LEGISLATIVE COUNCIL

Tuesday 1 March 2005

The PRESIDENT (Hon. R.R. Roberts) took the chair at 2.15 p.m. and read prayers.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Industry and Trade (Hon. P. Holloway)—

City of Onkaparinga—Coromandel Valley—Desired Character Plan Amendment—Report on the Interim Operation

Regulation under the following Act—

Supreme Court Act 1935—Residential Tenancies Tribunal

By the Minister for Aboriginal Affairs and Reconciliation (Hon. T.G. Roberts)—

Reports, 2003-04—

South Australian Alpaca Advisory Group
South Australian Apiary Industry Advisory Group
South Australian Cattle Advisory Group
South Australian Deer Advisory Group
South Australian Goat Advisory Group
South Australian Horse Industry Advisory Group
South Australian Pig Industry Advisory Group
South Australian Sheep Advisory Group.

GOODS AND SERVICES TAX

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I lay on the table a copy of a ministerial statement relating to the goods and services tax made earlier today in another place by my colleague the Premier.

QUESTION TIME

AUTOMOTIVE INDUSTRY

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation before asking the Leader of the Government a question about the automotive industry.

Leave granted.

The Hon. R.I. LUCAS: Members will be aware that in recent months significant concern has been expressed publicly about the shake-out in the manufacturing industry generally in South Australia and, in particular, the impact on jobs within the automotive industry. I refer members to a selection of stories in the last week or so and, in particular, last Wednesday, where *The Advertiser* reported:

> Overseas manufacturing of components for the new Holden VE Commodore will result in 70 jobs being lost in South Australia and put at risk a further 350 positions here. TI Automotive at Kilburn has lost a contract to supply brake fluid and fuel delivery systems for the new Holden.

The article also states:

> Coopers Standard Automotive at Woodville North have lost contracts with Holden and Ford, placing 300 jobs at risk. Parts similar to those being made by Coopers will be made in China and Mexico.

Further on in the article *The Advertiser* states:

> At least 70 jobs will be lost at TI Automotive, and another 50 are at risk, because of General Motors World Wide Purchasing's shift to the U.S.-based ITT Industries.

Members will also be aware that in recent times the Government was quick to welcome ZF Lemforder to South Australia, but we are also aware that the company that formerly had the contract that ZF Lemforder won (Dana) is significantly reducing its employment because it lost its contract to Holden. I think it is hoping to hold on to about 50 employees out of a total of some 200 employees. My questions are:

1. What advice has the minister received about the number of jobs that have been lost in the automotive component industry sector here in South Australia in the past 12 months—in calendar year 2004?

2. What advice has he received about prospective job losses within this sector of the industry in 2005?

3. Will the minister indicate what advice he has been given in relation to policy options from the government to try to tackle this issue in the automotive component industry?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): It is inevitable that the opposition would try to put the most negative spin in relation to what has been happening with Holden. Holden is producing a new model in the next 12 to 18 months and, as a consequence of that, as is the practice of that company, the contracts for production tend to go with the models. Recently they were letting a number of new contracts with the new model, which has meant that some companies have lost that business and other companies have gained the business with the new model and will be establishing in South Australia. ZF Lemforder was exactly one such company. At the Edinburgh Park Precinct, which I think may have begun under the previous government—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: You would have to be joking. Plenty of things that it did start we have had to finish. There were plenty of messes left by the previous government—

The Hon. A.J. Redford: Name one.

The Hon. P. HOLLOWAY: Name the messes? We do not have enough time in question time.

The Hon. A.J. Redford: You are embarrassed.

The Hon. P. HOLLOWAY: I am not embarrassed. The only ones who should be embarrassed are members opposite after the mess they left. Let us start with electricity. If you want to spend the rest of question time on it, we can go there. There it was: 31 December 2002—they locked in the prices, locked in a 20 or 30 per cent increase for electricity, which has had a significant impact on this state. Where is the apology from members opposite? They do not have one.

Members interjecting:

The PRESIDENT: Order! Members of her Majesty's opposition will take some of their punishment in silence.

The Hon. A.J. Redford interjecting:

The PRESIDENT: You should not provoke him.

The Hon. A.J. Redford interjecting:

The PRESIDENT: Interjections are out of order when a member is already debating the issue. I am a little tolerant when the minister is leading the charge. He is trying to answer the question and is entitled to be heard in silence.

The Hon. P. HOLLOWAY: It has been a difficult period for the automotive industry. We all know what has happened to Mitsubishi internationally and how that company has been in difficulty internationally, but fortunately the company is now emerging from those problems. Something like 1 100 jobs will be lost from Mitsubishi over 12 months. In spite of that, I point out to the council that this state now has not only the lowest unemployment levels since records were kept but we have also had record levels of employment. The restruc-

turing that has taken place in the automotive industry has occurred at that time. Obviously the problems Mitsubishi has faced are of concern to South Australia, but we are emerging from that. It would be too much to expect the leader of the opposition to have a positive outlook for this state.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Yes, you always ask questions that emphasise the job losses. Within the automotive component sector, yes, as a result of Holden's contracts some component manufacturers have lost contracts; other new companies have gained them, and they are coming in. Overall, my advice is—and it was one of the questions that the leader asked—that the Holden VE Commodore will commence production early in 2006, and that current expansion will create over 1 000 new jobs net in the region and in the state over the next 12 to 18 months. The opposition can certainly highlight those companies that will lose contracts, and some of them will—that is the nature of business. I would have thought that members opposite support private enterprise—

Members interjecting:

The Hon. P. HOLLOWAY: How dare the Leader of the Opposition talk about it when he wants to remove any protection that those people will have through the industrial relations laws. I will not waste any time on that interjection of the Leader of the Opposition because that is demonstrated by the position that the opposition takes about unfair dismissal, for example, which we debated last night. Where was your concern then? It would be against standing orders for me to discuss that bill, so I cannot go any further down that line. In relation to the automotive industry, yes, there has been some restructuring; that is the nature of business in a global automotive industry. Obviously, this government is doing what it can in relation to—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: The fact is that this government now has the highest level of employment in the state's history and the lowest level of unemployment.

MOTOR VEHICLE IMMOBILISER SCHEME

The Hon. R.D. LAWSON: I seek leave to make an explanation before asking the Leader of the Government, representing the Attorney-General, a question about the vehicle immobiliser scheme.

Leave granted.

The Hon. R.D. LAWSON: Last week the government announced the establishment of a selective subsidy scheme for the fitting of vehicle immobilisers to pre-1990 vehicles owned by students. This program which, on some reports, is costing $30 000, is sponsored by the South Australian Vehicle Theft Reduction Committee, the Royal Automobile Association, South Australia Police, the Attorney-General's Office, the Adelaide City Council and the Department Of Transport and Urban Planning. On my calculation it would be a contribution of $5 000 each. In announcing the scheme the Attorney-General said the following:

> . . . it is designed to help young drivers who are most likely to own older, uninsured cars and park them in areas where the risk of car theft is high.

Last year, the member for Newland, the Hon. Dorothy Kotz, moved a motion proposing the establishment of a universal scheme for the fitting of immobilisers to older vehicles. The government voted against the resolution. My questions to the minister are:

1. What evidence is there for the assertion that students are most likely to own older, uninsured cars and park them in areas where the risk of car theft is high?
2. What studies were conducted to confirm that assertion?
3. Why were the claims of pensioners, single mothers and other disadvantaged groups overlooked in this measure?
4. Is this a one-off funding proposal?
5. Will the minister confirm that the total cost of this program is $30 000?
6. When will the subsidy scheme be extended to pensioners and other groups deserving of support?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I think it is remarkable that the deputy leader should be asking how the Attorney-General comes to the conclusion that students generally have older vehicles. I can appreciate that probably amongst the young Liberals that may not always be applicable but, when one looks at the student population, particularly given HECS fees and the like that young students are faced with, it is inevitable that we have that. I will refer the remainder of the question to the Attorney-General and bring back a reply.

CORRECTIONAL SERVICES DEPARTMENT

The Hon. A.J. REDFORD: My question is to the Minister for Correctional Services. Given the revelations on Channel 7's *Today Tonight* last night and the minister's announcement that the Department for Correctional Services would again investigate itself in relation to those revelations, and given that the department has investigated itself secretly on no fewer than six occasions in the past three years, will the minister cause an independent and open inquiry into the Channel 7 allegations?

The Hon. T.G. ROBERTS (Minister for Correctional Services): No. The position is that the department will do an investigation. It is a procedural matter—an accusation was made—and we will work through the auspices of the correctional services department and provide a comprehensive report on the information that is unsubstantiated thus far but is certainly very public; and I will report back to parliament, which is where I should report.

The Hon. A.J. REDFORD: I have a supplementary question. Why has the minister not provided the results of the other six investigations that have been undertaken on his watch and, in particular, those into the Cadell steel incident, as promised?

The Hon. T.G. ROBERTS: I am not sure that the supplementary question arises out of the reply that I gave, Mr President, but, if there is a report to be given to parliament that I promised, I will obtain that report and bring it to the council.

The Hon. A.J. REDFORD: I have a further supplementary question.

The PRESIDENT: This time it will be in response to the answer.

The Hon. A.J. REDFORD: What are the circumstances that would cause the minister to have an independent and open inquiry?

The Hon. T.G. ROBERTS: It is a hypothetical question but, if the information that is supplied to me by the department is either tainted or not accurate, I would call for an independent inquiry. But I do not expect that to be the case. I have full confidence in the department to obtain the facts

and supply them to me and, once I have been able to establish the facts, which seem very cloudy at the moment, I will act upon that information provided in the report.

BUSINESS, INNOVATION

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister for Industry and Trade a question about innovation in Australian business.

Leave granted.

The Hon. R.K. SNEATH: South Australia's strategic plan emphasises that innovation and creativity provide South Australia's future capital for growth and expansion. Can the minister report on how business in South Australia is performing in terms of innovation?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will be happy to do that. I thank the honourable member for his important question. A couple of weeks ago the Innovation in Australian Business Statistics for 2003 were released by the Australian Bureau of Statistics. I am very happy to report that this survey provides a very positive message for South Australia. The survey data show that not only is there a greater percentage of businesses innovating in South Australia but also these businesses are innovating to a higher degree than those in other states. Pleasingly, the latest statistics reinforce the 2002-03 Business Expenditure on R&D (BERD) statistics released by the ABS last year, which also showed South Australia leading the rest of Australia in terms of BERD as a percentage of GSP.

The ABS defines the term 'innovation' as 'the process of introducing new or significantly improved goods or services, and/or implementing new or significantly improved processes'. New goods or services or new processes may involve the development of new technology and adaption of existing technology to a new use (for example, electronic commerce), or may be non-technological in nature (for example, organisational and managerial change) as some changes in marketing.

More specifically, for this survey innovation has been classified into three categories designed as follows. A new good or service, which is any good or service or combination of these that is new to a business. Its characteristics or intended uses differ significantly from those previously produced. A new operational process, which is a significant change for a business in its methods of producing or delivering goods or services. And a new organisational or managerial process, which is a significant change to the strategies, structures or routines of the business that aim to improve performance.

During the three years ended December 2003, innovation was undertaken by 34.8 per cent of businesses nationally. A higher proportion of businesses innovating—22.9 per cent—implemented new or significantly improved operational processes that introduced new or significantly improved goods or services (which was 16.6 per cent). The survey showed that larger businesses were more likely to undertake innovation. Six in 10 businesses with 100 or more employees undertook innovation compared to three in 10 for businesses with five to 19 employees.

Innovation was classified to the state or territory of the head office for businesses with operations in more than one state or territory. The majority of innovating businesses were in New South Wales and Victoria, but South Australia had the highest proportion of businesses undertaking innovation, at 45.9 per cent. The proportion of businesses innovating in New South Wales, Victoria, Queensland and Western Australia were similar to each other, at about 30 to 35 per cent.

It is quite an achievement that South Australia had the highest proportion of businesses which innovated under all three types of innovation. Nationally, there was little difference in the level of innovation reported between those businesses located in capital cities and those in other areas. More than half of businesses in the communication services and electricity, gas and water supply industries undertook innovation. Accommodation, cafes and restaurants and construction industries had the lowest proportion of businesses innovating.

The majority of innovating businesses reported sourcing ideas or information internally to develop new goods or services or new processes, at 87.7 per cent. Some 39.9 per cent of innovating businesses reported that employing new skilled staff was the main method used to acquire knowledge or abilities to introduce these goods, services and processes. Only a small proportion of innovating businesses acquired knowledge or abilities from higher education or research institutions. The manufacturing industry contributed the highest proportion—27.1 per cent—of the total Australian expenditure on innovation. There is no published state level data by sector. A manufacturing strategy for South Australia is currently being developed, and innovation will be an important element of this.

It is clear from the new ABS data that South Australian businesses are amongst the most innovative in the nation. We have made it our focus to provide the right environment for innovation to flourish in a range of different sectors, and these latest results confirm that we are making progress in that respect. I thank the honourable member again for his important question.

The Hon. J.S.L. DAWKINS: Sir, I have a supplementary question. Given the minister's detailed answer, when will he provide an answer to my recent question about the Business Innovation Centre, which he referred to minister Maywald?

The Hon. P. HOLLOWAY: I will have to refer that to my colleague.

PARLIAMENT HOUSE, BICYCLE PARKING

The Hon. IAN GILFILLAN: Mr President, I seek leave to make an explanation before asking you a question about bicycle parking facilities at Parliament House.

Leave granted.

The Hon. IAN GILFILLAN: Mr President, in the past couple of weeks I have had three visitors to Parliament House relative to the question I am asking you. The first was Brett Aitken, who won Olympic gold in Sydney in 2000 for the 60-kilometre Madison. The second was Patrick Jonker, who won the Tour de France 'King of the Mountain'. He was the 2004 Tour Down Under winner and he rode with the US Postal Service at Lance Armstrong's personal request. The third was Professor Rick Sarre, Professor of Law and Justice at the University of South Australia.

Incidentally, the Professor of Law and Justice had to try to secure his bike to a pole on the road verge outside Parliament House when he attended a conference in this building. In South Australia recently has been Pascal van den Noort, who is Executive Director of the Vélo Mondial, which this government has recognised as being a significant international cycling event. It is held every six years, with

12 000 people attending these events, and we are looking to attract such an event to South Australia. However, one of the essential criteria is that the host state must show enthusiasm and achievement in securing better facilities and encouraging the use of bicycles. Frequently seen in various places are excellent designs for cycle parking, and in my role as patron of Bicycle SA I can offer on behalf of that organisation full cooperation in recommending models which would be suitable and encouraging the authorities to install such a facility to the advantage of not only my visitors but also everyone who is interested in cycling.

In fact, Mr President, I have some photographed examples which I can make available to you, if you wish. Finally, Mr President, I remind you that, on 18 November 2002, I asked you a question about the parking of bicycles outside the front of Parliament House, and in your answer you admirably said:

> It is a matter that I have taken particular notice of myself. . . It is a matter which I intend to take up with the Joint Parliamentary Services Committee so that we can come up with appropriate procedures not only for the storage of bikes but also for moving bicycles around within Parliament House. I shall bring back a further report after the JPSC meeting.

I appreciated that interest and statements of support. My questions are:

1. Have you brought back a further report from JPSC that we have missed in parliament?

2. Will you now reactivate your concern and prod JPSC to overcome this embarrassing lack of bicycle parking at the front of Parliament House?

The PRESIDENT: In response to the previous investigation, a facility for the parking of bicycles at Parliament House was considered, particularly for members, and there are now bicycle racks on the lower floor. In respect of the parking of bicycles outside Parliament House, I am not aware of any activity in that area. I do not know whether it is the province of the Joint Parliamentary Services Committee to provide that, but it is certainly something that would have been handy for the three constituents who visited the honourable member on their bicycles, and I am sure that other people have had a similar problem. It is something we would have to look at.

The JPSC should probably have some discussions with the city council for the provision of bicycle parking. However, I suspect that, if there is increasing use of cycles, it will be a problem not only at Parliament House but also elsewhere. I do appreciate that the honourable member is concerned about people visiting Parliament House. I will have the secretary of the JPSC undertake some further investigation on that matter and, probably after the JPSC has discussed the matter, I will provide the honourable member with a written answer.

NUCLEAR POWER

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Premier, questions about Olympic Dam.

Leave granted.

The Hon. T.G. CAMERON: A recent Australian newspaper, *The Australian*, carried a very informative article on the state of the world's nuclear industry. Nuclear power now accounts for one-sixth of the world's electricity, with 440 nuclear power stations spread across 31 countries. New nuclear power stations are being built all over Asia, with nine being built in India, three in Japan, eight in South Korea and 10 more in China. The article went on to state that uranium prices are now booming as demand is outstripping supply and Australia is poised to reap the rewards, if the political will is there. At present, the world's uranium mines produce an annual 46 000 tonnes of uranium, but the world's power stations need 79 000 tonnes—that is, existing power stations not taking into account new infrastructure.

The difference, according to *The Australian* article, is being made up from stockpiles with enough to last for about eight more years. This looming shortage is magnified by the selling price of uranium, which has risen from about $US7 a pound to $US26 a pound. One can only assume that this is the reason why the Anglo-Swiss mining company Xstrata (which recently took over Mount Isa—basically stole it) wants to get hold of WMC Resources, which has Australia's largest uranium deposit at Olympic Dam. I have always believed that South Australia has the potential to develop and benefit from the uranium industry, which could be worth billions of dollars to the state's economy. However, it has not panned out that way.

Back in the early 1980s, former premier John Bannon played a leading role behind the scenes to ensure that Roxby Downs went ahead. In recent articles, I note that the ACTU President, Sharan Burrow, warned the federal Labor Party and the Howard government not to pursue any policies that would increase the global trade in uranium. I note, however, that the Australian Workers Union supports the expansion of Roxby Downs. One can only conclude from these articles that the South Australian government has already had discussions with the Anglo-Swiss mining company, Xstrata, and given the green light for a massive expansion in mining, principally uranium mining. My questions to the minister are:

1. Has the government been involved in any negotiations with mining company Xstrata and the relevant unions and will it release to the public the details of those negotiations and/or outline them to the council today?

2. Will the Premier, like his predecessors, Don Dunstan and John Bannon, support the expansion of Roxby Downs; and, if so, will the government put the interests of South Australia first and stand up to the ACTU to ensure that that expansion goes ahead?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): In relation to the latter question, the government has made it clear on a number of occasions that it supports the recommendation following the feasibility study to expand Olympic Dam. When the issue of Xstrata or the question of foreign ownership of Western Mining Corporation has been raised, we have made it clear that, from the state's point of view, one of the conditions that we would be most concerned about with any change of ownership would be that the expansion of Roxby Downs or Olympic Dam should proceed. So, let there be no doubt that this government supports the expansion, and I repeat the undertakings that have been given by the Premier on a number of occasions.

The first part of the question was: has the government been involved in discussions with Xstrata? Of course, in terms of the takeover bid for Western Mining, that is essentially a matter for the Foreign Investment Review Board and the commonwealth government. However, on behalf of the state government, I have put in a submission to the Foreign Investment Review Board in relation to that matter.

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: Well, Santos had its head office in South Australia. Western Mining is at least an

Australia-wide company. It may have overseas operations, but its head office is essentially in Melbourne.

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: Well, what I am saying is that—

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: No. Let us get this right. What I am saying in relation to Santos is that Hugh Hudson was able to bring in the legislation that he did because Santos was based here and, at that time, its principal asset, the Moomba gasfield, was located here. In relation to Olympic Dam, the state government has some powers. I do not wish to go into those here, but clearly I have sought crown law advice in relation to those matters, because there is of course an indenture that relates to the operation of Olympic Dam.

The point is that, at the moment, Xstrata has not taken over Western Mining; it has simply made an offer which the directors of the company have recommended be rejected. There may well be other offers in relation to that company. We have made our view known through the submission to the federal Treasurer and the Foreign Investment Review Board. I am happy to table that correspondence, in which we have put a number of conditions we believe should be investigated. Clearly, it may not be just a matter of Xstrata; there may be other companies, and there has certainly been plenty of press speculation about who else may be the owners.

We have a view in relation to that matter. My personal view is that I would prefer to see the company remain in Australian hands, as I think would most Australians. Of course, that may not be possible, and the reality is that I do not believe that we would have the power. Clearly, the national interest is one that the federal government has to determine, because it is not just a matter of—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: Olympic Dam is only one of the—

Members interjecting:

The Hon. P. HOLLOWAY: We are talking about a national issue. Western Mining is an Australian company.

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: We know what you stand for—interjections. You will not listen and are quite incapable of doing so. The member who interjects is a member of a party that cannot write even its own land tax policy. The Leader of the Opposition has just moved to establish a select committee to help him write his policy. That is how pathetic you lot are! The Liberal Party in Australia is so pathetic it cannot even come up with a land tax policy. Who are they to tell us—

The Hon. T.G. Cameron: Get back to the answer!

The Hon. P. HOLLOWAY: I would love to go back to the answer.

Members interjecting:

The Hon. P. HOLLOWAY: Very little, but the honourable member—

Members interjecting:

The PRESIDENT: Order! The Hons Mr Cameron and Mr Redford will come to order. I think the minister should concentrate on the answer and forget the provocation from the back bench.

The Hon. P. HOLLOWAY: The government has obviously been involved in some discussions. I had a meeting with Xstrata, which put its view.

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order, the Hon. Mr Cameron!

The Hon. P. HOLLOWAY: As I have just told the honourable member, my preferred view is that of most Australians, namely, that an Australian company would retain ownership. However, the fact is that questions of foreign ownership are, essentially, matters for the federal government through the Foreign Investment Review Board. As I said, we have put our views in relation to that, and the Treasurer has now made a statement. I again make the point that Western Mining Corporation is based not just in this state; it has operations right across the country. Olympic Dam is one of its most important assets, but it has significant other assets, including some massive—

The Hon. T.G. Cameron: It is the biggest miner of uranium in the world.

The Hon. P. HOLLOWAY: Yes; it is, but it is also a significant nickel producer and has resources in Western Australia and other states.

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order! I draw honourable members' attention, particularly that of the Hon. Mr Cameron, to the fact that their task is to ask the question and not to give a running commentary and gratuitous advice when the minister is answering it.

GOODS AND SERVICES TAX

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Leader of the Government a question about the goods and services tax agreement.

Leave granted.

The Hon. T.J. STEPHENS: On 14 February this year, in response to a question I asked regarding misleading political advertising undertaken by the Rann government, the minister stated that the removal of certain state based duties and taxes was not connected to the GST agreement signed under the previous government. Last night, on *Lateline*, the Victorian Premier responded to a situation regarding a possible change in the GST agreement. Premier Bracks said:

> . . . [I] would have to break the intergovernmental agreement between the states and territories and the commonwealth which also said that we would eliminate taxes, and we have. We've been eliminating the financial institution duty, the duty on marketable securities. We're about to eliminate the BAD tax and the bank accounts debits tax. For that, for getting rid of all state taxes, it was to be replaced by a GST.

My question is: given the Premier's comments last night and that the political advertising listed several of these taxes, has the minister misled the council?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I hope that the honourable member reads the statement I tabled earlier made by the Premier today. Under the goods and services tax, the intergovernmental agreement was signed in 1999 by all states and territories. John Olsen signed that deal on behalf of South Australians. The purpose of that agreement was that if any part of that intergovernment agreement was to be changed it must be done with the full concurrence of all states and territories. As the Premier said today, Mr Costello could unilaterally rip up that intergovernmental agreement, but the effect of it would be to undermine the principles of federalism. The honourable member needs to understand that, essentially, the GST has been replacing what this state previously received in terms of special purpose grants and general purpose grants from the commonwealth.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: You can do that in absolute terms, but since 1999 there has been a far greater increase in income tax for the commonwealth government over that time as well. But the point that needs to be made is that the GST was supposed to be—and the commonwealth government made great play of this fact—money for the states to spend. Now it appears as though the federal Treasurer is trying to undermine that agreement and to dictate exactly what things the state would spend it on. The point I was making, although I did not get the exact details—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Well, in relation to the statement I made earlier, if it is the same one that the honourable member is referring to, the fact is that the commonwealth government is increasingly trying to dictate where the states should spend their money, and I was using that in answer to the question about land tax, where I was foreshadowing what has now happened, namely, that the federal Treasurer is increasingly making noises that he wants to get his hands on this money that was supposedly for state purposes and to dictate to the states where they should spend this money. I indicated at the time that that was potentially one of the problems that this state would face in its fiscal relationships over coming years. I would have thought that the comments I made on that occasion are, sadly, coming true. I will have to look at the exact quotation, but certainly—

The Hon. R.I. Lucas: Or resign.

The Hon. P. HOLLOWAY: No, I certainly will not be doing that. The one who should resign—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: I mean, not bad for a former treasurer—

An honourable member interjecting:

The Hon. P. HOLLOWAY: Well, he talks about integrity; this was the treasurer in the previous government who would not even talk to the health minister. For the first 12 months the now Leader of the Opposition, as treasurer, was trying to tell us that all of the hospitals within this state had big budget deficits, and he was trying to tell us that, under him, they would have to pay that back in the future. He was even attacking the Under Treasurer of this state, when the Under Treasurer quite unremarkably and quite correctly said, 'Well, look, there's no way that's likely to happen.' That is the sort of thing that would happen. At the election next year we would have the Liberals putting up a recycled treasurer and a recycled health minister. Are we really going to go back to those days where they will not talk to each other, where the health system runs up huge deficits and they do not tell the treasurer about it, and so on? Is that the sort of thing we are going to go back to?

Members interjecting:

The Hon. P. HOLLOWAY: If the former treasurer wants to talk about my economic credentials, we can talk about—

Members interjecting:

The Hon. P. HOLLOWAY: For a start, we had a press release—

Members interjecting:

The Hon. P. HOLLOWAY: I am glad we are being reminded about this. There was a press release by Mr Kerin today where he was accusing the Rann government, as he cheaply does, about economic matters. He completely ignores the fact that he is defending a shadow minister who has been absolutely lambasted by the Auditor-General.

An honourable member interjecting:

The Hon. P. HOLLOWAY: Just read the report; he absolutely has been. The Leader of the Opposition is not only defending him, but I again remind the council that when I came into the portfolio of agriculture, food and fisheries I found that the sheep fund, and a number of other industry funds, under Rob Kerin had never been audited. In terms of fiscal responsibility that was one of the things that I had to clean up in the first 12 months or so, having discovered that these things had not even been audited.

Members opposite are the last people who should be talking about fiscal prudence and fiscal management. Their record is there: their record in government and their record that was recently discovered in regard to Robert Brokenshire. They are the last people who should be talking about these matters. I will look at the question and if I need to further respond I will do so.

The Hon. R.I. LUCAS: By way of supplementary question, will the government now acknowledge that the GST deal signed by the former government was a good deal for South Australia's finances?

The PRESIDENT: Is that a supplementary question?

The Hon. P. HOLLOWAY: The question is not whether it was a good deal for South Australia but whether it was a good deal for the consumers of Australia. The Labor Party opposed it federally on the basis that it was a bad deal for consumers: that was the basis on which it opposed it, not on state fiscal matters. The question was: would the introduction of the GST reduce overall tax levels in Australia? We know they have not.

The Hon. T.J. STEPHENS: By way of supplementary question arising from the original answer, does the minister agree that the subsequent windfall from the GST agreement has given the Rann government far greater scope for tax cuts or increased spending than it has chosen to take up?

The Hon. P. HOLLOWAY: The honourable member asks about the scope. Members opposite are continually asking for more money to be spent on a whole raft of issues. Come the next election we will be able to document those because they are adding up daily. Members opposite want tens, if not hundreds, of millions of dollars spent on all sorts of schemes. They are always criticising this government for cutting spending, and at the same time they want tax cuts. This government has been able to increase expenditure on health, education and law and order and at the same time has delivered hundreds of millions of dollars in tax cuts in relation to land tax and has delivered a AAA rating. The balance is about right: a AAA rating, hundreds of millions of dollars in tax cuts and increased expenditure on schools, hospitals and law and order.

Members interjecting:

The PRESIDENT: The Hon. Mr Sneath will come to order. Members need to be aware that all this interjection and side play is depriving genuine questioners of the opportunity to ask what they believe to be important questions. A couple of people are causing most of the disruption, and it is about time that we concentrated on maintaining the dignity of the council.

