LEGISLATIVE COUNCIL

Thursday 10 February 2005

The PRESIDENT (Hon. R.R. Roberts) took the chair at 2.18 p.m. and read prayers.

ASSENT TO BILLS

Her Excellency the Governor, by message, assented to the following bills:

Controlled Substances (Repeal of Sunset Provision),

Criminal Law Consolidation (Child Pornography) Amendment,

First Home Owner Grant (Miscellaneous) Amendment,

Gaming Machines (Miscellaneous) Amendment,

Medical Practice,

Motor Vehicles (Fees) Amendment,

Parliamentary Remuneration (Restoration of Provisions) Amendment,

Petroleum (Submerged Lands) (Miscellaneous) Amendment,

Statutes Amendment (Legal Assistance Costs),

Statutes Amendment (Miscellaneous Superannuation Measures No 2),

Statutes Amendment (Misuse of Motor Vehicles),

Teachers Registration and Standards.

ABORTION

A petition signed by 536 residents of South Australia, concerning abortions in South Australia and praying that the council will do all in its power to ensure that abortions in South Australia continue to be safe, affordable, accessible and legal, was presented by the Hon. Sandra Kanck.

Petition received.

McBRIDE, Mr S.W.

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I table a ministerial statement regarding Steven Wayne McBride made today by the Premier.

DNA TESTING

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I table a ministerial statement regarding DNA testing made today by the Premier.

QUESTION TIME

JUVENILE JUSTICE

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Leader of the Government, representing the Attorney-General, a question about juvenile justice.

Leave granted.

The Hon. R.D. LAWSON: Members may recall that, in March 2004 and the month or so before that, there was widespread publicity in Adelaide concerning a crime spree in the western suburbs involving the slashing of tyres. It was said that the tyres of more than 200 vehicles were slashed during this splurge.

The Advertiser of 20 March 2004 reported that one of the so-called masterminds behind this spree had been brought before the courts. On that day the newspaper reported:

> Six more tyre spikings were reported overnight yesterday, bringing the number of vehicles damaged to almost 400 since December.

It was said that the particular offender, who had been taken into custody, was bailed to appear in the Adelaide Children's Court in April. Port Adelaide Superintendent Barry Lewis was reported as saying that the police were hoping to make a second arrest before the end of the weekend. He said:

> We have three of the core group and a fourth one shortly. We'll keep working away on the others until we are satisfied. The arrest follows last week's charging of two other youths over the attacks, which have occurred mainly in Semaphore, Exeter, Birkenhead and Largs Bay.

A special operation, a dedicated task force, was established to crack this gang and had spent considerable time and, one imagines, considerable public resources in that effort. There have been some inconclusive comments on talkback radio about the result of proceedings against those who were charged in respect of these matters, and a number of people, especially in the western suburbs, are particularly concerned. I have received a communication from one resident of the area affected, expressing great discontent. He says:

> Day after day, night after night, we the listeners to talkback radio, mainly 5AA, have to endure the constant ramblings of the Attorney and how tough he claims the Rann government is on law and order issues and outright blatant criminal activities against ordinary citizens.

My questions to the Attorney are:

1. Was any, and, if so what, action taken against the offenders who were charged in relation to this matter?
2. What, if any, penalties were imposed?
3. Can he confirm that two of the offenders received only a police caution and were ordered to attend a family conference?
4. Were any community service orders sought against any of the offenders?
5. Were victims of these offences consulted or informed about the result of any legal proceedings?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I can well understand the anger that people who have their tyres slashed feel. I myself was the victim of a tyre slashing incident, along with a whole lot of other people, in the suburb where I lived about seven or eight years ago, and I know that I was certainly never informed about what happened in relation to the outcome of the investigation of that, but at that time many people around Myrtle Bank where I lived were the victims of this particular type of crime. But I will get the statistics.

The Hon. R.D. Lawson interjecting:

The Hon. P. HOLLOWAY: The point being, if the deputy leader wants to draw one, that there was certainly not much activity at that particular time under the previous government. But, nevertheless, I will seek to get the information from the Attorney-General in relation to this matter.

EGG INDUSTRY

The Hon. CAROLINE SCHAEFER: I seek leave to make an explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Agriculture, Food and Fisheries, a question about the South Australian Egg Industry.

Leave granted.

The Hon. CAROLINE SCHAEFER: The South Australian egg industry directly employs 250 people, most of them in regional South Australia. It purchases and uses 37 000 tonnes of stock feed, which makes it a major purchaser of stock feed within the state. It produces 800 000 layers and 800 000 pullets per year, and supplies South Australia with 22 million dozen eggs worth $55 million to the South Australian economy.

It is also responsible for a number of associated industries including transport, equipment agents, packaging, stockfeed manufacturers, etc. However, it has been known for some four to five years that the South Australian egg industry would be destroyed if some action was not taken regarding the ARMCANZ decision in the year 2000 to adopt a new 'Model code of practice for the welfare of animals—domestic poultry.' That code of practice demands an increase in the size of all cages for egg-laying birds and is due to come into force on 31 December 2007.

The egg industry has made consistent representations to the minister asking him to fight for an extension of time so that this change can be made slowly by replacing cages as they wear out. It has put forward several plans whereby either the egg industry can relocate to new sheds and more suitable locations or for financial or structural adjustment assistance within South Australia. Because of the geography of this state, South Australian egg producers are likely to be worst affected by this decision than any other state.

I have met with a group of these egg producers and at least one of the major companies is considering closing their egg production within the month. Several others are likely to close between now and the end of 2007. In fact, it is highly likely that most of South Australia's eggs will need to be imported in the near future. My questions are:

1. Given that yesterday the Premier announced a number of strategic plans for which he claims credit from the beef industry to the goat industry, what plan does he have for our ailing egg industry?

2. Why did the minister not fight for an extended time or a restructure at the recent primary industry ministers' conference?

3. Will there be any assistance for either new infrastructure or a restructure?

The Hon. P. Holloway interjecting:

The Hon. CAROLINE SCHAEFER: You have had four years!

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer that question to the minister in another place and bring back a reply.

RHODE ISLAND STATE COUNCIL OF THE ARTS

The Hon. A.J. REDFORD: I seek leave to make an explanation before asking the Minister for Industry and Trade, representing the Premier as Minister for the Arts, a question about the Rhode Island State Council of the Arts.

Leave granted.

The Hon. A.J. REDFORD: Everyone knows that this government is desperately searching for a policy, and this is particularly so in relation to the arts. In June 2003 the Premier left Adelaide for the United States, the United Kingdom and Malaysia and was absent from South Australia between 18 June and 5 July 2003. Indeed, he was accompanied by Lance Worrall whose PHD on the Marxist state—

The Hon. R.K. Sneath interjecting:

The Hon. A.J. REDFORD: I am still reading. He was also accompanied by the Premier's regular overseas travelling partner Paul Flanagan. During this trip the Premier met the then minister for science, Jane Lomax-Smith, in Washington and caught up with Premier Beattie and Premier Bracks—after all, why meet these people in Adelaide, Melbourne and Brisbane when you can do it in Washington?

I noted that on Friday 27 June the Premier was to attend the Rhode Island State Council of the Arts to 'discuss and sign an arts and cultural cooperation agreement'. 'Aha,' I thought, 'this could be the arts policy that this state has been so desperately searching for.' Indeed, I put the words 'arts capital of the world' in my Google search but I regret to inform members that Rhode Island did not get a mention on the first few pages.

In any event, I did what some might have expected of me and FOIed this agreement. From this I thought an arts policy might emerge. On 7 February I received a response. I was told that the agreement was not signed. So, here we have a Premier going all the way to America to sign an agreement and coming back with nothing. He must have been very disappointed.

I was informed by the external reviewer that release would, on balance, be contrary to the public interest. I was told that it would not be in the public interest to release 'inaccurate information into the public arena where it can confuse public debate'. He also said, 'Further discussions are necessary to define the criteria of the agreement from the original draft proposal.' That must be disappointing for the tens of thousands of South Australians who are waiting for this Rhode Island agreement. My questions are:

1. When does the Premier plan to return to Providence, Rhode Island to sign this much awaited agreement that is described as being able to confuse public debate?

2. Could the Premier let us in on the general subject matter of this agreement?

3. What is it about this document that means the public cannot be allowed to see it without becoming confused?

4. What is the government doing preparing inaccurate agreements to be signed by the Premier?

5. Finally, why Rhode Island?

The PRESIDENT: Before the minister answers that question, the explanation was riddled with opinion, which obviously caused the questioner and his colleagues some amusement. However, it does offend the standing orders. In future, I will not wait for a point of order: I will be taking appropriate action if this continued introduction of opinion and explanation occurs.

The Hon. P. HOLLOWAY (Minister for Industry and Trade): Some of that opinion, of course, referred to the fact that the Premier, along with the then minister for science, met with other state premiers over there, if I recall—

An honourable member interjecting:

The Hon. P. HOLLOWAY: Yes. The reason for that was that it was one of the world's major biotechnology conferences, and other states were over there trying to win the lead in terms of getting biotechnology developments in their state. It might be Angus Redford's idea that we should just drop out of the game and give it—

The PRESIDENT: Order! We have had clarification in the past few days about addressing members, and it has to apply to ministers as well as all other members. You should address the member by his title.

An honourable member: You're a disgrace.

The Hon. P. HOLLOWAY: I am a disgrace—after what we heard from the Leader of the Opposition during his cowardly attack yesterday? There was a major conference on biotechnology, in which other states—and, in particular, Queensland and New South Wales—are seeking to take the lead. If the Hon. Angus Redford believes that we should opt out of that race and just give our biotech industries away, so be it. It was very important, I believe, that this state should have had representation from the Premier and the other minister so we would have the opportunity to meet the major biotechnology companies that were present on that occasion. That was just one of the many glib lines that were in the preamble. In relation to the arts matters, I will seek a response from the Premier.

The Hon. A.J. REDFORD: Sir, I have a supplementary question arising out of the answer. Given that the only reference to the fact that the Premier saw Premier Beattie and Premier Bracks in Washington was at the opening of the Hawker Britton office, what was the purpose, for the people of South Australia, of the Premier's attendance at that little function?

Members interjecting:

The PRESIDENT: Order!

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order! The Hon. Mr Redford is not here to provide advice. He is here to comply with the standing orders, and he will be given the opportunity to ask questions arising from the answer. I am struggling to recognise the connection between his second question and the original answer, but the minister can answer if he wishes.

The Hon. P. HOLLOWAY: The Hon. Angus Redford is really only capable, like all members opposite, of throwing abuse. Yesterday we had one of the most disgusting performances in the history of this place. We had the most cowardly attack since Pearl Harbour from the Leader of the Opposition on unnamed public servants. What happens with people like this? We had some of the lowest, most gutless attacks on public servants in this place. There are senior public servants out there in South Australia who are doing their best for this state. We have the Leader of the Opposition who comes in here and spends his time denigrating anybody who happened to know somebody who knew somebody once who was a relative of somebody who might have been involved in the Labor Party. That is what it is getting to nowadays—any connection. He wasted an hour of parliament's time yesterday attacking—

Members interjecting:

The PRESIDENT: Order! All honourable members will come to order. There is too much interjection. Members on my right are not being helpful to the minister. The members of Her Majesty's loyal opposition know their responsibilities, and I am going to insist that they abide by them.

The Hon. A.J. REDFORD: I rise on a point of order, Mr President. None of what the minister said has had anything to do with my question concerning the opening of the Hawker Britton office.

Members interjecting:

The PRESIDENT: Order! There is a well established convention here that the minister is entitled to answer a question the way he sees fit.

The Hon. P. HOLLOWAY: The supplementary question had nothing to do with that, either, but that is another point. We have had these sorts of cowardly attacks on individuals such as we had yesterday. One can only hope that people like the Leader of the Opposition stay there. Would it not be a tragedy if he retired? We want him to stay for the next election and be a living memory not only of fiscal failure and of the ETSA sale and how that was all mucked up, but we hope he is here because, the more he continues to make these cowardly attacks on individuals, the more he shows that he is not fit to be in government. So, I hope he stays, and I hope he keeps up these attacks, because the public of South Australia will know that the opposition is not fit to go anywhere near government.

Members interjecting:

The PRESIDENT: Order! I do not know how accurate that answer was, but it was getting close to being irrelevant to the question. I think all honourable members have had a little bit of fun, but I think it is about time we retained the dignity of the council.

