HOUSE OF ASSEMBLY

Monday 8 November 2004

The DEPUTY SPEAKER (Hon. R.B. Such) took the chair at 2 p.m. and read prayers.

BYWATERS, Hon. G.A., DEATH

The Hon. M.D. RANN (Premier): I move:

That this house expresses its deep regret at the death of Mr Gabe Bywaters, a former member of the House of Assembly, and places on record its appreciation of his long and meritorious service; and as a mark of respect the sitting of the house be suspended until the ringing of the bells.

At the weekend I was saddened to hear of the death of Gabriel Alexander Bywaters. Gabe lived a long and rich life, passing away last Tuesday at the age of 90 at a Largs Bay hospice. The Deputy Premier is currently attending his funeral. Gabe Bywaters made a big contribution to South Australia both as a Labor member of this house and as a minister of the Crown.

Gabe was born on 2 September 1914 in Gawler. He was educated in Gawler but, for most of his life, he lived in Murray Bridge and was most associated with that regional town. He did an outstanding job of representing the people of the town and, indeed, the wider region.

Mr Bywaters began his political career in 1956, which was a pretty inauspicious time for a budding Labor Party parliamentarian. In Canberra, Robert Menzies was less than halfway through his historic period as Prime Minister; and in this place, of course, the late Sir Thomas Playford remained dominant after more than 17 years as premier. Obviously, this did not discourage Gabe Bywaters. In March 1956 he contested and won the now defunct seat of Murray, defeating Hector White by just 193 votes.

Over the years, Mr Bywaters strengthened his hold on Murray, winning elections in 1959, 1962 and 1965 which was, of course, the year when Frank Walsh and the Labor Party was elected to government. Gabe's maiden speech in May 1956 shows him to be an already conscientious local member. Promising the house that any criticism he makes 'will always be of a constructive nature', he chided the members of the Treasury benches for the tardiness of ministerial replies to his letters (some things never change over the years!). The issues he raised in that speech were close to the heart of his electors in the Murray Bridge area, and many of them are still relevant today: transport, water, electricity and the development of industry in his seat were amongst his principal concerns.

He also spoke about decentralisation—a policy designed to combat the steady drift of people from the country to the city. Gabe was worried about the economic implications of this trend and, in that Cold War period, the defence of the nation as well. He told the house:

I do not wish to be an alarmist, but we must face facts. As a result of atomic warfare, nuclear weapons and guided missiles, this country is no longer isolated and we should take steps to decentralise industry and population.

In 2004, our reasons may of course be a little different to 1956, but I think everyone in this house would still like to see our regions increase their population, become more prosperous and retain as many of their young people as possible.

Gabe Bywaters' interest in both the economic and social prosperity of regional South Australia was consistent throughout his career. Campaigning in the 1959 state election, he said:

I have realised that the great need in the country today is for industries to keep the family unit together. As President of the Murray Bridge High School Council, I frequently see students leave school and go to the city for employment, away from homes and parental guidance, and this concerns all thinking people.

Clearly, his words made an impact. When the old Adelaide *News* summarised the battle for Murray in 1959, it labelled it a 'borderline' seat. I think at that stage the news would have been edited by Rupert Murdoch. The *News* political roundsman, Ken May—later to become Sir Kenneth May, the chairman of the group—wrote:

On paper, therefore, the seat could easily be won by either major party. However, constant enthusiasm towards his electorate affairs has kept Mr Bywaters well before the public eye and he must start a favourite.

At various times he was an active member or patron of a number of community groups, including the Murray Bridge Education Centre, the Mentally Retarded Children's Society, the Church of Christ Officers Board, the National Fitness Camps Committee and the Murray Bridge Lawn Tennis Club.

Gabe Bywaters' solid efforts in the seat of Murray were rewarded when the Labor Party took power in March 1965, its first election win in 32 years. In the new government headed by Frank Walsh, Gabe Bywaters held no fewer than five ministerial portfolios. He was minister for lands, repatriation, irrigation, agriculture and forests. The first three of these ministries he held for just eight months. But the latter two, agriculture and forests, remained his throughout the Walsh government and indeed the first Dunstan government.

I know first hand that our late former premier Don Dunstan thought very highly of Gabe. He made his admiration clear in his 1981 memoirs, *Felicia*. Speaking about Gabe's entry into caucus in 1956, Don Dunstan wrote:

Gabe Bywaters was also articulate, able and determined. He was a lay preacher of the Church of Christ, had campaigned and canvassed hard, and was soon extremely popular in the district.

Later when Gabe entered the ministry, Don's respect grew. He wrote:

In the agriculture portfolio, Gabe Bywaters was an outstandingly good minister and made decisions which were difficult but necessary.

The former premier describes how Gabe 'ran into dire political difficulty' over the introduction of the commonwealth egg marketing scheme. And when Labor was swept from power in 1968—albeit I should say with an overwhelming proportion of the popular vote because the system was gerrymandered—Gabe Bywaters lost, too. He lost by just 47 votes in his district and, according to Don Dunstan, local opposition to his egg marketing scheme had played a part.

In 1968, Gabe began what eventually became a 15-year membership of the Metropolitan Milk Board. His only foray back into politics was in 1970, when he unsuccessfully contested his old seat of Murray. Throughout Gabe Bywaters' career he was strongly supported by his wife Gwen, whom he married in 1939. Sadly, Gwen died just three years ago.

Mr Deputy Speaker, I would like to take this opportunity to extend my sincere condolences to Gabe Bywaters' children, grandchildren and great-grandchildren and his many friends, many of whom are in this house today. Gabe was a frequent visitor to Parliament House as part of the former members' luncheon arrangements, and he always took time out to speak to the younger members of both sides of the parliament. I knew him to be a lovely, decent man and, as I

said, I know that people like Don Dunstan, Des Corcoran and others always spoke about him with great affection and respect.

I am sure that everyone who knew Gabe is greatly saddened by his passing, yet they can feel very proud of the many decades of work he carried out—in particular, to improve the quality of life on the land. With other members of this side the house, I commend the contribution of Gabe Bywaters to the ALP, to the state of South Australia and to this parliament. He was a good and decent man who will be sadly missed.

The Hon. R.G. KERIN (Leader of the Opposition): On behalf of the Liberal Party, I second the Premier's condolence motion and express our regret at the passing of the Hon. Gabriel Bywaters, former minister of the Crown, and wish to place on record our appreciation of his distinguished public service.

Mr Deputy Speaker, I ask that you convey to Mr Bywaters' family, his two children, four grandchildren and three great-grandchildren, our deepest sympathies and appreciation for the contribution he made to the state following his election in March 1956 as the member for the Murray. Unfortunately, I never had the honour of meeting Mr Bywaters.

Mr Bywaters was born and educated in Gawler but moved into the Murray electorate in the 1940s. He was active in a range of community organisations, including the Murray Bridge High School council, the Mentally Retarded Children's Society and the Church of Christ. He was also the patron of the Murray Bridge town band and the rowing and lawn tennis clubs.

Gabe Bywaters entered parliament while Thomas Playford was premier and, from what I believe was his first speech, spoke of his passion for regional areas and the continued need for decentralisation. As the Premier said, in that same speech he also urged the ministers of the day to reply promptly to correspondence—a plea that many members would, indeed, echo today.

Throughout Mr Bywaters' parliamentary term he continually pushed for more industry and housing in regional areas and for incentives to encourage business to locate away from Adelaide. He was very concerned with what he saw as the inequalities that those in country towns had to endure, and those hardships were typified by the great River Murray flood of 1956, which impacted significantly on the people of Murray Bridge and led Mr Bywaters to comment that this event brought him into contact with his constituents in a way that he would never forget.

As the father of a son and daughter, Mr Bywaters was very concerned about the youth of his area and the effects on families and communities of young people moving to the city for employment. He entered Frank Walsh's cabinet in 1965 with major responsibilities for agriculture and forests—certainly, two of the most important portfolios in any government. He continued in the ministry until the March 1968 election, when the seat was won by Ivon Wardle of the incoming Hall government. Despite this, Mr Bywaters' passion for the area was undeterred, and he contested the seat unsuccessfully at the May 1970 election. His enthusiasm for community service continued past his retirement from politics, and I am sure that all members present will join me in paying respect to the late Mr Gabriel Bywaters and in acknowledging the very worthy contribution that he made to our state.

The Hon. M.J. ATKINSON (Attorney-General): I rise to honour the contribution to public life of the late Gabriel Alexander Bywaters. Gabe was born on 2 September 1914 in Gawler. In 1947, he moved to Murray Bridge, where he became president of the local branch of the Australian Labor Party as well as president of the Murray Bridge High School council, the local adult education centre, and the Church of Christ Officers' Board. Gabe was also a member of the Murray Bridge Industries Committee, the National Fitness Council, and patron of many cultural and sporting organisations, including the Murray Bridge town band and the rowing and lawn tennis clubs.

The seat of Murray was one that had been held for many years in the middle part of the 20th century by an Independent, and it came to be won by the Australian Labor Party in March 1956 with strong support in Tailem Bend and Mannum. Gabe was elected to the House of Assembly as the member for Murray in March 1956, after defeating the sitting member Hector White of the Liberal and Country League by 193 votes, and he was a strong local member. Shortly after being elected, the Murray River flooded, and Gabe was quoted by *The Advertiser* on 20 February 1959 as saying:

> This, although a national tragedy, brought me in contact with my constituents in a way that I will never forget.

From 10 March 1965 until 11 November 1965, he was minister for lands, minister for repatriation and minister for immigration in the Walsh government. He held the ministerial portfolios of agriculture and forests from 10 March 1965, when Frank Walsh's Labor government was elected, until 26 March 1968, after Don Dunstan's Labor government had been defeated and Gabe had lost his seat. Indeed, it was Gabe's losing his seat which caused the Dunstan government to fall.

In his maiden speech to parliament, Gabe spoke about the importance of the decentralisation of industry and the need to encourage business to the rural areas of the state. He believed in the need for uniformity of electricity, water and sewerage bills, and he advocated the abolition of the electricity surcharge. After losing in 1968, Gabe again contested the seat of Murray in 1970. However, owing to the redistribution which transferred country seats into the metropolitan area, the seat of Murray was much expanded and much harder for him to win, and, indeed, he did not succeed in returning to parliament. Gabe then served on the Metropolitan Milk Board for 15 years.

I got to know Gabe Bywaters when I met him on the train. He came in from the Semaphore-Largs area, and some of those trains stopped in my electorate. I would get on at Croydon, West Croydon or Kilkenny, depending on where I lived or whether I was coming from the office, and we got to talking on the train. I also spoke to him often when he was in this place for former members' lunches, which he attended regularly.

Gabe passed away after a six month battle with cancer. His wife Gwen died in 2001, and he is survived by one son, one daughter, four grandchildren and three great grandchildren. Gabe will be remembered by us all as a Labor man, a family man and a statesman. He was a Labor candidate who was able to reach out well beyond the core Labor constituency to win the largest possible vote and to win a seat which is certainly not now thought of as a Labor seat. Our sympathies go out to his family and friends.

The Hon. J.D. HILL (Minister for Environment and Conservation): I want to say a few words in celebration of Gabe Bywaters' life and pass on to his family and friends my sincere condolences on his passing. Many things have been said about Gabe already which I will not repeat. He was, of course, a very good Labor man, and he was a regular attendee in this place and around the party for most of his life. He was a very fit 90 year old. He was, I think, in great health right to the very end—at least, the last I saw him he was in pretty good shape—and he was a very engaged and very optimistic man and an inspiration to those who got to know him.

I cannot actually remember the first time I met Gabe. It was many years ago now, but I used to see him regularly around the place. However, I do remember quite clearly the last time I saw him, which was earlier this year at a community cabinet meeting which the government was holding in the western suburbs and which Gabe attended. As it happened, I was standing next to Gabe for some time and had a long conversation with him about his reminiscences and his time as a member of parliament. I asked him about the leadership battle that installed Don Dunstan as the leader of the Labor Party in the mid 1960s, and Gabe told me that it was his vote that in fact assured Don the leadership. As members would recall, it was a contest between Don Dunstan and Des Corcoran, and there was one vote in it. I think Gabe may have initially been in the Corcoran column but was persuaded that Don was the best choice for the Labor Party and for South Australia.

Gabe always believed that that was the right thing to do and his voting gave Don the leadership. But he also told me that he believed that if Des had been elected as leader he would have been more likely to hold on to his seat of Murray at the subsequent election—so it was a bittersweet decision that he made. I do not think Gabe held any regrets about the decision he made, but he felt that the views that Des Corcoran put to the electorate were, perhaps, closer to those that were held by his own electors, and that the views that the Dunstan government was putting in the mid-sixties (which seem almost quaint these days with the views that we have today) were a bit too radical for his electors in the mid to late 1960's.

Gabe Bywaters was a fine representative of his local community, and I think he was a wonderful person, and we will all miss him in this place. However, he reached a very fine age, and he lived his life with great vigour, and I wish his family and his friends the very best on his passing.

The Hon. M.J. WRIGHT (Minister for Administrative Services): I would also like to speak briefly in supporting the motion. I will not repeat what has been said previously, but suffice to say that Gabe Bywaters was an absolute gentleman. Obviously he served the parliament very well, and he was very much a grass roots politician who represented his electorate very strongly and effectively. I got to know him better in more recent years. In the main, Gabe was a constituent of the member for Port Adelaide, and I know that the member for Port Adelaide would want me to endorse the comments and speak on his behalf. As the Premier said, he has attended the funeral.

In the last couple of years, Mr Bywaters came into the electorate of Lee so I had more contact with him, although I also had contact with him when he came into Parliament House for the luncheons to which the Premier referred. And, of course, Gabe was a friend of my parents as well. In the last couple of years, as a result of the redistribution, I got to know him a little bit better. I very much enjoyed his company and the advice that he was able to provide me as the local member for the community.

As the Premier said, Gabe Bywaters lived to the age of 90 and passed away in the Philip Kennedy Hospice at Largs Bay. Certainly, he will be very fondly remembered on this side of the house, but also by many people whom he touched throughout the years that he was either a member of parliament or doing good work beyond being in parliament in a variety of different ways throughout the community. He served on the Metropolitan Milk Board for 15 years, but he really was a person who touched many people in a variety of areas.

I would like to extend my condolences and pass on my sympathy to the children, the grandchildren, and to the great grandchildren, and to reiterate that the member for Port Adelaide and I very much enjoyed his good advice. As I said, in the main Gabe lived in the electorate of the member for Port Adelaide, but in recent times in the electorate of Lee.

Mr VENNING (Schubert): I rise to support the Premier's motion of condolence to the family of the late Mr Gabe Bywaters. I knew him well, particularly as a friend of my father and mother, and more particularly as the minister of agriculture when I started my career as a young farmer. He was a good minister, and we respected him a lot and, as we all know, it is very difficult for Labor to dish up good agriculture ministers—we very rarely see it. In this instance, however, they did have a good minister.

The Hon. M.D. Rann: What about Terry Groom?

Mr VENNING: Also, the late Tom Casey was another good example of a good minister for Labor who got out and did the work. As you move around agricultural circles today. you will still see plaques and books, all sorts of things, with the name Gabe Bywaters on them. I think back with great respect for this man, whom I never saw as the Labor enemy. Indeed, I always saw him as a gentleman and a very good minister.

The member for Stuart is not present here today because he, too, is attending the funeral and wishes to express his condolences. So, on behalf of our family, and country people generally, we extend to the Bywaters family our condolences. Gabe was a very nice man and very much a respected gentleman and statesman.

The DEPUTY SPEAKER: I indicate to the house that the Speaker is attending the funeral today, not only as Speaker but also as a friend of the Hon. Gabe Bywaters. I advise that the condolence motion and the remarks of honourable members will be conveyed to the Hon. Gabe Bywaters' family, and I ask members to support the motion by standing in silence.

Motion carried by members standing in their places in silence.

[Sitting suspended from 2.27 to 2.35 p.m.]

SPEED ZONES

A petition signed by five members of the South Australian community, requesting the house to call on the Minister for Transport to make it a priority to review the 50 km/h speed zones, was presented by Mr Brokenshire.

Petition received

CITY OF CHARLES STURT REPORT

The DEPUTY SPEAKER: I lay on the table the annual report 2003-04 of the City of Charles Sturt.

UNIVERSITY, NEW

The Hon. M.D. RANN (Premier): I seek leave to make a ministerial statement.

Leave granted.

The Hon. M.D. RANN: A week ago last Friday I was in Pittsburgh, Pennsylvania to sign a heads of agreement between the State of South Australia and Carnegie Mellon University and its commercial arm iCarnegie, to work for the establishment of a new private university in South Australia. The heads of agreement, which were signed by me (as Premier) and the President of Carnegie Mellon University (Jared Cohen), will allow an intensive feasibility study to proceed over coming months with the objective of the new US-affiliated university commencing teaching and research programs in Adelaide by early 2006. The university would offer a combination of Australian and US degrees to full fee-paying students, with particular emphasis on the attraction of students from the Middle East, South-East Asia and China, as well as, of course, Australia.

I want to enunciate clearly why we are doing this. Having a modern responsive education system is vital to South Australia's future. This initiative comes directly from priorities identified in South Australia's strategic plan, such as:

- doubling South Australia's share of overseas students within 10 years, which would have a major positive economic impact on our state;
- having more of the academic programs that will help to take advantage of new economic opportunities, for instance, in the IT industry;
- increasing the efficiency of government through better training of our public servants given the status of Carnegie Mellon worldwide in the areas of public administration; and
- positioning Adelaide to be Australia's leader and to be known internationally as an education city.

We have three existing and very strong public universities. This fourth university will act as a vehicle to attract more overseas students and increase our exports of education services to the Middle East and Asia.

It is vital that South Australia dramatically improves its performance in attracting overseas students. South Australia's share of overseas students has been dropping in recent years, and the most recent data shows that the state had 3.8 per cent of national enrolments compared to 7.8 per cent of Australia's population. The new university, with its ability to offer US degrees, will help attract overseas students who would not have otherwise come here and position Adelaide as a leading international city of three strong public universities and an internationally recognised world-class private university.

I am confident that the new university, whose name is yet to be determined, will generate new opportunities for the existing universities to attract extra fee-paying overseas students. The state will, subject to outcomes of the feasibility study, back the new university including, by the passage of legislation, establishing the new university in statute.

I am also confident of support from the Howard government and from the business community which has, over a period of years, underlined the importance of further developing South Australia's performance and profile in a range of discipline areas that can boost our economy. The feasibility study is being carried out as a joint project between iCarnegie and the South Australian government. Issues such as how best to attract investors to the project, the name of the new institution and the range of degree courses which are to be offered will form part of the feasibility study.

It is anticipated that the new university will have a special focus on disciplines such as public administration, business management, economics and commerce, international studies and information technology, as well as, of course, computer science. A partnership with Carnegie Mellon will allow South Australia to benefit from that institution's world-class knowledge and expertise in such disciplines.

Carnegie Mellon (and this is the key point) annually ranks among the United States' top national universities, with its undergraduate business and engineering programs rated in the top 10. The School of Computer Science was ranked first amongst computer science programs in the United States in the 2002 US *News and World Report* magazine survey of graduate programs. Carnegie Mellon ranks highly in the US in areas such as artificial intelligence and robotics. Carnegie Mellon's H. John Heinz III School of Public Policy and Management is ranked eighth in the United States amongst schools of public affairs.

An honourable member interjecting:

The Hon. M.D. RANN: Yes, I think that Therese Heinz (who is married to John Kerry) has been one of the trustees because it is named after her late husband, Senator John Heinz. I am told that Gavin Moody—from what is known as Griffith University in Queensland—has claimed that the new university will take away market share and students from the existing universities. I believe the opposite is true: that this is an opportunity for all the existing universities to grow their business in international students.

Mr Moody says Adelaide fails to attract its share of overseas students and that they are attracted in greater numbers to other parts of Australia. That is the very point of this exercise, but he has not put forward any constructive suggestion for dealing with this. He seems to think that we should just put up with missed opportunities.

What I am about to say is quite controversial, and I do not want to be churlish, but Griffith University is hardly Australia's Yale or Harvard; and, given its lack of international standing, I can understand Mr Moody's defensiveness.

An indication of the exciting nature of the prospects for the university is provided by the calibre of those who, at short notice, have already agreed to act as trustees for the new university. They include the Director of the Royal Institution of Great Britain (Baroness Professor Susan Greenfield); former World Trade Organisation director-general and former New Zealand prime minister Rt. Hon. Mike Moore; Qantas Chair, Margaret Jackson AC; and the former deputy prime minister of Australia, Hon. Tim Fischer AC; as well as, I can say today, a number of very prestigious trustees soon to be announced.

I have been delighted by the support and cooperation for this project received from the foreign affairs minister, Hon. Alexander Downer. This initiative comes out of a discussion that Alexander Downer and I had on the first Ghan service to Darwin earlier this year. We have worked together over the subsequent months in a partnership on this project.

I am also delighted with the support of Mr Robert Champion de Crespigny AC in his role as Chairman of the Economic Development Board. Minister Downer has seen

that this should be a bipartisan project because it is so clearly in the interests of South Australia. This will be a huge coup for Adelaide, for South Australia and for the higher education sector in this state. All South Australia stands to benefit, and I hope (and, indeed, I am certain) that Mr Downer and I will have the support of those opposite when things progress.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Employment, Training and Further Education (Hon. S.W. Key)—

Construction Industry Training Fund Act 1993—
Section 38 Review—South Australian Department of Further Education, Employment, Science and Technology Final Report—July 2004.

QUESTION TIME

HOSPITALS, QUEEN ELIZABETH

The Hon. R.G. KERIN (Leader of the Opposition): My question is directed to the Minister for Health. Did the estimated costs of constructing the next stages of The Queen Elizabeth Hospital blow out to about $300 million from a previous estimate of $120 million? Has the government now without public notification imposed a cap of around $170 million as part of a major scaling down of the previously announced redevelopment?

The Hon. L. STEVENS (Minister for Health): I am always glad to talk about the redevelopment of the Queen Elizabeth Hospital, because it is the Rann Labor government that has put its money where its mouth is and redeveloped the Queen Elizabeth Hospital.

Mr Brokenshire interjecting:

The DEPUTY SPEAKER: Order, member for Mawson!

Members interjecting:

The Hon. L. STEVENS: In February this year the Premier announced a further $120 million for the redevelopment of the next stages of the Queen Elizabeth Hospital. Since that time the hospital itself has been working to establish just how the new plan will be rolled out and exactly what it will contain. That work is not yet complete.

The Hon. W.A. Matthew interjecting:

The DEPUTY SPEAKER: The member for Bright is out of order.

The Hon. R.G. KERIN: Minister, is it true that what was announced in February in relation to building works has been significantly scaled back?

The Hon. L. STEVENS: What is true is that $120 million extra was announced in February, and what is true is that since that time the Queen Elizabeth Hospital has been working on the actual details of those plans. That work has not yet been completed.

The Hon. M.D. Rann interjecting:

The DEPUTY SPEAKER: The Premier is out of order.

Members interjecting:

The SPEAKER: Order! I know it is getting close to the Christmas pageant and members are getting a bit excited. They need to contain themselves.

HALLETT COVE SEWAGE SPILLS

Ms THOMPSON (Reynell): My question is to the Minister for Environment and Conservation. What has been the response to sewage spills in Hallett Cove since 1998?

The Hon. J.D. HILL (Minister for Environment and Conservation): Like many residents in the southern suburbs, I was distressed and concerned by a recent power failure in the Hallett Cove area which caused yet another spill. Fortunately I spoke to my colleague the minister responsible for SA Water, who shared my concerns, and he passed on his concerns to SA Water, and I am very pleased to say SA Water responded very quickly. I can advise the house that stand-by power generators will now be established at three key pumping stations in the Hallett Cove area: at Reliance Road, Capella Drive and Alia Drive. That will cost SA Water around about $350 000. So that is a good response.

But I thought I would look to see what happened after other sewage spills in that area over recent years. I asked for advice about what had happened since 1998 so I could compare the behaviour of the former government with the behaviour of this government.

Mr Brokenshire interjecting:

The DEPUTY SPEAKER: Order, member for Mawson!

The Hon. J.D. HILL: The house will be interested to know that on 5 June 1998 there was a spill at Reliance Road pumping station of 260 000 litres of effluent which overflowed from the pumping station into the stormwater system; on 2 December 1999 an overflow of 6 000 litres at Capella Drive; on 2 December 1999, 42 000 litres overflowed from the Reliance Road pumping station; and on 17 December 2000, 2 000 litres overflowed at the Capella Drive station.

Mr Venning interjecting:

The DEPUTY SPEAKER: Order, member for Schubert!

The Hon. J.D. HILL: I am advised that these spills were not investigated by the EPA because at that stage it had not yet established its investigations unit. That compares with what we have done, because all of the spills that have occurred during our time have been thoroughly investigated.

Mr Venning interjecting:

The Hon. J.D. HILL: All of the spills that I have referred to were caused by power failures, in answer to the member for Schubert's interjections. The interesting thing is that at the time, the year 2000, the local member, the member for Bright, became Minister for Energy and was responsible for power outages in the state. The question has to be asked: was the then minister concerned about these spills?

Mr BRINDAL: On a point of order, sir: firstly, the minister is not responsible for the actions of any previous government; secondly, the minister is required to argue the substance of the question and not engage in debate.

The DEPUTY SPEAKER: I uphold the point of order. I think the minister is going through old material, if I can be polite.

The Hon. W.A. MATTHEW: I rise on the point of order that a minister should not mislead the house. The minister has advised the house—

The DEPUTY SPEAKER: Order! The member cannot allege that unless he is prepared to move in a substantive way. I think the minister needs to wind up.

The Hon. J.D. HILL: I was asked what action governments had taken since 1998 and I think it is important to get the record straight in relation to that. I have not actually got to what the member did or did not do; I have merely asked

the question, 'What did the member do?' I do not know how that is misleading the house.

The Hon. W.A. Matthew interjecting:

The Hon. J.D. HILL: You weren't minister for energy at the time?

The DEPUTY SPEAKER: Order! The house is degenerating into debate now.

The Hon. J.D. HILL: I do not want to over-promote the member for Bright—if he says that he was not the minister at the time that is fine with me. The question is: what did the local member have to say and what did the government do about it? I asked the EPA, and it has advised me that they have no record of any representations from the member about spills in this time. Similarly, there are no media reports of the member being at all concerned about these spills.

The DEPUTY SPEAKER: Order! The minister is now debating the question.

Mr BRINDAL: I rise on an additional point of order. It is not proper to criticise any member other than by substantive motion, and the implication of the minister is clearly a criticism of my colleague.

The DEPUTY SPEAKER: Order! The minister has concluded his answer.

HOSPITALS, ROYAL ADELAIDE

The Hon. DEAN BROWN (Deputy Leader of the Opposition): My question is to the Minister for Health. Has the estimate of the next stage—that is, stage 4—of work at the Royal Adelaide Hospital blown out to over $200 million, and has this meant that plans for what would be constructed in stage 4 have changed? If so, what are the changes? The May 2004 budget papers show that the next stage of the Royal Adelaide Hospital was due to cost $118 million and work was to have started in July 2004.

Mr Venning interjecting:

The DEPUTY SPEAKER: Order! The member for Schubert is not the Minister for Health.

The Hon. L. STEVENS (Minister for Health): Thank goodness for that, sir! It is always interesting to get a question from the former minister for human services when we are talking about capital works in our hospitals because, of course, he was the person who completely stalled the program. In relation to the upgrade of the Royal Adelaide Hospital, I do not have those details at my fingertips but I am happy to get an answer for the honourable member.

However, let me remind the house that when this government came to office the capital works program in the health portfolio had completely stalled. We had the Lyell McEwin Hospital and the Queen Elizabeth Hospital only half funded, we had our mental health facilities completely stalled—

Members interjecting:

The DEPUTY SPEAKER: Order! The minister is starting to debate the question.

The Hon. DEAN BROWN: I rise on a point of order. First, the minister is debating the issue.

The DEPUTY SPEAKER: I uphold that point of order.

The Hon. DEAN BROWN: Secondly, she is misleading the house. I do not want to have to move a substantive motion.

The DEPUTY SPEAKER: Order! The Deputy Leader has been here long enough to know that he cannot make that assertion. The minister was starting to debate the question.

INFANT HEARING SCREENING

Ms RANKINE (Wright): My question is to the Minister for Health. Is the government expanding the program for testing the hearing of newborn babies to ensure early intervention for those children found to have a hearing impairment?

The Hon. L. STEVENS (Minister for Health): I thank the member for Wright for the question, because I have today announced the expansion of the current program for hearing checks for newborn babies. This means that all newborn babies in South Australia are to get access to comprehensive hearing testing in the first few weeks of their lives.

The Hon. D.C. KOTZ: I rise on a point of order. Mr Deputy Speaker, I ask for your clarification. We have a motion on this very matter before the house, the debate on which has not yet been completed. Can you advise me how that motion sits, as it is a private member's motion seeking the government to do something about it, but the debate has not been completed?

Mr Koutsantonis interjecting:

The DEPUTY SPEAKER: Order, the member for West Torrens! Members should not pre-empt debate. It is somewhat of a grey area, and the minister needs to be careful and precise in her answer.

The Hon. L. STEVENS: Certainly, sir. The current program reaches about 35 per cent of the 18 000 babies born in South Australia each year, and this is going to be extended to reach all newborns by the end of 2005. This initiative, which is run by the Children's Youth and Women's Health Service, will cost an additional $826 000, bringing the total government commitment to the universal hearing screening program to $1.3 million. Early screening is the key to allowing children with a hearing deficiency to properly develop speech and language. Research shows that babies less than six months of age who are diagnosed with permanent hearing impairment and who—

The Hon. D.C. Kotz interjecting:

The DEPUTY SPEAKER: Order, the member for Newland!

The Hon. L. STEVENS: —receive intervention programs do significantly better than those who begin later. At the moment many of these children are being identified only at around 24 to 30 months, and that can cause a significant delay in speech and early learning.

The hearing test program has several stages. First, a midwife carries out the initial hearing screening as part of regular postnatal testing soon after birth. After discharge from hospital, a Child and Youth Health nurse follows up those babies assessed as needing a second or third test; this could be at a clinic or on a home visit. If a fourth assessment is needed, an audiologist then carries out comprehensive testing, using special equipment. Most importantly, the comprehensive database held by Child and Youth Health on each child enables ongoing monitoring of the progress of that child over the years.

The hearing screening program is part of Every Chance for Every Child, the framework for early childhood services developed by the state government, which we launched in November last year. Under Every Chance for Every Child, the state government has already committed $16 million over four years to implement universal home visits by Child and Youth Health nurses to all newborn babies. The home visiting initiative offers every parent a health check for their baby in the first few weeks of their life and ongoing family visit

support for up to two years for those who need it. The universal hearing screening program is a welcome addition to this program.

HEALTH, CAPITAL WORKS PROGRAM

The Hon. R.G. KERIN (Leader of the Opposition): Will the Minister for Health give an assurance that no other announced capital works programs in health will suffer or be delayed due to the blow-out in costs at both the QEH and the RAH?

The Hon. M.J. Atkinson: That's rather hypothetical, isn't it?

The Hon. L. STEVENS (Minister for Health): Exactly my sentiments; it is rather a hypothetical question. I will give an assurance to this house—

The Hon. M.D. Rann: We'll do a damn sight better than members opposite did.

The Hon. L. STEVENS: I will give an assurance to this house that, as the Premier has said, we will do a damn sight better than members opposite ever did.

SCHOOLS, INFORMATION AND COMMUNICATION TECHNOLOGY

Mr RAU (Enfield): My question is to the Minister for Education and Children's Services. What is the government doing in our schools to ensure that students have access to the latest information and communication technologies?

The Hon. J.D. LOMAX-SMITH (Minister for Education and Children's Services): I thank the member for Enfield for his interest in this new school program. The new $20.9 million EduConnect program is rolling out new broadband internet services to state schools and preschools. We have invested significant funds into this program to ensure that South Australian students have access to the most up-to-date information and communication technologies.

The first 25 schools and preschools are currently being connected to EduConnect, and a further 41 schools will be 'hooked up' during the next week. It is anticipated that all schools and preschools will be connected by early next year. The state schools and preschools involved will have a range of new educational opportunities available to them through this service, as well as more reliable and faster internet access.

I particularly want to mention those schools in the member's electorate which will have increased internet connection, namely, Ferryden Park Primary, Kilburn Primary and Enfield Primary. Of course, many of his constituents also attend Blair Athol Primary, Gepps Cross Girls and Gepps Cross senior schools. The EduConnect program provides the virtual classroom for many South Australian schools, enabling lessons to be conducted in real time over the internet, so that students can work together with other students around the state. The videoconferencing capabilities allow students to see and talk to each other as if they were in the same room. This is exactly the same technology that is used with such success at the School of the Air, and also for programs for children who have been excluded from school. Thousands of teachers will also benefit because currently their workshops, seminars and access to keynote speakers require them to drive considerable distances and give up a considerable amount of time. Now much online professional development will be available not only with financial savings but also allowing some of the material to be archived and used over time with newly recruited and learning teachers.

Another important aspect of EduConnect will be its high quality filtering of email content and internet sites. This new system offers considerable economic benefits because it allows partnerships with eight service providers who work across the state to increase service delivery, and that might be available to other users. Whilst this system does not replace face to face teaching it offers opportunities for children who have the tyranny of distance—

Mrs Penfold interjecting:

The Hon. J.D. LOMAX-SMITH: All schools in the whole of South Australia will be connected by next year.

SA WATER

The Hon. R.G. KERIN (Leader of the Opposition): My question is to the Minister for Administrative Services. Will the minister confirm that SA Water supplied a list of its customers to a UK company, Home Services Direct, and did this action have ministerial authorisation?

The Hon. M.J. WRIGHT (Minister for Administrative Services): I thank the Leader for his question. A number of issues have been raised about the Home Service Direct arrangement with SA Water. Indeed, I have asked a number of questions myself.

Mr Brokenshire interjecting:

The DEPUTY SPEAKER: Order, the member for Mawson!

The Hon. M.J. WRIGHT: I have been advised that SA Water has sought Crown Law advice, and once I receive that advice I will consider what actions, if any, are necessary.

The Hon. R.G. KERIN: I have a supplementary question. Will the Minister for Administrative Services confirm that the release of SA Water's customer database was governed by the Information Privacy Principles Instruction issued by the Department of Premier and Cabinet, and was it cleared by the government's own Privacy Committee?

The Hon. M.J. WRIGHT: I think I have answered that question.

Members interjecting:

The DEPUTY SPEAKER: Order!

The Hon. M.J. WRIGHT: There have been a number of issues raised. One of those is privacy. As I have said, I have also raised some questions myself to SA Water and, as I said, I have been advised that SA Water has sought Crown Law advice, and once I receive that I will consider what actions, if any, are appropriate or necessary.

SEATBELTS

Ms BREUER (Giles): My question is to the Minister for Transport. On South Australian roads over the last five years how many fatalities have there been where seatbelts were not worn?

The Hon. P.L. WHITE (Minister for Transport): It is a fact that research has shown that wearing a seatbelt significantly improves one's chance of surviving a serious crash, so knowing that something as simple as clicking on that belt can save a life or months of hospitalisation and trauma it saddens me to supply those statistics to the house. In the last five years, that is the five-year period 1999-2003 inclusive, 137 South Australians have died on our roads who

were not wearing seatbelts; 100 of those 137 died on rural roads. That is a lot—

Mr Venning: They are terrible roads; that's one of the reasons.

The Hon. P.L. WHITE: These are people who were not wearing seatbelts. The legislation for wearing seatbelts came in in the 1970s. Governments advertise on TV, and members may be aware that the state government has quite recently been running advertisements trying to get the message through that, in the case of a serious car crash, your chances of dying are greatly enhanced if you are not wearing a seat belt.

At the end of the day, however, governments can legislate, they can educate through the various means (electronic and otherwise), but everyone must take responsibility for their behaviour on our roads and communities must take responsibility for the behaviour of residents on the roads, because it is a fact that most of those people who died on rural roads were rural residents.

I have recently written to the mayors of all country councils to make them aware of those statistics and to ask them to join with the state government and their local police and communities to determine ways in which we might more effectively get the message through and stop this very dangerous practice. Meeting one of the recommendations of the Road Safety Advisory Council, the state government has joined forces with the Local Government Association and employed a full-time officer for a six-month period to work with councils and local communities to develop some effective initiatives and programs whereby we might improve road safety on a local basis.

At the end of the day, governments and local councils can only do so much: it is the responsibility of every single driver to make sure that not only are they safe on the roads but their behaviour on the roads makes it safe for everyone else.

PLUMBING INDUSTRY

Mr WILLIAMS (MacKillop): Will the Minister for Administrative Services advise what consultation he has had with either the plumbing industry or any consumer groups that led him to form his opinion that the proposed entry of Home Services Direct into South Australia will be advantageous for SA Water customers? The minister stated on radio 5AA in Adelaide on Thursday 4 November that 'the scheme sounds good to me.'

The Hon. M.J. WRIGHT (Minister for Administrative Services): The question basically related to the discussions that I have had with the Plumbing Industry Association. What I asked SA Water to do was meet with the Plumbing Industry Association because what I think is important—

Members interjecting:

The Hon. M.J. WRIGHT: No, some time ago. What I think is important here is that this particular service focuses on customers. For it to be a good scheme, obviously, I would hope that the Plumbing Industry Association was supportive of it, so I have asked the chief executive officer to meet with the Plumbing Industry Association to try to resolve some of the issues that exist. If this scheme is to be successful, it can only be so if plumbers sign up to undertake the work that is required. They are important issues that need to be resolved and I have asked for SA Water to meet with the South Australian Plumbing Industry Association to try to resolve some of those differences.

Mr WILLIAMS: As a supplementary question, will the minister tell the house when he asked SA Water to meet with the plumbers association? Was it before the mail-out? Was it when the government first approved this mail-out using the SA Water database or has it been since the public outcry against the scheme?

The Hon. M.J. WRIGHT: I do not have that precise date in my mind, but I am happy to get that.

Members interjecting:

The Hon. M.J. WRIGHT: I am not going to guess: I will get the date—

Members interjecting:

The Hon. M.J. WRIGHT: No, I do not. I do not actually carry that sort of detail in my head, strange as it may seem to a failed former minister.

DRUG USE MONITORING PROGRAM

Mr KOUTSANTONIS (West Torrens): My question is to the Attorney-General. What benefits have been found of the Drug Use Monitoring in Australia (DUMA) national research program?

The Hon. M.J. ATKINSON (Attorney-General): The Drug Use Monitoring in Australia (DUMA) national research program measures drug use among police detainees. More than 95 per cent—

The Hon. D.C. Kotz: I thought we didn't use that system in South Australia.

The DEPUTY SPEAKER: Order! The member for Newland is not the Attorney-General.