REGIONAL COMMUNITIES CONSULTATIVE COUNCIL

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Industry and

Trade, representing the Minister for Regional Development, a question about the Regional Commmunities Consultative Council.

Leave granted.

The Hon. J.S.L. DAWKINS: On 22 November last year I asked a question about the Regional Communities Consultative Council, otherwise known as the RCCC. At the time I highlighted the fact that members of the RCCC had been appointed for a two-year term in 2002 and that these terms were about to expire. I also acknowledged that RCCC members had given freely of their time to visit a range of communities in regional South Australia under the very able chairmanship of former PIRSA CEO, Mr Dennis Mutton. On that occasion I asked the minister, first, when she would advise RCCC members whether their appointment had been renewed and, secondly, when the make-up of the RCCC for 2000-06 would be announced. Members may not be surprised to learn that I have not received an answer. My questions are:

1. When will the minister announce the membership of the RCCC for the next two years, given that the terms expired last December?

2. When will the date and venue for the first meeting of the new RCCC be set?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): The RCCC was a very good initiative. I think it was established by my colleague the Minister for Aboriginal Affairs and Reconciliation. If the appointments to the RCCC have not been formally made yet, it is my understanding that they have been decided. Obviously, it is a matter for the Minister for Regional Development to announce, so I will refer that question and bring back a reply. It is certainly my understanding that, if they have not yet been announced, they should be fairly soon.

LOCAL GOVERNMENT, RECONCILIATION INITIATIVES

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about local government and reconciliation initiatives.

Leave granted.

The Hon. J. GAZZOLA: An article in the *Border Watch* of 4 February is entitled 'Council considers new street names'. The article refers to road construction in the Rosetown area of Kingston and states that the names of prominent Aboriginal people who lived in the area could be used for street names. My questions to the minister are: is he aware of this initiative and, if so, will he inform the council of the proposal?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his question and for his interest in this issue. Local government is playing its role in reconciliation in a number of ways, and this is one way that the Kingston District Council is playing its role. It has also cooperated greatly with the Lacepede Council. The council has been cooperative with developers with a sensitive development in the area of significant Aboriginal heritage. It has worked with developers sensitively to make sure that local Aboriginal groups were consulted through the whole process, and this is a further example of the council's cooperation in reconciliation. I have written to congratulate the Kingston District Council on proposing and subsequently passing a motion to name two streets which start within the Rosetown area of Kingston in recognition of past Aboriginal leaders who have lived in the area. The Kingston area was a meeting place for a number of tribes from the Coorong Lower South-East area.

This is a positive step towards reconciliation, and again I take this opportunity to publicly thank all councillors who supported this initiative. I understand that a working party has been established within the council and the Kungari Aboriginal Heritage Association and other indigenous representatives to develop a memorandum of understanding in relation to addressing Aboriginal heritage issues, and there are still some to be addressed in the area. The MOU proposal resulted in the early stages of the Kingston Cove development between the Kungari Aboriginal Heritage Association and the Kingston District Council, and it has been approved by the council. A working party has been established consisting of the council, council members, Kungari association members and indigenous representatives of Tananekald and Mintank people of the area.

Many local councils across the state are forming partnerships and relationships with their local Aboriginal communities and are entering into agreements to address Aboriginal heritage issues, including land management and social justice issues affecting their local Aboriginal communities. I commend them for it. In relation to the street name proposal, in recognition of the indigenous peoples of the area, the council agreed to name two of the streets within the Kingston Cove development after prominent indigenous people who lived in that region. The street names have officially been agreed by council, and will be called Catherine Gibson Way and Bonney Boulevard. Consultation and approval for the naming of the streets has occurred with the appropriate families. Catherine Gibson Way has been named after the very late Queen Catherine Gibson who died in 1907 aged between 90 and 100 years. She was known as the Queen of the Kingston tribe, and she is buried at the Aboriginal burial ground, which is maintained today by the Kungari Heritage Committee. Leonie Casey is heavily involved in that committee.

Bonney Boulevard has been named after the Bonney family who lived at Kingston. Valda Bonney is the oldest daughter of the late Phillip Bonney and granddaughter of the late Thomas Bonney. They were consulted and approved of the proposal. While all the issues have not been resolved in relation to heritage and development, there is a working party that is working its way through all of the issues.

It is showing progressive signs that local government working with local communities is getting results. They are able to work together and show respect for each other's culture and bring about not just the development that is required within the regional areas of South Australia but also the protection of culture and heritage and the respect that our original inhabitants deserve.

ANANGU PITJANTJATJARA LANDS

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Deputy Premier and the Minister for Police, a question about policing on the APY lands.

Leave granted.

The Hon. KATE REYNOLDS: In his 2002 coronial inquiry into petrol sniffing, the Coroner recommended that night patrols be 'encouraged and supported'. One year ago tomorrow a young Anangu man died (the fourth in 10 months) and, very shortly afterwards, the Deputy Premier

announced that 'radical intervention was now necessary'. He went on to say, 'What is required above everything else is decisive action to ease the pain and suffering in the community.'

The second of the government's advisers on Aboriginal lands issues (Mr Bob Collins) recommended in April last year that 'carefully planned and adequately resourced' night patrols be established. The Premier said on 4 May last year that 'funding will be made available to ensure these services hit the ground as soon as possible'. The Premier also said on that same day, 'The South Australian government is honouring its word that we would do whatever it took to urgently put in place a plan to deliver hope and badly needed services to the APY lands.'

Back in 2003, without any funding, the community of Ernabella (also known as Pukatja) established a night patrol which operated for a short time. Mimili, with a small amount of funding, established a night patrol, but this operates in an ad hoc manner, I am told, because it is not well supported by SAPOL. In Indulkana a patrol commenced in April last year, with no funding or equipment. In fact, in November last year the Deputy Commissioner of Police told the Coroner in the current inquest into four deaths of Anangu that 'night patrol members were patrolling on foot with torches as their only equipment'. He also told the Coroner that in order to be successful the programs 'needed a strong working relationship with police'.

In her submission in November, the Chair of the Aboriginal Lands Task Force told the Coroner, 'The task force is overseeing the implementation of night patrols at Mimili, Pukatja and Indulkana.' She also said, 'SAPOL has responsibility for establishing patrols. Once the patrols are up and running, responsibility will be transferred to the relevant community councils.' She also said that the ad hoc programs will be given more resources. In fact, $163 000 was provided for the 2004-05 financial year by the task force to establish night patrols in Mimili, Indulkana and Ernabella. I understand that the departments have been instructed that this money must—I repeat, must—be spent before the end of this financial year.

I have been told that in recent months the communities have become so disillusioned with the lack of action that they are now no longer willing to wait for the government to act on its promises. Following numerous break-ins in January which resulted in the Pukatja store closing for five days, the community held a meeting and then established its own night patrol with, at best, little but, I am told, no assistance from SAPOL. At times, 15 members of the community have patrolled the township from 10 p.m. to 4 a.m. and I am told that there is already a significant decrease in property crime accompanied by significantly improved school attendance. Mr President, you will be pleased to know that that patrol is still operating. My questions to the minister are:

1. What has happened to the $163 000 provided to SAPOL to fund night patrols on the APY lands?

2. Twelve months on from the announcements of the Premier and the Deputy Premier and 2½ years after the Coroner's recommendation, what action, if any, has been taken by SAPOL to establish and support night patrols across the APY lands?

3. What backup is available to the night patrols and what will be available in the future?

4. What action has SAPOL taken to develop the strong working relationship which the Deputy Commissioner has acknowledged is required to ensure the success of these programs?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer the questions to the Minister for Police and bring back a reply.

ADOPTION

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 Families and Communities, a question about changes to the state adoption services.

Leave granted.

The Hon. A.L. EVANS: I take this opportunity to acknowledge the Hon. Kate Reynolds, who has also asked questions on this matter on previous occasions. I have received correspondence from members of the community who are very concerned at the government's decision to terminate the services of the Australians Aiding Children Adoption Agency (AACAA) and provide these services through one agency, the Adoption and Family Information Service (AFIS). I also note that earlier this month the Minister for Families and Communities in response to a question from the member for Heysen said in the other place that, in the KPMG review of inter-country adoptions and post-adoption services undertaken last year, there was no specific recommendation from the report advocating that adoption services be taken from AACAA and be managed by AFIS. The minister went on to say that he took the view that:

> . . . ministerial responsibility involves exercising your own judgment, making up your own mind, and not having some consultant think for you. I have applied my own commonsense to this public policy decision. I have also considered the various options and made a conscientious decision.

My questions to the minister are:

1. In the department's questions and answers pamphlet explaining changes to the inter-country adoption program, the government has introduced the policy changes to ensure that the South Australian adoption program meets the international best practice in inter-country adoption. Would the minister provide reference information on international studies to confirm this statement?

2. I understand that the review undertaken by KPMG states that some contributors to the report cited examples from other states of increased time frames and costs when government took over the management of the adoption program. Given these examples, will the minister initiate a review in 12 months to assess the efficiency and effectiveness of the policy decision?

3. The minister has stated on previous occasions that a number of child protection notifications were made in relation to eight children over the past 12 months. Would the minister advise of the outcomes of these notifications? Were they investigated and did any of the cases warrant further investigation?

4. Would the minister provide detail on comparative figures in relation to other states in relation to child protection notification and investigation concerning child adoption from overseas?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his well-timed question. I—

The Hon. T.G. Cameron: Don't forget 'interesting'!

The Hon. T.G. ROBERTS: Interesting and well-timed, yes. I will refer those questions to the minister in another place and bring back a reply.

REPLY TO QUESTION

CHILD-CARE

In reply to **Hon A.J. REDFORD** (9 February).

The Hon T.G. ROBERTS: The Minister for Employment, Training and Further education has provided the following information:

The Certificate III in Children's Services is a nine months full time course or part time equivalent and the Diploma of Children's Services is two years full time or part time equivalent. Both the diploma and certificate courses are offered at a number of campuses in metropolitan Adelaide and regional South Australia and are also available via external studies.

The South Australian Tertiary Admissions Centre (SATAC) offers two rounds of entry per year in semester 1 and semester 2, with the majority of places offered in semester 1.

Traineeships to Certificate III level only are also available with 55 people undertaking a traineeship in 2004. However to be classified as a qualified child care worker under the Children's Services regulations, students must have completed the Diploma of Children's Services.

The external studies mode offered through TAFE SA is particularly suited to those working in the industry as it provides the flexibility to enable people to meet their work commitments, as well as gaining a qualification at a pace that suits their needs.

In 2005, all applicants who applied for child care courses through SATAC and met the minimum entry requirements have either been offered an internal place in child care or have been or will be offered the opportunity to study externally. Those students who did not meet the minimum entry requirements will also be contacted through the department's learning works program and offered individual counselling.

PARLIAMENTARY COMMITTEES (PUBLIC WORKS) AMENDMENT BILL

Second reading.

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I move:

That this bill be now read a second time.

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

Leave granted.

The *Parliamentary Committees (Public Works) Amendment Bill 2004* amends the *Parliamentary Committees Act 1991*. The purpose of the Bill is to give effect to a recommendation of the Economic Development Board which focuses on improving Government efficiency and effectiveness. This Bill, in conjunction with the other recommendations of the Board, will improve efficiency, reduce waste, and lead to better outcomes for all South Australians. The provisions in the Bill are consistent with Government policy to improve accountability, and will not only streamline processes, but considerably improve the powers of Parliament to scrutinise Government activity.

Accountability will be improved through the inclusion of major information and communications technology projects. In earlier times these projects did not represent a significant source of expenditure of public funds when compared with expenditure in construction. In modern times these projects represent a significant source of expenditure, and scrutiny by Parliament is appropriate for those computing projects that are of significant value and carry relatively higher risk.

There are also provisions to enable Parliamentary scrutiny of public private partnerships, and other similar arrangements, that result in a significant construction. The Government recognises that these alternative arrangements are part of the modern way of conducting Government business, and that the Act should not preclude scrutiny of the public works that result.

Provision has been allowed for consideration of projects that fall through the cracks of the definition of a public work, and are therefore not in scope for the Public Works Committee (PWC), but for which Parliamentary scrutiny is considered appropriate.

The Bill also proposes that Government must make available information about proposed public works to facilitate self-referral by the PWC. Further, under the Bill a work can be declared as being in scope for the PWC by proclamation.

To balance these considerable improvements in accountability there are several amendments that streamline processes and improve efficiency. The first is the increase of the threshold for mandatory referral to the PWC from $4 million to $10 million and a means by which it can be updated in a consistent and transparent manner.

The definition of public work is tightened so that only projects that are for a public purpose are included.

There are several new provisions which provide greater clarity as to how the financial threshold is calculated.

Definitions or terms that have proved sources of contention in the past have been updated or replaced in order to improve clarity and understanding in the legislation.

It has been recognised that the mandatory referral of all works over a certain dollar threshold is problematic in that works of a common or repetitive nature are referred to the PWC for inquiry. Such projects are relatively straightforward and there is little scope for the PWC to add value. In order to alleviate this inefficiency there is provision that certain works can be excluded with the agreement of the PWC.

Those works which are essentially routine maintenance and form part of the lifecycle of an asset are also excluded.

The Bill contains provision to improve efficiency by allowing works to proceed prior to the Committee's final report. This concession can only occur with agreement from the PWC. This will facilitate progress in those projects where the PWC has inquired and proposes to hand down a favourable report, but there will be some delay before it can be presented to Parliament.

Finally there is an amendment to the *South Australian Ports (Disposal of Maritime Assets) Act 2000* to ensure that this remains in alignment with the *Parliamentary Committees Act 1991*.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Parliamentary Committees Act 1991*

4—Amendment of section 3—Interpretation

There are to be new definitions for the purposes of the Public Works Committee provisions of the Act.

Computing software development project is defined to mean a computing project in which more than 30 per cent of the cost of the project is attributable to work involved in the development or modification of software.

The definition of ***construction*** remains the same in substance although it is made clear that ongoing or regular maintenance or repair work is excluded.

Public funds is defined to mean money provided by Parliament or a State instrumentality.

Public work is defined to mean—

- a construction project for a public purpose in which—
- the cost of the project is wholly or partly met from public funds; or
- construction is wholly or partly carried out on land of the Crown or a State instrumentality; or
- construction is wholly or partly carried out under a contract with the Crown or a State instrumentality; or
- a computing software development project for a public purpose in which the cost of the project is wholly or partly met from public funds.

The new definition of ***public work*** differs from the current definition in several respects—

- computing software development projects are added as a new category of public work

- the reference to construction projects wholly or partly carried out under a contract with the Crown or a State instrumentality extends the range of projects covered to include public private partnership arrangements which have governing contracts with the Crown or Crown agencies obliging the carrying out of construction work; that is, even if no public funds are directed to the actual construction work and the work is carried out on private land
- the construction or computing projects must be projects for a public purpose. This would exclude, for example, an office tower construction project undertaken by a private developer where a contract has been made between the Crown or its agency and the developer under which the developer agrees to construct the tower to certain plans and the Crown or its agency agrees to take space in the tower as a tenant. It would also exclude a construction project that is for a private business purpose but to be assisted financially by a contribution of public funds. On the other hand, public private partnerships for the construction and use of bridges, roads, prisons, etc., would be projects for a public purpose.

5—Amendment of section 12C—Functions of Committee

The expression of the Public Works Committee's functions is revised to reflect the extension of the range of public works to include computing software development projects. Provision is also made for the Committee's functions to extend to projects referred to it by the Governor by Gazette notice.

6—Substitution of section 16A—Notification and reference of certain public works to Public Works Committee

Under the revised provision, a new requirement is introduced for the Government to notify the Public Works Committee of proposed public works with estimated project costs exceeding—

- $1 000 000; or
- if an amount is fixed by proclamation for the purpose—that amount.

A proposed public work will now be automatically referred to the Public Works Committee if it is reasonably estimated that an amount will be applied from public funds to the future cost of the public work that exceeds—

- $10 000 000; or
- if an amount is fixed by proclamation for the purpose—that amount.

The amounts that may be fixed by proclamation will be subject to ceilings arrived at by Consumer Price Index adjustment.

Now public funds will not be able to be applied towards the cost of the development stage of a public work subject to automatic reference to the Public Works Committee until the Committee has inquired into the public work and a final report on the public work has been presented to the Committee's appointing House or has been published under section 17(7). Under the current provision, the commencement of actual construction is barred.

Development stage is defined to mean the stage after completion of processes in the project associated with planning, preparing designs or specifications, acquiring land (if relevant) and tendering or contracting.

Automatic reference to the Committee will not be required for a construction project if—

- the Minister has exempted the project on the ground that the project is to be wholly or partly funded by, or carried out under a contract with, the Superannuation Funds Management Corporation of South Australia
- the Minister has exempted the project on the ground that the project is substantially similar to another project that has been referred to the Committee and the Committee has agreed to the exemption.

Public funds will not be barred from being applied towards the cost of the development stage of a public work subject to automatic reference to the Committee if the Minister has, after the commencement of the Committee's inquiry into the public work, exempted the public work with the agreement of the Committee, subject to any conditions required or agreed to by the Committee.

Provision is also made for estimates of the future cost of a public work—

- to exclude amounts payable by way of taxes or charges that will be refundable to the State or a State instrumentality
- to include the equivalent cost of assets of the State or a State instrumentality that will, as part of the project, be transferred or made available to a contractor.

Schedule 1—Related amendment and transitional provision

Part 1—Amendment of *South Australian Ports (Disposal of Maritime Assets) Act 2000*

1—Amendment of *South Australian Ports (Disposal of Maritime Assets) Act 2000*

A consequential amendment is made to this Act.

Part 2—Transitional provision

2—Transitional provision

This clause spells out that the amendments will not apply to a public work if the development stage of the public work has commenced before the commencement of the measure or if a contract has been made before the commencement of the measure by the Crown or a State instrumentality for the carrying out of work involved in the development stage of the public work.

The Hon. R.I. LUCAS secured the adjournment of the debate.

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

In committee.

(Continued from 28 February. Page 1200.)

Clause 55.

The Hon. P. HOLLOWAY: I would like to clarify an answer that I gave yesterday relating to an earlier clause. During debate on clause 46, the Hon. Nick Xenophon said:

Secondly, I have had discussions with a representative from the Textile Clothing and Footwear Union of Australia, Mr Stephen Brennan. On making inquiries of the New South Wales branch he found that it was not aware of any actions taken by a worker against a principal contractor in the past four years. Can the government indicate whether there has been any action?

In answer to the Hon. Nick Xenophon, I said:

The answer to the second question is: yes; to the best of our knowledge. Nevertheless, we see it as important to have this legislation here in order to promote good conduct within the industry.

Clearly, that yes referred to the comment of Mr Stephen Brennan that 'he found that it was not aware of any actions taken by a worker against a principal contractor in the past four years'. I was confirming that, but I can see from reading *Hansard* this morning that the specific question from the Hon. Nick Xenophon was: 'can the government indicate whether there has been any action?' The answer to that question is clearly no, and I think a full reading of the answer would make that clear. I just wanted to correct the record to make the situation absolutely clear.

The Hon. R.D. LAWSON: I urge the committee to support the amendment standing in my name which, in our view, is a fair compromise between the various positions that have been put forward in the other amendments.

The Hon. P. HOLLOWAY: I urge the committee to support the government amendment. I have drawn this to the Hon. Terry Cameron's attention. I trust that he is now fully informed and that when the vote is taken he will vote accordingly.

The Hon. IAN GILFILLAN: I understood that we were more or less stalled because the Hon. Terry Cameron had not been able to be consulted on how he was intending to vote. Mr Chairman, can you summarise the current state of clause 55? Has subclause (2) been successfully deleted?

The CHAIRMAN: No. We have three amendments. The first—that is, to insert paragraph (da) on page 34, after line 18—is in the name of the minister and will be the first question. I have three other amendments on file in respect of subclause (2)—two provide that it be deleted entirely (and one is dependent on the success of this clause) and another,

standing in the name of the Hon. Mr Lawson (who opposes the first amendment), substituting subclause (2) with a different form of words.

We need to deal with these sequentially, and the first will be the minister's amendment to insert paragraph (da). We have allowed discussion on the four amendments, because they are crucial to one another, and I determined that would be the most efficient way to deal with them. I do not know whether I have proven that point yet.

The Hon. IAN GILFILLAN: Was amendment No. 38 standing in the name of the Hon. Robert Lawson dealt with last night?

The CHAIRMAN: That is part of this consideration. We have allowed three amendments: the honourable member's amendment deletes subclause (2); the minister's amendment deletes subclause (2); and that of the Hon. Mr Lawson amends subclause (2) by deleting the existing words and adding new words to cover essentially the same topics with some different emphasis and points he feels are crucial. Because it was lodged first and appears in the first part of the clause, we will vote first on the amendment of the minister to insert paragraph (da).

The committee divided on the Hon. P. Holloway's amendment:

AYES (9)

Gazzola, J.	Gilfillan, I.
Holloway, P. (teller)	Kanck, S. M.
Reynolds, K.	Roberts, T. G.
Sneath, R. K.	Xenophon, N.
Zollo, C.	

NOES (10)

Cameron, T. G.	Dawkins, J. S. L.
Evans, A. L.	Lawson, R. D. (teller)
Lensink, J. M. A.	Lucas, R. I.
Redford, A. J.	Ridgway, D. W.
Stefani, J. F.	Stephens, T. J.

PAIR

Gago, G. E.	Schaefer, C. V.

Majority of 1 for the noes.

Amendment thus negatived.

The CHAIRMAN: The minister and the Hon. Mr Gilfillan both have an amendment to delete subclause (2). Are you going to pursue those?

The Hon. P. HOLLOWAY: There is probably no point.

The CHAIRMAN: The Hon. Mr Lawson is deleting subclause (2) and substituting words, so we are testing that now. The other proposition is the alternative to the Hon. Mr Gilfillan's amendment.

The Hon. IAN GILFILLAN: It may help if I speak to the way events have evolved. My original amendment was the clear and simple deletion of subclause (2), and I think most members understood that. I believe that, on reflection, and having lost the government amendment, the amendment moved by the Hon. Robert Lawson for a replacement subsection does more good than harm. It uses about four or five times as many words as the government amendment so, apart from having some reluctance to see the statute book expand exponentially, I indicate that the Democrats will support the Hon. Robert Lawson's amendment.

The Hon. T.G. CAMERON: I am wondering whether I could prevail upon the Hon. Robert Lawson to explain his amendment and how it differs from the others.

The Hon. R.D. LAWSON: I am happy to do that for the benefit of the honourable member. This achieves two objectives: first, it does not require the commission automatically to take into account and draw a particular conclusion about failure to comply with the Workers Rehabilitation and Compensation Act, so it removes that element of compulsion. Secondly, it ensures that the Industrial Relations Commission does not itself determine whether or not there has been a breach of the workers compensation legislation. It leaves that decision properly to the WorkCover Corporation or a review authority acting under the Workers Rehabilitation and Compensation Act.

The Hon. Nick Xenophon interjecting:

The Hon. R.D. LAWSON: No, it would not. Under the government's proposal and under the proposal supported by the Australian Democrats the Industrial Relations Commission would be vested with a jurisdiction to make a ruling or finding about—

The Hon. Ian Gilfillan: Nonsense. You are misinterpreting that in gross terms.

The Hon. R.D. LAWSON: With the greatest respect—

The Hon. T.G. Cameron interjecting:

The Hon. Ian Gilfillan: We heard it all last night. Most of us have been through this before.

The Hon. P. HOLLOWAY: I hope my contribution will help clarify things. I think we would agree with the government's position that we would have a new subclause (d) and delete subclause (2). The Liberal proposition moved by Mr Lawson was to delete subclause (2) and insert a new (2a). Given that our amendment has been defeated, we believe the Liberal proposition is the preferable way to go, and in effect we will support that amendment. I think the Hon. Ian Gilfillan is of the same mind.

The Hon. T.G. CAMERON: I add my support to the Labor Party's support of the Liberal Party's amendment.

The Hon. R.D. Lawson's amendment carried; clause as amended passed.

Clause 56.

The Hon. IAN GILFILLAN: I move:

Page 34, after line 31—Insert:

(1b) However, the Commission need not regard re-employment a the preferred remedy if the position to which the applicant would be re-employed is in a business or undertaking where, at the time of the Commission's decision on the application, less than 50 employees are employed.

My amendment is in an amended form. Members should ensure that they have the wording of the amendment I have moved. I have indicated several times in this debate and in others that we are concerned that where the pressure is for re-employment in small enterprises it can cause disruption and continuing ill will and it ought not to be emphasised as necessarily being the preferred remedy when the commission is considering the situation. I urge support for the amendment.

The Hon. P. HOLLOWAY: The amendment seeks to require the commission effectively to disregard the possibility of re-employment as the preferred remedy in cases where an applicant works in a business of fewer than 50 employees. This would disenfranchise former employees of a majority of businesses in the state from any chance of reinstatement.

The whole purpose of the proposal in the bill is that employment is a better remedy than compensation in that it is more lasting and more closely redresses the unfair actions as found by the commission. It is accepted that, in some cases, re-employment may not be appropriate. That is why the commission will still have the ability to award alternative remedies, including compensation. However, for alternative

remedies to be ordered, the commission will need to be satisfied that there are cogent reasons to believe that re-employment would not, in the circumstances of the particular case, be an appropriate remedy. I also draw attention to clause 55(1)(c) and (d) which provide that the commission must take into account the following:

> (c) the degree to which the size of the relevant undertaking, establishment of business impacted on the procedures followed in effecting the dismissal; and
>
> (d) the degree to which the absence of dedicated human resource management specialists or expertise in the relevant undertaking, establishment or business impacted on the procedures followed in effecting the dismissal;

I argue that they do call on the commissioner to make allowances for the size of the business.

The Hon. IAN GILFILLAN: I refer the committee to the actual wording in my amendment which, I believe, has been misrepresented by the minister in saying that the commission would virtually be prevented from ordering re-employment. In its actual wording the amendment states that the commission 'need not regard re-employment as a preferred remedy'. My understanding of the English language is that that leaves the commission with the option of using it as a remedy if, on balance, the commission believes it to be the case. To interpret that as a virtual full stop to the remedy of re-employment, I think, misrepresents the actual wording and intention of my amendment.

The Hon. R.D. LAWSON: I indicate that the Liberal opposition regards the Hon. Ian Gilfillan's amendment as less offensive than the government's proposed amendment and, accordingly, we will be supporting the Hon. Ian Gilfillan's amendment.

The Hon. A.J. REDFORD: There are occasions in our party where we disagree with each other. In fact, I think the government has got this right. The difficulty I see in terms of wrongful dismissal over the years that I practised in it—and, indeed, the last time I went into a court was for a wrongful dismissal matter, apart from the odd personal matter—is that I have always found that there has been an emphasis on how much money an employee can get. What has happened down there is that it has almost been a try-on about employees getting a top-up to a redundancy payment, or something similar to that. Yet, when we look at the history of these provisions, we see that the original intent was always to encourage employers to reinstate employees. That is why we have a situation where a conciliation conference is set up so quickly—so the relationship is not poisoned and so there is an opportunity for re-employment.

I think all in this place subscribe to the principle that a person's job is important and that, if an employer acts in an arbitrary or unfair fashion and takes that important right away, it is that right that we should be protecting. Over the years we have seen this whole system being turned into a top-up to a redundancy payment. In terms of the intent of what the government is trying to achieve here, I agree with it 100 per cent. I think it is probably one of the rare positives in this whole piece of legislation. It provides that re-employment is regarded as the 'preferred remedy', and it then goes on to provide that, if it is 'satisfied that there are cogent reasons to believe that re-employment would not, in the circumstances of the particular case, be an appropriate remedy,' then it can award monetary compensation. I do not see a problem with that if one looks at the original intent of this provision.

All I can say about the Hon. Ian Gilfillan's amendment, with the greatest of respect, is that in the environment in the Industrial Relations Commission, for small business the evils of the top-up, the extra $3 000 or $4 000, will continue unchanged and no benefit will accrue to business as a consequence. What happens down there, Mr Chairman, and I am sure you have been involved in these things—

The Hon. T.G. Cameron: Only when he was sacked.