VISITORS TO PARLIAMENT

The PRESIDENT: I draw honourable members' attention to the presence today of some very important young South Australians in our stranger's gallery from Concordia College with their teacher Mr Rick Sommariva. I understand that they are here to improve their education on the policy and practice of parliament. I hope that, as our guests, they will find their visit to our parliament most rewarding and educational.

AUTOMOTIVE INDUSTRY

The Hon. G.E. GAGO: I seek leave to make a brief explanation before asking the Minister for Industry and Trade a question about research in the automotive sector.

Leave granted.

The Hon. G.E. GAGO: The automotive sector is very important to the South Australian economy. In order to compete in the global marketplace, it is essential that our manufacturers are on the cutting edge. Innovation and the research that leads to it are becoming increasingly important. South Australia's strategic plan sets targets for the state with regard to the location of cooperative research centres, as well as business expenditure on research and development. My question to the minister is: what is the state government doing to assist the automotive industry to increase its research capability?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I thank the honourable member for her question—a question that has some substance to it. I am very pleased to report that a new cooperative research centre (CRC) will be established that will be of benefit to the state's automotive industry. Of course, CRCs bring together researchers from universities, the CSIRO and other government laboratories, and private industry or public sector agencies in long-term collaborative arrangements that support research and development and education activities that achieve real outcomes of national economic and social significance.

The CRC program aims to maximise and capture the benefits of publicly funded research through commercialisation, utilisation and technology transfer, and it is administered through the Australian government's Department of Education and Children's Services, Science and Training under the Backing Australia's Ability program. This new advanced automotive technology CRC will be headquartered in Victoria, but a major research node will be based in South Australia.

The core South Australia participants in the CRC include Holden, Mitsubishi Motors Australia Ltd, Air International, Schefenacker Vision Systems, the University of South Australia, the CSIRO and the state government. Participants are providing cash and/or in-kind support. The CRC will receive $38.35 million over seven years under the commonwealth CRC program and will help the automotive industry reduce concept-to-product cycle times through improved manufacturing flexibility and efficiencies as well as developing new material systems to meet the challenges of weight reduction, increased safety and greater functionality. The state government has committed $100 000 per annum over seven years to the project in order to leverage these commonwealth funds. The CRC for Advanced Automotive Technology will provide the automotive industry with the opportunity to work with research providers in design, engineering and manufacturing research, to enhance the industry's international competitiveness.

It will also help improve vehicle safety by delivering improvements in the crashworthiness of vehicles and new intelligent products or systems that provide increased comfort, performance and entertainment. South Australia's involvement in the CRC will see new technologies and training support delivered to local industry, as well as technology resulting in improved global competitiveness. The CRC will address many of the key challenges facing the industry, enabling greater intellectual value to be added to its manufactured products. It will seek to engage small to medium enterprises in the activity of the CRC and, therefore, they too may benefit from its initiatives and will help to build links between South Australian research and development institutions and industry, which will see the work of the CRC being driven by the local industry's needs.

Bringing together national and international sponsors to collaborate on R&D builds linkages and ensures that leading-edge research, technology benchmarking and rapid commercialisation are all features of South Australia's industry activity, enhancing our international competitiveness. As the honourable member pointed out, the local automotive industry is operating in a global environment, and maintaining a competitive edge is crucial to its survival. Target 4.8 of the South Australia Strategic Plan is to 'have based in South Australia either the headquarters or a major node of at least 40 per cent of all existing CRCs, major national research facilities and centres of excellence within five years.'

The recent selections, of which this is but one, will increase the number of CRCs that have a South Australian research location from 31 out of 71 (44 per cent) to at least 38 out of 77 (49 per cent), pending some closures of CRCs at June 2006, which is a very pleasing result.

DIAL-A-DRIVER

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Leader of the Government a question about a service called Dial-A-Driver.

Leave granted.

The Hon. IAN GILFILLAN: Dial-A-Driver is actually a service for those who take their cars to a function or some particular location and believe that they have imbibed more alcohol than is appropriate for them to drive home. Dial-A-Driver provides a driver for their vehicle and takes a car back to the home of the car owner, and the service is then completed with minimum risk of accident and certainly removes the hazard of drink driving from those circumstances. The principal of Dial-A-Driver wrote to Mr Rann earlier this month and said:

> The D-A-D service is in trouble and we desperately need the help and support of your government. The service has been established since 1991 and is SA owned and operated. All our drivers are subcontractors. To date we have 1 800 members, which is consistently increasing, as well as have non-members regularly using the service. This service has support from the judicial system, police force, Road Safety Office, restaurants and hotels, even the RBTs. We are sponsored by Channel 7, 9 & 10; Mix 102.3; Coopers Brewery and Gliderol. Some companies that use our services have been so impressed that they have become sponsors.
>
> Our service has lectured to Rotary Clubs and community groups. . . Everybody tells us that government should support this service.
>
> BUT instead, the government has hindered us in a very big way. WorkCover has been harassing us for the last approx. 4 years. In October 2003, WorkCover summonsed us to court, claiming that all our drivers are workers and not subcontractors.

This letter to the Premier goes on with a bit more detail of that particular circumstance, with the observation:

> This service will not survive with workers. Please help us keep this service afloat.

The postscript states:

> This service is a benefit to everyone, including the non-drinkers because we take the drinkers off the roads, and it is possible that we could save you or your family's lives one day.

The principal, Mr Loizou, has also written to the Minister for Transport, the Hon. Trish White, in a letter dated yesterday, which states:

> I am writing this letter as a last resort. Knowing how serious and committed you are with your drink driving policies, Dial-A-Driver is your answer since we all know that people in general 'Just Do Not Want to Leave Their Cars Behind'. This service has been operating since 25 October 1991. But unfortunately is on the verge of collapse. Reason—WorkCover.

I address the question to the Leader of the Government because, quite clearly, the issue embraces more than one minister, and I believe that the Minister for Industrial Relations with an interest in WorkCover could and should be brought in to this situation. If the Dial-A-Driver service ceases, there is no other service in South Australia to take its place and, for that reason, if no other, with the falling fatality rate on our roads, it would be a tragedy if this service were lost through some bureaucratic insistence on detail. My questions are:

1. Does the government recognise the value of this service, which is not provided by any other commercial enterprise?

2. Will the Minister for Industrial Relations assess the nature of employment used by DAD and provide that assessment to parliament?

3. Will that minister explore, with WorkCover, measures which would enable this valuable service to continue?

4. Would the Leader of the Government in this place exercise his officers with the Minister for Transport to ensure that Dial-A-Driver remains available to those responsible drivers in South Australia who wish to avail themselves of its services?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will take that matter up with the relevant ministers and bring back a reply.

EDUCATION, FINANCIAL

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Education

and Children's Services, a question about financial education for students through our state education system.

Leave granted.

The Hon. A.L. EVANS: On many occasions the Australian Consumers Association has raised the issue of youth debt. Many young people today find themselves in financial debt as a result of a number of factors including binge spending, coercion, peer pressure, poor judgment and clever marketing. The association also points to the spending habits of adults as another contributing factor to the poor spending habits of many young people. 'When they see mum and dad out there buying a new car on finance, perhaps withdrawing some of the equity in their home or racking up bills on the credit card, that's a pretty strong message that it is okay for them to go out and do the same', a spokesperson for the association said earlier this year.

Last year the federal Minister for Education, on behalf of the federal government, agreed to support and promote the Financial Planning Association's Dollarsmart workbook—a program designed to teach young people positive and responsible financial management principles. I understand that in 2003 and 2004 the FPA sent the Dollarsmart workbook to every secondary school in Australia. The FPA developed the Dollarsmart package to counteract our society's culture of encouraging debt. The Dollarsmart program includes such topics as financial planning, budgeting, saving and investing, credit and debt management, and insurance. Will the minister provide the names of the high schools in our state that have taken up the program?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer that question to the minister in another place and bring back a reply.

LAND TAX

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Treasurer, questions about land tax charges.

Leave granted.

The Hon. J.F. STEFANI: During the last election campaign, the Labor leader promised the electorate that under a Labor government there would be no increases in taxes and charges above the CPI. Many people have been complaining to me that land tax and government charges have skyrocketed since Labor took office. In February 2004, I began raising the issue of people's concerns by asking about the huge increases in land tax charges. Twelve months later, under pressure, the Rann Labor government was forced to admit that land tax charges were hurting a lot of people and businesses, and the government was pushed to announce a review of the charges.

As reported on Radio 891, a member of the Italian community approached the Premier at the Carnevale last Sunday and informed him that his government was hurting many small investors from the Italian community and that the seat of Norwood would be targeted at the next election. On Monday, the Treasurer announced the restructure of land tax charges. Unfortunately, the land tax table, which the Treasurer said was produced after months of work by Treasury officials, contains an error. This brings into the question the Treasurer's statement that Treasury officials have been working on this for months. When questioned on Radio 891, the Treasurer also confirmed that information about the number of people under various value brackets who would benefit from the land tax charges was readily available, but he could not remember the exact figures. In view of the Treasurer's public statements, my questions are:

1. Will the Treasurer advise the number of private property owners who have received land tax assessment for each of the financial years 2003-04 and 2004-05 under the following dollar value brackets: $50 001 to $75 000; $75 001 to $100 000; $100 001 to $150 000; $150.001 to $200 000; $200 001 to $250 000; $250 001 to $300 000; $300 001 to $350 000; $350 001 to $400 000; $400 001 to $450 000; $450 001 to $500 000; $500 001 to $550 000; $550 001 to $600 000; $600 001 to $700 000; $700 001 to $750 000; $750 001 to $800 000; $800 001 to $850 000; $850 001 to $900 000; $900 001 to $950 000; $950 001 to $1 million; and over $1 million?

2. Will the Treasurer advise the total amount of land tax the government expects to collect from private property owners for the year 2004-05 under each of the existing property value brackets?

3. Will the Treasurer also advise the number of property owners who received land tax assessments under the existing property value brackets for the year 2004-05?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): In his opening remarks, the honourable member referred to the commitment this government made about not increasing taxes, which commitment has been honoured. I again remind the honourable member that the last increase in land tax occurred in the mid 1990s under the Brown government when the Leader of the Opposition was a senior minister and when the threshold was reduced from $80 000 back to $50 000. Those rates applied until 1 January this year when, as a result of the changes the government announced the other day, those rates will be cut. So, there will be a tax cut, the total value of which for the land tax alone will be about $245 million over four years. As I said the other day, that will be added to the other $360 million of tax cuts that were announced by the government over four years in the last budget. That is a total of over $600 000 million worth of tax cuts announced in the 2004-05 year.

Members interjecting:

The Hon. P. HOLLOWAY: The reality is that there is one party in the past 20 years that has increased tax cuts. That is the Liberal Party of Australia. The party that has cut land tax on two occasions in 1990 and again recently is the Labor Party.

Members interjecting:

The Hon. P. HOLLOWAY: That is the reality and that is why there is so much interjection at the moment. There is so much interjection because members opposite are embarrassed that they are the ones who have the track record for increasing land tax.

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: They want to hide from the truth. The truth hurts, as is often said, and the truth is that members opposite are responsible. If you look at the past 10 years, with eight years of a Liberal government, there were increases in land tax. Under this government, there is a reduction in land tax, and that is why we have the interjections. That is why there is all the noise—to cover the embarrassment. The honourable member did ask a question. I have just dealt with the preamble. The honourable member did ask for some statistics in relation to people in individual brackets. Judging by the number of brackets the honourable member asked about, they do not necessarily correspond to the actual tax rates, and I am not sure whether it is possible to get statistics for each of those brackets. I am sure we can

get some information along those lines, and I will refer the question to the Treasurer for that information.

The Hon. R.I. LUCAS (Leader of the Opposition): I have a supplementary question arising out of the answer. When the Leader of the Government claimed in his answer that the Rann government had kept its promise of not increasing taxes, did he forget about the increase in the stamp duty rates in the first budget of 2002, or was he just deliberately misleading the parliament?

The Hon. P. HOLLOWAY: We have been discussing the subject of land tax and I was referring to that particular matter, but the grand-daddy of all broken promises has to be the sale of ETSA. Whatever this government might have done, if there are any technical breaches of promises, on a scale of one to 10 none of them would come anywhere near the promise that was broken by the Liberal Party not to sell ETSA back in 1997.

Members interjecting:

The PRESIDENT: Order! It really is an unedifying sight to sit up here when the Leader of the Opposition asks a question and he gets a hiding from the minister and protests roundly. In the opinion of the presiding officer, you ask the question and you should listen to the answer. In almost every situation, the questions are being heard in silence and the answers are being littered with interjection. I ask honourable members to maintain some dignity in the council.