The Hon. M.J. ATKINSON: More than 95 per cent of detainees at the Adelaide City Watch-house and the Elizabeth Police Station cells participate in questionnaires and 80 per cent give urine samples. In 2003-04, 609 detainees were interviewed at the Adelaide City Watch-house and 618 at the Elizabeth police cells. DUMA's research is important because it gives us a snapshot of drug use trends in South Australia and links drug use and crime.

Law enforcement and health agencies use this research to: plan intervention in street level drug markets; develop health and safety warnings; and research and identify new drugs, drug markets and users. It gives us a valuable insight into drug use and availability as well as—

Ms Chapman: Which you do nothing for.

The Hon. M.J. ATKINSON: The member for Bragg is quite right to say that the government does nothing to promote drug use and availability; she is quite correct. It also gives us an insight into statistical and anecdotal information that supports law enforcement efforts and validates the role of the Drug Court. That is the court that the previous Liberal government left without recurrent funding in March 2002. For example—

Mr Brokenshire interjecting:

The DEPUTY SPEAKER: Order, the member for Mawson!

The Hon. M.J. ATKINSON: It was being evaluated, was it?

Mr Brokenshire interjecting:

The DEPUTY SPEAKER: Order! The member for Mawson is out of order. He will be warned in a minute. The Attorney-General will ignore—

The Hon. M.J. ATKINSON: The former Minister for Police—

The DEPUTY SPEAKER: Order!

The Hon. M.J. ATKINSON: —says that the Drug Court was being evaluated.

The DEPUTY SPEAKER: Order! The Attorney-General, if he defies the chair, will be sat down very quickly. The Attorney-General needs to wrap up his answer.

The Hon. M.J. ATKINSON: More than one quarter of all detainees reported that at least half their offending was drug related; more than one-third of detainees reported that they are dependent on at least one illicit drug; and half of all detainees said that they wanted to cut down their illicit drug use.

There is a strong correlation between drug use and property crime. Initiatives such as the DUMA research project identify detainees who commit crime to feed their drug habit. These detainees can then be steered through the Drug Court, which more appropriately deals with the dependency that is at the core of their offending.

The government recognises that we have an obligation to the public to stop these people slipping through the cracks in the system. As the Premier said in this place on 10 July 2002:

> . . . even if one in three offenders kick their drug habit, that is one less armed robber, one less housebreaker, one less car thief on the street stealing to feed a drug habit and helping to support a criminal network; that is one more member of the community—someone's parent or someone's child—getting back their life and contributing to society.

I commend the DUMA research project to the house, and I commend it to the obviously sceptical members of the opposition.

Mr Brokenshire interjecting:

The DEPUTY SPEAKER: The member for Mawson is out of order. The member for MacKillop.

PLUMBING INDUSTRY

Mr WILLIAMS (MacKillop): Again my question is to the Minister for Administrative Services. Does the minister agree with the Chief Executive of Home Services Direct that the standard of plumbing services in South Australia requires improving?

The Hon. M.J. WRIGHT (Minister for Administrative Services): No, I do not. In fact, I would say that those comments should not have been made, because I think that the standard of the work undertaken by our plumbers is excellent. I would hope that, in future, the Chief Executive Officer would take account of the good work undertaken by our plumbers. Maybe, just maybe, under the pressure of the media spotlight, he did not choose his words appropriately.

EMPLOYMENT INITIATIVES

Mr O'BRIEN (Napier): My question is directed to the Minister for Employment, Training and Further Education. What employment initiatives are being pursued in the northern suburbs to address areas of school shortage?

The Hon. S.W. KEY (Minister for Employment, Training and Further Education): Not only is this a good opportunity to thank the member for Napier for his question but also it underlines the advocacy that the honourable member performs with respect to employment programs for young people, particularly in his region; and I would like to commend the other northern suburbs members for the work they have been doing in what is a very difficult area.

I was at Dauntsey Reserve with the member for Napier last week launching a new extreme sports facility called the Rage Cage, which has been created by young unemployed people as part of the government's South Australia Works initiative.

An honourable member interjecting:

The Hon. S.W. KEY: Good; $100 000 for the Rage Cage initiative has enabled 12 formerly unemployed young people to gain hands-on experience by taking more than six tonnes of raw steel—

Mr Brokenshire interjecting:

The DEPUTY SPEAKER: The member for Mawson will come to order.

The Hon. S.W. KEY: —and turning it into a 25 metre by 19 metre facility, which caters for 12 sports, including basketball, skateboarding and rock climbing. The participants have developed valuable skills through experience, as well as the TAFE course they have been undertaking. Eight of the 12 participants have already been offered apprenticeships; and, I am sure, all members in this house will agree it is important that there have been some good outcomes with respect to apprenticeships for these young people.

At the launch, I also announced a $600 000 state government commitment to new targeted job initiatives in Adelaide's northern suburbs which will assist over 1 000 people into jobs where there are skills shortages. In addition, the state government has leveraged another $345 000 from local industry, community groups and local and commonwealth governments to support their 2004-2005 Regions at Work program for the local government areas of Salisbury, Playford and Gawler. This is a partnership approach with local communities to build ongoing skills, jobs and opportunities relevant to each region in areas of current and future skill need.

The Northern Adelaide Employment and Skills Formation (ESF) Network, involving local government, the Office of the North, TAFE, schools, commonwealth government agencies, local industries, employment agencies and community groups, has been formed and is closely working with the state government in delivering the Regions at Work plan. Initiatives being undertaken in the northern suburbs this year reflect the high demand of major industries in the region, including civil construction, automotive, retail, food processing, health and community services and hospitality industries.

These initiatives will help local people who are disadvantaged in the labour market to develop skills that will lead them on to sustainable jobs. The funds that I announced last week will support new employment initiatives in the northern suburbs, which brings the total of South Australia Works funding in that region since the start of the year to $3.3 million. Over $1.2 million of that money will be used to undertake Regions at Work initiatives.

Over the next few weeks, I will be making a number of announcements about the employment initiatives that we have developed as part of our Regions at Work program.

Mr Koutsantonis interjecting:

The DEPUTY SPEAKER: Order! The member for West Torrens is out of order.

SOS CHILDREN'S VILLAGE

Mrs REDMOND (Heysen): My question is to the Minister for Families and Communities. Will the minister explain to the house why the government did not continue to support the SOS Children's Village at Seaford Rise? SOS operates home-like care for needy children in 132 other countries in more than 300 cities around the world and has done so successfully for 55 years.

The Hon. J.W. WEATHERILL (Minister for Families and Communities): Well, thank you very much, because I have been wondering whether I would get an opportunity to correct some of the scurrilous misinformation that has been spread about by Mr Ellis Wayland on radio the other day, so I am very grateful to the member for Heysen for giving me that opportunity. I should just say as an aside that you should try and find a way of somebody telling you what the person who has come before you on a radio interview has said, because I would not be as generous as I was to Mr Wayland when I did get on to the radio and managed to get my point of view across.

It is an outrage to be blaming us, the union or anybody else in relation to the demise of the SOS Children's Village. What Mr Wayland might want to ask is: if this is the only country in the world that seems to be not able to have this program work it might have something to do with his management style and the fact that he has turned a group of volunteer mothers into militant unionists. He might want to ask that.

Mr Brokenshire interjecting:

The DEPUTY SPEAKER: Order, member for Mawson!

The Hon. J.W. WEATHERILL: What has happened is that with very short notice we were asked to intervene to pick up this village. So much for the welfare of the children—this man was prepared to drop these children out into very unknown circumstances and to break up sibling groups. Basically the government had to step in at very large expense and pick up the breach. That is what had to happen. We all know who invited this crew to town: it was those sitting opposite. They did over the wishes of the local community; they did without consultation with the local community; and they did not considering the sustainability of this model. It is all fine to be talking about mothers looking after kids, but these women were treated appallingly. They jacked up, they approached their union, and this mob left town and left us to pick up the can.

Mrs REDMOND: Mr Deputy Speaker, as a supplementary question, was the minister informed at any stage that SOS staff had voted at a union meeting to cease union action and specifically told the Australian Services Union to cease action on their behalf in the Industrial Commission for a pay rise and that the union ignored these instructions?

The Hon. J.W. WEATHERILL: I suspect that that is about as reliable as everything else we have heard in this debate. I met with Mr Wayland; I also met with the union; and I said, 'Can we get this back on the rails,' because it is a much cheaper model than the model that we use generally to actually keep children in this form of care. It was in our interests to sustain this model. It was also massively in our interests to make sure that this village was able to be sustained, because there were sibling groups that we knew we would otherwise have to break up and put into foster care. We were desperate to keep this model going. What those sitting opposite are prepared to underwrite are terms and condition of employment for people, Third World terms—that is why it might work elsewhere—Third World terms and conditions of engagement. These people were not unionists before Mr Wayland got to work on them. He turned them into unionists.

HOMELESSNESS

Ms CICCARELLO (Norwood): My question is to the Minister for Families and Communities. How is the state government working with the non-government sector to improve services to vulnerable South Australians, especially those who are homeless?

The Hon. J.W. WEATHERILL (Minister for Families and Communities): I am proud of being part of a government that has put homelessness at the top of its social policy agenda. I had much pleasure in attending a public function held by Anglicare on Friday to launch their appeal to get the remaining $2 million they are seeking to establish a 60-bed facility based on the successful model occurring in Bowden-Brompton for frail aged people within our community.

We are beginning to understand that special high needs housing is required for those people who find themselves at risk of homelessness—mental health issues, drug and alcohol abuse issues, and intellectual disability issues often confound one another and these people are finding themselves homeless. Not only is there a need for high needs housing and the special tenancy and landlord services that go with that, but also there is a crucial need to put the services into that housing to sustain people in their tenancies.

This project is a very worthy one. The government has put its money where its mouth is—$4.5 million has been put into this project. We have been asking for additional funding to be supplied by Anglicare, and they have made a commitment and are also now making this public appeal based on the very successful model that occurred at Bowden-Brompton. We ask all members of the South Australian community to get behind this very worthy exercise.

SOS CHILDRENS' VILLAGE

Mrs REDMOND (Heysen): My question is again to the Minister for Families and Communities. Will the minister confirm that the cost to taxpayers of running the Seaford Rise Childrens' Village will be $1.5 million per year with the additional cost of outside cleaners and outsider caterers—almost double the previous operating costs incurred when SOS ran the village?

The Hon. J.W. WEATHERILL (Minister for Families and Communities): I cannot confirm the precise amounts but it is a much more expensive model—that is precisely why we tried to keep it in place. The problem is that all the savings seem to have been taken out of the hide of the so-called 'mothers', treating these women as if they were slaves and not providing them with proper breaks—frankly, treating them disrespectfully. The only role we have played in this—

Mr Brokenshire interjecting:

The Hon. J.W. WEATHERILL: Not sensitive at all! What I am sensitive about is lies being told about our role in this exercise. We have been the knights in shining armour: we came in to rescue this situation. Basically, we had some dodgy model brought to town—they cannot get a foothold anywhere else in Australia because this model is not a sustainable one. They try to export it here; it is brought in without any consultation by those opposite; they come into town, manage to purloin a heap of government resources; and now they leave town and tell us, 'Here are 27 kids—look after them.' Basically, we were backed into a corner by this mob, and I cannot believe that those opposite are on their team.

BREASTSCREEN SA

Ms BEDFORD (Florey): My question is to the Minister for Health. Has there been an increase in the number of women taking advantage of BreastScreen SA services, and is the rate of mortality from breast cancer decreasing?

The Hon. L. STEVENS (Minister for Health): I thank the honourable member for Florey for this important question. The evidence is clear: if breast cancer is detected at an early stage, there is a much greater chance of successful treatment.

BreastScreen SA has achieved its most successful year on record, providing an amazing 71 574 screening mammograms in the last financial year. This is a record number, and nearly 3 000 more than in the previous year. Incredibly, next month BreastScreen SA will provide its 750 000th screening mammogram to the women of South Australia.

During 15 years of exceptional service BreastScreen SA has detected more than 3 860 breast cancers. The 2003 South Australia Cancer Registry report indicates that mortality from breast cancer is continuing to decrease in South Australia. Since the late 1980s the age-standardised death rate has dropped by approximately 20 per cent among women aged between 50 and 69 years. This is considered to be the result of mammographic screening and early detection within the target age group and improved treatment options.

BreastScreen SA now operates six clinics in metropolitan Adelaide and three mobile units visiting 27 country regions and nine metropolitan areas every two years—the recommended screening interval. I urge all South Australian women aged between 50 and 69 to have a free screening mammogram every two years at BreastScreen SA. BreastScreen SA also recommends that women ask their doctor for a physical examination every year. It is most important that, if women notice a symptom, they contact their doctor promptly to arrange further investigation.

HOUSING TRUST, RAINWATER TANKS

The Hon. D.C. KOTZ (Newland): Will the Minister for Environment and Conservation advise the house why water saving principles are not being followed by the South Australian Housing Trust? Rainwater tanks holding approximately 1 200 to 1 500 gallons of water have been installed in new Housing Trust units at Hectorville. However, on inspection, it was found that there are no outlet taps on the tanks. The tanks are being used purely as a collection point to restrict the flow of rainwater into the stormwater system. The new units have doubled the existing roof area, doubling the amount of rainwater collection flowing through the stormwater system, without any method of recycling or retention being applied.

The Hon. J.W. WEATHERILL (Minister for Housing): I will look into the question of the missing taps. I will make a full and detailed inquiry—

Members interjecting:

The Hon. J.W. WEATHERILL: No; it is a very serious matter and one of grave concern.

Members interjecting:

The DEPUTY SPEAKER: Order, the members for Bragg and Mawson!

The Hon. J.W. WEATHERILL: I will find those taps—I will search them out—and I will inquire as to why they are not where they are meant to be. This is a matter of grave public importance. This member is clearly campaigning for something. I do not know what it is, but she is campaigning hard against the causes—

An honourable member interjecting:

The Hon. J.W. WEATHERILL: That's right; the causes of taps. We will make sure that we get to the bottom of this matter.

MAGISTRATES COURT DIVERSION PROGRAM

Mr CAICA (Colton): Will the Attorney-General advise the house of the findings made in the recent evaluation of the pilot Magistrates Court diversion program?

The Hon. M.J. ATKINSON (Attorney-General): The pilot Magistrates Court diversion program began in the Adelaide Magistrates Court in August 1999. The diversion program is aimed at making sure—

Mr Brindal interjecting:

The Hon. M.J. ATKINSON: Will the member for Unley stop diverting me and the house? The program is aimed at making sure that people who appear before the court for summary or some types of minor indictable offences are exposed to treatment programs that lessen their offending behaviour. People accepted into the diversion program have their cases adjourned while a customised plan lasting six months is developed, involving referral to external treatment agencies and support services. Progress is monitored by a specialist team attached to the Adelaide Magistrates Court. The defendant must attend court for regular reviews by a magistrate especially assigned to the diversion court. Successful completion of the program may result in all charges being withdrawn.

However, in most cases a sentence is imposed that takes into account the defendant's successful participation in the program. I am pleased to inform the house that 69 per cent of people accepted into the program complete it successfully. Of these, 63 per cent have been diverted from the criminal justice system through the imposition of a simple bond or conviction without penalty, while 31.6 per cent have had their charges withdrawn by the police.

The Office of Crime Statistics completed an evaluation of the program in March this year and found that two-thirds of the people who had successfully completed the program by 31 December 2001 had not re-offended by December 2002. The reduction in offending applied even among people who had been classified as serious offenders before entering the diversion program. Of this group, 70 per cent had committed no further offences 12 months after completing the program. The small number of people who re-offended after completing the program committed fewer offences after finishing the program than they had during a similar period before starting the program.

These results indicate that the diversion program is achieving its aim of reducing offending by people with a mental impairment. The Magistrate's Court diversion program has become a continuing program in the Magistrate's Court jurisdiction because this government has funded it. As well as the Adelaide Magistrate's Court, diversion courts now operate in all four suburban Magistrate's Courts—that is, Port Adelaide, Christies Beach, Elizabeth and Holden Hill—and in three country courts, namely, Port Augusta, Whyalla and Berri. Rollout to another court is currently being planned.

GENERATIONAL HEALTH REVIEW

The Hon. DEAN BROWN (Deputy Leader of the Opposition): Does the Minister for Health agree that the state government instructed all country health regions to carry out clinical reviews and that the minister's own department recommended that the Riverland, South-East and Hills-Mallee regions use Carol Gaston for the reviews? Carol Gaston was the Deputy Chair of the Generational Health Review, which recommended to the government that there be a clinical review in each country region, and the government accepted that recommendation.

The Hon. L. STEVENS (Minister for Health): I am happy to answer this question. Step one: certainly, the Generational Health Review recommended that clinical service reviews be undertaken. It is important that people look at what they are doing where—

Mr Brokenshire interjecting:

The DEPUTY SPEAKER: Order! I do not know what the member for Mawson had for breakfast but it seems to be reacting badly.

The Hon. L. STEVENS: It is important that all of our regions look at what they are doing and how they are doing it and, most particularly, look at it in terms of, and take note of, their communities' needs and wishes. In terms of the second part of the question, the government had nothing whatsoever to do with the appointment of Ms Carol Gaston to any review in any other region and, certainly, in relation to any reviews that have been done by regional health authorities; those reviews have been auspiced by those authorities themselves.

I know that this is something that the Deputy Leader does not want to hear, and I know that he has been running around the country stirring up trouble, as is his wont. However, the fact is particularly that the Riverland Health Authority made an appropriate decision last week over a flawed report, and now the Riverland community will get on and work with the government, as always, with the view of improving health services in mind.

The Hon. DEAN BROWN: My question, again, is to the Minister for Health. Now that both the Riverland and South-East regions have rejected all of the recommendations of Carol Gaston's clinical review reports, is the government continuing with clinical reviews in other country regions?

The Hon. L. STEVENS: As I just said—and the Deputy Leader never listens—any clinical review is something that is auspiced by regional health services themselves. Why those regional authorities came to the decisions that they did in relation to the reports they received is a matter for them, and I suggest that he ask them.

HEALTH FUNDING

The Hon. DEAN BROWN (Deputy Leader of the Opposition): Will the Minister for Health—

Members interjecting:

The DEPUTY SPEAKER: Order! The Minister for Agriculture is out of order, as is the Minister for Education.

The Hon. DEAN BROWN: Will the minister confirm that there will be 27 pays this year in country hospitals, rather than the usual 26 pays and, when this is taken into account, will the hospitals have an effective, real 3 per cent cut in activity levels based on the funds so far allocated to country regions?

The Hon. L. STEVENS (Minister for Health): In relation to country health budgets, I have said on numerous occasions, both in this house and in the media, that draft budgets are out in the regions now; that there are cost pressures in the country; that the government and the department are working through to determine the exact quantum of those cost pressures; and that those matters will be discussed, as they always have been, even under the deputy leader, when we have the mid-year budget review.

The Hon. DEAN BROWN: On a point of order, the question was very specific: will there be 27 pays this year rather than the usual 26?

The Hon. L. STEVENS: In relation to the matter of the 27 or 26 pays, I will have to get that information. In relation to those and in relation to the mid-year review, in relation to the country budgets, members should just remember that the budgets in health in country and city have never been greater.

The Hon. DEAN BROWN: On a point of order, I asked a question of the minister about the 27 pays about four weeks ago and she promised to come back with an answer. She still does not have the information.

The DEPUTY SPEAKER: Order! That is not a point of order.

LEGAL SERVICES COMMISSION

Ms CICCARELLO (Norwood): My question is to the Minister for Multicultural Affairs. What has the Legal Services Commission provided in meeting the government's commitment to access and equity for non-English speaking background South Australians?

Members interjecting:

The Hon. M.J. ATKINSON (Minister for Multicultural Affairs): The member for Bright interjects 'Nothing', but he is wrong. About 20 per cent of South Australians were born overseas. Of those, about half are from non-English speaking background countries. People from non-English speaking background countries make up about 10.3 per cent of our population, and the largest communities in that group are those born in Europe and Vietnam. Our state is now experiencing new waves of migrants from areas as diverse as Africa, the Middle East and Asia. The Legal Services Commission has been committed to equity of access to services and has targeted special needs groups.

I am told that about 6 per cent of representation services are to clients from non-English speaking countries. However, about 18 per cent of face-to-face advice is from the same cohort. Services provided by the Legal Services Commission in 2003-04 targeted to our diverse communities included:

- Legal resources for Arabic and Dari-speaking women and the Sophia Centre (if I can help the opposition here, those who speak the Dari language are from Afghanistan, and the Dari language is related to the Persian language Farsi);
- Law Week displays at the Migrant Resource Centre; and
- Non-English Speaking Background Domestic Violence Action Group seminars promoting the Legal Services Commission to radio 5EBI community presenters.

The commission's 'Need Help' poster, which I think many members have in their electorate office, is produced in 21 languages. A free telephone legal advice service is given with a free interpreting service also in 21 languages, which include Albanian, Amharic—

Mr Brindal interjecting:

The Hon. M.J. ATKINSON: The member for Unley says, 'Who speaks Amharic?' and his ignorance would be

shared by nearly all members of the opposition. It is the principal language of Ethiopians.

The Hon. R.G. Kerin interjecting:

The Hon. M.J. ATKINSON: The Leader of the Opposition says 'Let's go back to taps, it's more interesting', and he gives a rubbishing to this service offered by the Legal Services Commission.

The Hon. R.G. Kerin interjecting:

The DEPUTY SPEAKER: Order! The leader is out of order.

The Hon. M.J. ATKINSON: I do not know about the Leader of the Opposition but, to communicate effectively with my new constituents, my new constituent and new citizenship letter needs to be in 22 languages.

The DEPUTY SPEAKER: Order, the member for Unley has a point of order.

Mr BRINDAL: Mr Deputy Speaker, as you know, it is disorderly to reply to interjections. It is even more disorderly to misrepresent interjections for the purposes of Hansard, and that is exactly what the Attorney is doing.

The DEPUTY SPEAKER: Order! Interjections are out of order. Attorney, have you finished your answer?

The Hon. M.J. ATKINSON: Mr Deputy Speaker, I hope Hansard has recorded some of the interjections from the members of the opposition—other than the member for Morialta, who has managed to maintain a dignified silence and obvious interest during this answer.

The Hon. DEAN BROWN: I rise on a point of order, Mr Deputy Speaker. This is just straight debate of the issue and has nothing to do with the answer whatsoever.

The DEPUTY SPEAKER: I think the Attorney-General needs to conclude his answer.

The Hon. M.J. ATKINSON: Those 21 languages include: Bosnian, Chinese, Dari, Greek, Italian, Khmer, Kurdish, Persian, Spanish, Thai, Tigrinia (which, for the information of the member for Unley, is the language of the hill people of Eritrea) and Vietnamese, to name a few.

The commission was also involved in a special project on 'Family law and culturally and linguistically diverse communities' that was funded by the commission and the Law Foundation of South Australia. The project partners are the Migrant Resource Centre and the Multicultural Communities Council. I am told that more than 130 community organisations were contacted as part of the project and community consultations have been arranged with members of our Middle Eastern and Asian communities. We hope the project will extend to African communities as well. The project is researching culturally appropriate ways that education about Australian family law (including domestic violence) can be delivered to our diverse communities, and to deliver training to workers in these communities.

While there is always more that can and should be done to improve access and equity for all South Australians, I am glad that agencies are taking measures to reduce barriers to services.

HOUSING TRUST, RAINWATER TANKS

The Hon. J.W. WEATHERILL (Minister for Families and Communities): I seek leave to make a ministerial statement.

Leave granted.

The Hon. J.W. WEATHERILL: I am grateful to the Minister for Tourism for assisting me supplement my earlier answer. Can I say that the sailing vessel *Fides* sank off Kangaroo Island in the 19th century, and it apparently sank with a full load of taps!

The DEPUTY SPEAKER: I take it that is a Watergate-type answer.

DRIVING TEST BOOKING FEE

The Hon. P.L. WHITE (Minister for Transport): I seek leave to make a brief ministerial statement.

Leave granted.

The Hon. P.L. WHITE: During question time on 27 October 2004 the member for Mawson asked me a question regarding driving test booking fees. In response to that question I made reference to a previous budget. I note that the wrong year appears in *Hansard*. In my response I was referring to last year, which is 2003-04, not 2002-03 as it appeared. I apologise for that error.

GRIEVANCE DEBATE

The DEPUTY SPEAKER: The question is that the house note grievances.

Mr BRINDAL: I rise on a point of order first, Mr Deputy Speaker. Any minister who makes a statement to this house does so by the leave of the house and I believe, unless you correct me, sir, that any member can withdraw leave. While I am a great admirer of the minister who just sought leave, he did it for a purpose other than contemplated by the standing orders. I think that matter should be considered or members on this side of the house—namely, me—will withdraw leave for ministers to make ministerial statements if they are going to do it for the purposes of levity and not for the information of the house.

Members interjecting:

The DEPUTY SPEAKER: Order! It is not a point of order. The question is that the house note grievances.

Mr BRINDAL: It is, Mr Speaker.

The DEPUTY SPEAKER: The member for Unley!

COUNCIL RATES

Mr BRINDAL (Unley): Mr Deputy Speaker, in the light of those interjections, I remind members opposite that, as someone famous once said, anybody who does not learn from history is bound to repeat its mistakes. It is on that basis that I wish to grieve today, because I want particularly to talk about the amalgamations of local government areas which occurred in the early days of the last Liberal government. I do so because rates and taxes are very much in the minds of all South Australians (most of us), because we find them spinning almost out of control and we are asked to pay what many of us and our ratepayers believe are excessive amounts. Again, today, as we speak, we are hearing people on the talk-back airwaves and coming into our offices saying, 'Look, the way to address this is to further amalgamate local government areas.' I put to you, sir, and to this house that one of the biggest mistakes made by the last Liberal government—

Mr Caica interjecting:

Mr BRINDAL: I was not the minister: Scott Ashenden was—was to encourage a piecemeal amalgamation of councils which made no sense and which resulted in some

very bastardised children. The argument put forward was: 'Jeff Kennett did it, therefore we should do it.' However, we did not want to impose it, so we put a carrot and stick approach which resulted, I believe, in the worst of all possible worlds. The fact is that we got councils to amalgamate where councils saw it in their own best interests (and, I would argue, in some cases where CEOs saw it in their best interests), and that resulted in what the council boundaries were. It did not work.

Certainly, it did not produce the efficiencies which were looked for and which were promised; yet we see the public and some of us in here (because of the fact that bigger is supposed to be more efficient), the same group, making the same mistake again: 'This is not working, what can we do? Let's amalgamate some more councils.' If it was wrong then, if it did not work, and the member for Heysen is standing up and saying (only to be criticised by her own councils for saying it) that the resultant council up there is neither efficient nor working particularly well (surely a matter for the opinion of a member of this house), for this chamber to contemplate going down exactly the same road which was such a mistake 10 years ago is idiocy indeed.

I think it was a mistake in principle which was made at the time and from which we should learn. Certainly, there were better alternatives which were not properly investigated. The fact is that in the UK there is a system which provides small governance—as small or as large as you want—and efficiency of service, and they do so by providing shared service provision.

Ms Ciccarello: We used to do it.

Mr BRINDAL: The member for Norwood says, 'We used to do it.' Perhaps that is a lesson from history which was not a mistake and we should pick it up again. The principle would be that, say, in metropolitan Adelaide there might be two providers of all council services. There might be 30 councils, but each of those councils would seek service provision from a large service provider. They would provide everything from the cleaning staff at the council meeting rooms to the secretarial help at meetings, to cleaning the streets and doing whatever it is the council decides to do once a year when it sets the rates it wants from its ratepayers.

Simply, each year, the service provider provides a list of services and what they cost per resident, per household; the elected council works out the services it wants per household; and it buys those services on a yearly basis from the service provider and sets the rate accordingly. In that way you get shared service provision across large areas—but local governance, as small or as large as you want. Although I do not say that is a foolproof system, I do say that that system has, in my opinion, then and now (because I argued that way in my party room at that time), ensured a better chance of success than simply going down the line of saying, 'Council amalgamations did not work last time, they will work next time.' It is non-sequential. It does not make sense. Just because we made a mistake previously does not mean we should next time.

Time expired.

RETIRED UNION MEMBERS ASSOCIATION

Ms BEDFORD (Florey): On 31 October I was delighted to be invited to attend the Retired Union Members Association's (RUMA) 20th anniversary celebration luncheon where speakers from the past and present came together to remember comrades who struggled in the trade union movement and who still provide us with inspiration and incentive, especially for young workers today. The concept of a retired union members' organisation was first decided upon as far back as 1978 and received Trades and Labor Council support in 1984 when RUMA became an incorporated body.

Listening to Laurie Kiek as he spoke, I realised that, whilst the issues of today are very different, the principles of workers standing by each other in solidarity will forever be the same. I would like to share with the house some of Laurie's words from that day. Laurie was asked to say something about the history of RUMA. He was directed to RUMA in 1981 by Don Dunstan via the then secretary of the UTLC, Bob Gregory, a very good friend of RUMA and a former Labor minister in the Bannon government. The secretary of RUMA was another fine man, Mick Wing. Laurie recalled with sadness the day when Mick bravely came to his last meeting to say goodbye, knowing that he had an inoperable brain tumour.

Laurie also acknowledged Ernie Chimes (the then editor of the newsletter), along with Fred Warman (a former treasurer) and George Patterson as president. Laurie spoke passionately about the recent federal election result and the talk of Howard and Costello savouring the prospect of attacking what is left of workers' rights and, in particular, the decline over the past decade in trade unionism and the loss of hard-won gains by his generation and those before him. He reminded us that job security, long service leave, paid holidays and so on are now largely part of the past as casualisation, part-time work and individual contracts aimed at destroying union solidarity are now part of today's industrial landscape.

He referred to RUMA as being a small part of the Labor movement and said that its members belong because it is their union—part of the wider union movement. It is a movement that has been part of Laurie's life for 70 years. His personal perspective has ranged from that of worker in a non-union shop through to secretary of one of the biggest unions in the state. Laurie came out of school in the middle of the Great Depression. Australia was most vulnerable because it depended on exports and foreign investment. The Labor movement had declined and Lyons (the then Labor prime minister) was about to form what became the Liberal Party.

These were the years of 33 per cent unemployment and the plan to cut all wages by 10 per cent and devalue the currency by 25 per cent. Incidentally, reaction was ringing internationally then, as now: the Fascist invasion of Spain was on and Hitler was already a great threat. It was in that context that he served on the Committee of the Movement Against War and Fascism in 1935. There was no unemployment benefit then, but there was a food ration worth four shillings and tuppence for a family's groceries for a week. A huge demonstration in Adelaide demanded the inclusion of meat in the ration. A serious riot happened when the police attacked the demo, but in the end they did win their beef. Another battle occurred over rent work where wages were paid direct to landlords, but at least there the families were not being put out onto the street.

Laurie spoke of his work at Harris Scarfe, at Newton McLaren, on the production line of the AZ Radio shop, and at Richard's Chrysler-Dodge (now Mitsuibishi). During his time at AZ, he worked his way through a degree at Adelaide uni and became a teacher. When he returned from the war, wages had not improved and housing was almost non-existent. There appeared to be little prospect of promotion as

a teacher. It was then that he was elected as a councillor in his union.

Laurie spent a long time in the education union, eventually rising to the rank of secretary and becoming a life member. He is proud that many of the fights taken on by the union put teaching on the industrial map, with the education union not only the largest union in South Australia but also one of the unions with an organised and vocal rank and file. Laurie continues to be an inspiration for union members and those within the Labor Movement.

RUMA is a formidable group of retired union members who epitomise the passion of workers and workers in the movement. South Australia must avoid becoming the industrial poor cousin of Australia: a state of low pay, widening inequities, deteriorating work conditions, with an increasingly insecure work force and an inadequate safety net. The Industrial Law Reform (Fair Work) Bill in its current form takes a modest step forward in the right direction. I am disappointed that those opposite want to avoid the opportunity and need to bring South Australia's industrial system into step with the rest of the nation and the reality facing today's workers. Their resistance to the bill and fear of fairness is baseless.

PAYNEHAM RSL

Mr SCALZI (Hartley): I rise today because I am proud of what Payneham RSL has bestowed upon me in making me an affiliate member at their annual dinner on 30 October. I would like to thank its President Clarrie Pollard and the state representative who was there, Berry Nyman. It was in the presence of the member for Norwood, and Mayor Laurie Fioravanti. That was made possible because my brother Luca Carmelo did national service in Western Australia in 1959.

I was privileged that Payneham RSL asked me to be a member. It is a great branch. To me it is a great honour and a privilege for someone who was not born in Australia, for someone whose father served in the Italian army and actually fought against the Australians in Tobruk and was captured by the Australians there. It just shows what a great democracy we are not only that I can be a member of parliament, which is a great honour and a privilege, but also that the RSL can accept me as their member. I do not think there would be many other countries where democracy would be practised to this level.

As many of you would be aware, I was pleased to have assisted the Payneham RSL over the controversy of JP Morgan and the former Payneham Civic Centre site in enabling the Payneham RSL's Cross of Sacrifice and Memorial Garden to be saved. Given the recent announcement of JP Morgan about the loss of its work force, it is even more important that at least we saved the Cross of Sacrifice and Memorial Garden.

As I said, I thank the Payneham RSL—in particular its President, Clarrie Pollard, and Basil Burne, its Vice President—and all its members for the great honour that they have bestwoed on me. The Payneham RSL is a great club with its involvement in the community, holding the essay competition for East Marden, Vale Park, Trinity Gardens and St Joseph's Payneham, which has now been expanded to St Francis of Assisi and St Joseph's Hectorville. It awards prizes of $50 a year to the student who writes an essay on the significance of Anzac Day. On Remembrance Day (and it will happen again this Thursday) the students who participate in the ceremony are invited back to the clubs. It is a very successful club that integrates into the community.

A few years ago I was also privileged with the help of one of its members and former mayor, Ray Williams, to have one of the former Italian consuls participate in the Anzac Day ceremony. This year the consul, Dr Simone di Santi, was at the Anzac dawn service at the Payneham RSL. It tells us a lot about our democracy in the way the RSL is welcoming members. I am privileged to have been invited to be a member. I thank them for the honour and the privilege they have bestowed on me as an Australian born in Italy. I can think of no greater honour.

STATE EMERGENCY SERVICE WEEK

Ms RANKINE (Wright): Yesterday I was very pleased and honoured to attend and launch South Australia's State Emergency Service Week. State emergency services play a very vital role here in South Australia in supporting our community in times of crisis and often in times of personal tragedy. Our community has great confidence in, and relies very heavily on, our emergency services. They expect the same level of professionalism and competence, whether they are professional or volunteer services.

The State Emergency Service is primarily a rescue service. It is a highly skilled rescue service. We saw at the launch yesterday a small demonstration of a number of those skills. I was impressed with the abseiling that took place in the hall that we were in down at the showgrounds. The SES also play an important and integral role in working with other emergency services: the police, the MFS and the CFS. In launching State Emergency Service Week yesterday, I mentioned the role they played at the tragedy out at Salisbury a couple of years ago, the accident that occurred at the interchange out there, where we had all of our services on hand working together to support and help those involved in this very tragic accident.

There is no arguing that in times past there has been some friction between the different emergency services; there has been some preciousness. With a change of leadership styles within our services and certainly under the leadership of our current minister, we are seeing friction and preciousness being replaced with a sense of cooperation, respect and, very importantly, pride. Indeed, one of the volunteers yesterday made a heartfelt tribute to both the minister and the new chief executive officer, David Place, for their vision and commitment to the service and also their willingness to listen to and involve volunteers in steering the State Emergency Service into the future.

I often hear a couple of things from volunteers, and I also made mention of this yesterday. I often hear them saying, 'I have just been a member of the emergency service for 10, 20 or 30 years.' No-one should downplay that level of commitment. I said yesterday that this sort of dedicated service, the help they provide to people in the most distressing of circumstances, is not devalued by those people and they should not devalue what they do as well.

I also very often hear people say that they get more than they give, and to some degree that is true. People do gain a lot from their involvement in the State Emergency Service, in particular, and that was reinforced in my discussions with the volunteers yesterday—they know that they make a difference in the community, they have a real sense of belonging, they learn and develop skills, they make great friends, and they have a great deal of fun. A lot of what they

are required to do is not glamorous but it is important; a lot of what they do is hard work but it is also very rewarding.

One of the volunteers from the Tea Tree Gully brigade was talking about her involvement in a search for a little boy, and the great sense of satisfaction and joy felt when they found him safe and well. The State Emergency Service has something like 2 000 volunteers across our state who involve themselves in the rescue services, the dog squad, and also the horses—and I was not personally aware that they had horses that are, apparently, housed up at Kapunda.

Yesterday was also the launch of the new strategic plan, and they also recently launched a recruitment drive—which, I have no doubt, will be successful. We saw very strongly yesterday renewed enthusiasm and pride amongst the volunteers, and we know that enthusiasm is very contagious. State Emergency Service Week is an opportunity to honour these volunteers for the magnificent work they do and for all of us to learn a little more about what it is that they actually do. I understand last year that they attended something like 4 000 calls. We also need to show appreciation for their families because they also give up a lot to support those volunteers.

Yesterday's launch was incredibly impressive, and I would like to congratulate David Place and his team on a great launch and wish them all the very best for their week of celebration.

TAMAR WALLABIES

Mr MEIER (Goyder): Last week a species that has been classed as a specific noxious animal in New Zealand, namely the Tamar wallaby, was released in Innes National Park in my electorate. It is very difficult to understand how the minister, the Hon. John Hill, could make a decision to release what has been described as a specific noxious animal into a national park which is adjacent to extensive farming land. I expressed concern about this over year ago now, I think—I certainly questioned what the government was doing—and it was pretty clear right back then that the government were determined to continue on their course of action to release the Tamar wallaby onto mainland Australia.

Most members would be aware that many years ago the Tamar wallaby existed on mainland Australia—and certainly in parts of South Australia—but it had died out. In fact, some species were taken to New Zealand and those have now been brought back to Innes National Park. Not only am I concerned that a specific noxious animal has been released, I am equally concerned that no proper preplanning has been undertaken by the government. The minister has made it clear that the Tamar wallabies will be monitored and watched for the next year, and it appears that they have radio tracking collars on them so that they can be recaptured. May I suggest that if they do breed, as wallabies can, in a similar way as rabbits do from time to time then there are going to be a lot of wallabies without collars—unless they are incorporated into the DNA of the animal, and I suspect that is not the case.

And, obviously, how they are going to capture the animals anyway in 12 months time, if they find that they could become a pest, is going to be a topical issue because there is basically only one way to capture them and that is to shoot them—and we have seen what the reaction is when it is suggested that koalas are shot to contain their numbers. I suggest the same reaction would occur with Tamar wallabies. The government has certainly not thought this situation through, and the farmers in the immediate area are exceptionally concerned about it—indeed, it is not only farmers in the immediate area because I believe some 46 or so farmers have indicated their total opposition to the release of the Tamar wallaby.

