small group of interests.

My vision of liberalism is that liberals are often opposed to big government and big organisational aggregates such as super unions and big bureaucracies—and rightfully so. In my opinion, liberals should also be very worried about monopoly ownership of media and distortion of the free market where that occurs because of a tendency towards a monopoly. Margaret Thatcher (who was not known to be a liberal; rather, a conservative) argued quite convincingly that an economy is most sound when it is vibrant, with a mass of competing interests rather than a few interests perpetuating their own self-interest. I think that is an important point.

The SPEAKER: Like parliament.

Mr BRINDAL: The Speaker cannot interject, but I think I read his thought processes and heard him say, 'Like parliament,' and I think in many senses he is probably right. What we have tried to do here in past years has not been wrong; it has probably been done for different reasons, generally with the right intent, but it can no longer be resisted. I support the member for Davenport who argues that if we are going to reform this, let us do it properly; let us not do half a job.

I am therefore disappointed that the member for West Torrens saw fit to use his union bias to somehow blame the Liberal Party (which has taken more of this on its back than it deserves, especially as we are in opposition), and say that, somehow or other, because we are for reform we are still in the wrong. We are not in the wrong; we have done the best we could for as long as we could. We have shown leadership, and now we are dragging the government in reluctantly. The minister has his own bill, but it is interesting that he cobbled it together about 48 hours after our shadow minister put forward his ideas.

At least we have the government now coming along and thinking in the right direction. If the minister wants to listen carefully to the member for Davenport in committee—as we generally do in this house—we can improve this bill and give him something that will give him a little bit of credit going into the next election. We can show the minister where he is going wrong and fix it all up for him. Even though we are in opposition we can continue to be a good government-in-waiting and help the minister not to follow Don Farrell and his little choristers down the road to disaster.

I commend to the house the amendments that will be moved by the member for Davenport. I commend the government for coming along on the member for Davenport's caboose, for actually getting onto the bandwagon and doing something about this—albeit belatedly. I implore the minister to pick up these reasonable amendments that the opposition is offering and make this a decent bill. Don't be churlish and childish and running messages for Don Farrell. Let's do something decent for South Australia. This minister, who has some intelligence and some freedom and is not one of the choristers in the Farrell band, might take this advice and make this a better bill for the sake of South Australia.

The Hon. M.J. WRIGHT (Minister for Industrial Relations): I thank all members for their contribution and acknowledge the opposition for allowing this bill to be debated this evening—I certainly appreciate that. Listening to the debate again, it highlights the variety of views that exist on shop trading hours. A lot of comments have been made and I will not go into all of them because we will have an opportunity to do so in committee. However, I will pick up a few points made by the shadow minister. It would be fair to say that the shadow minister commenced his contribution by talking about the National Competition Council and putting on the record some of the information that Graeme Samuel has talked about in his involvement with committees set up by the Legislative Council, highlighting the consumers' viewpoint. By and large, that potted history of the National Competition Council was correct.

The government has been consistent in its view with regard to shop trading hours and the fact that there needs to be greater flexibility and the opportunity for families to shop together. A number of members opposite referred to the summer of Sundays, but it was more than a summer of Sundays—it was nine o'clock in the suburbs, also. There were other components to the bill but, disappointingly, it was defeated. Nonetheless, as the shadow minister said, 'things have moved on', and so they have. He also spoke about the penalty, and generally we concur with each other in that respect. Nobody knows what would be the figure. Graeme Samuel never speaks specifically about what might be the penalty. The shadow minister put some parameters to it, and generally speaking it may be around the place, but we know for sure that there will be a significant penalty.

Other issues raised I will address briefly and go into them in more detail in committee. Obviously it will be an opportunity for the shadow minister and others to ask questions and for the opposition to move its amendments. The shadow minister spoke about deregulation and mentioned Clare and asked why we should not follow its example. Clare had a

ballot—a clear, direct democratic process. South Australians have had the opportunity to vote on our policy. The shadow minister spoke about the hardware issue and the fact that there is a difference. We have come forward with a model that is an expansion of the successful CBD and Glenelg arrangements, which have general support.

With regard to electricals, I acknowledge that we have learnt from the previous bill. Treating electricals differently would not have improved competition as they compete against department stores. We have taken heed of some of the advice with respect to what we did with electricals in the first bill. A range of issues have been raised about the powers of inspector. The opposition supports restricted trading hours on some days and, if the member does not want to make sure his own proposal will be enforced, perhaps he should say so. It is not simply the three hours that have been suggested but other hours also. With any system, you have to provide inspectors with the appropriate powers, whether with this legislation, other legislation, with how the police operate or whatever the case may be.

Much has been made—and we will go into this in detail in committee—about the maximum of $100 000. I stress the point that it is the maximum. It would be in specific circumstances for the court to adjudicate. The taking of originals is something else that has been raised by the opposition. It will not always be possible to take copies. There may not be the capacity at a given time at a given venue to take copies. If and when that opportunity exists, of course you would take copies. However, what do you do in the circumstances where that opportunity does not exist? Do you simply let the opportunity go by in regard to being able to collate and collect the information required for the investigation? Of course you do not. It is as simple as that.

Prohibition notices is a much simpler way of doing business in this area. Of course, the former Liberal minister (the Hon. Robert Lawson in the other place) supported this initiative when this bill came forward in August last year. The shadow minister asked for clarification about the Retail and Commercial Leases Act, and there is no issue involving retrospectivity. The simple change is to ensure that tenants who have access only via common areas of the shopping centre can access those voluntary arrangements, just as those who are currently on the outside are able to do so. It is no more than that.

Comments have been made about penalties being locked into forever, with no certainly that they will deal with the matter. If an application is made, it will be dealt with. It is as simple as that. We will talk more about the Industrial Relations Commission. I welcome the opportunity to answer questions in committee and to discuss the amendments before us with respect to that. Concerns about timing have been expressed by the shadow minister. There no compulsion for stores to open the extended hours. If stores feel that they are not ready to open more hours, they do not have to open until they want to and they are ready. It is as simple as that.

A range of comments have been made about how difficult this has been for a long, long time. Of course, that is correct. One way or another, this issue has basically dogged the South Australian parliament for 30 years. Governments of both political persuasions have not been able to bite the bullet on this and deliver a solution. What we came forward with in August last year was rejected, and there is no point in revisiting that. People had their own views about it. With regard to the Summer of Sundays, which was one feature, they said that 10 Sundays were too many. Here is an opportunity for 51 Sundays of the year; only Easter Sunday will not be a trading day.

Here is an opportunity for us to get this monkey off our back. A range of people have made points about the National Competition Council, and some of them I think are fair points. But we have to deal with the National Competition Council. It is far more than a threat. This date of 30 June is stampeding at us very quickly.

I will not bother to pick up on some of the nonsensical rhetoric from some opposition members—not, I hasten to add, from the shadow minister, who spoke about the policy issues, which we need to deal with in this debate. I was in Melbourne last week for the Australian Transport Council meeting, and while I was there I took the opportunity to meet with Graeme Samuel. The shadow minister has also spoken to Graeme Samuel. Indeed, since coming to government I have had a series of discussions with Graeme Samuel, as, of course, is our responsibility.

The Hon. I.F. Evans: How is the taxi going—all right?

The Hon. M.J. WRIGHT: The taxi has stopped. I can inform the shadow minister about the taxis as well. Taxis are another issue that is very dear to the heart of the National Competition Council.

Just briefly, Graeme Samuel highlighted to me that we had to have something through the parliament by 30 June. It is no good talking about it any more; it is no good having a debate in the parliament and not having it passed. Obviously, I have spoken to Mr Samuel since we have come forward with our package, and he has indicated to me that it is an excellent package. I am sending him the full details, but he certainly was very pleased with it. I have highlighted the point about 30 June.

The matter of taxis, about which the shadow minister spoke, is another issue for the National Competition Council. But Mr Samuel made it clear to me last Thursday that this is the pressing issue for him. I think that all states are grappling with the taxi issue, and Graeme Samuel has kindly given us more time to work through it. I think he has made the same offer to all the other states—but certainly not with respect to shop trading hours.

I welcome the opportunity to try to reach a solution. I think both the major parties are aware that there has to be greater flexibility and that there have to be some changes; otherwise, quite clearly, we will be heavily penalised (I do not know what the figure will be) by the National Competition Council. That date of 30 June is looming very quickly.

I thank everyone for their contribution. I appreciate that people have a great variety of views on this issue, which has polarised debate in the community for far too long. It will be a good thing for this parliament, and for the community of South Australia, if we can get this behind us.

Bill read a second time.

In committee.

Clause 1 passed.

Clause 2.

The Hon. I.F. EVANS: Does the government intend to proclaim the bill for 30 June? The date of the start of 9 p.m. trading relates to the proclamation. What is the time period for the proclamation and, therefore, the start of 9 p.m. trading in the suburbs?

The Hon. M.J. WRIGHT: Ideally, we would like to give business about four weeks' preparation time in regard to the commencement of 9 p.m. trading. Obviously, we do not know when the bill will be passed but, generally speaking, that is what we are planning.

Clause passed.

Clause 3 passed.

Clause 4.

The Hon. I.F. EVANS: I refer to the second reading contribution of the member for Heysen and to the definition of 'exempt shop' in section 4(a)(iii) of the act, which currently states:

> in which not more than four persons are physically present at any time outside normal trading hours for the purpose of carrying on, or assisting in carrying on, the business of the shop;

That subparagraph is being deleted, and that means that the exempt shop becomes defined as a shop that has a floor area not exceeding 400 square metres. Why are you maintaining a square meterage for the definition of 'exempt shop'? What is the rationale? Why is a shop of 399 square metres different from a shop of 401 square metres?

The Hon. M.J. WRIGHT: As to why we have stayed with the definitions regarding the square metres, I am not sure whether your representation differs, but obviously discussions have occurred since last August and have been occurring again more recently as we come forward with this bill. There has been no suggestion or no representation that there would be a different or a better way of doing it than that used in the past.

The Hon. I.F. EVANS: I am going to seek some clarification here, minister. The way I understand it, this 400-metre provision applies only to shops that sell foodstuffs. For the rest, there is a list of exempt shops: antiques, live fish, food, aquariums, accessories for aquariums, paintings, reproductions, newspapers, books, periodicals, pharmaceuticals, fresh flowers, non-alcoholic drinks, household pets and garden supplies. It goes right through a whole range of shops. I just want to make sure I understand exactly what you are suggesting. You are suggesting that a 410-square metre shop that sells antiques, aquariums, garden supplies or fresh flowers can trade, but a 410-square metre shop that sells food is going to be treated differently. Is that what I should understand by the minister's proposal?

The Hon. M.J. WRIGHT: The shadow minister is right as I understand it. The 400 square metres refers to supermarkets, as you say, and the 200 square metres is for departmental stores. They have always been the measurements—when I say always, I mean always since I have known it—that have been used and it seems to have worked fairly well.

The Hon. I.F. EVANS: There is a pattern to the minister's answers: it has always been that way, so we will adopt it. The minister says that it has worked reasonably well. If it has worked reasonably well, why have COAG and the federal government seen it as being so important that they have introduced national competition policy to get us to reform shop trading hours so that each shop is treated equally? The reality is that the system has suggested that it is not working well, and the commonwealth and all state governments signed off to say that shops should be treated equally. The minister would be aware that Graeme Samuel is of the view that the National Competition Council is not necessarily about deregulation but about getting equal treatment of shops so that they can all open and trade on equal terms.

The minister says that we have an opportunity to get this monkey off our back once and for all, and it seems bizarre to me that we are not taking the opportunity to tidy up this measure. I asked earlier about the criteria for the 400 square metres. Is there any science to it or any research, or is there absolutely no basis at all for it other than it has always been that way? The whole act, which was enacted in the 1970s, is basically being rewritten, but we are not adopting a whole range of other provisions in the act. On what basis should the proprietor of a food shop with a floor space of 410 square metres and those employees and those customers be treated any differently to an antique shop with floor space of 410 square metres or a cigarette shop, a souvenir shop, a garden supply shop, or the whole range of shops listed on page 2 and 3 of the existing act? The government needs to explain on what basis the 400 square metre issue is being kept in the bill.

The way I understand this will work is that a food shop with a floor space of 399 square metres will be able to trade outside the hours prescribed in the bill. So, if your local supermarket happens to measure 399 square metres, it can trade at 9 a.m. on Sundays or 7 a.m. or 7 p.m. on Saturdays. However, if it measures 401 square metres, it cannot trade. This is the exact inequity that Graeme Samuel talks about, and it goes to the very nub of the issue. We understand that the question of supermarkets is a sensitive area in this whole debate, but what the government is saying to the parliament is that there is absolutely no justification or criteria to keep 400 square metres for food retailers other than it is already in the act. So, I say to the minister that, during the bill's transmission between the houses, the government needs to consider why it is keeping that requirement in the bill and for what benefit, for goodness sake. Who does it help?