QUESTIONS ON NOTICE, REPLIES

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation prior to directing a question to the Leader of the Government on the subject of government openness and accountability or the lack thereof.

Leave granted.

The Hon. R.I. LUCAS: Members will be aware of concerns that members have expressed on previous occasions about the government's lack of accountability as those members would have argued in relation to the freedom of information issue and also the issue of the resources available to the Ombudsman; and, Mr President, as you will be aware, my colleague the Hon. Mr Redford has had some comments to put on the record in relation to that today. For the past three years, opposition members have been pursuing this government through one of the traditional forums of the council, which is questions on notice.

I point to the latest weekly supplement to the *Notice Paper* for the benefit of the Leader of the Government to indicate that there are almost 200 unanswered questions on notice, solely I think from members of the opposition; certainly not members of the government party. Some of those questions have been unanswered since the year 2002, and I remind the leader that we are now in the year 2005.

Over the last 12 months I have asked three separate questions of the Leader of the Government to see whether he, on behalf of the Legislative Council, was prepared to abide by the practices that previous leaders of the government had adopted in providing information to members. On the last occasion (some eight months ago on 24 June 2004) when I pointed out to the Leader of the Government concerns members had about unanswered questions he replied, 'However, I will look to see whether there are any outstanding questions.' He then went on to argue that the government was doing a very good job in relation to answering questions from the opposition—but I will not demean the council by repeating everything he said.

In response to further supplementary questions from my colleague, the Hon. Angus Redford and me, the leader said:

> Some of them [that is, answers to these questions] were sent off within a week or two to be coordinated. I am not sure why they have not appeared and what has happened within the process of going through them. In relation to my office, there is no reason whatsoever why that information should not be made available.

That is comforting, but we still do not have the answers. In conclusion, the Hon. Mr Holloway then went on to say:

> Where there are joint questions they are part of the cabinet process and go through the cabinet office. Who coordinates them, I am not sure. I just do my bit and make sure the answers go on, but I will obtain some information for the honourable member.

That commitment was given by the Leader of the Government some eight months ago in June 2004. I ask the leader:

1. Does he (and his other ministers) intend ever to respond to any of the almost 200 questions now on the *Notice Paper*?

2. Is he prepared to abide by his commitment of June last year to assist in providing answers to these questions, or will he deliberately continue to demean the processes of the Legislative Council by ignoring questions on notice to him and to other ministers in this government?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I did have a look at questions directed to me, and I think the only one which had not been answered, and which I am quite happy to table now, was in relation to my travel for the period to 4 December 2003. After that date the information was already provided in an answer given to Estimates Committee B in response to a question asked by the Hon. Mr Hamilton-Smith on 25 June 2004. That is the only matter specifically asked of my portfolio, so I am very happy to table that information. I may as well table the answer, even though it is already in *Hansard*—I do not know whether that is appropriate, but in any case I have given the reference that provides that information.

As I said, I have taken up this matter with the cabinet office to try to speed up some of those answers. In many cases the responses that members appear to be seeking were, I believe, adequately provided (if they were responses to questions asked without notice) during—

An honourable member interjecting:

The Hon. P. HOLLOWAY: Sorry—with notice: well, I am talking about those without notice. As I said, I have taken the opportunity of appealing to my colleagues to speed up the answers. Obviously—

The Hon. R.I. Lucas: You've done nothing!

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: As I said, as far as my portfolio is concerned I have provided answers into the system where, for some reason, they are waiting to be co-ordinated. I am happy to table them here, as I do now. In relation to other ministers, I have done all I can to seek their co-operation in providing answers as speedily as possible.

DISABILITY SERVICES

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Disability, a question about the government's plan for disability services.

Leave granted.

The Hon. KATE REYNOLDS: Mr President, you would be aware that this morning I hosted the third in a series of briefings on disability issues. An invitation was issued last December by the coalition known as Dignity for the Disabled to the minister for disability services to attend and speak at that forum. The forum was today attended by the Leader of the Opposition, the shadow spokesperson for disability and other members of the Opposition, including a number of members of the Legislative Council. However, I have to put on the record that I think the member for Florey felt very lonely, because she was the only ALP member who attended. The minister's office did not respond to the invitation. The minister did not attend the forum and, in fact, no-one from—

An honourable member: Didn't they have several weeks' notice?

The Hon. KATE REYNOLDS: They had more than several weeks' notice.

The Hon. J.S.L. Dawkins: Before Christmas, I think.

The Hon. KATE REYNOLDS: They had notice before Christmas; that is correct. As I said, no-one from the minister's office attended, so I will leave it to members' imagination to determine how that went down at the meeting.

The Hon. T.G. Cameron: They're very busy people.

The Hon. KATE REYNOLDS: They may well be very busy people, as the Hon. Mr Cameron points out. I should perhaps put on the record a comment from one of the people, and that is that they thought it was damn discourteous. The ALP's web site features the ALP's pre-election plan for disability services, known as Labor's Plan for Disability Services. It includes the claim:

> Labor governments have led the way in disability reform, only to see support and rights for people with a disability, including people with a mental illness, falter in recent years.

The ALP's own plan acknowledges that back in 2001 South Australia was trailing other states in disability services, and says this is borne out by the participation rate in community access services, where South Australia is the lowest of any state across a wide range of indicators.

Ironically, the Productivity Commission's latest report on government services shows that South Australia is again languishing at the bottom of the list when it comes to real commonwealth, state or territory disability agreement expenditures in disability services, which is where of course the state government has significant responsibility. This is despite the Rann Labor government's pledging to restore 'priority and direction' to services for people with a disability.

The web site also states that Labor is determined to implement policies and services that enhance the right of people with disabilities to be valued participating citizens and to be supported by quality specialists and regular community services. It goes on to say that Labor supports a 10-year plan to provide for forecast growth in the number of people with disabilities and to address unmet need. My questions to the minister are:

1. What quantitative data can the government provide to prove that, in the three years since it was elected, it has taken action to restore priority and direction to services for people with a disability and that these people are supported by quality specialists and regular community services?

2. When will the government act to rectify the fact that South Australia is trailing other states in disability services, and to reverse the trend where the state has the lowest proportion of accommodation clients receiving community-based care or support?

3. What action is the government planning to lift South Australia from the bottom of the Productivity Commission's table of expenditure?

4. Why did the minister not respond to the invitation by the Dignity for the Disabled coalition to speak at the forum in Parliament House today, and why did the minister not even send a representative from his office?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those questions to the minister in another place and bring back a reply. However, I would just make the comment that Thursdays for ministers, when executive government meets, is a difficult—

An honourable member interjecting:

The Hon. T.G. ROBERTS: I beg your pardon?

Members interjecting:

The Hon. T.G. ROBERTS: I will just say that Thursday mornings are difficult. The minister can reply to that. I will refer the question to the minister and bring back a reply.

EYRE PENINSULA BUSHFIRES

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about the bushfire recovery effort.

Leave granted.

The Hon. R.K. SNEATH: On Tuesday, the minister reported to the council on the impact that the bushfire disaster has had on the Eyre Peninsula Aboriginal community and the efforts in place to assist the community. Given this, my question is: will the minister inform the council of any assistance initiatives being undertaken by the Department for Correctional Services in the bushfire recovery effort?

The Hon. T.G. ROBERTS (Minister for Correctional Services): I thank the honourable member for his question and his continued interest in all matters relating to the bush. South Australia's prison community, along with the rest of the community, is pitching in to help fellow South Australians affected by the devastating Eyre Peninsula bushfire. My department has provided a work gang from the Port Lincoln Prison to assist the recovery effort. Although the fire missed the prison, it was pretty scary for those who were confined to smell the smoke and, sometimes, not know where the bushfire was heading or where it was going.

The prison work gang will be directed by the West Coast Bushfire Recovery Committee which has been formed by this government and which includes several government agencies, local councils and community representatives. The community has established a group to coordinate the massive rebuilding exercise which has already begun on the lower Eyre Peninsula. Volunteers and skilled tradesmen will be working together to rebuild the lives of those whose properties were devastated by last week's fires.

Prisoners and staff of the prison watched in horror as the sky around them turned black as the bushfires swept across Eyre Peninsula. Indeed, along with the rest of the community, they have been shocked by the devastation. While the fire did not directly threaten the prison, some homes of prison staff suffered minor property damage on the day, and two officers involved in the CFS worked on fire response vehicles. Others worked with the State Emergency Service and support agencies. In the days after the fire, staff and prisoners have been expressing their desire to help the Eyre Peninsula community and, as a result, a work gang made up of six low

security prisoners under the supervision of a custodial officer working with the recovery committee will assist wherever possible.

This is not the first time that the Port Lincoln prisoners have helped in bushfire clean-up. A work unit carried out similar activities after the Tulka bushfires on Eyre Peninsula four years ago. The Department for Correctional Services is looking at medium and long-term strategies to have properly supervised prisoners continue to help with community recovery work. I take this opportunity to commend the department for this valuable assistance. Yesterday, as mentioned in reply to another question, the Aboriginal Lands Trust has also provided valuable assistance to the Aboriginal communities, so that the two departments for which I have responsibility have been assisting and doing very good work in the Eyre Peninsula region.

COLLECTIONS FOR CHARITABLE PURPOSES ACT

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Gambling, questions in relation to the Collections for Charitable Purposes Act.

Leave granted.

The Hon. NICK XENOPHON: Yesterday I asked a series of questions of the minister in relation to the act and, in particular, the Cherie Blair charity tour, given the relatively small proportion of funds that are likely to go to charity from the fees charged, including the fees charged by the organisers, Markson Sparks. At that time, I set out various sections of the act, including section 7 requiring licensing for such events; section 12, which gives the minister specific powers with respect to applying conditions to the license, including section 12(4) where the minister has the power to revoke a license if there is excessive commission or remuneration has been or is to be paid to any person (and very broad powers are set out in that section); as well as section 15, which requires statement of accounts to be prepared and furnished to the minister.

I note the front-page story in today's *Advertiser* by Craig Bildstien indicating that the state government is planning new laws to govern fundraising for charitable groups, that they would be amended and that the minister indicated that he was consulting, or had consulted with, various stakeholders. In an interview this morning on Radio 891, on the Matthew Abraham and David Bevan program, the minister was asked a series of questions about this, and the precis indicates as follows:

> Bevan: Minister, what powers do you already have to govern excessive remuneration of fees for people organising large charity events?

The response as reported was:

> Limited, limited.
> Bevan: Do you have any powers?

The minister's response as reported in the precis was:

> No, very limited in that area.

Then Mr Bevan asked:

> Very limited, virtually nothing?

And the response was:

> Well, these are largely issues that occur between the charity and of course the organiser.

Then reference is made to the fact that the licence is usually actually done by the Commissioner for Liquor and Gambling and that it is up to the Commissioner to request details if he wants details in relation to that. My questions to the minister are:

1. What consultations have specifically taken place in relation to the greater disclosure for charity events such as the Cherie Blair tour, for the types of events organised by Mr Markson?

2. Does the minister concede that the powers conferred on him in the act, particularly under section 12, already give him the power to act to impose licence conditions, and will the minister explain why no conditions were set for the Cherie Blair tour?

3. Will the minister disclose the financial statements presumably provided to him pursuant to section 15 of the act in relation to the August 2003 Rudy Giuliani event organised by Mr Markson, which was for the benefit of the Queen Elizabeth Hospital Foundation?

4. When did the minister receive such a statement?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I understand the nature of the question and the way in which it has been placed by the honourable member, and the balance that has been provided in requesting details of Mayor Giuliani's visit and that of Cherie Blair, but it is always puzzling to me why the media have a negative response to Cherie Blair, no matter whether she is in Britain, in Europe or in Australia.

The Hon. Nick Xenophon: I'm just asking about disclosure: how much is going to the charity; that's all.

The Hon. T.G. ROBERTS: I understand that, but the Cherie Blair coverage by the media in South Australia has been, in the main, negative. Cherie Blair is a highly intelligent individual who does a lot of work for charities, usually in a low-key way. She has a very highly paid professional job that brings in high income to her as a single individual. Eventually, I guess, the myth busters will explain to us why Cherie does attract the ire of the media, but at a personal level I cannot understand it. I will refer those questions to the minister in another place and bring back a reply.

The Hon. J.F. STEFANI: As a supplementary question, will the minister table the working papers that he referred to this morning in the interview instructing his officers to begin the review of this particular matter?