We should also think of visitors to the area as well. Two things that have, unfortunately, become a bit of a hazard on Yorke Peninsula are kangaroos and wombats. I have been fortunate enough to only hit one kangaroo in my time, but that certainly put my car out of action for some time. I know of other people who have hit kangaroos and if you hit a wombat, as a good friend of mine did recently, that certainly puts the bottom end of a car out of commission. I suggest that hitting a Tamar wallaby—and I realise that they do not get very high—could do a reasonable amount of damage to your car. So, we are releasing something into the wild that is not going to assist with the tourist aspect.

I express not only my own concern but also the concern of many of my constituents who have serious reservations and who have asked that, at the very least, a proper management plan is determined and put forward. And that management plan must include the control measures that will be undertaken if it is found that the Tamar wallabies are breeding beyond what is expected. They have indicated that the foxes might keep the numbers down but they have also said that they will have an extensive baiting program of foxes, so I suggest there will not be too many foxes shortly and that will eliminate one of the major predators. Has the government thought through what will occur if there are no predators?

INSURANCE INDUSTRY

Mr RAU (Enfield): Today I want to say a few words about the insurance industry. In particular, I want to pick up on the so-called insurance crisis about which we have heard a great deal in the last couple of years. As members would recall, the universe as we understand it was about to fall apart unless we passed a raft of draconian amendments to the common law in order to make it more difficult for people who have been injured by tort fees to recover any sort of damage. I said many times during that debate that I was very surprised indeed that the debate had not focused on what is perhaps the more important issue of why the insurers were in this mess. The mess was not one caused by greedy plaintiffs, or stupid judges or lawyers: in fact, the mess had a great deal to do with the way in which the insurance industry conducted itself.

I am raising this matter now because some of that legislation is still floating about and has yet to be enacted and, before it is enacted, I think it is important that we all understand very carefully what has happened to the insurance industry. I want to provide the parliament with some information which comes from the ACCC and the reports provided by the insurers as part of their public reporting obligations over the year ending 30 June 2004. I want members to listen to some of the following information:

QBE Insurance. . .
- net profit for the half year up 33% after tax to $320 million. . .
- Australian net earned premium up 13% to $767 million. . .

IAG Insurance. . .
- Net profit for the full year up 335% after tax to $665 million. . .

SUNCORP Insurance Full Year Results.
- Net profit up 61% after tax to a record $618 million.
- Insurance profit up 100% to $465 million. . .

PROMINA Insurance Half Year Results.

- Net profit after tax up 51% to $204 million. . .
- Investment income on shareholders' funds increased to $96 million from $54 million.

I have run through only a few of them. A summary of the ACCC's third monitoring report finds the following:

- Public liability premiums increased by 17% in 2003. From 1999 to 2003 average premiums have risen year on year 10%, 19%, 44% and 17% respectively. This equates to a 90% increase in the average public liability premium in the last four years.
- The frequency of claims has declined—

and I underline the word 'declined'—

from 24 559 in 1999 to 15 894 in 2002, a reduction of 35%. . .

- The net combined ratio for public liability insurance in the years 2001 to 2003 has been 112%, 85% and 79% respectively.

What does this mean? The net combined ratio is the ratio of total costs versus premiums. A ratio of above 100 indicates an underwriting loss, while a ratio above 100 indicates an underwriting profit. This data indicates that underwriting public liability insurance has been a profitable business since 2002. For every dollar taken in premiums in 2003, insurers expect to pay out 53¢ in claims. The average size of claims settled in real terms increased 41 per cent from 1997 to 2002.

What has been the impact of the government's reforms? Of the eight insurers, all but one indicated that they had observed a fall in their claims frequency. However, all seven of these insurers indicated that the fall in claims frequency was more likely to be attributable to factors other than the reform. In other words, these reforms were completely unnecessary. The second thing is that some insurers expect that the impact of reforms will begin to become apparent only in 2005. Think of the greater profits they will be making then—and still with no reductions in their premiums.

I will conclude on this fantastic note of honesty from Dallas Booth, Deputy Chief Executive of the Australian Insurance Council, as reported in the Australian *Financial Review* on 27 August this year. He said:

After suffering significant losses, insurers did not need tort reform to help them try to return profit in the liability market.

Why did we do all that to the tort law?

INDUSTRIAL LAW REFORM (FAIR WORK) BILL

Adjourned debate on second reading.

(Continued from 13 October. Page 395.)

The Hon. I.F. EVANS (Davenport): I indicate to the house that I am the lead speaker in relation to this bill. The house will be pleased to know that I do not intend to explain every issue in relation to this bill, because that would take many more hours than the five hours for which I have previously spoken with respect to other matters. However, I will make a reasonable contribution in relation to some of the more important matters and principles contained in this legislation and then tackle some of the other matters in detail during the committee stage.

The opposition opposes this bill: it will be opposing it at the second and third reading, and we have a significant number of areas where we have indicated opposition to the amendments proposed by the government. The bill seeks to reform the industrial law, which is, of course, all about the relationship between employees and employers and workers in general. In the opposition's view, this bill seeks simply to put more regulations and hurdles in the way in which the business community goes about employing their staff and operating their businesses.

The only people that have called for this particular reform is the union movement. No one else out there has put their hand up and said, 'We want to try and re-regulate the labour market,' or 'We want to make the relationship between employers and employees more complex.' No other group has done that other than the UTLC, the union movement, and so the only reason that the parliament is debating this bill is because of the stranglehold that the union movement has on the Labor government. The union movement sees it as an opportunity to use the government's numbers to force through reform so that the relationship between employer and employee becomes more favourable to the union movement. Now the reason that the union movement wants it to become more favourable is that union membership over the last 10 years has absolutely nosedived, as a result of industrial relations reform, and as a result of industrial relations law at a federal level and, indeed, at a state level, that empowers employees to make choices, and when the employees have had a choice, they have voted with their feet, and they have not been seeking to maintain the union membership. The union membership, as a result, has plummeted and there is something like, only 17 per cent, I think it is, of the private sector work force who are now members of the union.

So what is the union's response to that? The union's response is to try and bring in reforms through Labor governments, which they fund to the tune of millions of dollars each election campaign, and they seek out of the government reforms that will give unions advantage in the workplace, give unions the opportunity to promote their wares throughout the workplace, whether or not the employees want that promoted to them or not. So, the opposition strongly opposes this bill because we believe that it is not good for employment, it is not good for business and, as it is not good for employment, by definition it is not good for employees.

It seems to me that the government missed the point that every time there is a regulation put on business, and a disincentive put on business, you create an environment where ultimately there will be less employees than there could have been, and this bill will deliver that outcome. There have been something like 21 or 22 business associations, possibly more, throughout the state, that have commented on the bill, and I will not go through every single submission because we would be here until next Christmas, but every single business association has canned the bill, both in its draft form and in its final form. Every single business association says that there is no need for this particular legislation and, in essence, through a whole variety of reasons, each specific to their own industries, they do not support this legislation.

So why are we here debating it? We are here debating it because this is, ultimately, the pay-back to the unions; the commitment from the government to try and bring in legislation to meet the union's agenda, that is really the only reason that we are here. No-one else has been out there, no employer, no employer organisation other than the union's, has been out there saying that we should be reforming the industrial relations system. Now if you listen to the union movement, and we need to paint some context of this debate, the union movement says that this bill and, indeed, the draft bill, did not go far enough. We will remember those com-

ments from the union movement because all of the business community, I think, is concerned about what is ultimately the union's agenda. We know that it is something worse than the bill, and we know that it is something worse than the draft bill, both of which the union movement says have not gone far enough.

So this is clearly phase one of a wave of reforms that will be promoted by this administration, either during this term in government, or in the next term of government if they are successful at the 2006 election. It seems to me that the union movement has an unusual approach to industrial relations, if you listen to their argument they say something along these lines: the growth of employment over the last 10 years has been in casual employment, has been through the labour hire industry, and has been through contract employment, and through enterprise bargaining arrangements. The union movement then says, 'This is outrageous, that employment has grown in these areas.' The question needs to be asked, why? Why is it so bad that someone gets a job under an enterprise bargaining arrangement, a contractual arrangement on a casual basis, or through a labour hire arrangement?

I would have thought that the concept of promoting employment through any of those avenues, if someone can secure employment, give themselves an income, provide themselves and their family with a good quality of life and financial independence, it should be encouraged through any of those particular avenues and, indeed, under the other avenues available through the act. But the union movement seems to have this fixation that somehow these other measures, the casualisation of the work force, or contract employment, particularly sub-contracting, and labour hire arrangements and, indeed, to some extent, enterprise bargaining arrangements, are somehow a worse form or a poorer form of job. Apparently all the good jobs only come under the more traditional award based system that the union movement is familiar with, and comfortable with.

So I ask the question: 'What does the union movement think has happened in those 10 years?' Why have employers moved to employ under a casual system, or an enterprise bargaining system, or a contract system, or through labour hire? And the answer to that from every employer organisation that you speak to, is that employment has become too complex. Employment has become more risky than it needs to be.

Therefore, like any other person involved with risk, the employers will park themselves in a safer haven, whether that be through casual employment, through labour hire, through enterprise bargaining arrangements that bring flexibility and benefits to both parties, or whether that be through other means. The reality is that the union movement, through continually asking for more and more regulation of business, has delivered this result of its own making. Prior to entering politics I ran a business, and I understand the issues of the small business community. I know what it is like to mortgage your house and be reliant on that next sale. In my case, it was the building industry, when we were subcontractors. You rely on winning the next contract to pay your mortgage, feed your kids, or whatever the expense may be.

We then went into retailing, and I know what it is like there in relation to sweating off on the next sale to see how the business would perform. I think the union movement does itself a great disservice, and indeed does its members a disservice, by seeking a more complicated, more costly and more rigid industrial relations system. The reason why I believe that is that it actually promotes fewer employees, which means fewer opportunities for the union to get members. The union could get more members if there were more employees but, right across Australia, the union movement has continued to argue for more regulation and more conditions to be placed on businesses, which only drives businesses to a point where they either will not employ any more or, as with many family businesses I know, they will only employ within the family, because that reduces your risks on a whole range of matters, or they simply cap their employment at a certain number and will not expand the business any further because they cannot be bothered with the risk.

Something like 67 500 small businesses are registered with Australia Post, but I think there may be about 80 000 registered with WorkCover, and if you speak to them the message is clear and consistent: 'For goodness sake, get the regulator off our back. As a business community we are sick to death of being over-regulated.' That is the message that small businesses are giving us. Every business submission basically makes that point. During the lead up to this particular debate, the minister put out a draft bill. Because my concern is primarily with small business, since I think the bigger associations look after their membership pretty well and I was concerned about the small to micro businesses not understanding what the government was about to deliver them, I decided I would survey every small business registered with Australia Post.

So, I organised a survey of 67 500 businesses statewide, went through and analysed what the government was proposing in the then draft bill, and sent it out to every small business in the state.

Mr Hanna: Including my electorate office!

The Hon. I.F. EVANS: Including electorate offices. It was an open and transparent process: no-one could accuse me of hiding those things. It was interesting to get the response, because the Premier in question time stood up and said that the survey was comical, as I recall it. It was interesting to see that the small business community was not laughing: it just could not get the joke. Every time I spoke to someone in the small business community, whether it be in the electorate of the member for Heysen, the member for Flinders, the member for Kavel, the member for Hartley, the member for Newland, the member for Morialta, the member for Fisher or the member for Morphett—it did not matter which electorate we spoke in—none of them was laughing.

When I explained that this was meant to be funny, not one of them saw the funny side of it. We got back 2 591 responses, to be exact. And what do they tell us? Essentially, 89 per cent said that the draft bill should be defeated. While some of the clauses have been taken out, many of them are the same, so it gives us a good guide. So, 89 per cent wanted the bill to be defeated and 2 per cent wanted it to be passed. I suspect that some of those might have been in the electorate office of some MPs and also some union offices that were surveyed. I promised the ex-union officials who raised it with me that I would be honest and say that 2 per cent said the bill should be passed. 1 per cent said that the bill was positive so, even though 2 per cent said it should be passed, only half of them thought that it was positive, which is interesting; 87 per cent thought the bill was negative; 86 per cent thought that it would increase business costs; 80 per cent said that it would be harder to employ; and 77 per cent said that it would create unemployment. What the government is floating, even in its final bill, which I acknowledge has been amended, is a piece

of legislation that the business community wants defeated, and that is why we are taking that position.

The business community says that the bill is negative, that it will increase costs and make it harder to employ and, indeed, to create employment. Why would the government proceed with a bill if that was the feedback from the small business community? When you look at the feedback from the major associations—whether they be Business SA, the wine industry, the printing industry or the motor traders—they are all opposed to it. We are not embarrassed at all. In fact, we are very proud of our position of standing up for the small business community and the business community generally in relation to this bill because, frankly, we think the bill should be thrown out since very little in it is positive in the way of creating employment. We think that industrial legislation certainly should be fair but that it should have a focus on getting as many people jobs as possible. That should be a thrust of the legislation.

Mrs Geraghty: Properly paid jobs.

The Hon. I.F. EVANS: Yes, 'Properly paid jobs', says the member for Torrens. We think that when people are in work they are better off because it gives them financial independence, and a lot of things flow from that.

To go into some background of the bill, it comes from the Stevens report. The Stevens report was given, without tender, to the former ALP state president and former deputy commissioner, I think, from memory, Mr Stevens, to look at and review the industrial relations system. Mr Stevens went about his work and released the Stevens report, which was, in some aspects at least, even worse than the draft legislation.

As a result of the Stevens report, the minister went about getting a piece of draft legislation, and on 19 December 2003, when everyone was heading off to their Christmas parties and holidays, the minister slipped the bill out in the middle of the afternoon with a quiet press release saying that it was out for public consultation. That was a good start to the consultation process. At every Christmas drinks session the minister was widely—and, I think, fairly—bagged for daring to release it on basically the last Friday of work before Christmas. It really was poor form on the part of the government to release it at that point.

Of course, the bill then had a very short consultation period, and the business community had to go to the government and say it was outraged not only that it was released just before Christmas but also that the consultation period was too short because a lot of its IR people were going on holidays—as you do at Christmas—and it would be unfair for the business community to try to comment on the bill. So, ultimately, the minister gave an extended time for consultation and came up with the bill as we now have it.

In fairness to the government, the bill differs from the draft bill that was put out for consultation. The major change is that the unfair contracts jurisdiction that was proposed in the draft bill has been withdrawn, and we think that is a good thing. I note that the member for Mitchell has some amendments that try to reinstate, in part, the unfair contracts jurisdiction (or principles around that matter). We will not support those amendments because we do not see a role for the commission in an unfair contracts jurisdiction. The unfair contracts jurisdiction, of course, gave the commission the power basically to look at any contract of employment and its widest possible application, and then ultimately to be able to alter any clause in a contract and even pick up retrospective contracts. We saw that as a very negative impost on business, and it would have created enormous uncertainty.

I went to Queensland as part of my research in relation to this bill and other matters, and spoke to the business community there. Queensland has an unfair contracts jurisdiction, and people there absolutely bagged that jurisdiction. We are therefore pleased that the government has withdrawn it.

From memory, in Queensland, a number of issues have arisen in relation to the unfair contracts jurisdiction, and we are pleased that the matter has been withdrawn—although we note there is a different approach to a similar issue about declaratory judgments. That is a slightly different issue and I will come back to it.

The other issue that was withdrawn related to labour hire and their being paid the same rates of pay in relation to EBAs and awards at the various employer sites. The other issue, of course, related to awards in relation to unsafe work practices, and so forth. Those three areas were taken out of the bill and a range of other matters have been put into it as a result of the consultation process.

There has been a lot of consultation with business associations, on both the draft bill and the final bill, and I want to thank the business associations that have communicated to the opposition their concerns about the bill. We certainly received the message very early that it was the business community's view that the bill should be defeated in its entirety, and we have maintained that consistent position from very early on in the process. In fact, some in the business community described the original draft bill as unamendable in terms of getting it back to any form that would be acceptable to the business community. So, that is again the reason why we have adopted the position of seeking to defeat this bill either at the second reading or third reading stage.

Mrs Geraghty: What about the bit in the bill protecting children who are working? Do you want to defeat that as well?

The Hon. I.F. EVANS: The member for Torrens asks about the bit about protecting children. If she reads the wine industry's submission about that clause she will see that it is not as clear cut as the legislation suggests. We have no problem with the concept of children being protected, of course, but the member might want to look at what the wine industry says about that matter and at what happened in Victoria in regard to children working on farms, because that created an issue for the government there. No-one on this side of the house is saying that children should work in an unsafe environment. We are not arguing that. The member raised the matter by way of interjection.

I return to the consultation process. To some degree, I had to laugh when the Industrial Relations Society of South Australia held a briefing. The minister came along and gave a speech in relation to the bill and then left. I do not criticise him for that (I have done the same thing), because I know that he has other commitments. However, it was interesting that the public servants who were then giving the briefing on the bill let slip that part of the bill, at least, was to target the transport industry. That probably would not have mattered too much right at that point except that sitting in the audience were two or three of the biggest players in the transport industry or their representatives who, naturally, from that point on were very concerned about the motives behind this bill.

Why a government would want to try to take on the transport industry through such a piece of legislation is only for it to justify and others to guess. When we asked the

minister whether he could confirm or rule out that those comments were made, he sought to answer the question without really doing so. I therefore think we all know what that means. The transport industry has run a very good campaign through its association and through its industry to try to alert people to the impact of the draft bill and, ultimately, the bill.

The opposition will be moving a series of amendments and opposing many things that are proposed in the bill, primarily as a result of two sources of encouragement. The first is from a survey of small businesses that we conducted, as well as feedback given to us on the bill from the small business community everywhere we have gone. At the last count, I think I would have spoken about the bill to more than 5 000 people at business breakfasts, lunches and whatever, as well as chamber of commerce functions throughout regional South Australia. The feedback universally has been that the bill is a disaster, and they want nothing to do with it.

Secondly, all business associations, whether they be through Business SA or all the other associations that have communicated with us, have uniformly bagged the bill and said that it should be defeated. We very much represent those interests in relation to this bill.

I want now to touch on some aspects of the bill. I think that the committee stage of the bill will be fairly complex and, as part of the debate, I want to run through some of the issues which relate to the bill itself and which need highlighting. I think that a bill is in trouble when the business community cannot even agree to its title.

Again, uniformly, they laugh at its title, the 'fair work' bill. There is nothing, the business community believes, in this bill that lends itself to the argument that the legislation should be called the Industrial Law Reform (Fair Work) Bill. The business community has even asked us to seek to amend the short title. When you cannot even get past clause 4 of the bill (amending the short title), you know that you are in trouble. It is interesting that that is the level of concern within the business community.

We on this side of the house do not underestimate the angst that exists within the business community. It has had a reasonable run with the federal economy. Australia's economy is running pretty well, and that is not by accident: it is because organisations are confident about their businesses and are confident to employ. We see anything that undermines that situation as a negative; and, certainly, the business community sees this bill as a very big negative in relation to those aspects.

I think the objects of the bill show something of the government's philosophy and that of its supporters. The effect of the wording of one of the objects in the bill is to provide security and permanency in employment—

Mr Koutsantonis interjecting:

The Hon. I.F. EVANS: You might ask my colleagues about that. It seems that the government had this view that anything other than permanent employment is somehow a poorer form of employment. My wife works casually, and she absolutely loves it. It suits her lifestyle. With four kids and taking into account my role, we are a fairly busy household. Casual employment suits her down to the ground, and there are lots of people like her.

I accept that lots of people do not like casual employment. However, I do not accept the argument that everyone wants, necessarily, permanency in employment or that everyone on casual employment is against it. It is interesting that one of the objects of the legislation will be that the Industrial Commission and Court will be asked to promote and develop the concept of permanency. Facilitating permanency in employment is, I think, generally the thrust.

To my mind that illustrates and underpins a philosophy that somehow these other forms of employment are a lesser form of employment. I am not sure whether that is the view of the community. It might be the view of industrial relation practitioners, but I am not quite sure whether it is the view of the broader community in this day and age.

We are not convinced that an object of the bill should be 'to encourage and facilitate membership of representative associations of employees and employers and to provide for the registration. . . '. We do not see that it is the role of the act or the system to promote the membership of a business association; and we do not therefore see it as their role to promote the membership of a union, either. If a business association is not good enough to attract members of its own initiative and performance, bad luck. It should not be the role of the system to do that. Neither should it be the role of the system to promote union membership. We think that if the unions are good enough people will join them. If their services are good enough people will join them. We do not see that that should necessarily be part of the objects of the legislation.

Another object of the act, section 3(m), is to be amended so that it reads:

> (m) to help prevent and eliminate unlawful or unreasonable discrimination in the workplace. . .

The words 'or unreasonable' have been added to the existing object. This will create some uncertainty within the business community and the system generally. What is an unreasonable form of discrimination, given that it is not unlawful? The act already covers unlawful discrimination. So if discrimination is already unlawful, on what basis does it then become unreasonable? By the sound of this object, you can have unreasonable but lawful discrimination. That will create some uncertainty within the business community and lead to more disputes about what is unreasonable discrimination, and unreasonable in whose view becomes the issue.

These objects that we have talked about are examples of where the government is making the system more complex than it needs to be. We certainly support what is currently in the act; that is, 'to help prevent and eliminate unlawful discrimination in the workplace'. We have no argument with the current object, but suddenly to put unreasonable as something different from unlawful makes one wonder what is the government's intention. It would be interesting for the minister to give us some examples of what he sees as unreasonable but lawful discrimination as part of his response to the second reading contribution.

Another example of where the bill becomes unclear as to what is meant and very much open to interpretation is the proposed section 3(ca), which provides:

> (ca) to meet the needs of emerging labour markets and work patterns while advancing existing community standards. . .

I am not sure how that fits with permanency in employment, the other object, because the emerging labour markets are those about which I have spoken: the labour hire market and the casual labour market. They are the emerging labour markets. In fact, they are emerging so strongly that the union movement seeks to cap them. One object is to meet the needs of the emerging labour market; another objective is to

facilitate permanency in employment—I am not too sure how those two marry together.

The other part is to meet 'work patterns while advancing existing community standards', whatever that means. What is an 'existing community standard'—a community standard in relation to what? I am not quite sure how that is to be interpreted or what they are even driving at. Without wishing to be too pedantic about the matter, these are the objects that all the rest of the clauses come back to and are considered against in relation to the bill. When the commissioners are making their decisions, they come back and look at the objects to get some guidance in relation to these matters.

The government seeks to bring in another object:

3(p) to support the implementation of Australia's international obligations in relation to labour standards—

These are the International Labour Organisation's conventions. It wants to bring them in by regulation. We do not necessarily see them as part of the legislation. We accept the submission of Business SA and the business community that these conventions are there to inform the law, not necessarily be the law. We just make the point on behalf of the business community that we would prefer that those not necessarily be part of the legislation, particularly the regulation making power which allows the minister to bring into the act any other ILO convention which might be passed and which the minister may have a whim to bring in.

The minister on his trip to Geneva, I think it was, met with the International Labour Organisation. He might want to share with the house what suggestions they were making about what might next be on the agenda for International Labour Organisation conventions.

As I have mentioned the International Labour Organisation, I should say that I went to a very good conference in Canberra run by the Australian contracting association, with Ken Phillips and Bob Day, on contract employment and subcontracting. Peter Anderson from ACCI spoke on the International Labour Organisation and where its conventions are heading. You could pick up the draft fair work bill, the unfair contracts jurisdiction and the whole attack on contracting; that is the long-term agenda at the international level, which should be a concern to all of us. We do not accept the regulation making power for all those reasons.

The definitions are also amended. We have a whole range of concerns in relation to those amendments. For the benefit of the member for Torrens, I will just read what the wine industry said about the definition of 'child', as follows:

The inclusion of a definition for 'child' is new and did not form part of the December 2003 consultation bill. 'Child' means 'a person who has not attained the age of 18 years.' The Wine and Spirit Industry (SA) Award states that no person under the age of 16 years will be employed.

So the wine industry has already taken a stance that no-one under 16 will be employed. It continues:

Therefore, in the wine industry's case, employees aged 16-17 years will be potentially subject to Schedule 9 [of the] Worst Forms of Child Labour Convention. Because they are under 18 they are a child, therefore 16 and 17 year olds working in the wine industry will be subject to this convention.

While the majority of this Convention is understood and thankfully is not a feature of the South Australian working life, Article 3(d) will potentially be an option for prosecution of employers under this proposed bill as well as the Occupational Health Safety and Welfare Acts.

In part, article 3 states:

For the purposes of this Convention the term the worst forms of child labour comprises:

(d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

Unfortunately incidents relating to health and safety can and do happen in the workplace. In this case, an incident involving a 16, 17 year old working in the wine industry will potentially expose an employer to a breach of the proposed bill. If the same incident happens for an 18 year old the proposed bill will not be breached.

The wine industry is concerned with this definition and the link to the ILO Convention and how in practice it might be applied.

Employers were considering this issue based on the example given in the December 2003 Consultation Bill of children selling confectionary door to door.

So, the government has consulted regarding these laws in relation to children working on the basis that it was all about kids selling door to door. That is one issue but, now that a child is defined as anyone under 18, that means that, in the wine industry's case, anyone who is 16 or 17 could be caught by that ILO convention and that raises some concerns for the wine industry. That is just one example of how bringing these other matters in complicates employment for business—it creates uncertainty, and with uncertainty comes cost for the business—and how some of these matters can get out of hand.

The definition of 'industrial matter' under section 4(1) is also broadened to include a matter that relates to:

the rights, privileges or duties of an employee or employees (including a prospective employee or prospective employees).

This creates a new right for an individual employee to notify the IRC of an industrial dispute, so it will not have the collective element that currently exists within the act. If you accept the business community's argument this will ultimately lead to more third party intervention, more arbitration, more regulation, more disputes and higher labour and business costs. Again, just another issue that the business community needs to deal with.

It is interesting that they have also sought to redefine the workplace, which has been refined since the draft bill. Ultimately, the definition of workplace really relates to union access and ultimately—through this new definition and other amendments in the bill—it allows union officials and workplace service inspectors to enter homes where part of the home is a place where an employee goes while at work. If a part—for example, a study—is principally used for work then inspectors and union officials may enter that part, presumably via a thoroughfare through the whole. Ultimately, this will encourage disputes about whether part of the house is principally used for habitation or not. So, again, it is giving the unions greater access. They have tried to come up with a system of exempting the home without really exempting the home and it has simply made the whole thing very complex. No doubt it will be open to dispute and argument as part of the whole debate.

The definition of family intrigues me:

family—the following are to be regarded as members of a person's family—

(a) a spouse;
(b) a child;
(c) a parent;
(d) any other member of the person's household;
(e) any other person who is dependent on the person's care;

This will be open to argument all the time throughout the process because the definitions are very broad. In terms of 'any other person who is dependent on the person's care', how formally does the carer relationship have to be? Does a person actually have to be formally appointed the person's carer and be in receipt of a carer's pension or whatever; or is

it simply that my friend, who lives on their own on the other side of town, is crook and I am looking after them? It is going to be somewhere in between those extremes and the reality is that no-one will know until it is tested in the commission. Again, it is just another level of uncertainty that the business community has to deal with.

I am also unsure how 'any other member of the person's household' will be defined. If that includes anyone who happens to be living at the household then I assume the university student from overseas or someone on vacation will be covered by that. And I am not sure of the definitions of 'spouse, child, or parent'. The bill says, 'a spouse, a child, a parent', but I am not sure that it should not read, 'their spouse, their child, their parent'. There is a difference in relation to those particular definitions.

Regarding the peak entity, that has been defined as follows:

peak entity means—
(a) the Minister; and
(b) the United Trades and Labor Council; and
(c) the South Australian Employers' Chamber of Commerce and Industry Incorporated;

There are two things we raise here. First, we do not know whether the word 'and' should be there—it is probably meant to be 'or' otherwise it is a collective of all three, and I am not sure whether that is the intention. Secondly, we would prefer to see a list of peak entities put in regulation. We do not accept the argument that the UTLC should be the only union able to take certain action under the relevant sections of the act, and we do not see that Business SA should be the only business group taking certain action—we think any union or business association should be able to perform that role. For instance, if it is a motor trades issue why should the Motor Trades Association not be able to take that up? So, we will be seeking some amendments there to allow the minister to bring that in through regulation.

To get to some of the more controversial sections of the bill: we will deal with these more in committee so I will flash through them a bit because it is not my intention to deal with these in the house for any longer than I need. In relation to clause 7, 'Declaration as to employment status', this will ultimately allow the court to make declaratory judgments about whether or not a person (or a group of persons) is an employee. This is basically the second go at trying to get a deeming provision into the legislation somewhere in South Australia. The previous deeming provision was in the draft bill, and that was the provision that came out of Queensland. In Queensland, they have had three cases in relation to deeming contractors as employees. One was the shearers, which the shearers won: they are deemed to be businesses, not contractors. The case spent 18 months in court, and it cost $350 000 just for businesses to prove that they were businesses.

Another case was in relation to security officers in the hotel industry, where they were deemed to be employees—one day they were running their own independent contracting businesses; the next day they woke up and were, in effect, employees. The third one was in relation to the transport industry, which has been parked in the 'too hard' basket because there is no direction under the Queensland legislation about what happens to assets owned by someone who is a contractor one minute and an employee the next, and there are some tax effects.

So, the deeming provisions included in the draft bill were removed, and now we have this new provision called 'a declaration as to employment status'. In a nutshell, it will basically allow the court to make a declaratory judgment as to whether someone is a contractor or an employee. We oppose that proposal for a whole range of reasons. It is an attack on contracting, and this side of the house does not have a problem with the subcontracting industry. We strongly support the subcontracting industry, and we do not see a need for this provision in the bill.

A number of clauses relate to the outworker provision, and we will come to those in more detail later. However, the provision put by the government in relation to outworkers seems to be very complex. We note that 'cleaning' has now been added to the definition of 'outworker'. No doubt, that will cause some concern for those in the cleaning industry.

In relation to the appointment of commissioners, the way I understand the bill the government will allow the current commissioners to serve out their time and then all new commissioners will get tenure until the age of 65. The opposition has always opposed tenure for commissioners. We would argue that, if future appointments to the commission will get tenure, the current appointments to the commission should be offered tenure, and we have drafted amendments to that effect.

The next area of concern is clause 21, which amends section 65 of the act. This is in relation to general functions of inspectors. The powers of inspectors are expanded beyond the investigation of complaints. This, of course, is not supported by the business community. Indeed, in our view, the government has failed to make the argument as to why these powers are necessary. This will ultimately allow for audits and systematic inspections by the Workplace Services inspectors to monitor compliance with the acts, awards and enterprise bargaining agreements and will require employers to deal with another layer of audits and inspections that will ultimately drive up business costs and interfere with business to some degree.

The success of these sort of inspection programs really depends a lot on personality and the relationship between the inspector and the business; it depends very much on the approach and style. The current legislation, which has been in place since 1994, requires inspectors to respond to complaints. It seems to us that the current act works well and is well accepted. Very few people, other than the union movement, have raised this matter as needing reform. So, in relation to the general functions of inspectors, we do not think the government has necessarily made an argument as to why the powers of inspectors should be broadened.

In relation to clause 23, 'Form of payment to employee' I think this is where the government really misunderstands how a simple concept can go so wrong at the business level. The government seeks to penalise a business $3 250, maximum penalty, or $325 expiation fee, if the business fails to comply with the requirements of section 68(2) or (5) of the act. This section deals with the manner in which payment must be made to employees. In particular, it provides that payment must be made without deduction, unless authorised in writing by an employee. In theory that sounds fine, but it means that an employer would not be able to offset amounts owed by the employee, and that has always been the technical position at least. So, if an employee owed the employer some monies they could offset it through their payment, it might be through an account or some other reason that they owe money.

For instance, when I had paint shops, the staff would run staff accounts. It seems unusual that you could not offset that

against the salary paid. So, ultimately that means that the employer would be prevented from doing that unless it is in writing, and if they happen not to get it in writing then you are going to be up for a maximum penalty of $3 250 or an expiation fee of $325. It is just another example of putting a regulation in place—to what end ultimately—other than to make life more difficult than it needs to be. Then they seek to bring in a whole range of amendments in relation to minimum standards, and the bill extends minimum standards to anyone covered by a contract of employment, whether or not covered by an award or enterprise bargaining agreement. This, of course, includes people who would be covered under declaratory judgments as being employees. So, irrespective of whether an award applies or not, minimum rates would be in force.

Business SA put the position that this will have the potential to impact not only on the ordinary employment, as we call it, but also on the more informal employment such as volunteer or sporting clubs, and even gardeners and baby-sitters, and those sort of things. With due respect to the union movement, they went out and said that Business SA was scaremongering on that issue. When we had a brief with the minister's own advisers here two weeks ago they confirmed that to us, that they could not rule that out. So, I think that Business SA was right in that respect under that particular provision. The bill goes through and brings in no earlier than two-year reviews for a whole range of leave provisions—sick leave and carer's leave, bereavement leave, annual leave, etc.—all subject to review but no quicker than two years from the previous setting of those particular leaves. In relation to sick leave and carer's leave, they will be able to take carer's leave out of accrued sick leave, and from memory it is five days per annum that that is allowed under the particular provision.

Then we come to a section that causes the business community some concern and that is the setting for minimum standards on additional matters. Basically, the bill gives the commission the right to establish:

> . . . any other standard that is to apply as to a minimum standard to all employers and employees.

So, you have your minimum standards and then they can come in through the process and make another minimum standard that applies to anything that someone might want to apply to the commission for. Again, that is a right given to a peak body, and I made some comments about peak bodies earlier in my submission. So that raises a whole range of concerns for the business community.

The commission can establish a minimum standard which would apply to all employers and employees. The range of matters which can be covered by the standards is not defined. The full commission can exclude an award from the ambit of the standard and the minimum standard prevails over a preceding award to the extent that it is more favourable. The contract of employment will be construed as if it is incorporated into minimum standard unless the contract is more favourable to the employee or the contract provisions accord with the award or enterprise bargaining agreement.

The commission will also be asked to set a minimum standard in relation to severance pay, and I will come to that in a minute. The industry groups do not support the setting of minimum standards for additional matters because they say:

> There is no clear rationale for the providing that a minimum standard can override a preceding award. The range of matters which may be covered by a standard is not defined, is capable of being broad ranging, and applied to all employers and employees.

In relation to severance pay they say:

> No case has been made for allowing an individual commissioner to award greater or lesser payments than the standard. If a standard is to be permitted and established, certainty would warrant it be of general application.

With severance pay, which is clause 72B, the bill sets up special provisions relating to severance pay, it allows people to make submissions in relation to the full commission establishing a minimum standard for severance pay, and then later on in that provision it says that they can alter the standard for severance pay and it need not be made by a full commission. So, the full commission sets the minimum standards in relation to severance pay and then, in altering the standard for severance pay, it does not need to be the full commission. So, you have to wonder why you have the minimum standard at all; just go into the commission and let the commission set the standard, and best of luck with what comes out the other end.

So, again, it is a complication, and the uncertainty—does the minimum standard apply in relation to severance pay or does it not? The answer is, 'No-one knows,' because you can go to the commission, you can be overturned by, not the full commission, it can be overturned by something less than the full commission. Again, it is the uncertainty in relation to that in the mind of business. Then, under clause 31 of the bill, which amends Section 75 of the Act, the minister seeks to bring in multi-employer agreements; enterprise bargaining agreements that deal with multi-employer agreements. Some would argue that this is a form of patent bargaining. The business communities do not support it as a rule. The business communities that have communicated with us do not support the concept of multi-employer agreements.

We then get to what I call best of luck bargaining. The minister calls it best endeavours bargaining, others on his federal caucus would call it good faith bargaining, but I call it best of luck bargaining, because the way that this particular provision is drafted is a nonsense. It is just laughable. I do not understand how this provision got through the drafting process, through cabinet, to reach the house for debate. It goes something like this: the parties to the negotiation must use their best endeavours to resolve the questions in issue. So, in the first line there are four questions. How do you know when negotiations have actually started? Who are the parties to the negotiations? What does 'use their best endeavours' mean? And how do you know what questions are at issue? The bill tries to answer some of those questions as we go through.

This is interesting. The bill says that the parties to the negotiation must meet at reasonable times and reasonable places for the purpose of commencing the negotiations. So, no discretion: they must meet. Once they meet, one would assume that the negotiations have started. Once the negotiations have started, there is no opt-out clause in this provision. You are on a train to arbitration. The union movement must be laughing its head off with this provision, because there is no opt-out clause. So, first you must roll up, you have to be there; it clearly says that. Once you are there, you cannot opt out and, if you cannot agree at the end of the day, after all the bluster and bluff, the commission can arbitrate.

If you are a negotiator who thinks that the commission is going to give you a better hearing than the employer will, you just sit there and sit there until you get to arbitration and take your chance. The business community is totally opposed to

this provision. I will go through more of the issues in committee, but I call it best of luck bargaining because any business that entered the enterprise bargaining process with this provision would be dead in the water as far as a negotiating position goes. You have to roll up for the purpose of commencing the negotiations and then, once you start negotiating, you have to use your best endeavours to resolve it. You must state and explain your position on the questions at issue. I do not know how you explain that no means no.

Ultimately, you must disclose relevant and necessary information. What does that mean? What does 'necessary and relevant information' mean? I know what the argument is going to be. The argument will be, 'We can't afford a 5 per cent increase', and the union will say, 'You can afford it. We want you to disclose the relevant and necessary information, as in trading figures, profit and loss statements, financial information that proves you can't afford it.' Ultimately, businesses will be asked to disclose their financial information to the process as part of this best endeavours bargaining. So, we are opposed to that. We do not see that that should have to happen. It would be like the business owner saying, 'We don't think you need a 5 per cent increase so why don't you show us your mortgage and everything and we will judge whether you can actually live on the salary you have.' It has nothing to do with the business owner and, ultimately, the financial information has little to do with the union movement.

People will not disclose the 'relevant and necessary' information, certainly the financial information. It is ridiculous. Apparently, they must act openly and honestly in negotiations. They must not alter or shift ground in the negotiations by capriciously adding matters for consideration. If you go through the whole best endeavours bargaining process here, it simply will not work. It will be an absolute disaster for business, and this clause is one of the areas in which the business community is strongest in its opposition.

Proposed new section 76A(6) provides that the commission can make any determination in relation to any matter that the parties have failed to resolve during their negotiations. The trick is, if you have a favourable commissioner, you would sit there and say you are not happy with this, you are not happy with that, and you take your chances in arbitration. That is why I call it best of luck bargaining, because, to anyone who goes down that path under this bill, all I can say is 'Best of luck.' As an employer, I would not be going down that path although, under the bill, I do not know whether I actually have a lot of choice.

We then get to clause 35 of the bill, which amends section 81 of the act, the transmission of business provision. The government will say that the federal legislation has transmission of business provisions and therefore we should support these provisions. We all know that the federal legislation has a whole range of other matters and protections in the legislation that this bill and, therefore, this act do not have. The transmission of business provision means that when a business is sold the enterprise bargaining agreement automatically transfers to the new business and, as the new business owner, you can take the enterprise bargaining agreement to the commission and ask it to alter it.