The other issue is that the whole inspection regime kicks in. The inspectors will not be out there penalising all the antique shops and pet food shops, and everything else listed on page 2 or 3 of the legislation. Goodness me, if a food shop with a floor space of 401 square opens for trade just prior to 9 a.m. on Saturdays or 11 a.m. on Sundays, it suddenly gets a penalty whereas the neighbouring shop down the road which measures 399 square metres does not. If the minister is trying to tidy up the act and remove the inequities, on what basis does he leave 400 square metres in? I urge the minister to withdraw that provision totally so that all food shops can trade equally.

The Hon. M.J. WRIGHT: I am talking about the concept of floor space. No other measure—whether it be turnover or whatever—has been put forward by stakeholders. Ultimately, when there is a stipulated measurement, someone will fall one way or the other. I think the shadow minister is blurring the issue between unrestricted trading and the definition when there is restricted trading. That really is something we will be talking about later when he starts talking about 24 hours, seven days a week.

The Hon. I.F. EVANS: I have a point of clarification. I am not sure how I have blurred the issue. Will the minister explain how I blurred the issue?

The Hon. M.J. WRIGHT: I have answered your question.

The Hon. I.F. EVANS: No, you have made the comment to the house that I blurred the issue. Will you explain to me how I have blurred the issue? Was I wrong in what I asserted?

The Hon. M.J. WRIGHT: I told the honourable member how I think he blurred the issue. The honourable member may not agree, but I told him how I think he blurred the issue between unrestricted trading and what the definition is when there is restricted trading. The honourable member may not agree, but that is where I think he blurred it.

Mr HAMILTON-SMITH: I am looking at pages 4 and 5 of the original act, the list of exempt shops, and noting that it includes antique shops, aquariums, painting and craft shops,

bookshops and so on. Why has the minister not seized the opportunity to do away completely with that concept and exempt all shops, if you like; or, in other words, why is there still a differential between so-called exempt shops and non-exempt shops? Why do we need to retain that at all, or does clause 4 do away with that completely?

The Hon. M.J. WRIGHT: This is about flexibility and competition and that is what it revolves around. This is something that has clearly been addressed by the National Competition Council with regard to flexibility and competition and that is really the basis of what we are moving forward with.

Clause passed.

Clause 5.

The Hon. I.F. EVANS: The way I understand clause 5 is that it is needed because we are maintaining exemptions and the minister wishes to transfer the current exemption-making power which rests with the minister and which will remain with the minister under the bill. The minister has clarified the exemption making powers in the bill compared with the act, but I pick up the question asked by the member for Waite in addressing clause 4. By maintaining this system of exempt and non-exempt shops, we now pick up that we have to then have a system of exemptions in regard to the general trading conditions. Surely it would be simpler to pick up the point the member for Waite made in asking why we are maintaining this system of exemptions. Therefore, if the minister picked up the member for Waite's concept, he may not need clause 5 to deal with exemptions generally.

The Hon. M.J. WRIGHT: I might be able to clarify clause 5 about which the honourable member started asking and also pick up clause 4 as well. COAG and competition policy is about removing anti-competitive provisions: it is not about perfect or absolute competition. With regard to the exemptions, I think the honourable member may have said something incorrect, or that is my interpretation. Currently, the bill provides for the exemptions to be with the minister rather than the Governor, and that is how the act currently stands. I think that you said it the other way around. The idea is to make it a simpler and more efficient regime for exemptions.

I take the honourable member's point that there may well not be as many applications for exemptions if this bill is successful, but they would still be made. Clause 5 merely tries to make it simpler and more efficient. Country areas that choose to be regulated may still wish, at certain times, to apply for exemptions for certain events.

Mr BRINDAL: I do not want to labour this all night, but I have listened to the member for Waite and to the shadow minister, and I do not understand. I understand what you, minister, are saying about competition policy and what that is trying to achieve, and I know that, in part, that drives this clause. However, I want to know (and I think that this is what my colleagues are asking), if we are to have a simpler regime, why we need this series of exemptions. Forgetting about the competition policy and concentrating on this legislation, why do we not get rid of the exemptions and have a simple regime that applies to everyone? It may be that the minister has answered that, but I do not think so.

The Hon. M.J. WRIGHT: There is no point my repeating what I have already said, because you do not necessarily agree. However, fundamentally, we are saying that some stores are able to trade more than others and, when a line in the sand is drawn, some will be one side and some will be on the other.

Dr McFETRIDGE: Can the shops in the tourist area of the Glenelg shopping district apply for these exemptions on a permanent basis? At the moment, we have a situation where shops such as Cunninghams, Cheap as Chips and Priceline, which are all over 200 square metres in area, were warned over Easter that they must not trade on public holidays, yet this is a time when there is a demand for them to be open.

In the past, these shops have been open and have operated successfully, and other shops have not suffered in any way. We really need to get the specific benefit of declaring Glenelg a tourist district; otherwise, it will become another part of the deregulated shopping hours if we do not. The supermarkets, such as Coles and Woolworths, which are over 400 square metres in area, are not allowed to open on public holidays, either.

The Hon. M.J. WRIGHT: The answer is no to the basis of the member's question. For an exemption, you cannot operate for a period greater than 14 days. In addition, I should draw his attention to the fact that, in granting an exemption, the policy of the act cannot be undermined.

The Hon. I.F. EVANS: The member for Morphett gave the example of Cunninghams, which was greater than 200 square metres in area, not being able to open. However, the way I interpret a clause that we have previously debated, it would now be able to open because the restriction relates only to foodstuffs and shops of 400 square metres in area. The provision in relation to 200 square metres has been taken out.

The Hon. M.J. WRIGHT: No, I do not think that is correct.

Dr McFETRIDGE: The minister said that an exemption of more than 14 days cannot be granted, yet I understand that proposed new section 5(5)(a)(i) provides:

> (a) does not apply if—
>
> (i) the minister is satisfied (in such a manner as the minister thinks fit) that a majority of interested persons desire the exemption to be declared for a period greater than 14 days (or indefinitely).

I think there is an opportunity for an exemption to be given.

The Hon. M.J. WRIGHT: In relation to the honourable member's earlier question about exemptions, I need to bring to his attention that, with the 14 days for the Glenelg situation, if they applied as a group the 14 days would apply, but, if they applied individually, that is not the case. It could be beyond the 14 days.

The Hon. I.F. EVANS: When you say that is not the case and it could be beyond 14 days—

The Hon. M.J. WRIGHT: Can I finish my answer? There is actually no change to the scheme of the existing act. My earlier answer, which I need to clarify for the member for Morphett, is that it is 14 days if the Glenelg shops applied as a bloc. But, if an individual shop applied, the potential is there for the exemption to be beyond 14 days.

Dr McFETRIDGE: If there is no change, then what are we deregulating? Can Cunningham's Warehouse, the Reject Shop and Cheap as Chips trade on public holidays under this new legislation; and, if not, why not?

The Hon. M.J. WRIGHT: Not without an exemption, but they can make an application and it would be considered.

Clause passed.

Clause 5A.

The Hon. I.F. EVANS: This clause, as I understand it, replaces section 13(12) in the original act. In the current act the Governor has the power to close shops in certain circumstances, and this bill essentially transfers that power to the minister. It is a simplification of procedure, and I do not have

a problem with that. Has this section in the act ever been used?

The Hon. M.J. WRIGHT: The answer is yes. Both this and the previous government have used it for Easter Sunday to stop trading in the city and at Glenelg.

The Hon. I.F. EVANS: If the minister's bill is successful that situation will be handled by the new act and this provision will not then be required to address the Easter Sunday issue. Other than the Easter Sunday issue, to the minister's knowledge, has this section of the current act ever been used?

The Hon. M.J. WRIGHT: No.

Mr HAMILTON-SMITH: Then, minister, why do we need clause 5A? If clause 5A seeks to give you, by notice in the *Gazette*, the ability to require shops to be closed at times when it would otherwise be lawful to be open, as empowered by this act, why do you need that power? Why do we not just simplify the bill by deleting clause 5A?

The Hon. M.J. WRIGHT: I do not imagine this would be used too often, but there may be an appropriate time. There could be a national disaster. We could have an 11 September situation. Something unique could happen—let us hope that it does not. A disaster could occur in Adelaide or in the country area. They are just two or three examples. Let us hope that it never happens but they are possibilities.

Mr WILLIAMS: The minister's explanation is quite extraordinary. Why would the government want to prevent a shop from opening in a situation where there was, say, an 11 September occurrence? What earthly reason would we have—if someone were prepared to open their store to provide a service to a customer who obviously would want to avail themselves of such a service, and I am talking about a terrorist attack, or something—to cause someone to shut their shop? Surely we have other disaster regulations, if that is the prime cause for this, which would allow the government to take the appropriate action.

This is an absolute nonsense. If that is the only reason for our retaining this sort of nonsensical regulation, I think that this parliament has gone mad. We are looking at deregulating shop trading hours and the minister is seeking to have the most convoluted regulations retained in the bill. Can he give the parliament a reasonable and rational explanation as to why and under what circumstances he may want to institute the powers conferred on him by this clause?

The Hon. M.J. WRIGHT: I thank the member for MacKillop for his question. There is not a lot more that I can add to what I said before. It may be that the government of the day, depending upon the seriousness of a particular event, makes a decision about a day of mourning, or something of that nature. I imagine that this would be a rarity—it may not occur. But I do not think anything sinister needs to be read into this, because it is certainly not meant to be sinister. It is raised in that context, and it may well be that it is not actually used in that way. But I suppose that it provides the opportunity for the government of the day, if we had an event of that magnitude and the government thought that was an appropriate response at that time, to do so. I do not think it is any more than that. There is certainly no sinister motive in this, and I can assure the member for MacKillop of that.

Mr HAMILTON-SMITH: Minister, if you retain a reserve power to suddenly step in and say to a particular shop or a particular group of shops, 'You have lost your right to trade' almost on whim management—because that is the power that is given to you—do you accept that you might need to give compensation? If, for whatever reason, you ordain that for up to 14 days the shops in a particular town will not trade, how do they plan with any surety for their financial future? If you can step in and, without providing any reasonable explanation—simply by notice in the *Gazette*—ordain that they cannot trade, are they not entitled to some compensation or some more certainty than that?

The Hon. M.J. WRIGHT: This is getting a bit silly. Let us not try to make a mountain out of a molehill. Why would the government of the day, whether it be Labor or Liberal, want to anger the community to that extent? Let us not take this to preposterous proportions. As I have said—and there is no point saying the same thing again—it may be because of a particular, unique situation. I have highlighted the example—and let us pray that it never happens—of a disaster of some magnitude and the government of the day may believe at the time that a day of mourning is an appropriate course of action.

Mr WILLIAMS: I implore the minister to take a long, hard look at this clause when the bill is transmitted between the houses, because the minister obviously has no rational explanation for this clause. The minister is purporting to say that this is in the bill in case there is some sort of disaster, whether it be inflicted by terrorists or a natural disaster, I presume. As I said earlier, I cannot, for the life of me, understand why the government would want to come between two parties that wanted to trade under those circumstances.

I cannot imagine why the government would want to prevent Mrs Jones down the street buying a litre of milk because she happened to run out of milk at the time the disaster occurred and Mr Smith at the other end of the street, who was quite prepared to sell her a litre of milk, doing so. I implore the minister to have a very serious look at this.

My cynical mind suggests something to me. We all know that the minister has been dragged kicking and screaming to the point of introducing this bill and these measures and just cannot bring himself to deregulate more than in a minimalist way, and I strongly suspect that that is why this provision is in the bill. Will the minister please look at this matter between the houses? Will he also look at what other emergency powers are available to the government of the day should such a disaster, natural or man-mad, befall the state? I think it is an absolute nonsense that we would need this sort of measure in shop trading hours legislation. For goodness sake!

The Hon. M.J. WRIGHT: This will be a good fun night, and we look forward to it. If we want to have the debate about deregulation as opposed to regulation in the abstract on items of this nature, we can do it clause by clause and do it on every item, or we can get onto the main issues. Parliamentary counsel draws to my attention that this occurred in 1988; there were probably other times as well. The member for MacKillop may well be aware not of the 1988 example but the other element which parliamentary counsel draws to my attention and which can be related to proposed new section 5A, where country areas quite often apply for additional time for a particular event. It might be a festival, the Queen visiting or whatever. I use those examples, but the trade-off is that for those additional hours they give up some other hours, and that is another example of where this type of arrangement can apply.

Clause passed.

Clause 6.

The Hon. I.F. EVANS: I cannot quite understand the import of clause 6, which seeks to delete from the act the provision for any shop conducted at an exhibition or show approved by the minister. If this provision in the act were

amended as the minister wishes, it would provide that this act does not apply to or in relation to any shop conducted at an agricultural or horticultural exhibition or show. Currently the act goes on to provide 'or any shop conducted at an exhibition or show approved by the minister'. The way I read the bill's intent is that, if a shop is conducted at an agricultural or horticultural exhibition, which I assume is trade shows, field days and those sorts of things, the act does not apply. However, if it is a shop conducted at an exhibition, for instance at the Blackwood markets on a Sunday, suddenly the act does apply, because we have taken out the words 'any shop conducted at an exhibition or show approved by the minister'. I do not understand why the government has deleted it; it has brought in more businesses under the auspices of the act, when I thought we were trying to get more businesses out of the act.