The Hon. T.G. ROBERTS: I will also refer that question to the minister in another place and bring back a reply.

INDUSTRIAL LAW REFORM (ENTERPRISE AND ECONOMIC DEVELOPMENT—LABOUR MARKET RELATIONS) BILL

In committee.

(Continued from 9 February. Page 981.)

Clause 6.

The Hon. R.D. LAWSON: I move:

Page 6, after line 27—

Insert:

bargaining services means services provided by (or on behalf of) an association in relation to—

(a) an industrial dispute (including representation in proceedings before the Court or the Commission); or
(b) an industrial matter; or
(c) an industrial instrument (including, as appropriate, the negotiation, making, approval, variation or rescission of the instrument);

bargaining services fee means a fee (however described) payable to—
(a) an association; or
(b) someone else in lieu of an association,

wholly or partly for the provision, or purported provision, of bargaining services, but does not include a membership fee;

This is the first of a series of amendments which relate to bargaining services fees which we seek to have included in this bill. Members would be familiar with the concept of bargaining services fees under which unions usually seek to levy charges from non members in respect of certain services for which it is argued the benefit has accrued not only to members of the association who pay fees but to those persons who are not members but work in the same industry and receive the benefit of those fees.

I indicate that this amendment, together with amendments 25, 43 and 60 standing in my name, all deal with bargaining services fees. This amendment defines 'bargaining services fees' as 'bargaining services means services provided by (or on behalf of) an association'. The bargaining services fee applies to both unions and to employer associations, although, as is well known, it is the trade unions which are seeking to charge these bargaining services fees. The services relate to industrial disputes, including representation in proceedings before a court or commission, any industrial matter or any industrial instrument, for example, any industrial award or enterprise agreement.

This has been a matter of considerable political controversy for some time now. Members may be aware that the commonwealth act prohibits the charging of bargaining services fees, and a decision of the High Court in the Electrolux case confirmed the validity of that ban.

The Hon. T.G. Cameron interjecting:

The Hon. R.D. LAWSON: Yes. I am indebted to the Hon. Terry Cameron, who is highly experienced in this field. Members may also be aware that the federal government has just introduced legislation into the federal parliament to amend the federal act to prohibit the charging of bargaining fees in relation to certain state issues, in particular, what I would term constitutional corporations, that is, businesses or organisations which are covered by the corporations power under the Commonwealth of Australia. So, the federal parliament has not only banned the bargaining fee in connection with the federal industrial system but it is now seeking to ban it in relation to constitutional corporations in the state system. That would then leave a residual rump of non-constitutional corporations in South Australia which would not be covered by the federal law, and that rump would comprise businesses that are not incorporated partnerships and the like.

These bargaining fees can be quite high, as has been well published and as debates in this place on private members' and other bills in relation to this issue have indicated. For example, the PSA—

The Hon. T.G. Cameron interjecting:

The Hon. R.D. LAWSON: The PSA's proposed fee is $825 every two years, which is just over $400 a year. I am not sure what the current rate of a Queens Counsel is, but $400 a year is a significant amount of money for employees. It is for those reasons that we do not believe it is appropriate to introduce bargaining fees into the South Australian system. This bill provides us with a good opportunity to include those provisions.

The Hon. T.G. ROBERTS: The government opposes this amendment. The Industrial Commission is dealing with this matter and it will do so appropriately. For that reason, it is not necessary to legislate for this. This measure should be dealt with by the industrial parties and the commission, and quite frequently we talk about direct negotiations without interference. In this case, the commission is the umpire and the parties will negotiate and come away with what would be regarded, I hope, as a satisfactory outcome. It must be remembered that we are talking about enterprise bargaining agreements, and enterprise bargaining agreements must be agreed between employer and employees.

The employer must agree and a majority of employees must be in favour of the agreements, too. It is part of the democratic process and it is part of the relationship-building between employer and employee. If employees are unhappy about terms of the agreement between the majority and the employer they may, of course, draw that to the attention of the commission. We must consider under section 79(1)(e)(i) whether the agreement is on balance in the best interests of the employees covered by the agreement, taking into account the interests of all employees.

In that requirement the interests of all employees is particularly noteworthy, because it makes clear that the interests of not just the majority of employees but of all employees should be taken into account. The commission has also, in considering these matters, examined the level of fees proposed to ensure that they are appropriate. The South Australian commission has said that there must be a provision providing a mechanism for the withdrawal by an employee from the deduction from his wages of the BAF in certain circumstances.

The Hon. IAN GILFILLAN: I have a point of clarification, which I assume hardly needs clarifying. This is the key issue upon which we are debating the whole concept. This is just the definition we currently have before us as an amendment. If this is defeated then that will have a consequential effect on other amendments further down the track not being proceeded with.

The Hon. R.D. Lawson: Yes.

The Hon. IAN GILFILLAN: Having indicated Democrat opposition to the amendment, I would just like to share with the chamber an experience which I had as a sheep farmer many years ago employing people as shearers, but they were neighbours, friends of mine. One in particular was a member of the Liberal Party. Another was not a member of the Liberal Party but an avowed Liberal voter for many years. We had arrangements, as many farmers do, whereby the circumstances were more generous than that prescribed by the award. The anomaly to me was that those two shearers in particular—there may have been others, I cannot recall, but two in particular—were quite vigorous in their resistance to joining the union and quite vociferous in from time to time criticising union activities and unions in general

Where the incongruity came up was that at no stage did they indicate to me, as the employer, that they were not prepared to take the increase in the rates or the improvements in the conditions which were achieved for them through this particular efficient representation in a determining tribunal. So, for a long time, I have felt some distaste for free-loaders. I do not believe that the situation has been discussed effectively and constructively in the open debate up to this point,

but certainly that is a little background to indicate how I personally view this particular amendment as inappropriate.

The Hon. T.G. CAMERON: I listened very carefully to the Hon. Mr Ian Gilfillan just then and I will have to speak to him afterwards because I am not quite sure where he is coming from.

The Hon. Ian Gilfillan interjecting:

The Hon. T.G. CAMERON: No, I am not being facetious. I am not having a shot at you, but I really just did not follow that.

The Hon. A.J. Redford interjecting:

The Hon. T.G. CAMERON: I did not disagree with what he said; I was trying to work out what the relationship was between what he said and this clause. It will all become clear later. I put this question to the Hon. Robert Lawson: the insertion of your clause does not in any way prevent a bargaining services fee from being paid to unions, as I see it—

The Hon. Ian Gilfillan interjecting:

The Hon. T.G. CAMERON: The last time I looked at that end of the chamber your name was Gilfillan, not Lawson! Perhaps if the Hon. Robert Lawson could just explain: when he uses the term 'association' does he mean association and union?

The Hon. R.D. LAWSON: Yes.

The Hon. T.G. CAMERON: Well, my interpretation of the clause you are putting in there is that, if a bargaining services fee is inserted into the award, you are seeking to limit the coverage of it. Is that correct, or have I missed this completely?

The Hon. R.D. LAWSON: Perhaps I should explain for the benefit of the committee. The principal clause by which we seek to ban bargaining fees is clause 25 which we will, obviously, come to later. That is a clause which specifically bans the charging of bargaining fees.

The Hon. T.G. Cameron: That is where your term 'bargaining services' comes from?

The Hon. R.D. LAWSON: Yes; and in order to facilitate that prohibition, in the definition clauses there is a definition of 'bargaining services' and 'bargaining services fees'. So, in a sense, this is merely a consequential amendment but it is actually being moved in sequence ahead of the main amendment.

As I indicated to the committee right at the outset, we regard this as a test clause. If the committee is going to be in favour of banning bargaining fees in support of the principle we seek to espouse, it will support the definition. If it takes a contrary view and adopts the government's position, presumably the committee will not support the insertion of these definitions. There would be no point at all in inserting them if clause 25 is not carried in the fullness of time.

The Hon. T.G. CAMERON: I thank the Hon. Robert Lawson for that explanation. In the absence of a definition for bargaining services, in the event that bargaining services are approved under this legislation, what would they include? If we knock out this definition, and we subsequently carry the resolution providing for unions to give bargaining services, where is the definition for that?

The CHAIRMAN: By way of helpful comment, I think what the Hon. Mr Lawson is saying—bearing in mind that we are not supposed to talk about these clauses at this stage of the committee—is that if he loses this he accepts that the committee accepts the principal of bargaining fees and he will not be moving the rest of his amendments. He is basically using this as a test clause so that he can, one assumes, construct his arguments for later in the debate.

The Hon. T.G. CAMERON: I understand that. What I am trying to get is a clear idea of just what the trade union movement will be able to charge for if we support the concept of a bargaining services fee. Is it limited anywhere? Is it defined?

Members interjecting:

The Hon. T.G. CAMERON: That is what I asked; I am seeking some assistance here.

The Hon. R.D. LAWSON: We have tried to cast the net as widely as possible, because these bargaining fees can be hidden under all sorts of charges or subscriptions or whatever. So, the definition we seek to insert in this clause is a fee (however it is described) which is payable—let us say to a union or it might be someone else; it might be the union's industrial advocates or the union's lawyers—wholly or partly for the provision of services by the union, but it does not include a membership fee.

Those services can be as wide as a fee for expenses incurred in some industrial dispute, including representation before the court or the commission; in any industrial matter, for example, the altering of an award and the altering of an enterprise bargain, and also any industrial instrument, which is, similarly, any alteration to an award, variation of an award or negotiations. As I said, we have spread the net as widely as we can to ensure that the term 'bargaining services fee' includes all the sorts of fees that a union might seek to charge a non-member on the grounds that the non-member received an indirect benefit from the efforts of the union.

The Hon. A.J. Redford interjecting:

The Hon. R.K. SNEATH: I don't know about that. It was very refreshing to hear the Hon. Mr Gilfillan's remarks. It is not the first time I have heard them from a farmer, because a lot of farmers and a lot of employers out there are of the opinion that people should pay their dues, which probably comes as a surprise to the opposition. But when you walked into a workplace, a lot of the time—nine times out of 10—the non-members used to say (and the Hon. Terry Cameron and the Hon. John Gazzola will probably agree with this), 'What's the rate of pay? Have you got a copy of the rate of pay? Have we got a pay rise?' and they never paid any dues towards achieving that pay rise.

I think that some of the people in this place have shown no faith whatsoever in the Industrial Relations Commission. The commissioners have educated people from both sides of business, trade unions and what have you, and studied this every day of the week. It is their job. When the union applies in an agreement for some sort of payment for services given to non-union members, the commissioner will have a look at a number of issues. One will be whether the employer agrees with the union's charging those fees. Also, if there are 10 non-unionists at a site and one of them does not think that the union has done any work for them, there is nothing to stop them from making a submission to the Industrial Commission.

I would imagine that the union would seek X amount of dollars for its services on behalf of each non-member. The commission is provided with evidence and will then deliberate on that and make a decision about what the service was really worth, and it will either grant that amount of money to the union or it will not. So, there are many issues. First, the employer will have to agree. Secondly, if one out of 10, or five out of 10, of the employees says that the service was not

there, they can go and make some sort of application to or appearance before the commission.

The Hon. Nick Xenophon: They've got the right?

The Hon. R.K. SNEATH: Yes, they have the right. If they agree that the union did give some service and the union wants $500 for that service, they have the right to argue that the service was not worth $500; they might think the service was worth $250. After all the evidence is presented, I am sure the commission will make a fair decision. Otherwise we can say, 'Okay, we will bring it back here for the politicians.' Half of us do not know anything about those rulings; we are not as well up with it as the commissioners. We must have some faith in the commissioners, the employers and the employees. I am also a bit surprised that the opposition is not supporting this to a person, because I have always—

An honourable member interjecting:

The Hon. R.K. SNEATH: Yes; including Gomer. However, we know that Gomer is about as useful as having one paw in a rabbit trap. I must say that it surprises me that the opposition is not supporting it because, when I was the secretary of the union, I always thought it was dangerous, because if you are supplying a service to people out there, and you are charging them a fee, and enterprise bargaining is coming up every two or three years, or whatever—we are trying to increase it for three years, which we have done—those people who are in the union might just bail out and say, 'Well, I'll just pay a fee every three years when you come and do me some service, rather than being a continuous member.' So, there is that danger, and I am surprised that the opposition is not supporting it and saying, 'Well, let them all pay service fees when the union does them a service.'

Not only that, it makes them go to the commission to argue for those service fees; they are not automatic. I think you have to have some faith in the Industrial Relations Commission; that is what it is there for; it is an arbitrator. You have to have some faith in the employers; most of them sit down sensibly and negotiate. You have to have some faith in the employees; you have to have some faith in the people who represent the employers; and you have to have some faith in those who represent the employees. It is as simple as that.