However, you cannot do that if it disadvantages the employees. To me, that does not make a lot of sense, and I am not arguing that everybody who buys a business wishes to disadvantage the employees—far from it, because they need the employees to make the business work. But there are such circumstances in this state. In the member for MacKillop's electorate I think the meatworks went through a process of buying the business and changing the enterprise bargaining arrangement. I think the meatworks at Murray Bridge (T&R) might have done the same thing, and I declare that my son worked at T&R for six months. I think the same things may have been done there.

It seems to me that this bill says if you want to buy a business and the business is in trouble you cannot change the staffing cost structure because the enterprise bargaining agreement prevents it and, if you go to the commission, you can change the enterprise bargaining agreement as long as it does not disadvantage the employees. Well, sometimes you have to say to the employees, 'We are all in this together and, if we do not change the way we operate the business, we will all be out of work.' That is prevented under this bill. It seems to be a nonsense that a provision does that.

The other aspect is you might have the situation where you own three paint shops and want to buy a fourth paint shop. The three paint shops might be under one enterprise bargaining arrangement and the fourth one under a different enterprise bargaining arrangement and you may want to bring them together. But, if the new shop had a different enterprise bargaining arrangement than the existing three, you cannot change them back because it disadvantages the staff. So you cannot make it uniform. It seems to me that it complicates the business environment—and for what purpose, for goodness' sake? I do not see the benefit of this particular provision, and it creates more issues than it solves.

I know other members will say that when you buy a business you inherit the lease. That is true, but I think the enterprise bargaining arrangements are a completely different matter. The problem with this provision is that it is all post signing to buy the business, and it is difficult to read where you can buy a business subject to an EBA being renegotiated as part of this process. I am not sure where the new employer fits into that process.

We then come to clause 38, which is about the power of the commission to vary or rescind an enterprise bargaining agreement. Again, this just makes it more difficult and less certain for businesses to operate. Essentially, a party to an enterprise bargaining agreement, an employee bound by the agreement or a registered association with at least one member who is bound by the agreement may apply to the commission for an order to rescind the agreement. So, a union with one person can suddenly take action. It seems to me to add some uncertainty for business that it really does not need.

The other issue in relation to clause 38 is that the Industrial Relations Commission presently must rescind an agreement after the end of its term if it is satisfied that the employer or a majority of the employees bound by the enterprise agreement want it rescinded. Now the IRC will have a discretion to rescind if it is satisfied. So it goes from being a 'must rescind' situation to a discretion to rescind, and I would be interested to know the minister's justification for that change. Again, there seems to be no argument made out as to why they want to change that matter.

There are provisions in relation to equity and remuneration in clause 41, which inserts a new section in the act, 90A. In essence, this gives the commission some instruction to take steps to ensure that the principle of equal remuneration for men and women doing work of equal or comparable value is applied, and we do not have a problem with that particular concept and we support it.

In relation to outworkers, this is a gem. I do not know who came up with this little beauty, but this is a ripper. The outworker provision goes for some five pages, and I doubt whether many people would comprehend the breadth of coverage of this. Of course, the outworker definition has been changed earlier in the bill. In essence, if the employer or the primary contractor for an outworker does not pay the remuneration or the various entitlements such as annual leave or long service leave or, indeed, any amount to which an outworker is entitled to be reimbursed or compensated under the code of practice, a client who initiates an order or distributes the relevant work will be liable. So the client becomes responsible for the payment of the outworker, which is an interesting concept.

The minister can make a code of practice to ensure the outworkers are treated fairly, and it is interesting to note that a person whose sole business in connection with the clothing industry and the sale of clothing by retail is excluded. When you go out and talk to people about outworkers, most people would envisage women slaving away over sewing machines in sweat boxes being poorly paid, and they are outworkers. Well, they are exempt—at least, the clothing industry that uses those workers is exempt from this provision.

I do not know why the retail clothing industry gets a special provision. The minister may wish to explain that, but there is no justification as to why retail clothing is exempt from the outworker provisions—everyone else is caught by them. The definition of 'outworker' under the act—not the bill—includes clerical work. That will now be tested. The problem we see with this is that the outworker definition, as it currently stands in the act, has largely been untested because, as a result of the way in which the legislation worked, it was an opt-in provision through, from memory, an award or an enterprise bargaining agreement.

Now everyone is in unless it involves an opt-out provision. All the awards will be captured as a result of this outworker provision. That means that there will be many more cases of dispute in relation to this matter, and that definition of 'outworker' will now be tested through the commission. I think people will be very surprised to find that they are an outworker. There is no definition of clerical work. What is clerical work? Is it bookkeeping? I would think it is. Is it drafting? Certainly, the writing of specifications for the drafting of a home would more than likely be clerical.

It would mean any activity covered by any of the awards, such as the clerks' award, etc., that has a clerical nature to it, and lots of awards would cover those sorts of aspects. People will pick up those and say, 'Look, here it is in the clerks' award. It is clearly a clerical activity.' This person dare does it at home and will now be caught as an outworker. What the minister has done has shifted the focus onto the definition of 'outworker' through his five pages of legislation in relation to outworkers.

The commission will be tied up with matters relating to outworkers like it never has been before, and that will bring some history to the definition and to the legislation for us to judge the exact effect in relation to outworkers. The business community, as members can imagine, is absolutely opposed to the outworker provisions. It is a complicated piece of drafting. There are all these fancy new terms, such as 'responsible contractor' and 'apparent responsible contractor'. It is a nightmare just waiting for the lawyers to get hold of it. Other terms include 'designated employer', 'apparent responsible contractor' and 'responsible contractor'.

It will be a nightmare to try to work out what will happen. The way in which it works is that the minister makes a code of practice to ensure that outworkers are treated fairly. This code of practice does not come to the parliament. It is not done by regulation. It is just a code of practice, and the minister will decide that. If someone breaches a code of practice they face significant penalties. The minister will introduce a code where they suffer a penalty that has not gone through the parliament. Essentially, it means that if I order some goods from a business and the business orders an outworker, as defined, to undertake that work, and if the business does not pay the outworker, as the client I will be liable.

I did not even know the business was going to use an outworker; I just ordered the business. Say I ordered—it would not be a shirt because that is retail clothing, which would be exempt—goods from a business, and the business then got someone to prepare the goods but, because the business did not pay the person who prepared the goods, as the person who ordered the goods I will suddenly be liable. That just seems bizarre to me. It is a little like saying, 'Well, I ordered a car from Mitsubishi. The Mitsubishi agent did not pay Mitsubishi Motors, so I have to pay Mitsubishi Motors, the wholesaler.'

It seems an extraordinary provision, and I can understand why the business community would oppose it. One simply has no concept whether or not one is dealing with an outworker. When I order something from someone how do I know whether they will go to an outworker? I do not see why the client should be the one paying it. What have they done other than act in good faith with the business with which they are dealing? What happens if they pay a deposit? Does that mean that they pay twice? Who knows! It seems an extraordinary provision, and we will tease that out a little more during committee.

In relation to outworkers, Business SA says that the provisions are very broad and unclear. It is difficult to see any limits as to where they will stop. It is virtually an unlimited area of jurisdiction. The chain of responsibility is ambiguous and reliant on very subjective beliefs and appearances. A term such as 'responsible contractor' becomes 'apparent responsible contractor'; 'believed employer' becomes 'designated employer' and 'actual employer'. Members should recognise that next time when they order something they could end up dealing with an outworker of whose existence they are not even aware.

I think that gives members an indication of the major problems with respect to the outworker provision. I do not intend to spend a lot of time on that because we will come to that during committee. There is a provision that businesses must keep their records for seven years instead of six. There is no justification for this. It probably sounded good at the time, but for what purpose? No-one knows. Again, it is another requirement on business for no real reason. A whole section under clause 47 relates to more records having to be kept by the businesses. This means more regulation than currently exists in relation to businesses.

The business community believes that it also applies to the more informal types of employment because the bill says that the employer must keep records for all employees. That would include your two-hour gardener and your occasional babysitter who are caught under the minimum standards. Ultimately it becomes a bit of a nonsense in that regard. Again, it is an example of putting more regulation on to business for what gain in the end.

The powers of inspectors are changed in clause 48. The bill provides for an unlimited right to enter and investigate, whether random, targeted or based on specific complaint, confidential or otherwise. So, it is open go for the inspectors. This power has been out of the bill for some 10 years. There appear to be no checks and balances within the system proposed to challenge a finding of an inspector or to seek a review of the inspector's action. I know the industries do not support the introduction of the wide-ranging changes to the powers of inspectors. Again, the government has not made out a case as to why that should happen.

We then get to a revenue raising measure, clause 49, where the government introduces a system of compliance notices. The expiation fee is $325. Essentially, this provision will allow the industrial inspectors to go ahead and issue compliance notices similar to those in the OH&S jurisdiction. This jurisdiction, of course, is different from OH&S. This is dealing with employee relations, whereas OH&S has its focus on safety. Again, this measure will be used as a funding mechanism for the government. We note that the government has doubled the inspectorate ready to launch at business with its compliance notices.

The bill then deals with the host employer and unfair dismissals. We oppose the provision that allows host employers to be subject to an unfair dismissal claim through the labour hire process. Essentially, the minister is proposing that two employers be liable for the one unfair dismissal. That is a nonsense. The unfair dismissal claim should rest with the employer, not the person who is the client of a labour hire or recruitment agency. The government had something similar in the original draft of the fair work bill, and it was loudly condemned by the business community across the state. However, it has left the provision in there in some form.

The other issue on unfair dismissals is clause 51, where contracts for a specified period or specified task remain an exclusion from the operation of part 6 of the unfair dismissal, so there is no provision for unfair dismissal 'unless the employee has a reasonable expectation of continuing employment by the employer'. It comes down to this: what is in the employee's mind? Did the employee have a reasonable expectation of continuing employment by the employer? We all know where that is going. The employee will be able to make out an argument in many cases that they had a reasonable expectation, even though the employer may not have given them any indication, of continuing employment by the employer. We know that clause will be abused. It will be subject to disputation. It is another negative for business. And why would you worry about putting it in the act, because again it creates problems?

The other provision dealing with unfair dismissal is also a beauty. This is clause 54(2), which provides:

> If the employer has failed to comply with an obligation under section 58B or 58C of the Workers Rehabilitation and Compensation Act 1986, the dismissal is harsh, unjust or unreasonable.

If the employer fails to comply with two obligations under the WorkCover Act, then the dismissal is harsh, unjust or unreasonable automatically—no arguments entered into it. Now that to me seems a very harsh provision. It is a nonsense to say that it should automatically be harsh, unjust or unreasonable.

One of the provisions deals with simply sending a notice to WorkCover that had to be there in 28 days. If you get it there one day out of time for some reason, then all of a sudden the dismissal is harsh, unjust or unreasonable. Well, what nonsense! On what basis should that be the case? Again, it is an extreme measure that is a disincentive for the employer.

In clause 57, the powers of officials of employee associations are expanded. As I said in my introductory remarks, ultimately the bill is driven by the union movement. That would be no surprise to anyone: the union movement funds the Labor Party to a very large extent. The powers of officials of the union movement are expanded all the way through this provision.

One of the more interesting of the amendments is the ability for unions now to enter any workplace where there is one or more members, or potential member, of the union. Well, everyone who is living and breathing is a potential union member to a point. If this provision gets up, work sites will be organised and people will write letters to their employer saying, 'I don't want to be a member of the union,' and the employer will be able to give them to the union saying, 'Don't come in here because all these people don't want to be a member of your union.'

There will be demarcation disputes regarding the term 'potential member'—of a union. But of which union? So the employer will have to deal with demarcation disputes about which union the employee or worker is a potential member of. It will be no surprise to the government or the chamber that we will be opposing that measure.

The other issue in relation to powers is that the opposition considers that union officials, when visiting work sites, should have to comply with the requirements of enterprise bargaining agreements and awards. That is currently in the act, but the government seeks to amend that out, so that if an award or EBA has a particular provision relating to visitation the minister says they should not have to abide by that. We think that they should, and we will be opposing the amendments that the minister has before us. Union officials, of course, gain greater access to the workplace and greater powers under section 140 of the act, amended by clause 57. Generally, we support the existing provisions in the act but none of the amendments put forward by the minister on behalf of the union movement.

Clause 62 deals with conciliation conferences, and this consolidates some of the matters that apply to proceedings in relation to conciliation conferences. The claim for relief against unfair dismissal is already dealt with under the act in relation to conciliation conferences, and we are happy for it to stop there and not expand to monetary claims or to:

> any other proceedings to which it is extended—
> (i) by regulation; or
> (ii) by rule of the Court or the Commission.

We are happy with the existing provision in relation to conciliation conferences and do not support the matters put forward by the minister in that regard.

Clause 68, which amends section 194, relating to applications to the commission, provides that an individual may bring an application to the commission if the claim arises out of a general industrial grievance and no other impartial grievance resolution process is available to the individual. Our understanding is that the commission has previously indicated that individual grievances do not come within the concept of an industrial matter. That is why the minister has previously, in the definitions in the bill, amended 'industrial matter' so that individual matters can be taken to the commission.

Of course, we then get to the double dip provision, which is a body corporate provision under clause 71 and which relates to section 236A of the act. This inserts section 236A

into the act and essentially says that not only can the body corporate be charged for offences by the body corporate, but the individual can also be charged; so they can get two for the price of one, if you like, in relation to body corporates.

That is just a quick snapshot of some of the provisions. Indeed, one could speak for a long time on this bill because it is, in my view, a poor bill for business in South Australia. During the course of my contribution I have spoken about the effect of this bill on business, and I know that the government will speak about the effect of the bill on the employees or the workers. However, I just re-emphasise the point that if you have a strong business community you have more chance for people to be employed—and, ultimately, the primary aim should be to get as many people into employment as possible and then have the systems and checks and balances in place, which is the legislation that we are now dealing with.

These checks and balances are so anti-employer that not one employer association—other than the union movement, who employ themselves—has put up their hand and said, 'Please pass this bill.' Not one employer association, from the smallest association at the local level to the most senior business association, has supported this bill. This means, of course, that there will be less employment long term, and there will be less employment than there could have been. Therefore, there will be fewer employees than there could have been, and I believe that is a negative. There is nothing in the bill other than, perhaps, the three-year enterprise bargaining agreements that would probably get supported if they were on their own but, because of all the other provisions in the bill, one would have to wonder about the benefit of it. I mean, what is the point of having a three-year EBA with a good faith bargaining provision? One has to wonder about the value of this bill.

In my view, this is a poor bill for business. We will be opposing it at the second reading and indeed at the third reading if it gets to that stage. We have a number of amendments that oppose or amend a large range of the matters I went through as part of my contribution. In fact, we will be amending or opposing virtually every one of the aspects I mentioned. And there are two aspects we are introducing into the bill in relation to our own amendments. One is the banning of bargaining agents fees. The opposition has put legislation before this house on a number of occasions seeking to ban bargaining agents' fees, and I note that the member for Mitchell has an amendment to achieve the exact opposite aim—that is, to allow the introduction of bargaining agents fees. It is the opposition's very strong view that the average worker does not want a union fee of up to $825 every two years. Certainly, the Public Service Association was looking at around $412.50 every year, from memory.

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

The Hon. I.F. EVANS: Prior to the dinner adjournment, I was explaining to the house that we would be moving amendments to two areas of the bill, which will be of no surprise to the government or the house, I dare say. One amendment is in relation to the bargaining agents' fees. That bill has previously been before the house. The opposition thinks we should adopt, in principle, what is the federal position; that is, that bargaining agents' fees not be allowed to be charged. We are aware that the Public Service Association is in negotiation (probably in dispute would be a better way of describing it) with the government over its enterprise bargaining arrangements, and part of that negotiation is the introduction of a bargaining agents' fee for which the Public Service Association wants to charge $825 every two years. That would be a direct union tax on members of the Public Service, many of whom are not members of the PSA.

If they win that provision, that will then flow on to other union negotiations and enterprise bargaining arrangements. The opposition has resolved to oppose the introduction of enterprise bargaining agents' fees and will move amendments to this bill to achieve that end. We note the member for Mitchell has amendments to the direct opposite effect; that is, to allow the Industrial Relations Commission to permit bargaining agents' fees and agreements.

The second area to which the opposition will be moving amendments relates to the unfair dismissal exemption for employees in their first 12 months of employment in small businesses with fewer than 20 employees. This mirrors what the federal government has been attempting to do through the federal parliament. It is similar to bills which we have previously moved in the chamber, except for the fact that the number of employees has increased from 15 to 20.

Our amendment is for businesses with fewer than 20 employees. We have espoused the reasons for that previously. In a survey we undertook, the business community told us that it certainly wants some protection from that unfair dismissal regime as it currently exists, so we will be moving amendments to try to achieve that end. The committee stage of this bill is likely to be long and tedious, so I will not hold up the house any further, other than to say that, in our view, the bill is bad for business, bad for employees, and therefore bad for South Australia. The bill will lead to more third party intervention; more arbitration; more regulation and more red tape; more complexity; less certainty; less choice; more disputes; higher labour and business costs; reduced economic efficiency; and, indeed, ultimately we think it will achieve the aim of simply driving employers to move to the federal workplace relations system. I am not sure whether that is the aim of the government, but clearly the business community has rejected it. It is a terrible bill and, as I say, we will be opposing it at both the second reading and, if necessary, the third reading stages.

The Hon. G.M. GUNN (Stuart): I believe in all things that commonsense and fairness should apply. In discussing this bill, I have a number of concerns. First, we have to ensure that we reduce paperwork and red tape to a bare minimum. Small business is burdened with unnecessary paperwork. Anyone who has been involved in running a small business knows that the last thing they need is to be hindered or hassled with more paperwork, such as filling out more returns, or to be subjected to more scrutiny by people driving around in cars with blue numberplates.

I was interested to receive today a letter from the Printing Industries Association of Australia which I think sums up much of the feeling amongst the business community. It states:

> On behalf of the Printing and associated industries in South Australia we express extreme concern at the content of the proposed Industrial Law Reform (Fair Work) Bill 2004 which is currently before the South Australian Parliament.
>
> The Bill is in every sense anti-employer and therefore anti-business generally, and also to the prosperity and economic wellbeing of South Australia. This is not an isolated view of our industry, it is the view of a significant part of business and industry in this state.

The letter goes on to talk about various other aspects of the bill. I am concerned that this measure contains provisions that

will allow people to enter homes where a business is being conducted. That is a very un-Australian attitude and, of course, people will not agree to it. If ordinary, hardworking Australian small businessmen, particularly farmers and pastoralists, are subjected to this sort of behaviour, a great deal of resentment and anger will result. They will have to appeal to the good grace of the federal government, because it will not tolerate that sort of behaviour.

So, if we are to have a South Australian industrial relations scene, we must do so bearing in mind that not so long ago the Australian people voted for significant change in industrial relations. One of the hallmarks of a democracy is that people have every right to belong to an association or a union, and I do not have any problem with that at all, because one of the first things that dictatorships always do is interfere with those sorts of organisations. I belong to an organisation that represents the rural sector and, in the past, I belonged to the Australian Workers Union, and I have always had a good working relationship with that group of normally fairly conservative people. However, I do not think that most of the people working in the AWU, or other unions, are aware of some of the provisions in this bill, and I do not believe they have asked for them, nor do I believe that these provisions are necessary or wise.

At the end of the day, we want to create more opportunity, not more red tape and humbug. We want to treat people fairly and reasonably, and we want to see South Australia prosper. Small business has the opportunity to employ more people, and these sorts of provisions will prevent it from doing so. I never have been able to understand why ministers want to take away people's rights. Giving people the power to issue on-the-spot fines is a nonsense, and I tell the minister that another section of his department is causing trouble in the Riverland. When you give these sorts of people a little power, they develop an unreasonable attitude. The longer I have been in this place and the more experience I have had dealing with these people, I realise that the average citizen is at a tremendous disadvantage when a government official confronts them.

I do not know whether the minister has, in a private capacity, ever dealt with some of these people, but they become unreasonable, and commonsense goes completely out the door. I will give an example of this, namely, Cadell and Morgan in the Riverland, where I am told that, in the very near future, these people are about to descend again on the fruit growers. Their attitude is unbelievable, particularly when they have no knowledge of how to operate the machinery needed in that industry.

I would like the minister to respond to this example: if a person runs a small business on a farm, and they run it from their house, and one of these inspectors demands entry to their home and the spouse (who may be there alone) refuses, has he or she committed an offence? We cannot tolerate that sort of behaviour, and it is not acceptable. We will get the situation where these sorts of people will be named in this house because, at the end of the day, what other alternative does a small employer have when they are confronted? I believe that unions have a place in society, but they do not have the ability to trample on and interfere with people's rights; they do not have the right to enter people's homes; and they do not have a right to make people join unions. We now have a situation where people can join of their own free will and accord, and I support that.

As I said, I belong to an association. I see nothing wrong with people belonging to organisations that represent them, but the ability to represent them needs to be balanced against the rights of the employer. I do not wish to say any more in relation to this matter because, as the member for Davenport rightly pointed out, this is a committee bill. There has been a huge amount of public debate in relation to this matter and there has been a great deal of representation. I thought that the government wanted to promote small business and I thought that the government wanted to keep the economy moving.

I say to the minister: for goodness sake, accept some of the sensible amendments that will be moved by the opposition and remove the concerns that exist, because there is a great deal of concern in the community about this. I have received more responses from my constituents to this survey than I have experienced for a long time in relation to any other survey conducted in my electorate.

I have to say to the minister that this is an unwise measure. These provisions will not do the Liberal Party any harm politically. Let me say that to the minister. The only good thing about them is that they will enhance the standing of the Liberal Party in the community. Make no mistake about that.

If the government wants to do what is right for small business, it will pull back on some of these things because, at the end of the day, the commonwealth government will amend the Corporations Act, which will prevent some of these things taking place, anyway. I believe that there is a proper role for state parliaments and state governments in these things, and I would sooner see the power rest here than in Canberra. I oppose the second reading.

Mr RAU (Enfield): I want to speak very briefly on this matter and address a matter raised by the member for Davenport in his remarks. In particular, he made some comments about the definition of 'industrial matter' in the proposed legislation. He said something to the effect—and I am not attempting to quote him directly here—that the proposed amendments would mean that an individual employee would be able to have recourse to the commission in circumstances where they presently do not.

I would just like to make it clear to other members of the parliament that, in fact, that is not correct, if that is what the honourable member was trying to tell us. That has been the law since 1997, I believe, when the Hon. Graham Ingerson put through changes to the legislation which enabled employees to take matters directly to the commission of their own motion. I think that, if he has a careful look at the legislation, the member for Davenport will see that the change that he is fearing in this bill is one that has now been part of the law of South Australia for some time.

The other matter that I think we need to consider is that, in many cases, if individual employees are given the opportunity of bringing grievances to the Industrial Commission it has a very important effect: that is, if a relationship between an employer and employee is becoming difficult that relationship can be salvaged if an independent person is brought in to assist the parties in resolving their differences. This ultimately saves time and money, and it prevents the matter ever getting to the stage of becoming an unfair dismissal which, I think, is something that most people would accept is a good thing to be avoided.

We need to be very clear about this. There are cases where employers and employees, for reasons which probably have to do with their communications or their experiences of one another, get on a collision course and the Industrial Commission is a useful body to sort out those matters—and that has

been the case for many years now. This legislation does not create a new entitlement in that respect. It is an existing entitlement, and it is one which has been used to the great benefit of the parties involved, and has ultimately prevented litigation and saved everyone money. So, in respect of that particular observation by the member for Davenport, I think that there needs to be some further review of his position because it might well be that he has been misinformed about that matter.

Dr McFETRIDGE (Morphett): I rise to oppose this bill and I will be reading out some submissions that have been put to me by various employers and some of the reasons why they have been encouraging members of the Liberal Party to oppose this bill. I should put on the record that having owned a small business for over 20 years—and I know that many of my colleagues on this side have owned small businesses (and some of them not so small businesses, including farming enterprises) for many years—we understand implicitly and intricately the problems associated with running a business in South Australia today. I know that one or two members on the government benches have been involved in small businesses. For example, the member for West Torrens ran a shop at Glenelg for a while, and I know that he, like me, would want as little interference, as little red tape, as possible in running his business, because I know that like me, he would want to treat his employees with the respect that they are due, but at the same time if those employees betray the trust and respect that you give to them, then they need to be dealt with in a fair and proper way. I do not believe that this bill is going to achieve that.

In his second reading explanation, the minister made statements along the lines of trying to be fair and just and bringing out a better deal for the workers of South Australia, and I know that he is genuinely attempting to do that. However, I think that the committee stage of this bill will certainly be the proof of the pudding, and I will be reading submissions into *Hansard* from some of the organisations that have contacted me. They have genuine concerns for not only the welfare of their employees but also the welfare of their business because, unfortunately, if the business goes broke then there is no work, and if businesses do not come here from interstate, if businesses move from here interstate, there is no work, and I do not think that anybody on either side of this house is hoping for that sort of outcome. It would be a disaster for South Australia.

The economy is going well thanks to the eight years of hard work by the Liberal government, and this Labor government does not know how lucky it is being able to build on that; and with a Liberal federal government re-elected they should be counting their blessings. In his second reading speech, the minister stated:

> The government is engaged in an exhaustive and extensive process of consultation.

I think that there has been a bit of consultation out there but this will be the first time (if it has been as extensive and as exhaustive as the minister says in his second reading speech) because one of the most common complaints that is put to me about this government, and I hope that its members are listening, is the fact that its negotiation and consultation seems to be one way. Members of the government are telling people what they are going to do and they are not taking a lot of notice about what is being said back—if the people who are supposed to reply are getting an opportunity—and I hope that they start to listen a little bit because it will do them the world of good to listen to what people are saying and not just charge along with ideological aims and hoping for one way outcomes.

Mention is made of changes to unfair dismissal provisions including an increased emphasis on reinstatement of the employee. This is one measure, certainly as a small business owner, that I would have serious concerns about because, while I was very lucky with my staff, I know that some of my colleagues in the veterinary profession, and in other businesses, have had enormous problems with employees who they initially thought were suitable but who turned out to be totally unsuitable, but to sack those employees or to encourage them to move on has been exceptionally difficult under present circumstances—and where they are forced to reinstate them as the first choice of bringing to a resolution some dispute, I think, is intolerable. I believe that, if a business has fewer than 20 employees there will be some leeway given there, but I see in the minister's second reading speech that changes to unfair dismissal provisions include an increased emphasis on reinstatement. I will be looking at that one in committee. It is one that I have concerns about.

Another provision aims at restoring the powers of inspectors. In his second reading explanation, the minister states that he wants to expand the role of inspectors. I understand that eight inspectors were sent down to the Mount Gambier Show to have a look at what was going on. I doubt very much whether that level of inspectorate is required under those circumstances. I know the organisers of the show in Mount Gambier to be honest and upright citizens and not out to exploit people in any way. But if that is an example of what we are going to get, that is a bit of concern.

The right of entry for union officials in legislation is one of the dot points in the minister's second reading speech. I see that we will not have union officials entering private homes any more; that was a ridiculous part of the legislation. Obviously, unions always put up ambit claims, and this was part of an ambit claim in this bill. I would be very concerned if union officials were able to march into any of my businesses where there are potential union members—there might not even be any actual members there. I have no problem with union membership; in fact, in the past I have encouraged my employees to join their associations. When I was teaching I was a member of the South Australian Institute of Teachers (SAIT) as it was then; 119757 is all I ever was to the education department. I looked to SAIT to protect some of my rights and assist me in developing the profession I was in at the time. As a veterinarian I was a member of the Australian Veterinary Association—not quite what you would call a union, but they do stick up for members of the association. This is not a matter of being anti-union; far from it: it is a matter of promoting the rights of employees, employers and individuals if they want to go by themselves and negotiate and act on their own behalf.

The protection of outworkers is a dot point here. We hear all these horror stories about outworkers working in sweatshops, and 99 per cent of those are making clothing for supposedly high fashion labels but—the minister can correct me if I am wrong—I note that in the legislation the protection of outworkers does not extend to the protection of clothing manufacturers. If that was an area of huge concern, whether you would allow the inspectors to have the powers of flying squads in those cases I do not know, but I would have thought the protection of outworkers would include the clothing workers.

The minister says there are concerns about changes in the workplace that have heightened insecurity and made it harder for people to meet their family responsibilities. I am quite happy to say here that I do have serious concerns about the increasing casualisation of the work force. Unless you have a job with regular income, some security and the ability to plan, how can you go to a lending institution and get credit or a mortgage? How can you budget to pay off your bills? I would be happy to discuss and work on any legislation that was giving people extra security, but if those people choose to work casually they should be allowed to do so without any legislation restricting the flexibility of the work force. Nowadays not everybody wants to work all the time and be under strict regimes; they like that flexibility. At the same time, if the only choice is to work in a casual situation, there is certainly a down side to that which we need to talk about.

The minister goes on to talk about changes in the act to create a minimum standard for bereavement leave. That is something that I think already exists in most awards, but certainly, if it does not, that is something I would have no problem with. The need to grieve and recover your emotional state is to me as important as if you have an illness of some sort. I know that members on this side are caring and compassionate people, and that is something we would be more than happy to discuss. Then there is providing up to five days of existing sick leave as carer's leave. If your child or close family member is sick, your mind is not on the job and you need flexibility in how to use the sick leave; whether it is sick leave or carer's leave, it needs to be used carefully.

I was a bit concerned when I read that you can take your sick leave in blocks of one hour and that if you take one hour and five minutes it is considered two hours of sick leave. I think that, to maximise the availability of sick leave, it should be kept at one hour, and employers could cover five minutes of extra time there. I am not sure what the outcome of those discussions will be in committee, but it will be interesting to see what is going on. Certainly inequality between male and female remuneration in awards, I do not know that any of my associates would argue with discrimination between males and females—

Mrs Redmond: We should get more.

Dr McFETRIDGE: Whether females should actually get more, perhaps in some cases—

Mrs Redmond: We work harder.

Dr McFETRIDGE: Some women do perhaps work harder in some areas, but I would not like to put that in as far as remuneration in awards goes. Enterprise bargaining for three years instead of two years—I do not know how expensive it is to undergo enterprise bargaining in a particular institution, enterprise or business, but I would say it is the lawyers, the unions and the associations that are governing the difficulty of negotiations. Most business owners want their business to run as smoothly as possible and, as I have said before, you do actually need to make a profit. I have a little saying that I say to people in business, 'Turnover is vanity, profit is sanity.' It does not matter if you are turning over $15 million a year, if your costs are $15 million and one dollar, you are going broke, you are going backwards. You need to make a profit so that you can expand the business to employ more people and to provide benefits to those people and their families. The unfair dismissal legislation in this place has been an issue for many years. I know the federal government is also looking at that. It will be interesting to see the outcomes there.

I will read into *Hansard* some of the concerns that people have been raising in submissions that have been given to us. One prominent business organisation gave me some documents today. Its major concerns with the legislation are: more third-party intervention, more arbitration, more regulation, more red tape, more complexity, no certainty, less choice, more disputes, higher labour and business costs, reduced economic efficiency, and encouraging employers to move to federal workplace relations systems. That is what one significant business representative group in South Australia says.

Another submission is from the Housing Industry Association. I do not think they will mind me saying who they are because I saw HIA representatives on ABC Television tonight opposing this bill, as were other business organisations and associations. I note the minister was on the television saying that he would be willing to look at amendments to this bill, and I know he is a reasonable person. The Housing Industry Association is particularly opposed to a number of proposals contained in the bill. I will not read them all. The power to make 'declaratory judgments' as to whether a person or class of persons are employees or independent contractors is one that the HIA is concerned about. The HIA goes on to say:

> This is clearly designed to allow unions to attempt to expand coverage into the 'independent contracting' system.

Another point it makes is as follows:

> The expansion of union officials' powers of entry and inspection into business premises where there are no actual union members is yet another example of Minister Wright's attempt to provide increased power to the union. . .

I do not think this is the old class warfare that we occasionally see glimpses of from the other side. I do not think this bill is a regressive step back to the old class warfare of the 1950s and 1960s with the Cold War era between the bosses and the workers. That does not exist any more. We are far more sophisticated than that. The HIA goes on to say:

> The expansion of the power to negotiate collective enterprise bargains covering more than one employer is an attempt to return to the days of deal making and 'centralised collective bargaining'.

I am perhaps not quite as concerned as the HIA, which is certainly concerned about the retrograde step that this legislation could present.

The Recruitment and Consulting Services Association sent a submission to me and other members. The South Australian region of the Recruitment and Consulting Services Association has approximately 23 corporate and individual members. They are particularly concerned about a number of issues, one in particular which I will highlight states:

> Host Employer—A Term of Deception
> The RCSA does not support the use of the term host in any capacity. . . the term 'host employer' was misleading in that it did not aid understanding of the varying role that a client is required to play in the tripartite relationship. There is clearly only one employer at common law and that is the on-hired employee service provider. . .

That is another significant group that is not happy about this. I heard the member for Stuart reading from a submission from the printing industry. The covering letter from the Printing Industries Association of Australia states:

> The bill is in every sense anti-employer and therefore anti-business generally, and also affects the prosperity and economic well being of South Australia. . . we are of the view that the proposed legislation should be withdrawn in its entirety. . .

Another submission from a business owner states:

I am concerned with the content of the proposed Industrial Law Reform (Fair Work) Bill which would be extremely detrimental to the conduct of our business. . . The level of regulation proposed by this bill will preclude our company from increasing employment and or the replacement of employees that decide to terminate their employment with our company.

It is a bit of a concern when you have businesses that worried. Let us hope that the committee stage sorts that out. In a letter to me, another small business owner states:

If the Fair Work Bill becomes law in its current form it will force my organisation to cease hiring new employees and to give consideration to reducing the number of people currently employed.

They are concerned about the unfair dismissal, they are really concerned about the enterprise bargaining, and they are certainly concerned about best endeavours bargaining. There are other letters here, and I just received some from six transport companies with the same concerns as similar industries and businesses. One letter states:

As an employer and a business owner, I am writing to let you know of my complete opposition to the state government's proposed Fair Work Bill.

He continues with a few reasons for his opposition. He lists four main reasons, and I will not read all of them out. They include: deeming subcontractors to be employees—we know that that was a ridiculous thing, and that has gone—and unlimited union rights of entry, even where there are no union members, is a concern. We know that there is a push by unions to expand their membership, but it should not be this way. It should be that they are offering distinct benefits and not enticing union members because other employees are union members.

In fact, I know of one case where a young fellow who is now stacking shelves in K-Mart had to join the SDA. He thought he was signing an insurance form, but it was the SDA membership form that he was signing. He was only a 14 year old lad, so the unions are out there pushing. Woolies, Coles and those with sweetheart deals with unions are able to do a lot better than the small businesses, so we are very concerned. I have spoken to a number of union groups; I am not anti-union. My father started working in the steel mills in Glasgow when he was 14, and he was very pro-union. I grew up to respect many of the rights and aims of unions, and I certainly would not want to be seen as bashing the unions; it is more about coming up with a fair deal for all.

The main thing we are trying to achieve in this bill is a fair work bill—fair for the employers; fair for the employees; fair for business; and fair for the state. I am not so sure that that is going to be achieved with the bill in its current form. There will be a long committee stage with this bill, and I think there are going to be several long nights—shades of the gambling bill. I will make sure that my concerns are expressed.

I will finish with this point. When the bargaining fee clauses are discussed and if the government gets the numbers and we do not, I will ask the government to look at some changes to that measure so that a reasonable figure is charged, not just a de facto union membership fee, because it is very important that what I consider to be an unfair clause in the first place is not allowed to be a disincentive for any employee to take in any union activity at all. At the same time, if somebody does the job well, perhaps there is an argument that they should get some recompense for it. I see that the Federal Court has ruled against that, so it will be interesting to hear the discussion on that point.

Unions have their role, and they have played a significant role in improving the benefits for employees and, also, as we see in many of our work places, without the cooperation of unions, they would not exist—they would have gone broke. It is a two-way street and, as I started out saying, the discussions and negotiations appear to have been just a one-way street. I hope that the government starts to listen, and that it is going to be a two-way street. I hope the minister does what he said he would do on ABC News at 7 o'clock tonight, and that is listen and allow us to introduce some amendments. Those amendments, I am sure, will improve this bill because, at the moment, it is a bit of a disaster for South Australia.

The Hon. R.B. SUCH (Fisher): I would like to make a brief contribution. We seem to have a tide of brevity creeping into this house, which is most welcome, but I had better not speak too soon because I suspect that the committee stage might compensate for the brevity in the second reading stage.

The approach I take in a measure like this is to try to make it genuinely fair, and I am disappointed to hear people speak in outright opposition. We are elected to represent all South Australians and, while I can accept that some people may have outright opposition when it is a moral issue, I think that with a measure like this rather than simply oppose it the approach ought to be to try to make it work, make it achieve what is fair and reasonable in the eyes of the whole community. I am not naive enough not to realise that this will be the clash of the heavyweights in terms of economic interests in the community—the unions on the one side and employers and employer groups on the other. Quite frankly, the majority in the community probably do not care too much about economic interest groups—even though those groups are important in the community, I suspect that day-to-day most people do not care much about them.

I think this bill is a significant improvement over the original proposal. It is obvious, even from remarks we have heard thus far, that it will not satisfy some people in here. The classic argument is, 'Never now, not now, we cannot afford it.' That has always been the argument against any reform proposal, and I guess if we took that attitude we would still have children working in the coal mines and women would still be trapped in their homes—sadly, as still happens in some countries. So the classic defence of the ultraconservative is, 'We cannot touch it, because the sky will fall in, and it will be the end of the civilised world as we know it.' That is just not a convincing argument.

We should remember that, ultimately, the upper house will play a role. We also have the context of a changed federal situation now. I am not sure how that will impact on industrial relations and matters that may or may not be contained in this bill in the long term, but I think people have been jumping to conclusions about the changed composition of the Senate. Time will tell what emerges as a result of federal changes in the Senate from 1 July next year.

I think much of this bill is very good, and I do not have a problem with most of it. There are a couple of areas that I want to tackle to try to improve the outcome in regard to a measure that is fair and that creates a level playing field. I think it is fair to say that most employers do the right thing, as do most union officials—most people tend to be fairly reasonable. Sadly, some do not operate that way. Some people want to exploit their workers, and not just their young workers. I know of situations where employers have refused to provide a toilet on the grounds that it wastes time. It is hard to believe that we could have a situation like that in South Australia in this day and age, but that is a reality, and I know

this because one of my nephews worked in a situation like that—I could name the operator of the business but I will not.

I have had situations where young relatives of mine have been kidded along to be involved in alleged trial work. 'Come back tomorrow. The boss was not here today, so come in tomorrow and we will see how you are. Then come back the next day.' It is just a big con, and it is exploitation. That does go on, and I could name those businesses, too. I had a situation some years back where one of my lads, who is now working in London, had done the Regency chef's course. He applied for a job as a chef here in Adelaide and ended up with others cutting pumpkins to demonstrate his suitability to work as a chef in an Adelaide restaurant. What a load of nonsense and exploitation that is! Fortunately, he was strong enough to resist that. So, we do have some villains in the world who want to exploit and take advantage.

