HOUSE OF ASSEMBLY

Thursday 30 October 1986

The SPEAKER (Hon. J.P. Trainer) took the Chair at 11 a.m. and read prayers.

STUDY TOUR REPORTS

Notices of Motion: Other Business, No. 2: Mr S.G. Evans to move:

That, in the opinion of this House, reports of Parliamentarians on their study tours must be tabled before Parliament and a copy sent to the State and Parliamentary Libraries.

Mr S.G. EVANS (Davenport): By leave, I seek leave to amend the motion standing in my name.

Leave granted.

Mr S.G. EVANS: I move the motion as amended:

That, in the opinion of this House, reports of Parliamentarians on their study tours must be tabled before Parliament.

This was past practice. Originally reports were printed, and that was sometimes quite expensive. I think my report in 1976 was the first not to be printed. It contained some 64 pages, and the Premier of the day pointed out that printing would be expensive considering the amount of distribution likely to take place. It was therefore not printed by the Government Printer, although I had a few copies taken off and made available to the Library and anyone who wanted it.

From that time on, reports have been printed only on the odd occasion. The rules were changed so that Parliamentarians had to state what things they were to look at on their study tour and the reasons; if they so wish, that is all members had to report. They do not have to give a written report to Parliament, nor does my motion suggest that they should. They just state where they went, what they looked at, why they went there and leave it at that. Subsequently they can give a report in the House perhaps in the Address in Reply or a grievance debate, if they so wish. I believe that is as it should be.

It was pointed out to me that an article in a recent newspaper resulted from a misunderstanding regarding library practice. The library followed the practice of other Parliamentary Libraries throughout Australia, and nobody thought at the time that it would exclude the press from looking at any document placed in the library in relation to a study tour. It was never intended, I am told, that the press or anybody else be denied the opportunity of looking at that document if it was requested from the library. I want to clarify the situation, because I believe that sometimes some members of the press set out to denigrate an individual by picking from a report one or two minor issues just to highlight some triviality. Sometimes that triviality is a genuine expression of a view by an individual member of Parliament.

I have said before that not every member of Parliament can be expected to write a report in a manner that can be adjudged as being a great piece of English literature, or a well worded report, because if the type of person who could write such a report was the only sort of person elected to Parliament many of the other sections of society would never be represented. So, I believe that this motion could go through very quickly. I do not believe that it even needs any response. It seeks simply to clarify the situation that we do not mind our reports being tabled before Parliament, and we ask the press to take a responsible approach and look at those reports.

Mr Groom interjecting:

Mr S.G. EVANS: The member for Hartley says that I am naive. I know that there has always been a section of the press that wants to stir up the matter. That is their right—and we have the right to write a report as we like. We can make it as brief as we like—and the press can say that we wrote nothing, but so be it. But that is up to the press and it is up to us. We have control over what we put in the report. I do not want to use up a lot of the time of the House. I am simply asking the House to agree that the reports should at least be tabled before Parliament, and leave it at that.

So, I submit that this motion should be supported and passed to indicate that we acknowledge that we have a responsibility to table reports in Parliament. Others can do as they like in relation to them, and people can adjudge us on how they know us as individuals and as Parliamentarians, and, similarly, can adjudge the press for whatever motives they have in writing various articles. I ask for support of the motion and a seconder.

The SPEAKER: Is the motion seconded?

The Hon. E.R. GOLDSWORTHY (Kavel): Yes, Sir. I support the motion. I think the idea originally mooted was that study leave reports be sent to the State Library, and that was a bit excessive. The original arrangements for study leave reports (and I should know, because I took one of the first tours, back in 1972-73) required that a report be written and printed as a Parliamentary Paper. I think the member for Davenport moved that in order to save money they no longer be printed, and I do not disagree with that. But it seems to me to be not unreasonable that, if a member undertakes a study tour of any magnitude, that member should arrange some appointments to see people—as members are required to do. In my judgment, it is not a great burden for members to write a report about where they have been. I know that the rot set in earlier. I will not name people, but I know that in one case a study leave report was not even written.

It is not a difficult task to gather material, arising from appointments that have been made to meet people and to write a study leave report. I know that the rules dictate that all members really have to do is to indicate who they have seen, where they have been and who accompanied them. However, in this day and age politician bashing is a favourite sport of the media. When it comes to the so-called perks of office, as many people like to label them, politicians are sitting ducks.

Mr Groom interjecting:

The Hon. E.R. GOLDSWORTHY: Okay—I am saying that this is the way they are described by the populace at large, friend and foe alike, and we are all lumped into this common basket of being out to rip off the system. As I say, it seems to me that there has been an increasing tendency by a section of the media to make this one of their favourite sports and to paint us all as half baked crooks trying to rip off the system.

So, if we are to put to rest this tendency, or at least if we are to illustrate that we are reasonably well motivated—and I believe that the majority of the people here are—then I think we ought to be prepared to put pen to paper. Our electorate secretaries, for example, could do a lot of the collating, and we could put together decent reports, arising from meetings held during the study tour. I do not think that that is a very high price to pay for being able to undertake these trips and to indicate to the public at large that we do take the trips seriously.

I agree with what the member for Davenport has said on this occasion. If we are to allay these fears and put to rest

this tendency by some of the media to make sport at our expense via the so-called perks, I think we should be prepared to write these reports, and to allay those fears. If we are prepared to write reports, as we should be, then they should be open to public scrutiny. It seems only sensible that the report should be laid on the table of the House and that, as such, it should be a public document. I do not think that there will be a lot of literary merit in the reports, so it does not seem necessary that they should go further than the table of the House.

It is my view (and I think that this is a view shared by a number of my colleagues—possibly all of them) that that is not at all unreasonable. In this day and age when all political Parties have come to the conclusion that we should ask the public to tighten their belts, it is not unreasonable that we should be accountable for our actions and, indeed, for the way in which public moneys are expended in this manner. I make no bones about saying that I think that, if these study trips are taken seriously (and they certainly are by the people to whom I speak), they are a very valuable part of our gaining broader experience of what is happening outside our own little glasshouse.

In 1973, I think it was, I undertook one of the first study tours offered. In those days they were of three months duration and only two per year were offered to members of this House and one per year to a member in the other place. I had the privilege of being the first member on this side of the House to undertake the initial study tour. I found it a most rewarding and enlightening experience. I wrote quite a lengthy report which was published and tabled in Parliament.

The Hon. B.C. Eastick interjecting:

The Hon. E.R. GOLDSWORTHY: As my colleague the member for Light suggests, the member for Chaffey's report on water resources which he produced as a result of a visit to the United States is now used around the world as a source document. If people have some expertise and wish to add to their store of knowledge in this regard, the trips can be most valuable, and I have certainly found them to be so. I have been quite happy to write reports which I hope indicate that fact—I believe that they do.

Mr Duigan: Extensive reports, too.

The Hon. E.R. GOLDSWORTHY: Reasonably extensive—extensive enough to indicate that the honourable member took them seriously and to reassure those who want to bash us over the head and say that we are a mob of crooks. If it is only a matter of self-protection, it is commonsense, but I push it much further than that. I think that the study tours are most valuable, and I have certainly found them to be so. I have profited from them and I think that, if one wants to find out what is going on, one needs to talk to people. One can glean a certain amount from books and make certain judgments but, if one wants to find out what is happening, one has to talk to people in order to gain a much broader perspective.

I am quite happy to support this motion. I think that it is only reverting to the sort of conditions which applied when study tours were first introduced. Of course, the concept has changed a little. It is not simply a study tour, but it also involves travel allowances. I think it would be silly to suggest that, when one attends a one day conference interstate, a voluminous report should result from that. That would be silly. I quote from my own experience, because that is what one knows best: recently on a Monday I went to a shadow Ministers' conference in Melbourne. I claimed some of the travelling allowance to which I was entitled.

Mr Duigan interjecting:

The Hon. E.R. GOLDSWORTHY: I hope that we get bipartisan support for the sort of sentiments that I put forward, but it would be stupid to write a voluminous report as a result of attending a one-day shadow Ministers' conference. I therefore wrote a one page report detailing, I think, who was there and the broad topics that were discussed. When an extended study tour is undertaken, it is incumbent on all of us to write a report of some significance which indicates what information we gathered as a result of the contacts and the appointments that were made overseas.

I am quite happy to support the motion. In terms of the rules, I think there has been a tendency perhaps not to worry too much about these reports. That does not mean to say that the member did not do anything while overseas—it does not mean that for one moment. In some instances there has been a tendency to say, 'Why write the report? No-one reads it.' I think that is a logical reaction, too, because many of the reports are tucked away in the Parliamentary Library and no-one bothers to read them. That approach has led to one's asking, 'Why bother to write them?'

A certain amount of effort is involved in writing these reports, but no-one looks at them. It seems to me that the only people who have had a good look at the reports recently are perhaps those who think that we are not playing the game. I certainly support the resolution. I think that members should write a decent report and should be prepared to have it tabled in Parliament so that it is open to scrutiny by the press and anyone else who cares to find out what members did and learnt while they were away.

Mr LEWIS (Murray-Mallee): I will not delay the House on this proposition. I think the actions of some journalists recently have been both commendable and deplorable at one and the same time. Members of Parliament are required to represent the people who elect them, and that entails a demonstrated capacity to communicate because how can you represent anyone if you cannot communicate their concern to someone else who is responsible for addressing a constituent's problem? In so far as that is part and parcel of our work, we demonstrate that ability when we write, as it were, a learned paper about what we have studied on trips overseas.

I believe that it is only proper that the public should be aware of what we sought when we took money from the public purse and expended it in the process of obtaining that information. It is not proper for us to see that as simply the means of obtaining a holiday. In my opinion that never has been the approach and indeed never will be. However, the same journalists who attracted public attention to what they perceived in each case as the laughable incompetence or irresponsible indifference of the respective members on whose reports they have reported in the media have, by doing that to the exclusion of any favourable comment, created a perception in the public mind that we are all pigs trying to get our noses into the public trough; and that we simply enjoyed for our own gratification an opportunity to travel overseas and take it easy for a week or a month without being in any way committed to the interests of our constituency or the State at large, which provided the funds in the first place.

I have stated my view about what such tours should be used to accomplish, and I have now stated my view about the way in which the material provided in the report by the member should be examined. I call upon not just this House but journalists at large—members of the AJA—to be more responsible in the way that they report the substance of the

written reports of members: in fact, they should do so in a fashion that will ensure that the public understands that not every member of Parliament, if any, is guilty of either the sin of an inadequate and incompetent capacity to write a report or of simply abusing the system, because that is certainly not the case. I certainly am not guilty of that. At the beginning of this year, for instance, I travelled to the United States at my own expense—not at the expense of the public purse. Nonetheless, I applied for the *per diem* allowance, and I generated business worth millions of dollars to this State and made no big deal about it when I returned.

At the time it was known to me and others that the J curve, as referred to by Treasurer Keating, could work if only he had done enough work in preparing the public to understand how it was likely to work. There is an enormous number of export opportunities from Australia to North America that arise or have arisen as a consequence of the devaluation of our dollar against the American dollar. Those industries were not identified: no attempt has been made to draw public attention to them, and there has been no attempt by the Government to provide the training necessary for people to acquire the skills that would enable those industries to produce the goods that the North American market is willing to buy.

I could give examples by referring to saddlery, and, if honourable members care to check, they will see that at my own expense I placed an advertisement in the *Advertiser* in August in the supplement on saddlery and other outdoor equipment used by horse riders and farmhands who are involved with horses or animals. I sought advice from anyone in South Australia who was interested in exporting to the North of America, and I stated that I would put them in touch, with no commission to me, with an agent who would take up that business. Clearly, there is a market for between 3 000 and 5 000 saddles a year, notwithstanding the additional sales that could be made in oilskins, such as Dryasabone, and other gear that is used by people in the outdoors. But I have had only five responses and, as I suspected at the time, they were from people who, while keen to take up the opportunity that exists, point out that there are not enough people who are trained, for instance, in the art of saddlery nor are there courses through which they could get training. That distresses me.

I will not go into the details, but I simply instance another area—lapidary—in which skills are lacking in Australia. Lapidary is the cutting and polishing of gemstones into crystalline form or cabochon. Now our dollar is so devalued against other currencies that it is competitively impossible to cut and polish our own opal. We know that 80 per cent of our opal is sold in America. South Australia produces more than 80 per cent, and arguably more than 90 per cent, of the world's opal, yet we sell it mainly in the rough. At least $20 million is involved but, with value added, four times that sum could be involved—$80 million. Most of the jobs in the cutting and polishing of that stone are offshore, and there is no way we can bring them on-shore, because limited courses, if any, are available.

My study tour in that instance identified those export opportunities. I made contact with prospective customers and, on return, I put those prospective customers in contact with prospective suppliers. I identified the problems that might develop if the industries got going and did something about it. However, that has never been written anywhere. I do not see why it is any less a part of the responsibility of journalists, whether of the electronic or print media, to publicise that kind of result of an overseas study tour than to publish the adverse aspects where those journalists, in their personal opinion (which is subjective) nonetheless sincerely objectively believe that the member has demonstrated either indifference to responsibility to be accountable for what they have done or, alternatively, incompetence to do that by failure to communicate anything in writing. Perhaps it is just as well that they do not have to speak about it. I thank members for their attention to my support for the proposition put by the member for Davenport.

Mr DUIGAN secured the adjournment of the debate.

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL (No. 4)

Mr S.G. EVANS (Davenport) obtained leave and introduced a Bill for an Act to amend the Criminal Law Consolidation Act 1935. Read a first time.

Mr S.G. EVANS: I move:

That this Bill be now read a second time.