The Hon. M.J. WRIGHT: This is consequential to the exemptions amendment, so it is consequential to what we have already discussed earlier in regard to exemptions.

The Hon. I.F. EVANS: With due respect, it may be consequential, but I do not understand it. I am asking the minister to explain it to me. What is the benefit of saying that any shop conducted at an exhibition or show approved by the minister is outside the act?

The Hon. M.J. WRIGHT: With reference to page 5 of the bill, the exemptions are contained in clause 5, subclause (8)(ii), which provides:

> whether the application is being made to enable a shop or shops to be open at an exhibition or show, to facilitate or support a local or special event, or to conduct a special trade event (on the basis that an exemption is more likely to be appropriate in such a case);

The shadow minister highlighted things such as agriculture and horticulture, but there are other things that could apply here, such as fashions, among other examples. I draw that to the shadow minister's attention. The provision to grant exemptions for non-agricultural or horticultural exhibitions is in the act. The bill consolidates it into the other exemption provisions and there can be exhibitions for other things, as well.

Mr HAMILTON-SMITH: I seek assurance from the minister in light of the removal of paragraph (b) from section 6(2) of the act that a silly situation will not develop at, for example, the Royal Adelaide Show at Wayville, which is held every year. Since you are removing paragraph (b), which provides for any shop conducted at an exhibition or show approved by the minister (and I note the point that you have made about page 5 of the bill), I hope that we are not going to have a silly situation where the show bag stand at the annual agricultural show at Wayville is going to be told to close at 5 p.m. on Saturday, because your silly bill says that shops are to close at 5 p.m. Saturday and cannot trade, or, alternatively, that everything must close up at 9 o'clock on a week night, so show bags cannot be sold beyond 9 p.m. I hope that situation will not arise, and I seek the minister's assurance that that will not occur.

The Hon. M.J. WRIGHT: I give the honourable member that assurance.

The Hon. I.F. EVANS: I know this is a simple change but I want to make sure I understand it. Currently the act does not apply to any shop conducted at any exhibition or show approved by the minister. For the minister to approve that, does the individual shop have to apply or can a group of shops apply? If I were running an exhibition that involved 10 shops, could I apply on behalf of the 10 shops or do the 10 shops have to apply individually under the current act, and how does that compare with the bill? I am concerned, because clause 5(8)(a)(i) states:

> In the case of an application made to the minister under this section—
>
> the extent to which there has been consultation. . .

I am not sure whether there is a consultation provision in the current act for exhibitions. If the minister is saying to me that, under his bill, I will have to consult widely with the community if I am going to run a shop at an art exhibition, that raises some concerns for me. The act does not apply to, or in relation to, any shop conducted at an exhibition or show approved of by the minister. So, I want the following matter clarified. Under the existing act, if I were running an exhibition business involving 10 shops, could I apply on behalf of all 10 shops or does each shop have to apply individually, and is there a consultation provision? Under clauses 8(a)(i) and (ii) you can apply to the minister, but the minister must then consider the extent to which there has been consultation with the community or the relevant part of the community on the application. I am just worried that all of a sudden shops being run at simple community exhibitions will have to go through some sort of consultation process they did not have to go through before.

The Hon. M.J. WRIGHT: In regard to the first part of the question, it is the exhibition or the show that applies. The shadow minister also sought clarification about the consultation, and the point he made is correct. I draw his attention to page 5 again. We are really talking about the stall holders in a situation like this. The honourable member is probably reading from a similar if not the same paragraph, clause 8(a)(i), where it refers to the relevant part of community.

Dr McFETRIDGE: The minister gave me a fairly good indication that he would consider an application exemption from a store over 200 square metres at Glenelg. In clause 8(a)(iii), in deciding whether to declare an exemption, it provides:

> insofar as may be relevant, the extent to which the application, if granted, would meet the requirements of tourists and other visitors to the area where the relevant shop, or shops, are located;

That is giving even more of an indication that the shops in the Glenelg tourist precinct should be brought back to the privileged status that they had before. Forty-five thousand people are voting with their feet every weekend. Can some amendment be introduced to give the shops like Cunninghams and others at Glenelg a permanent exemption? It refers here to tourists, and we are a tourist zone.

The Hon. M.J. WRIGHT: I thank the member for Morphett for his follow-up questions in respect of this area, about which he is passionate. Any application would be considered on its merits. The tenor of the bill is for greater consistency, so any application would be considered on its merits, as it should be.

Clause passed.

Clause 7.

The Hon. I.F. EVANS: I move:

> Page 7, lines 23 and 24—Leave out 'or, for that purpose, remove' and substitute ', or take away a copy of'.

This amendment deals with the powers of inspectors. Under the existing act, section 8 on page 7 outlines four areas where inspectors have certain powers. They may enter at any time a building, yard, place, structure, stall or tent. There is another provision in relation to drivers of vehicles, and a third provision in the current act says 'inspect or take copies of any book, paper, document or record'. I interpret that to mean that

they could inspect the original document but cannot take it: they can take copies of any book, paper, document or record. We have concerns that inspectors under the bill have the power to remove original documents, books and so on (such as wage books) and we come to that conclusion because clause 7(2)(ca) provides:

inspect or take copies of any book, paper, document or record—

which is essentially what is there now—

or, for that purpose, remove any book, paper, document or record.

There are two issues. First, we do not see any need for a government inspector to go into a retail business and remove an original copy. We accept the provision under the existing act that they should be able to go in and ask for a copy and allow reasonable time for it to be provided. Secondly, under the bill (and we suspect under the act) government inspectors can ask for banking details. In fact, it is quite an open provision in both the bill and the act. Our first amendment talks about the issue of the original copy. We will come to the other amendment later.

The Hon. M.J. WRIGHT: I thank the shadow minister. I made the point in the second reading debate—and the shadow minister may or may not have picked it up—that it simply will not always be practicable to take a copy. If there is an opportunity for a copy to be taken, that would be the way to do it. It may be that that is not always possible, so in those circumstances what do you do? What do you do if there is no photocopier on the premises? What do you do if permission is not given to photocopy then and there 200 or 400 pages or whatever it might be? I would have thought that you would have to provide that opportunity for the law to be policed effectively and properly. It may not be possible to take a copy then and there because there is simply not the facility or infrastructure to do so. Where that is possible, it would be logical to do it that way. That is the point I would highlight to the shadow minister.

The Hon. I.F. EVANS: On what basis would an inspector want to walk into a business and say, 'Please copy a 400-page document, or book, immediately'? Surely there would be some notice, or there could be some provision where they could request to be provided with the document within 24 hours. On what basis would not the inspector say, 'Can you please provide it either by the close of trade or within 24 hours,' or on what basis would not an inspector give advance notice of what information they wanted? What will you do, minister, when the inspector comes in and says to the business proprietor, 'Look, we will just take all your wage books'? There is no requirement in the legislation as to when they get them back (or even if they get them back), how long the government can hold them, or who has access to them. They can ask for banking records or for audited accounts. Indeed, they can ask for absolutely anything under this provision.

The Hon. M.J. Wright: Is the member going to deal with banking next or now? He said that he would split them up.

The Hon. I.F. EVANS: The banking issue applies, in theory, with respect to both. I argue that you would have no need to get to banking or financial details, unless there is some reason that I have missed. On what basis do you need them instantly? Could you not give a business 24 hours within which to respond? Surely there is some give and take on the issue—some reasonableness. Some of these businesses are one person shops; juniors might be working; or there might be casuals who do not even know where to find the record if the proprietor is away. It seems extraordinary that, in this day and age, we have to go to that degree.

The Hon. M.J. WRIGHT: The example that the member gave may well be the case. I think that at the outset the member asked why the inspector would be there doing this. I guess because the person is breaking the law, or the inspector—

The Hon. I.F. Evans: What law?

The Hon. M.J. WRIGHT: A law that relates to this issue.

The Hon. I.F. Evans: Like what?

The Hon. M.J. WRIGHT: The whole shop trading hours. If one thinks that a proprietor is infringing the laws of the land, that is generally when one goes in and inspects.

Mr Hamilton-Smith interjecting:

The Hon. M.J. WRIGHT: I do not see the point. If they are trading outside the laws of the land, that is when the inspectors turn up. The other point in regard to this is that a business may not want to copy the document. What does one do in that situation? If the business says—

Mr Williams: He might not hand it over, either. What do you do in that situation?

The Hon. M.J. WRIGHT: If he does not want to hand it over, it would be best to copy it and hand it over. That would be better. That is the point that the member was making. He wants them to do copies and, in the majority of cases, I think that is what will take place. But what does one do if the business person says, 'No, I will not provide the copies'? Does one then just walk out?

The Hon. I.F. EVANS: The minister asked a rhetorical question—

The Hon. M.J. Wright: You have been asking plenty.

The Hon. I.F. EVANS: I am allowed to: this is the committee stage. My understanding is that, under the act,the inspectors have the power to make reasonable requests. My guess is that a penalty is involved if the business proprietor does not accede to a reasonable request. So, if an inspector said to the business proprietor, 'Please provide me with a copy of that within 24 hours,' and they did not, I think a penalty applies. My guess is that it will be a penalty that is 10 times the current penalty. Am I right in that assumption?

The Hon. M.J. WRIGHT: You may be correct. We will check that as I am providing some information to one of your earlier questions. Breaching floor space requirements by engineering company structures to try to avoid the act is another example, but we do not have to keep listing examples of where inspectors have to fulfil that role of making sure that the laws that apply are adhered to. Surely we would all expect laws, whether they relate to shop trading hours or to any other part of the statutes, to be policed. Surely that is an expectation which we would all have and about which, I would have thought, we would all argue. If in that role and responsibility, an inspector is wanting—as a result of fair duties—to ensure that the laws of the land are being adhered to and they are wanting this information, I am not so certain of what you are arguing against. If the business is prepared and able to copy then and there on the spot, well and good—that is terrific. In most situations—perhaps even 99 per cent—I would imagine that would occur, and I think you would probably agree. But what do you do if that does not occur?

An honourable member interjecting:

The Hon. M.J. WRIGHT: Well, if you can tell me I do not know why you asked me. Page 8, section 8, new subsection (3)(d) provides a maximum penalty of $25 000.

The Hon. I.F. EVANS: This is my point, minister. You do not need to take the original document. If you look on page 7 of your bill, at the bottom, which is clause 7 section 3, where it talks about section 8(1) of the act, it says:

> give such directions as are reasonably necessary for, or incidental to, the effective exercise of power under this section.

So what I am saying to you is, if you want a copy of it, all your officers have to do is instruct—or reasonably request, in the bill's own words—and it will be done. That is why I do not see why you need to take the original document.

The Hon. M.J. WRIGHT: As I said before, on most occasions copies will be taken, and I suspect we probably agree on that. What this bill does is make it simpler. It avoids difficulties about reasonableness. The inspectors need to be able to get on with their business. Making it simpler surely has to be a good thing.

Mr HAMILTON-SMITH: Minister, I will just ask you to stop and think about the practicalities of this. It is fine for you to stand up here during the committee stage and tell us what the bureaucrats will do. I will tell you what they will do: they will do what the law enables them to do. This law enables them, should they so choose, to seize an entire filing cabinet and round up all the original documents in the business premises as they see fit, take them back to their departmental office and peruse them at their will. There is nothing in here about the documentation having to be returned. The sort of document we are talking about, if this is a business of 15 to 20 staff, is the roster. If your officers have confiscated the original copy of the roster, how does the business continue to operate for two or three days?

What about the confidential contracts for employment; what about occupational health and safety documentation; and what about the staff manual that is required for the safe and efficient running of the business on a day to day basis? This clause will empower officers to confiscate the very documents that are vital for the safe, efficient and effective operation of a small or medium business on a day to day basis. This is a reckless provision. As my colleague the member for Davenport has pointed out, at the very least the documents can be copied. If they cannot be copied, the minister has given his officers the power to take photographs, film, make audio recordings, take notes and require the business to follow the inspector's directions to copy documents, and they will return in an hour or two to pick up the copies.

There are adequate provisions in the act. There is no need to confiscate, not at Her Majesty's pleasure but at the pleasure of the minister's officers, the original documents needed to run a business. This is the Gestapo! To my knowledge, this is not repeated in any other act—the confiscation of the very documents needed for the day to day functioning of a business. I implore the minister to explain to the committee why this draconian measure is needed, and why the objects the minister is trying to achieve cannot be achieved by other clauses in the bill.

The Hon. M.J. WRIGHT: It is absolute nonsense that the member is carrying on about; it is nothing better than that. As a shadow minister and a former minister of the Crown, the member should be able to do far better than that.

Mr Hamilton-Smith interjecting:

The Hon. M.J. WRIGHT: I know that the member is a great business person; perhaps he should go back to it, because he is not a good politician. The government has a lot more confidence in public servants than the member has.