I acknowledge that many people who are members of the union movement may, in relative terms, be safeguarded now and enjoy reasonable working conditions and pay levels. It is not universally true. It is a sad commentary on society, but we know that in a lot of areas, particularly where women tend to be concentrated in employment or where their task is to look after human beings, the pay and conditions are often inferior to other areas. That says something about our society in a sad way.

In looking after human beings, whether it be in a child care or aged care environment, we say, 'Well, that is not all that important, so we are not going to pay you much, and you will not get the same conditions as other workers.' It is true that some unions have enormous power because they are in areas where they have significant influence over activities and benefits for the community which are vital, and they can literally turn off the tap. Many workers cannot do that; many workers have limited bargaining power and, so, what we allegedly have now in terms of enterprise and collective bargaining has not really created a level playing field. I am not convinced that downgrading the arbitration approach has been a good and positive thing for many workers in our community.

The best approach is one which has elements of both with safeguards built in. The idea that the law of the jungle should apply in the industrial relations area has not convinced me, because the strong do well and the vulnerable suffer. That is true for small business as well as for workers in industries where they do not have significant clout, particularly areas like aged care. If aged care workers go on strike, the people who suffer are your grandparents and parents. They do not have much bargaining power when it comes to their employment.

In regard to what I would see as the vulnerable in our community, we have many people—numbering in the thousands—who are not protected by unions. I think that the union movement has to look at what its role is, and the decline in union membership should make the unions have a look at what they do and how they do it, because the membership has declined significantly in recent years. I have always belonged to the union where I have worked and, in fact, I have been quite happy to hold positions on committees and so on within those unions because, quite frankly, I do not believe it is appropriate for people to get a free ride. If you get the benefit, you should contribute towards the cost and the sacrifice involved in getting that benefit. I think that what we have before us is a big step forward. I think that we can improve this bill as it goes through the committee stage. I will be putting forward a range of amendments to try to improve the bill and to tackle some of those areas that I think the bill currently does not adequately address. That will essentially be the overriding approach I will take.

Various people have said that this may come down to my decision. Time will tell, but I urge all members to look at this bill on its merits and try to make it a fair work bill in practice as well as in name and create a genuinely level playing field. A lot of talk has scared people, suggesting that it will be the end of business, and all that sort of thing. I think that has been exaggerated. I can understand people in business being apprehensive, for example, about union officials wanting to have a look at some of their records and so on.

Many of my immediate family are business people, and many are employers. However, at the end of the day, I will take the course of action I believe to be in the interests of the entire community. In that regard, I have tried to treat all the lobby groups, all the economic groups, the same, that is, I am willing to read and consider their material. However, at the end of the day, I will look at it purely on the basis of what is in the best interests of all South Australians, realising that you cannot always satisfy everyone. I am not going to take the view that this will bring about the end of South Australia or the demise of business. We in this state and in this country can improve how we collectively, and how businesses, treat employees. We can learn much from the smart countries, such as Germany and places like that. They value their employees much more than do many people and businesses in this country. We do not often, or often enough, regard employees as the most important capital in a business.

I come back to the point I made earlier that most employers do the right thing, but there is a minority who do not. I see this bill as trying to tackle that minority who abuse the system, or who abuse their workers by exploiting them. It may be only a small percentage, but it is significant. I know from family members and from my own personal experience that there are people in the business sector who do not do the right thing. I think this bill, with some surgery, can help address that issue. I will be taking a very keen interest during the committee stage. I will be trying to make this bill what it seeks to be, that is, a fair work bill, and I will try to make that happen in every possible sense of that term.

Mrs REDMOND (Heysen): I rise to make, hopefully, a brief contribution on this bill and to indicate that I will be opposing the second reading. I do not intend to detail all the issues that have already been canvassed, particularly by the member for Davenport in his contribution. However, there are a number of points—eight, in fact—that I do want to emphasise, and I will go through them in order. I also indicate that I have received quite a number of submissions from a number of organisations in a range of industries and, with the exception of the submission from the UTLC, every one of them has expressed strong opposition to this bill. As has already been said, it should be called anything but the 'fair work bill'.

The first of the eight issues I want to canvass can be found at the beginning of the bill, and it deals with the aims of the bill. New paragraph (fb), which amends section 3, refers to the intention to promote and facilitate security and permanency in employment. I am sure that most members would be aware that there has been a national—indeed, an international—trend towards casual rather than permanent employment. The use of these terms presupposes that permanency is the preferred status of a worker. From the perspective of many workers, it is not necessarily what they

want. More importantly, to my mind it is precisely the sort of thing that will make employers wary of employing anyone. If they want to employ someone as a casual or on a limited or part-time basis the employee will want to be secure in the knowledge that in doing so they can rely on the terms of the agreement reached between them and their prospective employer and not face the job's being reclassified or deemed to be something which it was never intended to be by the parties to the agreement.

The only other comment I make in relation to this idea of facilitating security and permanency in employment is that it has been my experience—I started work at the age of 14 and have worked in all sorts of jobs in restaurants, as a process worker in a factory, and so on—and that of those around me whom I have observed that the best security and permanency you can possibly get is by doing the best job, because no employer will want to let go a good employee. In my view, the best way to create and secure permanent employment is by having a good relationship between the parties. I am the first to agree that it takes two parties. As an employer I try to be loyal to my staff, because I think that is the only way to engender loyalty from one's staff.

The second comment I want to make relates to clause 3(ka), which is intended to encourage and facilitate membership of representative associations which, for the most part, are unions. I do not think that the job of this prospective fair work act should be to encourage or do anything about people joining unions. If unions want to increase their membership, let them justify their existence and promote themselves and make people want to join. We all know that union membership has declined and that unions largely find it difficult to justify their existence, but if they want to increase their membership they need to become relevant and appropriate, and people will want to join.

Today, during question time, I tried to highlight to the minister the difficulty created by one particular union connected with SOS houses which have been operating in 300 cities in 132 countries around the world. They offer homestyle living for needy children who have to be placed into care with people other than their immediate natural family. It has worked everywhere except Adelaide, and that is because of union involvement. This afternoon I spoke to one of the former house mothers, and I was told that the union became involved and started to hold meetings, getting people to join. The union encouraged these employees to chase a couple of fairly minor items which they thought needed correcting. The employees wanted to pursue only two things: first, the ability to be reimbursed for using their own cars in the course of their employment. They were being paid for that, but it needed to be renegotiated, and there was no particular problem with that.

The other issue dealt with the payment of board, because these employees were living in these homes in a family situation. Because of union involvement and the subsequent log of some 80 separate claims, the result has been the introduction of a bureaucracy to create a family situation, but it just does not work. Instead of having a house mother with the assistance of some aunts (who were paid more than adequate over-award wages and had access to recreation and sick leave and all those things), they now have a situation where people are paid on an hourly rate and they have to keep records, so that when a troubled 14-year-old wants to talk to them they have to write down everything that is said.

There is no building of relationships, no appropriate learning of the sorts of things that were taught in the SOS homes: the idea that these kids should learn to make their beds, help with the dishes and so on, as they would in most average homes around the place. Instead of that, the services such as cleaning and cooking are now imported on contract into far more bureaucratic situations, so the unions have singlehandedly managed to disrupt and destroy what was a fantastic system that, as I said, has worked in any number of countries around the world.

I have some concerns with a couple of items in the interpretation clause, one being the interpretation of 'industrial matter'. I have no difficulty with the idea that an industrial matter will have to do with the rights, duties and privileges of an employee or employees, but the interpretation intends to broaden that to include prospective employees. That seems to me to create a difficulty. Potentially, people could get caught into the Industrial Court when they have not even employed anyone yet. The other definition with which I have a great deal of misgiving, and it is one that has been raised by any number of people who have contacted my office, is the definition of 'workplace'.

I know that the government has moved some little way from its original position, where a workplace included a home if that happened to be where the business was run from, and I am sure that we are all aware of many businesses that are run out of a private home. So, the government has made some concession but the concession is based on the idea that the union cannot come into that part of your home that is primarily used for the domestic side of things rather than for the office. That of itself is going to create all sorts of problems. One can imagine, as in my home, a home study where a specific room in the house is set aside as a study, but that might just as easily be used by any of my three adult children, two of whom are university students, as by myself or my husband.

That definition really needs to be adjusted, and in my view it should be adjusted all the way so that anyone running a business from their home is not subject to the same rules and that home should not be included as part of the workplace. I do not intend to go through in detail the sections of the bill that deal with outworkers, because it is my view that it is largely unworkable. I can accept that there are some legitimate concerns about outworkers and their conditions of employment, but it seems to me that the clause has been rather patched together and, no doubt, when we get to the committee stage of this bill we will go through it in some detail. Suffice to say at this stage that I think the whole clause does need to be redrafted to have any chance of adequately dealing with outworkers, particularly those in the clothing industry who, in my view, are the ones who probably most need protection.

The next clause I am concerned about is that which sets minimum standards of employment. The aim is to extend minimum standards such as rates of pay to anyone covered by a contract of employment, but under clause 7 the Industrial Court is given jurisdiction to declare whether a person is an employee or whether a class of persons are employees. So, even if the parties did not think it was a contract of employment, this clause in combination with clause 7 then means that the Industrial Court has declared what was not, in the minds of those entering into the arrangement, a contract of employment to be a contract of employment, and then the minimum standards as to rates of pay and so on can be introduced.

That applies whether or not they are also covered by an award or an enterprise bargaining agreement. One would

have to say that there is some difficulty with that, not the least of which is that it is not clear what happens to informal arrangements like babysitting. No doubt, when my daughter is engaged as a babysitter (as she is regularly), there is an arrangement between herself and the people engaging her services. But I would hardly call it a contract of employment. Nevertheless, given the normal terms as to what determines whether someone is under a contract of employment, we could soon find that babysitting is suddenly covered by this contract of employment notion and have minimum standards applied to it. I can only say that it speaks of a huge disruption to our society when we start delving into the normal social arrangements into which people enter.

In addition, I come back to the issue of the SOS homes at Seaford, which the government has failed to protect. The SOS organisation is now moving interstate, where it believes it will be able to operate happily and provide a homelike environment for needy children, which is very much needed in this state. We have an oversupply of needy children who require this sort of help and the sort of mentoring and home environment that this organisation provides. But the union's involvement has meant that we have minimum standards of employment. Instead of a house mother caring for children and sleeping on the premises, with the back-up of paid aunts, we now have shifts of workers coming in and being paid at a much higher rate and failing to interact with these children in any mother-like or homelike way. This clause also specifically provides, regarding the minimum standards of employment, that the minimum standards are to be set by the Full Commission annually and, once set, they will prevail, even over a pre-existing award, if the award is less favourable.

The bill then goes on to deal with what it calls 'best endeavours bargaining'. What that basically says, in layman's terms, is that the commission can assess the prospects of the parties negotiating an agreement. It can consider the conduct of the parties and the genuineness of their participation and, depending on what the commission thinks about the behaviour of the parties, the commission can then arbitrate an award or an enterprise bargain—although how one would call it an enterprise bargain when the parties to it have not had the ability to bargain it themselves seems to me to be a contradiction in terms. It leaves far too much to the commission. I suggest that it will be a very difficult thing to try to implement. For the commission to make the decision, presumably, it will need all sorts of evidence put before it as to what either side considers to be appropriate in terms of conducting their negotiations and reaching a conclusion. And I do hope that the member for Torrens is feeling well and that her cardiovascular system is not being impinged upon.

I want to comment on the last two items. The first is unfair dismissal. Unfair dismissal is the bane of the life of many employers of a small number of people. In my view, there should be a complete exemption on unfair dismissal for businesses that operate with fewer than 20 employees. They should not face unfair dismissal: it is simply unworkable. Once a relationship breaks down between the employer and the employee in firms of that size, there is no retrieving the relationship. Yet this bill also asserts that it will make re-employment the primary focus of the outcome of an unfair dismissal. I have no difficulty with that idea, and it works okay if a person is a check-out chick at Coles or Woolworths, for instance, and is successful in an unfair dismissal claim. That person can then be placed in another Coles or Woolworths store and there is no difficulty, in most instances, with the ongoing employment relationship. But where there are two or three employees and the employment relationship breaks down to the point where one is dismissed, it is simply not workable in real life for there to be any genuine reinstatement. And that is to be the primary focus.

There are a couple of other issues about unfair dismissal. Under this bill, the employee will be able to claim unfair dismissal where, on the basis of the employer's conduct, the employee has a reasonable expectation of continuing employment. It has always been the case that, if an employer, for instance, employed someone on a six month contract and their six months was up, they could not then argue unfair dismissal, but the wording of this clause will give rise to that occurrence, and it seems to me to be an unreasonable imposition. At the end of the day, I think it behoves the government to remember that this state is living on the back of small business, and every time we make it less desirable for people to employ we damage small business even further. We want to be encouraging employers to employ in this state.

The other point in relation to unfair dismissal is that it seems to me, if you are a host employer and you have obtained an employee through a labour hire firm, to be unreasonable that you could then be dragged into an unfair dismissal claim if the labour hire firm chooses to dismiss the employee. It is none of your doing and none of your making, yet you could be found to be the culprit in an unfair dismissal claim—and that is simply unfair.

The last point I want to make (and it has been made by other speakers) is that I absolutely support the removal, or oppose the introduction, of the idea of a bargaining agent's fee. I am absolutely fundamentally opposed to the idea that a union can get its membership by stealth in this way, and that is what this clause is about. It is about forcing people who chose not to be union members to pay a fee because the union, whether or not they wanted it to do so, has apparently negotiated on their behalf. It will not take any instructions, and again I refer to the SOS matter where the union was specifically instructed not to proceed on behalf of the people whom it was ostensibly representing but chose to go ahead with a log of 80 claims, and that has resulted in those people no longer having employment at all, having entered into three year contracts early last year.

So, I think it is appropriate that we oppose the introduction of any such clause. I certainly will oppose it most vigorously. It is unreasonable to expect people who choose not to be members of a union to participate in unionism in this way. The union, in my view, can do whatever it wants for its members, but it should not be able to force itself upon non-members.

Mr HANNA (Mitchell): I am speaking to the Industrial Law Reform (Fair Work) Bill 2004 brought in by the Labor government. The bill originally came forward at about the end of last year as a draft bill, and it has been watered down since. I was very sorry to see the lack of ambition in the original bill in terms of bringing reforms that would benefit South Australian workers. In the face of a great deal of publicity generated by the housing industry and the business community—or at least sectors of them—the government backed down. I was sorry to see that.

I understand the sentiment of wanting to govern for all of the community, and I will say something about that in a moment, but it needs to be borne in mind that the bill was proposed at that time following an extensive review of the South Australian industrial relations system by Greg Stevens,

a former deputy president of the Industrial Relations Commission of South Australia. In his thorough and considered review he has spelled out many areas which are crying out for reform.

Although I have made perhaps some unkind remarks about that first government bill, that is not to say that there was not a great deal of good in it, and even with the bill which is presently before the parliament there are a number of worthy reforms, and I will be supporting them wholeheartedly. My only criticism about the bill at this time is that it does not go far enough. The bill is a fundamental one because it deals with the balance to be struck between employers and employees in South Australia, and not only is that fundamental to the welfare of working people in South Australia but it is fundamental to the growth of business in South Australia and the economy generally.

It really is a critical issue for South Australians and it brought the question into my mind: whom am I here to represent? On one level, as we all sit in the House of Assembly, we are here to consider the propositions that come before us on behalf of all South Australians. That is certainly technically true, and it is also technically true that I represent the 22 000 or so voters and their families in the state electorate of Mitchell, but in my heart I am here for those who are less able to speak up for themselves than others in our community. I did not come in here to put forward propositions which will favour the well-off in our community. I have always believed that generally they have the means to look after themselves. They have the means to generate publicity which favours them. They have the means to generate wealth and look after themselves as a result.

They have the means to peddle influence with those in government if they wish decisions favourable to them, but I was never one to come in here to favour them—they can look after themselves. I did come in here to try to make a difference for working South Australians, particularly those who have not had the benefit of the education and good fortune that I have had. The Labor Party historically has been here for those people as well, and the century of support for the rights and conditions of working people is something that made me proud when I joined the Labor Party many years ago. When I talk to some of my constituents who work at Mitsubishi, for example, or in manufacturing in the south-western suburbs, I do hear it asked: 'Why should I join a union? What has the union ever done for us?'

While it might be true that the union might not have done anything for them in the past five minutes, anyone who is aware of the last century of struggle for working people in this country could provide a very comprehensive answer to that rhetorical question. In part, the trade unions are victims of their own success. Because working conditions and wages have grown so markedly over the past century, many working people feel they are comfortably enough off, perhaps not even realising, at times, that they are being exploited and that they could do better by collectively bargaining in the workplace for better wages and conditions. Of course, there are political implications.

It means that governments such as John Howard's can win elections by appealing to emotive issues, playing on the fear and prejudice of people, rather than directly benefiting their material welfare. Indeed, the recent federal election is testimony to that. However, as I say, I consider myself essentially to be here for those who are less able to speak up for themselves than others. In that broad category I count those who have only casual employment; who are on minimal wages; who struggle to buy a house, let alone pay off a mortgage; and those who are doing it tough in so many ways, even though they are employed. So, I see this legislation as an opportunity to do a lot to improve the balance (which inevitably exists) in favour of employees over employers. I believe that we can do so without jeopardising the South Australian economy or the small and large businesses that thrive in my electorate and throughout South Australia.

I have brought to the parliament a number of amendments. They are on file, and I will go through them very briefly. When we consider the bill in detail, I will be able to go into a lot more detail about why I felt the need to move these amendments. First, I return to the subject matter of the original government bill (which came to light nearly 12 months ago) in respect of contractors. Many people are engaged on contract—for example, through labour hire companies—who ought to be considered employees. The reason that many contracts are created in these situations is purely to avoid the obligations an employer should have to their employees according to law in respect of workers compensation, the right to be free of unfair dismissal and so on.

I also seek to extend coverage of the industrial relations legislation to those who are casuals. I do so by providing a mechanism whereby those who are employed in a particular workplace on a systematic basis for at least 12 months would have the right to apply to their employer to become permanent. That would accord them additional protection in the workplace and would afford them security, rather than their having the threat of the employer saying, 'You don't have any more shifts next week. Don't bother to come back.' It would give the employees the security of knowing that they have a permanent job and one from which they could not be dismissed without good cause. In this model, the employer could not unreasonably refuse the request to become a permanent worker. It is not automatic, and there might be reasons to refuse such a request—for example, the seasonal nature of the work in the business, or perhaps the stage of development of that business. That flexibility is allowed in my proposal but, if there were a dispute, it would go to the Industrial Relations Commission, and the judicial mind of the commissioner could be exercised in relation to that dispute.

I will also move an amendment to remedy unfair work contracts. This is based fairly and squarely on the New South Wales legislation, which has been working successfully and which was included in the government bill nearly a year ago. There are many situations where, clearly, an employment relationship does not exist, but there can be extreme unfairness in the relations between the person who engages another and the one who does the work. A common situation might be that of an owner-driver in the trucking industry. For example, there are many situations where drivers are paid $500 or $600 a week, which is not a lot of money, and on any day they face the prospect of being told, 'You need not come in again.'

It need not be for a good cause. It may be only because there was a dispute with the owner of the trucking yard. They can be told, 'Although you have invested that money, although we do not have any complaint about the way you are doing your work, we do not like you any more and you must leave.' That is palpably unfair, and it can mean the ruination of a livelihood. The amendments I bring will allow the commission the power to remedy contracts that are unfair. Also, I propose that workplace surveillance should be banned

unless workers have been given fair notice of such surveillance.

I refer to surveillance by video cameras, listening devices or interception of email. Of course, there are cases where, as a parliament, we would wish there to be workplace surveillance. For example, there will be many cases where it would be warranted for there to be a camera over a till in a bank, a hotel or the like to be able to detect someone who is stealing money from the till—no complaint about that; or, for example, in a school situation where the principal of the school wishes to inspect the emails of teachers because one of the staff has a liking for child pornography (something as objectionable as that).

No-one will complain about the principal's having that right in that situation. However, I am suggesting that workers should be given notice of any such surveillance. It need not be the moment before the surveillance: it should be left up to regulations as to how and when the notice is given. In many cases it might be sufficient simply for the worker to be given a sheet of paper when they commence their employment which says that this or that type of surveillance is conducted in the workplace, and that is something they need to take on board. It is then a matter of choice for the worker as to whether or not they wish to continue to work at that place.

Currently, cases of surveillance are being abused in the workplace, of personal emails being intercepted for only prurient reasons and even, I have been told, of cameras in the toilets of work premises observing people putting on their make up or tidying themselves in a personal manner.

Mrs Geraghty interjecting:

Mr HANNA: And even changing work uniforms, and so on. That is reprehensible, and it is a mischief which I seek to remedy with this amendment. I also propose that unions should be able to apply for a bargaining fee to be retrieved from all workers who get the benefit from the union's negotiating effort. Note that this is not a mandatory fee: it is an opportunity for a trade union, which has negotiated improved wages or conditions for workers in a particular workplace or industry to go to the commission and say, 'This is a fair thing. We want a bargaining fee to cover the costs of our campaign.'

Some of these campaigns can run into tens of thousands of dollars as a result of public relations, communication with members, court costs and so on. The principle is that if workers are to get the benefit of wage increases or improved conditions negotiated by a union they should chip in toward the cost of obtaining those improved wages and conditions. In a way, it is a matter of user pays, and that seems to be part of the dominating small 'l' liberal philosophy which governments in Australia favour these days; but I put it forward because it is a fair thing. If the trade union does the work and does so successfully, it should get the benefit.

There is a safeguard, because the commission can always say that, in a particular case, it is not warranted. I have insisted that the commission should take account of the membership fees of the particular trade union concerned, and they may be a guide as to an appropriate fee to be set in each case.

I have also proposed that the Industrial Relations Commission should have the power to award punitive (or punishment) damages where employers have behaved especially reprehensively in the context of dismissing someone. When I worked full-time as a legal practitioner, I came across one case where a young woman had been molested sexually by her employer in a chicken shop. When she threatened to blow the whistle, he dismissed her, for no other reason than that. The circumstances were such that I believe that the employer should have been punished with punitive damages as well as giving the young woman her lost wages in that situation as a result of unfair dismissal.

I have some further, more technical amendments, and I will detail those in due course. Many members of the union movement and the Australian Labor Party have supported what I am putting forward in the parliament this week. So many parliamentary members of the Australian Labor Party have or have had close connections with unions that I barely have time to go through them all. However, as a quick rundown I provide the following information: the Minister for Infrastructure, Patrick Conlon, worked for the United Firefighters Union; the Attorney-General, Michael Atkinson, worked for the Shop Distributive and Allied Employees Association; Steph Key, another minister, worked for the Transport Workers Union; the minister, Michael Wright, worked for the Australian Workers Union; Jay Weatherill acted as a lawyer for many workers in situations similar to those that I have described, and his father is, and has been in the other place, a fervent unionist; Robyn Geraghty is very well acquainted with the kind of problems that I am describing, and her husband is the secretary of a significant union; Tom Koutsantonis worked for the SDA, as did Jack Snelling, I believe; Paul Caica was secretary of the United Firefighters Union; John Rau, as a lawyer, has represented many of the people whose plight I have described—

The SPEAKER: Order! The member for Mitchell knows that he should refer to honourable members as representing electorates and not by their personal name, as they are not here in their own right.

Mr HANNA: Thank you, sir. I refer also to members of the Legislative Council: Gail Gago was secretary of the Australian Nursing Federation; and Terry Roberts, Ron Roberts, John Gazzola and Bob Sneath also have had union connections. This is a defining issue for the Labor Party.

Time expired.

Mr GOLDSWORTHY (Kavel): This is an interesting piece of legislation that has finally come before the parliament. This is what, I guess, we have all been waiting for—payback to the unions that the government has owed since the last state election. We know that the union movement contributes significantly to the campaign of the ALP—

Mrs Geraghty: Good heavens! I had better expectations for you, but you are another union basher.

Mr GOLDSWORTHY: No, not at all.

Mrs Geraghty: Absolutely.

Mr GOLDSWORTHY: I am just presenting the facts for the member for Torrens.

Mrs Geraghty: Let's talk about donations to the Liberal Party. I am happy to talk about that.

Mr GOLDSWORTHY: We do not get any money from the unions.

Mrs Geraghty: I am not surprised after the kind of legislation you tried to foist on workers.

Mr GOLDSWORTHY: This is payback time and we have been waiting for it with bated breath. This piece of legislation has been out there for the best part of 12 months. I have correspondence that dates back to the beginning of the year. It almost seemed that the government was reluctant to introduce the bill, because it is aware of the quite significant opposition it has from the vast majority of South Australians, including the business sector.

The government portrays itself as being pro-business. We have had the formation of the Economic Development Board, the big strategic plan and one thing and another. The Treasurer puts himself out there as the most prudent, diligent, conscientious Treasurer of all time and he has achieved a AAA rating but, as the shadow treasurer has stated, it is quite ironic that the AAA rating has been achieved by Liberal Party policies that were vehemently opposed by the Labor Party. The two predominant policies have been the privatisation of some of our assets and also the GST, both significant platforms of previous state and federal Liberal governments that the Labor Party vehemently opposed. There is an irony in the way the government deals with individual issues as it moves through its term. It puts itself out there as being pro-business, pro-employer and the like but, on the other hand, it introduces legislation that is some of the most anti-employer legislation that the parliament has seen for decades.

It is good to reflect on history sometimes, because another interesting observation I have made in the relatively short time I have been in this place is that we have seen unprecedented industrial unrest since Labor has come to power. Previous Liberal governments over the past eight or nine years achieved some significant industrial harmony; there was very little industrial unrest in the previous Liberal government's term. Since the ALP has come to power, we have seen a lot of union unrest. We have seen the PSA continually campaign for better conditions and the like for its workers, and we have seen a heck of a blue with the Nurses' Federation here 12 or 18 months ago.

Finally, I guess through sheer hard work and pressure on the government, we saw the government give in to them and meet their demands, basically. The government is meant to be the friend of the unions. It was interesting to hear the member for Mitchell give a description of each individual ALP member's association with the unions. It would seem that at one time or another pretty well every Labor Party member has worked for a union. I know that the vast majority of members in the other place have either worked for a union or actually been the secretary of a union, such as the Hons Bob Sneath, John Gazzola and Terry Roberts and the President, the Hon Ron Roberts. The list goes on.

The member for Mitchell has given us a description of the very close association that ALP members here in this place have with the unions. You would think that that close association would mean that they could work in a harmonious fashion with the unions, but that is not the case. They seem to be continually at loggerheads. I guess the reason is that there were promises made leading up to and during the election campaign and, as I said, probably hundreds of thousands of dollars poured into the Labor Party coffers to fund their campaigns. It is now payback time. This legislation is part of that payback.

It is interesting to look at what actually occurred during the federal election campaign and how the federal opposition leader, Mark Latham, failed miserably with his approach to the union movement. It was interesting to look at the television footage of when he went to Tasmania supposedly to shore up the Greens' preferences for supposed election success, which obviously as we can see failed miserably. He drove in through the back garage, the automatic roller door came down and, boom, that was all anybody saw of his negotiations with the forestry timber workers and the CFMEU—in contrast to the very strong and statesman-like manner of the Prime Minister, who actually had the courage to face up to the CFMEU and the workers in the timber industry in Tasmania.

We saw very graphic footage of the Prime Minister addressing those workers in a big hall, and big, burly chaps with their safety shirts on were standing there applauding the Prime Minister. The Prime Minister knows what is important to people and their families, and that is fundamentally job security. That is not what this piece of legislation looks to provide. We know there has to be a commonsense balance in the employer/employee relationship, and when you have an imbalance in that relationship things go wrong. This is what will happen if this legislation is passed in its current form.

On a personal note, I have said in the house previously that I was a banker for some 20-odd years. During that time I was a member of the Australian Bankers Employees Union, mainly because in the mid-1970s, when I first joined the bank, there was compulsory unionism: to get a job in the banking industry you had to join the union. That was relaxed after a number of years. However, on the off chance that I might need the advice of the union, for whatever reason, I kept on paying my fortnightly subscriptions. From memory, they were automatically deducted from my salary, and I stayed a member of the union for those 20-plus years until I left.

I will admit there was one time when I sought advice from the union, and that was when I was looking to exit my position from the bank. I wanted to ensure that everything I was advised by my employer regarding my entitlements was correct.

I can understand the need for unionism. History also shows us that there have been some terribly unscrupulous employers in the past, and the workers certainly need protection from those types of unscrupulous people. Perhaps if the union movement was not born, we would arguably still see that level of exploitation. Be that as it may, I put that on the record so that we look at the whole issue from a common-sense viewpoint.

Getting down to the bill itself, I do not think in the approximately 2½ years that I have been a member of this place I have received more correspondence on any one issue than on this piece of legislation. I am receiving a lot of correspondence about the other piece of legislation before the house, that is, the sexual relationships bill. I am receiving a heck of a lot of correspondence on that, and I can tell you that those who are opposed to it far outweigh those who are in favour of it. Those comments and a speech on that are obviously for another time.

As you can see, I have a whole stack of correspondence, submissions and the like from a vast range of organisations, employer groups and business associations from a really broad cross-section of the community in our state—all terribly concerned about the ramifications of this draconian piece of legislation. I have a comprehensive submission from the Independent Schools Association of South Australia which lists a number of concerns which I will quickly read out. They include an increased emphasis on redeployment instead of compensation following unfair dismissal, and an increased possibility that a person could claim unfair dismissal following the conclusion of a fixed-term contract. I will not necessarily take up the house's time listing them all, but this is one submission.

As I said, another is from Business SA and is headed, 'Major implications of the Industrial Law Reform Bill 2004'. On their frontispiece they list the following major implica-

tions, and this is straight from Business SA, dated today, 8 November. It states:

> The major implications include
> · more third-party intervention
> · more arbitration
> · more regulation
> · more red tape
> · more complexity
> · no certainty
> · less choice
> · more disputes
> · higher labour and business costs
> · reduced economic efficiency
> · encourages employers to move to federal WR system

Here is Business SA, the body that was heralding the AAA rating, which has been a supporter of the government on a number of issues. I remember the chief executive being interviewed on television and talking about the Treasurer and the AAA rating in absolute glowing terms. Here we are, that same body is absolutely bagging the government on this piece of legislation. I have just listed a dozen major implications, let alone some of the fine print that they go through. There are 15 pages of issues raised—that is from Business SA.

We move on to the commentary on the bill from the South Australian Wine Industry which is a significant industry in South Australia, particularly in the Adelaide Hills, and particularly in the electorate of Kavel which I represent in this place. Again, it goes through clause by clause and states its significant concerns about the legislation. For the benefit of the house I will list a couple. It talks about enterprise agreement and states:

> There is no support within the wine industry for enterprise agreements to be made other than with one employer. The concept of multi-employer agreements is inconsistent with the concept of enterprise bargaining. The proposed definition is therefore not needed, not required and is opposed by the wine industry employers.

There is nothing wrong with the way the wine industry works. They have contractors coming in. A lot of horticultural industries work this way. The apple and pear industry and the cherry industry throughout the Adelaide Hills work this way—they have contractors come in to harvest the crop, or prune the trees, or whatever the work might be. In establishing a vineyard, contractors come in to ram in the pine posts and plant the vines, and to put in the irrigation systems. A lot of work within the wine industry—out in the vineyard, in particular—is done by contract workers, so it is understandable that the wine industry, a very big industry within this state and within the country, has considerable concerns with the legislation.

I have also had correspondence from the Information Technology Contract and Recruitment Association—an association that consists of 125 companies that manage more than 100 000 IT professional contractors throughout Australia, about 7 000 of whom live and work in this state. In their letter they list 20 reasons why the Industrial Law Reform (Fair Work) Bill must be withdrawn from the South Australian parliament. I will not go through those 20 individual reasons, but I will quote the following couple of sentences:

> We do not believe that closing down flexible work arrangements like contract and casual employment is the way to 'meet the needs of emerging labour markets.' We believe that there is a basic inconsistency between 'positively encouraging union membership' and 'absolute freedom of association and choice in industrial representation.' We believe that IT contractors are unwilling for an IR Commission to remove their common law rights by declaring that they are no longer independent contractors but 'employee(s)' irrespective of what the reality of the situation is.

So, here is an industry that knows what the reality of its work is, but it is having some sort of higher authority, I guess you could say in terms of this current Labor government, impose a very restrictive backward-looking regime on it.

The list goes on, but I am running low on time. I have received a vast number of letters, correspondence, e-mails, and so on. The member for Davenport undertook a significant business survey—and I commend him for his work in surveying the business community on this piece of legislation—and I have a number of responses from businesses in my electorate. I guess there would be 30 responses, all tremendously opposed to this bill.

Mr VENNING (Schubert): I believe that this is an atrocious piece of legislation, and we should save ourselves and this state a lot of time, money and energy and throw it out right now. This is purely a try on and a sop to union membership. Not only do they know that it will not pass this place but they actually hope that it does not. Because I meet these ladies and gentlemen in the corridors, I know that this is a sop. They do not have a mandate for legislation like this. I wonder whether this legislation came from the Robert Champion de Crespigny think tank, or whether it was part of the Economic Development Board's grand plan. Sir, you and I both know that it certainly was not.

One of the reasons that I do not agree with the two-house system is that governments can bring trash like this in knowing that the other house will clean it up—and that has been happening for years. This is a classic example of that. We will waste our time; we will spend copious hours in here and, in the end, the result will be what we know now.

This bill will fail, but whether it fails completely is another thing. One or two small points are worth salvaging; the rest, as far as I am concerned, can go in the bin. That is the way it will go. It rests probably with one member in this chamber (that is the member for Fisher), but we already know that two of the government ministers are going to vote against this, at least in its laid down form. I believe that you, sir, have made private comments about it as well. Still, the government presses on to continue with the sop to the unions. It really annoys me.

The whole time I have been in this parliament I have never voted against the second reading of a bill, but I will do so on this occasion. Most of it is unsalvageable. Why waste the parliament's time? Why spend hours on a bill that is not going to be successful, anyway? It is draconian and regressive.

I have major concerns about the economic future of our state, and if this bill passes we will see companies leaving this state in ever-increasing numbers. Mr Speaker, you know, and we all know, that the queue is growing. This government has prided itself on South Australia's being a great place to do business. I agree. South Australia is—or at least it was—a good place to do business; however, to remain a great place to do business, we must be progressive. We need to make more progressive amendments, particularly in relation to the right to hire and fire and unfair dismissals, which both protect the worker and give some surety to employers who are considering employing more people. After all, it is a two-way street. Employment is jobs, and jobs are success; success helps the economy which, in turn, helps every South Australian. We know that there are unscrupulous employers out there, just as there are unscrupulous employees. However, you do not whack every employer in the state with an impost such as this to make sure that nobody gets through the net.

There could be no greater disincentive to an employer than a bill such as this. Just the name of this bill—the Industrial Law Reform (Fair Work) Bill—signals negative connotations about the nature of work in South Australia and sends negative signals for the economy, investment, business and jobs.

One would think that we are back in the mid-1960s. I can remember back that far when the Dunstan Labor government came into office in South Australia and brought in its draconian and totally union oriented industrial relations legislation. That is one of the key reasons why this state went from being number 3 in Australia to number 7. It was third only to New South Wales and Victoria. Now, we are battling it out with Tasmania for the bottom spot. That is when the rot started. Look at the graphs and the economic data. It is quite clear for anyone wishing to study—it is when it started. Mr Speaker, you would know that, because you would be well aware. Queensland and Western Australia have both overtaken us since South Australia's labour oriented days of the 1960s and 1970s. Check their industrial legislation on this matter and their record.

I do not understand why the government has introduced this bill other than to recruit union members or, at best, to prop up the flagging interest and membership. Why would the parliament legislate to make employers more open to dispute and disagreement? We have had peace here in South Australia, and I do not believe that any worker has been victimised or vilified. Why bring on dissent? Why stir up trouble? I thought that Mr Champion de Crespigny would have told the government to avoid it at all costs. Yet, here it is, eating it all up.

The contact that I have had from all sectors of industry (some have written personally, and I have received several personal letters) shows me that people are very concerned about this. I have never had it in my 14 years as a member of this place. I have here in front of me submissions from the printing industry, the wine industry and the Farmers Federation. All have seen fit to give us detailed submissions opposing this bill. Nobody has written to me saying it is good. Perhaps they take this for granted or perhaps this is just a game to placate the union membership: 'It will be deferred. Well, at least we tried.' What a waste of our time and effort. It really does concern me. We need an attractive environment for our employers and employees. This bill should be known as the unfair work bill, rather than the fair work bill. The mere concept of fair and unfair is open to interpretation and therefore open to dispute and disagreement. It can hardly be conducive to productive and sound workplace relationships.

I am particularly concerned about the impact of this bill on the wine industry and also on primary producers. I have received several submissions. I will mainly refer to the wine industry, but I will refer very obliquely to the Farmers Federation as well. I declare that I am a member of the Farmers Federation. I have sought the advice of the South Australian Wine Industry Association, which was established, as you would know, Mr Speaker, in 1840, which makes it one of the longest serving industry associations in Australia. It is the wine industry's peak body, and it is a credible support for the industry—a burgeoning and very successful industry, as we both know, Mr Speaker. I have also read the submission from the Farmers Federation. It is calling for the farming sector to be excluded from these reforms, but nothing has been said about that issue. That is how much faith that association has in this legislation and its implications for farmers, and the implications for the associated industries, including the transport industry, are horrendous. These industries are very competitive, and some are competitively sensitive in relation to export, and those draconian measures will make it very difficult for them to compete. I note that the members for Mount Gambier and Chaffey will not be supporting this legislation. However, the government still presses on, hoping the member for Fisher will save them. I make a plea to the member for Fisher that he sees through this, because I think they are all swimming against the tide.

The entering of workplaces and the seizing of documents is yet another controversial issue and a very complicated part of this legislation. The wine industry's biggest concern is this right of entry. It is the single biggest issue the industry has raised with me as late as this morning. The industry has no problems with an employee speaking to a union representative, as long as the employer is present. The unions should have the courtesy to advise the company of a complaint and allow a representative to be present.

Another issue is the right to seize documents, and this does not mean to examine and take notes: I take this to mean that they can take the documents. I cannot believe this sort of thing could happen today. They can come in and take the only copy in existence, and then they can tell the person anything because the owner does not have a copy. How can he prove his case if the copy is removed? This provision gives union officials police-like powers. In fact, it is worse than that: these are Nazi-style powers, sir, as you would know. It is beyond police powers, because the police are constructive and work within the law. I cannot see how this could even be considered. I think it is unbelievable in this day and age. Why can't they at least allow that a photocopy be taken away? I believe the original should remain the property of its owner; it should not be allowed to be removed. After all, when the document has gone, what proof does the owner of the document have that it ever existed?