The Hon. A.J. REDFORD: I am sure he was representing his members. You go down there, and usually I was acting for the employer, and the employee's advocate would come in and say how heinously my client had behaved, and my client and I would have a discussion armed with that information. I would have to give him advice that went something like this: 'If this does not get resolved today, it will be at least a three day hearing. I charge $1 000 a day, so you are $3 000 out of pocket. You cannot claim against the employee unless you prove that the employee acted in bad faith, and it is almost impossible to prove that. So, quite frankly, my advice to you is to throw $1 000 on the table because that is the cheapest way out of this.' Employees are not stupid: they know that is exactly the advice that is being given to the employer while they are sitting there waiting for us to come back. So you go back in and throw $1 000 on the table and usually finish up settling the matter for $1 250 or $1 300. I am using those figures, but it may be a bit more updated as of late.

The government's initiative is attempting to move away from that and go back to the original intent. My view is, quite frankly, that this whole system of wrongful dismissal has become a rort and, if it was returned to a cost jurisdiction (and I know the Hon. Nick Xenophon and I have talked about this in the past), you would not get the abuses that we currently see. That is not the path that either of the major parties want to head down for some reason, so that is not what is in front of us. All I can say is that, if we really want to get back to the basics of wrongful dismissal and dealing with the importance of someone's job, let us get back to the gravamen of reinstatement of a person's job.

I mention in passing the Hon. John Gazzola's interjection. The last time I was in court I was acting for a small business person—a friend of mine, in fact, because they are the only ones who give me work nowadays—

The Hon. T.G. Cameron: He was a friend and he still got bitten for $1 000!

The Hon. A.J. REDFORD: Anyway, listen to the story. I went down there and said, 'This is the way it works,' and I explained it to him. I said, 'Why don't you offer this person her job back?' My client said to me that the former employee was not genuine and it was just a try-on. I said, 'If it is just a try-on and we offer back the job, the employee is going to get the biggest shock of her life, isn't she?' He said, 'Yes, all right, we will try it.' I said, 'Well, trust me', and it was a rare occasion and he trusted his lawyer. So we went back in and said, 'Mr Commissioner, we do not necessarily accept the statements from the employee but we are prepared to use the commission and the process as an official warning.' She was present, her adviser was present, I was present, and the employer was present. We set down the basis upon which employment would be resumed and we said to the employee, 'There's your job back.' And, do you know what? Much to our surprise the employee said, 'Hang on; I do not want to go on with this and I do not want to go back,' and the employee walked away and we knew at that moment it was just a try-on.

Quite frankly, if you are arguing, and I think the business community is arguing, that there are far too many of these applications, with this provision as moved by the government we will see fewer of these applications. I know I part company with my party in taking this stance and I do not often do that, but that is a position I have held, and I have made these comments consistently over the years based on my experience.

The Hon. T.G. CAMERON: I am not quite so sure that I will be as fulsome in my support of the government's initiative as the previous speaker when he indicated that he was 100 per cent in agreement with what the government is doing. However, he is on the right track. It is fair to say that unfair dismissals have been used, at times, not to try to get someone their job back but to try to gain a larger cash settlement out of the employer. For those members who do not believe it goes on, let me dispel them of that view. It does go on. I did it myself when I was an industrial advocate working for the Australian Workers Union. A member would not want their job back but would just want a cash settlement. So, you would lodge an application, fly the kite and you would get your cash settlement and everyone would be happy.

I cannot agree with the Hon. Ian Gilfillan's amendment. With respect, to me, it is a little naive. We have had these resolutions thrown around before about how we will quarantine small business from some of these problems: 20 employees were talked about, and now we are talking about 50. What worries me about demarking, if you like, small business with other than small business is that we will create two different sets of employees. In other words, someone could be doing exactly the same work for an employer who has 49 employees and, if they are dismissed, the commission need not regard re-employment as a preferred remedy. However, a person could be in the factory next door, where there are 55 employees. So, we would have two people working in adjacent buildings where one is bound by a different set of conditions from the other. I have always taken the view that, whether an employee works for a small business or a large corporation, all employees are entitled to be treated equally.

Where I think the Hon. Ian Gilfillan is naive with his amendment is in attempting to create a position where the commission need not regard re-employment as a preferred remedy if there are 50 employees or less. To me, that would be like changing the traffic light from red to amber and saying, 'Well, if you want to come in and screw us for a cash settlement, do it.' My fear is that we would be creating a situation where, if there were fewer than 50 employees, we could be upping the ante for those people in terms of a cash settlement.

I am amazed that the Liberal Party is supporting this amendment. I cannot understand why it is doing so. It sets up different classes of employees. It is setting a standard of 50 employees, which may be taken as some kind of a benchmark for the future. I am at a loss to understand, and I invite the Hon. Robert Lawson to state why they would be prepared to support setting up two classes of employer and employee.

I know that we have all been guilty in the past of being the champions of small business and seeking to represent it here in parliament. My observation is that, since I have been here, the best representative for small business has been the Hon. Ian Gilfillan. I do empathise, and I understand where he comes from. He has been its champion for many years—a champion for lost causes at times. Nevertheless, he keeps having a go. However, on this occasion I think he is wrong. Whilst his intentions are correct and he is intending to somehow or other try to put some kind of protective border around small business, I do not think he will achieve what he thought he would if this clause gets up.

I honestly believe that he will be creating a position where the construction of all the various factors that influence it will mean that, if this clause is successfully passed, not only will we create two sets of employees but also we will encourage unions to screw employers if they have fewer than 50 employees, because their position will be changed.

The Hon. NICK XENOPHON: Unfortunately, I cannot support the amendment of the Hon. Mr Gilfillan. I think that the position outlined by the Hon. Mr Redford was a very fair one; that is, these applications have been used in the past as a way to top up redundancy payments, and it has been seen as an additional method of compensation. In terms of the Hon. Mr Cameron and his expertise in these sorts of matters, I think there is a risk of creating a demarcation between smaller and larger businesses. There is a difference between the paperwork involved in terms of smaller businesses having some protection in respect of the red tape and the protocols involved for a limited period in relation to probationary periods, but this is quite different. The reason why I cannot support this amendment is that I think there is sufficient protection in the legislation (as amended) whereby the commission must take into account the size of the relevant undertaking and the other factors which need to be considered.

Also, in relation to clause 56, it does refer to 'cogent reasons to believe that re-employment would not, in the circumstances of the particular case, be an appropriate remedy'. In terms of the quite genuine concerns of the Hon. Mr Gilfillan, I would have thought that those concerns are well covered in the matters that the commission must take into account and the broad discretion it has in dealing with such matters. For those reasons, I cannot support the amendment.

The Hon. IAN GILFILLAN: I am not persuaded that either the government's amendment or my amendment to the government's amendment are a particularly big deal. If one looks at the act as it is currently worded, it points out that the commission may:

> (a) order that the applicant be re-employed in the applicant's former position without prejudice to the former conditions of employment, or. . .

It then it goes on to qualify that by using terms that would embrace most of my concerns and probably the concerns of small business. The government's move is what it sees as a reform to put the pressure on re-employment, because I understand it to believe philosophically that re-employment is the better option, and therefore legislating for it in these terms will add more weight to the likelihood of re-employment as compared to other forms of settlement.

I do not have a problem with that, but I do feel that the pressure of that, if it is translated into the commission determinations, on smaller businesses will be more difficult to accommodate than on larger businesses. I am sure the Hon. Robert Lawson can speak quite adequately for himself, but I suspect that the bulk of the Liberal Party feel uneasy about this being singled out for particular emphasis in legislation. It is not an injunction and it is not mandatory; it is a recommendation that it be regarded as a preferred remedy, but it is not then inviolate from any further qualification. However, if that is to go in, then it is reasonable to have in the legislation a recognition that the preferred remedy for larger type

employers is not nearly as easily accommodated for smaller employers.

In many ways (and I hope I am not being too trite about it), it is like splitting hairs as to what the wording is and how it is translated. However, I do believe—and I think the Hon. Terry Cameron rightly analysed this—that we as a party have been as protective as we can be of small business in a whole range of areas, and this is one way where it could be put into legislation at least as a signal.

The Hon. R.D. LAWSON: Perhaps I can explain in response to some of the issues why the Liberal Party adopts its position. The Hon. Ian Gilfillan is quite correct to say that the section 109 currently creates a hierarchy under which re-employment is the first option. It is only if re-employment is impractical is it possible for there to be an order that the person be re-employed in some other position.

The final alternative is: if the commission considers that re-employment in any position would not be an appropriate remedy, compensation can be paid. That hierarchy exists. The government has sought to alter that hierarchy by inserting a provision that re-employment is to be regarded as the preferred remedy and that an alternative may be ordered only if there are cogent reasons. We do not regard that as a particular improvement, given the existing hierarchy. However, we do regard the proposal of the Hon. Ian Gillfillan as a somewhat less bad provision because it exempts small business from the regime of unfair dismissals.

We have failed in our effort to have small business exempted entirely from the unfair dismissal regime during the first year of employment, but we believe that it ought be given some special acknowledgment and consideration on the matter of re-employment. The Hon. Ian Gilfillan's provision does that in a way that is to our mind somewhat better than the government's. The Hon. Ian Gilfillan is also correct to say that this amounts to a fair degree of hairsplitting because of the discretions that exist within the commission and the commonsense that is exercised by the commission. I am not convinced that the insertion of provisions of this kind will make any difference to gold-digging applications, which the Hon. Angus Redford says are made from time to time—and they undoubtedly are.

The committee divided on the amendment:

AYES (11)

Dawkins, J. S. L.	Evans, A. L.
Gilfillan, I. (teller)	Kanck, S. M.
Lawson, R. D.	Lensink, J. M. A.
Lucas, R. I.	Reynolds, K.
Ridgway, D. W.	Stefani, J. F.
Stephens, T. J.	

NOES (8)

Cameron, T.G.	Gago, G. E.
Holloway, P. (teller)	Redford, A.J.
Roberts, T. G.	Sneath, R. K.
Xenophon, N.	Zollo, C.

PAIR

Schaefer, C. V.	Gazzola, J.

Majority of 3 for the ayes.

Amendment thus carried.

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

Page 34, lines 32 to 37—Delete subclause (2)

This amendment is consequential upon the earlier deletion of the concept of 'host employer'.

The Hon. P. HOLLOWAY: This amendment is consequential, and we do not oppose it.

Amendment carried; clause as amended passed.

Clause 57 passed.

Clause 58.

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

Page 35, lines 26 and 27—Delete ', in the manner prescribed by the regulations'

This is an amendment to the new provisions in part 8 dealing with workplace surveillance devices. New section 114A will provide that an employer must not use certain listening, surveillance or electronic devices unless the employer has notified the employee 'in the manner prescribed by the regulations'. This amendment seeks to delete those words. We believe that there is no necessity for any regulations to ameliorate these provisions. We can see difficulties arising if executive government can change the effect and operation of this type of provision by passing regulations. We believe that mere notification should be sufficient.

The Hon. P. HOLLOWAY: Clause 58(1) provides that an employer must not use a surveillance device unless the employer has notified the employee, in the manner prescribed by the regulations, of the installation or use of the device. The amendment moved by the Hon. Robert Lawson proposes that the phrase 'in the manner prescribed by the regulations' be deleted. The proposed regime for surveillance will not be onerous. We believe that regulations are an appropriate way to deal with this issue. Regulations remain subject to parliamentary scrutiny but may be further adapted if later required. For those reasons, we oppose the amendment.

The Hon. IAN GILFILLAN: I would describe this as the 'snoop' amendment. It is trying to make it easier for employers to slip in devices to spy on employees, and the Democrats have been opposed to that right across the board. We believe that privacy in the workplace is a right and that the procedure spelt out in the bill—namely, that there be a form of notification properly prescribed by regulation—is the very least that employees are entitled to in this state.

The Hon. NICK XENOPHON: I will ask a question of the minister in relation to the principal amendment and then will refer to the amendment of the Hon. Robert Lawson. What is the interplay between the proposal in new subsection (1)(a) whereby an employer may not use a listening device or cause such a device to be used and the Listening and Surveillance Devices Act 1972 which contains defences, as I understand it, in the circumstances in which a device is used? I am just trying to work out what the interplay is between the two acts and whether there will be an inherent tension between the two. I ask the question genuinely, not knowing the answer. I think that there already is an act that deals with these matters, and I think it is important that we know what the interplay is between the two.

The Hon. P. HOLLOWAY: My advice is that, if any concerns arise, they can be addressed under new section 114A(2), as follows:

Subsection (1) does not apply in any circumstances prescribed by the regulation for the purposes of this section.

That provides the capacity to deal with such situations.

The Hon. IAN GILFILLAN: I refer to the issue raised by the Hon. Terry Stephens in respect of compensation. What about the situation where there is a suspicion of illegal activity? In legislation that we have introduced in a private context, we recognise that, where there is a suspicion, the employer would be able, through a magistrate, to have permission for a timed period in which covert surveillance could be put into a workplace, and we have no qualms about

that. If there is a suspicion of illegal activity, there is no reason why it should not be apprehended. New section 114A(2) provides:

> Subsection (1) does not apply in any circumstances prescribed by the regulations for the purposes of this section.

That may very easily cover the circumstances of suspected illegal activity. If it does not, I would be interested if the minister could explain what it covers, and would he put into *Hansard* an assurance that in fact new subsection (2) is specifically there for the measures I have just outlined?

The Hon. P. HOLLOWAY: The government considers that new subsection 2(4) would be used for such things as illegal activity.

The Hon. NICK XENOPHON: In terms of my earlier question, can the minister assure the committee that any regulations will take into account the existing legislation with respect to listening and surveillance devices and, further, what consultation will there be, in broad terms, before these regulations come into force, taking into account the concerns of employers and also the privacy concerns of employees?

The Hon. P. HOLLOWAY: The government on these sorts of matters always consults with major groups such as Business SA and Unions SA, so in relation to consultation I can affirm that, in relation to the first question, yes, we certainly will take into account any conflict issues. We will have to check this with parliamentary counsel, but I would be surprised if there was a conflict.

The Hon. R.D. LAWSON: I should indicate that, having moved this amendment, it is designed to improve a provision which we regard as offensive, and we will not be supporting the clause itself. I am glad to hear that the Australian Democrats also will not be supporting this provision.

There is a myriad of reasons why a surveillance device may be appropriate in a workplace. They may include security for people, security of goods, for health and safety reasons. These devices are not, as the proponents of this bill seem to suggest, things to spy on workers. We believe that accommodating those vast reasons will give rise to varying considerations, and they will differ from workplace to workplace. We have cameras at the entrances to this building which presumably will be affected by provisions of this kind. How is notice given?

Would the sort of notice given to workers within Parliament House be appropriate to workers in some other place? We do not believe that a one size fits all solution to this question of workplace surveillance is appropriate, given that this regulation is now being introduced at a time when there are a vast number of surveillance devices on roads, in public places and in malls, airport terminals, banks and streets, which are working places for many people. We believe there is such a vast range of situations that a measure of this kind is inappropriate. If you are to be able to say in every employment contract or letter of appointment that one will be subject to workplace surveillance, then what is the purpose of a general provision of this kind?

The Hon. Ian Gilfillan suggests that you would have to notify workers of the particular hours and obtain a warrant from a magistrate as to a particular time at which the cameras operate. We regard that as a highly bureaucratic, unnecessarily onerous requirement. The fact that regulations can be introduced to control it gives us no comfort at all. The minister, when asked by the Hon. Ian Gilfillan, really did not commit to the sorts of regulations the government has in mind to give life to those provisions. It is for those reasons that we will oppose the clause itself. I specifically move this amendment to remove one of the offensive provisions, but it is by no means the most offensive of them.

The Hon. NICK XENOPHON: Following on from the comments made by the Hon. Mr Lawson, what does the minister say is the case where the surveillance device is primarily there with respect to members of the public, whether in a nightclub, licensed premises, the casino or in a bank where the primary purpose of the visual surveillance device usually is for security reasons but where it will also incidentally have the role of visual surveillance over employees? What does the government say about that? Does it mean that businesses will need to jump through hoops in the circumstances where the primary purpose is clearly one of security?

The Hon. P. HOLLOWAY: Where the purpose is one of security, that sort of issue would be addressed under the regulations.

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: Why do you have regulations rather than an act? You have regulations so you can consider a complex matter within those regulations and can dot all the i's and cross all the t's to make sure you get it right. That is why we have regulations. I would have thought that this was a fairly complex area. As has been discussed in debate, there are cases where those sorts of surveillance devices might be used for public protection or for security reasons where their use is legitimate. The regulations are there to enable it to be regulated in such a way that you can sort out what is legitimate use from a purpose that would be inappropriately spying on workers.

The Hon. R.D. LAWSON: Today's newspaper carries a perfect example of the sort of complexities I am speaking about. The Ramsgate Hotel was allegedly the scene the night before last of the death of an individual. The event was caught on security cameras. Are those cameras there for the protection of the public or can that film be used to identify misconduct, if indeed there was misconduct, by an employee—a security guard at the place? Is it a device that is there solely for the purpose of protecting the public? Can it be used to obtain evidence against an employee? It may have both purposes. This provision suggests that it is appropriate to have a device for the protection of the public, but if that device is also being used as surveillance over the place where someone is working, then different considerations have to apply. We do not believe a case has been made out for the introduction of a complex imposition of new provisions over the top of a security system that exists in many places.

The Hon. P. HOLLOWAY: The opposition is seeking to have no controls whatsoever over the use of devices. This clause gives us the capacity, through regulation, to ensure that if there is a legitimate need for devices for security reasons they can be used, but that they will not be used for the purpose of monitoring conversations of employees and that sort of thing. In the case of the Ramsgate Hotel that the honourable member uses, I do not think it was relevant that that camera would record or monitor the conversations of an employee.

The Hon. R.D. LAWSON: I think the casino provides another good example of where the security surveillance devices are used to detect malpractice on the part of both players and employees. One might say that that case would be covered because no doubt that organisation would ensure that it had in any contract of employment a specific notice that 'you may be subject to surveillance 24 hours a day', but

the regulations might impose a more stringent requirement and we have not seen these regulations. We believe it would be more appropriate that this issue—and we do not trivialise the issue; it is to be dealt with—should not be dealt with just in the industrial relations bill.

The Hon. T.G. CAMERON: I have grave reservations about this entire clause, and I am not keen on supporting it. I am not keen on supporting it, because I start out from a simple premise that I do not believe employers should be using listening devices or visual surveillance to monitor their staff. There may be special circumstances or exceptions were theft is suspected, and the Hon. Ian Gilfillan dealt with that. I guess I am getting a little bit too old for this game, but I can remember a period when we did not like the thought of having listening and surveillance devices on our roads, in corridors, in our shops—in fact, almost everywhere you go these days you are under some kind of surveillance. I do not necessarily agree with it. To me it smacks of big brother. These days, every time you pick up a phone you never know whether or not you are being recorded. Whenever you go into a shopping centre or even walk down North Terrace or King William Street, I suppose you are being photographed by cameras. Various organisations have cameras outside for—

The Hon. Ian Gilfillan interjecting:

The Hon. T.G. CAMERON: Well, coming into Parliament House too, I suppose, is another example. The era we live in means that we are going to have more and more of these things around. I do not like the idea of supporting a proposition which will allow a government—on this occasion it is a Labor government—to bring in regulations regarding the installation of these devices. It may be fine; you may cobble together a set of regulations that will satisfy the unions in South Australia and everybody else, and they will not be disallowed. However, I wonder whether down the track there is any potential for these regulations to be misused, perhaps by another government.

The Hon. Ian Gilfillan interjecting:

The Hon. T.G. CAMERON: Yes; I do understand that. It states '. . . must not unless the employer has notified the employee in the manner prescribed by the regulations'. Once the regulations are set down, provided the employer notifies the employee that they have surveillance in the place, and that it is in accordance with the regulations, they can put up whatever they like; can't they?

The Hon. Ian Gilfillan: It depends on what is in the regulations.

The Hon. T.G. CAMERON: Exactly; thank you. I think the Hon. Ian Gilfillan, agrees with me: it depends upon what is in the regulations. I know that I would feel a lot more comfortable having this clause set aside and looking at the regulations. I do not know whether there is any mechanism whereby an amendment can be moved so that this particular clause does not come into operation until such time as we have approved the regulations. I am not about to support it not knowing what regulations will govern the use of listening and surveillance devices. I do not believe employers will install them in their place for the protection of their employees. They will be installed to be used at some later date, whether it be for discipline or dismissal. I am not prepared to support this unless I know where we are going with the regulations.

The committee divided on the amendment:

AYES (10)

Cameron, T. G.	Dawkins, J. S. L.
Evans, A. L.	Lawson, R. D. (teller)

AYES (cont.)

Lensink, J. M. A.	Lucas, R. I.
Redford, A. J.	Ridgway, D. W.
Stefani, J. F.	Stephens, T. J.

NOES (9)

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

PAIR

Schaefer, C. V.	Zollo, C.

Majority of 1 for the ayes.

Amendment thus carried.

Progress reported; committee to sit again.

ADELAIDE DOLPHIN SANCTUARY BILL

Adjourned debate on second reading.

(Continued from 28 February. Page 1179.)

The Hon. SANDRA KANCK: There has been great enthusiasm from the public for the creation of a dolphin sanctuary, and people such as Dr Mike Bosley, for instance, have lobbied strongly over time to have this protection for the dolphins in the Port River. Given the way the public feels about dolphins, it is a very astute move by the government to take the action of creating this sanctuary. The protection for these dolphins could have come through existing acts. Usually sanctuaries are created by proclamation in *The Government Gazette*, but the process of doing it this way provides a separate status for the sanctuary that most sanctuaries do not receive.

The Democrats commend the government for recognising not only the importance of the dolphins but also the habitat on which the dolphins depend. However, if you are going to look after dolphins, you have to ensure that not only do they have water of a suitable quality to swim in but also fish to eat; and having fish for them to eat means you must look after the breeding and nursery grounds for the fish; and that means looking after the mangroves. The mangroves at Port Adelaide are very significant. They are the southern-most stand of gray mangroves in the world.

Again, I hope that the government realises the significance of what it is doing in creating this sanctuary. This is a very important action. It is certainly an improvement on the days of the Bannon government when we had plans for the MFP, and it was fairly clear that the proponents of that had no idea of the importance of mangroves. I well recall going to a public consultation meeting representing the Conservation Council, and I asked a question of the proponents about preservation of the mangroves. One of the things that was intended as part of the development of the MFP was an increase in the height of much of that area so it could be built on, which meant that the mangroves would suddenly not be able to move further inland if there was any increase in sea level and therefore river level height.

One of the important facts about mangroves is that they need that very frequent washing of water in and out so that their roots are exposed and then covered with water. Basically, it needs to happen almost once a day. The proponents of the MFP, in answer to my question, said, 'We are neither for nor against the mangroves. At that point the head of the department of fisheries stood up and yelled at the proponents, saying that they did not have a clue about mangroves and

stormed out of the meeting. So, as I say, there has been a great change in attitude towards the mangroves.

The spin-off is that, in protecting dolphins, the prospects for a lot of other species will be improved because, if we protect the mangroves in order to protect the fish, we will also enhance bird life. There are quite a lot of birds which nest or roost in the trees or which eat some of those fish. If you have protection, more fish means more birds, so potentially it is a significant move.

One of the things which we need to consider about the location of this sanctuary is that we are talking about a very degraded ecosystem, particularly regarding the state of the Port River and, when we get further out into the estuary, the problems that have emerged over time with discharge of sewage into the gulf. Historically along the edge of the Port River, we have had some very toxic industries. We have seen the issue of wash from boats, including speed boats. We have seen and continue to see heated water coming out of power stations. The area has been used as a rubbish dump. As I say, it is a very degraded area.

I take members back to the year—I am not sure whether it was 2000 or 2001—when parliament had before it a bill to handle the disposal of maritime assets associated with the Ports Corporation. Again I have to rap the Labor Party over the knuckles. It took a position of opposition to the bill, somehow thinking that, if it opposed it, it could oppose the sale, when, in fact, it was not like the electricity assets: it did not require a bill from parliament for those ports to be sold. Under the circumstances, we needed to ensure that, in the handing over of the assets to private operators, we had as many protections in place as we could. I entered into negotiation with the Minister for Infrastructure, Dr Michael Armitage, particularly in relation to the issue of where a deep sea port would be, whether it would be located in the Port River or at Outer Harbor in order that panamax vessels would be able to dock.

Wherever that was going to happen, there needed to be some sort of dredging. With the knowledge that I had of the fairly toxic state of the sediments in the Port River, I asked Dr Armitage to commission a study into the quality of those sediments. And, to his credit, he did so. The results showed that, if we were intending to deepen the Port River, we would be stirring up enormous amounts of heavy metals; and one of the things about heavy metals is that it is best to leave the sediment just to sit and subside, rather than try to stir it up in any way. Therefore, the decision was made that the Port River would not be dredged and, rather, any grain terminal would be located at Outer Harbor and subsequent dredging would occur there.

I remember as a child having our holidays at Port Adelaide. I can recall walking along Snowdens Beach and north of that area, marvelling at the very pretty yellow coming into the water from a factory alongside the Port River. I subsequently realised, as I grew a little older, that in fact we were dealing with sulphur coming from the Sulphide Corporation. If we go back a century or so, at Port Adelaide there were industries which used mercury right alongside the river; and, as recently as 20 years ago, we had a significant spill of copper chrome arsenate into the Port River. We are, as I say, dealing with a degraded environment, and this must be an important part of any consideration of how the government goes about protecting the dolphins in this area. In the minister's second reading explanation, he said:

> The intent of the Adelaide Dolphin Sanctuary Bill 2004 is not to create new regulatory requirements for the area. Rather, it is intended that the bill will provide focus and specific purpose for the enforcement of existing legislative requirements.

In a sense, what he says is: situation normal—nothing will change.

Hopefully, however, the existence of a sanctuary will put pressure on the government to make repairs, and I predict that the symbolism of the existence of the sanctuary will create a demand for that repair to occur. Given what the minister said in his explanation, what exactly is it that this bill will do when it is enacted? It would appear that the answer is: not much. The creation of this sanctuary will be more a matter of heat than light. Ministerial powers are lacking. If there is a conflict, then the minister's job is to take it to cabinet. Then what? The minister will have no powers at all to override. The words in clause 25, 'Functions and powers of Minister', give members an indication of how soft and weak this legislation is. Clause 25(1) provides:

> . . . to provide advice with respect to the approval of activities proposed to be undertaken. . . to consult with relevant persons. . . as far as reasonably practicable and appropriate, to act to integrate the administration of this act with the administration of other legislation that may affect the sanctuary; to institute, supervise or promote programs to protect, maintain or improve the sanctuary; to promote the undertaking of monitoring and research programs. . . to promote public awareness of the importance of a healthy Port Adelaide River estuary and Barker Inlet.

It does not say that they will do anything about it: they will just promote it and say that it is a good idea for it to be healthy. Paragraph (h) provides:

> to conduct or promote public education in relation to the protection, improvement or enhancement of the sanctuary;

In other words, the minister is not going to do much, other than to say, 'Wouldn't it be a good idea if such and such was done?'

Clause 22 enables the government to set up the Adelaide Dolphin Sanctuary Fund, which sounds a reasonable sort of way to ensure that the sanctuary is able to provide the protections that it pretends it is going to. I would like to know from the minister with regard to grants, gifts and bequests (as are envisaged in clause 22(2)(c)) how the government intends to get that. Will it be advertising to seek gifts and bequests? I also wonder whether the government will put any seed funding into that fund. The Whale and Dolphin Conservation Society in its submission on the draft bill suggests:

> . . . in order to ensure that monitoring of compliance is covered, we recommend that either a Dolphin Sanctuary Levy be applied to all businesses in the region, or that the Minister be given discretion to require that those businesses considered harmful to the sanctuary cover the cost of monitoring their compliance.

It appears to me from my reading of the bill that this suggestion from the Whale and Dolphin Conservation Society has been ignored. I wonder why the government rejected this suggestion. There is a strange provision in clause 25(3), particularly in the light of the fact that so much of this bill shows the minister to be powerless. It provides:

> The minister has the power to do anything necessary, expedient or incidental to—
> (a) performing the functions of the minister under this act;
> (b) or administering this act;
> (c) or furthering the objects and objectives of this act.