Mr WILLIAMS: In his attempts to explain why his inspectors need these extra powers, the minister has failed to consider that clause 7 seeks to amend the principal act, as follows:

> (2) Section 8(1)(c)—delete paragraph (c) and substitute:

Paragraph (c) of the principal act (which this clause seeks to delete) provides:

> inspect or take copies of any book, paper, document or record;

There are other provisions within section 8(1) of the principal act. The minister has introduced into this place at very short notice a bill purporting to deregulate shopping hours. So, all of a sudden, we are giving people the ability to trade more or less when they want, apart from some specific times. Why on earth, when the minister's inspectors already have the power to inspect or take copies of any book, paper, document or record, does he now need these further powers? Inspectors already have the power to enter at any time any building, yard, structure, stall or tent, etc., or require any person to answer any question asked by an inspector (whether directly or through an interpreter), etc.

Why does the minister now need the powers to require the production of any book, paper or document and to inspect and take copies, etc. or to take measurements, make notes and records, take photographs, films or video or audio recordings? Why, when we are deregulating shopping hours, do his inspectors need these extra powers? To my knowledge, the minister has never come into this place and made a ministerial statement informing the parliament that his inspectors are hamstrung by the lack of powers provided in the principal act?

He has never come into this place complaining about the flagrant abuse of the laws of the state by unscrupulous traders who want to transact business, as I said earlier in my second reading contribution, between consenting adults. He has never come in here and said that we need these extra draconian powers. Will the minister cite the failures that his inspectors have experienced to date in trying to administer this act and whether, with the deregulation as far as he has been willing to go, he expects those failures to continue? Will he also tell the committee in relation to the inspector taking copies of any book, paper or document, or the requirement for the inspector to require a person to produce any book, paper, document or record, whether that includes the retailer's chequebooks? Does it include the retailer's bank statements, because I would really question what relevance those documents have to the hours that the business was open?

The Hon. M.J. WRIGHT: We really are going back over old ground. The member for McKillop asked the same question as has already been asked by a number of other people—

The Hon. I.F. Evans: It is not true.

The Hon. M.J. WRIGHT: It is true. If people refuse to provide copies or do not have the facilities to make copies, this is where it would apply. What would the honourable member do if the records were 'lost' after the inspector went into business premises? What would you do then?

Mr WILLIAMS: Mr Chairman, I rise on a point of order. I thought it was my right to ask the minister a question. I did not realise it was the minister's right to ask me a question. I have asked the minister some specific questions. The minister is pleading with the parliament to pass this legislation, and we really are wanting to understand exactly what powers the minister wants to give to his inspectors and why.

The CHAIRMAN: Order! The member raised a point of order. The committee allows for debate and I presume that the minister was posing a rhetorical question.

The Hon. M.J. WRIGHT: Yes, thank you, sir. I apologise to the member for MacKillop; I did not mean to embarrass him. All the honourable member needs to do is turn to clause 7(2)(ca), which provides:

> inspect or take copies of any book, paper, document or record or, for that purpose, remove any book, paper document or record

It cannot be much plainer than that.

Mr HAMILTON-SMITH: A moment ago the minister justified this provision in the bill on the basis that his officers would determine that the shop had broken the law and was trading illegally. Does the minister envision that his officers will determine whether the shop has broken the law and therefore seize their essential business documents; or does he recognise that that might be a matter for a court to determine after charges have been laid and the proprietor of the business concerned has had a chance to put forward a defence? In answering the question, could the minister refrain from personal attacks? Could the minister explain his statement that seizure of the roster in a business that might employ up to 20 people on a staggered roster over a seven day period might have an impact on the business concerned—that is, the whole structure of the business might fall to pieces if the roster was seized by his officers who have apparently determined that an offence has been committed?

Will the minister acknowledge that that might impact not only on the business but also on the staff and the effective functioning of the business? Further, will the minister explain how this provision will contain officers from exuberantly seizing such documents, including cheque books at their will, as suggested by my colleague the member for MacKillop? Nothing in the bill stops them from doing so.

The Hon. M.J. WRIGHT: I think that the member has raised two questions, one relating to the prosecution and the other to the seizure of the roster. I think that he was referring to the inspector, prosecution, and so on. The inspector would be investigating whether or not it has happened. In respect of the seizure of the roster or any documents (and the member highlighted the roster), I take the member's point. However, why would an inspector want to have that negative impact upon the business? If it was the case that the roster was required—

Mr Hamilton-Smith: He wants to know who's working and when during the hours of trading, so he seizes the roster.

The Hon. M.J. WRIGHT: That is a fair point. Let us take the member's hypothetical example that the roster is required by the inspector. It is likely that it would be able to be copied, so that it would not have to be removed from the premises. However, let us jump the next hurdle and say that it either cannot be copied, because the business does not have a photocopier, or the businessperson does not allow it to be copied, and the inspector determines that he will take it off the premises to copy it. He would do so and return it straightaway.

Mr Hamilton-Smith: That's not what the bill states.

The Hon. M.J. WRIGHT: What does the bill state?

Mr Hamilton-Smith: The bill states, 'remove any book, paper or document'.

The Hon. M.J. WRIGHT: Yes, copy it and return it.

Mr Hamilton-Smith: It does not say that. He could take it away for two weeks and not bring it back. It does not say that.

The Hon. M.J. WRIGHT: The member is really stretching this point and throwing up as many hypothetical examples and red herrings as he can.

Mr Hamilton-Smith: These things happen.

The Hon. M.J. WRIGHT: Come on!

The Hon. G.M. GUNN: I do not know whether the minister has ever been involved in dealing with these little people who are given wide powers. Has the minister ever dealt with them? Some of us deal with them on a weekly basis, particularly when they have treated people in a disgraceful manner. The minister may think it is funny, but he has to understand that, when anyone is challenged by the government or its instrumentalities, they are at a grave disadvantage. What guarantee is there about the confidentiality of the information that these officers receive? Who guarantees the confidentiality of the information obtained? Who has access to the information, and do third parties have access to it?

The Hon. M.J. WRIGHT: I will come back to the honourable member on the question of the third party. Confidentiality is covered by the Public Sector Management Act. The other question the member for Stuart asked was about third party. I will come back with an answer as soon as I get an opportunity.

The Hon. G.M. GUNN: I will give the minister an example of why I am concerned about this. Most people in business from time to time get requests for information from various government organisations. On one occasion I received a request for information from WorkCover officers. One of the things they wanted was a copy of the group certificates of employees and the tax file numbers. I read this very carefully, so I picked up the phone and rang the taxation office. I was told that it was an illegal action and that they would deal with the matter, but, under no circumstances was I to provide the information. The woman to whom I spoke said, 'You are better informed than most people.' I said, 'I think the privacy commissioner would be interested in this.' That was also the view of the taxation office. Improper information was sought, although I do not think anyone has asked again for that information. I took some delight in pointing out to the bureaucrat from this organisation that I was sure the privacy commissioner would like his name. However, that is what goes on. In a democracy, in a decent society, we are entitled to protect people against overzealous inspectors. I cannot understand why the minister is fighting this because he ought to know what will happen to some of these provisions when it goes a few metres up the corridor: they will be put in again!

The Hon. M.J. WRIGHT: I said I would come back to the member for Stuart about the third party. It is covered in the Public Sector Management Act, Division 8, 'Conflict of interest', and goes onto 'General rules of conduct'. With specific reference to the honourable member's question about the third party, it provides that:

> (g) except as authorised under the regulations, discloses information gained in the employee's official capacity, or comments on any matter affecting the Public Service or the business of the Public Service.

The committee divided on the amendment:

AYES (18)

Brindal, M. K.	Brokenshire, R. L.
Buckby, M. R.	Chapman, V. A.
Evans, I. F. (teller)	Goldsworthy, R. M.
Gunn, G. M.	Hall, J. L.
Hamilton-Smith, M. L. J.	Lewis, I. P.

AYES (cont.)

Maywald, K. A.	McFetridge, D.
Meier, E. J.	Penfold, E. M.
Redmond, I. M.	Scalzi, G.
Venning, I. H.	Williams, M. R.

NOES (20)

Atkinson, M. J.	Bedford, F. E.
Breuer, L. R.	Caica, P.
Ciccarello, V.	Conlon, P. F.
Geraghty, R. K.	Key, S. W.
Koutsantonis, T.	Lomax-Smith, J. D.
McEwen, R. J.	O'Brien, M. F.
Rankine, J. M.	Rau, J. R.
Snelling, J. J.	Stevens, L.
Thompson, M. G.	Weatherill, J. N.
White, P. L.	Wright, M. J. (teller)

PAIR(S)

Brown, D. C.	Hanna, K.
Kerin, R. G.	Rann, M. D.
Kotz, D. C.	Hill, J. D.
Matthew, W. A.	Foley, K. O.

Majority of 2 for the noes.

Amendment thus negatived.

The Hon. I.F. EVANS: I move:

Page 8, after line 15—Insert:

(6) A person is not obliged to provide any bank statements under this section.

Some of this debate has occurred during deliberation on the previous clause, so we will not hold the government long on this issue. The government's bill allows inspectors to take the original bank statements and financial records of businesses. We argue that the government has no need to take the bank statements of businesses or, indeed, other financial statements. Our amendment does not go that far yet, but it probably will between the houses.

We make the point that there is no need for inspectors to go into retail businesses and ask for original documents or bank statements. We cannot see why the government would want that information. We have already made some of these points during the previous debate. We cannot imagine why a government would want the bank statements of a business. So I have moved this amendment, which basically says that businesses do not have to provide that information.

The Hon. M.J. WRIGHT: In some cases there are allegations of things being engineered to try to avoid the provisions of the act. To get to the bottom of such company structures, it may be necessary to follow the money. Sometimes you may need to establish the financial history, and sometimes you are dealing with sham companies and operations to try to get around the act. In some instances you may need this information.

The Hon. I.F. EVANS: I point out that, in every single example the minister gives, the government, through provisions in the bill, can reasonably request the information from the business through its accountant. You do not need its banking statements: you can ask the accountants or the directors of the company to provide business structures and descriptions of partners, trusts and all those things. You can reasonably request it under other provisions of the act. Why would the government want bank statements?

The Hon. M.J. WRIGHT: The example that the shadow minister gives could be resisted, of course. This makes it simpler.

The committee divided on the amendment:

AYES (18

Brindal, M. K.	Brokenshire, R. L.
Buckby, M. R.	Chapman, V. A.
Evans, I. F. (teller)	Goldsworthy, R. M.
Gunn, G. M.	Hall, J. L.
Hamilton-Smith, M. L. J.	Lewis, I. P.
Maywald, K. A.	McFetridge, D.
Meier, E. J.	Penfold, E. M.
Redmond, I. M.	Scalzi, G.
Venning, I. H.	Williams, M. R.

NOES (20)

Atkinson, M. J.	Bedford, F. E.
Breuer, L. R.	Caica, P.
Ciccarello, V.	Conlon, P. F.
Geraghty, R. K.	Key, S. W.
Koutsantonis, T.	Lomax-Smith, J. D.
McEwen, R. J.	O'Brien, M. F.
Rankine, J. M.	Rau, J. R.
Snelling, J. J.	Stevens, L.
Thompson, M. G.	Weatherill, J. N.
White, P. L.	Wright, M. J. (teller)

PAIR(S)

Brown, D. C.	Hanna, K.
Kerin, R. G.	Rann, M. D.
Kotz, D. C.	Foley, K. O.
Matthew, W. A.	Hill, J. D.

Majority of 2 for the noes.

Amendment thus negatived; clause passed.

New clause 7A.

The Hon. G.M. GUNN: I move:

New clause, page 8, after line 15—Insert:

Insertion of section 8A.

7A. After section 8 insert:

Offences by Inspectors.

8A. An Inspector, or a person assisting an Inspector, who—

(a) addresses offensive language to any person; or

(b) without lawful authority, hinders or obstructs or uses or threatens to use force in relation to any other person;

is guilty of an offence.

Maximum penalty: $5 000.

This is a standard amendment which I have moved to a very considerable amount of legislation over the years and which has been incorporated into a lot of legislation. It gives a person who is being investigated by an inspector the ability to be treated courteously, fairly and reasonably. There is nothing unusual or new about it; it is a standard amendment and I cannot understand why the minister has not already incorporated it into the legislation.

The Hon. M.J. WRIGHT: I will tell you why: the government opposes it as it is unnecessary. If problems of that nature occur they can and will be addressed through the management of workplace services. It is as simple as that. I understand that a non-government member has expressed appreciation for the approach taken by Workplace Services management when there was dissatisfaction with the approach of an inspector. It is the role and the responsibility of the new Director of Workplace Services, Michelle Patterson, who is doing an excellent job, to make sure that these inspectors do their job properly, efficiently and well. I am sure that she is doing that and I hope that the experience in the example that I gave to the committee a moment ago remains as positive if such occurrences arise again, and that is the standard that I expect from Workplace Services.