There is the potential for union officials to enter any place of work, including someone's home office, traipse through their home and seize documents. Under the current proposal, this right does not include 'a part of the premises of an employer that is principally used for habitation by the employer and his or her household'. This is open to interpretation and argument about whether a part of someone's house is 'principally used for habitation or work'. That is another very good area for dispute. I find it unbelievable that this type of legislation could even be considered during a time when there is an awareness of the issue of civil liberties.

The unfair dismissal part of the bill is also causing great concern with all the stakeholders. The idea of host employers (agencies) and employment sites getting roped into unfair dismissal is ludicrous. How will this affect the wine industry? The contract workers who pick, prune and care for the vines—the whole industry will change if owners of vineyards live in fear of being sued. Vignerons and other employers use employment agencies so that they do not have to worry about the ins and outs of employing staff. It is common practice. If you are shortstaffed you ring up an agency and they drop half a dozen workers around to you. It works extremely well. Everyone does well out of it: the agency and the end user, that is, the landowner or the owner of the grapes. I wonder why we want to mess with this, because it works well, particularly in respect of short-term contract work. If you want half a dozen workers for a week, you ring an agency. It is very convenient. How else would you do it?

Imagine the extra paperwork and education that these people will now need to have in order to ensure that they are

not going to be diddled or sued by the employee. Changing these arrangements will not only cost the vignerons, it will also cost jobs, because it will not be worth the risk. Rather than picking grapes by hand—some of the premium varieties have to be picked by hand—they will pick them by harvester, because it will be cheaper. However, instead of having super premium or premium wines they will just have good table wines. This bill will take the labour out of the vineyard, and that is sad, because our best grapes are picked by hand. So, I am very concerned.

This situation has worked very well in the Barossa, as all members here would know, and in the Coonawarra, the Riverland and McLaren Vale. It has worked very well right across the state, so why mess with it! I am not aware of anybody ringing me about this. I am very accessible, as are most members, and no-one has rung me about being diddled by their employer. Usually, employer/employee relations are pretty good. I should declare that I am an employer myself. We treat our workers as equals in every way, so why they put all this in jeopardy?

The employment of a child is also causing concern. Seasonal workers are often young, sometimes of school age. The wine industry employs kids on school holidays. Under this legislation they will be in breach of the act if the employees are aged 16 or 17 or even younger, rather than 18, as this legislation says. It should be amended to 16 if the legislation survives. Likewise, if a health and safety issue arises involving a 16 or 17-year-old, potentially the employer will be exposed to a breach of the act. However, if the same incident involves an 18-year-old, the employer will not be in breach. Are we really encouraging our youth to leave their computers and play stations to earn pocket money? What message are we sending to our young people through this legislation?

The minimum standards section is also causing great concern and disquiet amongst all the stakeholders. It is proposed that these standards will apply to anyone covered by a contract of employment, whether or not they are covered by an award or an EB agreement. This will impact greatly on informal arrangements such as babysitting, occasional house cleaning, or working for sporting clubs or other associations. This approach does not work in the primary production industry, as you would know, sir, particularly in the wine and citrus industries where much of the work is done by piecework. I hope the minister is listening! Much of this work is done by piecework. This provision leaves it open for the commissioner to quash piecework, particularly in the agriculture and citrus industries, grape picking and seasonal work. That is not addressed in this bill, and you are going to leave it open to the commissioner's interpretation. That is extremely dangerous and again it is causing a lot of concern out there. This is typical of the Labor government: they have not been out there; they have not done their work; they have not asked the workers or been into the vineyards. They sit up there and listen to their union heavies and draw up legislation like this.

Regarding declarations as to employment status, the full Industrial Court is to be given new power to determine whether a person is an employee, or a class of persons are employees, yet a single commissioner can change this determination. That sounds like a very fair way of doing things! Declarations are ambiguous and open-ended. They have the potential to apply to anyone with a proper interest or 'a class of persons'. The bill will provide for a corporation or a trust to be declared an employee. An employee or a union will be able to seek a declaration on behalf of a group of employees in the workplace where none of the employees who are members of the 'class of persons' are applicants. That means that union officials can seek a ruling on the entire wine industry without individual wineries, the employers, being advised of such.

The legislation only requires that the peak bodies be advised. The power of inspectors to attend the workplace is most draconian. To enter without reason and observe or alter the premises is also of concern. I understand that, although the legislation is not even through yet, the government has already doubled the size of the inspectorate in preparation for this new provision. These inspectors will have a huge amount of power, and their ability to interfere in the workplace will be as individual as the inspectors themselves. Their reports are open to their interpretation of a situation on the day in the place. If you get a good inspector on payday a business will be laughing, but if you get Captain Grumpy on a day when nothing is going right for him, look out!

As to enterprise agreements, this bill says that the employers must meet for the purpose of enterprise bargaining, so agreement negotiations must commence and there is no opt-out clause. The wine industry does agree that a move from a two-year enterprise agreement to three years would provide the industry with more surety, and I would therefore support that move. That is the second thing we support in the whole bill. The industry has advised that it does not consider that a case for change has been made out, with only a few of the latest changes being in line with employer requirements, for example, extending the life of enterprise agreements from two to three years.

The implications of this regime are more third party intervention, more arbitration, more regulation, more red tape, more complexity, no certainty, less choice, more disputes, higher labour and business costs, reduced economic efficiencies and encouraging employers to move to the federal award. It seems that the state Rann Labor government is going in the opposite direction to the federal government. Where there is a double award, it will provide greater incentive for a change to the federal award. In South Australia we have only a state award system operating. Other states, of course, have both systems operating. The wine industry agrees with the procedural fairness and due process, but the way it can be interpreted is of concern.

I have highlighted but a few of the concerns of my constituents. I reiterate my concerns with this bill and my intention to vote against the second reading. In all the submissions I have received, and most members would have got them, I cannot remember a piece of legislation that has been so much opposed, yet we are still here. We intend to sit here until all hours of the night until Thursday—four days—until we come to a decision. The bill will be defeated. I just think that we should put it up as soon as we can, vote it out and get on with some decent, proper, constructive legislation. I oppose the bill.

The Hon. J.D. LOMAX-SMITH (Minister for Education and Children's Services): I move:

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

Debate adjourned.

Motion carried.

The SPEAKER: In noting the decision of the house on the voices, I note that the house has taken into consideration what might be the public reaction to its decision.

PETROLEUM (SUBMERGED LANDS) (MISCELLANEOUS) AMENDMENT BILL

Received from the Legislative Council and read a first time.

The Hon. J.D. LOMAX-SMITH (Minister for Education and Children's Services): I move:

That this bill be now read a second time.

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

Leave granted.

The purpose of this Bill is threefold.

Primarily it will amend the *Petroleum (Submerged Lands) Act 1982* to bring about a nationally uniform offshore scheme for the occupational health and safety of persons engaged in offshore petroleum operations across all states, territories and commonwealth waters of Australia.

The offshore petroleum industry is an important contributor to the Australian economy. The industry supports thousands of jobs, supplies a large proportion of our domestic liquid fuel and natural gas requirements and is a major export industry. It also attracts billions of dollars in foreign investment for exploration, development of new oil and gas fields, and construction of gas pipelines and downstream gas processing plants.

Offshore petroleum activities are regulated according to whether the facility is operating in commonwealth or state waters. The States and Territories have jurisdiction in their adjacent waters out to the 3 nautical mile limit. The area beyond that, to the outer limit of the continental shelf comes under commonwealth jurisdiction.

This arrangement arises from a 1979 agreement between the Commonwealth and the States on the division of offshore powers and responsibilities, known collectively as the Offshore Constitutional Settlement (OCS). In addition, under the OCS, the States agreed that they would endeavour to maintain, as far as practicable common principles, rules and practices for regulation in waters landward of the three nautical mile limit.

In August 2001, with the support of the industry and the work force, the Commonwealth Department of Industry Tourism and Resources delivered a report on offshore safety *Future Arrangements for the Regulation of Offshore Petroleum Safety.* The report found that the current system of regulation was inadequate with unclear limitations, overlapping Acts and inconsistent application between commonwealth and state jurisdictions.

An independent review formed part of this report. I quote from the executive summary of the report under the heading '*Findings of the Independent Review Team'*:

> The primary conclusion reached by the independent review team was:
>
> The review team is of the opinion that the Australian legal and administrative framework, and the day-to-day application of this framework for regulation of health, safety and environment in the offshore petroleum industry is complicated and insufficient to ensure appropriate, effective and cost-efficient regulation of the offshore petroleum industry. Much would require improvement for the regime to deliver world-class safety practice.

Australia had already responded to the Piper Alpha disaster by adopting a 'safety case' response for offshore petroleum facilities through a series of legislative amendments in the early 1990's. Under the safety case approach, operators of offshore facilities assess all the risks to the facility, which includes undertaking formal hazard and risk studies and describing the management systems for safe running of the facility. Once accepted and approved, the Safety Case is in force and provides the basis for safe facility operations.

The responsibility for safety on individual facilities then rests with the operator, not the regulator, whose function it is to provide guidance as to the safety objective to be achieved and an assessment of performance against those objectives.

Despite introduction of the safety case regime, there were still inconsistencies in the regulatory framework between the States and the Commonwealth. This made it complicated for those companies operating in more than one jurisdiction.

This was due to a 'roll-back' provision in the Commonwealth Act, which provided that the occupational health and safety requirements contained in Schedule 7 of the Act did not apply where a State or Territory had its own OHS law that was capable of applying in the territorial sea.

In this case, the respective state OHS law would prevail. In South Australia this was the *Occupational Health and Safety Act 1986* by virtue of the *Off-Shore Waters (Application of Laws) Act 1976.* The only state to rely on Schedule 7 of the Commonwealth act was Western Australia.

Consequently companies with offshore facilities in more than one state or in the Northern Territory adjacent area have had to meet the requirements of these different laws. Further, those companies operating mobile facilities such as drilling rigs have had to comply with different requirements as their rigs move from location to location around Australia.

The review team recommended that a national petroleum regulatory authority should be developed to oversee the regulation of safety in Commonwealth offshore waters. The Commonwealth view, supported by industry and employees was that it would be more efficient and effective, as well as reducing the regulatory burden, to have a single national agency covering both Commonwealth waters and States and Territory coastal waters.

The States and the Northern Territory through the Ministerial Council on Mineral and Petroleum Resources shared this view. The MCMPR subsequently endorsed a set of principles for regulation of safety of petroleum activities in Commonwealth waters and State and Northern Territory coastal waters in Australia. It agreed that the Council's Standing Committee of Officials would examine how best to improve offshore safety outcomes, primarily through a single joint national safety agency. This work involved industry participants and work force representatives, through the Australian Council of Trade Unions. It led to an agreement upon which this Bill is based.

In December 2003, the Commonwealth passed amendments to its *Petroleum (Submerged Lands) Act 1967* to set up the National Offshore Petroleum Safety Authority (NOPSA) to commence operation on 1 January 2005.

NOPSA's key function is to regulate safety on offshore petroleum facilities Australia-wide, on behalf of the Commonwealth, the States and the Northern Territory.

It will not change the 'safety case' regulatory regime.

Provision was also made for NOPSA to have jurisdiction over onshore petroleum industry sites should the relevant State or Territory agree. In acting under State onshore legislation, the Safety Authority would be entirely subject to the governance arrangements established by that legislation.

All States and the Northern Territory are party to the Offshore Constitutional Settlement with the Commonwealth, which supports consistent offshore regulation. This obligation requires the States/Northern Territory to enact legislation to mirror the legislative changes made by the Commonwealth, to enable the safety authority to carry out its occupational health and safety role in state waters.

It will mean that state laws which currently regulate OHS matters on offshore facilities will be dis-applied (by regulation) and a new Schedule 7 inserted into the Act which provides the OHS regime to apply in state waters. This will have the effect of applying the same OHS regime in Commonwealth and all State/Northern Territory waters. The Victorian Parliament has already enacted its mirror amendments and other States and the Northern Territory are working towards this.

The new Schedule 7 outlines the duties that are to be carried out by various people with responsibilities on an offshore facility, including the operator of a facility and employers of workers. It also extends to the manufacturers and suppliers of plant and substances to be used on the offshore facility, to ensure that when properly used, it is safe and without risk to the health and safety of the workers.

NOPSA has been established as a Commonwealth statutory authority. Whilst the Commonwealth Minister will be responsible for issuing policy principles or directions, the Commonwealth legislation gives the State Ministers some say in policy principles to be applied by NOPSA in their respective State coastal waters—(section 150XF).

An important aspect of the governance arrangements for the authority is that it will have an advisory board which has the functions of giving advice and making recommendations to the CEO of the Safety Authority. The CEO has already commenced duties. He is Mr John Clegg, who has been recruited from the United Kingdom. Mr Clegg has had a distinguished career as a UK public servant, with wide experience in the regulation of health and safety

in the offshore petroleum industry. He is expected to provide the right combination of strong leadership and vast experience in this very important area of offshore petroleum safety.

The United Kingdom's offshore petroleum industry is considerably bigger than Australia's, and it has pioneered the development of the safety case approach to regulation.

The members of the Board have also been selected. They have been chosen for their independence and expertise, and will be an invaluable resource for the CEO.

Furthermore the Safety Authority is to be staffed by people with a unique mix of technical competence, judgement and skills, which should benefit the petroleum industry by providing consistent OHS regulation on offshore petroleum facilities nation-wide.

NOPSA will be self funding and will operate as a full cost recovery agency. Concurrently with enacting the legislation to create NOPSA, the Commonwealth enacted the *Offshore Petroleum (Safety Levies) Act 2003*. This Act provides for a safety investigation levy, safety case levy and pipeline safety management plan levy in relation to offshore petroleum facilities, to be paid by operators.

To compensate industry for this levy, the MCMPR agreed to reduce the annual fees applicable to offshore petroleum titles, to take effect from 1 January 2005. This will result in a reduction of income for South Australia of approximately $20 000 per annum in petroleum fees for existing permits in Commonwealth waters. This reduction in revenue is a fraction of the cost savings to be achieved by the State in the long term, in the regulation of safety in the offshore petroleum industry.

There will be no implications for staffing in South Australia as a result of this new safety regime. This is because currently South Australia has no petroleum production in either Commonwealth or State waters and therefore the safety regulatory workload has been relatively small, with no public sector workers dedicated solely to this task. The next offshore petroleum operation in the South Australian adjacent area, which is in Commonwealth waters, is expected to be the drilling of an exploration well in the Otway Basin in 2005.

Secondly, the Bill makes some "pre-emptive" changes to the provisions of the *Petroleum (Submerged Lands) Act 1982*.

These pre-emptive amendments are required in preparation for a re-write of the Commonwealth *Petroleum (Submerged Lands) Act 1967* which has been in progress for several years. Current indications are that the Bill may be ready to be introduced into the Commonwealth Parliament during 2005.

The re-write is in line with a commitment by the Commonwealth to simplify the legislation, with a view to reducing compliance costs for the benefit of industry and administrators. The new act will be re-named the 'Offshore Petroleum Act'. The draft Bill contains some changes in terminology which has implications for the State *Petroleum Submerged Lands Act 1982*.

The pre-emptive amendments are worded so as to take effect if and when the new Offshore Petroleum Act comes into force. There is no consequence if the Commonwealth Bill is not passed, however there may be consequences if the re-write Act, with its revised terminology, comes into effect without these pre-emptive amendments being in place.

This is due to the fact that it is the State Act that authorises the Minister for Mineral Resources Development to exercise powers and functions under the Commonwealth Act as the SA member of the Commonwealth–South Australia Offshore Petroleum Joint Authority and as the Designated Authority for the SA adjacent area.

As a result, the State Act has significance for the whole area of Commonwealth marine jurisdiction adjacent to South Australia, to the outer limit of the continental shelf. Whilst South Australia currently has no petroleum titles in State waters (that is in the 3 nautical mile zone), it does have permits in Commonwealth waters, granted under the Commonwealth Act.

The third set of amendments proposed in the Bill relate to competition policy principles.

The proposed amendments will implement recommendations from a review of the Act against competition policy principles. The review was conducted as part of a national review of legislation (Commonwealth, State and Northern Territory) governing exploration and development of offshore petroleum resources.

The review accorded with commitments given in the Competition Principles Agreement, which was signed at the Council of Australian Governments meeting in April 1995. Under that agreement all governments agreed to remove restrictions on competition on an ongoing basis, unless those restrictions could be shown to be in the public interest and of benefit to the overall community. The terms of reference for the review of the offshore petroleum legislation also required that due regard be given to reducing compliance costs on business, where feasible.

The review concluded that the nation's offshore petroleum legislation is free of significant anti-competitive elements which would impose net costs on the community. The restrictions on competition embodied in the legislation (for example in relation to safety, the environment or the manner in which resources are managed) were considered appropriate given the net benefits they provide to the community as a whole.

There was, however, one element of the current legislation where the review concluded that scope existed to enhance competition. This related to the period for which the holder of an exploration permit could retain the permit.

The current provision is that the holder of an exploration permit awarded at this time can hold the permit for anywhere between 6 years (if there is no renewal) to a theoretical maximum of 46 years (or slightly longer if extension provisions are applied), assuming the permit area is the maximum size and every available renewal is applied for and granted.

The review concluded that, in the interests of making exploration acreage available to subsequent explorers more quickly, a limit should be placed on the number of times an exploration permittee can renew the title. This Bill proposes that, in the future, exploration permits will be able to be renewed no more than twice. The change will be prospective and will not apply to permits awarded before 1 January 2005.

On one other element of the current legislation, the review concluded that scope existed to reduce potential compliance costs for industry.

This related to the number of times the holder of a retention lease could be asked to review the commerciality of a discovery held under that retention lease.

Currently the holder of a retention lease can be asked to review the commerciality of a discovery twice within the lease's 5 year term. This was considered excessive given that a review every 2½ years on average (each lease renewal and once in between) was considered adequate to enable the titleholder to assess factors material to whether a discovery remains, for the time being, uncommercial, and to demonstrate this to the regulator.

Both these matters are the subject of amendments contained within this Bill.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The measure will be brought into operation by proclamation. However, in order to coincide with the statutory scheme established in relation to occupational health and safety under the Commonwealth Act, those provisions of this measure that relate to occupational health or safety will come into operation on (or after) 1 January 2005 (see especially section 150XI of the Commonwealth Act).

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Petroleum (Submerged Lands) Act 1982*

4—Repeal of section 3

This amendment removes a provision that is out-of-date.

5—Variation of section 4—Interpretation

These amendments are consequential on the substantive provisions to be inserted into the Act by this measure. Provision is also to be made for dealing with the situation where the Commonwealth Act is repealed and re-enacted in some other form.

6—Substitution of section 8

These amendments will deal with the situation where the Commonwealth Act (and other related Acts) are repealed and re-enacted in some other form.

7—Insertion of section 14A

This clause inserts a new section 14A in the Act. The new section will allow provision to be made, by regulation, for the disapplication of current State occupational health and safety laws in the adjacent area under the Act. In their place, the occupational health and safety provisions to be contained in Schedule 7 of the Act will apply.

8—Amendment of section 29—Application for renewal of permit

9—Insertion of section 30A

10—Amendment of section 37H—Conditions of lease

These amendments will ensure greater consistency between the Act and the corresponding provisions of the Commonwealth Act.

11—Amendment of section 58—Unit development

This is a consequential amendment.

12—Amendment of section 63—Application for pipeline licence

13—Amendment of section 64—Grant or refusal of pipeline licence

These amendments will ensure greater consistency between the Act and corresponding provisions of the Commonwealth Act.

14—Insertion of Part 3A

This clause inserts a new Part 3A relating to occupational health and safety into the Act.

Part 3A—Occupational health and safety

150A—Definitions

Section 150A defines terms used in the Part that are relevant to the functions of the Safety Authority.

150B—Occupational health and safety

Section 150B provides that Schedule 7 has effect. Schedule 7 sets out requirements regarding occupational health and safety on offshore petroleum facilities.

150C—Listed OHS laws

Section 150C lists the OHS laws as defined for the purposes of the Act

150D—Regulations relating to occupational health and safety

Section 150D provides for the making of regulations for the purposes of occupational health and safety of persons at or near a facility.

150E—Safety Authority's functions

Section 150E confers general functions on the Safety Authority that are concerned with the occupational health and safety of persons engaged in offshore petroleum operations. Offshore petroleum operations include offshore petroleum-related diving activities and other offshore petroleum activities that take place at an offshore petroleum facility, but do not include seismic survey vessels and operations carried out on those vessels, except for diving activities.

The functions include promoting occupational health and safety of persons, development and implementation of effective monitoring and enforcement strategies, investigations of accidents and occurrences affecting occupational health and safety, and reporting.

Under section 150XF of the Commonwealth Act, the Commonwealth Minister can give written policy principles to the Safety Authority, and the Safety Authority must comply with them. The Commonwealth Minister must consult the State Minister before giving a policy principle to the Safety Authority in relation to its operations in State waters.

150F—Safety Authority's ordinary powers

Section 150F provides that the Safety Authority has power to do all things necessary or convenient to be done for, or in connection with, the performance of its functions. These include power to acquire, hold and dispose of real property, enter contracts, lease and occupy real property, conduct research, hold and apply for patents and to do anything incidental to its functions.

150G—Judicial notice of seal

Section 150G provides for the standard provisions with respect to the seal of the Safety Authority.

150H—Functions of the Board

Section 150H confers functions on the National Offshore Petroleum Safety Authority Board in respect of advising and making recommendations to various persons and bodies. These include the CEO of the Safety Authority, and the State and Commonwealth Ministers with regards to policy or strategic matters relating to occupational health and safety and performance of the Safety Authority.

150I—Powers of the Board

Section 150I confers powers on the Board by reference to its functions as set out in section 150H. The Board has power to do all things necessary or convenient for, or in connection with, the performance of its functions.

150J—Validity of decisions

Section 150J provides that the functions and powers set out in sections 150H and 150I respectively are not affected where there is a vacancy or vacancies in the membership of the Board.

150K—CEO acts for Safety Authority

Subsection 150K provides that anything done by the CEO in the name of the Safety Authority or on the Safety Authority's behalf is taken to have been done by the Safety Authority.

150L—Working with the Board

Section 150L establishes the working relationship between the CEO and the Board.

150M—Delegation

Section 150M permits South Australian public service and public authority employees and officers to accept delegations from the CEO under the Commonwealth Act. Persons exercising powers under a delegation must do so in accordance with any directions of the CEO.

150N—Secondments to the Safety Authority

Section 150N permits South Australian public service and public authority employees and officers to assist the Safety Authority in connection with the performance of any of its functions or the exercise of any of its powers.

150O—Minister may require the Safety Authority to prepare reports or give information

Section 150O sets out the powers of the Minister to require the Safety Authority to prepare reports or documents on specified matters relating to the performance of the Safety Authority's function or exercise of its powers. Copies of the report of documents are to be given to the Minister, the Commonwealth Minister and each interstate Minister.

150P—Directions to the Safety Authority

Section 150P provides that the Minister may request that the Commonwealth Minister give a direction to the Safety Authority. The Commonwealth Minister must make a decision regarding the request within 30 days of receipt. If the Commonwealth Minister refuses to grant the request then the Commonwealth Minister must provide the Minister with reasons. A direction given by the Commonwealth Minister must be complied with by the Safety Authority.

150Q—Reviews of operations of Safety Authority

Section 150Q(1) to (5) provides that the Minister is to cause to be conducted reviews of the operations of the Safety Authority relating to each 3-year period after the commencement of operations of the Authority on 1 January 2005. This review relates to the Safety Authority's functions in South Australian coastal waters (called the ***adjacent area*** in the Act). The review can be conducted in conjunction with similar reviews under corresponding laws.

Section 150Q(6) provides that, without limiting the matters to be covered by a review, the review must include an assessment of the effectiveness of the Authority in improving the occupational health and safety of persons engaged in offshore petroleum operations.

Section 150Q(7) requires the tabling of a report of a review in each House of Parliament within 15 sitting days of the report being made available to the Minister.

150R—Liability for acts and omissions

Section 150R applies to the Safety Authority, the CEO, an OHS inspector and a person acting under direction of the Safety Authority or CEO. It provides that they are not personally liable for acts or omissions done in good faith for the performance of a function under a listed OHS law.

15—Amendment of section 151—Regulations

These amendments relate to the regulation-making powers under the Act and will ensure that South Australia may, if appropriate, apply any relevant Commonwealth regulations to any area covered by the State Act.

16—Repeal of Schedule 1

This clause removes a redundant schedule.

17—Variation of Schedule 4

These amendments are consequential.

18—Repeal of Schedule 5

This clause removes a redundant schedule.

19—Insertion of Schedule 7

This clause inserts a new Schedule 7 relating to occupational health and safety on offshore petroleum facilities.

Schedule 7—Occupational health and safety

Part 1—Introduction

Clause 1 sets out the objects of Schedule 7.

The objects relate to the securing of the occupational health and safety of all members of the workforce at a facility, whether they work at the facility under a contract of employment with any person or under some other contractual arrangement and regardless of whether they have any contract at all with a person who owes a duty of care.

Clause 2 sets out a simplified outline that is a summary of Schedule 7.

Clause 3 provides definitions for the purposes of Schedule 7.

Clause 4 defines the vessels and structures located in State waters that are considered to be ***facilities*** for the purpose of Schedule 7.

Clause 5 provides that an operator must ensure at all times the presence of a representative of the operator, who has the day-to-day management and control of the operations at the facility, and display their name prominently at the facility.

Clause 6 provides that the provisions of Schedule 7 apply to persons who are at a facility solely for purposes of accommodation, even though all their work activities may be at another facility.

Clause 7 defines ***contractor*** for the purposes of Schedule 7.

Part 2—Occupational health and safety

Division 1—Duties relating to occupational health and safety

Clause 8 establishes the duties of care that are owed by the operator of a facility to the members of the workforce.

The primary duty of the operator is to take all reasonably practicable steps to ensure that the facility and all work and other activities at the facility are safe and without risk to health.

Clause 9 establishes duties of persons who may be in management or control of a part of a facility, or of certain activities at a facility. Examples of such persons may be those supervising a drilling crew, maintenance crew or dive team.

The duties established for these persons are similar to those established for the operator, but are limited to the areas or activities under the control of the person. They do not include requirements to provide medical and first aid facilities, or develop or monitor health and safety policy.

Clause 10 establishes duties of employers to employees and to contractors.

The employer duties are to take all reasonable practicable steps to protect the health and safety of employees.

There is overlap in the duties of care imposed on operators, on persons in control of parts of the facility or particular work, and on employers. There is further overlap with the duties of care imposed on manufacturers, suppliers, etc, which are defined by later clauses, and ensures that there are no gaps in the coverage of the duties of care, so that, when enforcement action is required, it can be taken against the most appropriate person in the circumstances.

Clause 11 provides for the duties of care of manufacturers (including importers and overseas manufacturers with no place of business in Australia) in relation to plant and substances reasonably expected to be used by members of the workforce at a facility. This provision does not affect other State laws relating to goods.

Clause 12 provides for the duties of care of suppliers of plant and substances, to all persons at all times they are at an offshore petroleum facility. This provision also extends to an ostensible supplier in the business of financing the acquisition or use of goods by others.

Clause 13 provides for the duties of care of persons erecting or installing plant, to all persons at all times they are at an offshore petroleum facility.

Clause 14 provides the duties of care of any person at an offshore petroleum facility in relation to occupational health and safety.

Clause 15 provides that a person, in complying with their duties, may rely on information provided by others, or on the results of testing and research conducted by others.

Division 2—Regulations relating to occupational health and safety

Clause 16 provides that regulations may be made that relate to any matter affecting or likely to affect OHS of any class of person at a facility and lists those matters.

Part 3—Workplace arrangements

Division 1—Introduction

Clause 17 sets out a simplified outline that is a summary of this Part.

Division 2—Designated work groups

The purpose of designated work groups is to provide a formal and structured organisation for consultation between management and the workforce on occupational health and safety issues.

Subdivision A—Establishment of designated work groups

Clause 18 provides that the operator of a facility has the responsibility to organise a designated work group if a request is made by a member of the workforce or workforce representative.

The operator on receiving such a request must within 14 days enter into consultation with members of the workforce, workforce representatives, or each employer (if any) of members of the workforce.

Clause 19 provides that the operator of a facility may initiate the establishment of a designated work group.

Subdivision B—Variation of designated work groups

Clause 20 provides that the operator of a facility has the responsibility to vary an established designated work group if a request for variation is made.

Clause 21 provides that the operator of a facility may initiate the variation of an established designated work group.

Subdivision C—General

Clause 22 provides that, if a disagreement arises between the parties in the course of consultation under clause 18, 19, 20 or 21, either party made refer the disagreement to the reviewing authority for resolution. The reviewing authority is the Australian Industrial Relations Commission.

Clause 23 provides for the manner in which members of the workforce may be grouped and the issues that the parties to the consultation must have regard.

Division 3—Health and safety representatives

Subdivision A—Selection of health and safety representatives

Clause 24 provides for the selection of Health and Safety Representatives (***HSRs***). HSRs are the persons selected to represent the members of each designated work group during consultations with management on OHS issues.

Clause 25 relates to the election of HSRs if there is a vacancy for an HSR, and no person has within a reasonable time been unanimously selected by the group. The operator is required to invite nominations from all group members. If the operator fails to invite such nominations in a reasonable time, the Safety Authority may direct the operator to do so. No person can be nominated if disqualified under clause 31.

If there is only one candidate, that person is taken to be elected. If more than one candidate is nominated, the operator must conduct or arrange for the conduct of an election. All members of the workforce in the designated work group are entitled to vote. The operator must comply with any directions of the Safety Authority when conducting the election.

Clause 26 requires the operator to prepare and keep up to date a list of all HSRs, and to make that list available to the members of the workforce and to Safety Authority inspectors (who are called ***OHS inspectors*** in the Act).

Clause 27 requires the operator to notify members of the workforce of a vacancy for an HSR within a reasonable time of that vacancy arising, and to notify those members of the name of the person selected within a reasonable time of the selection being made.

Clause 28 provides that an HSR holds office for a term agreed to by the parties or for 2 years if there is no agreement.

Clause 29 provides that an HSR must undertake a Safety Authority-accredited OHS training course. The operator and employer are required to grant the HSR leave to attend an accredited course.

Clause 30 provides the processes to be followed for the formal resignation of HSRs. It also sets out the requirements for notifying relevant persons of such resignations.

Clause 31 provides the process for disqualification of an HSR

Clause 32 allows for the selection of a deputy HSR by the designated work group who exercises the powers of the HSR if the HSR ceases to be the HSR or is unable.

Subdivision B—Powers of health and safety representatives

Clause 33 sets out the powers of an HSR. These powers include: to inspect the workplace, to request an inspection by an OHS inspector, to accompany that inspector during such an inspection, to represent the group members in consultations with management, to investigate complaints by group members about OHS, to be present at any interview of a group member by an inspector or management about OHS issues, to obtain access to relevant information, and to issue provisional improvement notices under clause 37.

Clause 34 provides that in exercising these powers, HSRs may be assisted by consultants, if that is agreed by either the Safety Authority or management.

Clause 35 provides that neither the HSR or consultant is entitled to have access to information that is subject to legal professional privilege, or that is of a confidential medical nature unless they have the person's consent or the person cannot be identified by that information.

Clause 36 provides that HSRs are not obliged to exercise their powers and protects them from liability.

Clause 37 provides that HSRs have power to issue provisional improvement notices (PINs), to the persons responsible for relevant work activities if the HSR believes that there is a contravention of the OHS laws. The PIN may also indicate an action the HSR believes the responsible person must take to rectify the apparent contravention. HSRs may only issue PINs after having consulted with the responsible person about the apparent contravention, and if there is a failure to reach agreement within a reasonable time.

Clause 38 provides that if an HSR issues a PIN to any person, that person may request an inspection by an OHS inspector. Upon that request being made the PIN is suspended, but the inspector may subsequently confirm, vary or cancel the PIN, and make any other decision or exercise any other powers considered necessary. The responsible person is required to ensure that the notice (as confirmed or varied by the inspector) is complied with, to the extent that the responsible person has control.

Subdivision C—Duties of the operator and other employers in relation to health and safety representatives

Clause 39 provides that the operator is required to consult with an HSR (if requested) about any workplace changes that may affect the health and safety of the workforce and (if there is no health and safety committee) about the implementation and review of measures to control health and safety. It also requires the operator to allow the HSR to make inspections under clause 33.

Division 4—Health and safety committees

Clause 40 establishes when a health and safety committee must be established, such as if the workforce exceeds 50 in total, there are designated work groups, and a request is made. The clause also states that the composition and procedures of the committee are to be agreed by appropriate consultation, that the committee must meet at least every 3 months, and that minutes of meetings must be retained for 3 years.

Clause 41 defines the functions of health and safety committees which include providing assistance to the operator of a facility to review, develop and implement health and safety measures for the workforce.

Clause 42 makes provisions to ensure that the health and safety committee functions effectively, for example by requiring that relevant information be provided to the committee, and by requiring that persons are given time off work activities to attend committee meetings.

Division 5—Emergency procedures

Clause 43 deals with the emergency powers of an HSR.

It provides that if an HSR has reasonable cause to believe that there is an imminent and serious danger to the health or safety of any person at or near a facility unless a group member ceases to perform particular work, the HSR must either inform a supervisor or, if no supervisor can be contacted immediately, direct that the work cease and inform a supervisor as soon as practicable. The supervisor must then take such action as he or she thinks appropriate to remove the danger.

It also provides that if the HSR has reasonable cause to believe that there continues to be an imminent and serious danger to health or safety unless the work ceases, despite any action taken by the supervisor, the HSR must direct that the work cease and, as soon as practicable, inform the supervisor that the direction has been given.

Clause 44 provides that if an employee has ceased to perform work in accordance with a direction of an HSR or OHS inspector under clause 43, the employer may direct the employee to do suitable alternative work.

Division 6—Exemptions

Clause 45 confers on the Safety Authority the power, in accordance with the regulations, to make a written order exempting a specified person from any or all of the provisions of Part 3 of Schedule 7 (the workplace arrangements). The Safety Authority must not make an exemption order unless it is satisfied on reasonable grounds that it is impracticable for the person to comply with the provision or provisions.

Part 4—Inspections

Division 1—Introduction

Clause 46 provides a simplified outline that is a summary of this Part.

Clause 47 establishes that OHS inspectors have the powers, functions and duties conferred or imposed by a listed OHS law. The Safety Authority may issue direction and restrictions on the exercise of the OHS inspectors' powers.

Division 2—Inspections

Clause 48 provides that an OHS inspector may conduct an inspection at any time or as directed by the Safety Authority, to determine that a listed OHS law is being complied with, a listed OHS law has been contravened or concerning an accident or dangerous occurrence at a facility.

Division 3—Powers of OHS inspectors in relation to the conduct of inspections

Subdivision A—General powers of entry and search

Clause 49 provides for powers of entry and search at facilities by an OHS inspector.

The inspector is given power to inspect, take extracts from, or make copies from, any documents at the facility that he or she has reasonable grounds to believe are related to the subject of the inspection. This power is needed in order to conduct effective inspections at the facility, and may also be needed in response to incidents that have occurred. The inspector is given power to inspect the seabed and subsoil in the vicinity of the facility. This power may be needed for accident investigation.

Clause 49(3) requires the OHS inspector to afford relevant elected HSRs a reasonable opportunity to consult about the subject of the inspection.

Clause 50 provides OHS inspectors with powers of entry and search at ***regulated business premises*** that are not facilities. The search powers under this clause relate only to documents that relate to a facility or facility operations that are the subject of an inspection. The powers therefore relate only to the responsibilities of the Safety Authority in relation to health and safety of the workforce at a facility.

Regulated business premises are defined in clause 3 to mean premises that are occupied by a person who is the operator of a facility and that are used, or proposed to be used, wholly or principally in connection with offshore petroleum operations. The intent is to enable inspectors to enter and search operators' premises used in relation to offshore operations. These may be, for example, premises used for remote operation of facilities, or offices used for management of operations, supply bases, heliports, etc, where there are documents related to an inspection.

Clause 51(1) provides OHS inspectors with powers of entry and search at premises that are not ***regulated business premises***. ***Premises*** are defined in clause 3 as including a structure or building, a place (whether or not enclosed or built upon) or a part thereof. The intent is to enable inspectors to enter and search other relevant premises, such as the offices or workshops of a company that designs modifications to a facility, or manufactures or maintains equipment used on a facility, where there are relevant documents.

These powers under clause 51 may only be exercised with the consent of the occupier of the premises to be entered and searched, or in accordance with a search warrant.

Clause 52 establishes how warrants to enter premises (other than regulated business premises) may be obtained.

Clause 52(1) provides that an OHS inspector may apply to a Magistrate for a warrant that would authorise the inspector, with such assistance as the inspector thinks necessary, to exercise the specified powers at particular premises.

Clause 52(2) states that the application must be supported by information, on oath or affirmation that sets out the grounds for applying for the warrant. Clause 52(3) provides that, if the Magistrate is satisfied that there are reasonable grounds, a warrant may be issued.

Clause 52(4) establishes that such a warrant must specify the name of the OHS inspector, whether the inspection can be made at any time or at specified times, the day on which the warrant ceases to have effect and the purpose for which the warrant is issued. Clause 52(5) establishes that a warrant must have a date of expiry no later than 7 days from the date of issue. Clause 52(6) establishes that the warrant must identify the premises to which the warrant applies.

Clause 53 provides that it is an it is an offence to obstruct or hinder an OHS inspector.

Subdivision B—Other powers

Clause 54 provides that an OHS inspector has the power to require reasonable assistance and information in the conduct of an inspection.

Clause 55 provides that an OHS inspector has the power to require a person being questioned in relation to the conduct of an inspection to answer questions and produce documents or articles, if the inspector believes it is reasonably necessary to do so in connection with the conduct of the inspection.

Clause 56 provides for the privilege against self-incrimination in answering questions or producing documents, etc, during the conduct of an investigation.

Clause 57 gives OHS inspectors the power to take possession of plant, to take samples of substances, etc, for example as part of an investigation into an accident. The affected persons are to be notified when powers under clause 57(1) are exercised.

Clause 58 provides that OHS inspectors have the power to issue notices that direct that workplaces not be disturbed, in order to remove immediate threats to health and safety, or to allow inspections or other examinations to take place. The direction must be displayed in a prominent place in the workplace and must specify the time required to remove the threat or carry out an inspection, etc. The direction may be renewed.

Clause 59 provides that OHS inspectors have the power to issue notices that prohibit specified activities.

The operator's representative at the facility must give a copy of the notice to the HSR of each designated work group that is affected by the notice, and display a copy of the notice in a prominent place.

The OHS inspector is also required to give a copy of the notice to any person (who is not the operator) who owns plant, substances, etc, affected by the notice.

Clause 60 provides that operators must ensure that the prohibition notice issued is complied with. The OHS inspector is to inform the operator if the action taken by the operator to remove the threat to health and safety is not adequate. The notice ceases to have effect once the inspector has informed the operator that the inspector is satisfied with the action taken to remove the threat.