The Hon. NICK XENOPHON: I will not be supporting the opposition's amendment in this particular clause for several reasons. The Industrial Relations Commission has looked at the issue of bargaining agent's fees previously. A number of months ago, I had an opportunity to read the decision of the Full Commission in the case of Ian Gregory Morrison Pty Ltd (SA) Patrol and Security Officers Enterprise Agreement, a decision handed down on 14 April 2004. That was the Full Industrial Relations Commission comprising the president, two deputy presidents and two commissioners. I thought the approach of the commission was very cautious. It was a considered approach, a step-by-step approach allowing parties to have rights of representation, and to make their submissions as to whether the bargaining agent's fees were reasonable.

My view is to let the commission do its work in relation to these matters. As a general principle, I think that some members in the other place have talked about those who do not pay fees as scabs, and all that sort of thing. I think that language is unnecessary and unjustified. I see it more as a case of what is referred to in the law as a 'quantum meriut claim': if you provide a service, and somebody gets a benefit from that service, there ought to be some remuneration for that service. I would have thought that the way the commission has gone about this is considered and cautious, and it can be determined on a case-by-case basis.

I refer to paragraph 15 of the judgment in the Morrison case which states the following:

> S76(2) ensures the right of every worker to be heard. That right will not be subjugated to the will of any particular group no matter its size. Moreover even upon the occurrence of a majority authorisation to negotiate on behalf of the group under s75(2) the employee may be heard with respect to the steps the commission must be satisfied have occurred and described in s79. However the majority of employees and the employer cannot be held up by the mere objection of a minority. If agreement cannot be unanimous, the majority of the employees can settle the matter in the manner contemplated in s75(2).

That is just one example of the sorts of steps needed to be undertaken. For those reasons, and also for the reasons set out by the Hon. Mr Gilfillan, I will not support the amendment.

The Hon. T.G. CAMERON: I want to respond to some of the comments made by the Hon. Bob Sneath in relation to what rights individuals have. It has always been my observation that the mere conferring of rights on people does not necessarily create an equal playing field. I imagine that, for an ordinary worker, to challenge the union and to lodge an application with the Industrial Commission to challenge any fee that might be set down would be a fairly daunting task. It reminds me of when I was an industrial advocate and there was a worker up at Roxby Downs who did not want to join the union. There was a provision under the act whereby he could make an application to the federal commission, put his case to a commissioner and, if the commissioner accepted his case, he could get what was referred to as a certificate of exemption, which may not even exist now.

Being fairly new in the union I was given the task of representing it. My riding instructions when I asked 'What do you want me to do?' were, 'Well, the commissioner will give it to him anyway. Just grill him and give him a really hard time so that nobody else will come back here and apply for an exemption certificate.' This chap was applying for exemption on the grounds of his religion. He was a Christian who belonged to a church whose religion did not allow members to belong to any associations other than their church. Needless to say, one could not help but be impressed by the submission that he made. I think I asked him what his address was and sat down.

I had the commissioner thank me afterwards for not making life difficult for him and he was given an exemption certificate, a certificate that he would have got irrespective of how difficult I had made life for him. I do not have a problem with the concept of unions being able to charge for their services. One would have to ask where members go if they do not belong to a union and want some assistance. They could go off to the Employee Ombudsman: it is my understanding that he has helped hundreds of South Australians. I have a great deal of respect for him and think that he does a good job. He has helped hundreds of South Australians get agreements registered with the Industrial Commission. He does not charge.

They may well go off and see a solicitor. I cannot imagine any legal counsel performing the work involved in the establishment of an enterprise agreement charging fees comparable to the fees that I have heard unions charging. If I had the choice between paying the bill from a trade union in this matter or paying a solicitor's bill, I would opt for the trade union; it is likely to be considerably less. Something I want to confirm is this, and this is a question directed to the minister: will the passage of this act allow unions to charge

existing members a fee for any services? If that is the case, I will have problems with it. I know that with employer associations—the old Chamber of Commerce, Business SA, for example—you can be a member and they will represent you but, as I understand it, depending upon what you want, they will charge you as well. That is fair enough; that exists at the moment. I would be a little concerned if what we are doing here is opening the door—

The Hon. T.G. Roberts interjecting:

The Hon. T.G. CAMERON: Yes; for a trade union. I know what the answer is, but I want to put it on the record. I would be a little concerned if, as a result of the passage of this legislation, a trade union could go out and start charging fees for services to existing members. The first example I would give is reinstatement. I know that when I was working at the Australian Workers Union the industrial advocates handled the reinstatements themselves—we did not employ solicitors unless it got very difficult. We performed all reinstatements free of charge to our members. In fact, I have never heard of a trade union charging its membership these fees.

An honourable member interjecting:

The Hon. T.G. CAMERON: Yes; it is part of the service. I would be keen to put on the record that what we are talking about here is only a situation where a trade union may perform services of various kinds to non-members. They levy a fee, that fee is approved by the commission and, according to the Hon. Bob Sneath, members have the right to go in and challenge that if necessary.

The Hon. T.G. ROBERTS: The answer to that question is categorically no, because the bill does not change existing arrangements about fees, whereas the amendment opens the door for that to occur.

The Hon. A.J. REDFORD: I support the amendment; however, I strongly oppose the concept of bargaining fees for a lot of reasons but mostly, unlike some members, for reasons of principle. First, a lot of benefits that people accrue or enjoy in our community are as a result of what others might achieve, and that is the very nature of the way in which a society operates. We all benefit from the inventiveness of other people in terms of the way they might change the work process or reduce the price of a product by simply copying it. However, other than through very narrow areas of copyright or patents, we do not force people to pay amounts of money to third parties in those circumstances.

I will use an example that the Hon. Nick Xenophon might appreciate. If I am sitting there as an injured person in the community, a Mr Donohue decides to take a Mr Stevenson to court and the court decides that we are going to have a principle of negligence, we do not send the legal bill to thousands of people who might benefit from the development in the common law of a new principle of negligence, as happened many decades ago. It is not the way we have done things in the past.

This is not a situation where these people have entered into any contractual relationship with a union or anybody else: they have entered a contractual relationship wholly and solely with the employer, and they have chosen not to become a member of the union. They may well be bludgers, as they are called by the Hon. Bob Such, but that is not the point. It misses the point completely. The point is that these people are not party to that arrangement; they are not directly involved. There is no contractual arrangement. Unless they commence some tortious error, in the past that is about the only way in which we have said that a person should or should not be obligated to pay something.

To my knowledge, we have never as a parliament created the capacity, as some are arguing here today, for some to charge what can only be described as a private levy or a private tax, where a union takes a matter to the Industrial Relations Commission, gets an outcome and then wants to charge non-unionists a fee despite the fact that they had no direct involvement in that case. To enable a union to do that in effect enables the union to impose a private levy or a private tax on an individual or a third party, and that is a significant development. Many wars have been fought so that parliaments reserve the right to impose a tax or levy on ordinary citizens and take that power away from others. I think giving it away lightly is a very dangerous step to take. I also think it is fraught with confusion and risk. I do not think this has been thought through and, with the greatest respect to the Hon. Nick Xenophon and the reference to that case, I do not think the commissioners thought through some of the issues that they were dealing with.

I will give a simple example. What if I happen to be involved in a workplace in which some people are involved in federal awards? Am I the subject of one of these levies or private taxes? Do I seek the protection of a provision that might be contained—or, given the make-up of the Senate following 30 June this year, will be contained—in federal legislation? This is a big step we take, and it is a step which is devoid of principle. It is also a step which will lead to a great deal of unpopularity for those who advance the cause and which I think in the long run will set the union movement back.

It is a big thing to say to an ordinary working person that a union, without any reference to them, takes out an application in an industrial commission and then secures some benefit; it might well be a minor benefit. It might not even be directly related to the employee concerned: it might be lunch breaks for correctional services officers, which matter does not impact on other officers in the industry. Yet, if the government has its way, those other officers will be required to pay a private levy or a private tax. As I say, this is a very new step we take, and I do not believe that those who advance its cause have really sat down and thought about all the issues and complexities that it will bring forth.

There are other issues too. I mentioned what happens with the federal awards, but what happens if you simply refuse to pay? What if I sit there and say, 'Look, I am not going to pay this levy. I did not ask the union for a pay rise. In fact, I really do not want the pay rise, but I know the employer announced the award and has a legal obligation to pay me. But I didn't want the pay rise.'? At the same time I get a bill from the union—perhaps a union that I do not like because it happens to support a political party that I do not like, but I get a bill from them that I have to pay for. I would say, 'Up yours! I am not going to pay it.'

What happens then? Do I get sued as a debt? It is not a debt because I did not incur a debt; I did not agree to it. Do I get sued for non-payment of a tax or a private tax? No-one has actually thought through some of these issues. I think we need to do a lot more thinking about this before we go headlong into agreeing or accepting bargaining fees. The whole issue raises a heck of a lot of questions that none of the proponents can answer. It is far too serious and important an issue simply to say, 'Don't worry about that: the commission will sort it out.' We as a parliament have a responsibility to deal with these issues and not to handball or flick it on to

some other unelected body. I urge all members to support the Hon. Robert Lawson's very sensible amendment.

The Hon. R.K. SNEATH: The contribution made by the Hon. Angus Redford indicates a lack of any faith at all in the Industrial Relations Commission. As members would know, the Full Bench of the South Australian Industrial Relations Commission recently considered the issue and came to a decision. However, the commission certainly did not close the book on bargaining agent fees. The commission made a number of points in paragraph 18 of its decision and, in the final paragraph of its decision, it stated that it wanted to emphasise those remarks. The Commission stated that each case must be considered individually, and that the decision is not to be taken as a rigid template. It also stated that other cases will present an entirely different set of circumstances. Different and additional considerations might apply where employees have been represented in negotiation stages by others (minority representatives). Future considerations of any bargaining agent fees proposals within an enterprise agreement will therefore be given on a case-by-case basis.

The commission has expertise in this area; members of the commission come from the industry movement. They deal with this issue every day. They are not silly people; they are smart people. I put my faith in them to make the right decision on behalf of the worker and the employer. We sometimes take it for granted in this place that we are the only ones who can make decisions that are right for the rest of them out there, and that is totally wrong.

The Hon. A.L. EVANS: I thank the Hon. Bob Sneath for his explanation, as well as the Hon. Mr Cameron for contributing other aspects to the interpretation. The Hon. Angus Redford asked a question I was going to ask, which has still not been answered, namely: what if the employee refuses to pay? My second question is: why should a non-union member automatically benefit from the wage rises won by the unions?

The Hon. R.K. SNEATH: I will answer the honourable member's last question first. It would be nice if the non-unionist did not benefit from the wage rises won by the unions, but that will never be the case. Bosses will never not pay the pay rise to those 10 non-unionists out of their work force of 50, because that would straightaway force those people to join the trade union in order to get the pay rise. Members of the opposition will tell the honourable member that they do not want that, either. They know that, if the workers are missing out on the wage case the ACTU runs every year, or the wage rises from enterprise agreements, as well as all the other unions that are working hard to get people reasonable pay increases, that worker will join the union to get the wage rises. It is certainly what I would like to see. The best possible way to recruit people is to not pay them the wage rises won by the unions. If you look at today's statistics, it has been proved that totally non-union workplaces are behind unionised workplaces in relation to wages.

In answer to the honourable member's other question, I explained that point earlier. This is a very fair system which does not apply everywhere. In other areas where fees are charged, those who are being charged those fees have very little say in the amount they are charged. For example, if a plumber does a job for you, you have very little say in what he charges, or if you take your car to get repaired—

The Hon. A.J. Redford interjecting:

The Hon. R.K. SNEATH: When you take your car in to have it repaired, if you do not get a quote first you have very little say about the fee charged. In this case, the people involved can go to the Industrial Relations Commission. As I have said, if there are 10 non-unionists at a site and 50 unionists, the employer at the work site has to agree that a bargaining fee can be charged. They then go off to the commission, and the commission sets the fee to be charged. If there is an argument by two of those 10 non-unionists that they were not serviced, or they were not serviced to the extent of that fee and they think it should be half the price, they can put that submission to the commission. If they think they should not be paying anything at all, they can also put that submission to the commission. That is the way it works. It does not work fairer than that in a lot of other places.