I wonder what exactly the government has in mind with this provision given that, in all aspects of conflict with another act, the best that the minister can do is to take it to cabinet and hope that cabinet will see it his way.

The act requires the minister to have a management plan prepared within one year of the proclamation of the bill. I am

keen, of course, for the bill to be proclaimed quickly so that we can ensure that that one year starts soon and then is able to be completed so that we know that the management plan will be completed. How quickly does the government plan to proclaim this bill once it is passed? I would also like the minister to advise me what protections will be in place in the sanctuary while the management plan is prepared. Presumably, based on the minister's second reading explanation, there will be nothing other than what currently exists.

Like all new acts, this one will be only as good as the enforcement that follows its proclamation. I wonder whether the government intends to provide any extra personnel so that that enforcement can occur and what powers of enforcement will exist. The Whale and Dolphin Conservation Society's submission on the draft bill suggests a need for civil enforcement provisions. I would like to know what consideration the government gave to that suggestion and why it appears to have rejected it.

Schedule 2 of the bill is where we see the overlap of this bill with other legislation such as the Aquaculture Act, the Coast Protection Act, the Development Act, the Fisheries Act, the Environment Protection Act, the Historic Shipwrecks Act, and a few others. The first one that appears in the schedule is the Aquaculture Act. Clause 3 of schedule 2 provides:

> Insofar as an aquaculture policy applies within the Adelaide Dolphin Sanctuary, the policy must seek to further the objects and objectives of the Adelaide Dolphin Sanctuary Act 2004 and, in particular, should contain the prescribed criteria to this effect.

I suggest that it would be pretty well nigh impossible to develop an aquaculture policy that furthers the objects and objectives of the Adelaide Dolphin Sanctuary Act 2004. It seems to me that aquaculture is quite incompatible with a dolphin sanctuary. I turn again to the submission from the Whale and Dolphin Conservation Society, which states:

> The threat that aquaculture poses marine mammals is well-established. Aquaculture is simply not appropriate for inclusion in the critical habitat of dolphins—particularly that which has been declared a formal Sanctuary. The Bill should deal with this upfront, and therefore provide certainty for all from the beginning. If the Government is serious about protecting the dolphins and their habitat via the Sanctuary, it should do so via the Bill and preclude all aquaculture in the Sanctuary.

The government has ignored that advice and, I suspect, the advice of a lot of people who work in this area. I would be interested to hear how the minister thinks aquaculture can in any way be made compatible with a dolphin sanctuary.

The Native Vegetation Act is another act that is involved in the schedule. I have to say that this is pretty scary. Clause 52 of schedule 2 provides:

> If an application for the council's [Native Vegetation Council's] consent relates to native vegetation within the Adelaide Dolphin Sanctuary and is within a class of applications prescribed by the regulations for the purposes of this provision (which class may be prescribed so as to consist of applications for all such consents), the council must, before giving its consent, consult with and have regard to the views of the minister for the Adelaide Dolphin Sanctuary.

What is the government's interpretation of 'consult with and have regard to'? I think the experience of many involved in the environment movement over the years is that this means that you go through the motions of consultation: you hear but you do not listen to the advice, and then you go away and ignore it. If the Native Vegetation Council is at any stage contemplating the destruction of mangroves, surely this is one of the acts in this schedule where the environment minister should be able to override it.

As I have said, the mangroves in the Port Adelaide River and estuary are the southernmost stand of grey mangroves in the world. They are an essential nursery to our fish. The mangroves have already been diminished over decades as a result of the damage caused by sewage, and they are now threatened by global warming and the consequent rise in sea level. It is beyond me to think that an application for destruction of the mangroves could even be considered but, if it is, the minister appears to have very little power. I indicate that this is one area of the bill where the government can expect an amendment from the Democrats.

Overall, the bill is a bit of a paper tiger. It makes the government look good without having to do too much, and it makes the government look as though it cares for the environment. Having been a primary school teacher for three years of my life, I suspect that one of the positives that will come from the creation of this sanctuary (particularly as the minister has a role in promoting it and educating people about its value) is that there will be school excursions to the area. The apparent protection given to the dolphins by this act will draw attention to these mammals, and that is a very good starting point from which to educate children about the interrelationships in the environment.

I know that if I were a teacher taking a group of children to the area I would link very clearly the degradation of the environment with the history and the toxic industry there. I would tell them about the risk of aquaculture to the area and the risk of the destruction of the mangroves. As this legislation lacks any real teeth, if word got out to the children who visited this site of any potential threat to the dolphins, the government would have hell to pay if it stood idly by and allowed any further degradation of that environment.

Although there is little enforcement value in this bill, in claiming a right to sanctuary for the dolphins the government might have opened a Pandora's box. If that is the case, the Democrats welcome it. When a situation arises of conflict between, for example, the dolphins and industry, or the dolphins and sport, it may well be that the subsequent public outcry and vote of passion will decide the outcome for the government. The government will get lots of brownie points from this venture with little effort. This bill is a beginning, and the Democrats hope that from this will come pressure for far greater protection of the natural ecosystems in this proposed sanctuary. I indicate Democrat support for the second reading.

The Hon. J. GAZZOLA secured the adjournment of the debate.

PARLIAMENTARY SUPERANNUATION (SCHEME FOR NEW MEMBERS) AMENDMENT BILL

Received from the House of Assembly and read a first time.

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I move:

> That this bill be now read a second time.

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

Leave granted.

> In February 2004, the Premier made a Ministerial Statement to this Parliament, announcing the government's decision to close to new entrants, the existing superannuation scheme for Members of the Parliament, and establish a new less expensive scheme for persons elected to this parliament at the next general election.

Cabinet made the decision on the basis that the existing pension schemes for Members of the Parliament were too generous in the current economic environment and too expensive for taxpayers who ultimately meet a substantial portion of the cost. The Bill which is now before the Parliament delivers on the government's commitment to close the existing Parliamentary Superannuation Scheme and establish a less expensive scheme for future Members of the Parliament.

The cost to taxpayers of the current schemes is around 50% of members' salaries and the cost of the new scheme proposed in this Bill is around 10% of members' salaries. Governments in the past have been under pressure from time to time to take action to reduce the generosity of the superannuation scheme for Members of Parliament, but it has taken the Rann Government to take the necessary action.

The Bill before the Parliament seeks to amend the *Parliamentary Superannuation Act 1974*, by closing the existing scheme, known in the Act as the 'new scheme', which pays indexed pensions to members who leave the Parliament. The 'old scheme' referred to in the current Act was closed to new entrants in 1995. The new scheme to be established by this legislation will be an accumulation style scheme more akin to the style of scheme available to the community.

Members of the new scheme will have an option to contribute some of their own money to the scheme or not contribute. In the situation where a member chooses not to contribute some of his or her own money, there will be a government contribution of 9 per cent of 'salary' paid into an account in the name of the member. Where a member elects to contribute at least 4.5% of their salary into the scheme, the government will contribute 10% of salary into an account in the name of the member. The levels of government subsidy in this scheme match that provided in the government's Triple S Scheme for government employees.

The Bill also seeks to make an amendment to the *Parliamentary Remuneration Act 1990* to the extent of providing the option for members of the new scheme to be able to sacrifice part of their salary for superannuation purposes, thereby investing in their own future retirements. The sacrificing of salary for superannuation option will only be available for members covered by the new accumulation superannuation scheme which is to be known as the PSS3 Scheme. The closed schemes are to known as the PSS1 and PSS2 Schemes. Under the proposed amendments to the *Parliamentary Remuneration Act*, a new member will be able to sacrifice up to 50% of their salary.

The government will be fully funding the new scheme, just as it has the existing two schemes. Under the Bill, the government is required to make its required contribution to the Parliamentary Superannuation Fund within 7 days of salary being paid to the member. As with the assets of the existing Fund, the assets of the new scheme will be invested by the Superannuation Funds Management Corporation of South Australia, known as FundsSA.

The Bill provides that members of the new scheme will have access to an arrangement under which they can select from a number of investment strategies made available by the Parliamentary Superannuation Board in conjunction with FundsSA. For those members who do not wish to select an investment strategy from the range on offer by the Board, a standard or 'balanced option' will be applied to the member's interest in the scheme. Member Investment Choice has over the last few years become a standard feature of accumulation style schemes throughout Australia, and is already available in the Triple S Scheme for government employees. Just as members can select an investment strategy, members will be able to switch from one investment strategy to another of those on offer. Member Investment Choice will enable members to target an investment strategy appropriate for their needs, and this is important since the level of benefits payable from the scheme will not be guaranteed, unlike the position in the two existing schemes.

As with any good superannuation arrangement, invalidity and death insurance cover will be provided to all members of the scheme. Members of the new scheme will have automatic death and invalidity insurance cover with a maximum cover of five times 'salary'. The level of insurance cover will reduce over time as the length of service and the accumulated government contribution account balance increases. The level of cover is also designed to taper off after age 65 as the level of insurance risk increases, such that at age 70, there will be no insurance cover available within the scheme. The tapering off of insurance cover provides a standard style of cover.

The Bill also seeks to provide a facility for members to be able to pay a surcharge debt out of their lump sum superannuation benefit. As in this scheme the benefits will not be taxed until paid, the proposed arrangement provides for part of a benefit payable to be retained in the scheme and used to extinguish a surcharge debt when the final assessment notice is issued by the Australian Taxation Office. This arrangement will enable members receiving lump sum benefits to pay their surcharge debt on the same taxation basis as a person with a surcharge debt in a private sector scheme. This proposal is the same as the arrangement recently enacted in the *Statutes Amendment (Miscellaneous Superannuation Measures) Act 2004*, for members of the government's existing lump sum superannuation schemes.

The new scheme will apply to all members who are elected to the Parliament at or after the next general election, and will also apply to any former member who is re-elected to the Parliament after that date. Members of the existing schemes will not have the option to move over to the new PSS3 Scheme. The legislation has no impact on the entitlements or prospective entitlements of existing Members of Parliament. Furthermore, the legislation has no impact on persons who are already in receipt of a pension benefit under the existing Act, and will not affect any reversionary entitlements which flow from a person's current membership and entitlement.

The Bill also contains a number of minor technical amendments to address deficiencies in the current Act, and to make amendments which are consequential on the existing pension scheme being closed to new entrants, including persons who re enter the Parliament after having previously been a member, and persons who 'transfer' from another Parliament.

The Bill also includes an amendment to clarify the position that the amendments made to the Act under the *Statutes Amendment (Equal Superannuation Entitlements for Same Sex Couples) Act 2003* which provided for the payment of a pension, lump sum or other benefit to a person on the death of a member, apply only if the death occurs, or occurred, on or after 3 July 2003. This is the date of the proclamation issued by the Governor, effectively bringing the provisions of the amending Act into operation. Whilst the proposed amendment does not remove or alter any existing entitlement in terms of the current law, it is being inserted into the Act to avoid any doubt that the provisions only apply from the commencement date of the 2003 amending Act.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

This clause provides that the measure will come into operation on a day to be fixed by proclamation. However, section 47 will be taken to have come into operation on 3 July 2003 (the day on which the *Statutes Amendment (Equal Superannuation Entitlements for Same Sex Couples) Act 2003* came into operation).

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Parliamentary Superannuation Act 1974*

4—Amendment of section 5—Interpretation

This clause inserts a number of definitions required for the purposes of the superannuation scheme for new members established by the *Parliamentary Superannuation Act 1974* ("the Act"). This clause also changes some of the terminology used in relation to the schemes currently operating under the Act.

Definitions of ***death insurance benefit***, ***deferred superannuation contributions surcharge***, ***invalidity insurance benefit***, ***SIS Act***, ***Superannuation Contributions Tax Act*** and ***surcharge notice*** are relevant to the insurance available to members of the new scheme and options available to members in respect of payment of the Commonwealth deferred superannuation contributions surcharge.

Other new definitions are relevant to the reclassification of the schemes. The scheme of superannuation established by the *Parliamentary Superannuation Act 1974* in relation to persons who first became members before the commencement of the *Parliamentary Superannuation (New Scheme) Amendment Act 1995* will be known as ***PSS 1***. The scheme of superannuation established by the *Parliamentary Superannuation Act 1974* in relation to persons who first became members on or after the enactment of the *Parliamentary Superannuation (New*

Scheme) Amendment Act 1995 will be known as ***PSS 2***. The new scheme, established by this Act, which relates to persons who first become members after the election held to determine membership of the 51st Parliament, is known as ***PSS 3***.

The definition of ***superannuation salary sacrifice*** is connected to the amendments made to the *Parliamentary Remuneration Act 1990* by Part 3.

A number of consequential amendments are also made by this clause, including the removal of the definitions of ***old scheme member***, ***old scheme member pensioner***, ***new scheme member*** and ***new scheme member pensioner***. These definitions are no longer required because of new terminology applied to the schemes as a result of the amendments made by this Act.

5—Amendment of section 6—Voluntary and involuntary retirement

Under section 6(3), a member will be taken to have retired voluntarily for the purposes of the Act unless he or she ceased to be a member in the circumstances listed in the provision. As a consequence of the amendment made by this clause, a member will not be taken to have retired voluntarily if the member ceases to be a member on the grounds of invalidity or ill health that prevents the member from being able to carry out the duties of office to a reasonable degree.

An additional amendment to section 6 has the effect of deeming a former member to have retired involuntarily if—

- at the conclusion of the member's last term of office as a member of Parliament, he or she stood as a candidate for re-election to the same House at the ensuing election but was defeated; and
- both at the time of the former member's election in respect of his or her last term of office and at the subsequent election, he or she was—
  - endorsed by the same political party; or
  - an independent candidate.

The definition of ***judge*** is removed from section 6 because clause 4 inserts that definition into section 5.

6—Amendment of section 7—Computation of service

These are consequential amendments.

7—Insertion of sections 7C, 7D and 7E

New **section 7C** provides for the arrangement of the superannuation schemes established under the *Parliamentary Superannuation Act 1974* into ***PSS 1*** (currently the old scheme), ***PSS 2*** (currently the new scheme) and ***PSS 3*** (the scheme introduced by this Act).

New **section 7D** provides that a member who first became a member before the commencement of the *Parliamentary Superannuation (New Scheme) Amendment Act 1995* is a member of PSS 1. A member who first became a member of Parliament on or after the commencement of the *Parliamentary Superannuation (New Scheme) Amendment Act 1995* and before the date of the election held to determine the membership of the 51st Parliament, or who made an election to transfer to the new scheme under section 35A of the Act, is a member of PSS 2. A member who first becomes a member of Parliament after the date of that election, or again becomes a member of Parliament after that date following a break in membership, will be a member of PSS 3.

Subsection (5) states that, despite the above, if—

- a PSS 1 or PSS 2 member stands for re-election but is not returned as having been elected, and
- the Court of Disputed Returns subsequently declares the member to have been duly elected at that election or it declares the election void and the member is elected at the subsequent by-election, and
- the member, within 3 months following a declaration by the Court that the member has been re-elected, or within 3 months after re-election following a declaration by the Court that the election was void, or within such further period as the South Australian Parliamentary Superannuation Board (in its absolute discretion) allows, makes an election under subsection (6),

the member may continue as a member of PSS 1 or PSS 2.

For the purposes of the Act, the period of service of a member who continues as a PSS 1 or PSS 2 member under subsection (5) will be taken to include previous service that the member was, at the termination of the member's immediately preceding period of service, entitled to have counted as service under the Act. The period will also be taken to include the period during which the member was unable to take his or her seat in Parliament by reason of not being returned as elected in the first instance.

If a PSS 3 member stands for re-election but is not returned as having been re-elected and the Court of Disputed Returns subsequently declares the member to have been duly elected at that election, or it declares the election void and the member is elected at the subsequent by-election, the member must, in accordance with a determination of the Board, pay the following amounts to the Treasurer:

- an amount equal to the contributions that the member would have paid under Part 3 Division 3 of the Act if the member had been returned in the first instance and been liable to make contributions at the rate that applied to the member immediately before the original election;
- an amount equal to the amount (if any) paid to the member under the Act following the return made at the original election.

The fact that a former PSS 1 or former PSS 2 member who returns to Parliament then becomes a PSS 3 member under section 7D does not prejudice any entitlement that he or she may have under the Act with respect to his or her former membership of PSS 1 or PSS 2 before the break in membership of the Parliament.

Under **section 7E**, the Board must, on application, permit a PSS 1 or PSS 2 member for whom an amount of money may be carried over from another superannuation fund or scheme, or a former PSS 2 member who has a lump sum preserved under Part 4 of the Act, to become a PSS 3 member in order to establish a rollover account for the member under the Act. Section 7E(2) sets out various provisions that apply in connection with the operation of subsection (1) and provides that the Governor may, by regulation, make any other provision as the Governor thinks fit, including by providing that other provisions of the Act do not apply to a person who is a PSS 3 member by virtue of section 7E, or apply to such a member subject to any modifications prescribed by the regulations.

8—Amendment of section 13—The Fund

This clause amends section 13 to provide that the Superannuation Funds Management Corporation of South Australia must establish a distinct part of the Parliamentary Superannuation Fund ("the Fund") with the name *PSS 3—Government Contributions Division*. Subsection (4) is amended to provide that the Treasurer must make the following payments into the Fund from the Consolidated Account or a special deposit account:

- periodic contributions to ensure that the entitlements of PSS 1 and PSS 2 members are fully funded as required;
- any amount that is received by the Treasurer on account of money carried over from another superannuation fund or scheme and to be paid into a rollover account of the member;
- the Government contributions required under section 14C of the Act (to be held in the PSS 3—Government Contributions Division);
- any amount that is required to be paid to satisfy the payment of an invalidity/death insurance benefit;
- any other amount that must be credited to the Fund by the Treasurer under another provision of the Act.

9—Insertion of section 13AB

The Board is required to maintain a rollover account for a PSS 3 member for whom an amount of money has been carried over from another fund or scheme or a PSS 3 member who is a former PSS 2 member who has made application under section 7E in relation to a preserved amount. The Board must credit payments to, or debit amounts against, that account, as appropriate. The Board may debit an administrative charge against a rollover account.

10—Amendment of section 13B—Accretions to members' accounts

Section 13B provides that the contribution account of each member will, if the account has a credit balance, be adjusted to reflect a rate of return determined by the Board. The amendments made by this clause have the effect of allowing a PSS 3 member to nominate a class of investments for the purpose of determining the rate of return under section 13B. The Board is to have regard to the rate of return achieved by those investments when determining a rate of return for the purposes of section 13B. A class of investments nominated by a member (unless he or she is a PSS 3 member by virtue of section 7E) for the purposes of this section must be the same as any class of investments nominated under section 14D.

11—Insertion of section 13C

New section 13C provides that money rolled over to PSS 3 from another superannuation fund or scheme must be paid to the Treasurer.

12—Substitution of Part 3

This clause deletes Part 3 and substitutes a new Part that includes additional provisions relating to contributions that may be made by PSS 3 members and the contribution account the Government is required to maintain in the name of PSS 3 members.

Section 14 provides that every member is liable to make contributions to the Treasurer in accordance with the Act.

Section 14A incorporates existing provisions of section 14 that prescribe the contributions payable by members of the schemes that will now be known as PSS 1 and PSS 2.

Under **section 14B**, a PSS 3 member may elect to make contributions to the Treasurer at a nominated percentage (between 0% and 10%) of the combined value of the basic salary and additional salary payable to the member. The rate of contribution nominated by the member may be varied from time to time. A PSS 3 member may also make additional monetary contributions to the Treasurer that are not related to his or her salary.

Section 14C prescribes the formula for determination of the amount of the contribution to be paid by the Government on behalf of a member of PSS 3. The amount of the contribution is determined by reference to the member's salary. Under **section 14D**, the Board is required to maintain Government contribution accounts in the name of all PSS 3 members and to credit to each contribution account amounts equivalent to the amounts paid under section 14C in respect of salary paid to the member.

Each PSS 3 member's Government contribution account will be adjusted at the end of each financial year to reflect a rate of return equivalent to the rate of return determined by the Board after having regard to the net rate of return achieved by investment of the PSS 3—Government Contributions Division of the Fund over the relevant financial year. If the member has nominated a class of investments or combination of classes of investments for the purposes of determining a rate of return, the member's contribution account must be adjusted to reflect a rate of return equivalent to the rate of return on the nominated class of investments, or combination of classes of investments, determined by the Board.

A class of investments, or combination of classes of investments, cannot be nominated under this section if the member does not at the same time nominate the same class or combination of classes under section 13B. A charge to be fixed by the Board may be debited against the Government contribution account of a PSS 3 member who varies a class of investments nominated under section 13B(2a).

13—Insertion of section 15

Division 1 of Part 4 of the Act applies only to PSS 1 and PSS 2 members.

14—Amendment of section 16—Entitlement to a pension on retirement

This is a consequential amendment.

15—Amendment of section 17—Amount of pension for PSS 1 member pensioners

The amendments made by this clause are consequential.

16—Amendment of section 17A—Amount of pension for PSS 2 member pensioners

The amendments made by this clause are consequential.

17—Amendment of section 18—Invalidity retirement

The amendments made by this clause are consequential.

18—Amendment of section 19—Reduction of pension in certain circumstances

The amendments made by this clause are consequential.

19—Amendment of section 19A—Preservation of pension in certain cases

Section 19(1) provides that if a member pensioner occupies a prescribed office or position, the pension payable to the member pensioner must be reduced by the amount of the salary or other remuneration paid in respect of that office or position. As a consequence the amendment made by this clause to section 19A, section 19(1) will not apply in relation to a pension preserved under section 19A(2) and payable under section 19A(3)(a).

20—Amendment of section 20—Suspension of pension

The pension payable to a member pensioner will be suspended if the member again becomes a member of Parliament.

21—Amendment of section 21—Commutation of pension

The amendments made by this clause are consequential.

22—Amendment of section 21A—Application of section 21 to certain member pensioners

The amendment made by this clause is consequential.

23—Amendment and relocation of section 21AA—Commutation to pay deferred superannuation contributions surcharge—pension entitlements

Section 21AA, which provides a mechanism for the commutation of so much of a pension that is required to provide a lump sum equivalent to the amount of a deferred superannuation contributions surcharge, is amended by this clause so that it applies only in relation to PSS 1 and PSS 2 members. The section is also redesignated and relocated.

24—Insertion of Part 4 Division 2A

This clause inserts Division 2A of Part 4. Division 2A comprises provisions applicable only to PSS 3 members.

Section 21AD provides that a PSS 3 member who has retired at or above the age of 55 years is entitled to payment of the amount standing to the credit of the member's contribution account (the ***member-funded component***) and the amount standing to the credit of the member's Government contribution account (the ***Government-funded component***). The member is also entitled to payment of the amount standing to the credit of his or her rollover account (the ***rollover component***) (if any).

If a PSS 3 member does not apply to the Board in writing for payment of the entitlement within 3 months of retirement, he or she will be taken to have preserved the relevant component. However, a PSS 3 member who retires at or over the age of 65 is entitled to immediate payment of his or her benefits.

The above provisions are subject to the proviso that a rollover component that cannot be paid in accordance with the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth (the ***SIS Act***) will be preserved. Section 21AF will apply to an amount preserved under this section.

Section 21AE provides that a PSS 3 member who ceases to be a member of Parliament before reaching the age of 55 may elect to take the member-funded component on retirement. Alternatively, the member may preserve that component or carry it over to another superannuation fund or scheme that is a complying superannuation fund.

The member may elect to preserve the Government-funded component or carry that component over to another superannuation fund or scheme that is a complying superannuation fund (as a preserved employer component). The rollover component may, subject to the SIS Act, be taken immediately, preserved or carried over to another fund or scheme that is a complying superannuation fund.

If a PSS 3 member fails to inform the Board of his or her election in writing within 3 months after ceasing to be a member, he or she will be taken to have elected to preserve the relevant component unless the Board is of the opinion that the 3 month limitation period would unfairly prejudice the member. Under subsection (4), a

PSS 3 member may withdraw an election (whether actual or deemed) to preserve a component and carry the component over to another fund or scheme approved by the Board. However, if two or three components have been preserved, a member wishing to carry a component over must elect to carry over both or all of the components.

A member who elects to carry over a component must satisfy the Board that he or she has been admitted to membership of the nominated fund or scheme.

Section 21AF prescribes certain matters relating to superannuation components preserved under section 21AD or 21AE. A member who has had a superannuation component preserved under either of those sections may, after reaching the age of 55, require the Board to authorise payment of the component. If no such requirement has been made on or before the date on which the member turns 65, the Board will authorise payment of the component to the member.

If the member has become incapacitated and satisfies the Board that his or her incapacity for all kinds of work is 60 per cent or more of total incapacity and is likely to be permanent, the Board will authorise payment of the component to the member. If the member dies, the preserved component will be paid to the spouse of the deceased member or, if the member is not survived by a spouse, to the member's estate.

Section 21AG provides that a PSS 3 member who ceases to be a member of Parliament before turning 70 is entitled, if a Supreme Court judge nominated by the Chief Justice is satisfied that the cessation is due to ill health that incapacitates the member to the extent that he or she is unable to carry out the duties of office to a reasonable degree, to benefits comprising the member-funded component, the Government-funded component, the rollover component (if any) and the invalidity insurance benefit (if any) payable to the member under section 21AI. The invalidity insurance benefit is payable only if the Board is satisfied that the member's incapacity for all kinds of work is 60 per cent or more of total incapacity and is likely to be permanent.

If the invalidity was not caused by an accidental injury, the invalidity insurance benefit is not payable to the member within 1 year of the member becoming a PSS 3 member unless the member satisfies the Board that—

· the invalidity is attributable to a medical condition arising after the member became a PSS 3 member and is not attributable in any material degree to a medical condition existing before the member became a PSS 3 member; or

· the invalidity is attributable to a medical condition existing before the member became a PSS 3 member in a situation where, at the time of becoming a PSS 3 member, there was no reason for the member to believe that such a condition existed.

A claim for benefits under this section must be made within 3 months of the member ceasing to be a—member of Parliament.

Section 21AH deals with entitlements arising on the death of a PSS 3 member. If a PSS 3 member ceases to be a member of Parliament because of his or her death, a payment will be made to the member's spouse. If the member is not survived by a spouse, a payment will be made to the member's estate. Payment to a spouse or estate under this section will comprise the member-funded component, the Government-funded component, the rollover component (if any) and the death insurance benefit (if any).

A benefit will not be payable to a spouse who, under the *Family Law Act 1975* of the Commonwealth, has received, is receiving or is entitled to receive a benefit under a splitting instrument or is, under the terms of a splitting instrument, not entitled to any amount arising out of the member's superannuation interest, or any proportion of such an interest.

If a member dies within 1 year of becoming a PSS 3 member, and the member's death was not caused by accidental injury, a death insurance benefit is not payable in respect of that member unless—

· the death is attributable to a medical condition arising after the member became a PSS 3 member and is not attributable in any material degree to a medical condition existing before the member became a PSS 3 member; or

· the death is attributable to a medical condition existing before the member became a PSS 3 member in a situation where, at the time of becoming a PSS 3 member, there was no reason for the member to believe that such a condition existed.

The Board may use the amount, or part of the amount, payable under this section to pay or reimburse the funeral expenses of a deceased PSS 3 member if the member is not survived by a spouse and probate or letters of administration in relation to the deceased's estate have not been granted to any person.

If a PSS 3 member ceases to be a member of Parliament for a reason other than his or her death, and the member dies within 1 month of the cessation, his or her spouse or estate is entitled to the death insurance benefit (if any) to which the spouse or estate would have been entitled if the member had ceased to be a member of Parliament because of his or her death unless an invalidity insurance benefit has been paid or the member has taken his or her own life.

Under **section 21AI**, a PSS 3 member is entitled to invalidity/death insurance. This section provides a formula for determination of the level of insurance to which a member is entitled.

25—Substitution of heading to Part 4 Division 3

This is a consequential amendment.

26—Amendment of section 22—Other benefits under PSS 1

The amendment made by this clause is consequential.