Clause 61 provides an OHS inspector with the power to issue a improvement notice if s/he believes on reasonable grounds that a listed OHS law is being or has been contravened.

Clause 62 provides that a person issued with an improvement notice must comply with it.

Clause 63 provides that a displayed PIN, prohibition notice or improvement notice must not be tampered with or removed without reasonable excuse.

Division 4—Reports on inspections

Clause 64 requires an OHS inspector to prepare a written report for the Safety Authority (including the inspector's conclusion, recommendation and any other prescribed matters) as soon as practicable after conducting an inspection. Clause 64(3) requires the Safety Authority to give a copy of the report to the operator of the facility, to employees who carry out activities to which the report relates, and to the owners of plant, etc, to which the report relates. Clause 64(5) requires a copy of the report, and any related Safety Authority comments, to be given to each health and safety committee and (where there is no such committee) to the HSR of each designated work group.

Division 5—Appeals

Clause 65 provides for an appeal against a decision of an OHS inspector to the reviewing authority, by an operator of a facility or any employer (other than the operator) affected by the decision, a person to who a notice has been issued under clause 37(2) or 61(1), an HSR, a workplace representative, a member of the workforce or a person who owns any workplace, plant, substance or thing to which a decision under clause 38, 57, 58 or 61 relates.

Clause 66 sets out the powers of the reviewing authority on an appeal.

Part 5—General

Clause 67 requires notification and reporting of accidents and dangerous occurrences in relation to a facility as opposed to a workplace, and requires the notification and report to be sent to the Safety Authority.

Clause 68 requires records of the accidents and dangerous occurrences notified under clause 67(1) to be kept by the operator of the facility.

Clause 69 provides for prescribed codes of practice to have the purpose of providing practical guidance to operators and employers of members of the workforce.

Clause 70 provides that codes of practice can be used in proceedings for an offence against a listed OHS law, if they were in effect at the time of the alleged contravention.

Clause 71 makes it an offence to interfere with equipment or devices provided for the health and safety or welfare of the workforce at a facility.

Clause 72 makes it an offence for either the operator or an employer to levy a member of the workforce in relation to health and safety matters.

Clause 73 relates to unfair dismissal or other prejudicial acts against an employee as a result of (for example) a health and safety complaint by that employee.

Clause 74 provides that proceedings for an offence against a listed OHS law may be instituted by the Safety Authority or an OHS inspector. An HSR or a workplace representative may request the Safety Authority to institute proceedings if a period of 6 months has elapsed since the relevant act or omission occurred and the Safety Authority has not yet instituted proceedings.

Clause 75 allows the Commonwealth DPP to prosecute offences under the listed OHS laws.

Clause 76 imputes the conduct of company officers and agents to the company in relation to OHS matters.

Clause 77 provides that Schedule 7 does not confer rights or defences to actions in any civil proceedings.

Clause 78 provides that circumstances preventing compliance with a listed OHS law may be a defence to prosecution.

Clause 79 provides further regulation-making powers regarding OHS.

Schedule 1—Related amendments and transitional provision

1—Amendment provisions

2—Amendment of section 3—Application of law of State to off-shore waters

3—Amendment of section 4—Application of law of State to persons connected with the State, etc, in off-shore waters

These amendments relate to consequential amendments that need to be made to the *Off-shore Waters (Application of Laws) Act 1976*.

4—Transitional provision

This is a transitional provision associated with the operation of section 37H(3)(b) of the Act.

The Hon. I.F. EVANS secured the adjournment of the debate.

INDUSTRIAL LAW REFORM (FAIR WORK) BILL

Second reading debate resumed.

(Continued from page 741.)

The Hon. J.W. WEATHERILL (Minister for Families and Communities): It is my great pleasure to rise to support the second reading of this important piece of legislation. It is suggested that, somehow, this is a tongue-in-cheek contribution. Legislation of this sort is the primary reason why I sought to be elected to represent the good people of Cheltenham, and my primary purpose for seeking office. I have devoted my working life to representing working people, and I cannot believe that those opposite are seeking to oppose this important piece of social legislation. Let us just ask ourselves: on whose behalf are these measures being promoted? They are being promoted on behalf of the least unionised and lowest paid section of our community. That is what the state award system is in our community. When those opposite oppose these changes, they are saying to the lowest paid people in our community that they are not entitled to the benefit of this legislation.

Let us give some thought to some of the measures that are being proposed in this legislation. These are not measures to enhance union power. They are not measures that are directed at some galloping increase in the terms of and conditions of employment of particular workers who are already well off. What they do, in large measure (and the title of the bill explains this), is ensure that fair remuneration and fair terms and conditions of employment are available to the whole of the work force, not just those fortunate enough to be working in an industry where they can demand, through their particular skills, a higher rate of wages or, through some historical arrangements, those who happen to be in a sector of industry that is highly unionised.

This is about extending fair terms and conditions to the whole of the work force. In this country—and in this state, in particular—we have had a good industrial relations system but, unfortunately, it has tended to be enjoyed by only a small and shrinking group of our work force. The rights of citizens and employees have been under sustained attack for a number of decades in this country, and in this state in particular. The rights of citizens as employees have been eroded to an extent that we are left with an industrial relations system that really only now protects relatively few employees.

This bill seeks to extend fairness in a broader sense to a larger number of employees. It is, by definition, a fair piece of legislation that seeks to extend to the work force generally the benefits which have been won by a particular group of the work force. What has happened amongst the employer class (and those opposite are the apologists for these tactics) is that there has been a massive premium in seeking to escape the industrial regulation system to go into the unregulated system. That is what has been happening in this state. The lawyers have been very busy bodgying up independent contractual arrangements.

Fruit-pickers wake up one morning and suddenly somebody has decided to call them independent contractors. These poor sods who have been working away thinking they have been workers all their lives wake up one day and somebody tells them they are in business and are individual contractors. They are not entitled to the award; they are entitled only to what their employer can screw them down to. That is what has been happening in this state. Or they have been coming up with labour hire arrangements—another great device to work around awards, safety requirements, workers' compensation entitlements and leave entitlements—to pay people poverty wages because they want to escape the award system.

Outworkers, another group, comprise some of the most disempowered workers in our community. Are those opposite prepared to stand up and support them? Are they prepared to support the ethnic women who are working in sweat shops in this state? No, they are not. They are prepared to allow them to sit outside of the industrial relations system. In fact, those opposite, if they thought through what they are saying, would realise that they support a unionised system where people in unions and awards get access to the industrial relations system but everybody else gets nothing. So they support a small, shrinking union system for a privileged group of workers—or a relatively privileged group of workers—as against a disempowered group of low paid workers who sit outside the system and who, they are content to think, will not have the benefits on which ordinary workers are entitled to rely.

These are simple measures in this legislation. How could those opposite seriously oppose a clause that seeks to remedy the situation where, when a business which has an enterprise agreement with its employees changes its name or is sold, suddenly the enterprise agreement it has entered into is worth nothing and disappears because the employer has simply, through that device, changed its name? Those opposite stand for allowing employers to use the devices they so carefully have been developing over the last two decades such as casualisation, labour hire, outworking, transmission of business and re-establishing new companies in different names. The system that has been set in place over decades by Labor governments to protect workers has been evaded by techniques used by employers. That is what has been happening over two decades.

By this bill we are seeking to reconstruct that system in a modest way. The Minister for Industrial Relations has played a very careful role in seeking to build a consensus around modest legislation which seeks to restore the balance in the industrial relations system in this state. And what does he get? He gets sniping and ridicule from some of the more extreme elements of the employer community. And who backs them? Those opposite back them. They are not willing to stand up for the low paid and the dispossessed. They are back on the side of the rich end of town. Mouthing their tired old platitudes about capital versus labour, they are a liable joke, and that is why they will remain over there for another four years.

Mrs HALL (Morialta): 'A shocker' is how the Prime Minister described this piece of legislation. They were his words when he laid eyes on the first draft bill that is meant to be, as we have heard so many times, a fair work bill. 'A return to the Dark Ages' is how the federal Minister for Workplace Relations (Hon. Kevin Andrews) described it. But if they do not want to take any notice of partisan views, I urge members opposite to read the remarks of the well-respected commentator Robert Gottliebsen who, in *The Australian* today, used descriptions such as 'amazing' and 'mind blowing' when discussing this government's proposals.

The article is headed 'Cannons aimed at subcontractors'. I will not read the entire article, although I think that it should be compulsory reading for members opposite. I will read just three segments because I think that, in a very real sense, they describe what respected interstate commentators are saying

not only about this government but also this piece of legislation. The article states:

> Big organisations outsourcing IT and other service activities to small contractors in South Australia should seriously consider switching to contractors in other states if the South Australian parliament approves amazing legislation.

The article further states:

> Both actions are a result of union pressures that periodically make the Australian Labor Party do silly things.

Further, it states:

> This legislation seeks to change the way business in sectors like IT operate—not only in Australia but around the world. It will fail.

Mr Gottliebsen then states:

> This mind-blowing power will cause chaos in a wide range of small-enterprise areas.

They are the words of a well-respected national journalist, and it is what the Eastern States are reading about what is happening in South Australia. I have heard other descriptions used about this bill—some people have even used various four-letter words to describe it and, certainly, 'fair' was not among them. It is often said that there is very little difference between the major parties in this country. I would have thought that industrial relations is one of the base differences between the Liberal Party and the Labor Party.

It is the philosophical battleground between the two major parties; and we know that, for example, it played an enormous role in the fantastic result that John Howard achieved at the last federal election. It demonstrates a real difference between the parties. It demonstrates, in a very real sense, the difference between the left and the right of the political spectrum in this country. The fact that, in his second reading explanation, the minister talked about the alleged fairness of this bill and how it will be wonderful for everyone in South Australia, and the fact that already it has caused so much division in so many sectors of this state, I think, says it all.

I do believe most sincerely that the philosophical differences between the two major parties are absolutely defined in the industrial relations field. I believe it is fair to say that this bill has many people absolutely baffled. It is an indictment of a government that claims that this bill, in the words of the minister, is a 'real contribution to achieving fairer industrial relation outcomes for all South Australians'. That is not what many of the stakeholders are saying. They are saying that it is a divisive bill. They are saying that it flies in the face of the government's pro-business rhetoric and exposes its business agenda as a total sham.

They talk about the State Strategic Plan and they talk about their economic targets and development. I would have to say that this is a classic bill of Labor in office. We have seen it time and again and, sadly, history is repeating itself in our state. This so-called fair work bill threatens to send this state backwards again—and it would not be the first time that a Labor government has done that—but then again, most probably, that is the way that this government wants it—back to the good old days when unions still had enormous influence in the Australian workplace, and enjoyed a membership that amounted to something better than the 17 per cent that they enjoy in the private sector today. If that does not say something to members of the Labor Party it sure as hell said something to the federal Labor candidates at the last election. One would have thought that the Labor Party might learn something from the federal election and its aftermath, but the presentation of this bill sure says that it has not. It is my view that Australians have absolutely no interest in Labor's manic grasp of workplace issues, nor its antiquated relationship with the union movement. The farcical and, at times, comical episode of the federal shadow cabinet reshuffle was the last straw, and demonstrated in a very visible sense to so many Australians.

A columnist who writes for *The Australian* each Wednesday has been personally attacked by the federal Labor leader, Mark Latham. She is a very eminent columnist, Janet Albrechtsen, and I have to say that I think she summed it up beautifully in *The Australian* recently, when she said:

> If not enough Australians trust Labor with the economy it may be because they fear Labor is beholden to the unions and with good reason.

Labor simply does not have its priorities right and this latest bill is further proof. It is anti-small business, it is anti-big business, it is anti-employment and, in my view, it is anti-South Australian. The bill provides a great deal of uncertainty, contrary to the belief of the government and the stated words. There is no doubt that it is inevitably going to lead to very significant increases in disputes, and I have absolutely no doubt, therefore, that that is going to inevitably lead to very significant increases in costs to employers, therefore to the business community, and flowing on to the unemployment that will result. It gives inordinate powers to the Industrial Relations Commission, and it gives unions more weaponry to compromise the enterprise bargaining process. It puts absolutely unreal obligations onto business, removing the flexibility that has helped this economy to prosper in recent times.

A number of propositions in the bill demand the attention of this house, and I have no doubt that over future days we will hear them debated in very great detail, but there are propositions that businesses in my own electorate of Morialta are going to buckle under if this proceeds in its current form. I will touch on those provisions which go to the heart of my constituent's opposition to this bill, as well as the opposition of numerous industry groups, many of which will be quoted, I hope in great detail, not just by me but by other members during the debate.

The first such provision is that relating to declaratory judgments. It is a very significant example of the fundamental extension to the power of the court that this bill is providing. The bill provides that 'any person with a proper interest in the matter' may make an application to the court for a declaration as to whether a person is an employee or a class of persons are employees. In other words, one person seeking to ratify his or her status can do so on behalf of all persons of a class of which he or she is reputedly a member. That declaration has the capacity to encompass and affect parties that are not involved in, or perhaps do not even have knowledge of, the proceedings.

If this does not promote uncertainty then I would like to know what does. There is not even an obligation to inform the employer of the application. The provision is void of procedural guidelines of any criteria and safeguards for employers who ultimately bear the brunt of the court's determination. This is little more than a mechanism for unions to undertake class actions. Again, the minister commented in his second reading that these judgments will be made, and I quote, 'before there is a problem'. This clearly shows a lack of understanding of the problems that will occur as a result of this provision.

This lack of understanding is further highlighted by the concept of best endeavours bargaining. I do not know how the minister came to the conclusion that this concept would

provide clearer guidelines for conduct during the bargaining negotiation process. These provisions are meant to be as he outlined, but they are in fact a means to breed dispute in the workplace. Disputes will primarily arise over the different meanings and definitions of these guidelines, because they are widely open to interpretation and, as we know, that varies all the time, particularly in the legal system. For example, the provisions state: 'Parties to negotiations must meet at reasonable times and at reasonable places for the purpose of commencing and furthering the negotiations.' Well, any lawyer is going to tell us that the word 'reasonable' is an invitation for dispute between two parties with different interpretations, and that then follows through in further costs to the employers. Then we must take into account the definition of 'negotiations'. What some consider to be negotiations may more likely be a casual conversation in the workplace.

As we know, the IRC has the power to determine any matter that the parties have failed to resolve during negotiations, and inevitably this will leave one party with the raw end of the stick and will do absolutely nothing to provide fair work. In fact, it has been described to me as providing uncertainty, with moves to conflict and disputes, and the result is that it will not be a bargain: it will be an arbitrated outcome.

The Printing Industries Association's view of this provision probably summarises the view of the business sector in general. It has stated: 'This section in totality is considered to be unnecessary, draconian and should be deleted.' One provision which on behalf of my constituents I find wholly unacceptable is the idea of what are referred to as 'host employers' being subject to the same obligations as the person's actual employer. This will come into effect in situations where labour hire companies are used. For a so-called host employer to be subject to unfair dismissal action at the same time as a labour hire company is absolute nonsense. It makes a total mockery of the entire idea of offering flexibility to both employer and employee through the labour hire system.

The concept of inspectors being granted access to businesses at will is again extremely unfavourable. Business SA holds grave fears this will allow 'fishing expeditions' and disruptions to workplaces. The only thing worse than this is the prospect of allowing union officials a similar mode of unlimited access, on the basis that there may be potential union members on the premises. This provision has unquestionably been described—rightly, in my view—as nothing more than a union membership recruitment initiative. Given that they now have 17 or 18 per cent in the private sector, we know how unsuccessful they are and, hopefully, will be in future.

This is a bizarre piece of legislation, and it would quite interesting to hear the minister tell us how many businesses he actually spoken to about this little gem when he was putting the bill together. In addition to the argument concerning the ridiculous notion of unions walking into places where they do not belong, the Wine Industry Association has raised a very pertinent point that, with many employers with both state and federal awards in the workplace and with many unions having varying rights under both systems, employers will be confused as to who can and who cannot enter. We hear many ministers opposite praising the wine industry and talking about its importance to our state economy, yet it is one very significant industry association that has been very strong in its opposition to this bill. So, they can use the industry when they want to and ignore it when it happens to be important for their future. My view is that it all boils down to disruption and intrusion into a private workplace; especially upon receiving a complaint, the union can interview anyone on the premises. It is just absurd.

I would also like to mention the vocal feedback I have been receiving from businesses within my electorate, in addition to the feedback that has been distributed to members from industry groups. I was fortunate to host a business breakfast in the electorate of Morialta to discuss the fair work bill. I have to say that I attracted an enormous audience; and I had the shadow minister for industrial relations come out to speak about the implications of the first draft bill. It was very obvious from that breakfast that the feelings within employer groups within my electorate were very strong. Some were actually unrepeatable in this chamber.

Mr Goldsworthy: They sure were. I was there.

Mrs HALL: I came away from the breakfast, with my colleagues the member for Kavel and the member for Waite, convinced that the businesses in Morialta were absolutely appalled at this bill and its implications, with its anti-focus on just about everything that has helped to make this state grow and succeed over many years. They very strongly held the view that the bill should not proceed.

The shadow minister undertook a comprehensive survey, which I think has been mentioned earlier, of some thousands of businesses across South Australia. The response from businesses in my electorate was absolutely resounding. I would like to give the house an indication of the feedback. Question 4 on the survey asked whether businesses agree with the government's proposal that re-employment should be the preferred remedy in unfair dismissal cases. I am sure that you, Mr Speaker, will not be surprised to know that 95 per cent of businesses within the electorate of Morialta said they strongly disagreed with that perspective.

On the question of the government's co-employer concept, again, 95 per cent said they strongly disagreed with that perspective. The best endeavours bargaining idea got a seriously big no from Morialta businesses, with 84 per cent saying they strongly disagreed. The bill's proposal to give the IRC the power to alter enterprise bargaining agreements after they had been signed brought very strong disagreement, sitting at around 84 per cent.

I am not going to go through all the examples of the feedback contained in the survey responses, because I have no doubt that during the committee stage when some of the amendments are discussed there will be opportunities to talk about some other aspects of the results from businesses within my electorate. It is absolutely clear in my electorate and probably in a number of other electorates that the provisions of this bill are frightening to the business sector of our community for the implications of what it will do to our economy.

In the few short minutes left, I will talk about some of the criticisms and serious concerns that have been expressed by the industry associations within this state. It is particularly significant that Business SA has provided members with a detailed list of some of their concerns. As we know, Business SA is the peak industry body. However, we all know that many of the industry associations have been working closely with Business SA and other business industry groupings to try to get this bill withdrawn or to try to get substantial amendments made to the draft that the minister presented us with late last year.

The ones that really concern me came out of the wine industry and the printing industry. It is incredibly significant that, as a local member and I guess for most of the other members in this chamber, we each have our benchmarks of issues that raise the greatest contact with our office or the greatest number of pieces of correspondence. Until this bill, I think I would have to say that the issue on which I received more correspondence and more contact into my office was the dog and cat management bill, closely followed by the prostitution bill.

However, since the introduction of this draft bill last year, this issue has overwhelmingly topped the list. Therefore, I guess it is pretty obvious that I intend to oppose the second reading of the bill; I intend to oppose the third reading; and I very sincerely hope that enough sanity prevails in this chamber to ensure that, when the final vote on this bill is taken, it is soundly defeated.

The SPEAKER: The honourable member for Unley should take a seat next to the member with whom he wishes to converse.

Mr HAMILTON-SMITH (Waite): I rise to indicate that I will be opposing the bill for a range of reasons. I think that there are economic reasons to say no to the bill, there are regulatory reasons to say no to the bill and, indeed, there are social reasons to say no to the bill. When we ask ourselves whether this bill will make South Australia a more productive state, or whether it will make South Australia a state that is better for workers, or whether it will make South Australia a state with a stronger economic base and better foundation for the future, I think we find that the answer is no, no and no. There are a range of reasons for that, but essentially they have to do with the question of micro-economic reform.

As the shadow minister for economic development, I read with great interest the Economic Development Board's State of the State report, and the State Strategic Plan that flowed from that, and I think that both of those initiatives were worthwhile. However, I had some concerns from the outset with the Economic Development Board's report and, later, with the State Strategic Plan in that they underplay the importance of micro-economic reform as a way ahead for the South Australian economy.

I was interested to note that the question of industrial relations reform in particular was almost absent from the Economic Development Board's work—it was hardly mentioned, along with a range of other issues in the micro-economic reform area. Why is that, I ask. Perhaps the reason is that this is an area that the government did not want to go down, because it had in its mind an intention to bring this bill forward before the house, so it would not want this bill ruled out, if you like, by the Economic Development Board or by the State Strategic Plan in the prelude to the introduction of this bill, because we know it has been a long time coming.

We had an earlier iteration of the bill which, as my colleague, the member for Davenport, who is leading on this for the opposition pointed out, was released on the cusp of Christmas in the hope that no-one would really pick up some of its more unsavoury aspects. The consultation, as far as the opposition is aware, has been guided, shall we say, with great skill by the government to ensure that some important concerns are overlooked and not addressed.

It is a bill that one would expect from a Labor Party, that is, a bill that essentially upholds the interests of the Labor Party's prime constituency—that being the union movement. We all know that each of the members opposite draws their strength and support from that union movement through various unions, and that the primary source of funding for the Labor Party is from the union movement. I suppose you could say that there is nothing wrong with that, except that the government is there to introduce bills that are in the best interests of the whole of South Australia, not in the best interests of particular interest groups, which leads me to the question of whether this bill, as it is presented to the house, is in the best interest of South Australia, its people and its economy; and I say that it is not.

In fact, the bill has caused me to re-examine the parent act, the Industrial and Employee Relations Act which was born after considerable scrutiny and debate in 1994 by the former government to reorganise the state economy after the State Bank debacle. On re-reading that act, I think there are a number of provisions in it which, quite frankly, it is time to change and review quite outside the context of the bill before us, and I will touch on that in a moment. I thank the people who have contacted me about this bill—apart from Business SA, of course, which provided a very thorough commentary on the bill—in particular, organisations such as the Information Technology Contract and Recruitment Association. As the shadow minister for innovation and information economy, I welcome its input. It represents 125 companies and manages more than 100 000 IT professional contractors throughout Australia, and it makes the point that the bill is out of date and will set back the cause of the information technology industry quite considerably. It does not believe that closing down flexible work arrangements such as contract and casual employment is the way to meet the needs of emerging labour markets, and there are provisions in this bill that do just that.

Of the 43 propositions contained in the bill, this association finds at least 20 of them to be unacceptable incursions into the employment environment in South Australia for the IT industry. The association believes that there is a basic inconsistency between, on the one hand, positively encouraging union membership, which is one of the objects of the bill, and, on the other hand, absolute freedom of association and choice in industrial representation. As a Liberal I proudly stand in favour of choice and I am opposed to compulsory unionism by letter or by stealth, and I think there is quite a bit of compulsory unionism by stealth contained in this bill. Like the IT Contract and Recruitment Association, I believe that contractors are unwilling for the IR Commission to remove their common-law rights by declaring that they are no longer independent contractors but are, in fact, employees—irrespective of the reality of the situation. The bill, indeed, contains some fundamental flaws.

I also thank the Printing Industry Association, which has expressed its extreme concern at the content of the proposed Industrial Law Reform (Fair Work) Bill which, in its view, is in every sense anti-employer and, therefore, anti-business generally. The prosperity and economic well-being of South Australia is jeopardised by the bill. Of course, that is not an isolated view—it is a view that is widespread not only in the printing industry but also in other industries. I look forward to going through a range of concerns clause by clause in the committee stage.

I also thank individual businesses who have contacted me. Dermody Petroleum Pty Ltd has raised concerns about deeming contractors as employees, unlimited union right of entry to a workplace even where there are no union members, the IRC's ability to enter into enterprise bargains after they have already been agreed and signed, the attack on the status of casual employees, and so on. The Independent Schools

Association has also contacted me to reveal its severe doubts regarding the possibility of arbitration, as outlined in the bill, being used as a tactic whereby unions would put pressure on schools to concede to claims or otherwise face costly, time-consuming and distracting arbitration. Not only that, unions would seek to establish precedents in selected schools or work sites which are particularly vulnerable to such cases—they have similar conditions and pay rates. Of course, the smaller the business or the school the more vulnerable they are to threats of arbitration delivered to them by a union.

As someone who has been an employer (I had six businesses in two states with 120 employees) and who has had extensive dealings with unions over the years about issues ranging from award rates to claimed unfair dismissals, I find I am particularly focused on this bill. I have been in that situation that a lot of small businesses—often husband-and-wife teams—are in. You fly to the mailbox and pull out the mail, and if it is not a cheque you put it in the pending tray. You realise that a couple of thousand dollars spent in the Industrial Relations Commission defending yourself in an unfair dismissal claim can be the difference between making a profit or a loss that month. You realise that if you go to the Industrial Relations Commission on your own without a lawyer and you find a mischievous employee with a scurrilous and unsubstantiated claim against you, but guarded by a well briefed and well practised union official, you can finish up—depending on the commissioner who hears your case—having to pay thousands of dollars or face even more severe consequences.

If you hire a lawyer or an advocate to represent you, there is a cost involved. You have to absent yourself from your business to attend. The very threat of having to go to the commission is in itself a disincentive to employment because, frankly, you want to minimise your liabilities and risks in a small business. If you can keep out of the Industrial Relations Commission, anything you can do to avoid having to engage a lawyer or an advocate you will do. You are vulnerable to threats, such as, for instance, 'Give me some money and I will not get my union to take you to the commission.' Some employers succumb to these sorts of threats; I was not one of them. I never succumbed to those sorts of threats. I always made sure that I arrived well briefed and well prepared on any matter of an industrial nature that involved the union or the commission. Except on one occasion—my very first matter—I won every matter in which I was involved, because I was well prepared; but, it came at a cost. Businesses cannot afford that cost, and many businesses cannot afford the bother and, frankly, the hassle of being beaten about the ears by the sorts of provisions that are contained in this bill.

The Housing Industry Association (HIA) has contacted me. It has raised a number of concerns about the so-called declaratory judgments, the expansion of union powers of entry and inspection into business premises, and the powers for inspectors to enter premises. As someone who has been in business, I say that sometimes it is hard to tell the difference between the union official and the inspector. Quite often the inspectors come from a union background and, quite often, the inspector presents to the small business as someone who is a little hostile. From my experience, it can be a very combative sort of arrangement when you are inspected by a government official or bureaucrat. It can be a business unfriendly process. The HIA has raised a range of other issues about collective enterprise bargains, minimum wage cases, and so on.

The South Australian Wine Industry also has concerns, and my colleague the member for Morialta touched on some of them. I look forward to addressing some of those in the committee stage.

The Independent Contractors of Australia has made a very interesting observation with which I agree. In its view, the fair work bill which we are debating tonight is not that different from the draft bill that was circulated in December last year. Some of the more dramatic provisions in the draft bill have been removed, and some have been reworded as though to become less offensive. When you read between the lines of this bill and you get into the detail of it, you see that most of what was in the draft bill in December is still there. That is not lost on a number of the associations which have contacted me and with which I have discussed this bill. If passed unamended, key definitions about outworkers and host employers will break the traditional integrity of commercial contracts leading to widespread commercial uncertainty.

The AIIA, which is one of the leading ICT business community associations, has also specifically contacted me with a range of concerns. The ICT industry has long been dependent on contractors. This is good for their business. To deal with an uneven and lumpy nature of work flow, which characteristically exists in the IT industry, and also to facilitate the use of ICT professionals with deep technical knowledge, this industry needs flexibility. On the contractors' side, the individuals concerned are very comfortable with the business models that are in place and do not want to be employees. If ICT contractors had to be treated as employees with the benefits associated therewith, it would add considerably to the fixed costs of a lot of small South Australian based companies and significantly reduce their flexibility and robustness. In the end it would be hard for the local ICT industry to cope with some of the changes that are predicated in this bill. I look forward to visiting some of those points when we get into the detail of it during the committee stage.

Of course, many of the points raised threaten to change the whole industrial landscape. I am particularly interested in the objects of the legislation because they change the very foundation upon which the act is premised, and we will go through that in committee. I am interested in the issue concerning the encouragement of union membership, noting that since union membership has reduced we seem to have endured a period of unheralded economic robustness not only in the national economy but also the state economy. I am interested in some of the definitions in the bill.

I am interested in declarations as to employment status predicated in new section 4A (and I will be talking about that during the committee stage), in particular, the definition of 'outworker', which I think is referred to in section 5(3), where it provides that outworkers will be treated as employees. We all know why this is the case: the union movement has to make itself relevant and useful to its members, and I can understand that. Of course, outworkers and labour hire companies are a threat to that relevance, so it is about diminishing the independence and power of those labour hire and outworker arrangements and bringing them into the union fold, so that the union can be relevant.

Indeed, the same applies to the provisions in relation to the function of inspectors. I was horrified when I looked at this bill in regard to inspectors. I went to the parent legislation and looked at some of the provisions with regard to inspectors in the act itself. For example, division 2, 'Powers of inspectors', section 104 of the act already extends extraordinary powers to inspectors. Members may not realise that any

inspector (and I am talking about subsection (3) of section 104 of the existing act) may require the production of a time book, pay sheet, notice, record, list, indenture of apprenticeship or other document required to be kept by this act or any other act and may inspect, examine and copy it. I assume that means any other act, which is a fairly broad-ranging application. It could be financial documents; it could be anything the inspector deems they should be able to copy and take away.

Subsection (5) goes on to provide that they may take away a document, unless an employer provides a copy. What if the employer does not have a photocopier on the premises and the inspector suddenly wants to take it away? Of course, we know what happens when these documents vanish from a work site. There might be one union member on that pay sheet. However, once you get it back to the calmness of the office, you can go over it, scrutinise it and pull it apart. You can then go back to non-union members and come up with a whole array of concerns that might provide a basis upon which you can have a meeting with them. You might say, 'Okay, but this is an inspector, not a union member.' Once the inspector has it in their possession, there are processes in this bill that will enable that information to be passed to the union. Keeping in mind, on a nudge-nudge, wink-wink basis, with people moving from being inspectors and union officials, there is a whole lot of scope for abuse that concerns me.

Most alarmingly, there is a provision in this bill for what amounts to, in effect, on-the-spot fines. That is basically what they are. They will come in and make certain declarations of an infringement, and you are guilty and you have to pay a fine. Of course, you can get out of it by going to court. That would be great if you are a small business. So, you are guilty and will be fined unless you act on the infringement. Of course, you can go to court to defend yourself. In effect, it is an on-the-spot fine. It is very open to abuse, with very few protections available for small businesses. That is only one of a range of issues and concerns I have with the bill.

In summary, the bill is about looking after the government's core constituency, that is, the union movement. I think it will make the South Australian economy less efficient at a time when we should be becoming more efficient. It flies in the face of micro-economic reform and the signals sent in the State Strategic Plan and the Economic Development Board's work, which the government has been upholding. It is being widely condemned by industry groups around the state and by workers themselves, and it should not pass.

The Hon. R.J. McEWEN (Minister for State/Local Government Relations): A number of people who have spoken tonight have alluded to the broad framework within which the government and this parliament operate at the moment, which is, obviously, the Economic Development Board's State of the State report (the building blocks) and its 71 recommendations, 70 of which this present government has accepted. Interestingly, I still do not know where the opposition stands on all of those 71 recommendations. Out of that came the South Australian State Strategic Plan: the framework, the road map, the direction for the way ahead. There are three key planks in that framework (economic, social and environmental) and they were all used to clearly articulate a direction forward for all South Australians, not just for the South Australian state government but for the three spheres of government (federal, state and local) working in partnership with private enterprise.

I was delighted the other week to work through South Australia's State Strategic Plan with local government. Local government is delighted to embrace this plan and work into it some key benchmarks for itself as one of the contributors to this state's future. With that environment in mind, I found it offensive when some members suggested that somebody tried to sneak this bill into this house under the cover of Christmas. This bill has been out there for 12 months. Obviously you can never sneak anything into this house, the day of reckoning will come and everyone will have an opportunity to speak.

During the last 10 months, a great deal has been changed in this bill, but I believe a great deal more still needs to be done. The bill in its present form still does not satisfy my requirements or those of my electorate. I might touch briefly on a dozen or so of them just to indicate some flavour for what I will be hoping to achieve in the committee stage of the bill. The objects of the bill set up the context or the environment within which this bill is to be interpreted. The concept of advancing existing community standards I see as far too broad and open. It needs to be pinned down a bit, because quite often the objects of an act can have a great deal of impact when some third party at a later date is trying to interpret the intention of a specific section of the act.

For example, the idea of the commissioner having regard to the International Labor Organisation's conventions and any other conventions that might be added by regulation I think needs far more clarification. I would be concerned to have that in a bill at this time. A number of members have alluded to the definition of 'outworkers'. We know of some of the horror stories, particularly in the clothing and textile industry, but this definition seems to catch a lot more people. It is unclear how this relates to cleaners, for example, and to many other legitimate activities of labour hire companies. I certainly seek a lot further clarification on that.

Regarding the general functions of inspectors, the way I read this bill at this time it gives an inspector the opportunity to go on a fishing trip. I do not know whether that is the minister's intention. If it is not, that will need to be tightened up. Equally, in respect of minimum standards and the idea (as suggested in the bill) that the commissioner may establish any other standards, I would like to know what 'any other standards' might be, otherwise it is just far too open.

Best endeavours bargaining concerns me. I think it does not add any clarity; it just creates an environment for even further disputes, so I have some concerns about that. Regarding the transmission of business provisions, again I thought that minimum entitlements under awards achieve that objective. I do not see how this bill adds anything to that. I would certainly want some clarification about the present protection provided by minimum entitlements and what the minister is hoping to achieve with this. Regarding the powers of the inspector to arbitrate, if you ever have the ability to arbitrate you actually mitigate against fair and open negotiations, because each party takes an extreme position hoping that the umpire will give them a reasonable outcome.

I do not believe that it is the right environment in which to negotiate, if you have sitting in there the power to arbitrate too early in the process. Some of the right of entry provisions concern me. To enter for what reason and to seek what is not clear. Even in the bill at some stage I see creeping in the notion of reverse onus of proof, where the challenge will be on the employer to substantiate a claim, and that concerns me. It certainly needs more work. The issues of company directors, particularly volunteer members of not for profit

associations, are some concerns that I would need to further explore with the minister. I can say that bargaining fees, registered associations acting for non-members, is something that I would find difficult to support.

Many companies in my area have chosen to move to federal awards, and I think that if we are not careful more will do so, and I do not think that is a consequence we necessarily want. I need to acknowledge that I have enjoyed working with this present government and I think a great deal has been done in this fiftieth parliament. A lot of the work that has been done in natural resource management, in road safety, in the use of motor vehicles, in law and order, in gaming machines and in public sector management, not to forget my own legislation in relation to chicken meat, have all been good things. We have done a lot of good work. There is more good work yet to be done but, in relation to this bill, a great deal more needs to be done before I could support it.

Mr BRINDAL (Unley): As I am sure that you have, sir, given your experience in here, I have found this debate so far tonight most interesting. It is one of the seminal debates that we will have in this parliament, because if nothing else divides the two major sides of politics in contemporary Australia, it is this type of issue. I am glad that the minister came back, and I do hope that he is listening with at least one of his two ears, because I found the debate intriguing on both sides of the house. It intrigues me how people on the government benches as well as perhaps some of my colleagues really have not escaped the rhetoric or the thinking that characterised the beginning of the last century, rather than the new millennium.

A person I had some time for, the former member for Enfield, or whatever it was then called, Ralph Clarke, would have a little bit of libation at teatime and come in and wax eloquent about the cruel and heartless employers and the rights of the workers, and they would be set piece trade union speeches straight out of the 1940s. He could have been standing on a soap box thumping a tub in front of any factory that he liked and it would have worked beautifully. The problem was that it was the 1990s and we were sitting in the House of Assembly. I must give the minister a compliment. I enjoyed those after dinner speeches by Ralph. I always found them immensely entertaining, if somewhat set pieces, and the minister's speech tonight was quite redolent of that same kind of unthinking diatribe and rhetoric.

It reminds me of people I know who have been raised in the Catholic faith. Although they have lapsed from the Catholic faith, you scratch them on a moral issue and you get this sort of catechism that comes out, obviously learnt by rote at about 11, and it just pours forth as the easy and instantaneous answer to any given question. That is what I saw in the minister, someone whom I admire to some extent. If he sticks to child abuse, the problems related to children and the portfolio areas that he might be learning something about, he will have a good career but, as a member of the left of the Labor Party, if he gets stuck into making the sorts of speeches that he made tonight his rising star will be somewhat limited.

Not to confine my remarks, without singling out people, I find some of the remarks on this side of the house equally time encapsulated. I note that this bill is called the Fair Work Bill. It is really quite interesting that the concept of fair work, for many of us here, still seems to be divided into an old paradigm; that, somehow, either the worker or the working group are the goodies and the employers are the baddies, or vice versa. Quite a lot of speeches are predicated on this approach: 'I am standing up here as a representative of employer groups, therefore, all this is wrong with the bill.' But, conversely, on the other side we have government members standing up saying, 'I have been a champion of the worker all my life, therefore, all this is right with the bill.'

I do not think that, in 2004, that logic should be applied to all clauses of the bill. The test that should be applied to any bill, in a modern society, in an industrialised world, is simply this: what is the compact that exists between the raw resources that are available in a country, the means of production provided by the employer, often in terms of that thing that we do not seem to be able to do without, which is paper money from the bank, without which we cannot do anything?

So, we go into enormous debt to the bank to repay money which we really have to earn so that the bank can announce an enormous loss in one year and a seemingly obscene profit the very next year, without anyone having gone broke or lost any money, except householders and businesses and everyone else in the country who has to pay for the profligate excesses of the bank, which then proceeds to lend the money to Third World countries, which get further and further in debt until the bank decides that they cannot afford to repay the money, anyhow, and completely forgives them their loans, in which case it never recovers all the money it gave out—and one wonders whether it gave the money out in the first place, and who is cheating whom.

The Hon. J.W. Weatherill: Did you just get a dishonour fee?

Mr BRINDAL: Dishonour fees are not bad, you know. I saw one the other day, because I did something a bit naughty, and it was about $45. It is an outrageous price for my forgetting to put my money in one night and then having to put it in the next night. Notwithstanding that, I think we would all agree that three principles are involved, and the third principle is labour. No country can increase its economic prosperity—its worth, if you like—in the family of nations without a means of producing materials and a work force which is intelligent and educated and which can produce goods and services that the rest of the world wants. Not one of those parts of that equation can exist without the others.

I think that, rather than introducing into parliament bills that almost say this part of the equation is the part we have to fix up, that part of the equation is the part that is cheating, we should be introducing bills that acknowledge the workplace and the nature of work and the nature of economic activity as a partnership and which, in fact, build partnership relationships that are mutually respectful and supportive of the needs of every group.