The purpose of this Bill is to place on the Statutes a law which clearly indicates to the court and the public that where the most horrifying of murders are committed the court is given the power to have the offender put away for the term of their natural life.

When this Parliament repealed capital punishment from the Statutes I stated that I supported the proposition that I now place before the House. Even though I have repeated that suggestion many times over the years, there has been a reluctance by Parliament, or any other persons, to clearly indicate whether or not they support the proposition. I can understand that some will argue that it costs too much to keep a criminal in prison. I admit that it is expensive, but human life and the security of the general public is also very precious and valuable.

When people drive motor vehicles and, through their own negligence, place themselves in an institution for the rest of their life as human vegetables, that also costs a lot of money. People do not advocate hanging them to save money. Therefore, if a misfit in society, either for big money from criminal sources or because of a personality problem, kills or carries out planned or heinous crimes against other people, we, as a Parliament, need to give the courts a clear understanding that they can remove that person from society for all time without their being put to death.

I point out that it is still up to the courts whether or not they apply this penalty. We are here not interfering with the decision-making process of the courts. Once a court has made an order in conformity with this section, then that individual knows they are going to be held in Her Majesty's prison for the term of their life unless subsequently it can be shown that those who made the judgment of finding the person guilty were incorrect.

We need not give such criminals all the luxuries that other offenders receive. The argument for supplying the luxuries to other prisoners is, in the main, that it helps them in preparation for moving back into society. The 'term of natural life' prisoners should only be given the bare essentials to live and could be kept in a separate and more easily secured area than other prisoners. Also, the courts will, if this Bill passes, be fully aware that the power for the Governor to issue a pardon is removed.

This will prevent a weak-kneed government of the future putting pressure on a Governor to use the prerogative of issuing a pardon. It is interesting to note that up until the 1970s it was quite common for the legal eagles to defend their clients and claim insanity. Of course, they had some success in having people placed in Z block at Parkside, because that was better than a hangman's noose.

However, once the threat of the hangman's noose was removed from the Statutes, the claim of defendants being insane suddenly disappeared. In other words, modern murderers appear to be more sane than those of the past. In fact, society knows that is not the case. Society understands that lawyers now avoid the insanity plea like the plague, because it is better for a criminal to get 20 years gaol and be out on parole in less than 10 years, than to spend a lifetime in an asylum. The lawyers' advice is obvious: with remissions, good behaviour and a few public appeals through the news media every now and again, a criminal could be out within a very short time under present practice.

One wonders what goes through the mind of a man like Paul Dryga, who committed a double murder in the early 1960s and who is still in custody and considered criminally insane. He not only worked with and for me, but I knew him quite well. He committed a crime of passion and shot two people he thought were having a relationship with is lady friend. Under present law in all probability he would be out of gaol in 10 years, but he is still there.

It was a terrible crime, but nothing compared to some of the other murders that have occurred since then. What went through the mind of Karl Stitt when he was alive and served in the early 1940s until 1978 when he died? He was still there and could not get out while others were getting out on parole and being released back into society.

Many people have approached me and requested me to introduce a Bill to reinstate capital punishment into the Statutes. I am not prepared to do that (other members can try if they like) because, in this modern day and age, it is possible for very clever, and/or rich racketeers, to set up another individual in such a way, that a court may find them guilty of a crime they never committed.

With the death penalty applied, if it is subsequently found that a person has been wrongly adjudged, it is too late. Therefore, I am asking Parliament to support this proposition, as it is the toughest penalty that can be applied short of corporal or capital punishment.

I realise that a large section of society will be disappointed that I am not pushing for capital punishment, but I do share their concerns and disgust at the ease with which criminals of today are released before serving their full penalties in gaol. I hold the view that it would be wrong to place on the Statute Book a provision that makes it lawful for one group of human beings to adjudge and then direct that another human being should be killed. I ask the House to support this very necessary change to the law. I seek to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 inserts a new section giving the Supreme Court power to impose a sentence of imprisonment for the term of a criminal's natural life, where the court is satisfied that the offence was exceptionally serious, and that the penalty is necessary in the interest of ensuring the safety of the public. Where the court makes such an order, it may not be subsequently varied or revoked, except on appeal. All rights for parole are removed and the perogative of a pardon for the criminal by the Governor is removed.

The Hon. M.K. MAYES secured the adjournment of the debate.

STEAMTOWN PETERBOROUGH (VESTING OF PROPERTY) BILL

Adjourned debate on second reading.
(Continued from 14 August. Page 377.)

Mr GUNN: I move:
That this Order of the Day be discharged.
I do this so that the Minister of Transport can bring in another Bill this afternoon.
Order of the Day discharged.

METROPOLITAN MILK SUPPLY ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.
(Continued from 18 September. Page 994.)

The Hon. D.C. WOTTON (Heysen): I strongly support this Bill. Prior to this move being made by the member for Davenport and since then, I have received considerable representation from people in my electorate, both vendors and producers and, in fact, have also received some representation from consumers. There is no doubt that the discounting of milk which has now been commenced by one of the supermarkets is having quite a considerable effect on milk supplies generally.

Certainly, the evidence that has been provided by milk vendors and shops other than those associated with Bi-Lo has suggested a remarkable drop in milk sales recently. I know that the association made up of vendors in this State is making certain representations, and the opportunity will be provided for further reference to that to be made later. At this time I indicate what I see as a very real need for amendments to be made in regard to the metropolitan milk district. I must admit that I find some conflict in the subject, because I am one who would generally support the free market, and have always done so, but there are concerns associated with the way in which this discounting has been introduced and is proceeding.

The whole matter needs to be considered in depth, and I understand that is happening. Discussions I have had with the Metropolitan Milk Board suggest that those discussions are in progress, and it is hoped that some action will be taken. I understand that the Minister is not able to speak to this Bill at present. I will be most interested to learn of his response when that is forthcoming. I will also be interested to know whether the Minister has received the same type of representation as I have.

My concern, of course, is that if discounting is introduced it could have tremendous ramifications. It could, in fact, lead to milk being brought in from interstate. Because I represent a large number of dairy farmers in this State, I recognise the difficulties that would be caused if that were to happen. I certainly understand the problems that industry is experiencing at present, and it is an industry that needs to be treated with kid gloves. I am sure that the Minister would recognise that situation.

I hope that the Minister, when he does reply—and I hope that will be soon—will be able to support the matter. I say that I hope that it will be soon, because there is no doubt that there is considerable uncertainty in the industry. The vendors, as I said earlier—

The Hon. B.C. EASTICK: On a point of order, is it not normal for a member of the Ministry to be on duty?

The SPEAKER: The Chair just glanced across in that direction and observed that there is a—

Members interjecting:

The SPEAKER: Order! I call the Minister to order. I observe that the Minister is present and, although that may be a custom that has been observed in the past, there is no actual constitutional requirement to that effect.

Members interjecting:

The SPEAKER: Order! I call to order the member for Mitcham and the member for Victoria, and I now call on the member for Heysen to continue.

The Hon. D.C. WOTTON: It is the Minister on the front bench who would be responsible for this legislation.

The Hon. M.K. Mayes interjecting:

The Hon. D.C. WOTTON: I hope that the Minister is going to help 200 farmers. It is absolutely necessary to solve this problem as soon as possible in order to avoid the ongoing problems and uncertainties being experienced by those involved in the milk industry—producers, vendors and, in some cases, consumers as well. I hope that the Minister and the Government will support this legislation.

The Hon. M.K. MAYES secured the adjournment of the debate.

IDENTITY CARD

Adjourned debate on motion of Mr S.G. Evans:

That in the opinion of this House all adult Australians should be issued with a card which clearly identifies them as a person entitled to the great benefits this country makes available to its people.

(Continued from 25 September. Page 1218.)

Mr S.J. BAKER (Mitcham): This issue has been the subject of a very detailed scrutiny by both Houses of the Federal Parliament and, indeed, the subject of an inquiry. The proposition of the Federal Labor Government is that ID cards be introduced in Australia, although we do not have details of what information is to appear on those cards, and we do not know the time frame involved.

It is on record that the Liberal Party opposes that proposition in the Federal sphere, and I agree with their stance on this matter. There are a number of reasons for that. I do not wish to take up the time of this House by recounting all the factors considered in the Federal sphere in relation to this matter, because we would be here for a day or two if I did that. I simply say that, while the proposition of an ID card has some appeal from a number of viewpoints, it may not be practical to meet the ideals behind the proposal.

Mr Lewis: What are they?

Mr BAKER: ID cards are intended to provide a form of identification and are supposed to help people carry out normal transactions by providing proof of identity; they are supposed to provide some check and balance within the social security system; and they are supposed to make life easier, for example, if they are carried around all the time, because in the event of an accident or death it will be far easier to identify someone and contact relatives. There has also been a suggestion made that the information appearing on the card could also include details of such things as blood groups, which would be very useful in an accident situation.

ID cards may even be able to be stamped if some default has taken place. Whilst the ideals of the ID card certainly have some relevance, the practical implications bear further scrutiny. If we could have a cheap and simple means of ID cards which would have fingerprints and photographs on them, I believe we could overcome many of the rorts that are happening in the system today. The fingerprint system would ensure that it is a unique identifier which could not be changed in some way, so that when the system was set up we would know there are not two or more ID cards issued for the same person. The photograph, of course, is a fairly essential element when using an ID card as a form of identification.

So, those are two very important components for an ID card system to work—and work in the way it should. However, we know that even with current technology those innovations are not possible at a price the community is willing to pay. We have had various estimates of what the ID card will cost, and I understand that these estimates cover the inclusion of a photograph. The last costing that I saw was in the order of some $700 million. That is an enormous price to pay, and we have to be assured that such a cost will be offset by the benefits.

It is extremely important that we do not devise a form of identification which is then subject to manipulation because, if we have a standard form of identification and for some reason or another persons can duplicate cards or carry more than one ID card, the aims that we set out to achieve in the first place will be circumvented. Under the proposal that I understand the Federal Government wishes to introduce, it will still be relatively simple for a person to obtain more than one ID card. There is no way that a photograph can be tracked through the system, although fingerprints certainly can be, because they are unique. A well organised operation can duplicate ID cards, and, because they have some greater semblance of acceptability, the scope for abuse is far greater. In other words, the rorts get bigger.

Certainly, some of the abuses carried out by those people in the system who currently get away with them will be eliminated, but let me assure the House that the organised crime element will be far greater unless there are proper checks and balances. Therefore, my two reservations—without regurgitating the debates that have taken place fairly heatedly in the Federal area—are that we will pay a considerable price and set up an extensive bureaucracy to run the system with no guarantees that we will have a pay-off in terms of cost savings. By creating this superior form of identification, we also run the risk that, if it is an accepted form of identification throughout Australia, there will be considerable criminal activity associated with this card. That argument is recognised by all jurisdictions throughout the world. The Liberal Party has made no secret of the fact that it rejects ID cards, and some of the reasons for rejection are on civil libertarian grounds.

I am not even going to pursue that matter. Some are on practical considerations of how you manage to update and upgrade cards regularly so that they are kept current. Some obviously relate to the dollar factor involved. Some relate to the scope for further manipulation in the system. I have a great deal of sympathy for the motion before us. It does suggest that in principle we should be supporting the introduction of a card, but we cannot support such a motion unless the terms under which a card will be introduced are acceptable. Today we find, of course, that the Federal Government is going to embark on a course which is unacceptable to this side of the House. Therefore, we cannot support the member for Davenport's motion, because it links into the Federal Labor Government's endeavours being undertaken right at this very moment in relation to the introduction of an identity card.

Mr GREGORY secured the adjournment of the debate.

MOUNT BARKER ROAD

Adjourned debate on motion of Mr S.G. Evans:

That this House considers the Government's planned time of commencement, at the earliest in 1988-89, for the construction

of a safer transport route than the existing dangerous northern section of Mount Barker Road is totally unacceptable and therefore calls on the Government to commence work on this project immediately the preferred new route is decided later this year or, alternatively, to immediately have work begun on eliminating the dangerous section at the Devil's Elbow and installing concrete median strip traffic deflector barriers in accident prone areas.

(Continued from 25 September. Page 1225.)

Mr HAMILTON (Albert Park): The Government opposes this motion.

Mr Lewis: However, the Minister has announced a new freeway that will do exactly this.

Mr HAMILTON: Just contain yourself, and don't get too excited. When I have finished, the honourable member will understand what I am talking about. The member for Davenport is asking for the world and the sky, too, it seems. He suggests two alternatives: one is to start work on the new alignment now and the other is to eliminate, by means unknown and unspecified, the Devil's Elbow section and instal some median strip barriers.

There is little that can be done now to get such funds placed in advance timetables. That is for the very practical reason that, at present, we have no idea what option will emerge from the consultation process in which the consultants are engaged. We do not know the route or the proposed costs. From my experience in my electorate, I know the sort of problems involved in trying to extend a boulevard. That matter was under consideration for years when the previous Liberal Government was in office and still has not been resolved. There are problems inherent in trying to obtain funding and to ensure that the local residents, the business people and those people who will be affected by the work have an opportunity to view it first-hand, to weigh up all the options in the deputations to Ministers and to allow councils, etc., to be involved.

Despite all the rhetoric in this place, the member for Davenport is not a goose; he is nobody's fool. He would not have been in this House for all those years if he were a fool. He knows how the system operates. However, there is no doubt that the cost of this project will be substantial, possibly running to about $100 million or more. That is not small brass; it is not small bickies—it is big dollars, and there is no question about that. The member for Davenport knows that and we know that. An allocation of $100 million is not something that one can just pluck out of the air and he knows that. He has been in Government and he understands how the system operates. He is just politicking for his electorate. I am a politician also and I understand the need to push Government, to try and force a Government into a situation where, perhaps at the expense of other electorates, he will get that money for his own electorate. It is not an easy matter for the Government to resolve.