The Hon. G.M. GUNN: It is a great pity that you seem to want to buy a fight with the opposition. It appears that you are one of those who believe that the brief prepared for you by the bureaucracy is always right, that the average citizen in a democracy has no rights—that is what you are saying to us—and that these people are perfect. We know we do not live in a perfect world.

The Hon. M.J. Atkinson: So does Bob Francis.

The Hon. G.M. GUNN: I am not worried about Bob Francis; I am no fan of his. I know that, if you give some people a little bit of power, it goes to their head. Some of your colleagues have accepted this amendment. It will be inserted in the other place. I do not know why you want to waste the time of the committee and unduly delay your legislation. I do not know why ministers do not face reality on some occasions.

The Hon. M.J. WRIGHT: I do not want to buy a fight. I do not believe that the world is perfect, and why would I want to buy a fight with you, of all people? You know that I hold you in the highest regard.

The Hon. G.M. Gunn: I appreciate that.

The Hon. M.J. WRIGHT: Yes, in the highest regard.

Mr Brindal: Are you trying to buy a fight with me?

The Hon. M.J. WRIGHT: Not at all.

New clause negatived.

Clause 8.

The Hon. I.F. EVANS: Why is it that the $500 penalties against business tend to be increased to figures like $25 000, etc., but the $500 penalties against inspectors have been increased to only $5 000?

The Hon. M.J. WRIGHT: I highlight again that it is the maximum. Businesses may be a large corporation and an inspector would be an individual, so there is some relativity.

Clause passed.

Clauses 9 and 10 passed.

Clause 11.

The Hon. I.F. EVANS: I move:

Page 9, lines 10 to 15—Leave out paragraph (c) and insert:
(c) from 11 a.m. to 5 p.m.—
(i) on each of the 9 Sundays immediately preceding Christmas Day 2003; and
(ii) on 28 December 2003.

I suggest that we use this as a test clause in relation to the issue of whether the committee is going to accept the government's model of deregulation as to when Sunday trading starts or the opposition's model of when Sunday trading starts. I suggest that because the first amendment to clause 11 is the opposition amendment which suggests a transitional interim period of 10 Sundays trading—nine before Christmas and one after—with full trading deregulation starting on 1 July next year. So, with the minister's concurrence, and to simplify the debate, we will use this as a test clause as to whether the committee will accept the minister's model for Sunday trading—that full Sunday trading start from 26 October—or the opposition's model.

I will speak a little about that principle, because it is one of the nubs of the question. The issue here is the approach of the government in regard to businesses being prepared for deregulation of Sunday trading. Under the government's model—that is, if this amendment is rejected—businesses will face full deregulation of Sunday trading within about 16 or 17 weeks. They will not know the award structure—

An honourable member interjecting:

The Hon. I.F. EVANS: The date is 26 October. It is now May and you will proclaim it in June, so it is in about three or four months—20 weeks, maybe. It is a very short period of time in trading terms. They will face new rostering, staffing and training requirements. Those in the food industry will have new stock requirements, and all that will take time. The minister has consulted with the industry on this issue and so have I, and the one uniform view of the industry is that it needs more time. All the retailers tell us that a year is about the right time period. That is why the opposition chose 1 July 2004. We believe that is about the right time period to give businesses 12 months to advertise for, interview and recruit their new staff, to work out the new rostering arrangements, and to look at their store layouts, their advertising, marketing and training regimes.

For those who want to go through the process of trying to differentiate themselves by way of different stock, it will provide the opportunity to source and test that stock, to product train the staff and to redo the store layouts. The government says that all those issues can be done in 16 to 20 weeks. My experience in the retail industry tells me that that is a nonsense. The minister's bill will mean that, from about 26 October, businesses will be at the mercy of what would be a new act, and they will just have to cope with all those issues during the normal trading process.

To my knowledge, there is not a retail industry that supports the government's position of bringing it on so quickly—not one. All the retail groups say that they need more time. If we are going to bring in deregulated hours, surely we should listen to those people it will affect, that is, the retail industry. On this issue they have a strong view that, if you bring in full Sunday trading deregulation by October, in roughly 16 to 20 weeks, it will be too quick for the industry. They want a transition period. That is why we propose nine Sundays before Christmas and one after.

An honourable member interjecting:

The Hon. I.F. EVANS: The minister can interrupt out of his chair if he wants.

The CHAIRMAN: Order! No, he cannot; he is not allowed to.

An honourable member interjecting:

The Hon. I.F. EVANS: Fine!

The CHAIRMAN: Order! the minister is not allowed to interrupt or interject—even in his seat—it is out of order.

The Hon. P.F. Conlon interjecting:

The CHAIRMAN: Order! The minister has been advised not to interject, as it is against standing orders. The hour is late: we do not want people getting toey at this stage.

The Hon. I.F. EVANS: I will not get toey. I simply make the observation to those who wish to observe it that it was not the opposition that came to this house with a plan for a summer of Sundays and no other deregulation. When we put the proposal for deregulation and use it as a transitional step, somehow we are criticised. So be it!

The Hon. P.F. Conlon interjecting:

The CHAIRMAN: Order! I warn the minister for continually flouting the rulings of the chair.

The Hon. I.F. EVANS: I put to the minister and to the committee that the retail industry does not support the government's position on this point. The retail industry needs time to adjust to the changes. This is a significant change in the way the Sunday trading hours will operate. It will have a significant impact on business, and the business community is united on this issue of the time frame in which to introduce it. I strongly urge the committee to adopt the view that by supporting this amendment it is supporting the concept that the business community should have nine Sundays before

Christmas and one after and full Sunday trading from 1 July 2004. That is what we are putting to the committee. There is no doubt in the mind of the opposition that the business community supports that view. The government is trying to compress it into as short a time as possible, and we think that will cause issues for the business community that we do not need to cause in this transition.

The Hon. M.J. WRIGHT: I thank the shadow minister for his contribution, although I do not agree with it. The Sunday issue is a fairly simple one. We could talk about the government's package of August last year. What the shadow minister said about our summer of Sundays and no other regulation is not correct. However, let us debate what is in front of us, as we will not achieve a lot going back over old ground. Sunday trading is simple. Our proposal is to start on 26 October, and the shadow minister, on behalf of the opposition, is suggesting 1 July next year, coming forward with their summer of Sundays this year. If shops are not ready, they will not open. They do not have to open and, if they are not ready, they will not open; it is as simple as that.

The other point I make is that the shadow minister said something like 'Not one retailer or the industry agreed with this start-up date of 26 October.' I do not think that is correct, either. A further point (which I know is not supported) is this 'start, stop' suggestion that has been put forward by the opposition. What the opposition is saying is: let us start this year with a batch of Sundays, nine before Christmas and one after, then we stop, and then we start again in July 2004. Let us just consider that on its merits. So, you start and you stop. What does that say to the consumer—'We'll give you a bit here, and then we'll start it again in July'? It just does not make sense.

I know that we have spoken about the National Competition Council and the value we have or do not have in that. We all have our opinions about the National Competition Council regarding its merits, and what pressures it may or may not be exerting on governments right around the country. I do not argue against the proposal simply for this reason, but this is an important point to make in addition to the points I have already made. Graeme Samuel simply scoffed at a proposal that starts and stops, and he advised me very strongly (as we have talked about before—and both the shadow minister and I agree with this; he does not give you specific numbers) that that in itself would bring about a significant penalty.

I return to my earlier point, which I think is something on which we should concentrate. On 26 October, a significant number of businesses will be ready, willing and able and will want to go. But I highlight the point again that they do not have to open: if they do not want to open, they do not open. If they are not ready to open, they will not open. It is as simple as that.

The Hon. I.F. EVANS: I think the minister misunderstands market pressure. If you are in a small supermarket that currently trades, the Coles or Woolworths store next door to you does not trade and then suddenly one of them is going to open but the small business is not ready, is the minister saying, 'Bad luck!'? That is essentially what he is saying.

The Hon. M.J. Wright: No, I'm not saying that.

The Hon. I.F. EVANS: You are. You are saying, 'Don't open'—it is as simple as that—'Lose your market share.' The reality is that those shops that will face increased competition will try to protect their market share. The natural competitive response is to try to protect and grow their market share, and that is what they will do. I think it is just a nonsense for the minister to say, 'For those businesses that are not ready, bad luck. Just don't open.' That is, essentially, what he is saying, 'Just don't open.'

In relation to Graeme Samuel, I think the minister may not have given the committee all the information that he might have. I think it is fair to say that his summer of Sundays started and stopped, then the next year it would have started again and stopped, and the next year it would have started again and stopped. What the minister has just admitted (if I am to believe what he said a minute ago) is that Graeme Samuel indicated to him that that would attract a penalty. So, that confirms on the record that his summer of Sundays proposal would have attracted a penalty. The reality, and my understanding of Mr Samuel's position, is that, as long as the parliament legislates by 30 June for a firm start date—in our case, 1 July—Mr Samuel is comfortable about the fact that there is a transitional step in the middle: as long as there is a firm start date, Mr Samuel is relaxed about that issue. Before the minister gets up and repeats the comment, I advise him to check it between the houses.

The Hon. M.J. Wright: Check what?

The Hon. I.F. EVANS: Check that answer between the houses.

The Hon. M.J. Wright: Which answer?

The Hon. I.F. EVANS: The minister's answer and my answer. Check with Mr Samuel between the houses. I can tell the minister in the corridor between the houses exactly what I understand to be the issue. For the minister's own protection, I suggest that he does not repeat that answer. We can check it between the houses. I make the point that the minister says that our proposal was a stop-start one. This government came to the parliament with a whole stop-start concept: it was going to be eight Sundays and that was it, and then the next year another eight Sundays. So it was all right for the government then, but in one year, as a transitional step, apparently the whole world falls apart.

The Hon. M.J. WRIGHT: Let me say this to the shadow minister (smalls are largely open anyway, by the way): deregulation is about people being able to choose. I acknowledge and appreciate the point you make about market pressure—I do not disagree with that. I do disagree with the words you are trying to put into my mouth about—I cannot remember exactly what you said—not caring or whatever; I cannot remember the exact words—

An honourable member interjecting:

The Hon. M.J. WRIGHT: Bad luck, yes. The point I am making is that it will be for the business to choose and determine when it is ready to open. I acknowledge what you say about market pressures, but that will all have to be part of their calculated decision. Let us go back to Graeme Samuel for a moment, and I appreciate the offer that you made. The point I was making was this: when I had my discussion with Graeme Samuel last Thursday morning at 7 a.m. or 7.30 a.m., I spoke to him about generalities. At that stage, the Liberal Party had not announced its position so I was not able to put your position before him, nor was I prepared to put before him specifically what the government may or may not be coming forward with. What I did test, as I had tested previously, was his thinking in regard to where his priorities are. Obviously, I had to go through a range of models, such as the opposition would have considered as well. As a principle I can confirm this, and it is very clear in my mind: he was not speaking about your model, because I did not even know what your model was at the time. If you check *Hansard* you will find that I did not refer to your model when I was talking about Graeme Samuel. What he did confirm to me

was that this principle of starting something, stopping it, then coming back to it further down the track was something he scoffed at.

The Hon. I.F. EVANS: I did have the opportunity to send my package to Mr Samuel, so you can reflect on my comments in *Hansard* and make your own judgment.

Mr HAMILTON-SMITH: I gather that we are about to vote on this amendment. Before we do, because I note that it takes us beyond the existing lines 1 to 10 on page 9, could the minister explain to us why it is that the government is insistent upon not trading after 5 p.m. on Saturday, requiring shops to close at 9 p.m. on weekdays and stopping traders from opening before 11 a.m. on Sundays? I have some appreciation of the Sunday issue. However, I cannot see why during a tourism festival like the Clipsal 500, for example, when there is a lot of people in town, shops in Rundle Street East cannot stay open beyond 9 p.m. on weekdays, or why Saturday nights—which is a big trading night in certain precincts—could not potentially be available if traders want to trade, workers want to work and shoppers want to shop.

The Hon. M.J. WRIGHT:I thank the member for his question. In general, we think there has to be some balance to this. We also went to the last election opposed to total deregulation. It is my understanding that the Liberal Party had a similar, if not the same, policy. I stand to be corrected on that, but that is my advice. So, this is what we have arrived at. We spoke earlier about what has worked successfully in the CBD and also at Glenelg, and we have taken account of that. I must say that we are opposed to total deregulation. We went to the last election with that commitment, and we will honour it.

The committee divided on the amendment:

AYES (18)

Brindal, M. K.	Brokenshire, R. L.
Buckby, M. R.	Chapman, V. A.
Evans, I. F. (teller)	Goldsworthy, R. M.
Gunn, G. M.	Hall, J. L.
Hamilton-Smith, M.L.J.	Lewis, I.P.
Maywald, K. A.	McFetridge, D.
Meier, E. J.	Penfold, E. M.
Redmond, I. M.	Scalzi, G.
Venning, I. H.	Williams, M. R.