I do not think that I am talking blind nonsense, even to members of the government benches, because I am sure that more than a few of them understand what I am saying. I am reminded that, in the late 1980s, maybe the early 1990s, there was a stage where I think the trade union movement came to realise that simply putting in a log of claims year after year for more money, in the end, became excessive. I think that, if we go back to the 1950s and 1960s, there was a bit of a perception that capital made endless profits and that the worker should ever more enjoy the bounty of those profits. I think that came to a head when there was a realisation that, while profits should be shared by those who create the profit—the workers—there was a point at which you could not drive employers any further.

If all the employer was doing was investing money and risking loss without making any profit at all, quite simply the employer could walk away from the enterprise because there

was nothing in it for him or her. I think much of the trade union movement through that critical period realised that employers need employees in the same way that they all need materials and the ability to work and, therefore, this new paradigm comes about.

Do I support this bill? I will be very interested, if it manages to pass the second reading stage, to see how this bill can be improved and what should and should not be left in it. I find some interesting propositions in it and, certainly, if it makes it past the second reading stage, I intend to ask some questions. As the minister knows, I have always been quite interested in prostitution reform, and some of these definitions are quite interesting from the point of view of running a brothel or massage parlour in your house when you have employees. Some of the definitions about who can do what and where become very relevant, and I will be interested to question the minister on those matters. I am also interested in any proposition—

Mr Scalzi: So, there is sex in the bill after all?

Mr BRINDAL: The member for Hartley says there is sex in the bill after all, or something like that. No, I was only using that as an illustrative point because I also wonder, for the member for Hartley's benefit and because he is such a devout person, about priests and the rights of priests to perform priestly offices in their own home, which technically according to this bill might be a workplace; so one wonders what the bill will have to say for the priesthood. But the member for Hartley can ask those questions: I will confine myself to much more earthly matters.

The point I was trying to make is that the bill interests me because it is quite profound, and differing points of view will emerge, I think rightly, from either side of this chamber. Lest the Minister for Families and Communities thinks, as he tried to say he does, that we all exist in the same basket, that is simply not true. I cannot speak for all my colleagues but I am a fervent believer in liberalism. I do not need to remind you, Mr Speaker, but I may need to remind some other members of this house that liberalism is the most radical of all political philosophies. When it was developed, it was probably one of the early times in the history of our kind when a political thinker put primacy on each and every individual and the individual's family, and took it away from a collective ethos which exists in the cases that you, sir, know of such as socialism and communism (or sometimes individual will, but individual will expressed by those who are rich and powerful enough to exert individual will).

It was, I think, the first time that the primacy of all individuals existing together in harmony and in society was asserted to be possible as a member of government. So, it is very radical. It is radical and informs this bill, and I think very much should inform each clause of this bill, because it is, in every case, the right of each and every person to be able to bargain for what they have to offer, whether it is their intellectual capacity, physical capacity or some other capacity.

It is equally about whether those individuals have the right collectively to bargain, and I do not believe the one should exclude the other. Mr Speaker, you might have the right to join every member of this house and make a collective agreement. Should we as a house therefore exclude your right separately if you wish to enter into any agreement that you should choose in your own right? I think that is a seminal and pivotal question. The same may be said when it comes to employers or groups of employers. Collectivism is not something in terms of this bill or anything else that I will be standing up for; but, if I will not stand up for compulsory collectivism when it comes to unions and union representations, neither will I stand up when it comes to aggregations of business and business imposing its will on groups of people. I think that anathema to a true Liberal—

An honourable member interjecting:

Mr BRINDAL: 'Anathema' is a word on its own—is the intrusion of collectives and big on individual rights, and to a Liberal that should, I think, include big media ownership and big business as well as big trade unions. Too often on this side of the house, too often on the conservative side of politics in Australia, we hear people saying, 'You cannot have that. We're Liberals.' That is big trade unionism; and I think, 'Yes, that's right.' But a Liberal should stand up against monopoly media ownership.

A Liberal should stand up against two food chains owning and controlling virtually the entire means of production in Australia affecting every one of our shopping trolleys and then screwing those in the dairies and the producers, vertically integrating the whole chain and then charging what they want. A Liberal should stand against that. A Liberal should stand against massive media ownership. A Liberal, though, equally should stand against aggregated trade unions that wield enormous power and have officials who are more happy sitting around boardroom tables wining and dining on the shoulders of workers rather than representing them.

I will be interested in what the house does with this bill and whether we descend into diatribes that, in some cases, were better indulged in by our fathers in this place than by us; or whether we are prepared to move on and debate in this place, reflect in this place, a new paradigm for a country that is emerging into a new world. This is unusual for me—and I want to put the reasons on the record—but, normally, I would support any bill from its second reading into committee to see what will happen to it when it emerges from committee; and, therefore, if I did not like the bill I would try to vote it down in the third reading.

In this case the problems that have been presented to me by whole lots of groups of people and very different groups of people suggest that maybe it would be better for the minister to go away and rewrite this bill and bring back something that is less doctrinaire and more reflective of the needs of a contemporary society. I am sure that if the minister is not capable of doing that he could ask Mr Speaker, in his capacity as the member for Hammond, because I have heard him go on about this sort of issue for at least the last 15 years I have been in this place.

If Executive Government is not capable of doing that, I am sure that the member for Hammond could give them a hand; and, if not the member for Hammond, there are other people, for example, the member for Light and other people in here, who have a considerable degree of expertise.

The Hon. W.A. Matthew interjecting:

Mr BRINDAL: The Speaker is going into the Speaker's chair. The chair is there; I will talk to the chair.

The Hon. W.A. Matthew interjecting:

Mr BRINDAL: You can when he gets back there. The point is that I do not think that, in its current form, the bill is informed enough. There is enough community disquiet that I will not be voting for it to proceed to the second reading. There is an additional reason, namely, that a number of the government's own ministers have indicated some reason to be disquieted with it; and, if Executive Government cannot agree universally on the merits of the bill (and I am not

saying this to put them down but rather to praise them up), if cabinet cannot agree on the efficacy of a particular—

The Hon. K.A. Maywald interjecting:

Mr BRINDAL: You are not in cabinet?

The Hon. K.A. Maywald interjecting:

Mr BRINDAL: All right. I am not trying to put the honourable member in a difficult position but, if the cabinet agrees only by two people absenting themselves so that there is agreement in the cabinet, there is something wrong with the decision. If Executive Government cannot bring something in here to which all the Executive Government agrees, no matter from where they come, this house should be very mindful of that fact and it should vote accordingly.

There is an additional reason: it will be very pleasant to have the two members who now form part of the Executive Government sitting on the same side of the house as me for a vote. I cannot resist the temptation and will therefore be forced to vote against the second reading. However, if we lose and the bill goes into committee, then I will enjoy listening to the debate on the clauses (as I am sure the two ministers will), at least trying to improve the bill as much as we can.

The Hon. K.A. MAYWALD (Minister for the River Murray): I rise this evening to speak on the Industrial Law Reform (Fair Work) Bill. By its name the very nature of this bill is to imply that work is currently unfair. The business community, employer associations, labour hire companies and contractors have all expressed their opposition to most of the provisions of this bill. Interestingly enough, I have had union representatives visit me to lobby, but I have had no employees come to see me about this bill.

Following the extensive consultation period on the original draft legislation, the government, to its credit, has modified the bill. However, the amendments do not go anywhere near far enough to make this a fair bill for both employees and employers in my view.

The bill will create much uncertainty in many areas and, in particular, I have problems with the provisions that seek to promote and facilitate security and permanency in employment. Casual employment and other non-traditional working arrangements such as contracting, hired employee services, and labour hire will actively be discouraged by this bill. This ignores the fact that many workers prefer these arrangements because they offer flexibility and choice, and that labour markets have changed significantly over the years. It also ignores the fact that many industries operate in variable market conditions that require flexibility of employment to remain viable. One of those industries is the fruit-picking industry, and I know that previous members have remarked upon the fact that poor old fruit-pickers will wake up one morning and find themselves self-employed rather than employees.

The market moved on a long time ago in respect of how people work within the horticultural industry and, in particular, with fruit-picking jobs. These people work better within labour hire companies: they are able to work better in gangs; they are provided better facilities in relation to accommodation; and, in fact, they prefer to work in labour hire environments or as contractors on their own.

This bill also seeks to encourage and facilitate the membership of representative associations of employees and employers, and to provide for registration of those associations. I believe in freedom of association and that existing legislation provides for this, so I do not support these amendments. The member for Unley is not present in the chamber, but I would like to say that that freedom of association also applies to the fact that I enjoy the freedom of association with the Labor Party in my cabinet position.

I also have a concern about the broadening of the terms of contract of employment. The terminology 'falls within the ambit of' is ambiguous and vague. Does a contract fall within the ambit simply because one party considers it to be so, or only if, and after, the Industrial Court has determined it to be so?

The bill also seeks to broaden the term of workplace to include residences, even though it has been amended to exclude that part of a residence principally used for habitation. The amendments could lead to disputes as to which part of the residence a union official or inspector can or cannot enter.

I am also concerned that the bill extends the jurisdiction of the Industrial Court to determine whether a person or class of persons are employees in an open ended way which goes way beyond common law principles. The minister indicated in his tabling of the bill that this provision will allow the Industrial Court to make a ruling before there is a problem. It is my belief on considering the bill that this jurisdiction will create problems by creating significant new procedural steps, and significant uncertainty.

I am also concerned about the provisions that extend as to who may make an enterprise agreement, by enabling a group of employees to be defined by a class of work or eligibility for membership of a particular union.

The bill also seeks to introduce best endeavours bargaining, which the minister says will give parties a clearer guide of the sort of conduct that is expected during enterprise bargaining negotiations. The provisions are, however, unclear, and that lack of clarity will create disputes, not resolve them, in my view. I am also concerned that the provisions in the bill change the rights and obligations of an employer under an enterprise agreement regarding transmission arrangements from one employer to another.

The bill also seeks to introduce the concept of host employer of a labour hire employee. This provision sets up the nonsensical notion, in my view, that one person can simultaneously have two employers in respect of the one set of tasks being performed. Another concern I have is the provisions which seek to increase powers of union officials to enter any workplace at which one or more members or potential members of the association work. Other issues have been raised this evening that I am also concerned about, and if this bill gets past the second reading stage I will consider the amendments put forward.

Currently the bill as it stands I cannot support. The bill still has many problems which I believe will be a significant disincentive for employers to employ and do nothing to enhance the better relationship between employers and employees. I believe very strongly that employees should be treated fairly and with respect, but I do not believe that all employers are bad and therefore must be punished by onerous and unfair legislative interference in the relationship between the employer and employee.

South Australia is driven by small businesses. There are about 80 000 small businesses in South Australia, and it is a hard slog out there for these businesses. We continue to impose regulatory provisions from all levels of government on small business, and I do not see this legislation as creating an atmosphere for small business to create more jobs; in fact, just the opposite. Yes, there are some employers out there

who do not do the right thing by employees, but equally there are many employees out there who work the system and create merry hell for employers and as a consequence create a huge disincentive for employers to employ. A fair work bill would be one that balanced these two perspectives. The one before us does not achieve this balance.

The Hon. W.A. MATTHEW (Bright): This bill, rather strangely named the Industrial Law Reform (Fair Work) Bill, is one of those bills that differentiate the Labor and Liberal parties from each other. It is one of those bills that differentiate the freedom of speech and freedom of thought of the Liberal Party from the trade union domination and trade union thuggery of the Labor Party and the way it runs its organisation. The Liberal Party takes no direction or pressure from union groups but, rather, is an organisation that encourages freedom of thought and freedom of spirit. This is the sort of bill that those of us on this side of the house could not possibly support, and we find it rather strange that any people in this parliament with a disposition that favours the philosophy of the Liberal Party could in any way, shape or form support a Labor government. It disappoints me that in the time I have been in this house I have seen some members support the Labor Party into government, despite the threat of such legislation as this. I will listen with close interest to the contributions of the four members to whom I make reference by making that comment.

It is my intention to oppose this bill at every single stage. It is my belief that it should be unceremoniously thrown from this parliament and that we should ensure that it never becomes one of our statutes so that the damage it would wreak upon our economy, the business community and employment prospects will be prevented. This bill has had an interesting evolution, and it was on 19 December 2003—in fact, only five days before Christmas—that the minister announced his Christmas present—if you could call it that—for businesses in South Australia. A media release went out headed 'Consultation on government's fair work bill'.

During the eight years that I was part of a Liberal government, one thing we always said was that, if a government has to dump something out before Christmas, it is fair to say it does not want too much media publicity associated with it. It did not surprise us that just five days before Christmas last year the government dumped this bill out in the community, at a time when employers would be busy with their Christmas trading—one of the busiest times of the year—and would be less likely to hear that the bill was out there. Of course, those in retailing would then have the very busy period in January and others would have business closedown, so effectively it would be some time before business and industry were likely to be able to devote too much attention to this bill. Therefore, it was not at all surprising that the formal consultation period was to close on 12 February this year—after the busy period was over, and after the shutdowns were finished—so that employers would not get much opportunity to look at this bill.

It is for that reason that members of the parliamentary Liberal Party, most notably my colleague the member for Davenport, encouraged business to have a look at the insidious proposals that were being put forward by this government. As the member for Chaffey has indicated to the house, what we have before us tonight is a modified bill. That is not surprising, because that was probably part of the game plan.

I can imagine how the government thought it out: it would drop the bill just before Christmas, at the busiest time of the year, so that businesses would not get a hard look at it. But, if it did, it would mean that there was going to be a bit of a problem with it, so the government could water it down and then bring it back to the house. At least then it would have kept its cranky mates from the left-wing unions and the left-wing rump of the Labor Party happy, by consulting on at least some of the draconian provisions that the loony left of the Labor Party and the loony left of the trade union movement would like to see accommodated within legislation. Having done that and taken out some of the loony left's desires for this bill, we now have the compromise consequence that is before us tonight.

It is fair to say that the compromise consequence is not one that has greatly enamoured the business community with this government. I would like to share briefly some extracts from the many contributions that I and my colleagues have received from various businesses and representative organisations around the state. Business SA provided material to all members of parliament, I expect. The introduction to its material makes some very strong points about this bill. In fact, it is so strong that I believe it needs to be placed on the parliamentary record, as follows:

> These implications will in turn impact South Australia's economy, investment, business and jobs.
>
> The major implications include: more third party intervention, more arbitration, more regulation, more red tape, more complexity, no certainty, less choice, more disputes, higher labour and business costs, reduced economic efficiency, encourages employers to move to the federal WR system.

That is from a major representative body in our state, Business SA, with a summary of its reaction to the legislation that is before us today. This legislation is from a government that would have South Australians believe that it is serious about employment; that it is serious about generating jobs; that it is serious about strengthening our economy; and that it is serious about moving South Australia forward.

This bill, even in its watered-down format, does none of those things. It goes further. I will share briefly with the house some comments from the Printing Industries Association in correspondence that it has sent to me, and it states in part:

> The bill is in every sense anti-employer and therefore anti-business generally, and also the prosperity and economic well being of South Australia. This is not an isolated view of our industry, it is the view of a significant part of business and industry in this State.

It then says:

> Accordingly, we are of the view that the proposed legislation should be withdrawn in its entirety, and request your consideration to that end.

Again, those comments are from an important organisation representing a lot of small businesses in our state who employ people. They are small businesses who could potentially have their livelihood and therefore the livelihood of their employees affected should this draconian piece of legislation pass this house.

Another industry that has contacted me is the transport industry. In its correspondence to me it said, in part, the following:

> As an employer and a business owner, I am writing to let you know of my complete opposition to the state government's proposed Fair Work Bill.
>
> Far from being fair to anybody, the bill would be a backward step for the state's economy and it would increase employers' costs and cost jobs. . . the bill should be thrown out of parliament. It should not

be amended or fiddled with but just dropped completely as it is a philosophically and logically flawed bill.

Again, these are important comments from another very important industry sector to our community.

Yet another industry sector that has been very vocal about this bill has been the housing industry. It has made a lot of comments throughout this process. The Housing Industry Association has been advocating strongly on behalf of its membership, and it has been strongly opposing the bill, probably more so than any other industry sector in our community since the first version of the bill was dropped five days before Christmas last year. Interestingly, it was at a time when, of course, the building industry in many parts of the state is actually closed down for the Christmas break. Of course, the comments had to be in just as the industry was gearing up again—deliberately, I would suggest, to make it hard for the industry to comment. However, because of the draconian nature of the initial bill, the industry was motivated and mobilised to comment very forcibly. In part, it states:

HIA said that the bill no longer contains a number of problem areas which were in the minister's original 2003 proposal which the HIA had highlighted in submissions to the minister. However, the new bill is still clearly aimed at enhancing the role unions play in the work place, particularly in those areas where union coverage has been at a low level, such as IT, residential building construction, maintenance work, etc. The justification for this at a time when most Australians thought unions were becoming less and less relevant was very doubtful.

These are areas where individuals have clearly expressed a preference to negotiate outside the industrial system yet the government has in this bill handed the unions a 'free ticket' to interfere with the contractual relationship and to attempt to inflate declining union coverage by forced participation.

That is an important comment from the Housing Industry Association. It is a comment that many who are concerned about this bill have made to the Liberal Party. It is a matter of fact that union membership is declining, and it is equally a matter of fact that, therefore, the revenue that unions have the capacity to raise is equally declining. That spells a problem for the Labor Party, for it is also a matter of public fact—and the figures are easily available from the Australian Electoral Commission web site—that the union movement in this country is a large donor to the Labor Party. It is in the government's political interest that unions have the opportunity to raise a greater amount of revenue so that those unions can import even more money into the coffers of the Australian Labor Party for them to contest their state and federal elections in those states that have partisan politics involved in local government so that, equally, they can be involved there. I suggest that it is entirely possible, in fact, it is most likely that union funding is also propping up some candidates for local government elections in this state even though, officially, we do not have a partisan electoral system for local government.

Many areas of this bill give me cause for concern, but in the time that remains available to me I would like to touch on just some of the clauses which give me particular concern. I look initially at section 4(1) headed 'Industrial matter'. I note that industrial matter is going to be broadened to include a matter relating to the rights, privileges or duties of an employee or employees including a prospective employee or prospective employees. This section in itself, as I understand it, creates a new right for an individual employee to notify the Industrial Relations Commission of an industrial dispute. There is no doubt that if that sort of right is granted there will be more third-party intervention, more arbitration, more regulation, more disputes and, as my colleague the member for Hartley says, more costs. There are going to be higher labour costs and higher business costs. It does not matter which way you look at it: that is not conducive to more employment in our community.

Section 3(fb) says it is 'to promote and facilitate security and permanency in employment' but, as I understand it, it effectively discourages employment that is not perceived as secure or permanent—employment that might be casual or fixed term, or might be a specific task basis or contracted employment, or it might be some other form of labour hire method. That will provide less choice to employers and employees over the way in which employment occurs and, again, that will increase the number of disputes and increase labour and business costs. Again, that will encourage employees and employers to move to the federal workplace relations system.

Before entering this house I worked in an industry that very much operates on fixed terms. As members are aware, I was employed in the information technology industry, and every project I ever worked on in that industry was of a fixed term nature—that is the very nature of the information technology industry. There is a job that needs to be done for a part of government or for a business and the parameters of that job are determined, the solutions are worked through, and it is costed. You bring in your design team, you bring in your coding team, and you put your technology project together. This bill is endeavouring to change that very logical way that industry works, and I can only conclude that the architects of this bill have no regard for nor any idea about how the information technology industry operates—not just in this state or in this nation but throughout the entire world. That is a very obvious fact that they have overlooked and one that, in itself, shows this bill to be the sham that, in fact, it is.

Section 3(ka) is interesting because it says that it will 'encourage and facilitate membership of representative associations of employees and employers and to provide for the registration of those associations under this act.' In other words, this is the clause that encourages unionism; this is the part of the bill that wants people to belong to a union because, of course, if they belong to a union they are paying their union fees, and if they are paying their union fees then a portion of their union fees can go into the Labor Party's coffers. And that is obviously good for the Labor Party in future elections. That gives me considerable concern and it brings about less choice for employees and inevitably, again, it will lead to more disputes.

Section 4(1) also refers to the workplace, and it places a very interesting interpretation on a workplace, because it says that a workplace will mean:

any place where an employee works and includes any place where such a person goes while at work but does not include a part of the premises of an employer that is principally used for habitation by the employer and his or her household.

The words 'a part' are important because, as I understand it, this section of the bill will allow union officials and workplace service inspectors to enter people's homes where part of that home is a place where an employee goes whilst at work. So if a part of a home, such as a study, is principally used for work—and it is certainly not an uncommon situation, particularly for small business operators (and farmers are a classic example), to undertake their accounting activity in a study in their home—it means that that part of their home can be entered by trade union thugs who will be able to jackboot through their houses. Equally, government inspectors are also able to jackboot their way through a private home to that

study. If the study has its own door, of course, they can go through that door, but I would suggest that in most cases a study or other parts of a home used for employment-relevant purposes would need to be accessed through other parts of the home.

I see that as a massive infringement on the civil liberties of people who are generating jobs and employing in this state. I see this as being symbolic of the support of union thuggery that we have seen so often by the Labor Party in this state. Clearly, it is going to be a situation where we will have disputes. The whole way that this section of the act is written will encourage disputes about whether a section of a house is principally used for habitation for work and, therefore, whether a trade union thug has the right to jackboot their way through to that part of the home. That will mean more third party intervention overall and more disputes.

I see this bill as one of confrontation, deception and one that satisfies the extreme loony left of the Labor Party. I see this bill as having been designed to appease some of the left wing ratbags who have supported the Labor Party into government in this state. It is beholden upon every member of this house who believes in freedom of thought, speech and association, and who believes in the right of somebody to start a business, employ people and to prosper and gain from their hard work. Anyone who has that belief cannot in all conscience support this bill. I am encouraged that at least two members of the Labor cabinet have indicated that they will oppose this bill. I am troubled that the members for Chaffey and Mount Gambier did not stand their ground in cabinet and fight to stop it getting here, but I am at least encouraged that they will oppose it. I look forward to other free-minded members doing likewise.

Mr SCALZI (Hartley): I rise to speak to this very important bill. I will be brief because, no doubt, this will be a long process when we go through it clause by clause. The bill has a lot of opposition and, as we have seen, the opposition does not only come from the opposition benches, but the opposition is also within the government cabinet. That in itself should tell us that something is wrong with this bill. I do not speak as an anti-union member; indeed, I am a proud member of the Australian Education Union, even though I do not agree with everything that the Australian Education Union does. I have often spoken against the things that I do not agree with. I am a member because of my profession and because I believe in freedom of association. As a Liberal, it is an important fundamental principle that we have freedom to associate, whether it be a teachers' union, the AMA or the Law Society.

The title of this bill in itself, the fair work bill, I have difficulty with. It should be a fair employment bill or an employment agreement bill, because you cannot have employment until you have agreement between the employer and the employee; and one depends on the other. If one is unfairly treated, whether they be employees or employers, we are not going to have any such notion of fairness. We will have more disputes and, ultimately, the community will suffer. As many members have said, this bill tends to support more confrontation than agreement. That cannot be good for employment or for dealing with youth unemployment in this state, which is still about 29 per cent of the work force. Even though the unemployment rate has come down, many people are still suffering from unemployment. Indeed, in certain sectors in our community there are two or three generations of unemployment. These are the issues we should be looking at and seeking to address.

The problem with this bill as it stands is that it is a de facto anti-freedom of association bill, because it prefers certain associations. The working world has changed, as indeed shopping hours have changed. We have less permanent employment, increasing part-time employment, and there are more hire companies. Indeed, only today during question time, the minister himself referred to the government encouraging something similar to the subcontracting of plumbers to deal with the problems of plumbing in homes. So, things have changed—even this government, with its rhetoric of being anti-privatisation and that it will put a stop to it. The government is finding ways in which it, too, has to move because the working world has changed. A good employment bill would need to reflect the changing nature of work and would need to ensure that both employee and employer are treated fairly and equally.

The problem with this bill, in general terms, is that it does not distinguish between small business and large business. Small business does not have the flexibility to handle the extra red tape this bill would entail. It does not have the flexibility to re-hire someone after an unfair dismissal claim; it is a bigger impost on small business. Let us not forget that small businesses are the biggest employers and the ones which are more likely to generate wealth and create employment, especially for young people. If we look at the newspaper, we will see what it has to say about this bill. I refer to an article by Greg Kelton and Leanne Craig in *The Advertiser* today, which states:

> Two ministers—Karlene Maywald and Rory McEwen—will vote against major industrial law changes in Parliament this week.
>
> Their decision, coupled with opposition from Speaker Peter Lewis, means the Government may have to rely on Greens MP Kris Hanna and independent MP Bob Such to have the controversial changes passed.
>
> But even Dr Such is proposing amendments to the Fair Work Bill—debate on which is expected to lead to several late-night sittings this week.

It is important to note that we are debating at this late hour a bill relating to employees. Perhaps we should be looking at the working conditions of members of parliament in this place and our ability and productivity, such as two weeks ago at 4 o'clock in the morning. I do not know what is fair about the conditions under which we work in this place, but as members have said we knew when we came here that we would have to work such hours.

I return to this article. The Minister for Small Business opposes the bill, and I commend her for her speech. Two ministers of the cabinet oppose the bill. Would it not have been better to look at this more objectively over a longer period of time to try to come up with something that would genuinely be fair to both employers and employees? I am concerned that this bill will create an 'us' and a 'them' again. We should move away from that.

It is a pity that the Labor government does not understand that people are sick and tired of simplistic definitions where a person's identity relates just to work, where a person is defined just as a worker. Both workers and employers are connected in terms of their wellbeing. You cannot promote employment if you do not acknowledge that. Genuine safety standards in the workplace and agreements between those who hire and those who are hired should be maintained regardless of whether or not they belong to a union. That is why enterprise bargaining agreements have flourished. Twenty years ago, we did not have superannuation funds, but

we are moving towards that now and the provision of some security.

Some people want to work part-time. This bill will discriminate against those who wish to work part-time, for whatever reason. We should be flexible enough to accommodate any condition of employment provided the standard of remuneration is fair and there are appropriate health and safety standards. We should not necessarily favour one particular set of working hours over another, provided an individual freely accepts that type of an arrangement. Why have so many people spoken against this bill? It is because there is an understanding that unions will be given the right to access any workplace where there is a potential union member. Every workplace would be open to unions.

I understand that the original draft has been changed so that it is clearly stated which part of a residence is the home and which part is devoted to work. I can imagine the disputes that will be involved in this area. The Industrial Relations Court will be given the power to make contractors employees, thus denying people such as building, transport and IT contractors the right to run a legitimate business. People want to run businesses in that manner; why should they be forced to behave as if they are not and receive an advantage if they belong to a union? Enterprise bargaining agreements would be weakened by giving the Industrial Court the power to alter any clause.

This will only create uncertainty about all enterprise bargaining agreements. We know that we have legislation in other states, including Queensland, which has created problems, and one would have thought that this government would have learned from the interstate mistakes. As an example of the types of letters that we have received, I cite the following:

> Dear Mr Scalzi,
>
> As an employer and a business owner, I am writing to let you know of my complete opposition to the state government's proposed Fair Work Bill. Far from being fair to anybody, the bill would be a backward step for this state's economy and it would increase employers' costs and cost jobs. I will not support any political party that supports this ridiculous legislation. I believe that the bill should be thrown out of parliament. It should not be amended or fiddled with but just dropped completely, as it is philosophically and logically flawed. The stated motive behind the bill is to be fair to all employees. I have no argument with that, but this legislation will not achieve that objective.

Then we have some of the reasons why this particular person wrote to me:

> 1. Deeming subcontractors to be employees: the trucking industry is at least 70 per cent small (one to two trucks) operators and many of these are effectively subcontractors. These people have chosen to be self-employed and to work as subcontractors because it is what they want. Of course, even the most successful trucking companies had their beginnings as owner/operator one-truck operations. The Fair Work Bill will threaten the rights of these people because they could all collectively be deemed to be employees simply on the strength of one individual making an application to the commission and the commission then deeming subcontractors as a class of persons to be employees. In fact, we understand that there are a large number of subcontractor members of the Transport Workers Union of Australia who are very angry at the TWU for supporting this bill that could strip them of their independent status. . .

and so on. I have a little bit of knowledge of the building industry, as I have family involved in that industry as subcontractors. The HIA press release states:

> HIA has given a critical reception to the Industrial Relations (Fair Work) Bill which Minister Wright introduced into the SA parliament on October 13th. HIA said that the bill no longer contains a number of problem areas which were in the minister's original 2003 proposal, which HIA had highlighted in submissions to the minister.

This is important to note. Yes, there has been some response from the minister and he must be given credit, but there are still problems. The press release continues:

> However, the new bill is still clearly aimed at enhancing the role unions play in the workplace, particularly in those areas where union coverage has been at a low level such as IT, residential building construction, maintenance work etc. The justification for this at a time when most Australians thought unions were becoming less and less relevant was very doubtful. These are areas where individuals have clearly expressed a preference to negotiate outside the industrial system, yet the government has in this bill handed the unions a 'free ticket' to interfere with the contractual relationship and to attempt to inflate declining union coverage by forced participation.

As I said, we will go through clause by clause on the effects. Members have talked about the printing industry and Business SA's opposition to it. There has never been more opposition to a bill by the business community as has been the case with this bill. This is summed up by the Housing Industry Association as follows:

> The end result will be, if passed in the current form, a significant reduction in SA competitiveness in the national and international marketplace with consequent loss of employment opportunities, especially for young South Australians. It is totally out of harmony with the innovative and entrepreneurial workplace culture which has developed in Australia over the past decade and which has worked so well to improve the living standards of all Australians.

I believe in freedom of association. As I said at the outset, I am a member of a professional association. I have remained a member because that association—SATISFAC Credit Union—has provided great service to me over the years since I was a teacher. Rather than just affiliating themselves with political parties, perhaps unions should fight for the rights of their members and provide services, and their membership will naturally increase. For example, they should make sure that they become involved in areas such as providing private health cover, and other services that they could access from their contributions. As the Labor Party is finding federally (in fact, one of the unions in New South Wales has taken out the word 'Labor' as an association), you cannot affiliate with just one political party.

The main purpose of any association should be for the benefit of its members. Those benefits and services can be provided not just with respect to industrial relations but also with respect to services that benefit the membership. For example, access to loans and health services, holidays and similar areas should be looked at. As I said, the bill should be aimed at providing employment opportunities. It should be fair to the employer and to the employee. This bill does not do that, so I will be opposing it.

The Hon. M.R. BUCKBY (Light): I indicate that I will not be supporting this bill at any stage of its progress through this house. This must be one of the most draconian pieces of legislation that I have seen since I entered this house in 1993. One really would have to ask why a government would introduce this type of legislation, because in South Australia between 80 per cent and 90 per cent of the goods that we produce are either exported overseas or sent interstate. One would think that we would be looking for every single advantage we could give to business here to operate efficiently and to produce their products at the least possible cost. This piece of legislation will do absolutely nothing to help employers in this state. In fact, it will retard their development. It will cost businesses a greater amount of money in having to work through the courts and pay for lawyers

because of the bill's lack of clarity and its ambiguous wording.

This bill surprises me. On the one hand, it does not consider for one minute the impact that this will have on businesses in South Australia. On the other hand, it does not surprise me because, given the support of the union movement for the Labor Party, one would have seen that this was perhaps coming due to the monetary support—

Mr Goldsworthy interjecting:

The Hon. M.R. BUCKBY: Yes. As the member for Kavel said, we on this side of the house have been wondering just when this sort of bill was going to lob up. It takes me back to the mid 1970s and the legislation that was introduced to the federal parliament under Gough Whitlam, who was prime minister at that time. The power that the unions were able to generate through that period of time was scandalous. This takes me back to that time, because it echoes some of the sentiments and the sort of power that the unions were requiring and seeking, and achieved, in the time from 1972 to 1975. I know some people within the union movement would like to go back to those heady days, as they see it, of union power. But, thankfully, the community and employees in this community have long moved on from that particular time because they recognised that that sort of power did business—and their jobs, in fact—no good whatsoever.

The name of this bill is also interesting, sir. A fair work bill. What is fair? What you might determine is fair might be quite different from what I and the minister decide is fair. How subjective is it to have that title for a bill? Before you even get into clause 1, basically, the thing is open to interpretation. Who is to say what is fair? It is a ridiculous name for a bill, and its very subjective name basically sets out what is to come.

Since I have been in this house very few bills have generated such opposition as this measure, and I talk about opposition from groups such as Business SA, transport companies, the wine industry and the Printing Industries Association, to name just a few. I will give some examples of letters to members of the opposition. The South Australian Wine Industry Association Incorporated in its letter states:

> In fact, we would prefer that the bill is defeated. It is a very anti-business bill that is inconsistent with mooted changes at the federal level. The association has prepared a commentary for our membership which is also attached for your information.

Scania Australia, the truck company, states:

> As an employer and a business owner, I am writing to let you know of my complete opposition to the state government's proposed Fair Work Bill. Far from being fair to anybody, the bill would be a backward step for this state's economy and would increase employers' costs and cost jobs.

The Printing Industries Association of Australia states:

> On behalf of the printing and associated industries in South Australia, we express extreme concern at the content of the proposed Industrial Law Reform (Fair Work) Bill 2004 which is currently before the South Australian Parliament. The bill is in every sense anti-employer and therefore anti-business generally, and also the prosperity and economic wellbeing of South Australia.

And it goes on. The submission from the South Australian Road Transport Association begins by stating:

> The South Australian Road Transport Association is firmly opposed to the bill and submits that it should be withdrawn completely.

So, one would ask why the government has not withdrawn this bill given the huge sentiment against it by business in South Australia. Surely, when we are talking about developing this state, increasing exports and making this state as competitive as possible against our Eastern States neighbours, one would have thought we might listen to industry, but obviously this government does not.

We can look at a few things here. In regard to the definition of the workplace, I go back to my farming days. Is the farmhouse to be defined as a workplace? The bill says that you cannot enter a place used for habitation. What does this mean with regard to the office that is situated within a house, on the kitchen table, for instance, because many farmers undertake their accounts and do their work on the kitchen table? Does that mean that a trade union representative, or a person who has the power to enter premises, will be able to enter a person's kitchen because that is where the books are kept? Does it mean that, because I am the son of a farmer and I work on the farm and keep my accounts in a desk in my bedroom, for instance, that they can enter my bedroom because I keep those accounts and records within that room? The question is: where does this stop?

There are no boundaries here. I can see someone who believes they can walk in anywhere and who has the authority to demand to see the employee accounts or any documentation that relates to employees placing undue demands on those people who may not know the legislation as well as we do in this place. Clause 7 provides that the court is to be given jurisdiction to declare whether a person or class of persons are employees. How much time will be spent in the courts? This bill will be an absolute Pandora's box for lawyers, because the courts will be required to determine whether someone is or is not an employee. This bill is very open-ended in terms of factors which the Industrial Court can take into account. Again, I go back to my farming days and ask: what about shearers? We always contracted shearers in our place. They came twice a year for crutching and shearing. This bill could determine them to be employees because, on a regular basis, they came back to the farm to undertake the shearing of our sheep.

What about those people who prune vines every year? Exactly the same situation occurs: they return on a regular basis. Will they be determined to be employees, even though they are contractors and are contracted in gangs?

Mr Goldsworthy interjecting:

The Hon. M.R. BUCKBY: The member for Kavel says 'picking grapes'. The same scenario applies. Companies contract to producers either to pick grapes or to prune vines each year. Now there is a real danger that they will be classed as employees and, as a result, change things significantly. Legislation such as this exists in Queensland and, in one case, it cost shearers in that state $325 000 to go to court. Finally, the issue was dismissed. A second case in that state related to the security industry, and it was determined that the industry itself was an employee.

A third case related to contract truck drivers, which remains unresolved after two years of working its way through the courts. This bill will create those same uncertainties as has the legislation in Queensland. I refer to clause 8 and outworkers. Consider cleaners who you, sir, I or the company contracts. We sign a cleaning contract. This bill could well see the contract cleaner being defined as an employee. There is a huge change as outworkers will now be treated as employees for all purposes unless the regulations specifically exclude them. Again, that creates a huge amount of uncertainty for business.

Clause 23 relates to the form of payments to an employee. This clause will make it an offence if an employer does not comply with the act. I raise the example of many small

businesses where an employee and an employer have a very close relationship. I know of instances where the employer will lend money to the employee who is short for reasons of family sickness or whatever. The employee owes the employer a certain amount of money. If that employee decides to leave, under this clause, unless there is written authority that the employer can take that money out of the severance payment, the employer cannot do it. So, the employee could well say, 'See you later,' and the employer is left holding the bill and cannot do anything about it.

Looking at best endeavours bargaining, under this clause you would have to ask why one would enter an enterprise agreement because this is set up to force people to arbitration. It does not improve the clarity regarding enterprise bargaining and it will create disputes. If the employer contends that he cannot afford to pay more money to get a wage outcome, then is it going to be required that there be disclosure of financial information? Is the union and the court going to say, 'Bring us your books; we want to see your books to see whether you are telling us the truth or not.' How far is this going to go? What next is going to come?

Moving to clause 48, the power to enter any, and I repeat any, workplace, that does not mean only those workplaces that have members of a union; this is any workplace, whether there are union members or not; and all it has to be is that an employee could become or would be applicable for membership of a union body. So, these are huge powers that are being given in this act. I note the time, and I will complete my contribution to this bill to say that this is one of the most anti-business bills that I have seen since I have been in this place. It does nothing for business in South Australia, it will do nothing for the economy of South Australia, in fact I believe that it will harm it, and this bill should be opposed by this house at every opportunity.

Mrs GERAGHTY (Torrens): I had no intention of speaking on this bill as I knew that many others would do so, and I felt that it was important that we did not go through the horrendous debates that went on for hour after hour when we were subjected to the regurgitated speeches on the gaming bill. However, at about 11.30 this evening, after the member for Bright's contribution, I felt that I could not let this debate go without saying just a few words.

I listened to the member for Davenport's contribution and, while not agreeing with most of his speech, he presented his case in a balanced, and, to be fair, it was a contribution that argued his case as he saw it without abuse and derogatory remarks. There were other members like the member for Fisher and the member for Mitchell who, likewise, raised their issues in a balanced and fair way, but it was the member for Bright who took the cake for inflammatory, derogatory, and simply insulting remarks that makes me stand here now.

I come from working class stock and I am proud of it, and I know that many of my constituents will be insulted by his remarks as will many others in the community. He insults our intelligence; I am not a yobbo, and I do not jackboot my way around the community, and nor do the hard working good union officials that I know. They do the job they are paid to do for their members in a fair and reasonable and honest way. They have, in the main, good relations with their employer groups, and when a company is in trouble the employees and their union representatives work in a collaborative way to achieve a fair outcome and support the businesses through difficult times, because like their members they want to keep jobs and not destroy them. I found the member for Bright's contribution, up to his usual par, offensive and ill-informed, and I know exactly where I would like to put my jackboot if I had one.

Mr MEIER secured the adjournment of the debate.

ADJOURNMENT

At midnight the house adjourned until Tuesday 9 November at 2 p.m.