The press cuttings set out the five options proposed for the Hills freeway. It takes time for the necessary consultation to take place with people so that everyone who wishes to can have the opportunity to have a good look at the proposal and people from all walks of life, business people, the local council or whatever can be consulted. The reality is that the Commonwealth has prior commitments which have to be cleared before it can begin budgeting for the Mount Barker Road. I am sure that the Federal Government is well aware of what has happened with the consultancy and it knows that there will be pressure applied to include this most important work at the first possible opportunity.

In relation to these matters, nothing can be achieved in isolation. The Mount Barker Road is not of such transcending importance that we can drop everything else, and not proceed to complete the Stuart Highway, to abandon work on the Dukes Highway and to pour everything into this project, as much as many South Australians might like to do that. I believe that the member for Davenport is in real danger of losing all perspective in this matter. It may be the case that he is concerned for the future when he comes up for re-election. On that occasion he might want to say, 'I am the Independent member for Davenport and I am the best alternative.' I do not know who will stand against him next time—he may know.

Mr S.G. Evans: Dean Brown.

Mr HAMILTON: It may be Dean Brown—who knows? I do not know what threats he has in his electorate or what pressure the member for Davenport is under, although I can understand his jumping up and down and trying to get the best for his constituents. Let us be fair and honest about it: the honourable member wants us to pluck $100 million out of the air in a period of financial constraint. The honourable member knows what is happening. He was in here during the Estimates Committees.

Mr S.G. Evans: Not for very long.

Mr HAMILTON: It is the honourable member's fault if he was not in here for very long, because the opportunity was there for him. Whether or not he considers the Estimates Committees to be a waste of time is his problem. I for one believe that a backbencher, particularly in Opposition, can raise hundreds of issues on behalf of his constituents. I used that forum when my Party was in Opposition to probe and criticise the Government. In fact, the honourable member could place questions on the Notice Paper if he was so inclined.

Mr Groom: He's been here for 17 years.

Mr HAMILTON: Exactly. Let us not have all this drivel flowing from the other side. The honourable member might like to ponder some of the near hysteria that has been generated over the Government proposal to get things moving on this stretch of road. At times this hysteria has been fuelled by some of the member's former Liberal colleagues. He and they might like to ponder the fact that, until the Bannon Government announced its intention to move on this matter, criticism of Mount Barker Road was relatively muted. Certainly nothing was undertaken during the term of the Tonkin Government. Members opposite now get on the band wagon and say, 'We never thought of that. We should get in and do something about it. Let's stir up the locals.' They probably distributed newsletters around the area, got out and talked to people and found out about this.

This issue has been around for yonks. I can remember years ago Geoff Virgo (the then Minister of Transport) talking about the problems through the Hills and the problems that semitrailer drivers had in bringing their big rigs through the Hills. One solution was the skid pad that could be dropped down from the back of a semi under the wheels. This issue has not suddenly arisen overnight. It has been around for some time. I have already asked what the Tonkin Government did about this. On many occasions we have heard members opposite say that we should do this and that and that we should pluck $100 million out of the air.

The second section of the honourable member's motion sees him still well inside cloud-cuckoo-land. He asks that the work be started to eliminate the dangerous section at the Devil's Elbow. This is like asking scientists at our local medical research institute to start work preparatory to coming up with a cure for the common cold by next Tuesday. It was the existence of problems of almost intractable geometry like the very difficult Devil's Elbow that has brought into being the Maunsell consultancy to find ways of escaping that problem. I refer to diagrams in the *Advertiser* of Friday 17 October, the article of 15 October in that same newspaper and many other articles detailing the prob-

lems associated with the various plans for corridors A, B and C, etc. I return again to the days of Geoff Virgo, when there was talk about a tunnel through the Adelaide Hills. As I said before, this is not a new matter. The honourable member is really stretching the imagination a long way. Quite clearly, he should come down to earth on this issue.

At the time he lodged this motion with the House it is just possible that the honourable member had not been keeping up with his reading of the *Mount Barker Courier* and was therefore somehow strangely unaware of the firm proposals of this Government for the short-term measures being undertaken by the Highways Department on the existing alignment. Among these proposals are some attempts to ameliorate the situation at the Devil's Elbow in so far as this can be done with the existing roads. More importantly, in terms of the motion before us, the department has stated publicly several times that it intends erecting over-height New Jersey median barriers in the areas where the road has proved to be most accident prone. I refer to an article from the Highways Department which is entitled, 'Mount Barker Road Short-Term Improvements' and which describes what has happened.

The Hon. D.C. Wotton interjecting:

Mr HAMILTON: Just contain yourself—do not get too excited or you will get high blood pressure and your face will end up the colour of your tie. The document states:

While the study by Maunsell and Partners is specifically concentrating on longer-term options, the Highways Department has identified some interim works that can be undertaken to improve this road. Some of these works are programmed to be implemented during the current financial year, namely:

- A section of median barrier (similar to that existing on Lonsdale Road at Hallett Cove) will be erected near the Mount Osmond turn-off. The barrier sections have been ordered and will be erected as soon as the contractor delivers them. Lighting is proposed to complement the barrier and to delineate the junction.
- Ground surveys have been undertaken (and others are proposed) on several sections of the road, including 'the Devil's Elbow', to access the shape of the road and to enable any inconsistencies to be corrected.
- Resurfacing with open graded asphaltic concrete will be undertaken this year at selected locations to improve skid resistance.
- The existing safety barriers along the edge of the road are being replaced and extended.

Further works are being examined, including a median barrier between the end of the freeway at Crafers and Eagle on the Hill; upgrading of drainage below Devil's Elbow; reducing the number of median openings; and provision of sheltered turn lanes in the median where practicable. These works will be implemented as a matter of priority.

Clearly, members opposite see this as a major issue for their respective Hills electorates. I do not deny members the right in this place to request Governments with all their vigour to provide the needs of their respective electorates. But, having said that, I believe that the honourable member's approach is not a fair one. Quite clearly, the Government does not support this motion. I seek leave to continue my remarks later.

The SPEAKER: Is leave granted?

Mr S.G. EVANS: I must object to that.

The SPEAKER: Leave is not granted. The member for Albert Park will have to continue.

Mr HAMILTON: It is rather interesting that the honourable member has chosen to do this. I wanted to put a lot more information before the House. I, and other members, perceived the member for Davenport as a reasonable and fair-minded man.

The Hon. D.C. Wotton interjecting:

Mr HAMILTON: Why don't you be quiet and have some manners!

The SPEAKER: Order!

Mr HAMILTON: For a so-called intelligent man, the honourable member's manners are appalling. He waffles on like a yobbo from the back bench, and no wonder he is on the back bench given his performance in the past. His contributions in this place are not worth a cold pie. While he might put on a false and silly grin, we on this side know that his performance leaves a lot to be desired, as it did particularly when he was a Minister. Is it any wonder that he has been relegated to the back bench? I say quite clearly that, if the member for Davenport was sincere, he would have welcomed an adjournment of this debate in order to provide me with an opportunity to come back before the House. I did not want to take up all the time of the House: I wanted to provide the opportunity for many of my colleagues to contribute to many other matters that are listed on the Notice Paper but, lo and behold, what has happened? The member for Davenport has said that he does not want me to contribute to this debate later.

In the interests of democracy I believe that I should have been given the opportunity to provide and seek more information. I have not chosen lightly to stand in this House and address this particular problem. All members would know of my interest in transport, be it road or rail, and I make no apologies for coming from the transport industry. It was my bread and butter for 24½ years and it is one about which I believe I have a reasonable amount of knowledge. I also believe I have contributed a considerable amount on this issue in my seven years in this place. In fact, the previous Liberal Minister (Hon. Michael Wilson) on a number of occasions complimented me—and this is on the record—for my suggestions which he thought were worthwhile and which he said he would take on board.

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

The Hon. D.C. WOTTON secured the adjournment of the debate.

SITTING DAYS

Adjourned debate on motion of Mr S.G. Evans:

That, in the opinion of this House, this Parliament should sit no less than 75 days in each calendar year.

(Continued from 23 October. Page 1424.)

Mr BLACKER (Flinders): This motion has aroused some curiosity and controversy in this Parliament. However, I have pleasure in seconding the motion because I think there are good reasons why a debate of this kind should be brought before Parliament. More particularly, I wish to relate the proceedings of the Westminster system and perhaps then, as a Parliament, we could look at our position and see whether we can do something to improve our operations.

I understand that Parliaments of successive political persuasion have been against sitting longer than necessary. It then becomes an arguable point as to what is 'longer than necessary', and whether a more constructive useful purpose could be achieved by sitting longer. The Westminster system has evolved over 600 or 700 years of parliamentary practice and has become somewhat different from our own.

It was argued at a parliamentary luncheon only last week that we do not have a Westminster system in South Australia and, what is more, that we never have. Many of us would like to challenge that. We recognise that there are aspects of the Westminster system that have gone by the wayside and perhaps there are some aspects that we have

never adopted. Basically, the majority of people in this State and nation would believe that we have a Westminster system of a kind.

Westminster, I understand, sits for something like 170 days of the year. This motion is looking at Parliament sitting no less than 75 days in a calendar year and, to that end, I think we must then look and see what our parliamentary system is doing. There are some aspects that I realise would be impracticable for us to adopt and I realise that because of the size of the House of Commons many of its proceedings would not necessarily apply here. The House of Commons has 650 members but only 480 seating places for members if they choose to attend Parliament.

There is no obligation, other than the moral obligation of representing their constituents, to attend Parliament. However, we all know that if we do not attend the South Australian Parliament for more than 11 consecutive sitting days our seat is automatically forfeited unless we have leave of the House for a member to be away either through sickness or on parliamentary business.

In other words, if leave of the House is granted then an extension beyond that 11 sitting days can be granted. If any of us fail to turn up for Parliament for 11 consecutive days without leave of the Parliament then our seat in the Parliament is automatically forfeited. I would like to quote from some aspects of the Parliamentary procedure in the House of Commons, as follows:

Legislative commitments formed a major part of each Party's election manifesto. In drawing up the manifesto, a prospective Government needed to bear in mind not only the desirability of individual measures but the cumulative parliamentary practicability of its program. Once in office, a Government had to resist the pressure to concentrate all its major legislation in the first two or three years of the Parliament.

The program for each session was put together by a ministerial committee called the Queen's Speeches and Future Legislation Committee; it consisted of the business managers of both Houses, the Law Officers, a representative of the Treasury, and other senior Ministers. Each autumn, departments would submit bids for legislation starting 12 months ahead: some Bills would be those adumbrated in the manifesto, some would have been made necessary by circumstances not foreseen at the time of the election, and some would have been proposed by the departments themselves. The committee had to balance these bids against the number of days available. In an average session, lasting roughly one year, there were about 170 sitting days, of which some 50 to 55 were available for Government legislation after the 19 opposition days, private members time, as opposed to private Bill time, and provision for various debates had been taken into account.

In deciding which bids to favour, the committee would consider not only policy and political questions, but factors such as the amount of parliamentary time each Bill would require, whether it might qualify for time-saving procedures such as second Reading Committee, and whether (in the case of a non-controversial Bill) it might suitably be introduced in the House of Lords, thus helping to balance the work of the two Houses. A recommended package of about 30 Bills would be submitted to the Cabinet in March, and this, as endorsed or amended, would form the basis of the Queen's speech the following November.

The next task was to launch the Bills at regular intervals as drafting was completed, and to monitor progress in order to ensure that they were all enacted by the end of the session. Each week a ministerial committee discussed forthcoming parliamentary business; their suggested program was then reviewed by the Cabinet. Consideration would be given to financial deadlines and ministerial availability. Decision might need to be taken on whether unacceptable delays to a Bill rendered a guillotine motion necessary, or whether, in exceptional circumstances, pressure on time necessitated dropping a Bill altogether. Finally, after consultation with the Opposition, the Leader of the House would on Thursday afternoon announce the business for the following week.

Planning the parliamentary program was a subtle process, more of an art than a science. Political crises tended to blow up unexpectedly: this imposed constraints on forward planning. The Leader's job was not simply to expedite the progress of Government Bills, but to strike a balance between legislation and debate, and between the respective rights of Government and Opposition and of front and back benches. The 'usual channels' played a major part in reconciling these conflicting demands on parliamentary time. The existence of the 'usual channels' ensured that political controversies were contained within a framework of consensus, and helped to explain both the unusual degree of personal friendship to be found within the British political system, and the fact that that system was capable of accommodating social changes without revolution.

It was desirable that I read that portion of the report into *Hansard* because there is a basis on which this Parliament could discuss ways to improve our parliamentary debates and debating time. More particularly, in the Westminster system there is a recognised apportionment of debating time available to Opposition members.

All members, Government and Opposition, knew that there were 19 days of parliamentary sittings in which the Opposition took control of the House. It was the Opposition who decided which Bills should come before Parliament and then ran the House from that time. I know that is at variance with the procedures and practices we have had in this Chamber which have evolved over a period of decades. This is something worthy of debate and consideration.

Mr PETERSON (Semaphore): It gives me some pleasure to rise in this debate: I do not get much chance to get into debates, but to try to stipulate the number of days on which we should sit seems to me to be absolutely ridiculous.

Members interjecting:

Mr PETERSON: Some people have told me that coming to Parliament interferes with their recreation. I do not know what they mean by that. We are elected to represent our people in Parliament, and I think most of us do it reasonably well. We seem to get back, so we must. However, to stipulate a number of days is ridiculous. Whether we sit for 75, 100 or 25 days surely has no relevance to what the Parliament is all about.