The Hon. A.J. Redford interjecting:

The Hon. R.K. SNEATH: Not too many people would go to gaol for not paying their accounts; there are appeal mechanisms. If the commission, after deliberation and hearing all the evidence from all sides (which is the same when you are dealing with a plumber), the commission says, 'It's going to cost you $200 each' and two of those 10 people do not pay their $200, I imagine the process of the union collecting the debt would be the same as anywhere else.

The Hon. A.J. Redford interjecting:

The Hon. R.K. SNEATH: These are the typical scare tactics they have used throughout this campaign.

The Hon. A.J. Redford interjecting:

The Hon. R.K. SNEATH: I am telling the honourable member what it is about. There is nothing fairer than to have an independent umpire making these decisions. It is not a decision made by the union or the employer: the decision is made by an independent umpire who has heard all the evidence. You cannot get fairer than that.

The Hon. A.J. Redford interjecting:

The CHAIRMAN: Order!

The Hon. A.L. EVANS: I appreciate the Hon. Bob Sneath's comments. It does seem fair. However, there are situations where people just do not pay, and they do not want the rise. What the honourable member is really saying is that they are going to have to do so. My second question is: once the decision is made that this is the award, are employers legally bound to pay everyone the same amount, or can they pay non-unionists at a different level?

The Hon. T.G. ROBERTS: Awards cover all categories. We are talking about enterprise bargaining, where, in most cases, awards become a safety net. Enterprise bargaining has extra obligations and extra work associated with negotiating the EBs. That is the payment we are talking about with regard to individuals who are not union members within a collective of unionists. Non-unionists have an obligation to pay the enterprise bargaining negotiating fee that comes with the delivery process that the union has taken on board and spent quite a lot of their resources to bring about an enterprise bargaining agreement within an enterprise.

The award rate would apply to everyone; that is a minimum. However, where you have agreements or EBs, they generally have negotiated terms outside of the awards within them. It is possible that within a company a group of workers may decide to trade benefits for cash. In a lot of cases, that does not suit everyone. Sometimes, as people are developing their homes in the early days of their work life, they prefer the cash, rather than the benefit of annual leave or sick leave. As I have said in previous contributions, the principle of trading off those benefits is not something I adhere to. However, where the majority make that decision, that becomes the norm for that enterprise.

Honourable members opposite say that, by paying an enterprise bargaining fee, that is an unfair imposition on

someone and the obligation under the enterprise agreements are enforceable, and they do not agree with that. However, in the case of where a majority makes a decision on behalf of, say, older workers in the work force who might want the extra annual leave and might want the sick leave, they have to accept the decision of the majority. Life under enterprise bargaining is not fair to all, but in times where employment is difficult to get, generally workers make sacrifices to maintain employment for security reasons. We debated that last evening in relation to permanency versus casualised work.

So what we are saying here is that with enterprise bargaining it evens up the balance of representation by having professional people representing workers in the work force, people who have professional skills, who can take those professional skills into the commission if it is required or into the boardroom of an enterprise to debate the issues about what is the value of a certain individual's work within that enterprise, and there is a value placed upon that and it would be considered undemocratic if people who were the beneficiaries of those negotiations did not pay their way.

So it is a democratic process and it is one that is in force at the moment. If a unionist, for instance, in an enterprise falls behind in his union dues and wants to remain a member of a trade union but does not pay his or her union dues, those obligations are enforceable by law as well so that a union—and some do—send out notices for that person to pay their dues. If they have not resigned from the organisation according to rule, then they are obliged to pay that, and in some cases some unions have a policy of putting those union members in the hands of debt collectors. It is not a popular move, but some unions have a policy of doing that. Other unions waive the debt and ask the member to start their payments anew. In relation to the enterprise bargaining obligations for professional fees and representation, it seems fair that everyone pays if everyone is going to benefit. It is the same as joining a golf club. There are not many people who can go onto a golf course without paying their green fees.

Members interjecting:

The Hon. T.G. ROBERTS: No, it is not. It is a service. If you get a benefit, you pay for it. It is also important to understand that there has been only one case in South Australia where the commission has said that bargaining fees are okay where all employees were union members. So it is something that has been devised within the democratic processes since the change to the negotiating rules around EBs and away from award coverage, but in Australia the general view is that the awards become the safety net and the EBs that are negotiated within an enterprise are extras that flow over and above the award. That is not the situation in all cases. There are enterprise bargaining programs that are put in place without members having the benefit of any safety net, but we are not talking about that in this case.

The Hon. A.J. REDFORD: The Hon. Andrew Evans asked whether an employee can refuse the benefits of a pay increase or the outcome of a wage, salary or industrial negotiation. The answer is not perfectly simple, but I will try to answer it this way. If it is an award, an award effectively is an agreement that has the effect of the law even though I might not be a member of a union or I might not be a member of the employer association. In fact, when I was an employer as a private practitioner in legal practice I was never a member of Business SA, but it would negotiate on behalf of employers at large, and out would pop an award which we would have to go down and pay for, I might add, and that would be what we would pay our clerks, our typists and the people in our office because the award had the effect of the law, notwithstanding the fact that I was not party to the settling of that award.

So, in the context of an award, you cannot refuse the pay rise and, if you entered into a private arrangement, that would be a very risky thing for an employer to do. The Hon. Andrew Evans I am sure has had situations explained to him where an employer has said to an employee, 'Listen, I'm going pretty rough at the moment. Business is not doing too well. Can I pay you a bit less than the award rate?' The employee says, 'Well, I don't want you to go broke, so let's do that deal.' However, two years later the employee comes back and says, 'Hang on, I want the difference.' There is no excuse on the part of the employer under those circumstances—the employer has to pay it.

So a wise employer, one who is reasonably well advised, will pay the award even if the worker does not want it. You might say to the worker, 'If you don't want it, give it to charity, but I have to pay you this.' So the short answer in the award system is that that is the case. In relation to enterprise agreements and enterprise bargaining arrangements, that is not necessarily the case. I do not know whether it has ever happened, but it is not beyond fanciful thought that you might get a situation where one category of workers have their wage outcome negotiated by a union and another group of employees doing exactly the same thing perhaps in a different town come up with a different pay rate and a different enterprise agreement. That is theoretically possible. I do not know of it ever happening, although there have been examples in the past couple of years where one group of workers has been represented by the union and another group of workers has been represented by the Employee Ombudsman—

The Hon. R.I. Lucas: The Teachers Institute.

The Hon. A.J. REDFORD: The Teachers Institute is one. I do not know what the government and the commission are going to do in relation to that situation, because these people have made a conscious decision that they do not want to go to the union. There could be a range of reasons. It might be that the union is asking too much or wanting things that these other employees do not want, so they go to the Employee Ombudsman, and he is paid for by the taxpayer.

I am not too sure whether the proponents of these bargaining fees are now going to argue that these people ought to have to pay for the union which they consciously rejected when they went to the Employee Ombudsman. It is another situation where the Hon. Bob Sneath will say, 'Let the commission determine that.' Unlike the Hon. Bob Sneath, I am going to take responsibility. I am actually going to front up and say, 'If you want a set of bargaining fees, bring a bill into the parliament, answer all these questions and deal with all these issues, so that we all know exactly what we are doing, rather than send it off to some unelected body called the commission, most of whom are not in direct contact with ordinary people in South Australia, because they are busy doing their jobs as commissioners.

The Hon. Terry Roberts touched on this, and it will give you an idea of some of the acts of bastardry in terms of the way some unions operate. As a lawyer—I am going back 20 years ago—this will be a proud chapter in the Hon. Bob Sneath's history, if you saw the conduct that the Hon. Bob Sneath would get involved in. He would be right into this. The Carpenters and Joiners, they were a piece of work.

The Hon. T.G. Cameron: They are the AWU these days.

The Hon. A.J. REDFORD: Are they? I will tell you what they used to do. Casual workers would come and go on building sites. The union would turn up to a building site and they would say to some poor kid, a 17-year old, 'Hey, son, you've got to join the union or you're off.' So this poor bloke would sign up and then he would say, 'How am I going to pay my dues?' The union official would say, 'Oh, look, it'll get taken out of your pay.' The kid would say, 'Oh, that's not so bad, I suppose. At least I've got a job.' So off would go the union official. The poor little fellow would finish his three-week sojourn on the building site and then probably go back to university—and this happened a few times, I can tell you—or get a job as a taxi driver and never even think of that three-week period that he spent on a building site.

Then along would come the Carpenters and Joiners, usually about four years later, and hit them with a bill for $1 000. Those people would say, 'Hang on. I was only there for three weeks, why should I pay $1 000?' This is where the Carpenters and Joiners, in the true tradition of looking after the battlers and workers, would say, 'I am sorry, sir, but you did not read the rules, did you?' He would say, 'No, I was just working on a building site for three weeks,' and the Carpenters and Joiners would say, 'Well, bad luck. You have to read the rules.' If you looked at the rules they said that you had to personally hand deliver a resignation letter to the secretary of the union, and I can tell you that the secretary of the union was rarely in South Australia. But if you did not personally give it to him, then technically you had not resigned.

Indeed, on one particular occasion this poor fellow thought, 'I have left this building site; I am not going to pay these fees any more,' and he actually sent a note. Unfortunately, he did not deliver it to the secretary: he posted it. And I remember that the Carpenters and Joiners said, 'That is not good enough. Nup, we will go after this bloke.' I am not saying that every union does that—there are some good unions out there—but that is the sort of conduct that these guys can get up to.

The Hon. J. Gazzola: What happened? Did he have to pay?

The Hon. A.J. REDFORD: He had to; the court upheld that, because that was the law. It was very clever stuff. They used to budget for it and do very well out of it. And, of course, the lovely thing about it was that none of these kids would ever vote in the union election and vote the secretary out. They were just glad to get out of the place. That is the way they used to operate.

There is one answer, and the Hon. Bob Sneath is not going to tell anyone, because he knows the down side to the answer. There is one way in which they will collect the bargaining fees, and this is what they will do. They will go to the employer and say, 'Ten of your employees (and here are their names) have been ordered by the commission to pay bargaining fees.' The employer will say, 'Leave me out of this; it has nothing to do with me. Go and talk to the workers', and I think an employer is quite entitled to do that. The union will come back and say, 'These blokes are being a bit recalcitrant; they are not going to pay. We are asking you to take it out of their pay packets before they even get it.' The employer will say, 'I am not going to do that,' and the union will say (and here's the rub of it), 'Well, we are going to black-ban your site,' or, 'We are going to boycott your site,' or, 'We are going to have an industrial action over your site.' Do not think there is going to be anything friendly about these bargaining fees. They will get their blood. That is what all this is about.

The Hon. J. Gazzola: Get out of the past.

The Hon. A.J. REDFORD: Sometimes the Hon. John Gazzola forgets that I know a little bit about the union movement, because I had a little bit to do with it. I have seen how they operate.

The Hon. J. Gazzola: You are still living in the 1970s!

The Hon. A.J. REDFORD: In the 1970s I was still at university; I learnt all this in the 1980s and early 1990s. I hope that some of the comments I have made have directly answered, in a frank way, some of the questions and genuine concerns that the Hon. Andrew Evans has in considering this very important issue.

The Hon. R.I. LUCAS: I direct a question to the minister, because, in a very eloquent contribution, the Hon. Angus Redford raised an important point earlier in relation to the issue given in examples of disputes where groups of employees deliberately choose not to be represented by a union but choose to be represented by the Employee Ombudsman. The minister did not get a chance to respond to the question in relation to that and I seek a reply, because there certainly has been recent history in relation to that. When I was minister for education, a significant number (although obviously not a majority) of teachers in South Australia were disgruntled at the union leadership of Janet Giles—surprise, surprise—who was then the head of the institute of teachers. I will not go into detail, but they did not want to be represented by the union—

The Hon. R.K. Sneath: You are a real grub: you get up and attack anyone you don't know anything about. Why don't you sit down?

The Hon. T.G. Cameron: He hasn't attacked anyone yet.

The Hon. R.I. LUCAS: Just give me a chance! In relation to the teachers' dispute, not a majority but nevertheless a significant group of teachers were unhappy with the representation they were getting from the leadership of the then institute of teachers and they engaged the services of the Employee Ombudsman. The education department then had to go through a complicated process of consultation with the Employee Ombudsman. Will the minister explain whether, in these circumstances, those employees could be required to pay a fee to the union under this legislation?

The Hon. T.G. ROBERTS: That question was answered by the Hon. Bob Sneath; however, I am not sure whether the honourable member was in the chamber. The commissioner said that where people are represented by non-unionists it must be taken account of.