NOES (20)

Atkinson, M. J.	Bedford, F. E.
Breuer, L. R.	Caica, P.
Ciccarello, V.	Conlon, P. F.
Geraghty, R. K.	Key, S. W.
Koutsantonis, T.	Lomax-Smith, J. D.
McEwen, R. J.	O'Brien, M. F.
Rankine, J. M.	Rau, J. R.
Snelling, J. J.	Stevens, L.
Thompson, M. G.	Weatherill, J. N.
White, P. L.	Wright, M. J. (teller)

PAIR(S)

Brown, D. C.	Hanna, K.
Kerin, R. G.	Rann, M. D.
Kotz, D. C.	Foley, K. O.
Matthew, W. A.	Hill, J. D.

Majority of 2 for the noes.

Amendment thus negatived.

The Hon. I.F. EVANS: I move:

Page 9, lines 21 to 29—Leave out subclauses (3), (4), (5), (6) and (7) and insert:

(3) Section 13(5a), (5b), (5c) and (5d)—delete subsections (5a), (5b), (5c) and (5d) and substitute:

(5a) Subject to this section, the shopkeeper of a shop situated in a shopping district the business of which is solely or predominantly—

(a) the retail sale of boats; or

(b) the retail sale of motor vehicles (other than caravans or trailers),

may open the shop during the relevant periods determined under subsection (5b).

(5b) The periods that apply under subsection (5a) in respect of the opening of a shop will be periods determined on a five-yearly basis in accordance with the following scheme:

(a) until 30 June 2008, the periods that apply in respect of both categories of business referred to in subsection (5a) will be as follows:

(i) until 6.00 p.m. on a Monday, Tuesday and Wednesday; and

(ii) until 9.00 p.m. on a Thursday and Friday; and

(iii) until 5.00 p.m. on a Saturday;

(b) for each ensuing period of five years, in respect of the two categories of business referred to in subsection (5a) (which must be dealt with separately), an industry association or other body approved or specified by the minister by notice in the *Gazette* at least three months before the commencement of the ensuing period must, in a manner approved or specified by the minister, conduct a ballot of persons whose businesses fall into the relevant category to determine whether the shop trading hours that apply under this act in respect of their category of business should be altered and, if so, what should be the new hours, and if the majority of persons who validly cast a vote in the ballot indicate agreement to change to a new set of shop trading hours for their category of business, then those new hours will determine the periods that are to apply for the ensuing five-year period but otherwise the periods will remain unchanged for the ensuing five-year period.

(5c) For the purposes of subsection (5b)(b)—

(a) the same association or body may conduct both ballots (but the ballots must be conducted separately); and

(b) the minister may, by notice in the *Gazette*, report the result of any ballot; and

(c) the minister may, by notice in the *Gazette*, make any necessary or ancillary provisions in connection with a ballot.

(5d) Nothing in subsection (1), (2) or (3) entitles the shopkeeper of a shop referred to in subsection (5a) that is situated in the greater Adelaide shopping district to open the shop for any additional hours under those subsections, or on a Sunday.

This amendment deals essentially with the retail sale of boats and motor vehicles. It takes the trading hours outside the control of the parliament and puts it in the hands of the industry. Currently, this industry is regulated through the parliament. The parliament sets the hours when these particular retail industries can trade. What we are proposing is that the industry, by way of ballot and a process established by the minister, then decides in the ballot what hours they will trade and it then applies to the whole industry.

The reason we propose this amendment is the exact same reason the minister put forward in the argument about the last amendment; that is, that deregulation is about choice. This takes the choice about when the industry trades from the parliament and gives it to the industry. We think that is the appropriate method. It will mean that, in the future when that industry has industry players who decide they want to open on Sundays and at other odd hours, the industry will have to manage that issue and not the parliament, and therefore we will not be here in 10 years' time arguing about whether or not car yards or boat yards should be open on Sundays. That will be a matter for the industry to decide by way of industry ballot. If the government is about deregulating and freeing up industry and giving industry its head, if you like, in relation

to how it trades—and the general principle behind deregulation is to free up the process—then this amendment frees up the process.

I know that the government has suggested that the current provisions remain in the bill. I know that the MTA is relaxed about either position. So, there is no favoured view from the MTA, because either way its hours remain unchanged. The advantage of our scheme is that, ultimately, the parliament gives the industry the choice as to when it trades.

Earlier, the government said that if a business does not want to trade on 26 October, it simply does not open. That was the argument put to us on the last amendment: if a business does not want to open, it does not have to. I put the same argument to the minister. This amendment says to the industry that if it conducts a ballot and it does not want to open on Sundays, it does not open. Mr Samuel is generally happy with this provision, because it treats all industry players equally. So, competition is not an issue and nor is there an issue about new entrants, because they are treated the same as existing industry players.

This is a very simple measure. It is a small reform that gets the debate out of the parliament. It says to the industry, 'Have your ballot and decide your own hours.' I hope that the government will support this amendment. Why would the government still want to be in the business of regulating when you can buy a car or a boat? It seems a nonsense to me to worry about that when we have a perfectly simple proposal to introduce a balloting system every five years. The current provisions would remain in place until the first ballot in 2008, after which time there will be a ballot process. We think that that is a sensible and acceptable amendment for both the parliament and the industry.

The Hon. M.J. WRIGHT: We oppose the amendment. I am not sure why the amendment has been proposed, because it locks in the current hours for another five years for auto and boat sellers and provides for a convoluted and unnecessary process to determine hours in the future in five-year blocks by the conduct of industry ballots. I know that the MTA is happy with the government's position. I take the member's word about the MTA. However, I have certainly been advised that the MTA is happy with the government's position.

Of course, the proposal will lead to new costs, and I see no need for this provision. It will introduce new costs and complexities, such as the appointment of an approved body to conduct a ballot, the identification of relevant businesses to be included, and so on. If this is such a pressing issue, why do it in June 2008? Why not do it earlier?

The Hon. I.F. EVANS: In his bill, the minister permanently locks in the current trading conditions. So, I do not understand how the minister can criticise the opposition for locking in the current hours for the next five years. The industry wants some certainty, and we give it that certainty. Ultimately, it is in industry's hands, not in parliament's hands. I know what will happen with this issue. I was right in my speeches in 1994 and 1995. The member for West Torrens—

The Hon. M.J. WRIGHT: He wasn't here!

The Hon. I.F. EVANS: No, but he quoted them tonight. I was generally right in my predictions. I will make another prediction for the minister. What will happen is that you will get the Harvey Norman of the automotive industry. There is bound to be an enthusiastic automotive or boat dealer who wants to trade on Sundays, and this parliament will be back arguing this very point about these two industries when the industry has indicated to the opposition that it is happy to have its ballot and deal with the issue itself.

Why would parliament want to hang onto this last little bit of power over two industries when the industry has indicated that it is relaxed about the issue? In the next five years parliament will again be debating whether you can buy a car on Sunday. Frankly, it is a matter for the industry. Flick it to the industry and let it decide. Let it have a ballot, and we do not have to worry about it.

The Hon. M.J. WRIGHT: It is worth noting that consumers will not have a say, but, ultimately, if the industry wants changes, it will say so. It has not done so, to the best of my knowledge.

Amendment negatived; clause passed.

Clause 12.

The Hon. I.F. EVANS: I have three questions in relation to this clause, in particular subclause (2). The minister's bill provides:

> A person who is employed in a shop in any shopping district is entitled to refuse to work on Sundays unless he or she has agreed with the shopkeeper to work on a particular Sunday.

The current act provides that people do not have to work on Sundays if they do not wish to, unless there is an enterprise bargaining agreement in place. That is generally the principle in the act. I raised this issue in my second reading contribution; I do not recall the minister's response, but he may have left it until the committee stage. Let us say that a business has 50 staff. That business can go about establishing an enterprise bargaining arrangement where the business can offer incentives for the staff on the Monday to Saturday trading regimes. It might be increased pay, more flexibility on rostering, or a range of things. The employees are consulted on it and there is a ballot. Once it is signed off by the commission, under the bill all 50 of those employees can say they no longer wish to work on Sundays. I think that totally undermines the enterprise bargaining process, because what business will enterprise bargain if there is no certainty about the Sunday trading issue? I have a problem with that concept. I do not have a problem so much with what is in the act. There is an enterprise bargaining arrangement, but, other than that, they can say they do not want to work. If it is in the enterprise bargaining arrangement, so be it.

The minister's bill means that businesses are exposed to negotiating a way that benefits the employees, which is the natural process of enterprise bargaining, that is, employees give a bit and business gives a bit. But the employees can then say, 'We are now not going to work on Sundays.' What business will enterprise bargain under that scheme? Why would you expose yourself to that risk? It is an unusual provision, and I do not know of any industry group that lobbied for that change.

The Hon. M.J. WRIGHT: The basis of our proposal in respect of Sunday trading is simple. We believe that neither small business nor employees should have to work if they do not want to. We are committed to protecting the rights of tenants, small business owners and employees in terms of their not being forced to work on Sundays. If they wish to spend time with their family or friends on Sundays, they should be able to do so.

Regarding the point made by the shadow minister, any changes can be taken into account in negotiating enterprise bargaining agreements. If this bill is successful, the relative retail representative associations will communicate the changes to their members, and that will be taken into account in the negotiations to which the shadow minister refers.

It is a point which we make and about which we feel strongly. There must be a balance in what we put forward and, since August last year, we have spoken about the importance of having a balance to this argument—of having a package that is balanced to try to accommodate all the competing and complementary interests, because, as we all agree (and tonight's debate highlighted it again), shop trading hours has been and is a very polarised debate. It is very difficult to get a balance into a package of this type, but we do feel strongly that neither small business nor employees should have to work on a Sunday if they do not want to.

The Hon. I.F. EVANS: Am I right in my interpretation, minister, that employees, having gone through an enterprise bargaining process, will be able to opt out of working Sundays?

The Hon. M.J. WRIGHT: Yes.

Mr HAMILTON-SMITH: Subclause (3) provides:

. . . unless he or she—

that is, the employee—

has agreed with the shopkeeper to work on a particular Sunday.

Does that not mean that an enterprise bargain would constitute such an agreement, that is, an agreement having been mutually agreed between the employer and the employee and ratified by the Industrial Commission as required by the relevant act? Therefore, is it not correct to say that the enterprise bargain constitutes a legally binding agreement and, therefore, the employer can take some confidence in having the enterprise bargain that the employee has in fact agreed to work Sundays and can be rostered as such?

The Hon. M.J. WRIGHT: The idea is that, in general, employees can say that they do not want to work on Sundays, but they can say that they want to work on a particular Sunday.

Mr HAMILTON-SMITH: The minister has just said that employees can say that they do want to work on a particular Sunday, but surely the point is that if there is an enterprise bargain—that is, an agreement between the employer and the employee, which is ratified by the commission and is binding on both parties by their mutual agreement—the employee will work on any Sunday; that is, the enterprise bargain says, in effect, that Sundays constitute normal hours of work for that employee and they can be rostered as such. Surely, then, this provision of the bill does not apply because, clearly, the person has agreed with the shopkeeper to work on a particular Sunday.

The employee has entered into an agreement, an enterprise bargain, which is ratified by the commission. Therefore, as I understand it, the tens of thousands of employees who fall under an enterprise bargain in this case are not affected by subclause (3) (lines 17 to 19). As I read it, subclause (3) does not apply to those people under an enterprise agreement. They have an agreement. The shopkeeper and the person have agreed.

The Hon. M.J. WRIGHT: I thank the member for his contribution. The bill provides that it is on that Sunday, not on Sundays in general.

The Hon. I.F. EVANS: Can the minister advise me if this clause has a retrospective effect? If there is an enterprise bargaining agreement in place that requires employees to work on Sundays and this clause is successful through both houses, is the impact that this overrides existing enterprise bargaining agreements?

The Hon. M.J. WRIGHT: The impact would come into effect once the bill is passed, but I guess what you are talking about potentially could occur.

The Hon. I.F. EVANS: Let us explore that for a minute. I understand that the answer is yes. There are 110 000 people in the industry, 65 000 being employees, 35 000 of whom are under enterprise bargaining agreements. So 35 000 people, in good faith, have gone through the process of enterprise bargaining with their employers and negotiated certain conditions about Sundays. The businesses have negotiated in good faith and traded off benefits to the employees during the week. I have no criticism of that process: that process is fine.

Now, years later in some instances, guess what? The parliament says, 'Even though you people have done this, all in good faith, we are going to retrospectively apply a different rule.' That is what the minister is telling us. Now the businesses have traded off certain requirements for Sundays against mid weeks, the staff can say, 'Thank you for those benefits, but we're now not going to work on Sundays.' I think that the minister will have to rethink this between the houses, because I do not think parliament should support a retrospective clause in that respect. It is evident from the minister's answer that that is the intention, and I do not think parliament should wear something that will retrospectively change agreements for 35 000 people, and for no real gain.