Members interjecting:

The SPEAKER: Order! The member for Henley Beach is interjecting out of his seat.

Mr PETERSON: Surely the point of the Parliament is its effectiveness, not the number of days on which it sits. Under the system we have now, with the cut-off day, we could put up 100 Bills here on Tuesday, and by 6 o'clock on Thursday night they are passed anyway, so where is the effectiveness of Parliament? I will come back to that shortly. It is the same as the argument about the number of politicians in this country. Many people carry on about there being too many politicians—and perhaps, to a degree, they are right. We have a unique system of government, a three-tiered system, and we have a lot of politicians.

Members interjecting:

Mr PETERSON: I know that people would like to get rid of the member for Semaphore, but he is going to hang on a while yet. People talk about the level of Government and number of politicians and I use the same comparison: it is not the number. I do not care if we have 1 000 politicians and sit for one day, if we are effective. One of the problems is that the public do not see that we are effective. They do not see that we are bringing about sensible and worthwhile change. I heard a comparison with the British Parliament made by the member for Flinders, a man for whom I have great respect. I do not believe that is valid, for the following reasons.

First, the British Parliament is a Parliament of a country and covers all the functions of a country. We must consider that our Parliament serves a different function, since we cover a State. The British Parliament has much broader responsibilities, but I do not believe the constituency of a British Parliamentarian is served nearly as well as the State constituency, for instance.

The Hon. H. Allison interjecting:

Mr PETERSON: The member for Mount Gambier says it serves the City of Adelaide. Does that mean Mount Gambier is ignored? Each area elects a representative into this Parliament. Surely the member for Mount Gambier is not suggesting that the 46 other electorates in this State are ignored?

The Hon. H. Allison: Where have you been all your life?

Mr PETERSON: I take it that means that Adelaide is the only electorate served by this Parliament.

The Hon. H. Allison interjecting:

Mr PETERSON: The member for Mount Gambier means metropolitan, not country. I misunderstood what he was saying. I have sat here and listened many times to the country representatives, and I think they put the case for their electorates equally as well as those in the city, which is their right, given them by their electors—and they do it well. To get back to the subject from which I was sidetracked, the member for Flinders was talking about the British Parliament. The point I make is that we have a different attitude to politics and parliamentarians in this country. We do service our electorates.

Mr Hamilton: And are extremely accessible, too.

Mr PETERSON: We are extremely accessible. I know from discussions with British visitors and migrants that they are amazed about the access to parliamentarians here. They cannot believe that it is a matter of walking into the office and asking to see the member, or of making an appointment. We must also understand that the British system is to many of its members only a part-time activity. I do not think that there are too many politicians here who are part-time. To my knowledge everybody here is a full-time politician in the sense that they do not divide their time.

In reference to the matter of effectiveness, I think that this is the real key to this matter. The other day I had the pleasure of attending a lecture given by Dean Jaensch in the library. It was well attended by many people from here. He spoke of effectiveness of the Parliament and of reform—again we are talking about what we are here about—and making things more representative. He spoke of some reforms, and I do not agree with all he said. As he said at the time, whatever points he put forward are open for discussion.

Mr Duigan: We want action, not talk.

Mr PETERSON: That is right. Some of the suggestions he put forward related to changing the procedures of our Parliament. If we are talking about getting something out of this Parliament, then I think we could look at the reform of our procedures and at how and why we do things. He makes suggestions in his report, which members can get, and asks in particular whether the convoluted process of passing a Bill is really necessary. He has a point there. We spend a lot of time, even after a Bill is accepted in many cases, passing Bills and getting them through the two-House system. I know that is part of the system, but I am commenting on how the processes makes us spend time here.

Mr Hamilton: Perhaps we should use the Japanese system where they just walk up and drop a marble into a container.

Mr PETERSON: That is interesting. An antiquated system is used for divisions in the British Parliament at Westminster. I do not know how long it takes, actually, but it seems to take for ever. They must even leave the Parliament. That does not indicate effectiveness. Even in this House a division takes, I suppose, five minutes by the time we go through the whole process. And there is also the time spent by everybody yelling at each other after the vote.

An honourable member: Many blokes have been cut short in that two minutes.

Mr PETERSON: But that is part of the system. We are talking about five or six minutes in a fairly straightforward system. Dean Jaensch spoke about bringing divisions into the electronic age to make time use more effective. It seems to me that to stipulate a number of days of attendance does not make sense. There is no point to that. He touched on a couple of procedures. In the British system, Bills go before committees before they go before the Parliament. I suppose that the only reason we do not do this is that we do not have enough members. However, it seems to me that a lot of the Bills that we handle in this place, instead of coming here and going through all the stages of debate, could be taken out of the Parliament allowing a lot more public input by implementing a committee system.

Members interjecting:

Mr PETERSON: How many Bills do we get here now that we process and then later get a public reaction? If I am not sadly mistaken, certain legislation that was passed by this House within the last 24 hours will cause a controversy in the community. So, we should look at the committee system when we talk about improving the effectiveness of parliamentary sittings, instead of worrying about how many days Parliament sits.

Mr GUNN (Eyre): Much more thought should be given to the motion before it is carried. A problem, in the general public's view of Parliament, results from the fact that Parliaments have become merely a rubber stamp for the Government, whereas Parliaments originally came into being as forums for the discussion of issues affecting the community. Indeed, we saw a clear example in this House last evening of Party whips caucusing members and this leads to a poor opinion of parliamentarians in the minds of the general public because Governments do not want adequate debate or allow Party members to exercise their freedom. Since I became a member, the rights and privileges of backbenchers have been drastically reduced merely for the convenience of the Government. Governments merely want to get the legislation through and administer it: they do not want full and frank debate.

From time to time we have seen proposals put forward to streamline the proceedings of Parliament, but such streamlining will only place more power in the hands of Government, a trend to which I am totally opposed. Members of the public in a democratic and free society must have an effective parliamentary committee system. This Parliament urgently needs a committee to consider statutory authorities. It also needs a legislative committee, so that problems in legislation can be solved before the Bill gets on to the floor of Parliament. Parliament can pass a Bill within hours without the public's knowing anything about it until they read about it the next day. No matter how important the Bill before members, we see the guillotine used so that the backbenchers have little or no say. The backbench member must follow the Party line, and Parliament is therefore becoming a rubber stamp. The people of South Australia must strongly object because, if this sort of procedure is allowed to continue, in the long-term it will undermine the democratic process. The public is losing confidence in Parliament because it is fast becoming a rubber stamp for the Government. I seek leave to continue my remarks.

Leave granted; debate adjourned.

CONSTITUTION ACT AMENDMENT BILL (No. 5)

Adjourned debate on second reading.

(Continued from 23 October. Page 1428.)

Mr BLACKER (Flinders): This Bill causes me considerable concern because, as a country member, I represent the second largest district in the State, the largest being the district of Eyre. Any reduction of the number of members of Parliament would be seen by the public as an increase in the size of the district to be represented. Representing as I do a district covering 35 000 square kilometres, I regard with some jealousy the member who can run around his district of nine square kilometres before breakfast in the morning. However, the member for Eyre takes days to fly around his district in an aeroplane.

Mr S.G. Evans: I've done something about that in the Bill.

Mr BLACKER: The member for Davenport says that he recognises that in the Bill. I appreciate that there is an increase in the tolerance provided in the Bill from 10 per cent to 20 per cent, and that is something I fully support. My concern arises from the present charter of the Electoral Commission. The commission looks at electorates and aims to create seats within the required quotas eight years down the track. Therefore, in areas where there might be a declining population the quota is set to take account of that, assuming the numbers that will apply in eight years.

Therefore, in general in larger country electorates they are at the lower end of the tolerance scale and metropolitan electorates, which might have an increasing growth pattern, initially come in well below the quota in the expectation that they will be at about the maximum quota or just above it in the future. Basically, metropolitan electorates are below quota, on average, and country electorates are above it. That generalisation has resulted because of the system. However, as there are other matters which I wish to bring before the House, I seek leave to continue my remarks later.

Leave granted; debate adjourned.

PROPERTY VALUES

Adjourned debate on motion of the Hon. P.B. Arnold:

That this House calls on the Minister of Lands to initiate an immediate investigation into the reasons why in many instances land and property values being determined by the Valuer-General do not reflect the true market value.

(Continued from 23 October. Page 1430.)

The Hon. B.C. EASTICK (Light): I have pleasure in supporting the motion moved so ably by my colleague the member for Chaffey. Members who have been in the House for some time will recognise the influence or effect of valuations and that they have been voted for and debated on a number of occasions. I refer to *Hansard*, 8 September 1976 (page 887), under the heading 'Land Tax' where I moved:

That in the opinion of this House the Land Tax Act 1936-1974 should be immediately amended to provide a formula for rating which gives due regard to current land use and not possible or potential use as reflected by present assessed value.

In the following session of Parliament under the general heading of 'Land Valuation' (*Hansard*, page 1121, 30 November 1977) I moved:

That this House is of the opinion that land valuations used for rating or taxing purposes should reflect the value which relates more directly to actual land usage.

From that time when the Liberal Party was in government, the Hon. P.B. Arnold, as Minister of Lands, inserted in the Land Valuation Act notional value. In his contribution last week he was able to indicate that some officers within the Land Valuation Department had conveniently forgotten that there was such a provision, which did provide a fair measure of benefit to those people who were being seriously affected by the valuations that were placed on property. Indeed, the Hon. Mr Arnold indicated to the House last week that, following a meeting at Kangarilla in recent weeks, a number of people will benefit from the introduction of a notional value on their properties.

Having said that and having given a background on valuations and their effect, let me say, notwithstanding the statement contained in the motion, that it is the true market value aspect that I would like to speak about briefly. It does not matter whether it is true market value on any particular parcel of land.

The important thing is that there is equity as between the valuation placed on one parcel of land and every other parcel of land within the same area. Because of the annual nature of valuations today, that really places an equitable value on every parcel of land wherever it is situated in South Australia. In the early stages, the teething problems will be such that it may be difficult to provide that equity, and I believe that we are seeing the problem now, 1986-87 being the first year of annual valuations.

Notwithstanding that, the problem is that a number of valuations determined in South Australia for 1986-87 are not only inequitable with other parcels of land in the area but are unrealistic. I am not referring to changes in circumstances which have caused a decrease in the value of many parcels of land because of the current rural situation or, indeed, to the downturn in the market within the metropolitan area: I am talking about the method which has been used to determine those valuations. When it is admitted that a valuation was undertaken from a desk and the valuer did not realise what it was he was valuing, and subsequently a fairly massive decrease in valuation is placed on that property, the very major flaws existing at the moment are suddenly recognised. If people do not stand up for themselves and complain or appeal against the valuation, they have to bear these increases in water and sewer rates, land tax or council rates.

Let me quickly give an example from the town of Gawler of a person who for some years has rented an area of land from one of the local churches. He has a shed or garage on that parcel of land in which he keeps the wares associated with his business as a plumber. He received a valuation recently of $14 000. However, the assessed site value for that property since 1981 is as follows: $2 500 in 1981, 1982 and 1983; $3 000 in 1984; $4 500 in 1985; and $14 000 in 1986. So, what did he do? He did the correct thing and complained, but was told over the telephone to stop griping because there was no real problem. However, by persisting, he had somebody come out to inspect the block. Instead of it being a block with four sides, it is a three-corner block, and the officer who came out admitted that he thought it was a square block and said 'I've valued it on the basis of a complete block of land upon which you could build a house.' That would not be possible; it is a corner block with a diagonal side which allows this person to have a garage on it and the church to use the remainder.

Another example concerns a constituent of my colleague the Deputy Leader who undertakes cattle raising on land where adjacent properties, on a capital value, are rated variously from $6 500 down to $1 000 per hectare. They are the same types of properties for the same use, situated in the hills behind the Gawler Ranges in the general area of One Tree Hill. This person has a house on one of those blocks. Imagine his amazement when he found that the block on which his house is situated—a house that he admits is probably worth $100 000—was rated less than a

block next door of identical size which has nothing on it other than grazing cattle.

The situation was outlined to him when eventually an officer of the department went out there. He said that the valuation had been made from the office and that he did not realise that there was a house on one of the allotments. I have a statement from the person concerned in relation to these three allotments, and I am quite prepared to give this information to the Minister or any other member who wants to look at it. It states, in part:

I run a cattle stud, 95 head on two allotments—the numbers are 99 and 100—together with a third allotment owned by my son. These three allotments are not fenced individually due to the steep terrain, water problems, etc. Receipt of this year's rates showed increases as follows: lot 99 valuation rose from $20 000 to $84 000 (an increase of 320 per cent); lot 100 valuation rose from $20 000 to $103 000 (a 415 per cent increase); lot 3 valuation rose from $22 400 to $95 000 (a 324 per cent increase).

These three blocks, which are contiguous, all run cattle, although one of them has a $100 000 house on it. The statement continues:

My objection raised with the Valuer-General's regional office resulted in a visit by a valuer, who was taken on a conducted tour of these allotments. He had not previously seen them, and admitted that the valuation was effected from an office desk. He was unable to account for the fact that the valuation of lot 99 was higher than for lot 100, which contains our home and other improvements, and admitted that his records showed no evidence of a home and improvements.

So, this person has been charged water and council rates (no sewer rates because of the terrain), and he may have to pay land tax, depending on the extent to which other arrangements he has with a business property may be involved. The statement continues:

My next step was to obtain surrounding valuations from the Munno Para council, which revealed anomalies that can only be described as incredible. I indicated to council that I would be pursuing the matter on a broader scale, if necessary, by approaching the media. This resulted in interchange of information between the council and the Valuer-General, with a visit by the two senior valuers within the next couple of days. Much discussion and promises of review of the situation occurred, and I was urged not to approach the media.