27—Amendment of section 22A—Other benefits under PSS 2

Paragraph (a) of section 22A(1) is deleted by this clause and a new paragraph substituted. This amendment makes it clear that the lump sum payable to a PSS 2 member under the section is made up of an employee component and a *Government-funded*, rather than *employer*, component. The remaining amendments made by this clause are consequential.

28—Substitution of section 23

New section 23 provides that, in certain circumstances, an amount is payable to the estate of a PSS 1 or PSS 2 member. Those circumstances are—

(a) the member ceases to be a member of Parliament; and

(b) either immediately before or after a period of preservation of the former member's benefits—

(i) a pension is paid under the Act to the former member; or

(ii) a pension is paid under the Act to the former member and then, on his or her death, to his or her spouse; or

(iii) the member has ceased to be a member of Parliament because of his or her death and a pension is paid to his or her spouse; or

(iv) the former member dies after a period of preservation before receiving a pension and a pension is paid under the Act to his or her spouse; and

(c) the pension ceases before the expiration of 4.5 years after it commenced and no actual or prospective right to a pension exists and no other benefit is payable under the Act.

The amount payable to the former member's estate is the amount of the pension or pensions that would have been payable to, or in relation to, the former member during the 4.5 year period. However, the amount is reduced by the amount of the lump sum, or the aggregate of lump sums, (if any) paid on commutation of the pension or pensions and the amount of the pension or pensions actually paid to, or in relation to, the former member.

For the purposes of section 23, if the relevant cessation relates to a PSS 1 or PSS 2 member who had been a member of the Parliament, then ceased to be a member and then, after a period of time, returned as a member and has again ceased to be a member, then any previous

cessation of service, and any previous benefits paid on account of that cessation, will be disregarded

29—Insertion of sections 23AAB, 23AAC and 23AAD

In sections 23AAB and 23AAC, a *prescribed member* is—

- a former PSS 2 member who has an amount preserved under Part 4 by virtue of his or her membership of PSS 2; or
- a PSS 3 member, or a former PSS 3 member.

Section 23AAB provides that a prescribed member who is liable to pay a deferred superannuation contributions surcharge may apply to the Board to receive part of his or her benefit in the form of a commutable pension and then fully commute the pension. A prescribed member who has become entitled to a benefit, or will shortly become entitled to a benefit, may estimate the amount of the surcharge and request the Board to withhold that amount from the benefit and pay the balance to him or her.

The Board must, after receiving advice from the member that a surcharge notice has been issued, convert the withheld amount into a pension (unless the amount of the surcharge is less than the withheld amount, in which case only a portion of the withheld amount is to be converted), then commute the pension and pay to the member the lump sum resulting from the commutation in addition to the balance of the withheld amount.

The Board must comply with a request from a member under section 23AAB unless it is not satisfied that the resulting lump sum will be applied in payment of the surcharge or the member fails to satisfy the Board that he or she has, or will have, a surcharge liability.

The factors to be applied by the Board in the conversion of a withheld amount and the commutation of a pension will be determined by the Treasurer on the recommendation of an actuary.

Under **section 23AAC**, if a prescribed member dies having made a request under section 23AAB but before receiving a surcharge notice, or after having received a surcharge notice but before requesting commutation of his or her pension, the member's spouse or legal representative may apply to the Board to receive the amount withheld by the Board on behalf of the deceased member in the form of a commutable pension and to fully commute the pension.

If a member dies without having made a request under section 23AAB, the member's spouse or legal representative may estimate the amount of the surcharge the spouse or estate will become liable to pay and request the Board to withhold that amount from the benefit and pay the balance to the spouse or estate.

The procedures to be applied in respect of commutation and payment under section 23AAC are similar to those applicable under section 23AAB.

Section 23AAD provides that an amount withheld by the Board under section 23AAB or 23AAC must be retained in the PSS 3—Government Contributions Division of the Fund. The amount will be credited with interest at the rate of return determined by the Board under section 14D(3). The amount may be paid to the member (or spouse or legal representative) in accordance with section 23AAB or 23AAC or at the direction of the Board if the Board has not, within 2 years of withholding the amount, been advised that a surcharge notice has been issued in respect of the member or considers, at any time, there is other good reason for doing so.

30—Amendment of section 23B—Interpretation

The definition of ***SIS Act*** now appears in section 5 and is therefore removed from section 23B.

31—Amendment of section 23C—Accrued benefit multiple

Part 4A of the Act facilitates the division under the *Family Law Act 1975* of the Commonwealth of superannuation interests between spouses who have separated. Section 23C, which appears in that Part, is relevant only in relation to PSS 1 and PSS 2. The operation of the section is accordingly limited by the amendment made by this clause.

32—Amendment of section 23D—Value of superannuation interest

This is a consequential amendment.

33—Amendment of section 23E—Non-member spouse's entitlement

The amendments made by this clause establish that the provision as it currently exists applies only in respect of PSS 1 and PSS 2 members. A new subsection is inserted providing that the value of a non-member spouse's interest with respect to PSS 3 will be determined by reference to the provisions of the splitting instrument. The non-member spouse interest may not exceed the value of the member spouse's interest.

34—Substitution of section 23J

Under section 23J, as recast by this clause, the surviving spouse of a member or former member who is not, under the terms of a splitting instrument, entitled to any amount arising out of a member's superannuation interest, is not entitled to a benefit under the Act in respect of the deceased member.

35—Amendment of section 24—Pension for spouse of deceased PSS 1 member pensioner

The amendment made by this clause is consequential.

36—Amendment of section 25—Pension for spouse of deceased PSS 1 member

The amendment made by this clause is consequential.

37—Amendment of section 25A—Pension for spouse of PSS 2 member pensioner

The amendment made by this clause is consequential.

38—Amendment of section 25B—Pension for spouse of deceased PSS 2 member

The amendment made by this clause is consequential.

39—Amendment of section 25C—Interpretation

The definition of ***judge*** is removed from section 25C as clause 4 inserts the definition into section 5.

40—Insertion of section 26AAB

This amendment inserts a new provision that has the effect of confining the operation of Part 5 Division 1A, dealing with the commutation of spouse pensions, to members (or former members) of PSS 1 and PSS 2.

41—Substitution of heading to Part 5A

This clause inserts a new heading for Part 5A. This amendment is required because Part 5A is to operate only in respect of PSS 1 and PSS 2 members.

42—Amendment of section 31A—Benefits payable to member's estate (PSS 1 or PSS 2)

The amendment made by this clause is consequential.

43—Repeal of Part 6A

Part 6A, consisting of section 35A, is repealed. This section, which provides that an old scheme member may elect to transfer to the new scheme, is redundant.

44—Repeal of section 36—Provisions as to previous service

Section 36 is repealed.

45—Amendment of section 36B—Power to obtain information

These amendments are consequential.

46—Amendment of section 37—Payment of benefits

This clause inserts three new subsections into section 47. Subsection (3) provides that if a payment made under the Act includes a member-funded component or a rollover component, an amount equivalent to the amount standing to the credit of the member's contribution account or rollover account is to be charged against the appropriate account.

Under subsection (4), if a payment includes a Government-funded component or relates to a superannuation salary sacrifice, the amount of that component is a charge against the relevant member's Government contribution account.

The Board may close the account of a member or former member if the member has retired (whether voluntarily or involuntarily) and is in receipt of a pension under this Act, or no further benefit or amount is payable to, or in relation to, the member or former member. The Board may also close the account of a member or former member if the member has died and no further benefit or amount is payable in relation to the member or former member.

47—Insertion of Schedule 1

This amendment will insert a new Schedule into the Act to clarify the operation of the *Statutes Amendment (Equal Superannuation Entitlements for Same Sex Couples) Act 2003* in relation to Parliamentary superannuation.

Part 3—Amendment of *Parliamentary Remuneration Act 1990*

48—Insertion of section 4AA

This clause inserts a new section into the *Parliamentary Remuneration Act 1990* ("the Act"). Section 4B provides that a PSS 3 member (as defined by reference to the *Parliamentary Superannuation Act 1974*) may elect to forego a percentage or amount of salary that would otherwise be paid to the member. Instead of receiving that amount as salary, the member may have contributions made to PSS 3 for superannuation purposes.

An election under section 4B must be made in writing, signed by the member and furnished to the Treasurer. The amount of salary that is foregone, and the date from which the election is to have effect, must be specified in the election.

The amount of salary that may be sacrificed, when aggregated with any amount by way of salary sacrifice under section 4A or 6A(2) of the Act, cannot exceed 50 per cent of basic salary and additional salary (if any). If an amount of basic salary is specified, it must be an amount of basic salary per pay period.

If a member has made an election under section 4B then, while the election has effect—

- the salary to which the member would otherwise be entitled under the Act is reduced in accordance with the terms of the election, and
- the Treasurer must make contributions of amounts representing the amount of reduction for the benefit of the member in accordance with section 14C(3) of the *Parliamentary Superannuation Act 1974*.

An election will cease to have effect if it is revoked by notice in writing by the member or the member dies. An election may be varied.

49—Amendment of section 6A—Ability to provide other allowances and benefits

This clause deletes subsection (3) of the Act. Subsection (3) is redundant as a consequence of the amendments made by clause 4 to section 5(3) of the *Parliamentary Superannuation Act 1974*. Section 5(3) will provide, as a result of that amendment, that for the purposes of the definition of ***basic salary***, the salary to which a member is entitled under the *Parliamentary Remuneration Act 1974* includes the amount of any contribution that the member makes towards the cost of providing an allowance or benefit by way of salary sacrifice (as contemplated by section 6A(2) of that Act).

Schedule 1—Transitional provisions

Clause 1 of Schedule 1 provides that a person who was, immediately before the commencement of the *Parliamentary Superannuation (Scheme for New Members) Act 2004* (the "amending Act"), an old scheme member pensioner under the *Parliamentary Superannuation Act 1974* (the "principal Act") will continue as a PSS 1 member pensioner. A person who was, immediately before the commencement of the amending Act, a new scheme member pensioner under the principal Act will continue as a PSS 2 member pensioner.

Following the making of these amendments, a reference in the principal Act to a former PSS 1 or former PSS 2 member will be taken to refer, respectively, to a former old scheme member or former new scheme member under the Act immediately before commencement of the amending Act. A reference in the principal Act to a deceased PSS 1 or PSS 2 member will be taken to include a reference to a deceased old scheme member or deceased new scheme member (as the case requires) under the principal Act immediately before the commencement of the amending Act.

Clause 2 of Schedule 1 provides that the Governor may, by regulation, make additional provisions of a saving or transitional nature consequent on the enactment of the amending Act. A provision of a regulation made under subclause (1) may take effect from the commencement of the amending Act or from a later date.

The Hon. R.D. LAWSON secured the adjournment of the debate.

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

In committee (resumed on motion).

(Continued from page 1234.)

Clause 58.

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

Page 35, line 28—Delete '$5 000' and substitute: $500

The purpose of this amendment is to reduce the proposed maximum penalty from $5 000 to $500 for the offence for failing to notify an employee of the installation or use of a surveillance device. We believe that $5 000 is too heavy a penalty for this offence and that $500 is more appropriate.

The Hon. P. HOLLOWAY: Clause 58(1) provides that a breach of the subclause—namely, when an employer fails to notify the employee of the use of a surveillance device—attracts a maximum penalty of $5 000. The amendment proposes that the maximum penalty be reduced to $500. The proposed regime for surveillance is a fairly basic one with which to comply. The reality is that prosecutors will exercise their discretion and will be very unlikely to pursue minor breaches, unless that person is a repeat offender. Workplace surveillance is a sensitive issue with many in our community who are worried about infringing individuals' rights. We believe the proposed penalty is not unreasonable and, at the end of the day, there needs to be an appropriate deterrent for potential misuse. Therefore, we oppose the amendment.

The Hon. IAN GILFILLAN: I indicate Democrat opposition to the amendment. In light of the deletion of the regulations required for notification by the employer to the employee, it will make it more difficult, I would assume, to actually get a conviction on this. Certainly, as far as we are concerned, because of our concern about invasion of privacy as a major principle, we will support the heavier penalty remaining in place.

The Hon. NICK XENOPHON: I too support the heavier penalty remaining in place. I did not support the opposition's amendment to remove the use of the regulations in respect of subclause (1). My preferred position, if the committee is so minded to recommit this issue at the end of the day, is to provide that a regulation made for this proposed section cannot come into operation until the time has passed during which the regulation may be disallowed by resolution of either house of parliament. That, to me, allows a suitable degree of transparency and scrutiny.

In fact, that is the way it ought to be as a matter of course, rather than the current position that we have with regulations, and that is my preferred position. Of course, if the opposition succeeds in knocking out this clause altogether and the majority of members are not interested in going down that path, it all becomes rather superfluous. However, that is my preferred course. These are important matters. It is important that there be that degree of transparency. There are some legitimate concerns for banks and other workplaces where the primary purpose is to deal with issues of security rather than privacy. I would have thought that having the regulations tabled before they come into force is a preferred course of action. Of course, the fact that the opposition has succeeded in knocking out 'in the manner prescribed by the regulations' in subclause (1) just adds to my concern.

The Hon. R.D. LAWSON: I can see that we do not have the support of the committee on the reduction in penalty and I will not be dividing on this issue. I foreshadow for the benefit of the Hon. Nick Xenophon that I do propose moving an amendment which would have the effect of requiring any regulations made pursuant to this section to come into operation only after the time for disallowance has passed.

That is being prepared at the moment, and I indicate that for the benefit of the committee.

The Hon. NICK XENOPHON: I am grateful for the indication of the Hon. Mr Lawson. What does the Hon. Mr Lawson's proposed amendment do in relation to the amendment that we have recently voted on, which knocks out the words 'in the manner prescribed by the regulations'? Is he proposing that they be reinstated, that there be a further amendment or that it be recommitted? I would like some clarification from the Hon. Mr Lawson in relation to that.

The Hon. R.D. LAWSON: Whilst we have removed the reference to regulations in subsection (1) dealing with formal notification, subsection (2) will still provide that that particular section does not apply. The regulations will relate not to the notice any longer but to the circumstances in which those provisions will apply.

The Hon. Nick Xenophon: So that could potentially include formal notification.

The Hon. R.D. LAWSON: I do not believe it would include notification, and the reason we have excluded notification is that we believe that notification can be given in any way and does not need to be bureaucratised by the imposition of forms, duplicates, signatures by justices of the peace or anything else. Notification means notification. You have got to tell your employees, and we regard that as sufficient.

The Hon. NICK XENOPHON: Does the Hon. Mr Lawson concede that there may be some circumstances where notification should not be given? The examples were given of employees performing some illegal activity or accessing child pornography on the internet. What does the Hon. Mr Lawson say in those circumstances about issues of notification if there is some compelling reason over a very strong public policy reason, if you like, that there ought to be some covert surveillance? I am not saying that I necessarily agree with that particular course; I am trying to establish what happens in those sorts of circumstances. I thought that having regulations for the circumstance of notification allowed for exceptions in rare and exceptional circumstances.

The Hon. R.D. LAWSON: I do not see that as a major issue, and perhaps we can deal with that when we come to the amendment which I have foreshadowed and which is unrelated to the issue presently before the chair, namely, the reduction in penalty.

The Hon. IAN GILFILLAN: Since the discussion seems to be now in the general terms of what is possible with clause 58 as it currently is, I was, and still am, attracted to the possibility that clause 58 could be held in abeyance until such time as the regulations prescribed in the clause have gone through the time for disallowance in the chambers. That seems quite reasonable and I do not have a problem with it, but it looks as though there is every chance that, having wrestled with that option, the whole clause will be lost to no avail. I am not overly excited about going down that path at this stage.

I remind the committee of the Hon. Robert Lawson's amendment No. 42, in which he deals with the notification of an employer to an employee. If the conversation I have heard the Hon. Nick Xenophon having is that we are looking to get that notification prescribed in regulations, there is a chance that we can reintroduce that requirement as an amendment to Mr Lawson's amendment No. 42.

The Hon. R.D. LAWSON: I do not agree with that suggestion because, clearly, the committee has agreed that notification is not to be proscribed by regulations. Our amendment that has been on file all along is that we propose that notification may be given in a general way by a notice in writing displayed at the workplace. The idea of that is to make these provisions simpler and less onerous for businesses, whilst at the same time giving employees the information they are entitled to receive, namely, that they may be subject to surveillance.

Amendment negatived.

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

Page 35, after line 28—

After subsection (1) insert:

(1a) A notification under subsection (1) may be given to all employees working at a particular workplace by notice in writing displayed at the workplace.

I should indicate to the committee that, notwithstanding an indication of an intention that I gave earlier to the committee about the possibility of moving an amendment in relation to the disallowance of regulations, after having seen the amendment drawn, I am convinced that it would add unnecessary complication, bearing in mind that we do not agree and will not be supporting this section in the end. The purpose of this amendment is to ensure that a simple form of notification may be given; a notice of writing displayed at the workplace which would indicate that workers may be subject to surveillance is a satisfactory solution. Given the fact that the committee has indicated its support for removing technical requirements, I urge support for this amendment.

The Hon. IAN GILFILLAN: I indicate Democrat opposition to this amendment. We believe it is yet another attempt to enable a shortcut for an employer to institute surveillance without proper notification to their employees. So, quite clearly, the Democrats oppose this amendment.

The Hon. P. HOLLOWAY: I am advised that the effect of this amendment is that employers will be required to give employees only constructive notice of workplace surveillance as opposed to actual notice. A particular employee may be on leave or out in the field or, for some other reason, may not receive actual notification of surveillance. The effect of the amendment is that this would be acceptable as long as a notice is displayed in the workplace. This effectively relies on chance. We do not believe that this is adequate or appropriate in a regime like the one proposed. It is preferable for the manner in which employers must inform employees about workplace surveillance to be prescribed by regulation. The amendment is opposed.

The Hon. NICK XENOPHON: I cannot support the amendment, because of the nature of the notice. If it is a large workplace in several locations or, as in the instances given by the minister, actual notice would not have been given, but it would be deemed to be notice pursuant to this subsection. That is why I prefer having a system of regulations that sets out the circumstances where notice should be given and, in some cases, where notice ought not to be given where there is a compelling reason, for example, if illegal activity is suspected and to give notice would tip off the employees to the fact that the employer was on to them. I cannot support this amendment.

The committee divided on the amendment:

AYES (9)

Dawkins, J. S. L.	t.) Evans, A. L.
Lawson, R. D. (teller)	Lensink, J. M. A.
Lucas, R. I.	Redford, A. J.
Ridgway, D. W.	Stefani, J. F.
Stephens, T. J.	

NOES (10)

Cameron, T. G.	Gago, G. E.
Gazzola, J.	Holloway, P. (teller)
Kanck, S. M.	Reynolds, K.
Roberts, T. G.	Sneath, R. K.
Xenophon, N.	Zollo, C.

PAIR

Schaefer, C. V.	Gilfillan, I.

Majority of 1 for the noes.

Amendment thus negatived.

The committee divided on the clause as amended:

AYES (9)

Gago, G. E.	Gazzola, J. (teller)
Holloway, P.	Kanck, S. M.
Reynolds, K.	Roberts, T. G.
Sneath, R. K.	Xenophon, N.
Zollo, C.	

NOES (10)

Cameron, T. G.	Dawkins, J. S. L.
Evans, A. L.	Lawson, R. D. (teller)
Lensink, J. M. A.	Lucas, R. I.
Redford, A. J.	Ridgway, D. W.
Stefani, J. F.	Stephens, T. J.

PAIR

Gilfillan, I.	Schaefer, C. V.

Majority of 1 for the noes.

Clause as amended thus negatived.

The CHAIRMAN: I have another amendment in the name of the Hon. Mr Lawson.

The Hon. R.D. LAWSON: This amendment (No. 43) relates to the subject of bargaining fees. A test clause on that subject was lost earlier and, therefore, I will not be moving this amendment.

Progress reported; committee to sit again.

ACTS INTERPRETATION (GENDER BALANCE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 28 February. Page 1180.)

The Hon. CARMEL ZOLLO: One of the inquiries undertaken by the Statutory Authorities Review Committee whilst I was a member in the last parliament was in relation to the remuneration of boards, their composition (which included gender balance) and other aspects. I remember that, when I rose to take the adjournment debate following the presiding officer's tabling of the report, the then leader of the opposition (Hon. Carolyn Pickles) jumped up to speak, even though she then sought leave to conclude. In the past we had the practice of members receiving a copy of all committee reports but now, thankfully, because they are online, we do not do that. But, clearly, she had an interest in the issue. She reminded the chamber that it was the then previous Labor government that commenced with a policy to see 50 per cent female representation on government boards and committees. This government, of course, has continued with that initiative.

The issue has bipartisan support, and I particularly recognise the work and the promotion of then minister Laidlaw, in her capacity as minister for the Office for the Status of Women, for the support she gave to that agenda. I mentioned at the time that a department that stood out as an example of how it can and should be done was PIRSA. Various initiatives had been established in the department to promote and mentor rural women.

As a woman of diverse cultural background, I also recognise the need to see wider representation of women from such backgrounds on our boards. I think we all need reminding from time to time that one quarter of our population was born overseas, half of whom are from a country where English is not the mother tongue. Whilst we have seen a growth in the statistics of women representation on government boards (I think at the moment it stands at about 32 per cent), it does not yet meet the set target—although, in relation to other states, I understand that our progress is much better than most of them. It also has been pointed out that some departments are doing brilliantly whilst others are not.

Last year, the government announced its recommitment to the target of 50 per cent of all state and government board and committee members being women by 2006. The new policy requires that, if community groups or industry want to nominate people for membership of government boards or committees, they will have to put forward for consideration the names of men and women. This commitment is supported by the Premier's Council for Women, which is chaired by Dr Ingrid Day. I also recognise the commitment and support of the Hon. Sandra Kanck with respect to this legislation.

I remember the Premier saying at that time that women need to be encouraged into leadership roles and that no-one is suggesting putting people on boards if they are not qualified. I agree that we do not need to see tokenism because, as the Premier further pointed out, at the moment some of our best and brightest people are being overlooked, which is a waste of talent. Merit-based selection processes will still apply. I know it has been articulated many times but, for all the progress that has been made creating equal opportunity in our society, the facts still tell us that women continue to:

- earn less than men and, regrettably, the gap is widening;
- make up the majority of part-time and casual workers;
- spend more time on unpaid housework;
- are concentrated in feminised areas of the work force such as health, community services and education; and
- where they are concentrated in areas of clerical, sales and service occupations, the managers are predominantly men.

Minister Key rightly points out that increasing the representation of women on government boards is an important step in addressing inequalities for women. Apart from being under represented on boards and committees, the Premier's council for women found that they are under represented in many areas of leadership and decision making in our society. On a positive note, more recently (whilst it may not be a board appointment), we have seen the announcement of the appointment to the South Australian Supreme Court of Robyn Layton. Justice Robyn Layton is a very respected jurist in South Australia, and her appointment has been very welcomed. I noted her comments when she said that she applauded the state government's decision to enhance the human face of the bench by the appointment of a woman. I also applaud the government's decision and welcome Justice Robyn Layton's appointment to the Supreme Court. I understand that she will be sworn in at a special hearing later this month.

It is important not to ignore half our population. It is important for us to use all our talent. The bill before us gives legislative effect to this government's commitment under our South Australian Strategic Plan to increase the number of women on all state government boards and committees to an

average of 50 per cent by June 2006. It requires community, industry and professional organisations, which submit names for government committees and boards, to nominate at least one man and one woman and, as far as practicable, to nominate equal numbers of men and women for consideration. As Minister Key points out, this will give ministers greater flexibility in their efforts to achieve equal gender representation when selecting persons for appointment to boards and committees.

This bill does not make demands on government exclusively to appoint women to committee and board positions but, rather, presents a choice to be provided to the decision makers, reflecting the statistic that 51 per cent of South Australia's population is female and 45 per cent of the work force is female. The bill allows us to reflect on gender balance in our society and look at lists which would have to include men and women equally. Merit will still be the primary consideration, but what the bill aims to do is to get women on the list so that, when a choice is made, all appropriate candidates, regardless of their gender, have been considered. The talents and abilities of more than 50 per cent of the population should not be wasted.

The legislation sets an example for the private sector where statistics show executive and management positions are still strongly male dominated. Through the introduction of this bill, the government has taken the initiative to address the existing inequalities for women within public life, especially across leadership and decision making areas. It is about leading by example. Decisions made without an understanding of how they may affect 51 per cent of the population are in danger of being poor and not meritorious decisions. I am pleased to add my support to this bill, which seeks to ensure that state government boards and committees are representative of the broader South Australian community.

I agree with colleagues in the other place who have pointed out that women need to know that, in developing government policies and services, decisions that affect their lives are being made with an understanding of their perspectives and positions within the community. Again I am pleased to add my support to this legislation.

The Hon. D.W. RIDGWAY secured the adjournment of the debate.

[Sitting suspended from 5.53 to 7.45 p.m.]

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

In committee (resumed on motion).

(Continued from page 1244.)

Clause 59.

The Hon. IAN GILFILLAN: I move:

Page 36, line 5—Delete ', or potential members,'.

The Democrats are not persuaded that there ought to be automatic entry to a place of employment just on the basis of potential members, because on our understanding that is virtually open-ended. One could say that anywhere in a workplace there would be potential members—and we hope there are—but the union movement ought not to rely on that as a reason for having access to a workplace. There are other means of communication such as talking to people on their way to and from work; putting flyers under windscreen wipers for those who have cars, not those who ride on their bikes; and putting advertisements in the local press. There are other ways of communicating with prospective members. That is the reason for the Democrats' amendment.

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

Page 36, lines 2 to 6—Delete subclause (1).

We oppose this extension of the powers of union officials. It should be borne in mind that the act already contains provisions which facilitate the involvement of union officials in the workplace. Section 140 provides that an official of an association of employees may, if authorised to do so by an award or an enterprise agreement, enter into an employer's premises at which one or more members of the association are employed. I emphasise that these are extensive powers. They can inspect time books and wage records and work carried out by employees who are members of the association and note the conditions under which the work is carried out. If specific complaints of non-compliance with the award or the enterprise agreement are made, they can interview employees who are members of the association about those complaints.

However, what this clause seeks to do and which we seek to have removed is to allow union officials to enter any workplace at which one or more members or potential members of the association work. This is really designed to facilitate union recruitment, which we believe is the function of union organisations: that is, to go out and explain the benefits of membership to workers.

The Hon. P. Holloway interjecting:

The Hon. R.D. LAWSON: The minister says, 'How do you do that if you can't get into the place?'. You do that in the same way as the union movement managed to do it for 100 years: by having energetic people such as the Hon. Bob Sneath, the Hon. John Gazzola and the Hon. Gail Gago getting out there and signing people up. Those distinguished former union officials did not have the benefit of powers of this kind, but I am sure they were very effective in what they did. This bill will mean that it will no longer be necessary that either an award or an enterprise agreement confer entry rights nor that a union has any members. It will be sufficient if the organisation's eligibility rules allow for membership. The case for giving these significantly increased privileges to unions is simply not made out.

In another place, members were sufficiently concerned by this expansion to introduce amendments which allowed the employer of a non-unionised work force to request an inspector to accompany a union official on a workplace visit. Whilst these are well-intended amendments, they are, in our view, cumbersome and impractical. They will not address the mischief at which they are aimed, and it is difficult to understand why South Australian taxpayers should be forced to fund an inspector's presence with a union official on what might well be a union recruitment drive. Further, it will not necessarily be the premises of the employer; any premises may be accessible (subject, of course, to any inconsistency provisions regarding persons who are covered by the federal system).

At present, if specific complaints have been made about noncompliance, an official can interview union members at the workplace about the complaints. In preserving the ability for a complaint to have been made by anyone in any form, at the same time as extending the right to interview any person,

the bill clearly sanctions unionists exercising rights of entry for recruitment purposes.

Despite these amendments made to the draft bill since its introduction, in our view these powers will still encourage demarcation disputes. A workplace may have membership potential for more than one union, and more than one union could seek entry to sign up members with its eligibility rules. Our amendment seeks to delete this entire provision. We certainly support the amendment of the Hon. Ian Gilfillan which seeks to delete 'potential members' from the clause. We do not believe that the amendment goes far enough, and we invite the committee to delete the clause in its entirety. However, as an initial stage, we seek to have deleted its most offensive provision, namely, subsection (1).