There is a workable clause in the act that gives people the option not to work on Sundays subject to the enterprise bargaining agreement. The process has worked and 35 000 people are under enterprise bargaining agreements. There are actually more employees under enterprise bargaining agreements in the industry than there are under the award, in effect. Here, you are retrospectively changing those agreements. The minister will argue in a minute why we cannot talk about the award in the bill, but he is prepared to retrospectively change enterprise bargaining agreements. When we talk about asking the commission to deal with 35 000 people under the award, the minister will have a problem with it. There is no doubt in my mind that parliament should not support such a clause that is retrospective in nature.

The Hon. M.J. WRIGHT: Many of the EB agreements, as I understand it, provide for this very aspect that we are talking about with regard to voluntary Sunday trading. The other point that I make is the balance. We are also putting this forward for tenants—for small business. I am not sure what the opposition's view on that is but, clearly, a broad range of stakeholders will be affected by this bill—some perhaps positively and some perhaps negatively. I do not think it is unfair on small business and employees to strengthen the provisions in regard to the voluntary nature of working on Sundays.

Mr HAMILTON-SMITH: I share my colleague the member for Davenport's concern about that, but I will move on to another point to do with this clause. I suggest that the minister might like to reconsider this clause between now and another place because, when I actually read it, it does not seem to me to make sense and he might want to switch it around. It provides that a person who is employed to work in a shop in any shopping district is entitled to refuse work on Sundays—that is multiple or all Sundays—unless he or she has agreed with the shopkeeper to work on a particular Sunday. Did the minister mean to say that the employee is entitled to refuse to work on a particular Sunday unless he or she has agreed with the shopkeeper to work on Sundays in general? It is back to front. I ask the minister to comment. Maybe it is a typo; maybe it is a misunderstanding; maybe it

was late when it was drafted. Perhaps the minister could explain.

The Hon. M.J. WRIGHT: I think I have already answered this one, but nonetheless I will say what I said before. The intent of this is in regard to Sundays in general, but they can choose to work on a particular Sunday. If you think there is a mistake in the drafting, I will take that on board and have it examined by parliamentary counsel.

Clause passed.

Clause 13.

The Hon. I.F. EVANS: I will not speak to all these penalties, but a couple of clauses have gone through with a penalty of $100 000, so I will make the point with regard to the whole bill with regard to this penalty regime. It seems an absolute nonsense to us that the government is saying it wants to grow business, create employment, help small business, deregulate and make it simpler, yet the very first thing it does in the bill is increase the penalty from a maximum of $10 000 to $100 000. They are basically applying those penalties to all these little odd areas where people can and cannot trade: the last three hours of the 24 hours between 9 and 12 or before 11 on Sundays or after 5 on Saturdays or after 9 midweek—all those sorts of issues. It seems to me that there is a mixed message in this.

There is now less opportunity for business to trade outside the expanded hours, so surely the current penalty regime of $10 000 is a big enough penalty. It seems to be a mixed message from the government in relation to what you are trying to do. The government is saying that it wants deregulation to be all about choice, but all through the bill there are indications where the government is belting business. You want your inspectors to go in with new powers, there are new powers if you act against inspectors, and penalties are now 10 times what they were in the original act. So, the opposition is opposed to the $100 000 figure. We prefer the existing figure of $10 000 and we make that point in relation to all the clauses where the $100 000 figure applies within the bill.

The Hon. M.J. WRIGHT: I thank the shadow minister for his contribution. We have talked a little bit about this as we have worked our way through. I have made the point previously that this is a maximum figure. The courts are not silly; they will take account of matters such as history, intent, whether it was an honest mistake or whether there was deliberate intent, and the size of the offender. The message is simply to obey the law. One could make an argument that large corporate offenders may not be deterred by $10 000. The maximum of $100 000 would be in extreme cases and it would be at the discretion of the court. It would make its judgment based upon a whole range of factors, needless to say, and one would hope that it would not need to be applied. I indicated that, potentially, a large corporate offender may deliberately flout the law and may advertise the fact that it is breaking the law. Will that company be deterred by $10 000? They have not been in the past, in some cases.

Clause passed.

Clauses 14 to 16 passed.

Clause 17.

The Hon. I.F. EVANS: I move:

Page 11, line 25—Leave out '14 days' and insert '28 days'.

This increases the amount of time from 14 days to 28 days where a person to whom a notice is directed may, 28 days after the service of notice, appeal to the Administrative and Disciplinary Division of the District Court. We think 28 days is more reasonable. We do not necessarily support the concept of prohibition notices but, if the minister is going to win the argument on prohibition notices, we want 28 days.

The Hon. M.J. WRIGHT: The 14 days is consistent with the Occupational Health, Safety and Welfare Act. With a prohibition notice, the employer would want to respond as quickly as possible because they would want to get the prohibition notice lifted.

Mr HAMILTON-SMITH: Can the minister explain how the prohibition notice process takes effect? If a business proprietor is advised that a prohibition notice is to be implemented, surely that does not take immediate effect. That is to say, surely the business proprietor has some opportunity to defend himself, herself, or itself in the case of a proprietary limited company, and to put up an argument for the prohibition notice not to take effect.

For example, if the enterprise is a popular retail outlet, and if it were closed for a couple of weeks by an order, it could go broke in that time. By the time it tried to reopen, its competitors could have smashed its market share. If you are going to give notice of a prohibition order, the business should have enough time to consult its lawyers, gather its defence and put up a counter argument so that the prohibition notice can be defended, and it can prove its innocence. Can the minister explain how that process will unfold?

The Hon. M.J. WRIGHT: As to the prohibition notice that the honourable member referred to, there would be an investigation first if there were any doubt. Once the facts are established, the inspector puts it on and it takes effect immediately. That is the whole basis of prohibition notices. It applies immediately because there is a breach, and you stop the breach immediately. During debate in the other house last time round, the Hon. Robert Lawson stated:

> There are a number of technical measures in the bill which, as a former minister for workplace relations who had responsibility for administering this act for a time, I would welcome, because the things such as prohibition notices and simplifying some of the procedures is something that the opposition would certainly welcome.

The Hon. I.F. EVANS: Does the minister not have powers under the bill to close the shop? Rather than use a prohibition notice, can you not just issue a notice to close the shop?

The Hon. M.J. WRIGHT: In theory, yes, but a prohibition notice has the specified appeals about which we have just been speaking.

The Hon. I.F. EVANS: Does that mean that the minister can close the shop under the bill and no appeal mechanism would be there? However, if you put a prohibition notice on it there is an appeal? It seems to be a power but for what purpose, if you have the power to close the shop?

The Hon. M.J. WRIGHT: The power to close is limited. The important point to make is that the appeal process challenging that decision is likely to be more onerous on the shop owner than that which we are proposing in the bill with prohibition notices. We should highlight that the prohibition notices make it simpler and more efficient in respect of being able to enforce. That is why we come forward with prohibition notices.

The Hon. I.F. EVANS: I want to clarify one point. The way these prohibition notices work is that the inspector can roll up and apply the notice.

The Hon. M.J. WRIGHT: He has to investigate the matter and form a judgment.

The Hon. I.F. EVANS: He can form a judgment within 10 minutes. He immediately then puts a prohibition notice on

the business, which means it stops trading and the only avenue of appeal for the business is the appeals court. In the meantime the business is closed down; it has staffing costs and rents and other things that are ongoing—the overheads go on—but the revenue has ceased. Is that right?

The Hon. M.J. WRIGHT: Let us not forget what the prohibition notice is doing: it is telling the business to comply with the act. Once it complies with the act, you lift the prohibition notice.

Mr HAMILTON-SMITH: If an over-enthusiastic officer comes in and slaps a prohibition notice on a small business, closes the business for however many days or weeks under that prohibition notice and there is a couple of weeks of lost trading while the proprietor establishes to the minister that he is not in breach or has stopped whatever behaviour resulted in the prohibition notice being imposed (having lost thousands of dollars of revenue); and if it turns out that it was an incorrect prohibition notice and should never have been clamped on, can that business claim compensation from the government for a false prohibition notice? What remedy does that business have to reclaim the thousands of dollars in interrupted business costs as a result of an improperly administered prohibition notice?

The Hon. M.J. WRIGHT: The point I make is that with a prohibition notice you may not be closing down the store altogether, but you may be saying to the business, 'Don't trade in these hours because that is unlawful.' Therefore, the prohibition notice is saying to the business that it is doing something unlawful and it has to stop it. It probably would not be the case that you would be closing done the shop entirely, because there would be some breach of the arrangements in respect of the statutes and obviously there would be the opportunity, I would imagine, for it to open during legitimate hours as the statutes apply.

Amendment negatived; clause passed.

Clause 18.

The Hon. I.F. EVANS: This clause has in it the reverse onus of proof, which I understand is similar to what is in the act except that one extra clause has been added in relation to a specified shop having a floor area of a specified size. While we are not moving an amendment here, we bring to the government's notice that it is likely we will be moving an amendment in the other place to change the act to put back the onus of proof on the government rather than on the business.

Clause passed.

Clause 19 passed.

Schedule.

The Hon. I.F. EVANS: I move:

Page 13, after line 25—Insert:

Existing awards

3a. (1) The Industrial Relations Commission of South Australia (the 'Commission') must conduct a review under Chapter 3 Part 3 Division 2 of the Industrial and Employees Relations Act 1994 (the 'Act') of each award under that Act that provides for the remuneration of persons employed in a shop.

(2) A review under subclause (1)—

(a) must be conducted by the Full Commission; and

(b) must include a review of, and make fresh determinations in relation to—

(i) the appropriate spread of hours for ordinary time work over the period of a week, and over any other appropriate period (if relevant); and

(ii) the rates remuneration (including as to any penalties or loadings) payable to employees who work in a shop,

and may include a review of any other matter that may, in the opinion of the Commission, be relevant on account of the provisions of this Act; and

(c) must be completed by 31 May 2004 and take effect on 1 July 2004.

(3) In undertaking a review under subclause (1), the Commission must—

(a) have regard to the desirability of maximising employment and economic efficiency within the retail industry in the State, including by—

(i) encouraging higher levels of employment in the retail industry; and

(ii) ensuring that labour costs are economically sustainable for businesses in the retail industry; and

(iii) providing a fair rate of remuneration for employees who work in the retail industry; and

(iv) enabling businesses in the retail industry to trade without the imposition of excessive costs for doing so; and

(v) promoting efficiency and productivity in the retail industry; and

(b) give consideration to the nature of the labour market that works, or is likely to work, in the retail industry (including, but not limited to, work on Sundays); and

(c) give consideration to the circumstances of the various kinds of businesses in the retail industry that may be open on Sundays, including the circumstances of small and medium sized businesses operated by the proprietors of the businesses or by members of their families; and

(d) give consideration to the ordinary time penalty rates that apply in the other States, and in the Territories, for similar trading arrangements; and

(e) give consideration to the desirability of including in the award a variety of options and flexible arrangements to assist in making Sunday trading worthwhile and viable; and

(f) give consideration to any additional transitional arrangements that are appropriate in view of the operation of this Act,

and the Commission may consider such other matters as the Commission thinks fit.

(4) Without limiting subclause (3), in undertaking a review under subclause (1), the Commission must use its best endeavours to ensure that it does not impose a cost structure within the retail industry—

(a) that is economically unsustainable within the industry, or a significant part of it, especially taking into account the position of small and medium sized businesses; or

(b) that has the effect of imposing unfair costs on small or medium sized businesses operated by proprietors who wish to trade on Sundays (especially those businesses where employees may be required to work on Sundays); or

(c) that reduces the capacity of the proprietors of businesses, and in particular small and medium sized businesses, from employing staff to the maximum possible extent on Sundays; or

(d) that has the effect of requiring the proprietors of small or medium sized businesses to work on Sundays themselves rather than employing staff on that day; or

(e) that unduly diminishes the competitiveness of small or medium sized businesses that open on Sundays; or

(f) that is higher for small or medium sized businesses than the cost structure that applies to larger sized businesses; or

(g) that is likely to impact adversely on the price of goods or services purchased by customers within the retail industry.

(5) As part of a review, the Commission must give the parties to the award a reasonable opportunity to make submissions, and take those submissions into consideration, and may (as the Commission thinks fit) allow any other person with a relevant interest to appear and make submissions.

(6) In this clause—

'shop' means a shop within the meaning of the Shop Trading Hours Act 1977.

This is the clause that relates to the industrial relations issue, which has been an important issue for the opposition right through this debate. By supporting this amendment, the parliament requests the Industrial Relations Commission to conduct a review of the appropriate awards between now and 31 May, and have those new awards take effect from 1 July, and it asks the commission to accept submissions from all relevant parties and interest groups. It does not instruct the commission in relation to its decision, but it does ask the commission to have regard to a range of matters. Those matters include things such as ensuring that labour costs are economical, providing a fair rate of remuneration and encouraging high levels of employment. It also asks the commission to use its best endeavours to achieve outcomes such as an economically sustainable business, to make sure that unfair costs are not imposed on business, and so on. So, it does not instruct the commission as to the result—it leaves that discretion to the commission—but it gives the commission some guidance in relation to the issues that the parliament wants the commission to at least consider and have regard to and use its best endeavours to achieve.