He did not do so. The statement continues:

A further visit by all three valuers last week promised revaluation of the whole area, with my own land being revalued at a figure approximately half the previous valuation.

That occurred because a valuer was able to look at the position on site. In relation to the extended town of Gawler, I point out that last year two houses, one with a capital value of $65 000 and the other of $64 000 were revalued for 1986-87. One of those homes is now valued at $88 000—it has no alterations—and the other has been valued at $128 000, and, it too has no alterations. With what effectively are two suburban homes, which are in the same council area and concerning which there was a difference in valuation in 1985-86 of $1 000, how can there suddenly be a variation in valuation of $40 000 in 1986-87? One could suspect that the house valued at $128 000 is on a prestige site, compared with the other. However, the property valued at $128 000 is immediately opposite a railway station and is close to three schools, and therefore there is a noise problem. Yet, the other property, which is in an elevated position, with a beautiful park in front of it of some 5½ to 6 acres, was valued at only $88 000.

I have photographs of those two places, which I am quite prepared to show to members and, if it were possible to do so, I would insert them in *Hansard*. Adjacent to the house which has now been valued at $128 000 is another valued at $72 000. If one sees the two houses, obviously there is a variation, but the house that is valued at $72 000 was auctioned seven weeks ago and the maximum that could be squeezed at auction was $53 500. Before the appeal was lodged, that person was paying on the basis of a $72 000 valuation. There is other information to which I wish to refer and I seek leave to continue my remarks later.

Leave granted; debate adjourned.

WASTE MANAGEMENT REGULATIONS

Adjourned debate on motion of Hon. H. Allison:

That the Regulations under the South Australian Waste Management Commission Act 1979 relating to licence fees and wastes, made on 15 May and laid on the table of this House on 31 July 1986, be disallowed.

(Continued from 23 October. Page 1436.)

Mr DUIGAN (Adelaide): I indicated last week that I would conclude my remarks very quickly, and indeed I will, but I want to place on record that I intended no discourtesy to the member for Victoria, who wishes to follow me, by seeking leave last time to continue my remarks later, so I will be quite brief. I think that the remarks I made last week indicate that there was advice from the Waste Management Commission to local council and local government in the country. There was consultation and I think that I indicated that there was a range of services that were provided to local government from the Waste Management Commission.

I think the point that should be recognised is that the commission has not been established specifically to service councils or anyone else. It has been established to protect persons, property and the environment from the potential ill effects of badly managed waste disposal, but notwithstanding that, the commission can—and does—provide a range of advisory and planning services, in addition to standard setting, controlling, supervising and policing roles. All these functions will be expanded in country areas during 1986-87.

I had the opportunity of reading an extract from the *Advertiser* of 25 June 1986 in which the Mayor of Mount Gambier, Mr McDonnell, was quoted as saying that, in real terms, country councils were paying only one-eighth of the amount of city councils. He said also that local government had been contacted and that he thought that the fee itself was not unreasonable. The purpose of the regulations is to impose right across the State, in accordance with the original Act, a cost per tonne for waste disposed of in waste depots and that is exactly what it does. I oppose the motion.

Mr D.S. BAKER (Victoria): I was interested to hear the member for Adelaide speak on this motion last week and briefly this morning, I think it shows that people who live in the city do not have a lot of knowledge of the difference between waste management within the metropolitan area and that in country areas. For a start, the financial impact on ratepayers and business interests in the country is considerably greater than it is in the city.

Of course, I agree that there is a need in the city to monitor and regulate the disposal of all waste, and there are some very good reasons for that. Not all city councils have a dump or have to be part of waste management in their own council areas. In fact, only 19 councils within the metropolitan area have dumps of any kind. So council dumps have been set up in specific areas and management is essential to minimise the discomfort suffered by residents and the surrounding population.

The second reason, of course, is that city industrial waste, because of the density of population, must be carefully managed and disposed of with correct supervision. How-

ever, in country areas things are much more difficult. All country towns—some 250 of them—have what is called a rubbish dump—no fancy names, nothing spectacular, just a plain ordinary rubbish dump. Generally, those dumps contain very small amounts of rubbish because outside those small country towns each rural producer (who is, of course, unlicensed) has his own way of disposing of rubbish, dead stock or whatever else is lying around his property. Therefore, the problem in the country is negligible compared to the city in relation to volume and impact.

No-one can argue that country dumps should not be managed under the guidelines set down by the Waste Management Commission. No-one could argue that. However, what one can argue is that local government is not quite capable of running things under the guidelines set down by the Waste Management Commission and without continuing interference from it, which is something that is needed in city areas. However, there have been some shocking increases in fees in the past 12 months, or since the Waste Management Commission decided to include country areas under the guise of taking greater control and placing them under the Act. I believe that it is a classic example of empire building. When one reads the annual reports of the South Australian Waste Management Commission, it becomes very clear that the commission cannot increase its staff until it increases its fees. To me, that is an indictment on the Waste Management Commission and on the empire that is being built by the Director and the Minister under whose charge it was in the last Government.

I will cite what is going on at present from some of the commission's annual reports. At present on the administration side of the Waste Management Commission there are 10 people. However, I will go back to the start. The Waste Management Commission's first annual report is a rather humble document in black and white. Under 'Staff' it states:

> In November 1979 Cabinet approved the establishment of 12 staff positions for the commission to be created progressively over three years.

That seems quite reasonable. In the following year, 1981-82, some of the aims and objects of the commission are described as follows:

> The commission is funded by licence fees and by contributions payable on solid and liquid waste deposited at metropolitan waste disposal depots. Licence fees only are paid by country depot occupiers.

Already there is coming in this country and city view. I must admit that the next annual report is glossier and has better photographs, although the front cover photograph is only in black and white. In relation to the objectives of the commission the report states:

> The commission is funded by licence fees and contributions payable on solid and liquid waste deposited at metropolitan waste disposal depots.

Again, reference is also made to country people needing licences only. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

[*Sitting suspended from 1 to 2 p.m.*]

PETITION: CLEARANCE REGULATIONS

A petition signed by 74 residents of South Australia praying that the House urge the Browns Well District Council and the Department of Environment and Planning to review regulations concerning the clearance of native vegetation and drift sand from property boundary lines was presented by Mr Lewis.

Petition received.

PETITION: BEACH SAFETY

A petition signed by 52 residents of South Australia praying that the House urge the Government to enforce the provisions of the Boating Act 1974 relating to public safety at bathing beaches was presented by Mr Robertson.

Petition received.

PAPER TABLED

The following paper was laid on the table:

By the Minister of Lands, for the Minister of Transport (Hon. G.F. Keneally)—

Dental Board of South Australia—Report, 1985-86.

QUESTION TIME

MARIJUANA

Mr OLSEN: Will the Government immediately reconsider its intention to introduce on-the-spot fines for marijuana possession?

Ms Lenehan interjecting:

Mr OLSEN: I assure the member for Mawson that it is not considered to be a laughing matter in the electorate. There has been unprecedented reaction to this move. The response to radio programs this morning indicates widespread community opposition to the Government's proposal. Liberal members of Parliament continue to be inundated by petitions from school councils throughout the State expressing their total opposition to the Government's proposal. This morning I understand that the Police Association has come out strongly opposing it.

I have also been informed that petitions are now being drawn up asking His Excellency the Governor to withhold his assent to this Bill. In view of this reaction and the circumstances in which yesterday's vote occurred, I ask the Premier immediately to reconsider the Government's intention to introduce on-the-spot fines for marijuana or, at the very least, not introduce them at least until this House has had an opportunity to reconsider the matter through a private member's Bill that I will bring into this House at the first available opportunity.

The Hon. J.C. BANNON: I am pleased to hear the notice that the Leader of the Opposition gives about his private member's Bill. The member for Davenport has already given notice of that. More seriously, I am not surprised at some of the public reaction that the Leader of the Opposition describes. After all, this measure has been subject to a massive campaign of misrepresentation right from the date it was proposed. I know, for instance, that the Hon. Mr Griffin in another place, who really at times plumbs the depths of political abuse, which disgraces him, has made it a special task of his to misrepresent—

Members interjecting:

The Hon. J.C. BANNON: No, he resorts to abuse.

Mr Olsen interjecting:

The SPEAKER: Order! I call the Leader of the Opposition to order.

The Hon. J.C. BANNON: I am not abusing him. He has said—

The Hon. E.R. Goldsworthy interjecting:

The Hon. J.C. BANNON: You can take it: you are fair game. You give, you take, and you do not pose as a holier than thou fellow. You actually are a bit of a knockabout, and that is fair enough. I am sorry, Mr Speaker; I should

not address the Deputy Leader directly. The Hon. Mr Griffin, on the other hand, does behave in an extremely holier than thou and fairly mealy mouthed manner, and he has said some fairly disgraceful things.

The SPEAKER: Order! The Premier cannot reflect on a member in another place.

The Hon. J.C. BANNON: I can describe his actions then, Mr Speaker, and his actions have been to wage a campaign to circularise school councils and every other body he can think of, misrepresenting this legislation and its effect. I ask, for instance, how many people in the community are under the impression that what is being done is the legalisation of marijuana. The answer is—

Members interjecting:

The Hon. J.C. BANNON: No, the Minister does not. Listen to him and read his words.

Members interjecting:

The SPEAKER: Order! I call the Deputy Leader of the Opposition to order.

The Hon. J.C. BANNON: Read his words. His concern is that it may lead to that, and that is a legitimate concern which has been properly canvassed. I do not happen to agree with it, as I said yesterday. I would say that the vast majority of people out there believe that we have legalised marijuana, but we have not. It is still illegal so to use it and, indeed, when this legislation is proclaimed, it is my intention, after discussion with the appropriate Ministers, to ensure that that message is made abundantly clear—that it is, in fact, still an offence.

In a very limited area the penalty for breaking the law—and it will remain breaking the law—has been altered to an on-the-spot fine, but it does not make it in any way legal. Secondly, far too much of this debate has concentrated on that element of what is a larger package of legislation. Again, how many people in our community will understand that in fact what we are talking about is another step in what has been the most massive offensive against drugs in our community that any South Australian Government has waged? I suspect not many.

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order! The member for Mitcham was perilously close to being named for continuing to interject while the Speaker was attempting to restore the House to order. I call the Leader of the Opposition to order for the second time and, in doing so, remind him of what may be the consequences of his continuing to disrupt the proceedings of Question Time.

The Hon. J.C. BANNON: I suspect, again, that people are not aware that we have massively increased penalties; that we have upgraded enormously the amount of resources that we have put into the fight against drugs; and that we have taken a leading role in a national drug offensive. All those things have been done. They are not pious talk or windy rhetoric such as we had for three years with the previous Government in office. They are actions that we have taken and will continue to take. It has been deemed that, as part of the effectiveness of that program, a package of legislation should be introduced in the form in which it was.

Members opposite are very happy to quote the Minister of State Development and Technology on that aspect of the legislation. It is also very clear that they want to overlook or completely ignore statements that he, the member for Price and anybody else may have made about those elements of the legislation which, in fact, enhance our battle against drugs, which raise penalties and which redefine drug analogues and other areas which at the moment are not covered. We have taken this action and that is the message that the public should get. Once they understand that that is what we are doing—that in fact we are reinforcing and increasing our weapons against drugs as part of this overall package—I suspect that public attitudes will change. But, in answer to the Leader of the Opposition, no, I am not surprised about the reaction.

The more nonsense and misrepresentation that is peddled by those opposite, the more confusion there will be in the community. For myself, my Government, the Minister of Health and others involved in this campaign, I say this for the record: we abhor drugs, trafficking and peddling, and we will ensure that our legislation and our efforts do something about it in our community and that we remain the most drug free society in this country.

Members interjecting:

The SPEAKER: Order! I call the member for Briggs to order. The honourable member for Fisher.

DTX AUSTRALIA LTD

Mr TYLER: Can the Minister of Labour outline the results of his department's inquiry into the non-payment of wages of employees in this State of DTX Australia Limited? In this House on 22 October, I asked the Minister to investigate this company because I had been told that it still owed its employees in South Australia about $60 000. As the Minister will appreciate, this matter has caused considerable trauma for these employees.

The Hon. FRANK BLEVINS: I congratulate the member for Fisher and other members who have received inquiries from employees of this company on the way in which those members have drawn this matter to my attention and to the attention of the Department of Labour and the South Australian public. The Department of Labour is currently investigating the circumstances behind the alleged non-payment of wages for three to four weeks to a number of South Australian branch employees of DTX Australia Limited. This company, whose head office is in Perth, is primarily involved in the production and sale of a 'computer bureau service', by which it distributes an extensive range of information (including such items as stock exchange reports, airline flight information and AAP news reports) through a videotext format. It also manufactures computer hardware, including mainframes and terminals.

DTX Australia Limited's operations in South Australia are confined to sales and promotion of the service only. Major operations of upgrading and editing of information are undertaken at the company's Perth facility. No information is yet available why the company is evidently experiencing difficulties to the extent that wages have not been paid in South Australia for some three of four weeks. Further Department of Labour investigations will provide more of an indication. Already, the company's Perth head office has been advised of the claims for non-payment of wages against it, and its urgent response has been sought.

Shortly, the department will conduct a formal inspection of the company's time and wage records held in Adelaide, and appropriate action to claim arrears of wages for employees covered by awards will follow. The Shop Distributive and Allied Employees Association (SDAEA) has advised that it does have some members employed by the company. It is understood that the association has lodged, or is about to lodge, a formal application for recovery of wages for one member, under section 15 (1) *(d)* of the South Australian Industrial Conciliation and Arbitration Act 1972. Most of

the company's South Australian employees are described as 'information centre representatives' or advertising salespersons for which no South Australian State award applies.