An honourable member: So they cannot be required to pay fees to the union?

The Hon. T.G. ROBERTS: Yes. The commissioner said:

> Other cases will present an entirely different set of circumstances. Different and additional considerations might apply where employees have actually been represented in the negotiation stages by other minority representatives. Future considerations of any bargaining agent's fee for proposals within an enterprise agreement will be given, therefore, on a case by case approach and the commission will make the determination based on the facts before it.

The Hon. R.I. Lucas: So, it's up in the air?

The Hon. T.G. ROBERTS: Well, a lot of things are up in the air in industrial relations negotiations. The Hon. Angus Redford wants to legislate to dot every i and cross every t and take the industrial relations uncertainties out of negotiations, but that will never happen because of the variations that exist within enterprises, small and large. You need a certain

amount of flexibility, but the guidelines and objectives within this bill give direction to where this government would like to see industrial relations going.

You do not want to take all the negotiating and manoeuvring room out of the democratic processes where groups, individuals or organisations have no flexibility in how they negotiate. You want some flexibility built in: you certainly do not want a whole list of dos and don'ts that the honourable member indicated we ought to have, where regulations would be used to identify a way in which you would tie down an award or agreement. That would be disastrous.

The commission has approached this on a fee-for-service basis and, consistent with that, would not expect fees to be payable to the union where other representatives were engaged. So, if the union has not done the work and a group of individuals who have formed themselves into a negotiating group—which would probably be a union without the definition of a union; it is a union of people coming together for a particular purpose—the circumstances would be that no fee would be payable from anyone who was not being represented by a union. It would be difficult to make a claim if that union had not made any contribution to those negotiations.

The Hon. T.G. Cameron interjecting:

The Hon. T.G. ROBERTS: It is possible that, if someone makes contact with the union, asks for some advice or direction, they would—

The Hon. T.G. Cameron interjecting:

The Hon. T.G. ROBERTS: This is about where people sit back, do nothing and take the benefit. I understand what the honourable member is saying if no contact has been made, but my experience is that people will ring and ask for the negotiating documents of a previous case or will badger someone at the desk. They will have documents photocopied. Where that is the case, the unions would have the basis to make a claim.

The Hon. T.G. Cameron interjecting:

The Hon. T.G. ROBERTS: Yes. The honourable member is right: no fee is payable. There is no responsibility if no contact has been made.

The Hon. T.G. CAMERON: In the absence of any further debate, I indicate that I will be opposing the opposition's amendment.

The Hon. NICK XENOPHON: I will respond to some of the matters raised by the Hon. Mr Redford. I enjoyed his exposition about the Carpenters and Joiners Union. I think that, for those familiar with carpentry and building terms, it certainly gives a new meaning to the words 'second fix' in terms of some of those fees. I have not so much a challenge but more of a request. If the Hon. Mr Redford has evidence that that sort of practice is still occurring, which I think many would find unconscionable in terms of using the small print, it is something that—

The Hon. R.I. Lucas: Have a look at Legh Davis' contribution to this four years ago about the AWU.

The Hon. NICK XENOPHON: Trying to make me feel nauseous, are you? In the context of this bill, if there is evidence of that sort of practice (and if a door-to-door salesman used a similar technique, those sorts of contracts would be struck down as unconscionable), of someone joining up to a union and then being stuck with large fees when they have not been involved in that union for a number of years, if the opposition has a amendment on that I think it would be worthy of debate.

The Hon. R.I. Lucas interjecting:

The Hon. NICK XENOPHON: The Hon. Mr Lucas says that we have an amendment in those terms. With respect to the Hon. Mr Lucas, I disagree. I think there is a distinction between that sort of practice and, here, a process where, if you do not support the opposition's amendment, you are essentially saying: let the commission work this out on a case by case basis, based on principles of equity, to determine these matters.

Regarding the point made by the Hon. Mr Lucas with respect to the Employee Ombudsman, given my reading of the Morrison decision and my understanding of these matters, if you can show, in terms of cause and effect, that the pay rise for a group of workers or an individual worker was linked to the assistance of the Employee Ombudsman, I would have thought that that would be a very persuasive matter for the commission. They were not matters that were raised in the full commission decision to which I have referred but, given the whole tone of that decision and the step by step approach, considering the evidence and the facts before it, I would have confidence in that process and I think the very valid point made by the Hon. Mr Lucas with respect to the Employee Ombudsman's involvement would be taken into account. If the opposition has amendments that deal specifically with the rorts described by the Hon. Mr Redford, I would look forward to those in due course. But, with respect to the Hon. Mr Redford, I do not think the arguments that he has put are to the point regarding this amendment.

The Hon. R.D. LAWSON: I should have indicated to the committee that, with respect to the suggestions made by some speakers that our proposal to prohibit by statutory provision bargaining fees shows no faith in the Industrial Relations Commission and that by proposing this amendment we are showing no respect for its capacity to make an appropriate determination, nothing could be further from the truth. We believe that this is a matter which ought be dealt with in the laws laid down by this parliament; the framework which the commission is required to employ. I remind the chamber that these rules apply in relation to the federal scheme and that the federal government has indicated that it will be seeking to extend that statutory application. I reject the notion that there is any disrespect at all in this proposal.

There is one fundamental matter which has been touched upon but which has not perhaps been specifically dealt with. The provision that we seek to insert is really to underpin the existing objects of this act, and I quote from section 3(k) of the existing act as follows:

> The objects of this act are—
> (k) to provide for absolute freedom of association and choice of industrial representation;

The existing act contains extensive provisions for the protection of freedom of association. We believe that bargaining fees can be used by unions to undermine and weaken that freedom of association by, as it were, forcing people who do not wish to become members of unions by various devices to become members; to make it uneconomic for them not to join the union. That undermines the very principle and foundation of this legislation and it ought be placed on the record that, in moving this amendment, we seek to reinforce that important provision.

The committee divided on the amendment:

AYES (8)

Dawkins, J. S. L.	Lawson, R. D. (teller)
Lensink, J. M. A.	Lucas, R. I.
Ridgway, D. W.	Schaefer, C. V.
Stefani, J. F.	Stephens, T. J.

NOES (11)

Cameron, T. G.	Evans, A. L.
Gago, G. E.	Gazzola, J.
Gilfillan, I.	Holloway, P.
Kanck, S. M.	Reynolds, K.
Roberts, T. G. (teller)	Sneath, R. K.
Xenophon, N.	

PAIR

Redford, A. J.	Zollo, C.

Majority of 3 for the noes.

Amendment thus negatived.

The Hon. R.D. LAWSON: I move:

Page 6, lines 31 to 33—Delete subclause (4)

I should make clear to the committee at the beginning that, although this is only a minor and, apparently, technical amendment at this juncture, it lays the foundation for a very important principle which we will seek to defeat later in the bill. My amendment seeks to delete from the definition of contract of employment the following words which were inserted:

(including a contract that falls within the ambit of a declaratory judgment under section 4A)

Declaratory judgments under section 4A do not currently exist. They will not exist unless and until this parliament passes clause 7 of this bill, which will introduce the new notion of 'declarations as to employment status'. This is a very dangerous development and one which we strongly oppose. I indicate to the committee that the amendment I am moving now, although only to the definition clause, is really a test of whether or not the committee will support the insertion of declaratory judgments in clause 7 of the bill.

Declaratory judgments are entirely new to the South Australian system of industrial law. They create a new power for the Industrial Court which can be constituted by a single industrial magistrate, and can make declarations which will have very wide-spread effects across the industry. Let there be no doubt about it: this power in the court is part of the ideological war which this government seeks to wage against the labour hire industry. This is a measure targeted specifically at labour hire firms. It is designed to break down the extensive system of subcontracting which exists across many industries and which has developed significantly in recent years.

It is something that this government, the Labor Party and the trade union movement cannot stand. They seek to break down and to undermine existing subcontracting arrangements, and the mechanism they have chosen is empowering. Certain parties have described it as the peak entity or the chief executive of the department (which is really the government), and others to go to the court and obtain a declaration that a particular person or a class of persons are employees.

Of course, it is envisioned that such applications be made in respect of those who currently describe and consider themselves as subcontractors and who the common law says are subcontractors. I need not detain the committee with the extensive evidence that exists about the size of the subcontracting industry in Australia, primarily and originally across the building industry but now across construction, the maintenance of buildings, the engineering fields and in many of the trades. In all those areas there are people engaged in subcontracting activities.

Substantial businesses have been built up in the field of labour hire providing flexible labour arrangements for business enterprises. Part of the efficiency of the Australia economy has been derived from the extensive use of these arrangements. The Labor Party and the trade union movement want to go back to a rigid, centralised system where everyone, irrespective of their own wishes about the matter, is to be regarded as an employee and can be caught within the clutches of the trade union movement.

The system of declaratory judgments is very open-ended. It will allow anyone with what is described as a proper interest (not clearly defined) to make an application. It will apply, as I said, not only to individual persons who might be employees but also to classes of persons who are employed, and as an example I refer to babysitters.

The Hon. Nick Xenophon interjecting:

The Hon. R.D. LAWSON: Babysitters and child care are not such a good example because, although such people can be regarded as subcontractors, they do not have all of the usual insignia of subcontractors, which is providing one's own material, and so on, and the rather complex tests which exist at common law which have been development to decide whether or not a particular individual is an employee or a subcontractor.

The Hon. Nick Xenophon interjecting:

The Hon. R.D. LAWSON: The Hon. Mr Xenophon says that I should have used child-care worker rather than babysitters, and I am inclined to agree with that suggestion. It is impossible to enumerate the classes of people in our community who work as subcontractors. The anomaly here is that the power is so wide that the court could declare that a company, partnership or a trust is actually an employee for the purposes of the industrial legislation. This system will lead to third party intervention, that is, persons who are not directly involved in a particular relationship intervening in relation to that relationship whereby people or organisations not invited to a particular table come along and interfere by making an application to the court for an order.

It will undoubtedly lead to more regulation, more litigation, more arbitration and more complexity. It will reduce the certainty that presently exists in relation to these arrangements because, as I say, they have been evolving over recent years, but in the last 10 years or so we have had a fairly settled regime in relation to labour hire. It will lead to less choice for businesses as to whether or not they make the choice to take someone on as a employee or if the circumstances, from their point of view, are more conducive to taking someone on as a subcontractor to do a particular job for a particular time. It will undoubtedly lead to more disputes and higher costs, both as labour and business costs, and it will reduce the economic efficiency of our economy.

If we introduce this into the South Australian industrial relations system, it is undoubtedly the fact that it will encourage employers to move out of the South Australian system and into the federal system, where they will not be exposed to the danger of busybody applications to obtain declarations. I cannot emphasise strongly enough the dangers that we see in this new provision. It is for this reason that we are moving, first, this minor clause, which will delete from the definition 'a contract that falls within the ambit of a declaratory judgment.' This is the first stage of defeating the introduction of this new jurisdiction.

The Hon. T.G. ROBERTS: To put paid to the scare tactics of the opposition, it might be of benefit just to straighten out what declaratory judgments do. It is our view that they are a sensible proposal, which will allow uncertainties about the sorts of relationships that people have to be

sorted out before they have a crystallised problem, like a claim for underpayment of wages or an unfair dismissal claim. Many employees who in a lot of case are involved in group hire do not understand the legal status of their own employment, and the issues that come out of that are many and varied and unions have to deal with them in various ways. There are a lot of labour hire firms which are doing the right thing, which explain properly, have proper contracts and are not subject to any pressures by trade unions at all.

Nobody has a vendetta against labour hire per se: that is the opposition's view. We are trying to clarify a lot of situations to make it simpler for employees to make sure that they know where they are in relation to their employment contracts. With declaratory judgments, the clause that the amendment proposes shows that declaratory judgments are appropriately recognised once they are made. Declaratory judgments are very different from deeming provisions. Deeming provisions allow the commission to expand the pool of who is considered to be an employee, whereas declaratory judgments simply declare what somebody's status is according to common law and contract of employment as defined by the law.

If deeming was the same as declaratory judgments, the amendments put forward in another place by the member for Mitchell would not need to have been moved. Our proposal is totally different from the Queensland provisions. Any quick examination of the Queensland provisions and the member for Mitchell's amendment clearly demonstrates that the commission, in deeming provisions, can deem people to be employees by reference to factors that are very different from simply the common law and the existing definition. The two things are worlds apart.