There is nothing that unusual about this provision, in that it is commonplace in federal legislation and other state legislation that a special jurisdiction of the Industrial Relations Commission, as proposed, is established. The only instruction that we give the commission is in relation to the time frame within which it needs to be completed. I know the minister will say that the time frame is irrelevant now, because the government's time frame for the introduction of the trading hours has been accepted by this house. But I still make the point (as I did during that debate) that there is no certainty under the government's plan as to when the commission will finish the review of those awards. I would argue that this clause is still relevant, because at least this gives business a firm date, even though, if the government's bill holds, they will start Sunday trading on 26 October, but at least they will have awards reviewed by 31 May, and at least they will have new awards, in whatever form, in place by 1 July. So, at least this amendment gives business certainty as to the process of how the awards will be reviewed, the dates by which they will be reviewed and the dates on which they will take effect. All those issues are absent from the government's bill.

The penalty rate issue is a major concern for small business. I could go through chapter and verse about enterprise bargaining agreements in interstate awards, but the reality is that most interstate awards—Queensland, New South Wales, Victoria and Tasmania—all have a 50 per cent loading on Sunday, virtually every EB agreement signed in South Australia has a 50 per cent penalty rate on Sunday, and we are asking the commission to consider the issue and make a judgment. We do not issue an instruction as to what that should be. We leave it to the commission to make that judgment based on the evidence placed before it.

This is a very important issue for us, and it is an important issue for small business. The one issue that small business lobbied us on, apart from the hours, was the penalty rate regime in the award structure. I make the point that it is not just about penalty rates on Sundays: it is also about the ordinary spread of hours. Under the award, Sunday is classified as overtime.

The ordinary spread of hours under the current award go from Monday to Saturday with one late night of trading—generally Thursdays or Fridays. We believe that, if hours are deregulated until 9 p.m. every night or right through the 24 hours (if we win our amendments in another place), the ordinary spread of hours across the whole week need to be considered. So the central issues are the penalty rate regime, ordinary spread of hours and the timeframe we believe brings certainty to business. We would very strongly urge the committee to support this measure. It is the key issue for small business to get equity in relation to the EB agreements and other issues that are out there relating to those sorts of matters. This particular suggestion is very important if we are going to give small business a reasonable industrial relations outcome from this process.

The Hon. M.J. WRIGHT: This issue is something that the opposition has talked about before. The shadow minister makes reference to not instructing the commission, but in his own amendment it says that it must include a review of, and make fresh determinations in relation to, and then goes on to list some of them. The Industrial Relations Commission is the best umpire in town, and the government should not be interfering. The parliament should not be interfering with the commission's treatment of particular industries in the way the opposition suggests. It is inappropriate in relation to its implications for the independence of the commission. We should not be telling the commission how it does its business or how it allocates its resources. More to the point, however, the Industrial and Employees Relations Act already provides for a review of awards by the commission. The Act also provides that in reviewing awards the commission has regard to factors including making sure the award does the following:

· is consistent with industrial, technological, commercial and economic developments applicable to the relevant industry;

· to contribute to the economic prosperity and welfare of the people of South Australia and to facilitate industrial efficiency and flexibility and improve the productiveness of South Australian industry.

It is in the opposition's own legislation that it brought to parliament, namely, the Industrial and Employee Relations Act. The commission is already more than adequately equipped to deal with issues relating to hours of work, be they penalty rates or ordinary hours. The commission can deal with these matters on the application of any relevant party. The opposition amendment will achieve nothing.

All our industries are important, all our awards are important, and many of the circumstances in which our industries operate change over time. All industries have the opportunity to apply for the relevant awards to be varied when circumstances change. The retail industry should not be singled out. It is an important message that we should not forget: that we should not be interfering with the independence of the Industrial Relations Commission.

Mr HAMILTON-SMITH: I strongly support the amendment proposed by the Member for Davenport, and I ask the minister whether he might accept the amendment if it did not include the words 'fresh determinations' because, if you removed these words from subparagraph (b) of the proposed amendment, this amendment would simply be asking the Industrial Relations Commission to conduct a review and make some recommendations. The minister is on the record in this place a number of times resisting any effort to legislate industrial change and, rather, arguing that these

matters should be dealt with between employers and employees in the Industrial Relations Commission.

All this amendment does is signal to the Industrial Relations Commission and to employers and employees that parliament would like them to get together and, through the commission, re-examine their arrangements and make recommendations. Those recommendations may involve no change, or they may take up the practices in other states. Why is the minister opposed to the very thing for which he has argued time and again, both as shadow minister and as minister?

The Hon. M.J. WRIGHT: I did make some other points, one of which was that the retail industry should not be singled out, because there is no need for it. I also made the point that this amendment does nothing. Take those words out if you like, but the government will still oppose the amendment, because it does nothing. It is a pyrrhic amendment. The matters referred to in the opposition's amendment are covered in the Industrial and Employee Relations Act. The commission already has the right and responsibility to do the very thing you are talking about, so why flag it? Why bring it forward? The other thing it does, of course (whether or not those words are included), is that it interferes with one of the great bastions of our system; that is, the independence of the Industrial Relations Commission. The government of the day, through its statutes, should not be telling the Industrial Relations Commission how to run its business.

The Hon. I.F. EVANS: Let me get this right. The minister says that the amendment does nothing. If the minister believes that, it would do no harm to put it in the bill. If the minister is telling the house that the amendment does nothing, he should send the right message to the small business community by putting the amendment in the bill. If the minister is saying that those provisions are already in the act he quoted, there is absolutely no risk to the government or to the employers and employees, the unions, or the business community in putting it in the bill if it does nothing. All it does is instruct the commission.

The minister knows (and could research it for himself) that there would be many examples of this style of legislation in the federal parliament. There are lots of examples where a special jurisdiction of the commission has been established. So, let us not have this nonsense that somehow this is so unusual in the parliamentary process. It is not unusual for parliament to ask the commission to set up a special jurisdiction to look at issues.

What are we doing here tonight? We are deregulating an industry and deregulating the revenue into the business. We are not dealing with the deregulation or the issue at the expense of the business. That is what the minister proposes. If the small business community is to believe the minister, then what he is really saying is that all these provisions in this amendment already exist in another act and this amendment does absolutely nothing but the government will not risk putting it in the bill. So, why would not the minister send a positive message? Give us one positive message out of the bill. Apart from penalising businesses with increased penalties or increasing the powers of inspectors or giving them more powers to seize business assets, give one positive message to the small business community and put the amendment in the bill. If it does nothing, the minister has absolutely nothing to fear from it. That will give a clear indication to the business community that the parliament has listened to them on this issue and delivered to them a decent process and outcome on the industrial relations issue.

The Hon. M.J. WRIGHT: The shadow minister's remarks surprise me somewhat. If he is saying that we put something in because it does nothing, we would be a funny place if we went around making laws of that nature. When I make the point that this amendment does nothing, I mean that it does nothing of a positive nature. However, it certainly does things of a negative nature, because this is nothing more than ill-conceived tinkering. Let us be blunt about this: the commission can do this, the commission ought to do this, and the commission will do this. It is the commission's business.

Mr HAMILTON-SMITH: Within the context of the schedule and this amendment, the minister might like to consider between now and the bill going to another place the issue of the child-care award. The reason why I raise the issue of the childcare award is simple. If the government is to extend the hours over which workers will be employed—that is, evenings, weekends and Sundays—and if the childcare award is not also being reviewed in regard to penalty rates, how will childcare centres be able to open on Sundays, Saturdays and in the evenings to cater for the needs of the workers, particularly single mothers, who might want to work on the weekend and who might be penalised by having to pay double childcare rates per hour because the childcare service operator is having to pay double time penalty rates on weekends and during the evenings? Is this not one of the things that the parliament might draw to the attention of the commission as a confluent consequence of this change to shop trading hours and a matter that it should address that might not otherwise be automatically picked up?

The Hon. M.J. WRIGHT: No, it is not: it is as simple as that. This would be dealt with by application by a relevant party. That is how it works.

The committee divided on the new clause:

AYES (12)

Chapman, V. A.	Evans, I. F. (teller)
Hamilton-Smith, M. L. J.	Lewis, I.P.
Maywald, K. A.	McFetridge, D.
Meier, E. J.	Penfold, E. M.
Redmond, I. M.	Scalzi, G.
Venning, I. H.	Williams, M. R.

NOES (14)

Atkinson, M. J.	Breuer, L. R.
Caica, P.	Ciccarello, V.
Geraghty, R. K.	Key, S. W.
Koutsantonis, T.	McEwen, R.J.
Rankine, J.M.	Rau, J. R.
Snelling, J. J.	Thompson, M. G.
Weatherill, J. N.	Wright, M. J. (teller)

PAIR(S)

Brindal, M. K.	Bedford, F. E.
Brokenshire, R. L.	Foley, K. O.
Brown, D. C.	Hill, J. D.
Buckby, M. R.	Lomax-Smith, J. D.
Goldsworthy, R. M.	O'Brien, M. F.
Gunn, G. M.	Rann, M. D.
Kerin, R. G.	Stevens, L.
Kotz, D. C.	White, P. L.
Matthew, W. A.	Hanna, K.
Hall, J. L.	Conlon, P. F.

Majority of 2 for the noes.

New clause thus negatived.

The Hon. I.F. EVANS: It has been a few hours since the minister answered this question during the second reading

debate, but I do not understand the issue about deleting subsection (4) and substituting the following:

A lessee may apply to the lessor for exemption for the provisions of the retail shop lease regulating trading hours.

I do not understand it because, the way that I read it, it can be applied retrospectively. If a retail shop lease regulates trading hours, as I read that subsection it can apply for an exemption. So, one assumes that it applies to all current leases. I am not quite sure where the request has come from. I have spoken to the various industry representatives, and it is fair to say that they do not have any understanding of what the minister is trying to achieve, or what the provision does. The opposition does not oppose the concept of 54 hours as the core hours. I question the Sunday issue from this perspective. I think that the minister is trying to say to small businesses in centres that Sunday is a voluntary day, when they can choose to open or not. However, from Monday to Saturday 54 core hours are essentially agreed.

I put to the minister that his amendment will not achieve the required outcome because, in essence, he is trying to give businesses a day off, if they so wish. All the interstate evidence indicates that Sunday becomes the second or third best trading day of the week. What business will not open then? My guess is that virtually every business will open on the second or third best trading day of the week, which is mostly Sundays.

The minister's provision locks businesses into opening Monday to Saturday for 54 hours, so they have to trade those days, and the market conditions are such that they will have to trade on Sunday. So, rather than giving them a day off, businesses are essentially locked into a seven-day routine. The minister may want to consider, in the bill's transmission between the houses, a provision that, when industry does its core hours ballot, it also includes a ballot on which day will be the voluntary day.

In two or three years, many businesses will prefer to have Monday, Tuesday or Wednesday as the voluntary day, rather than Sunday. If the minister is trying to achieve a day in a seven-day period where businesses can say that they do not wish to trade, I do not think this bill in the long term will deliver that outcome. The market conditions on Sunday will mean that people will trade, and the core hours from Monday to Saturday will mean that they will have to trade. Basically, they are locked into a seven-day routine, whether or not they want to be.

I do not need answers to all those matters tonight but, if the minister gives a commitment that he will meet with the opposition and industry groups in between houses to explain this issue which none of us understands, I am happy to let it rest tonight. We can deal with the core issue in the same procedure.

The Hon. M.J. WRIGHT: I am happy to commit to that.

Schedule passed.

Title passed.

Bill reported without amendment.

The Hon. M.J. WRIGHT (Minister for Industrial Relations): I move:

That this bill be now read a third time.

I thank all members, particularly the shadow minister, for their contributions. Obviously, we are pleased with the support for the bill.

The Hon. I.F. EVANS (Davenport): I ask the minister to let us know tomorrow whether the government intends to deal with this bill in the upper house next week, because we will have to lobby the other house very quickly if that is the intention. It would assist us if the minister indicated when the government expects the upper house to deal with the issue.

Bill read a third time and passed.

The SPEAKER: I will tell the house my own position on this issue. It is not as though I did so at the end of the second reading, quite simply because measures were proposed in the amendments which I thought might make some difference, and I had not wished to influence the house's deliberations on those matters.

In simple terms, I would have deregulated shopping hours completely, other than those enterprises which collectively, in common ownership, employed a minimum number of employees and which would be entirely free to make their own enterprise arrangements between the proprietors and the people who worked for the businesses they own, such that those small businesses then would be distinct from any groups or corporate interests where the industrial relations arrangements currently in place needed to obtain to ensure that large numbers of employees were not exploited in the manner in which I have seen occur in other places around the world, particularly in the United States. If we had gone to that position on this occasion, I think that everyone would have been happy. Certainly, in my judgment, there would have been the least unhappiness. I thank the house for its attention to the matter, and I commend the house for the way in which it has conducted itself.

ADJOURNMENT

At 3.42 a.m. the house adjourned until Wednesday 28 May at 2 p.m.