The Federal Arbitration inspectorate has advised that the company DTX Australia Limited is not respondent to any Federal award with the capacity of providing coverage to these employees. Therefore, being effectively 'award free', the provisions of section 15 (1) *(d)* of the South Australian Industrial Conciliation and Arbitration Act 1972 cannot be applied to the situation in which most of these employees find themselves. Unfortunately, the section can only be activated in instances of non-payment or under-payment of wages for services rendered which are governed by an award or agreement. Given this situation, these employees will probably only have recourse to a court of civil jurisdiction in an attempt to recover wages. Two employees have already been referred by the Department of Labour to the Legal Services Commission for advice as to a claim in the civil courts. This situation shows up clearly the reasons why employees should be members of a union. If they are, the union can seek to have an award to cover them and to ensure that the rights of the employees are protected.

MEMBER'S VOTE

The Hon. E.R. GOLDSWORTHY: I would like to ask a question of the member for Price. In view of the honourable member's public statement today—

The SPEAKER: Order! I rule this question out of order. Questions can be put only to Ministers of the Crown and those with particular responsibilities to the House.

The Hon. E.R. GOLDSWORTHY: On a point of order, Mr Speaker, I can recall in recent days questions to the Leader of the Opposition being admitted.

Members interjecting:

The Hon. E.R. GOLDSWORTHY: There is precedent for asking members questions. The Standing Order says that Ministers or members may be asked questions about matters of public importance. The member for Price is certainly a member of the House, and the question is certainly a matter of public importance. I have not even got it out—

The SPEAKER: Order! The Deputy Leader of the Opposition will resume his seat. I do not accept his point of order. While I have been occupying the Chair I have only accepted one question directed to anyone other than a Minister: that was a question addressed to the Leader of the Opposition, and it directly concerned his responsibilities in terms of the cost of maintaining his office in this Parliament. Secondly, the Deputy Leader of the Opposition has misread Standing Order 123, which quite clearly puts his question out of order. I call the honourable member for Bright.

The Hon. E.R. GOLDSWORTHY: On a point of order, Mr Speaker, I seek leave to move disagreement to your ruling.

The SPEAKER: Is the Deputy Leader of the Opposition willing to give his reasons in writing?

The Hon. E.R. GOLDSWORTHY: Yes.

The SPEAKER: The Deputy Leader of the Opposition's motion states:

> I move disagreement to the Speaker's ruling because it clearly is not in accordance with Standing Orders.

Is the motion seconded?

The Hon. B.C. EASTICK: Yes, Sir.

The SPEAKER: Does the Deputy Leader of the Opposition want to speak to the motion?

The Hon. E.R. GOLDSWORTHY: I move accordingly. I certainly do want to speak to the motion. Standing Order 123 provides:

> At the time of giving notices of motion, questions may be put to Ministers—

that refers, of course, to Question Time—

> of the Crown relating to public affairs; and to other members, relating to any Bill, motion or other public matter connected with the business of the House, in which such members may be concerned.

That Standing Order is as plain as a pikestaff; it states 'members', without qualification. The Standing Order you quoted, Mr Speaker, as referring only to Ministers, is far broader than that: it refers to 'other members'. No-one in this place can argue that the member for Price is not a member—he is—duly elected.

The other pertinent matter, of course, involved in Standing Order 123 is the nature of the question concerned. Until the question is heard, no judgment can be made as to whether it is a public matter connected with the business of the House. One would not need to be a genius to understand that the notoriety that the honourable member has gained since yesterday pertains to the Bill which is obviously the subject of some questioning by the Opposition today, a matter that has been before this House. In fact, Mr Speaker, the question that I sought to ask the member, which you ruled out without even hearing, was this:

> In view of the public statement he made this morning that he would vote for a private member's Bill to prevent the introduction of on-the-spot fines for marijuana possession, will he ask the Premier and his Caucus colleagues to agree to delay introduction of the fines until the House has had an opportunity to reconsider the matter?

If that is not a matter of public importance or, indeed, to use the precise words of the Standing Order, 'or other public matter connected with the business of the House', I will never know what is. It is a matter of prime concern to, I would suggest, the vast majority of the people of this State. It certainly has—

An honourable member interjecting:

The Hon. E.R. GOLDSWORTHY: Somebody opposite finds it a yawn, Mr Speaker. They will find in due course just how important this is in the public mind. By way of explanation, I would have sought to explain that the Minister of State Development and Technology has said that this is *'de facto* decriminalising the use of marijuana'. They were his words in the debate.

The SPEAKER: Order! I caution the Deputy Leader of the Opposition. He is straying from the matter to which he should be adhering.

The Hon. E.R. GOLDSWORTHY: I think the Standing Order says that only two speakers are allowed on this matter. I do not recall whether I get the right to reply. We do when seeking a suspension if we do not use up the 10 minutes allocated. I have made the two points that I think are pertinent. Any reasonable, intelligent reading of Standing Order 123 indicates clearly that members, without qualification, can be questioned in this place during Question Time on any matter of importance to the public or the business before this House. Both requirements have been plainly and clearly met. There is plenty of precedent for members other than Ministers being questioned in this place and answers being allowed. Numerous examples of precedents could be quoted. I therefore seek to disagree with your ruling.

The Hon. D.J. HOPGOOD (Deputy Premier): I urge the House to reject this motion. The Deputy Leader of the Opposition has been here as long as I have and should be as familiar with the practices of this place as I am. He

referred in a very vague way to precedents over the years but was not able to quote one. I can certainly quote one, because I was involved in a situation similar to the Deputy Leader of the Opposition many years ago. Before I get on to that, can I simply say—and I hope I am not out of order in doing so—that I am sure that there would be no reluctance on the part of the member for Price to answer the question which has been put to him, no reluctance whatsoever.

Members interjecting:

The Hon. D.J. HOPGOOD: But, Sir, you have a responsibility not only to the hyenas who are interjecting opposite, but indeed to the whole of the tradition of this Chamber. We would be putting ourselves into a situation where we would effectively be having two Question Times if we were allowed willy-nilly to direct questions to backbenchers or private members on either side of the House. It is clear that the interpretation which you have put on this Standing Order is quite in line with the interpretation that has been placed on the Standing Order for many years by successive Speakers. I can recall the occasion on which I directed a question to Mr Steele Hall, who was then Leader of the Opposition, in relation to statements he had made about Liberal Party policy. I can even recall what it was all about: it was about foreign ownership of Australian assets. The then Speaker (Reg Hurst) ruled me out of order.

It seems to me, Sir, that what you have done on this occasion is entirely in line with that practice and the practice which has been adhered to by successive Speakers as we have gone on. We cannot allow Question Time to degenerate into a situation where we have this sort of deviation from the longstanding practice where there is the opportunity for private members to question the Government as to Government policy and performance. You, Sir, are upholding that tradition and consistent interpretation of Standing Orders, and I would request of all members that they support you in that matter.

Members interjecting:

The SPEAKER: Order! In the time that I have been the incumbent of the Chair I have not permitted, as I pointed out to the House a few moments ago, any question to be directed to a member other than a Minister or the Speaker, with the solitary exception of the Leader of the Opposition, who on that occasion met, as I saw it, the criteria of Standing Order 123. There is a long history of successive rulings concerned with questions being directed to those who are charged with specific responsibilities.

The Deputy Leader of the Opposition has referred to the phrase 'relating to public affairs'. A reading of Standing Order 123 clearly shows that that particular phrase refers to Ministers of the Crown only. Those persons who are required to respond to questions are those who have specific responsibilities towards the House, for example, the chairmen of particular committees or select committees who have to present reports to the House; Ministers or private members who are responsible for the introduction of particular Bills; and, on certain occasions, the Speaker regarding questions that relate to matters of the management of the Joint House Committee or the House of Assembly.

Mr BLACKER: On a point of order, Mr Speaker, it is with some respect that I rise on this occasion because I have been subject to questioning by members of the Government while I have been a member of the Opposition on this side of the House. It occurred some years ago and the Speaker at that time allowed me to reply. The then Speaker said that the question was perfectly legitimate but, because the member asking the question was not a member of the Ministry, I had the right not to answer.

The SPEAKER: I caution—

Members interjecting:

The SPEAKER: Order! I must caution the honourable member at this stage, because he is starting to proceed past a point of order and making a speech as part of the debate.

Members interjecting:

The SPEAKER: Order! Only two speakers are permitted to participate in this debate.

Mr BLACKER: I apologise for that, Sir. The point I make is that I was subject to a question by a member of the Government in almost identical circumstances except that the roles were reversed. It was a perfectly legitimate question that I answered at that time.

Members interjecting:

The SPEAKER: Order! In response to the point of order, I reiterate what I have said twice to the House: while I have been the incumbent of the Chair—

Members interjecting:

The SPEAKER: Order! If the House does not come to order I shall have to name a particular member, and that is a step that I am very reluctant to take in these circumstances. However, if I am pressed, I will do so. While I have been the incumbent of the Chair I have interpreted the Standing Order as I have outlined to the House.

Mr M.J. EVANS: If I understand your ruling correctly, Mr Speaker, are you saying that under Standing Order 123 no question may be directed to the member for Price, or are you saying that the particular question foreshadowed by the Deputy Leader may not be directed to him?

The SPEAKER: No question can be directed to the member for Price other than questions that may be related to any matter by way of a Bill that he puts before the House at some stage—

Members interjecting:

The SPEAKER: Order! —or, if in the course of, say, a member representing the Public Works Committee, the member was to deal with some matter in relation to that committee in the House, he could be questioned.

The Hon. B.C. EASTICK: On a point of order, Mr Speaker, having regard to the statement that you have just made to the member for Elizabeth, how would you be in a position to know whether it was pertinent to any member—not just the member for Price—before you had the opportunity of listening to the question?

Honourable members: Hear, hear!

The SPEAKER: Order! The situation is that the Speaker's ruling has been disagreed to, and I intend to put the question.

The House divided on the motion:

Ayes (15)—Messrs Allison and Ms Cashmore, Messrs P.B. Arnold, D.S. Baker, S.J. Baker, Blacker, Chapman, Eastick, S.G. Evans, Goldsworthy (teller), Gunn, Ingerson, Olsen, Oswald, and Wotton.

Noes (23)—Mr Abbott, Mrs Appleby, Messrs L.M.F. Arnold, Bannon, Blevins, De Laine, Duigan, M.J. Evans, and Ferguson, Ms Gayler, Messrs Gregory, Groom, Hamilton, Hemmings, and Hopgood (teller), Ms Lenehan, Messrs McRae, Mayes, Peterson, Plunkett, Rann, Robertson, and Tyler.

Pairs—Ayes—Messrs Becker, Lewis, and Meier. Noes—Messrs Crafter, Klunder, and Slater.

Majority of 8 for the Noes.

Motion thus negatived.

Members interjecting:

The SPEAKER: Order!

Mr Olsen interjecting:

The SPEAKER: Order! I warn the Leader of the Opposition.

FLINDERS MEDICAL CENTRE

Mr ROBERTSON: I wish to direct my question to the Minister representing the Minister of Health.

Mr S.G. EVANS: On a point of order, I thought that because you, Mr Speaker, ruled out a question on this side, the next question would have come from this side of the House, because the previous question had been eliminated.

The SPEAKER: I understand the member for Davenport's point of order. I did give a private and possibly even a public commitment that, where a question was ruled out of order but was able to be resubmitted in a condition whereby it was in order, I would revert to that side. In this case, I had already called on the member for Bright, who now has the call before the House.

Mr ROBERTSON: I address my question to the Minister representing the Minister of Health. Would he please report to the House on the progress of negotiations presently being conducted to ensure that adequate car parking is provided for staff, patients and visitors to the Flinders Medical Centre? Earlier this year the Minister of Health undertook the task of bringing together the various authorities concerned with the provision of adequate visitor and patient car parking at the Flinders Medical Centre. It is reported to me that visitors and outpatients still experience some difficulty in finding a park close to the Flinders Medical Centre at certain times of the day. What progress has been made in the negotiations which are aimed at securing additional parking at that institution?

The Hon. LYNN ARNOLD: In the absence of my colleague who normally represents the Minister of Health in another place, I will take this question and refer it to my colleague, the Minister of Health, in another place, for a detailed report.

MEMBERS' RIGHTS

The Hon. JENNIFER CASHMORE: My question is directed to you, Mr Speaker. As the custodian of the rights of all members of the House, will you investigate the circumstances in which a member may have been prevented from exercising his vote yesterday during debate on the controlled substances legislation? In this morning's *Advertiser*, the member for Price is quoted as saying, 'I am just not happy about not exercising a vote,' and that 'It was entirely unexpected, what happened.' The actions of the member yesterday have been the subject of a great deal of speculation by the media. It is even being suggested that the member was at one stage physically restrained from entering the Chamber to exercise a vote.

Public comment to talkback radio stations this morning suggests that the standing of the Parliament has been diminished by yesterday's proceedings. I therefore ask whether you are prepared to make a thorough investigation of the matter with a view to presenting an explanation to the House and to the public.

The SPEAKER: Order! I am not aware of any of the circumstances to which the honourable member refers, and I have not received a complaint from the member referred to.

HOUSING TRUST REPORT

Mr DUIGAN: Will the Minister of Housing inform the House what reaction he has received—

The Hon. B.C. EASTICK: On a point of order, I fully appreciate that the honourable member now has the call and has started, but you, Sir, did give a very clear indication that there would be two questions from this side before the call went back to the Government.

The SPEAKER: The honourable member is quite correct. I did give that undertaking, and the member for Adelaide has indicated in a conciliatory way that he is prepared to yield. I call on the member for Light.