The Hon. P. HOLLOWAY: Obviously, the government opposes the amendment, and we do so for a number of reasons. First, the amendment raises the prospect of employees having to identify to the employer (when they may not wish to do so) that they are union members in order for their official to access the workplace at their request. I suggest that raises serious concerns in relation to freedom of association. Secondly, part of the rationale for clause 59 is that individual workers ought to have a right to access advice and information in the workplace, whether or not they are union members, and this amendment effectively prevents that. Thirdly, I think it is worth pointing out that provisions of this nature are common in other jurisdictions—even in legislation of the federal Liberal government. I refer to section 285C of the Workplace Relations Act 1996, which provides:

> Discussions with employees
> (1) Subject to subsections (2) and (3), a person who holds a permit in force under this Division may enter a premises in which:
> (a) work is being carried on to which an award applies that is binding on the organisation of which the person holding that permit is an officer or employee; and
> (b) employees who are members, or eligible to become members, of that organisation work;
> for the purposes of holding discussions with any of those employees who wish to participate in those discussions.

That power exists even under the federal Workplace Relations Act, so it is scarcely a particularly radical piece of legislation. I have previously argued that it means that individual workers would be able to have that right to advice and information in a workplace whether or not they are union members. It also means that employees would not have to identify to their employer when they do not wish to do so that they are union members. For those reasons we oppose the amendment.

The Hon. R.D. LAWSON: With regard to the minister's suggestion that the commonwealth legislation is similar to that here introduced, he read the section in the commonwealth legislation quite quickly.

The Hon. P. Holloway: I will read it slowly if you like.

The Hon. R.D. LAWSON: Yes, you can if you like, because the words in the current South Australian act are 'if authorised to do so by an award or enterprise agreement'. Those words also appear in the commonwealth legislation. Those words are to be deleted in this amendment of the government, but even if in other jurisdictions and in the federal jurisdiction such provisions apply we have a better industrial relations record in this state, a record of which we are proud, because we have a system which has not encouraged dispute. We want to preserve our record. The Premier keeps reminding—

The Hon. P. Holloway interjecting:

The Hon. R.D. LAWSON: It certainly encourages demarcation disputes and it will encourage disputes if unions are given the statutory authority to recruit.

The Hon. R.K. SNEATH: It is interesting that the opposition has failed to give any examples when the right of entry, when it was available to union officials, was being abused, because they have not been able to give any examples. I said in my second reading speech to this bill and the honourable members that have been members or worked for trade unions, the Hon. Terry Cameron, the Hon. John Gazzola and the Hon. Gail Gago all agreed that they have never been asked to leave a workplace.

The Hon. T.G. Cameron: I do not know that I said that.

The Hon. R.K. SNEATH: You did say that and you have never been disallowed entry, either, and you indicated that, because as far as industrial relations goes, my memory is pretty good.

The Hon. T.G. Cameron: But they are not all responsible trade union officials like I was, Bob.

The Hon. R.K. SNEATH: They are today, and they are actually a lot more responsible than they used to be years ago when they had to kick down fences and doors to get in, because they were all locked on them, and the police were standing there trying to keep them out, and today that does not happen, thank goodness. It was interesting to hear the Hon. Mr Lawson make remarks on our industrial record as one to be proud of, and that is true, and the people who will take the credit for that, and to whom I hope he gives the credit, are the trade unions and their officials and the trade union members.

The Hon. R.D. Lawson: And the employers.

The Hon. R.K. SNEATH: And the employers, yes, I agree, because those employers and the trade unions are not frightened. Unlike the Liberal Party, there is nobody out there frightened of the trade union movement—only the Liberal Party. You are the only one that is scared of them, and I do not know why because they are all pretty reasonable people.

The Hon. R.D. Lawson interjecting:

The Hon. R.K. SNEATH: You ask the employers. If you got around, if you got out of this place and you got out of your office and where you spend your weekends, and you took the trouble to ask them, they are not scared of them. The only ones that are scared of the trade union movement are the ones that are doing the wrong thing.

The Hon. J.M.A. Lensink: Oh rubbish!

The Hon. R.K. SNEATH: Here is the Gomer Pyle of the Liberal Party saying it is rubbish. I wonder how many times or how many months of the year or how many months over her working life the Gomer Pyle of the Liberal Party has been a member of a trade union. Never I would say, but if you had been you would not have made a very good one.

The Hon. T.G. Cameron: She has to support her factional colleagues.

The Hon. R.K. SNEATH: I imagine she would have to support her factional colleagues, yes. They are from the same faction in the party.

Members interjecting:

The Hon. R.K. SNEATH: Yes, I will keep going, because I enjoyed the interjections by somebody who knows very little about industrial relations, because it is easy to sit there and say when you are on 120 grand a year that none of these people need trade unions or they should not have the right to their trade unions to go into their workplace. You do not need a trade union here, no, probably not, but some of us are still members of one, of course.

An honourable member interjecting:

The Hon. R.K. SNEATH: I would hate you to represent me the way you have represented workers over this, I can tell you. A man would be dropping 50 grand a year. The thing is that all the time that I was a trade union official I never got refused entry to a workplace and I never ever got asked to leave, and those other trade union officials have agreed with that.

Members interjecting:

The Hon. R.K. SNEATH: No, give them a right of entry. Employers like to see the trade unions because, in a lot of instances, where the employer is having trouble the trade unions actually help them.

The Hon. J.M.A. Lensink: Oh yeah!

The Hon. R.K. SNEATH: They do. You have not been around long enough to know, Gomer, but if you had been around for a while and seen—

The Hon. T.G. CAMERON: I rise on a point of order. Will you please address members of the committee by their proper title; otherwise I could think of a few things I will start calling you across the chamber, and it will not be as pleasant as 'Gomer'.

The CHAIRMAN: I do not think the results of that sort of altercation would be most helpful to either the Hon. Mr Cameron or the Hon. Mr Sneath. Both might come off second best if they were given to that. But there is a protocol where you should use the title 'the honourable' before any names.

The Hon. T.G. Cameron: Honourable Gomer, please!

The Hon. R.K. SNEATH: Honourable Gomer, okay. It is interesting that the Hon. Terry Cameron continually sticks up for the opposition, but that is not surprising. However, it is a fact that the employers do not need any protection from trade union officials, and that is what you are trying to give them, and the Hon. Mr Gilfillan also. And it is disappointing to see that the opposition, and the Hon. Mr Gilfillan, has little confidence in trade union officials these days. They are educated and they are people who go about their business in the right sort of way.

The Hon. T.G. Cameron: Can you blame him with the ones he is meeting?

The Hon. R.K. SNEATH: I know he has met you, and I am sure he trusts you probably better than me, for various reasons. It is disappointing that that trust is not there and that you have to protect the bad employers, as these amendments are doing. They are not giving the right to those employees who need help the most through trade union representation. I bet the gate is always open to the employer adviser who comes to see the employer every day of the week. The gate will not be closed to them; they will not have to ring up and make a 24-hour appointment. It is unfair, you are setting a precedent and you have no trust in the current modern day officials of trade unions. Both amendments should be soundly defeated.

The Hon. G.E. GAGO: Briefly, I have said before and it is important to say again that the relationship between employers and employees is not an equal one. It never has been and it is unlikely to ever be equal. The advantage is always clearly in the hands of the employer. They have access to far more resources, to legal representation and to a whole range of things that employees do not have access to. Also, the employer has a great deal of control and power over the employment status of the employee. Having ready and easy access to unions is a really important and key part of making the employer/employee scale of balance a little more equal. It will still not make it equal, but will make it a little more equal, a little bit fairer.

I find it incredibly hard to believe that with such a small and obvious provision we are struggling in this chamber to convince members of the importance of this small step towards fairness. We have said before and it needs to be said again: it is very easy and common for unscrupulous employers to intimidate and threaten employees in such a way as to ensure that employees do not access their rights, including the right of active unionism in a workplace. Far too often we see employees, who are afraid because of the threat to their employment or to opportunities for job promotion and such like, put in a position where they are too intimidated to lay a formal complaint or formal move to involve a union. Having ready access is very important to these workers. It is very easy for employers, especially unscrupulous ones, to establish and feed a workplace culture that is anti-unionism, through stories and all sorts of things. It is easy to create an on-going workplace culture of fear and apprehension about involving unions.

We see examples from members opposite who are clearly very frightened of unions. It is quite an unfounded fear. These provisions are not requiring that employees join a union. We are not forcing employees to join a union, but simply saying that we want unions to have easy access to workplaces. If the union cannot demonstrate its relevance to employees, then clearly they will not join the union. It is an obvious thing.

I recall when I was a very junior nurse working in a number of different workplaces, particularly private places, and putting myself through uni that I was very ignorant of industrial relations and employee entitlements. I remember a few of us wanting to clarify an award entitlement. We approached our manager and asked to see a copy of the award. Our manager said that she would see whether or not she would show us the award. The suggestion was that if we behaved ourselves we might get a copy of it and if we did not we would not. In those days I was naive and ignorant of industrial matters and did not realise that I was entitled to a copy of my award and that I could have rung my union and quite easily obtained one. There is a whole range of basic information about employees' rights and responsibilities that would be available through the ready access of unions to workplaces. These provisions are not only in the interests of employees but also employers and industry generally as well as for workers.

The Hon. IAN GILFILLAN: I can see that, if there is some discomfort in a union member wishing to remain anonymous because he or she wishes to have a union representative visit a workplace, there ought to be a structure whereby the government could devise an amendment so the application could be anonymous. I accept that there can be a perceived risk of victimisation if someone outs as a union member. In the Democrats' view they are perfectly entitled to use the legislation to have a representative of their union visit the workplace. If the government is prepared to take measures to help that along, we would be supportive. Will the minister define 'potential member'? What does the government mean by it?

The Hon. P. HOLLOWAY: A potential member is an employee who is within the constitutional coverage of the union and is not, pursuant to new section 140(1)(b), a member of another union.

The Hon. NICK XENOPHON: I indicate that I will not support the amendment. The fact that section 25C of the federal act makes reference to employees who are members,

or who are eligible to become members, seems to be quite similar to the concept of 'potential members.' Although I note the comments of the Hon. Ian Gilfillan, I think that would probably be the preferred course and would target the issue of victimisation, or the perception of victimisation, for those in the workplace. That does not appear to be on the table, so, on balance, I support the government's position, but I am quite attracted to the concept that the Hon. Mr Gilfillan has espoused.

The Hon. P. HOLLOWAY: Parliamentary counsel is considering whether the Hon. Mr Gilfillan's suggestion is possible. I assume that the Hon. Mr Gilfillan is saying that he will continue his opposition to 'or potential members' but that he would be amenable to supporting a government amendment that might strengthen the clause to give protection. While that is being drafted, perhaps we could have the vote on that particular part. Obviously, from the government's point of view, we again reiterate that we think it is very important that there should be access to potential members. We will obviously strongly support that clause, but, if we are not successful, we will contemplate the course of action suggested by the Hon. Mr Gilfillan.

The CHAIRMAN: The question is: that all words in subclause (1) down to but excluding 'or potential members' in line five stand as part of the clause.

Question carried.

The committee divided on the Hon. Ian Gilfillan's amendment:

AYES (12)

Dawkins, J. S. L.	Evans, A. L.
Gilfillan, I.(teller)	Kanck, S. M.
Lawson, R. D.	Lensink, J. M. A.
Lucas, R. I.	Redford, A. J.
Reynolds, K.	Ridgway, D. W.
Stefani, J. F.	Stephens, T. J.

NOES (7)

Cameron, T. G.	Gago, G. E.
Gazzola, J.	Holloway, P.(teller)
Sneath, R. K.	Xenophon, N.
Zollo, C.	

PAIR

Schaefer, C. V.	Roberts, T. G.

Majority of 5 for the ayes.

Amendment thus carried.

The Hon. IAN GILFILLAN: I move:

Page 36, lines 18 to 20—Delete subsection (1b)

I am advised that this amendment is consequential. Is the committee agreed that it is consequential?

The Hon. P. HOLLOWAY: Yes, the government agrees that it is consequential.

The Hon. R.D. LAWSON: I indicate Liberal support for that amendment. In fact, we had an amendment standing in my name to the same effect.

Amendment carried.

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

Page 36, lines 21 and 22—
Delete subclause (5) and substitute:
(5) Section 140(2)—delete 'the award' and substitute:
any relevant award

Section 140(2) of the act provides in relation to the powers of officials of unions:

Before an official exercises powers under subsection (1), the official must give reasonable notice to the employer and comply with any other requirements imposed by the award or enterprise agreement.

That is the existing provision—must give reasonable notice and comply with the terms of the award or any enterprise agreement. The government proposes in its bill to delete the words 'and comply with any other requirements imposed by the award or the enterprise agreement'. We do not believe that any justification has been given for the deletion of those words. We believe that compliance with the requirements of awards and enterprise agreements is an important principle and that it ought be maintained.

The amendment that I have moved seeks to maintain the existing language of the provision and also provide, rather than 'the requirements imposed by the award', to insert 'any relevant award'. That is to clarify the position and to ensure that, as is indeed the case, there may be a number of awards which affect particular workplaces, and we believe that union officials should comply with all relevant conditions of any award that is applicable. Awards are important and remain important.

An award is actually an agreement between employers and employees. It is a rule authorised and very often forged through the processes of the Industrial Commission. It is important that awards, which are the primary instruments of industrial relations, are honoured. Similarly, it is important that enterprise agreements (which, in many cases, take the place of awards) are complied with. For that reason, we oppose the government's intention to expand the powers of unions by removing that restriction; we wish to restore that restriction but also to require that any relevant award be complied with.

The Hon. P. HOLLOWAY: Clause 59(5) of the bill proposes the deletion of the phrase 'and comply with any other requirements imposed by the award or enterprise agreement' in section 140(2) of the act which, in full, reads as follows:

Before an official exercises powers under subsection (1), the official must give reasonable notice to the employer and comply with any other requirements imposed by the award or enterprise agreement.

This amendment proposes that section 140(2) of the act be amended to read:

Before an official exercises powers under subsection (1), the official must give reasonable notice to the employer and comply with any other requirements imposed by any relevant award or enterprise agreement.

This is an unfair and unbalanced proposal by the Liberal Party. The Liberal Party wants union officials to have to comply not only with requirements of the act but also other requirements in awards or agreements. However, this is an unfair proposal, because it does not allow unions to use more generous rights of entry provisions that may be in an award or agreement. So, it is a sort of catch-22.

Our proposal is to have a clear set of rules in the act but, if there are different rules in an award or agreement, the Liberal Party wants them to apply only if they make life harder for unions. The existing proposal in the bill is also preferable to the amendment, because it is more specific in its requirements and less open to interpretation. The Liberal Party has gone on and on about claims that this is creating uncertainty in the bill, yet that is exactly what it is proposing to do by this clause. The government opposes the amendment.

The CHAIRMAN: Does that make the Hon. Mr Gilfillan's task any easier?

The Hon. IAN GILFILLAN: Mr Chairman, I think you are prescient enough to know that the answer is no. However,

I ask the mover of the amendment to explain the term 'relevant award'?

The Hon. R.D. LAWSON: The existing provision says 'the award', but there may be more than one award, and very often there is more than one award.

The Hon. Ian Gilfillan: Why is it not in the plural? Why is it not 'awards'?

The Hon. R.D. LAWSON: If it was simply the plural of 'awards', that would be awards generally. However, not all awards apply to every workplace, and the only awards that apply to a specific workplace are so-called relevant awards. They are awards that relate to the particular activity being conducted in the particular industry, the particular trade, and so on.

The Hon. Ian Gilfillan: But you have used 'the relevant award' in the singular; you have not used the plural.

The Hon. R.D. LAWSON: 'The relevant award'—there can be more than one relevant award.

The Hon. Ian Gilfillan: In that case it would be 'relevant awards', surely.

The Hon. R.D. LAWSON: If one looks at the section, it talks about 'award' singular and 'enterprise agreement', but the singular must incorporate the plural in that context.

The Hon. Ian Gilfillan: Who says?

The Hon. R.D. LAWSON: The honourable member is a master of English syntax and would well understand that, if one takes expressions such as 'other requirements imposed by the award or enterprise agreement', in relation to enterprise agreement it must mean any particular enterprise agreement relating to that particular place. It does not say, 'If there are more than one, only one applies': it says 'any'. If parliamentary counsel got that wrong and we are confined to the singular and not the plural, I would be very happy to adopt a different meaning, but my understanding is that it includes the plural as well as the singular.

The Hon. T.G. CAMERON: What situations do you envisage where the award, or the agreement, might differ from the act; and, if it did differ, would it not provide conditions better than the act?

The Hon. R.D. LAWSON: I would imagine that, when awards are made, ordinarily people negotiate better conditions than those applying to the general award—the same or better than.

The Hon. T.G. Cameron: Better conditions for whom—the workers?

The Hon. R.D. LAWSON: For either party. Let us take an enterprise agreement; that is, an agreement between parties. It cannot be any worse than the standard imposed by the act: it has to be better.

The Hon. T.G. Cameron: That is what I am puzzled about.

The Hon. R.D. LAWSON: From whoever's perspective.

The Hon. P. HOLLOWAY: Section 140(2) of the Industrial and Employees Relation Act provides:

> Before an official exercises powers under subsection (1), the official must give reasonable notice to the employer and comply with any other requirements imposed by the award or enterprise agreement.

We are talking about the official; we are not talking about the employer. The Hon. Mr Lawson is also talking about awards being honoured, but he does not want the award honoured if it provides free rights of entry. If the award provides free rights of entry, he says, 'We do not want that; we will take the lesser requirement.' I am sure the Hon. Ian Gilfillan has picked up the issue in relation to this question about award or awards. Clearly, if an official wants to enter, he will be concerned with a particular award.

As I understand it, what the Hon. Robert Lawson is saying is that he has to comply with every award, even if it is not relevant to the individual employee who is the case in point and whom the union official wants to see. In spite of that, the official has to comply with some other award which may not be relevant to that particular case. I think that clearly illustrates why the amendment of the deputy leader is unfair.

Amendment negatived.

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

> Page 36, line 26—Delete '24' and substitute:
> 48

Section 140 provides that a union official exercising powers must give reasonable notice. I have indicated to the committee that we believe that that is a reasonable provision. What the government has done in the amendment is define what reasonable notice is by saying that a period of 24 hours will be taken to be reasonable notice, unless some other period is reasonable in the circumstances of the particular case. We believe that 24 hours notice is too short and that 48 hours would be a more appropriate time to enable an employer to be available to receive a union official. These are visits which the government accepts do not necessarily require 24 hours notice. It has set the figure of 24 hours notice. A union official cannot simply drive down the street and decide to visit a workplace. He has to give 24 hours notice. We believe that, if he has to give 24 hours notice, 48 hours would be a more appropriate time. We accept that, unless some other period is reasonable in the circumstances of a particular case, 48 hours should be the norm.

The Hon. P. HOLLOWAY: The amendment proposes to change the notice period from 24 to 48 hours. The government believes that 24 hours is quite a reasonable period. It is consistent with other jurisdictions that require the giving of notice. For example, the following jurisdictions require 24 hours notice: the commonwealth, Western Australia and New South Wales, although it is 48 hours if requiring an employer to produce records. I am also advised that 24 hours notice is the most common time-based requirement in state awards. The opposition is simply nominating 48 hours because it is longer; it is simply about making life harder for unions.

The Hon. IAN GILFILLAN: The Democrats oppose the amendment.

Amendment negatived.

The Hon. IAN GILFILLAN: I move:

> Page 36, line 30—Delete 'unreasonably'.

We believe that the way for industrial relations to work is through cooperation and goodwill. If there is to be an interruption in the performance of work in the workplace it ought to be with a consensus between the employer and the official exercising this power. That is why I have moved this amendment to remove the word 'unreasonably'.

The Hon. P. HOLLOWAY: The bill proposes to amend section 140 by inserting new subsection (2b), which provides:

> An official exercising a power under subsection (1) must not unreasonably interrupt the performance of work at the workplace.

The Hon. Ian Gilfillan's amendment proposes to delete the word 'unreasonably'. Any person visiting a workplace on either official or unofficial business may arguably cause some level of interruption to the performance of work. It will be argued and potentially held on a black letter interpretation of the act that without the qualifier 'unreasonably' any interrup-

tion whatsoever, no matter how minor or inconsequential to the performance of work, is impermissible. For example, discussions with a receptionist on arrival at a premises about whom the official would like to see, or a person coming to meet a union official on arrival at the premises, or any distraction of or discussion with workers as they go about their work, could be ruled to be impermissible. Slight disruptions to the performance of work may be unavoidable. The bill ensures that any interruption is not unreasonable, which is a fair compromise for both the employer and the official. We therefore oppose the amendment.

The Hon. R.D. LAWSON: I indicate that the Liberal opposition supports the amendment proposed by the Hon. Ian Gilfillan.

The Hon. NICK XENOPHON: I do not support the amendment because it will make the provision virtually unworkable if it is interpreted strictly.

The Hon. IAN GILFILLAN: I will just explain. Section 140 is designed to allow reasonable access to get at information, which is spelt out quite clearly in the act. There is no reason why there should be an interruption of work to get that material. Therefore, the amendment that I move ensures a much better relationship of cooperation between the employer and the association representative. I think it is counterproductive to allow for or to encourage the fact that there should be an acceptable interruption of work. It benefits nobody.

The Hon. P. HOLLOWAY: I find that argument incredible. As I said, it depends what interpretation you put on 'disruption of work'. If you take the black letter interpretation of that, almost anything would fit that description. We agree that there should not be any unreasonable interruption in the performance of work. 'Unreasonable' is a well-known concept within the law; we use it time and again in legislation. This term has proven the test of time in a wide range of legislation. To make it a literal prescription here is we believe a very unnecessary and retrograde step.

The Hon. IAN GILFILLAN: The purpose of section 140 is as follows. First, to inspect the books and wage records. That does not need to interrupt work. Secondly, to inspect the work carried out by employees. That does not need to interrupt work. Thirdly, if specific complaints of non-compliance with the award or enterprise agreement have been made, to interview employees who are members of the association about the complaints. That can be done at any time one wishes. I cannot understand why there is this sort of emotional reaction against this power to interrupt work.

The Hon. P. HOLLOWAY: Let me cite an example. The honourable member talks about inspecting the time books and wage records. Presumably, someone has to physically take the books down and put them on the table so that they can be inspected. If they are doing something else, that would arguably interrupt their work. It might not be unreasonable—it might take only 10 or 15 seconds—but technically you could argue that it is interrupting work.

The committee divided on the amendment:

AYES (10)

Dawkins, J. S. L.	Gilfillan, I. (teller)
Kanck, S. M.	Lawson, R. D.
Lensink, J. M. A.	Lucas, R. I.
Redford, A. J.	Reynolds, K.
Stefani, J. F.	Stephens, T. J.

NOES (8)

Cameron, T.G.	Evans, A.L.
Gago, G. E.	Gazzola, J.

NOES (cont.)

Holloway, P. (teller)	Sneath, R. K.
Xenophon, N.	Zollo, C.

PAIR

Schaefer, C. V.	Roberts, T. G.

Majority of 2 for the ayes.

Amendment thus carried.

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

Page 36, lines 31 to 41—Delete subsection (2c)

I believe that this is a consequential amendment that follows from the passage of the amendment moved by the Hon. Ian Gilfillan which excluded reference to 'potential members'. Subsection (2c) in the original bill is in aid of the situation where an official visits a workplace where no member of that association works.

The Hon. P. HOLLOWAY: The government accepts that this is a consequential amendment.

Amendment carried.

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

Page 36, after line 41—Insert:

(6a) Section 140(3)—after paragraph (a) insert:

(ab) address offensive language to an employer or an employee; or

(6b) Section 140(3)—after paragraph (b) insert:

(c) use or threaten to use force in relation to an employer, an employee or any other person.

Section 140(3) provides:

(3) A person exercising powers under this section must not—

(a) harass an employer or employee; or

(b) hinder or obstruct an employee in carrying out a duty of employment.

We seek to have inserted into these provisions two additional subsections relating to prohibited conduct. The first, (proposed paragraph (ab)), is 'address offensive language to an employer or an employee'. At present, there is no prohibition against offensive language. We propose also to insert a new paragraph (c), which would proscribe the use, or threatened use, of force in relation to an employer, an employee, or any other person. The powers granted to union officials are being extended.

There are already prescriptions about the standard of conduct which is to be expected. We believe that it is only appropriate to proscribe other conduct. This is not entirely unknown, in fact, in these situations where offensive language is addressed. It is also not unknown on certain work sites for the use or threatened use of force to be mentioned in such context. This amendment was originally proposed in another place by the Hon. Graham Gunn, a parliamentarian of vast experience.

The Hon. Ian Gilfillan: He occasionally uses some robust language himself.

The Hon. R.D. LAWSON: There is no prohibition against robust language, but offensive language or the use of force ought be proscribed.

The Hon. P. HOLLOWAY: The government obviously opposes this amendment. Under the existing act, section 140(3) and section 140(4), which we do not propose to change, provide as follows:

A person exercising powers under this section must not harass an employer or employee or hinder or obstruct an employee in carrying out the duty of employment. Maximum penalty $5 000. . . If the commission is of the opinion that a person has abused powers under this section, the commission may withdraw the relevant powers.

We simply think that the amendment is not required. The existing act has fines for union officials who harass people or hinder or obstruct employees going about their work. As far as I know there has never been a cause to use it, and I do not believe there has been any prosecution. We believe that the existing law is quite adequate and that the proposed amendment is unnecessary.

The Hon. IAN GILFILLAN: Without going into much wordy explanation as to why the Democrats oppose the amendment, I think the first part of the amendment about offensive language is really too precious to be considered in industrial relations, or any relations, including the operations of this place. So that is out. The term 'threaten to use force' is a concern, but we agree with the government that we believe that the current act, as it is constituted, covers that; it does not need to be amended.

The Hon. NICK XENOPHON: The first part of the amendment is what I call the Hon. Graham Gunn amendment. It is something that has been moved in another piece of legislation, albeit with respect to government officials. I do not have a problem with that part of the amendment. In relation to the second part of the amendment, the existing act refers to harassing an employer or employee. Harassment is much broader in concept than using or threatening force. That would surely be covered by it. So I will not support the second amendment.

The Hon. R.D. Lawson: You did not support the first one.

The Hon. NICK XENOPHON: I do not have a problem with—

The Hon. Ian Gilfillan: Why didn't the Hon. Graham Gunn sue his colleague, Joy Baluch, the Mayor of Port Augusta, for language which is sometimes a bit poisonous?

The Hon. NICK XENOPHON: I have been on the receiving end of the language of the Mayor of Port Augusta. I have a lot of time for her. She is a great state institution, but I do not think that is the point with respect to this amendment. So that is my position. The second amendment I see as superfluous and unnecessary. I would have thought the current act is broad enough. If the opposition wants to persist or split the amendment in two, I will certainly support the first part of the amendment. I see that as being inoffensive.

The Hon. A.L. EVANS: In principle, I support the amendment. However, in practice, it will be very difficult to keep—listening to some of the language around here, it would be broken straightaway.

Members interjecting:

The Hon. A.L. EVANS: I am not perfect. However, on principle, I support it.

The Hon. R.K. SNEATH: I wonder whether those people who are supporting this amendment in respect of trade unions would support a similar amendment in respect of the employers and their behaviour, harassment and constant abuse of workers. I wonder whether some of the Independents who seem to support this would like to move an amendment.

The Hon. R.D. LAWSON: In light of the intimation of the Hon. Nick Xenophon, I will seek to move the amendment in two parts to give the committee the opportunity to support one or the other. Of course, we prefer both.

The Hon. P. HOLLOWAY: I conclude by saying that we really think that this is not only unnecessary but it is also unbalanced and unfair. If you are going to have this, at least do it uniformly. The current act has provisions which relate to both employers and employees and prevents this sort of behaviour. It is covered. Putting this unbalancing in the act is unnecessary and it is poor legislation. We will certainly be strenuously opposing it.

The Hon. IAN GILFILLAN: I really was not taking this amendment very seriously until I now realise that the Hon. Nick Xenophon is prepared to support the first part. What a farce that, in the circumstances which occur from time to time, someone may use what could be defined as offensive language. What is the definition of offensive language? Is that then going to mean that a person will be liable to a penalty of $5 000? Is this the real material that the industrial relations legislation wants to address? I think this is pathetic.