The Queensland provisions say that the commission can deem people to be employees by reference to factors such as the relative bargaining power of the class of persons or the economic dependency of the class of persons on the contract; the particular circumstances and needs of low-paid employees; whether the contract is designed to or does avoid the provisions of an industrial instrument; whether the contract is designed to or does exclude the operation of the Queensland minimum wage; or the particular circumstances and needs of employees including women, persons from a non-English speaking background, young persons and outworkers, and the consequences of not making an order for the class of persons.

In stark contrast, this bill states that in determining an application under this section the court must apply the common law and the terms of the definition of a contract of employment under this act. The Hon. Mr Lawson made reference to 'any person with a proper interest', which was removed from the bill in the other place by government amendment, so that no longer applies.

The Hon. NICK XENOPHON: First, I think this is being regarded by the opposition as a test amendment on the whole issue of declaratory judgments, but I see it somewhat differently in that, if I support the definition that the government seeks to insert, it does not necessarily mean that I would support the manner of declarations as to employment status in clause 7. I am very conscious of the standing orders, but you could support some form of declaratory relief—and I am not saying it is necessarily my position—without necessarily subscribing to the forms of relief and the system of relief that is being proposed by the government in its bill. I acknowledge what the minister has said in terms of the Queensland legislation, that there is a different system in place that is quite prescriptive and that the government is seeking to apply in this bill the common law provisions.

Members interjecting:

The Hon. NICK XENOPHON: The Hon. Mr Lawson says that it is disguising these provisions and the Hon. Mr Lucas says it is a wolf in sheep's clothing. I am not saying I necessarily agree with the Hon. Mr Lucas, but I would be grateful if the Hon. Mr Lawson could set out what he believes is contemplated by this bill, what the similarities are and what the ramifications will be with respect to that. As I understand it, in terms of the mischief that the government says it is trying to remedy—and again I am not necessarily agreeing with the government's position—it is saying that under certain circumstances you ought to be able to make a declaration rather than waiting for the event necessarily to crystallise by someone saying five years down the track, 'I have been working here. I am really a worker. I should have had these terms and conditions,' so that they can actually go and get a declaration that they are earlier down the track.

Now, I can see the rationale for that, but I have some very real concerns. First, the independent contractors industry argues that this provision will be relatively unique in the Australian jurisdictions. That is one of the arguments. Just because it is unique does not mean that we do not go down that path. I know that Robert Gottliebsen in a piece in *Business Review Weekly* was concerned about this provision. That sort of concern exists about this. Also, one of the provisions that concerns me with respect to the substantive clauses to declarations—I think it is appropriate to raise it in this context—relates the fact that, under subclause (7) of the declaratory provisions clause, identities of parties are not disclosed. I can understand the circumstances in which the government says that ought to apply; that is, where someone feels that they are being intimidated or that, if they come forward, that will have adverse and disastrous consequences for their employment. Those employers would be on the margins—rogue employers—and the employees would need that protection.

However, it also begs a number of very serious issues about natural justice and how a case could be conducted in terms of procedural fairness. I indicate that I have some very real reservations with the bill simply saying that it is done on a confidential basis in accordance with the rules. That, to me, does not provide protection. It may be appropriate in those cases of rogue employers who are not doing the right thing with someone who is genuinely intimidated, but I am concerned that an application could be made in a number of cases, if not capriciously, but where that sort of intimidation and fear is not so much a case but it is a bit of a fishing expedition where there can be an abuse of process with respect to that. To simply say, 'We will leave it up to rules without any further prescription' concerns me. This is a complex matter. Another aspect—and I will be guided by both the minister and the Hon. Mr Lawson, although they might tell me totally contradictory things—is that, in relation to the federal system, I understand that there is a provision in the Federal Court to seek declarations. The Hon. Mr Lawson and the minister might provide their understanding of that.

My understanding is that under the federal system you can seek declarations in a somewhat different context, but what difference would there be under what is proposed here from what is already occurring in the federal system? As I understand it, it is on a narrower basis, but I think these are legitimate questions. What does the government say about the concerns of independent contractors as to the impact that this

proposed declaratory relief will have on employment? By the same token, what would the opposition say about those employers that are, in a sense, pushing the boundaries and not doing the right thing by individual workers who are marginalised and who would be fearful of coming forward? In a sense, this provision could be used to ameliorate some of those abuses that occur in some industries or with some particular employers. They are my concerns. It is not easy and, obviously, this is something that has to be dealt with sooner rather than later.

The Hon. T.G. Roberts: Have you got any suggested amendments?

The Hon. NICK XENOPHON: The minister asks whether I have any suggested amendments. I would have thought that the minister ought to respond to these genuine concerns. I know that this is something that industry is also concerned about. I also note that the union movement is concerned about a number of workers who are on the margins and who are, in a sense, outside the system because they are fearful of going before the commission to seek a remedy.

The Hon. IAN GILFILLAN: I indicate the Democrats' opposition to the amendment. It is difficult to comply with standing orders where you have these sorts of pilot amendments which really cannot be discussed with any depth.

The CHAIRMAN: You accept the principle?

The Hon. IAN GILFILLAN: Yes. Obviously, the debate has been quite expansive and I would hate to think that, if this amendment is not successful and we move through to clause 7, we will go through the same territory again. There is no guarantee we will not, but there is a fair bet we will, actually. The Democrats are very supportive of independent contracting. We are also supportive of labour hire companies where both those enterprises are genuine, bona fide, true-to-title activities. We would be very concerned if there were serious threats to them emerging from this legislation. In a document that I have here, in relation to clause 7—Insertion of section 4A—Declarations as to employment status, the Independent Contractors of Australia state:

> The ICA supports the proposal for courts to have the power to investigate and declare individuals to be either employees or independent contractors. Only courts administered by judges with the proper legal background and experience can have sufficient knowledge of the law and the impartiality to make declarations in which the full community can have confidence.

I think that is an intelligent contribution to the debate and one which gives me some comfort in continuing to withhold support for this clause and the subsequent clause 7. However, it is indicative from debate to date that the Hon. Nick Xenophon has some suggestion—I cannot say that it goes any further than that at this stage—of potential amendment to clause 7. I give the undertaking that we will look at that with an open mind if any amendment does come forward, but we oppose the current amendment that is before the committee.

The Hon. T.G. CAMERON: I have some questions that I would like to put to the minister.

An honourable member interjecting:

The Hon. T.G. CAMERON: Well, yes; but you are big enough and ugly enough to speak for yourself. Can you please answer his questions at some stage? Could you also answer the Hon. Robert Lawson's questions? He will probably ask them himself. It is obvious we will not vote on this tonight, and I should have asked this question earlier, but I would be interested to know just what awards we are talking about that are covered by this and what areas of work we are looking at. I do not know whether it is possible to get that. I would like to ask a couple of questions. Is it correct that, if this bill is passed, the power to make a declaratory judgment can be exercised by a single industrial magistrate? I will list a few of these questions and the minister can come back to me. In making a decision as to a declaratory judgment, can the Industrial Court take into account factors outside common law? For example, could persons who could not be considered employees or common law employees be declared employees?

Assuming the bill passes, will an industrial magistrate be able to deem a corporation, which may be a company, limited company, partnership, etc. and/or a trust to be an employee? So, a magistrate could declare a family trust, a superannuation trust, a perpetual trust, or any other trust, to be an employee. I can imagine the sort of litigation that would trigger.

It is also my understanding that the act itself would not prevent a person from using a declaratory judgment to separately claim an award breach; for example, underpayment of wages or unfair dismissal. Will an employee be able to seek a declaration on behalf of a group of employees at a workplace where none of the employees are members of 'the class of persons or applicants'?

The Hon. T.G. ROBERTS: I thank honourable members for their questions. It is clear from the number of questions that progress may have to be reported. However, we will work our way through those questions which have been put on notice and which we can answer now. The Federal Court can make a declaration. As to the concerns of the Independent Contractors Association, this is all about declaring and abiding by the existing law as to who is an employee and who is a contractor. As to procedural fairness, it is for the applicant to make their case. To do so, they will need to lead evidence and make their arguments.

The Hon. Nick Xenophon interjecting:

The Hon. T.G. ROBERTS: If they have to respond before the court, I would think that their identities would be known. It is the circumstances by which they are engaged that are important, and that needs to be established.

The Hon. NICK XENOPHON: If it is in dispute, from a procedural fairness point of view, in most cases it would be a nightmare.

The Hon. T.G. ROBERTS: Some of the questions raised the honourable member will probably have to be put on notice and replies brought back when the committee reconvenes on Monday. However, if any other members have any questions, now is the time to raise them. I have some answers to questions asked by the Hon. Mr Cameron.

The Hon. T.G. CAMERON: In relation to this issue, will the minister provide a summary of the Queensland experience, the legal action that flowed from it and the subsequent decisions of the High Court? Can the minister also do the same in respect of New South Wales? I would also be interested in the experience of any other state and, if there has not been any legal action, whether we could get clarification as to whether or not those states have walked down this path.

The Hon. R.D. Lawson: Whilst on the subject of questions, will the minister obtain advice at the same time on the reasons for proposed section 4A(7), which allows a person in an application for a declaration to decline to disclose to another party to the proceedings the actual identity of the relevant person on whose behalf the action is being taken. I assure the Hon. Terry Cameron that, on our reading of the bill, an industrial magistrate will have power to exercise the declaratory judgment.

Clause 9 of the bill is headed 'Amendment of section 12—Jurisdiction to decide questions of law and jurisdiction.' It inserts into existing clauses which talk about the commission and judges and industrial magistrates. So, industrial magistrates are given certain powers, as well as powers to deal with 'proceedings brought pursuant to any provision under this act'. We take that to mean proposed section 4A. It will certainly expand widely the power of an industrial magistrate in a way we have real concerns about. We would like to hear from the government as to the reason why a confidentiality provision will apply and how it will work in practice.

The Hon. A.J. REDFORD: I would like some explanation, assuming this gets up, as to how we can run these anonymous court cases. From my experience in courts—and I am sure most people would understand this—they usually know whose on the side, because they are there. Will the minister advise how that will operate? Are you going to have people giving evidence behind blank screens, or are you going to have counsel with screens between them? How are we going to maintain this anonymity? What is the purpose of having anonymity? What are the sanctions if there is a breach of this anonymity? They are just some of the questions that come to mind. I would like to know from the government in exactly what circumstances it sees this anonymity being used and how it would work in practice.

The Hon. T.G. ROBERTS: I thank honourable members for their questions.

Progress reported; committee to sit again.

ATKINSON, Hon. M.J.

The Hon. R.D. LAWSON: I seek leave to make a personal explanation.

Leave granted.

The Hon. R.D. LAWSON: I claim to have been misrepresented by the Attorney-General in another place and seek to make an explanation. Yesterday, in another place, the Attorney-General referred to an announcement made earlier this week by the government under the heading 'Paedophiles refusing to reform their ways will die in gaol.' It states:

> Paedophiles who refuse to be rehabilitated will be locked up for good, under a plan by South Australian Premier Mike Rann that matches ALP moves in Western Australia.

The media release goes on to say:

> Our government will introduce new legislation that increases penalties against repeat paedophiles and effectively locks them up for good.

Yesterday in the house in relation to some comments I had made on that issue, the Attorney said:

> The Hon. Robert Lawson said that South Australia did not need these tough new anti-pederast laws because the indeterminate detention laws had never been used by me or the government of which I am a member.

He went on to say:

> The Hon. Robert Lawson misled the ABC Radio audience.

The Attorney said there had been 13 applications for indeterminate detention under his government. He went on to say:

> Does anyone in the opposition remember Mark Erin Rust? Obviously the shadow attorney-general, the Hon. Robert Lawson, does not remember him. Members should be aware that Rust was convicted of two brutal murders of young women. He is serving life sentences for those murders.

The clear statement of the Attorney was that, in saying that this government had not exercised these powers in relation to paedophiles, I had misled the public, and the Attorney-General referred to Mark Erin Rust. In fact, Rust, as many people in this council will know, was the killer of Megumi Suzuki and Maya Jakic. He is a brutal murderer serving life imprisonment. However, he is not a paedophile. Other persons in respect of whom applications have been made were not, at the time I spoke, according to my recollection, paedophiles. Subsequent inquiries which I have made have verified that the only prisoners currently serving a detention because they cannot control their sexual instincts are Peter Deering, who was sentenced in 1986; Gavin Schuster in 1999; Paul Wood, 2003; and Mark England, 2004. To my knowledge and understanding none of those persons is a paedophile. The Attorney-General has seriously misled another place and the public.

ADJOURNMENT

At 5.33 p.m. the council adjourned until Monday 14 February at 2.15 p.m.