MARIJUANA

The Hon. B.C. EASTICK: Does the Minister of Emergency Services support the vast majority of members of the Police Force in their opposition to the introduction of on-the-spot fines for marijuana and, if not, will he explain precisely to police officers how they will determine when to issue a fine rather than a charge and how they will determine whether a substance suspected of being marijuana is in fact that drug? The Police Association this morning has strongly opposed the Government's intention to introduce on-the-spot fines for marijuana possession. I understand that the association is speaking in this respect for the vast majority of members of the Police Force.

Members interjecting:

The Hon. B.C. EASTICK: How do I know? I know, because I have been out and I know that the commissioned officers—

The SPEAKER: Order! Interjections are out of order, and the member for Light should not respond to them.

The Hon. B.C. EASTICK: The association's Secretary, Mr Brophy, has said that the legislation is a step backwards for the national drug offensive and that it will increase the workload of the police. I ask the Minister of Emergency Services whether he supports the views of his police officers and, if he does not, whether he is prepared to clarify, in precise terms, the concerns that they are expressing today about how they will decide between issuing a fine or a charge and how they will determine, on the spot, whether a substance they suspect to be marijuana is in fact that drug.

The Hon. D.J. HOPGOOD: Police Association opposition to the measure is not something that emerged this morning: it has been on record for some weeks and, as I recall, it was quoted by members opposite during yesterday's debate. So, it comes as no surprise to me. The opposition of Mr Brophy to various measures of this Government is not unknown. I need only refer members to the Saturday edition of the *Advertiser* on the day of last year's election. For some time, discussions have been held between the police and officers of my colleague in another place about how the police will administer this matter, and I know that all police officers will do so responsibly.

HOUSING TRUST REPORT

Mr DUIGAN: Will the Minister of Housing and Construction say what reaction, if any, he has received to the contents of the Annual Report of the South Australian Housing Trust, which was recently tabled in this House? Last weekend, an article in the *Sunday Mail* referred to the sale of Housing Trust homes, an item that is also dealt with extensively in the trust's annual report. I have received several positive comments from social agencies congratulating the trust on its forthright position on extending the opportunities to its tenants to buy whole or part of their home. These social agencies believe that the scheme will enable tenants to stabilise their housing payments, move

into home ownership, and release extra moneys to provide much needed additional public housing. I therefore ask the Minister to indicate what the take-up rate of the purchase option has been and what funds are likely to be released and made available for public housing as a result of the trust's policy.

The Hon. T.H. HEMMINGS: I thank the honourable member for his question, because the contents of the Housing Trust Annual Report detail the operations of a worthwhile organisation. Before replying to the honourable member's question, I shall refer specifically to two other items that will be of immense interest to members. On the back page of the report, there appear four awards of the Civic Trust of South Australia that have been granted to the Housing Trust. Eight trust developments received awards or commendations in 1985. The awards referred to on the back page of the report are as follows: John Funnell cottage flats at Port Pine; cottage flats at Salisbury; Glen Park at Port Lincoln; and the Daisy Bates complex at Whyalla, in the district represented by the Minister of Labour. On the front page of the report there is an example of participation in action where, as part of Government and trust policy, tenants are involved in the management of their own affairs. It is rather important to point out that this redevelopment is taking place in the District of Mitchell, which I am sure is due to the strong interest shown by my colleague the Minister of Mines and Energy in his district.

In reply to the honourable member's question, I have received no adverse reaction to the introduction by the trust of the policy to which he has referred. Indeed, I have received nothing but praise from professional housing managers and representatives of social agencies in South Australia and in other States. While the member for Adelaide was asking his question, the member for Murray-Mallee and possibly someone else on the other side—

The SPEAKER: Order! The Chair was, by signal, trying to caution the honourable Minister against what constituted a display in the way in which he was brandishing the document. The honourable Minister.

The Hon. T.H. HEMMINGS: I would proudly display the report throughout South Australia because I think it is such a great report. The member for Murray-Mallee interjected while the member for Adelaide asked his question saying that this Government was picking up the policy that the Liberal Party espoused in December 1985. If the member for Murray-Mallee still has that opinion, after the Liberal Party got disastrously beaten on that subject of privatisation of public sector housing, I can tell him his Party has no show, and I can sit back securely in the knowledge that I am delivering a service on behalf of this Government which will receive acclaim from people out in the community.

The House will recall that the Liberal Party's policy on privatisation was a disastrous policy giving rise to the fire sale of the century: sell off three to replace one! If one looks at the article in the South Australian Housing Trust Annual Report, one can see the professional manner in which the argument is completely destroyed. The article gives typical examples of what happened in the United Kingdom when the Thatcher Government sold off its own public sector housing at a 60 per cent discount.

We know that the Liberal Party wrote to the Thatcher Government seeking any advice it could give them that might seem attractive to the people living in trust houses. Thatcher sent two people here to instruct this Liberal Party on the matter, and we all know what the result was. The only thing we do not know—and this is pure rumour, I stress—is how much members opposite had to pay for those two Thatcher people to come here: we have never been able to ascertain that. I can only say that we have received nothing but praise and applause for what we are doing.

I make it perfectly clear to the House and to the people of South Australia that we will continue to implement our policy of selling trust houses at full market price to satisfy the aspirations of those people who want to get into home purchase, at the same time being able to replace each house we sell.

QUESTION POLICY

Mr S.J. BAKER: Mr Speaker, will you clarify whether you would allow questions to the Government Whip, in view of your previous ruling?

The SPEAKER: Although the Government Whip is a salaried position, it does not carry any specific responsibility—

Members interjecting:

The SPEAKER: Order! It does not carry any specific responsibility directed towards the House of Assembly as a whole.

CHLORINE SPILL

Mr PETERSON: Will the Minister for Environment and Planning provide a comprehensive report on the chlorine spill at the ICI Osborne plant yesterday? The Minister is well aware of the concerns of Osborne residents and has met with me and several deputations to discuss these problems. Yesterday's incident has been reported involving different levels of discharge and danger to life. My original inquiries indicated that the spillage included only 100 kilograms, whereas some reports have indicated a loss of tonnes of chlorine. Similarly, reports on the risk to people in the vicinity have varied from source to source. I have received many inquiries from worried constituents wishing to know the true extent of the incident. Therefore, I request the Minister to provide the correct details to the House.

The Hon. D.J. HOPGOOD: Bearing in mind a question asked of my colleague the Minister of Marine yesterday, I have had an opportunity now to have a full report from the Deputy Chief Officer of the South Australian Metropolitan Fire Service. I will not detain the Chamber by reading the whole of that report, although I will certainly make it available to any honourable members who are interested in its contents. I will simply precis the salient features of the report for the honourable member.

The MFS first received a call from Police Communications at 7.18 yesterday morning indicating that there had been a chlorine leakage at the ICI plant at Osborne. The first report indicated that there could have been as much as 5 000 kilograms in that release in liquid form. Four appliances were immediately dispatched to the scene. In the light of the amount of liquid which was first thought to have escaped, a further alarm was raised and another nine appliances were dispatched to the site. The winds were coming from the west at 10 to 12 knots, the effect of which would be to blow the chlorine, as the liquid material became vapour, across to Torrens Island. Therefore, the immediate decision was taken to advise the staff at the quarantine station of the possibility of chlorine affecting the health of people there.

A report at 8.18 indicated that the chlorine spill was being put into the river and was dissipating. A third request for additional appliances, including two salvage appliances, was

made at 8.37. However, at 9.4 it was indicated that the whole matter was under control and that no additional resources were needed. The Health Commission had two representatives at the site and, in conjunction with the MFS staff and ICI senior staff, these two officers began the testing of the atmosphere in and around the incident. They were able to declare that the area was safe. The Health Commission representatives then journeyed to Torrens Island to test the atmosphere there. Instrument readings taken at both locations indicated a safe atmosphere.

Thirteen employees from ETSA on Torrens Island and one from the quarantine station were examined by the Health Commission officer and results showed some slight symptoms of chlorine gas exposure, none of which required further medical attention. Water samples taken from the river at the point of drain discharge by the E&WS Department were tested and the results proved negative. The ICS notified the MFS that two persons were slightly affected by contact with chlorine and, after medical examination, both were discharged.

As to the cause of the incident, I can report that the MFS has had some preliminary investigations into the matter. It would appear that the chlorine plant had been shut down for the previous two days for annual maintenance. The maintenance crews completed work at the plant at approximately 4.30 a.m. on Wednesday 29 October. Testing of the plant by maintenance and process crews proceeded and was completed at 6.30 a.m. It is usually a period of two to three hours from the commencement of production until full production is achieved. It would appear that it was at this stage that there was a spill and the stock tank of liquid chlorine was identified as the one that had been causing the spill. It was possible to stop this and spread caustic soda over the spill to neutralise the liquid. However, this did not prevent a fairly large cloud of chlorine from appearing.

At midday yesterday, the situation at ICI was regarded as normal, but the chlorine plant was, of course, still shut down. A full investigation by ICI management and Government technical officers is being carried out but already my officers report to me that there is no indication of any widespread environmental damage as a result of the spill. As I have already indicated, there is no evidence of any individual needing further medical attention as a result.

Mr Peterson: Any threat to life?

The Hon. D.J. HOPGOOD: No threat to life or the ecological health of the area, and it is quite safe to go into the area.

FERRY TERMINAL

The Hon. TED CHAPMAN: Will the Minister of Marine explain to the House why he, with the apparent support of his Government, recently breached a long-term undertaking to the Kangaroo Island community by on Friday last summarily abandoning the plan to install a vehicular ferry terminal at Outer Harbor that was to coincide with the commissioning of the MV *Troubridge* replacement vessel later next year? Early in 1985 the Government announced its intention to build an $11 million vessel to replace the current MV *Troubridge* in its service to Kangaroo Island and Port Lincoln. When that announcement was made the respective communities were informed that the new vessel would be slower by one or two knots than the existing ship, and to offset the additional trip time involved an undertaking was given to relocate the Port Adelaide berthing facilities from Princes Wharf (which is upstream from the Birkenhead Bridge) to Outer Harbor, thereby eliminating the hour each way run up and down the Port River.

It was on that basis at the time that this package deal was used and the concept of a slower vessel was sold in order to placate the concern expressed by the users of the vessel, that is, the Kangaroo Island community and the tourist industry generally. In a letter signed by the Minister last Friday and dated 24 October 1986, he confirms that the longstanding arrangement regarding the Outer Harbor installation has collapsed, dissolved or at least no longer exists.

On Monday of this week—that is, prior to receipt of the Minister's letter by people on the island but as a result of an arrangement to meet at the premises of Eglo Engineering at Port Adelaide—in the presence of the Director of the department, the member for Bragg (who is shadow Minister of Transport), delegates from the Island Transport Committee and myself, a senior officer of the Minister's department indicated that berth No. 25, currently under lease to the Australian National Line, would become available for the berthing of the new replacement ship.

My inquiries this morning reveal that ANL has no intention at all of vacating berth No. 25 and it has given no such undertaking to the Department of Marine and Harbors or to anyone else. ANL further advised that discussions with the Department of Marine and Harbors about 18 months ago regarding the relocation of its berthing activities to No. 7 wharf Outer Harbor were economically out of reach and that the department was, according to ANL, well aware of that fact. Collectively, the various items of evidence, as I have explained, have caused the Island Transport Committee to advise this morning that in its view, first, there has been a gross breach of an undertaking to the island community by the Government and, secondly, that the picture portrayed by the Department of Marine and Harbors officers to the deputation on Monday was founded on thin hearsay and not fact, that is, in relation to berth No. 25 in particular.

The Hon. R.K. ABBOTT: The decision to remain at Princes Wharf, which is the existing wharf at Port Adelaide, is only temporary. It may well be that in future the Government will decide to have the *Troubridge* berth at Outer Harbor, as initially recommended in the Abraham report—

The Hon. Ted Chapman: And accepted by your Government.

The Hon. R.K. ABBOTT: And accepted by my Government. The simple fact of the matter and the main reason why we did not go to Outer Harbor No. 4 is the lack of capital works funding this financial year. Just recently the Government considered three options: first, whether to go to Outer Harbor; secondly, whether to remain temporarily at Princes Wharf; and, thirdly, whether to move to berth No. 25 (the ANL berth), as mentioned by the member. To my knowledge no final decision has been made as to whether ANL will remain at berth No. 25. Some time ago it indicated that it intended to withdraw from berth No. 25 and there was talk about berth No. 7 at Outer Harbor. In view of all the circumstances, the Government decided that, as a temporary move, we would remain at the Princes wharf.

The Hon. Ted Chapman interjecting:

The Hon. R.K. ABBOTT: Unfortunately, that will extend the travel time to Kingscote. One of the reasons why we decided to go to Outer Harbor with a slower speed vessel was to make the travel time about the same as it is now. It takes something like an hour to leave Port Adelaide and get to Outer Harbor.

The Hon. Ted Chapman interjecting:

The Hon. R.K. ABBOTT: You have asked your question so be quiet and you will get your answer. We will be spending something like $160 000 to upgrade the facility at

Princes wharf and make it operational in this temporary period. How long it will be I have no idea; it could be two or three years, or even longer. The simple fact is that the lack of capital works funding was the reason that the Government took the decision to remain at Princes wharf.

WORKER COOPERATIVES

Ms LENEHAN: Will the Minister of State Development and Technology inform the House what Government support is available for the establishment of worker cooperatives, and how many worker cooperatives are successfully operating in South Australia? My question comes from a long-standing interest in and support for the establishment of worker cooperatives. I have recently been contacted by two separate groups in my electorate which are seeking information about the success of worker cooperatives that are currently established in South Australia and about Government assistance that may be available for establishing such cooperatives.