The Hon. P. Holloway interjecting:

The Hon. IAN GILFILLAN: I do not need any coaching from the government. I just think we have more serious and much more substantial issues to address than whether we impose a $5 000 penalty on somebody who may use language which is in someone else's subjective opinion determined as offensive. I think it is a ridiculous amendment and I am stunned that the Hon. Nick Xenophon, who is normally relatively balanced, is prepared to support it.

The Hon. P. HOLLOWAY: Even more so when one side can use offensive language and the other side cannot. It really is crazy.

The committee divided on the Hon. R.D. Lawson's amendment to insert subclause (6a):

AYES (10)

Dawkins, J. S. L.	Evans, A. L.
Lawson, R. D. (teller)	Lensink, J. M. A.
Lucas, R. I.	Redford, A. J.
Ridgway, D. W.	Stefani, J. F.
Stephens, T. J.	Xenophon, N.

NOES (9)

Cameron, T. G.	Gago, G. E.
Gazzola, J.	Gilfillan, I.
Holloway, P. (teller)	Kanck, S. M.
Reynolds, K.	Sneath, R. K.
Zollo, C.	

PAIR

Schaefer, C. V.	Roberts, T. G.

Majority of 1 for the ayes.

Amendment thus carried.

The committee divided on the Hon. R.D. Lawson's amendment to insert subclause (6b):

AYES (12)

Dawkins, J. S. L.	Evans, A. L.
Gilfillan, I.	Kanck, S. M.
Lawson, R. D.(teller)	Lensink, J. M. A.
Lucas, R. I.	Redford, A. J.
Reynolds, K.	Ridgway, D. W.
Stefani, J. F.	Stephens, T. J.

NOES (7)

Cameron, T. G.	Gago, G. E.
Gazzola, J.	Holloway, P.(teller)
Sneath, R. K.	Xenophon, N.
Zollo, C.	

PAIR

Schaefer, C. V.	Roberts, T. G.

Majority of 5 for the ayes.

Amendment thus carried.

The Hon. P. HOLLOWAY: I move:

Page 37, after line 15—

Insert:

(6) If there is a dispute as to whether or not there is a member of a particular association employed at a particular workplace, an official of the association may refer the

dispute to the Commission and the Commission may determine the matter.

(7) The Commission must not, in acting under subsection (6), disclose the identity of a relevant member of an association to the employer.

This is the amendment that came from some discussions about this clause earlier in debate when the Hon. Mr Gilfillan and the Hon. Mr Xenophon suggested that we might deal with one of the consequences of an earlier amendment, namely, to ensure that an employee who did not wish their identity to be disclosed in the context of a union official getting access to a workplace should not be discriminated against. We trust that it adequately addresses the concern raised by the Hon. Ian Gilfillan. We would have preferred the bill in its original form but, given that that amendment has now been carried, we think that this at least addresses one of the undesirable consequences of it.

The Hon. IAN GILFILLAN: I congratulate the government on its rapid response to that issue of concern. I think the wording of the amendment does protect the person who may be a member of a union in a workplace, who does not want their identity known and who ought not have their identity disclosed to their employer or to other people against their will. My understanding of the wording of the amendment is that it deals with that and, therefore, the Democrats will support it.

The Hon. R.D. LAWSON: We certainly believe that those workers who do not wish to disclose their membership should be protected. I would have preferred to have considered this amendment in a little more detail; it has only just landed on my desk. I cannot see any particular infirmity in it at this stage.

The Hon. T.G. CAMERON: I have a problem with the amendment. I can see some practical problems with it working out there at the coalface. You might have a dozen people working on a job and one of them belongs to the union as a secret member. He calls in the union, the union notifies the commission and the commission says, 'Well, yes; one of the twelve is a member of the union, but we can never disclose who that is.' From there on, they are all looking at each other, wondering who is a member of the union and who is not. I can actually see the process, if it is utilised, being disruptive to good, harmonious working relationships.

The Hon. Ian Gilfillan: What is your answer?

The Hon. T.G. CAMERON: I did not say that I had an answer. What I am saying is that I do not like your answer.

The Hon. Ian Gilfillan interjecting:

The Hon. T.G. CAMERON: Well, the government's answer based on your suggestion. I do not think it has been thought through. I think this has just been cobbled together at the eleventh hour. You might have 250 people working on a job and one person says, 'I am a member of the union,' so you go down there and hold a meeting and everybody is yelling out, 'We are not members. Who is the member?' This is what will happen. Off they go to the commission and table his membership. It has to be a secret. The union and the commission will know who the member is, but the other party to the proceedings will not know who the member is. All of the workers on the job will not know who the member is. I can see it acting as a catalyst to create problems on the shop floor.

I am not coming at this from the same view as the Liberal Party. I support the right of a union official to go in there. I did not support the clause of the Hon. Ian Gilfillan. He is the one who does not want the union official to go in there. As a result, this has been cobbled together and the honourable member is going to support a clause that in my opinion (and I spent 10 years working for the union and another 10 years working for the boss, so I have been around the industrial relations field) will inject a poison pill into the workplace. That is what the honourable member will do with this amendment, and I do not support it and will not vote for it.

The Hon. R.D. LAWSON: I am indebted to the Hon. Terry Cameron for that practical exposition. He does have vast experience, and he has identified correctly that this amendment has been cobbled together. This is designed to allegedly address a problem the minister raised by way of argument. At the present time there is no right of entry of a union official if there are no members in a particular place, on a particular work site. It has not caused any problem to date—

The Hon. T.G. Cameron: I support the union official going in, but not under this sham.

The Hon. R.D. LAWSON: You do, but this creates a cumbersome procedure where there has been no demonstrated difficulty about identifying workplaces where there are or are not union members. For example, at the moment under the current system that has operated for years, unions can go into a workplace only if there is a member there. If the member chooses to be a secret member and does not wish to divulge his membership to his employer or his fellow workmates, that has not given rise to a problem at the present time. Nobody has identified any practical instance where that has happened. Now we are inserting this provision dreamed up by the Hon. Nick Xenophon and the Hon. Ian Gilfillan because they thought there is a possibility of some hypothetical situation arising as a result of an argument that the minister chose to put. We do not support the amendment.

The Hon. T.G. CAMERON: I want to make a further contribution. We could have a hypothetical situation where there is a workplace with 200 or 300 places.

The Hon. G.E. Gago interjecting:

The Hon. T.G. CAMERON: When the Hon. Gail Gago shuts up, I will continue. I cannot hear myself talk with her screaming. I do at least like to hear what I am saying. You could have a situation out there in the real world—not this place; the real world—where you have 200 or 300 workers at a work site and they do not want to belong to the union. I have been on work sites where nobody wanted to join the union and you have to try to talk them into it. You have 200 workers on a job and they do not want to join a union. The union cannot get its one member. So what will the unions do? They will seek to slip a union member into that work force. If I had a big job I would want to get access to it—and it is the Hon. Ian Gilfillan's clause that has denied the unions the right to go in there.The unions want to go in there and do the job but they do not have a member.

If it was a big enough site, it would be worth it. Take Roxby Downs, for example—a classic example where the AWU had constitutional coverage and the CFMEU wanted control of the site. That blue has been going on for years. The AWU won. Bob, you might have given them some CFMEU members, or something, I do not know. But, take the Roxby Downs site. Under this arrangement, all the CFMEU would have to do is wander up to the commission and say, 'We have a member on the site. We want to go in now and talk to the entire work force.' I know the Australian Workers Union would be really pleased about the CFMEU slipping one of its union members onto the site under this provision and then being able to walk onto the site and say, 'We have your

coverage here; we have a member. You are going to the commission.'

Under this clause that has been cobbled together at the eleventh hour, the commissioner would have to give them access. So the CFMEU could have one member at Roxby Downs and it would have the right to go up there on the instruction of the commissioner. There would be nobody on site: they would all be wandering around with their AWU tickets saying, 'Who is it? I'm in the AWU.' And, to use a term that Bob is familiar with, 'Who is this scab who is not in our show and has joined some other ruddy union? Is it you? I want to look at your ticket.' The blokes will be walking around saying, 'It's a ticket show. Hold up your ticket. Where is your AWU ticket?' I know what the poor CFMEU member would have to do. He would have to be a dual ticket holder. So you can usher that system in, too, where people might have to hold two tickets.

Before members rush in and support this clause—and I say this to the Hon. Nick Xenophon and the Hon. Andrew Evans—think about the practical implications of what it might mean on the job. Remember, I am starting out from a position where I believe the unions ought to be able to go in and look after the members. That is my position. That was lost.

We are now going to create a position that will cause industrial mayhem. I would love to have a former industrial commissioner in the chamber and take him aside and ask him what he thought of this clause and how often he thought he would be convening meetings with unions who were claiming they had a member on the job and wanted a voluntary conference. If the Industrial Commission does not have much to do these days, believe you me, it will be kept busy after this amendment goes through.

The Hon. P. HOLLOWAY: With respect to the scenario that has been painted by the Hon. Terry Cameron, however fanciful it was 20 years ago, certainly, I do not believe it would be the case in the modern industrial environment. If there was a union that really did want to go and do the sort of thing he said, I imagine they would get someone who would be tough enough not to care whether their name was mentioned, anyway: it would not make any difference.

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: That is how you would do it. In the case of the CFMEU, if it wanted to put someone in I am sure it could find someone who would not give a damn if they had to stand up there and do it. It is just a fanciful argument. Let us get back to the real point of this bill. What the Hon. Terry Cameron has raised is essentially a red herring. What we are talking about here is simply protecting the rights of association. The powers that union officials have under the existing act, which will be retained, provide that the rights of entry would be able to be exercised only to inspect time books and wage records at the premises, to inspect the work carried out at the workplace and note the conditions under which the work is carried out, and where specified complaints about non-compliance with the act and award or enterprise agreement have been made. If there is one worker there who is not being paid properly or who has a genuine complaint, why should not a union official be able to go in and act on their behalf by undertaking those basic rights? Why should one person have fewer rights than the other workers there?

Why should not a union official be able to have entry to do it? If there is a case where one employee is fearful that if their name is disclosed they will be harassed and they are not prepared to put their name forward then, in fact, what would happen? Nothing would happen. This is about ensuring that the law is observed while protecting freedom of association. It simply provides that basic safeguard.

The Hon. NICK XENOPHON: I indicate that I support this amendment. I take into account the concerns of the Hon. Terry Cameron. I think it is an imperfect amendment. But it is, essentially, here to deal with the reality of the former amendment that took out 'potential members'. It is an attempt, however imperfectly, to deal with a situation where, in terms of the whole issue of freedom of association, by taking out 'all potential members' in an earlier amendment, there is an invidious situation where a person who is a member of an association does not want his or her identity disclosed, and this at least is a vehicle to prevent potential victimisation. It is an imperfect amendment, but it is somewhat better than the alternative, which is not to have any level of protection at all.

The Hon. R.K. SNEATH: I just—

An honourable member: Get stuck into Terry.

The Hon. R.K. SNEATH: No, I am not getting stuck into the Hon. Mr Cameron.

The Hon. R.I. Lucas: Tell him he doesn't know what he's doing.

The ACTING CHAIRMAN (Hon. J.S.L. Dawkins): Order! The leader is out of order.

The Hon. R.K. SNEATH: Thank you, Mr Acting Chairman. I do not intend to get stuck into the Hon. Mr Cameron, and I am sure he will agree with some of the things I say. In fact, I think he agreed with some of the things I said in my second reading speech. I ask the Hon. Mr Cameron whether he wants to listen to what I am saying, because the Hon. Gail Gago is not interjecting at the moment. He is not interested in the debate, obviously.

The Hon. T.G. Cameron: Sorry.

The Hon. R.K. SNEATH: I think the Hon. Mr Cameron supported me in my second reading contribution when I indicated how many people telephone the union with problems and say to the union official, 'I want you to fix this up but I don't want you to tell the boss.' The Hon. Mr Cameron agreed on that occasion—

The Hon. T.G. Cameron: That does happen.

The Hon. R.K. SNEATH: Yes. I am sure the Hon. Mr Cameron would also agree, from his time with the Australian Workers Union, that in a site where the majority of workers were non-union members, when some of them joined the union they said that they did not want anything posted to an address where the boss could identify them as a union member. There were a number of occasions when I was secretary of the union where we had people in a workplace of 100 or so, and there were only two or three who joined the union and indicated that they did not want anything sent to them at the work site or anywhere that identified the fact they were a union member. That is what this measure protects, and that is why it is important that those people have protection.

I remember a dismissal form filled out by a horse trainer's wife when they sacked the strapper. It was a South Australian horse trainer. On the bottom of the dismissal form, under the provision that stated 'Reason for dismissal', was clearly written 'Because he joined the trade union movement. He joined the AWU.' That went to the commission; it is recorded in the commission that that was the reason why this person was sacked. There are not a lot of workers out there who do not want to be identified as a union member, but there are some. They want to join the union because of job security and

to have some comfort that there are people there who will represent them. But they do not want the boss to know. And that is exactly what this does.

The Hon. R.D. LAWSON: The example just given by the Hon. Bob Sneath simply could not apply under the current act. There are extensive provisions about freedom of association. There are extensive provisions in sections 115 and 116 which prohibit discrimination against people who are members of associations or who participate in industrial action.

The Hon. R.K. Sneath interjecting:

The ACTING CHAIRMAN: Order! The Hon. Mr Sneath has had a go. The Hon. Mr Lawson has the call.

The Hon. R.D. LAWSON: If this was a serious problem, one would have expected to find it in Mr Stevens' very thorough report about our industrial relations system. One would have expected a Labor government to have produced this amendment, if it was a serious problem. One would have expected the trade union movement to have been pressing for this for years. It is not a problem at all; it never has been a problem.

The Hon. P. Holloway interjecting:

The Hon. R.D. LAWSON: Now they have cobbled together at a moment's notice and without any thought the necessity for a—

The Hon. P. Holloway interjecting:

The ACTING CHAIRMAN: The minister is out of order.

The Hon. R.D. LAWSON: It is an entirely unnecessary, ill-thought out proposal. If the government can make a case for the introduction of this provision, let it introduce a bill at any time and we can have a reasoned debate about it in another context than simply anecdote or things cobbled together at five minutes' notice. At the moment, there has been no justification for this amendment. The Hon. Terry Cameron has graphically illustrated some of the practical difficulties, although there might be other responses to that. For the Hon. Bob Sneath to be the only government member defending it on the basis that, some years ago, a racehorse trainer dismissed a strapper on the grounds that he was a member of a union (which is something that is prohibited under the freedom of association provisions of our legislation) just beggars belief.

The Hon. IAN GILFILLAN: It was the Democrats' amendment which deleted potential members, so do not blame the Hon. Robert Lawson, although he was magnanimous enough to support it. We make no apology for the fact that we do not believe that union officials should have an unbridled right to enter any workplace in South Australia under any circumstances—that is out. The government responded to that constructively by saying that it believed that there was scope for an amendment which would allow access to a workplace where there was a union member (or members) who, quite rightly, did not want to have their personal identification linked to the fact that a union member had the right of entry. That is all constructive stuff. Perhaps if you want universal access to any workplace at any time by any union representative you would be miffed, because the majority of this chamber, and I believe the majority of South Australians, do not accept it.

If the union movement is so naive as to think that the general public will welcome union access any time to any workplace, it needs to think again. However, let us be constructive about it. There is every reason why, if a member has joined a union, that person is entitled to have the services, investigation and assessment of their workplace by a union representative, and they should not be open to the harassment and intimidation, which is very real—it can come in all sorts of forms—and that is why this government has been constructively sensible in bringing this amendment forward.

I think it is very petty of the opposition if it is going to snipe at this amendment. Anyone who has read today's media will know that Walmart, one of the biggest companies in the world—and venomously anti-union—is suffering a huge public and investor backlash, because the world at large has recognised that proper representation of a work force is a constructive and fair process for businesses to carry on their activities. That is the basis upon which the Democrats believe we should evolve. We do not grant the right of access to unions to have total access to any workplace, because we do not believe that that is their right.

We do not accept that any employer should intimidate, harass or discriminate against a person who joins a union, and this amendment of the government has gone quite a way to giving that protection. Therefore, I believe that this committee should support the government's amendment. It may not be what the government with the movement of the SA Unions (as they now are—and I hope people are up to date and referring to them as SA Unions) may want, but it is better than not having this amendment, which I believe the government has been quite productive in bringing forward to this committee.

The Hon. R.K. SNEATH: I want to refer to some of the comments the Hon. Mr Gilfillan made, which were very accurate. It is not only the employer whom a member of a union in a large workplace where the majority are non-members is worried about, but they may also want to keep it a secret from their fellow workers. Over the years, we have heard the opposition in particular argue how a workplace, which is dominated by union members, can sometimes make it hard for those few who might not be union members. Well, sometimes that works in the opposite way; that is, a workplace which is dominated by non-union members who agree with the boss' position nine times out of 10 can make it hard for those who are actually union members. Some union members in those workplaces also want to keep the fact that they are a member of a trade union a secret from not only the boss but also their fellow work mates. If we do not respect the rights of individuals to do that and to keep those things confidential, then we are invading their privacy; it is as simple as that. I would ask members with any conscience for the rights of individuals to support this amendment.

The Hon. G.E. GAGO: My colleagues have said a great deal on this matter, so I will be brief. It must be said that, although this is a less than perfect amendment, nevertheless it does provide a basic right to workers to have ready access to their unions in a workplace, particularly union members who do feel some degree of threat or intimidation. Let me tell members that, from my experience as a union official, that threat is very real. There would not have been a day when I worked either as an organiser or an official in a number of capacities that our office was not contacted by a nurse wanting the union to pursue an issue on their behalf but who did not want to be identified to their employer.

We are talking about nurses who are well-educated, well-informed, generally very assertive people; yet, to ring a union and say, 'I'm being harassed' or 'something is happening in the workplace and I want you to intervene but I don't want to be identified by my employer' to some extent shows the depth of the potential for threat and intimidation by an

employer. This is an imperfect amendment, but it provides a basic right of access to those people whom I believe need that protection.

Some of the concerns raised by the Hon. Terry Cameron I believe are quite far-fetched. They may have been more reasonable conclusions 20 years ago, but in this day and age I think the bow that he was drawing was indeed a very long one. I do not see the issues he raised as being relevant to the debate before us at the moment. So, I urge all members to support this amendment, which is a fairly minor amendment in the scheme of things. It is not a radical provision that is opening up the workplace for any union official to walk in at any time of the day or night. It is really only a very small step towards the rights of employees, particularly those who may feel under some degree of threat or intimidation. I urge members to reconsider and support this amendment.

The Hon. R.D. LAWSON: For the purpose of completeness, I indicate that under the existing law a union official can go onto a workplace only where there are one or more members of the association. There must be one member. If it had been a problem in the past or if it is a problem now that there are workplaces where there is one member who wishes the union to enter but they are not prepared to identify themselves because they do not want to be known to their employer or workmates as a member of the union, one would have thought that, if there had been such a case, the government could produce some evidence or document it.

If that were really a problem one would have expected examples to be given, a debate to occur, and a reasoned amendment to be produced, but what we have today is no evidence of this. It has never been identified as a problem, but suddenly out of the blue this committee decides we will put this in to cover some hypothetical problem for which absolutely no basis has been demonstrated. This is to be inserted in an act which already contains extensive provisions in sections 115 and 116 which protect workers from discrimination or harassment by employers because of their desire to associate with a union.

The Hon. P. HOLLOWAY: This debate is starting—

The Hon. G.E. Gago interjecting:

The ACTING CHAIRMAN: Order! The minister does not need any help from the Hon. Gail Gago.

The Hon. P. HOLLOWAY: —to go around in circles, and I think it is probably time that we voted. The Hon. Mr Lawson is ignoring the fundamental issue. We are talking about protecting the right of association, the right of a union official to enter the workplace to do a limited number of tasks, including, to inspect timebooks and wage records and the work carried out in the workplace, etc.—the basic rights that were read out before. It is all very well to say that there are rights against discrimination, but the reason we have unions in our society is so that collective action can be taken to protect the rights of workers. To protect those rights you need union officials being able to act when there are breaches of the law or awards in the workplace.

What we are talking about here is the right of union officials to enter; we are not talking about discrimination against individuals. These amendments are not the government's preferred position, as the Hon. Ian Gilfillan said. Nevertheless, given that we are unable to get our preferred position of allowing unlimited access, at least this provides some protection in relation to workers, if there be only one or two of them in a workplace. It enables the law to be observed while protecting their freedom of association.

The Hon. G.E. GAGO: I just want to address the issue raised by the Hon. Rob Lawson, who maintains that we are not able to give examples. On this side of the chamber, sitting here on the back bench you see probably 100 years worth of experience.

Members interjecting:

The Hon. G.E. GAGO: You might laugh, and this might mean nothing to you, but we have experience in the union movement, year in, year out, working every day with employees. We stand here and give you concrete examples.

Members interjecting:

The ACTING CHAIRMAN: Order! The Hon. Gail Gago has the call.

The Hon. G.E. GAGO: We have a wealth of experience at which you scoff and laugh. That is the degree of respect that you have for workers and the people who represent workers. You think we are a joke. We present you with this vast experience and give you examples of the sorts of situations that we have had to deal with everyday working as unionists, and you sit there and dare to say, 'Give us an example'. I take objection to that.

Members interjecting:

The ACTING CHAIRMAN: Order!

The Hon. T.G. CAMERON: I am not sure how the Hon. Gail Gago arrived at 100 years of experience on the back bench.

An honourable member interjecting:

The Hon. T.G. CAMERON: No; the honourable member specifically mentioned the Labor back bench, so I assume I was excluded. I am sure that the Hon. Gail Gago will correct me if I am wrong.

The Hon. G.E. Gago: I included you.

The Hon. T.G. CAMERON: Well, I was included. I was wondering whether my 10 years' experience was included in that 100 years. I share your view about the rights of unions to enter workplaces, but I do not share it about fixing it up this way, because I think you will create an industrial relations mess on the job. I do not argue about the objective, but this is trying to get it through the back door and, unfortunately, it will be locked. This is an unnecessary way of resolving unions' exercising their legitimate right to organise on the job. You have me on that one, but you do not have me by creating a half-smart, backdoor method: 'All we have to do is notify the Industrial Commission of a dispute. It's simple.' I am sure that the commissioner would make them prove that they had a member, and they would be required to show documentary evidence. One member could be less than one per cent. They could be into the commission, and then we would have an ongoing, festering industrial relations situation created by using this kind of half-smart technique to get in the door. I oppose it.

The committee divided on the amendment:

AYES (9)

Gago, G. E.	Gazzola, J.
Gilfillan, I.	Holloway, P. (teller)
Kanck, S. M.	Reynolds, K.
Sneath, R. K.	Xenophon, N.
Zollo, C.	

NOES (10

Cameron, T.G.	Dawkins, J. S. L.
Evans, A.L.	Lawson, R. D. (teller)
Lensink, J. M. A.	Lucas, R. I.
Redford, A. J.	Ridgway, D. W.
Stefani, J. F.	Stephens, T. J.

PAIR

Roberts, T. G. Schaefer, C. V.

Majority of 1 for the noes.

Amendment thus negatived; clause as amended passed.

New clause 59A.

The Hon. T.G. CAMERON: I move:

Page 37, after line 15—

Insert new clause as follows:

59A—Amendment of section 141—Register of members and officers of association

(1) Section 143(3)—After paragraph (b) insert:

(c) information as to—

(i) the number of financial members of the association; and

(ii) the number of non-financial members of the association,

as at the immediately preceding 30 June.

(2) Section 141—After subsection (3) insert:

(3a) A person is entitled to inspect (without charge) a copy of any information provided under subsection (3) during ordinary business hours at the office of the Registrar.

My amendment to insert proposed new clause 59A concerns a register of members and officers of the union. When I had a look at the act I was somewhat surprised to find that some of the information that one would have expected a trade union to report to the industrial register was not there. This clause is really to try to tidy up what I see as a bit of an anomaly in the register. What I am seeking to do is to have the union provide information to the industrial register each year. This is not an onerous task for the unions: all they would be required to do is notify the financial register of the number of financial members and non-financial members of the association.

One could be forgiven at times for wondering whether or not the trade union officials who count the number of financial members have some difficulty with counting because, if you look at their records, you will find that the number of financial members that they declare in their annual report to their own members will often be different from the number of financial members that, for example, they affiliate with the Australian Labor Party and Unions SA.

The Hon. A.J. Redford: And it would stop those rumours that we keep hearing.

The Hon. T.G. CAMERON: It would certainly stop members of the Liberal opposition challenging the authenticity or accuracy of the affiliated numbers for a trade union. This would certainly resolve that problem because, quite clearly, the number of financial members that a union had on the official notification to the registrar would have to be the maximum number of members that that union could affiliate to Unions SA and the Australian Labor Party. I think that is what the union membership itself would want: accurate, honest, open, transparent reporting by its elected officials to the industrial registrar. It is a simple request: the number of financial members and the number of non-financial members at the end of each year.

There is also another new subsection in there that provides that a person is entitled to inspect without charge, so any union member—any member of the public in that example—would be able to go in and just check that level of membership. So, if a member of a union felt that their union leadership was up to mischief in relation to this, and they could not get the number of financial members of the union, then the number would be available on the public record. I urge members to support the amendment.

The Hon. P. HOLLOWAY: The Hon. Terry Cameron's amendment would mean that unions have to give the industrial register a list of their financial and non-financial members each year, and anyone could look at that list. We oppose this, because—

The Hon. T.G. Cameron: No, not a list of the members: only the number.

The Hon. P. HOLLOWAY: Asking unions to keep lists of non-financial members is unfair and impracticable. Non-financial members are union members who have not formally resigned but who have stopped paying their fees. That is like asking businesses to keep lists of bad debtors forever. After a while the union would just want to write them off and forget about it.

The Hon. J.M.A. Lensink: Computers have a huge capacity.

The Hon. P. HOLLOWAY: Yes, they do indeed.

Members interjecting:

The ACTING CHAIRMAN: The minister has the call.

The Hon. P. HOLLOWAY: Again, this amendment is part of the lopsided approach to this bill that we have seen throughout, where a whole lot of constraints are being imposed on unions whereas, in fact, often in these sorts of things there are no commensurate measures in relation to employers.

An honourable member interjecting:

The Hon. P. HOLLOWAY: It does not cut both ways. Members opposite tonight have moved a series of amendments that have just not done that.

The Hon. R.I. Lucas interjecting:

The ACTING CHAIRMAN: The Leader of the Opposition will have his chance to make a contribution.

The Hon. P. HOLLOWAY: The government opposes the amendment. It is just another piece of information that really has no real practical benefit for anybody.

The Hon. A.J. REDFORD: I point out to the Leader of the Government that clause 4 of the bill defines 'association' as 'an association, society or body formed to represent, protect or further the interests of employers or employees'.

The Hon. P. Holloway: I accept that.

The Hon. A.J. REDFORD: I have not said much this evening, because a fair bit of it has been palpable nonsense, but I think this has reached a new height. If the only argument that the leader can put up against this provision is it does not apply to employers, and if just a small, simple lawyer such as myself can blow him out of the water in 10 seconds flat, the fact is that he has no arguments. I think we can vote on this quickly and bring a sense of justice to the situation.

The Hon. NICK XENOPHON: Can the Hon. Mr Cameron confirm that, first, this does not require names of union members to be disclosed and, secondly, what does he say about the government's position that it is impossible to provide a list of non-financial members? I am not sure how these things work, so given his background in the union movement how does he say it would work? It could be that the practices from one union to the other vary.

The Hon. T.G. CAMERON: It is a rare privilege for me to be able to get up in this place and explain to the Hon. Nick Xenophon what one of my amendments mean. It is usually nearly always the other way around. As it says, it is 'the number' of financial members. There is no requirement by the union to provide lists of names or addresses. In response to the second part of the question, it should be as simple as pressing a button on a computer. All unions have their membership computerised. You push a button and out comes

a copy of all the financial members; and you press another button and out comes a list of all the non-financial members—it is as simple as that.

The Hon. NICK XENOPHON: I thank the Hon. Mr Cameron for his answer. What happens if in some circumstances the union said, 'We know the number of our financial members, but there is no way we could tell you the number of our non-financial members because of the way they are defined'? If there is such a broad definition under the rules of the association, it might include members who have since passed away and the union would have no way of knowing that. Would it be an onerous requirement on the part of the union?

The Hon. T.G. CAMERON: I am only a fairly simple person, but I would have thought that your membership would consist of two parts: those who are financial and those who are not. There is no list that a union knows better than the list of those members who owe it money. It is not a problem.

The Hon. R.D. LAWSON: I indicate support for this amendment. I will be moving amendments concerning the affiliation of registered associations with political parties and campaign donations of registered associations—important provisions, which I hope the committee will support. We believe that the Hon. Terry Cameron's suggestion is consistent with those provisions. Section 141 of the act requires the keeping of a register of members and officers of associations. The honourable member has correctly identified that there is a loophole in those requirements and, accordingly, it is appropriate to remove that loophole by requiring disclosure.

In these days of corporate governance and the like, full disclosure of records, without identifying individuals, is entirely appropriate. Registered associations, both employer and employee associations, enjoy privileges under the Industrial and Employee Relations Act. They have responsibilities to the wider community and we think this initiative is worthy of support.

The Hon. NICK XENOPHON: I have significant reservations about listing the number of non-financial members of an association, because there could be circumstances in which the records may not have reasonably been kept.

Members interjecting:

The Hon. NICK XENOPHON: There is a distinction. I do not know what the rules of association could be for a particular union with respect to non-financial members. In relation to the first part of the proposition that there be records of the number of financial members, could the Hon. Mr Cameron indicate what benefit he sees in having on file the number of members of a particular union—

The Hon. R.I. Lucas: Sneathy has been rorting the system for years at the AWU.

The ACTING CHAIRMAN: Before calling on the Hon. Mr Cameron, I point out that the chair has remonstrated with the Leader of the Government for pointing, and I say the same to the Leader of the Opposition.

The Hon. T.G. CAMERON: I indicated at the outset when introducing the amendment that it is about openness, honesty and transparency. I am not sure where the Hon. Nick Xenophon is coming from with this, but situations exist where associations register with other organisations for more members than they have on their books. In other words, you may have an association with 5 000 financial members, but it is registered with Unions SA or the Australian Labor Party as having 7 500.

Members interjecting:

The Hon. T.G. CAMERON: That is what this clause is all about—it is about trying to help the unions get it right. If we have a situation where a union has 5 000 members (and that is what is in its annual report) and it is affiliated to another organisation for 7 500 members, you do not have to be very bright to realise that something is wrong. Why would a trade union secretary allow his union to be over-affiliated, sometimes by up to 50 or 60 per cent? Do not tell me it does not go on—I was secretary of the Australian Labor Party for nine years. Say a union is over-affiliated by over 2 500; if you are talking about $4 as an affiliation fee, you have that union spending $10 000 of its union members' money—

Members interjecting:

The ACTING CHAIRMAN: Order! Both sides of the committee are out of order.

The Hon. T.G. CAMERON: —for belonging to an organisation for 50 per cent more than its membership. Some people would say that that is fraud. Some people would say, 'Well, you are committing fraud. You're actually lodging documents with another organisation, and you're lying about how many members you've got.' You cannot sign your annual report and say you have 5 000 members, and then sign the cheque and your form when you increase your affiliation to 7 500; one has to be a lie, so one is probably a fraud. Let us give the associations and unions the benefit of the doubt; they have probably added up a little incorrectly in the past. Let us put it all down to clerical errors. It is not really about union secretaries purchasing political power; they have made an error. This will help.

I can recall a number of times when, as an industrial officer with the AWU, members would ask me, 'How many are we affiliated to the ALP?' Surprise, surprise! It was more than the figure showing in the annual report, and they would query that with me and say, 'Where does this extra 1 000 members come from that they've got? I belong to the Spence sub-branch. I am a member of the union and I have noticed here that my union record shows that we've got 11 000 members but we are affiliated to the ALP for 12 000.'

It does cause concern, and this would remove that concern, because both figures would be the same (not necessarily the same). Whatever the figure was provided to the industrial register as an accurate record of their union's financial membership would be the maximum figure that they could affiliate to any organisation; they could for less, of course, but that would be the maximum. This is really trying to help sort out problems that exist on the job. Union members often ask, 'Well, why is there this disparity?' I was just an industrial officer, so I used to dodge the question because I wanted to keep my job. It is a problem, and it does exist. What is wrong with a clause that seeks more accuracy, openness and honesty in the financial reporting of the union?

The Hon. A.J. REDFORD: Can I just make this comment in response—

The Hon. P. Holloway interjecting:

The ACTING CHAIRMAN: The minister is out of order with that comment. The Hon. Angus Redford has the call.

The Hon. A.J. REDFORD: I will make this comment in relation to the question that the Hon. Nick Xenophon asked. First, I will cite some of my experience for that small period when I acted for that union which I talked about earlier. In that union there were financial members, and then there was a substantial group of non-financial members. You might recall that I explained that the union used to sit and wait until there was sufficient indebtedness, and then they would go out

and sue their own members. That was the old carpenters and joiners; members might recall my explanation about that. It is important to know how many members a union has. I think that the Hon. Nick Xenophon acknowledges the force of proposed paragraph (c)(i)—the number of financial members.

The distinction between financial and non-financial members can, in some respects, be vague, because non-financial members might well have all the rights of a financial member; they may not. In some organisations, depending on the rules, if you are non-financial you might be precluded from voting at an annual general meeting, etc. That is relevant information; it is as relevant to know how many financial members there are as it is for non-financial members. For the association, whether or not it is Business SA—because it is caught up in this—it is relevant to know this and to encourage them to purge the membership list so that when they purport to represent people like the Hon. Nick Xenophon—or a certain number of people—we can know with a degree of confidence who and how many they are purporting to speak for.

The Hon. Nick Xenophon might recall that vicious and nasty response by the Australian Labor Party to the success of Family First in Queensland and Victoria at the last federal election, when they trawled through and attacked the integrity of Family First and its membership base during the period leading up to the election and, indeed, in the post-election period. Some of those left wing apologists who write for *The Australian* did exactly the same, and yet no one stands up—

The Hon. P. HOLLOWAY: I rise on a point of order. The comments of the honourable member are completely irrelevant to the clause before us. Under standing orders, debate during the committee stage should refer to the clause before us. It is extremely irresponsible.

The ACTING CHAIRMAN: I call the honourable member. I am sure he will come closer to the new clause that is proposed to be inserted.

The Hon. A.J. REDFORD: The leader has been absent for some of it; I understand he walked out in a huff. Basically, I was talking about the importance of knowing the number, the nature and extent of the membership base. I was pointing out that that is exactly what this clause attempts to do. For the benefit of the Leader of the Government, I was pointing out that it was his federal colleagues and party supporters who, leading up to and after the last federal election, attacked, in my view in a vicious way, Family First and its membership base, and yet the government has the gall to stand up and hide half its membership behind this sort of facade. I am saying that all the Hon. Mr Cameron seeks to do here is to identify the numbers. If you are going to get into these attacks on political parties such as Family First, then let us do it fairly, and this is one small step towards bringing a bit of fairness into this sort of debate.

The Hon. P. HOLLOWAY: In his address the Hon. Terry Cameron has told us what this is all about. It is all about politics. It is nothing to do with industrial relations. It is completely irrelevant.

The Hon. T.G. Cameron: Rubbish!

The Hon. P. HOLLOWAY: Of course it is. How is it rubbish? You said it yourself: it is all to do with the Labor Party, and it is all to do with Terry Cameron's vision of how the Labor Party was about 10 years ago.

The ACTING CHAIRMAN: The member should be referred to as the Hon. Terry Cameron. I ask you to direct your comments through the chair, minister.

The Hon. P. HOLLOWAY: Well, perhaps, Mr Acting Chairman, you might care to have some decorum in the committee and prevent interjections.

The ACTING CHAIRMAN: I have been doing my best to keep that, and I need the help of the committee. The minister has the call, and members will come to order.

The Hon. P. HOLLOWAY: Quite clearly, this is about the vision that the Hon. Terry Cameron had about the way the Labor Party operated 10 or 15 years ago when he was involved in it. The fact is that there have been extensive changes to Labor Party rules since then. So, in fact, all of those examples and all of the history that goes way back to the mid 1990s and prior do not apply to the Labor Party today. That is the first point I make.

The second point, of course, is that this is really irrelevant to the industrial relations matters at hand. But, even if this goes through, how would that help? What it requires is information as to the number of financial members and non-financial members, although I do not see how information about non-financial members is in any way relevant to the issue that the Hon. Terry Cameron is raising. It is completely irrelevant. But, even if you do have the number of financial members of an association, it applies at July. The Hon. Terry Cameron would be well aware that, in relation to union affiliation with the Labor Party, under Labor Party rules it is based on various times of the year. As I understand it, it is on a quarterly basis. So, in any case, even if this information was available, in terms of the Labor Party (which apparently is what this is all about), it would not have strict relevance anyway to actual affiliation with the party. This is about politics, not industrial relations. If you want to legislate about politics, amend the Electoral Act. That is the appropriate place to do it.

The Hon. J.M.A. Lensink interjecting:

The Hon. P. HOLLOWAY: The honourable member and her colleagues have been telling us all night that they want good industrial relations in this state. Why are we messing around? Let us get serious about this bill. This bill is about industrial relations. We have a good industrial relations record within this state—

The Hon. D.W. Ridgway: Well, why change it?

The Hon. P. HOLLOWAY: Yes, why are we changing it? The answer to that is, of course, there are changing circumstances, as we decided the other night. Take the example of the labour hire companies. Had we ever heard about them? That is why any legislation needs to keep up. It does not matter what it is—whether it is industrial relations, legislation in relation to doctors, or anything else.

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: Well, if you are going to interject, I will respond to it. If you do not like the arguments, do not interject.

The Hon. T.G. Cameron: We would not want to see you spit the dummy any further.

The Hon. P. HOLLOWAY: Ever since the Hon. Terry Cameron left the Labor Party 10 years ago, he has raised these sorts of issues.

The Hon. R.I. Lucas: He's nailed you!

The Hon. P. HOLLOWAY: He has not nailed us at all. The fact is that the situation is completely different. It is about politics, and the place to legislate for that is the electoral act—it is not in industrial relations legislation. If framing important industrial laws for South Australia boils down to this sort of petty point-scoring, this state is in serious

trouble, particularly when people opposite have a majority and misuse it.

Members interjecting:

The CHAIRMAN: Order! This bill is taking an inordinately long time to consider properly. The debate is deteriorating into a rabble. Members on my left are interjecting constantly, and that deserves condemnation. Equally, though, there are interjections from the backbench on my right. The hour is late and the debate is tedious, but I still expect people to maintain good manners and pay attention to the standing orders. If we start from that point we will get to the finish a lot quicker.

The Hon. R.I. LUCAS: Mr Chairman, we welcome you back. We understand that the leader was keen to have you back in the chair. The Australian Workers Union—

The CHAIRMAN: Order! I have just made the point that cleverness is not helping the debate.

An honourable member interjecting:

The Hon. T.G. CAMERON: I rise on a point of order. Mr Chairman, I cannot hear what you are saying. There is some noise echoing from my left. I thought you told us to shut up on your right.

The CHAIRMAN: Order! That may be high praise from a champion, the Hon. Mr Cameron. I ask all honourable members to maintain the standing orders. This is a bill of significance and importance to the future of the state and it ought to be handled in a statesmanlike manner.

The Hon. R.I. LUCAS: Mr Chairman, again I welcome you back into the chair. This is an important amendment that has been moved by the Hon. Mr Cameron, and I have been disappointed so far that the Hon. Bob Sneath has not lent us the wealth of experience that he has in this area so that he might illuminate the debate and the importance of this issue.

The Leader of the Government tried to downplay the importance and significance of this by saying that the Hon. Mr Cameron was talking about the past. Let me refer to some recent events, and I am indebted to my former colleague, the Hon. Legh Davis, who raised some of these issues in the parliament—

The Hon. P. HOLLOWAY: I have a point of order, Mr Chairman. Quite clearly, the Leader of the Opposition is not addressing the clause. For a start, he should not be quoting *Hansard*, but—

The CHAIRMAN: It is not ordinarily the case that members should be quoting from *Hansard* unless it is relevant to the debate.

The Hon. G.E. Gago: It is not relevant.

Members interjecting:

The CHAIRMAN: Order! I am the person who will decide whether or not it is relevant. There have been accusations during the committee stage that the proposition by the Hon. Mr Cameron is not current and in the past. I think the leader is making his reference to past debates in reference to the matter before the chair and I am allowing him to continue.

The Hon. R.I. LUCAS: Mr Chairman, indeed it is relevant. The Hon. Mr Cameron gave a hypothetical example in relation to a union that may well have a certain number of members (I think he said 5 000), and what happens if they affiliated with the Labor Party using a higher number of members—and I think he used the example of 6 000—

The Hon. P. HOLLOWAY: Mr Chairman, I rise on a point of order. Affiliation with the Australian Labor Party has nothing to do with the industrial relations act.

The CHAIRMAN: There is certainly a core of substance in what the honourable member is saying. I think that the bill is clearly about the industrial relations scheme: it is not about the political affiliations of parties. It is something that has been thrown into the mix of the bill but, because it is lodged, it is before the committee and it is for the committee's consideration. Therefore, I will allow the Hon. Mr Lucas to continue. I would encourage him to stick to the industrial relations side and let us forget the political rhetoric.

The Hon. R.I. LUCAS: In relation to the Australian Workers Union—and again this was an issue raised by the Hon. Mr Cameron and a number of other members by way of interjection—I refer to the 1999-2000 annual accounts of the Australian Workers Union signed on 22 September 2000 by none other than Mr Bob Sneath, the then AWU secretary. They reveal that as at 30 June 2000, according to Mr Sneath, there were only 10 208 members of the AWU. Indeed, the accounting officer's certificate signed by Mr Bob Sneath states:

> I Robert Sneath being the officer responsible for keeping the accounting records of the Australian Workers Union Greater South Australian Branch certify that as at 30 June 2000 the number of financial, life and retired members of the organisation was 10 208.

The same Mr Bob Sneath, on behalf of the AWU, affiliated 14 000 members with the Australian Labor Party—a 40 per cent rort; a 40 per cent discrepancy by a rorter, the Hon. Bob Sneath—

The CHAIRMAN: Order!

Members interjecting:

The CHAIRMAN: Order!

Members interjecting:

The CHAIRMAN: Order! I have continually asked for order and I have pointed out the question of relevance to the Leader of the Opposition. He is continuing to canvass matters which have been before this chamber on numerous occasions. He mentioned when the Hon. Legh Davis was present. Many of us were here at that time and we have fully canvassed that issue at the moment. I think that, if we are to return to relevance, I will insist that we talk about the terms of this particular clause. Whether or not it is relevant, it is part of the proceedings and it has to be dealt with. I think we should get to it and not go over the same arguments. I have heard in the past the argument that the Hon. Mr Lucas is canvassing now ad infinitum, and I think everyone is bored with it. Let us get on with it.

The Hon. R.I. LUCAS: These accounts were signed by the accounting officer at the time, Mr Bob Sneath. Without going through all the gory and sordid detail of the accounts that were signed by Mr Bob Sneath, one can go back over a number of years—

The Hon. P. HOLLOWAY: Mr Chairman, I rise on a point of order. Is it in order for the Leader of the Opposition to make accusations against another honourable member in this place, unless he does so by substantive motion? If so, he should be not able to abuse standing orders in this way.

The CHAIRMAN: Standing order 193 is very clear about offensive language and making imputations.

Members interjecting:

The CHAIRMAN: Order! Standing order 193 is instructive to all members. There are no virgins in this debate. It provides:

> The use of objectionable or offensive words shall be considered highly disorderly; and no injurious reflection shall be permitted upon the Governor or the parliament of this state, or of the commonwealth, or any member thereof, nor upon any of the judges or courts of law, unless it be upon a specific charge on a substantive motion.

I ask all members to remember that, especially the Hon. Mr Lucas who has the floor.

The Hon. R.I. LUCAS: Mr Chairman, thank you for your wise counsel. As I said, I do not intend to go through all the detail which has been canvassed before, much as members may wish me to do so; nevertheless, it is of similar, shape, structure and nature to the example I gave of the 1999-2000 accounts which were signed by the Hon. Bob Sneath (formally Bob Sneath, the Secretary of the Australian Workers Union). That is why the Hon. Terry Cameron has moved this amendment. What he is trying to do by this amendment is stop the sort of behaviour that the Hon. Bob Sneath and others like him were engaging in. That is the amendment that is before the chair. It is to try to stop the sort of activities of people such as the Hon. Bob Sneath.

It is very instructive that the Hon. Bob Sneath does not have the guts to defend himself. We have not heard from him during this debate. He does not have the guts to defend himself. Let us leave the challenge with the Hon. Bob Sneath to defend his practices. We have not heard from him in relation to this issue. We know that—

The Hon. P. HOLLOWAY: Mr Chairman, I rise on a point of order. The Leader of the Opposition is trying to divert this debate and challenge other members to respond to issues. He is clearly avoiding the matters which we are discussing this evening and I would ask that you direct him to turn his comments to the clause that we are discussing.

The CHAIRMAN: I have drawn the honourable member's attention to this matter before. I am now going to remind him of standing order 186 which is about tedious repetition. It states that a member so directed shall resume his seat and not be heard again if he continues to breach the standing order. I suggest that the Hon. Mr Lucas concentrate on the amendment and not on the character or the past activities of honourable members.

The Hon. R.I. LUCAS: Thank you again, Mr Chairman, for your wise counsel. I have made the point I need to make, and I will leave the issue for the committee. The examples that have been given are proof positive of the need for this amendment. The Hon. Terry Cameron has not moved this amendment in a flight of fancy. He knows what has gone on in some sections of the union movement with some former union leaders. He knows these practices have to be stamped out, and he has provided us with the means of stamping out those practices. If it draws embarrassment from some members of the government such as the Hon. Bob Sneath and others, so be it.

The committee should support the amendment of the Hon. Terry Cameron. I urge the Hon. Nick Xenophon, who has often spoken of openness and accountability, to support this amendment. I am sure he would not support a proposition where an organisation with 10 000 members is able in a particular way to sign up 14 000 members for whatever purpose. I will leave it for the Hon. Terry Cameron and others to explain in greater detail, but I cannot imagine the Hon. Mr Xenophon supporting those sorts of practices. I urge him to support the amendment moved by the Hon. Terry Cameron.

The Hon. T.G. CAMERON: I want to respond briefly to a couple of comments made by the Hon. Paul Holloway. Regarding in which act it is appropriate to insert this, in my opinion it is this act, not the Electoral Act. This information concerns a trade union or an association. It is about their register of members. It is about the number of financial members that association has, and that information is required to go into the register. In my view, the act for this to be inserted in is this act, not the Electoral Act. You would not go wandering through the Electoral Act to find what rules and regulations a trade union or an association was required to submit to the register.

The Hon. NICK XENOPHON: My position following this extensive debate is as follows. There is an argument as to the relevance of this clause but, in the context of our industrial relations system, if an association (whether it is an employer or an employee association) is purporting to represent a certain number of members, then having some basic information as to the number of financial members may be of some relevance. However, setting out the number of non-financial members appears to be quite ill-defined. That certain unions or associations may have very different definitions of what would be a non-financial member is something I cannot support, because I see it as being arguably onerous.

I invite the Hon. Mr Cameron, if he is so minded, to have this clause voted on in order to give members an opportunity to vote on subclauses (1) and (2). I am not convinced that there is an easy way of determining the number of non-financial members of an association. That could include an employer association, but at least we would know how many financial members there are of an association. That should be much more easily defined.

The Hon. J.M.A. LENSINK: I am astonished by those comments of the Hon. Nick Xenophon in relation to the keeping of records. I will have been in this place for two years in June. I extensively use the contacts section of Outlook, which allows for addresses and phone numbers, etc. You can set up categories. My personal assistant and I would have entered in there the names of about 1 500 people. I am just using that as an example of one way of managing your membership or whatever information you want to have. You can click on one that is financial and one that is non-financial. It might be that the age of members in this place is such that they do not know how to use their computers, but there are so many simple means of managing databases and so many software programs that I just cannot believe the argument about the onerous keeping of records. It takes the click of two buttons in this day and age. That argument holds no weight whatsoever.

The Hon. A.L. EVANS: I have listened to this debate with astonishment. We have spent so long talking about this issue of numbers. For the past 40 years I have belonged to an organisation where every year you give an account of your statistics, your members and your non-financial members. This is then presented to a conference all over Australia and printed so that everyone can see it. I just cannot understand what the problem is. I am absolutely amazed at the discussion.

The Hon. R.I. Lucas: Hear, hear! Come on Mr 40 per cent.

The CHAIRMAN: Order!

The Hon. R.K. SNEATH: It was interesting to listen to the contribution of the Hon. Ms Lensink who is about as useful as a rabbit trap with one jaw. It was also interesting to listen to the Hon. Mr Evans who told us how the church keeps its membership. If people knew anything about trade unions, they would know that they are the most scrutinised organisations around. They are more scrutinised than the Liberal Party, I might add

The Hon. T.G. Cameron: They never picked up your rort!

The Hon. R.K. SNEATH: You go outside and say it. The Liberal Party can get membership from over the river in another state and stack branches with it. That is how unreal that mob is. For the benefit of the Hon. Mr Evans, a trade union issues a balance sheet, at the end of every financial year every 12 months, which shows the money collected from the membership. The registrar works out the accurate membership by dividing the membership money collected by the adult and junior membership. The auditor audits the books and supplies the audited figures to the Australian Labor Party, and you cannot vote at a Labor Party convention unless those figures have been audited.

In addition, in every election period, the returning officer and staff from the electoral office go through the computers in the union office. They do not rely on the union secretary to give the membership figure—they do it themselves. They delete from the record any person they think is non-financial, and that can happen, because in some cases memberships lapse. However, unless they resign—

The Hon. R.I. Lucas: They die.

The Hon. R.K. SNEATH: —they are not taken off the computer. As the Hon. Mr Lucas says, in some cases members have died. Unfortunately, dead people have a lot of trouble contacting the union to say that they have died, so they are left on the record until their next of kin responds to a notice from the union, when they write saying that they want to inform the union that their partner has passed away and no longer requires union membership. They are then deleted from the system. So, unlike the church, which has only one way of proving its membership, the union proves it three times.

Members interjecting:

The CHAIRMAN: Order!

The Hon. NICK XENOPHON: Following advice from the table and from parliamentary counsel, I understand that the appropriate way to deal with my concerns about the second part of the Hon. Mr Cameron's amendment is to move an amendment. I move:

That subparagraph (ii) of the Hon. T.G. Cameron's amendment be deleted.

The Hon. A.J. REDFORD: I draw the Hon. Nick Xenophon's attention to sections 39A and 39C of the Associations Incorporation Act, which provide duties for officers of incorporated associations to behave in an honest and reasonable manner, and I have paraphrased several clauses. Indeed, sections 39C and 39D talk about the importance of keeping records in relation to an association. If a union—or, indeed, any association, whether it be an employee or employer association—cannot easily tell the Industrial Relations Commission how many members it has, it is in breach of the Associations Incorporation Act.

We are not asking the unions to do anything more than provide information they are required to keep consistent with the duties imposed upon them by the Associations Incorporation Act. With the greatest of respect to the Hon. Nick Xenophon, I think he is being disingenuous. Section 39A(4) of the Associations Incorporation Act provides:

An officer of a prescribed association must at all times act with reasonable care and diligence in the exercise of his or her powers and the discharge of the duties of his or her office.

There is a maximum penalty of a $1 250 fine. So, there is a criminal sanction if an officer fails to keep the records, whether they be financial or non-financial records. Section 39C of the same act requires an association to keep relevant accounting records relating to the financial position of an association. The knowledge of which members may or may not be financial is entirely consistent with the obligation imposed under section 39C of the Associations Incorporation Act. If they fail to do so, there is a fine of $2 500.

I say to the Hon. Nick Xenophon: the Hon. Terry Cameron's amendment seeks to pass on information to the Industrial Relations Commission that they are already legally obliged to keep. I think that the Hon. Nick Xenophon's argument that it is too hard for them to keep records of non-financial members simply acknowledges that a group of people is failing to comply with its obligations under the Associations Incorporation Act. I do not accept that. For the Hon. Nick Xenophon to move his amendment in the form he has, if you read it and analyse it, quite frankly is a suggestion that these people fail in their duties as an officer under that act and that we ought to countenance it. I think his argument is incorrect in that respect.

The Hon. IAN GILFILLAN: I am far from persuaded that this amendment does any work other than mischief. The act provides:

A registered association must, at the request of the Registrar, furnish the Registrar with an up-to-date list of the members or officers of the association.

If we are dealing with industrial relations legislation, and the registrar sees it as important that there be an up-to-date list of members provided to the registrar, that would appear to me to be a reasonable restraint on a registered association. The legislation determining how a registered association will be formed is quite clear. It provides:

An association formed to represent, protect or further the interests of employees and consisting of not less than 100 employees whether or not the membership includes persons who are not employees.

My suspicion is that, if the opposition has been so monstrously supportive of it, why is it not in its bracket of amendments? How has it emerged from the outfield? I am far from convinced, although I am prepared to listen, and I have been listening to the extensive argument that it is not actually a vehicle for criticising what appears to be some sort of political manipulation of details in a registered association. As far as labour relations in industrial relations legislation, which is really what we are targeting, I have no problem with what is already the requirement obliged by law on every registered association. They are obliged.

If the registrar is concerned about it, he or she can demand that there be a full list of members, and that is with names. So where is the secrecy? Where is the problem for those authorities for whom this matter is the most important issue? I am not persuaded that this amendment adds anything to industrial relations in this state.

The Hon. NICK XENOPHON: In response to the Hon. Mr Redford, my concern is that the definition of non-financial members is quite imprecise. I think there is an argument that the Hon. Mr Redford might have, that in relation to the Associations Incorporations Act there might be an argument there as to whether there has been a breach. In respect of the proposal of the Hon. Mr Cameron, I think there is a clear distinction between a financial and a non-financial member, in terms of compliance and in terms of having that information available. Non-financial for one association, whether it is an employer or an employee association, could be very different indeed and, in the absence of a definition of non-financial member, I am not prepared to support that part of the Hon. Mr Cameron's amendment.

The committee divided on the Hon. N. Xenophon's amendment:

AYES (9)

Gago, G. E.	Gazzola, J.
Gilfillan, I.	Holloway, P.
Kanck, S. M.	Reynolds, K.
Sneath, R. K.	Xenophon, N. (teller)
Zollo, C.	

NOES (10)

Cameron, T. G.	Dawkins, J. S. L.
Evans, A. L.	Lawson, R. D.
Lensink, J. M. A.	Lucas, R. I. (teller)
Redford, A. J.	Ridgway, D. W.
Stefani, J. F.	Stephens, T. J.

PAIR

Roberts, T. G.	Schaefer, C. V.

Majority of 1 for the noes.

Amendment thus negatived.

The committee divided on the Hon. Mr Cameron's new clause:

AYES (10)

Cameron, T.G. (teller)	Dawkins, J. S. L.
Evans, A. L.	Lawson, R. D.
Lensink, J. M. A.	Lucas, R. I.
Redford, A. J.	Ridgway, D. W.
Stefani, J. F.	Stephens, T. J.

NOES (9)

Gago, G. E.	Gazzola, J.
Gilfillan, I.	Holloway, P. (teller)
Kanck, S. M.	Reynolds, K.
Sneath, R. K.	Xenophon, N.
Zollo, C.	

PAIR

Schaefer, C. V.	Roberts, T. G.

Majority of 1 for the ayes.

New clause thus inserted.

The CHAIRMAN: If anybody is moved to comment that that was probably the most disgraceful piece of activity in this council, I would be forced to point out that they were in breach of standing order 192, so I am sure no-one will do it.

Progress reported; committee to sit again.

ADJOURNMENT

At 11 p.m. the council adjourned until Wednesday 2 March at 2.15 p.m.