The Hon. LYNN ARNOLD: By coincidence, the main thrust of the honourable member's question was similar to a question I was asked by a taxi driver when going home from Parliament the other night; he asked about the support available for worker cooperatives. As to the first part of the question, namely, the number that are successfully operating in South Australia—and 'successfully' is a subjective word—I will endeavour to get what information I can on that, and a general statement as to their relative degree of success. The facts are that worker cooperatives have long been the subject of discussion in South Australia. In fact, they were in 1984 the subject of the report of Cabinet's Worker Cooperative Working Party, which comprises representatives of various Government departments. That working party also included representatives from the UTLC and the South Australian Unemployed Groups in Action.

The report of that working party recommended that a pilot program be established, but that recommendation was referred to the task force on employment and unemployment that met in early 1985 to propose to the Government recommendations on employment programs. Of course, members will recall that that task force led eventually to the creation of the YES package which we are currently in the cycle of, it being a three-year program. That task force did not recommend taking out the particular pilot worker cooperative project recommendation of the previous cooperative working party, so it is not specifically built into the YES program.

The point needs to be made that that does not mean that no support is available for worker cooperative projects in South Australia. In fact, within the ambit of the current Office of Employment and Training policy and programs, there are opportunities for support to be given to some worker cooperative applications. The reason for saying that is that there is nothing to preclude interested groups in the community submitting a specific proposal to the Office of Employment and Training for a cooperative enterprise and for that enterprise to be funded under one of the two subsections of the YES program.

The first would be the Special Employment Initiatives Unit and the other one, if done in conjunction with local government, is the Local Employment Development program. Either of those would tolerate a worker cooperative proposal being considered. If it were to be done under the Special Employment Initiatives Unit of the YES program certain labour market criteria would need to be met. I will briefly outline those. The project would need to identify its ability to advance long-term employment development objectives through direct employment creation or employment maintenance; its ability to provide short-term or long-term employment and/or skills for specific disadvantaged groups in the labour market; its ability to ensure the maintenance of acceptable working conditions, remuneration and industrial relations practice in accordance with agreed trade union standards in relation to worker cooperatives; its ability to provide appropriate management, training and enterprise development support; and the feasibility of the venture to identify new markets and to become self-supporting, independent of substantial public assistance over a reasonable period of time.

That last point is particularly important in that it identifies the possible access to start up support, not for ongoing subsidy support. I hope that answers the question asked by the member for Mawson and the taxi driver who drove me and my co-passenger the Minister of Housing, who paid the fare, home. I also know that there are many other worker cooperatives up or being proposed in South Australia. A group of people in my electorate are looking to establish a worker cooperative. It is the kind of initiative about which we want to encourage people. As I have indicated, subject to meeting criteria, there is the possibility that 'start up' support is available for them.

PERSONAL EXPLANATION: POLICE ASSOCIATION

Mr GROOM (Hartley): I seek leave to make a personal explanation.

Leave granted.

Mr GROOM: During debate on the Controlled Substances Bill on Tuesday night, the member for Heysen said:

> We had the member for Hartley saying that the Police Association does not represent the police. That is bunkum.

I was very angry with the member for Heysen for making that assertion, particularly as I do not recall that he was in the Chamber during my speech. I denied it by way of interjection, but I have only recently noticed that *Hansard* did not pick up my denial by way of interjection.

Members interjecting:

Mr GROOM: Just let me finish. The assertion made by the member for Heysen is grossly untrue. I did not, during my speech or at any time during the debate, or at all, utter what the member for Heysen asserted. Indeed, nor would I. For the record, while I do not always agree with the policy position of the Police Association, it does a very fine job in representing its members.

STANDARD TIME BILL

The Hon. D.J. HOPGOOD (Deputy Premier) obtained leave and introduced a Bill for an Act to regulate the observance of time in South Australia; to repeal the Standard Time Act 1898 and the Daylight Saving Act 1971; and for other purposes. Read a first time.

The Hon. D.J. HOPGOOD: 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.

Explanation of Bill

This Bill repeals the Standard Time Act 1898 and the Daylight Saving Act 1971 and provides for the adoption of Eastern Standard Time throughout South Australia together with the observance of daylight saving for a defined or prescribed period during summer.

Significantly the Bill also authorises regulations exempting portions of the State from the observance of daylight saving. As discussed later it is proposed that that portion of the State generally west of 137° east longitude, with some minor variation to that line will be exempted from daylight saving.

The original suggestion to adopt Eastern Standard Time in that part of the State adjacent to the eastern border, came from the Green Triangle Council for Regional Development in Mount Gambier. The suggestion was put to the Joint Victoria/South Australia Border Anomalies Committee and was referred to the South Australian Government for consideration.

At about the same time, amendments to the Daylight Saving Act were passed to enable the extension of the period of observance of daylight saving by regulation. These amendments and the extension of the period by two weeks in March this year rekindled long standing sectional opposition to daylight saving particularly from the western region of the State. In fact the Hon. M. Elliott MLC was successful in urging the Government to adopt an amendment which would enable the exemption of that portion of the State from daylight saving. When those amendments were agreed to by this House I indicated that the Government would not make use of the power without prior examination of the implications of such a move. Accordingly, as a result of these two concurrent pressures on Government, the whole question of this State's time zone was under detailed consideration.

The Government decided to release details of a proposal which envisaged Eastern Standard Time plus daylight saving east of the 137°E meridian of longitude through Franklin Harbour mouth, just east of Cowell and west of Iron Knob. The area to the west was to remain on Central Standard Time plus daylight saving in the proposal.

Following release of the proposal in April letters were received from interested parties. A diversity of views were expressed in the responses, and not all views expressed regarding the proposal were easy to categorise. However, it is significant and worth noting that those most opposed to the proposal were also strongly opposed to the *status quo*. The alternatives suggested by those persons were unrealistic and undesirable involving in some cases, the complete abolition of daylight saving and moving the State a full hour behind the Eastern States.

There were many, of course, who provided a more balanced view on the issue and these proved useful in developing the compromise proposal which emerged and is provided for under this Bill.

The Chamber of Commerce and Industry kindly provided the results of a poll of their members which indicated 57 per cent supported the introduction of EST (the majority for the whole State) and 43 per cent supported the *status quo*. The Chamber therefore advocated EST for the State. The Government has given weight to that evidence.

It became apparent from the response that some variation to the original proposal for an all-year division of the State into two time zones would be required. Furthermore, West Coast correspondents clearly were more opposed to daylight saving than other writers. A compromise has therefore been put forward for authorisation under this Bill and subsequent regulations.

The compromise involves the entire State adopting Eastern Standard Time. However, during the summer period only the eastern part of the State will adopt daylight saving. The western portion of the State, that is, essentially that part which lies west of the 137°E. longitude, will be exempted.

There will be two deviations. The first, in the north of the State will involve shifting the line 30 kms to the west between 30°S. latitude and 32°S. latitude. This will ensure that Roxby Downs, Andamooka and Woomera remain in the same part of the State observing daylight saving as well as Eastern Standard Time. Such an adjustment is required so that townships servicing and housing staff involved in the Roxby Downs development observe the same time.

Farther south, another small deviation across the coast to Spencer Gulf, will place the Mitchellville district in the western zone with Cowell which is the district service centre. The boundary will then run down Spencer Gulf between Wedge Island and Yorke Peninsula and out to sea. For eight months of the year South Australia will be a single time zone observing Eastern Standard Time.

The proposal offers significant potential advantages to this State. Indeed when first announced the Leader of the Opposition responded publicly saying the proposal has 'considerable merit'. Those advantages are generally known. I will take the opportunity to briefly discuss some of those advantages.

The competitive position of South Australian firms in the Australian market would be improved by an increase in communication time with the Eastern States. Approximately 80 per cent of the nation's population lives in that region making it the main market for the consumer goods industries. The time or cost disadvantage which Adelaide money market operators and the Stock Exchange suffer would be removed. The impression of South Australia's 'remoteness' from the eastern seaboard would be eliminated for business and tourism alike.

In examining the benefits of Eastern Standard Time one should not overlook the benefits to recreation and tourism from the additional half hour of daylight saving. The proposal offers the State the opportunity to maximise the benefits of South Australia's unique summer climate. The local recreational, tourist and entertainment industries would greatly benefit from the move.

I acknowledge that the proposal will pose some minor inconvenience to some people. However, such inconvenience has been wildly exaggerated by the detractors of the proposal. The General Manager of SA Co-operative Bulk Handling Ltd has advised that silo operations are sufficiently flexible to cope with daylight saving. This flexibility would, of course, extend to the changes currently proposed.

The effect on shearing times has also been exaggerated. Most shearing takes place in the summer months when there will be sufficient natural early morning light to commence shearing. The effects on the dairy industry are acknowledged. Dairy farmers will have to rise at the same time by the clock to maintain present schedules of delivery to customers.

The problem of school children who travel to school by bus particularly in country areas has been taken into consideration. Most school bus runs currently commence at about 7.45 a.m. There are some that do commence earlier. In those cases I acknowledge that a small number of children will be picked up on winter mornings while it is still dark or only semi light. To overcome this problem the Minister of Education has been requested to examine the feasibility of adopting flexible school hours to those schools where pupils are bussed.

The complaint that children will have to travel home from school during the hottest part of the day is without foundation. An examination of the average temperatures in Adelaide at hourly intervals between midday and 4 pm for the month of February indicates a variation of only 0.5°C.

Although on a particular day there may be a significantly greater variation over any particular month, one would expect no significant difference overall in the temperature at the time children will be travelling home from school.

The relatively minor problem of programming of regional television stations is not considered to be sufficient to justify the abandonment of this proposal. Currently regional broadcasters who broadcast across the eastern border of the State cope with this situation all year round and there is no indication that this breaches the broadcasting regulations.

I point out that this time differential would only exist for approximately four months of the year. It should also be remembered that those people affected by this differential have for some time themselves lobbied for such a change in seeking exemption from daylight saving.

In conclusion, I draw the attention of the House to the strong support for the proposal from the States major industry representative the Chamber of Commerce and Industry, and organisations such as the Metropolitan Television Broadcasters, The Advertiser Ltd., State Banks, Soft Wood Holdings, and regional organisations such as the Mount Gambier Chamber of Commerce.

In my discussions with these groups and with individuals I have received very strong support. The attitude which I believe is common to all these groups and individuals is that the State should at the very least 'give it a go'. Unless South Australia takes up this proposal here and now a unique historical, political, economic, recreational opportunity will be lost.

I commend the Bill to the House as a reasonable compromise which offers the State the advantages of Eastern Standard Time and at the same time overcomes the complaints of residents in the West about the effects of daylight saving during summer.

Clause 1 is formal. Clause 2 provides that the measure comes into operation at 2.30 a.m. Eastern Standard Time on 15 March 1987—the end date of the next daylight saving period.

Clause 3 is an interpretation provision. The attention of the honourable members is drawn to the following definitions:

'the daylight saving period' has the same meaning as 'the prescribed period' in the current Daylight Saving Act 1971.

'instrument' is widely defined to include legislative, judicial and administrative instruments, as well as contractual instruments.

'oral stipulation' is similarly widely defined.

Subclause (2) enables the Governor by regulation to divide the State into two time zones for the purposes of the measure.

Clause 4 provides that Eastern Standard Time is to be observed as standard time throughout South Australia except in the daylight saving period. In the daylight saving period, summer time (one hour in advance of Eastern Standard Time) is to be observed as standard time in South Australia except in a time zone excluded by regulation. In such a time zone Eastern Standard Time is to be observed throughout the year.

Clause 5 provides for the construction of references to time in instruments and oral stipulations. If the reference to time relates to a period over which Eastern Standard Time or summer time is being observed throughout the State then the reference is to Eastern Standard Time or summer time, as the case may require. If the reference to time relates to a period over which summer time is being observed in one time zone and Eastern Standard Time in the other then the construction of the reference depends on in which time zone the instrument or stipulation operates. If it operates wholly in one time zone, the reference is to the time being observed as standard time in that time zone.

If it operates in both time zones the reference is, in relation to the operation in each zone, to the time being observed as standard time in that zone. For example, a contract for delivery of items to a place in one time zone and a place in the other time zone by 3 p.m. on a particular day will require delivery by 3 p.m. eastern standard time in the time zone not observing summer time and by 2 p.m. Eastern Standard Time (3 p.m. summer time) in the time zone observing summer time. The provisions are subject to the expression of contrary intention.

Clause 6 gives the Governor the necessary regulation making power. Clause 7 repeals the Standard Time Act 1898 and the Daylight Saving Act 1971.

The Hon. B.C. EASTICK secured the adjournment of the debate.

LAND TAX ACT AMENDMENT BILL

Returned from the Legislative Council without amendment.

COMMERCIAL AND PRIVATE AGENTS BILL

Second reading.

The Hon. D.J. HOPGOOD (Deputy Premier): 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.

Explanation of Bill

This Bill is to repeal and replace the Commercial and Private Agents Act of 1972. The present Bill is the result of a close and careful review of the 1972 Act, and is a major overhaul of the licensing and regulatory scheme of that Act. With some exceptions, mostly of a technical nature, it is the same as the Bill introduced in the last session.

The existing Commercial and Private Agents Act was passed in 1972 with the aim of licensing and controlling the following classes of agents: debt collectors (known as 'commercial agents'), private investigators (known as 'inquiry agents'), loss assessors dealing with motor vehicle accidents and workplace injuries, process servers, and security agents.

The power of licensing and disciplining these agents was entrusted to an independent Commercial and Private Agents Board. Various substantive provisions were designed to ensure that the conduct of those agents regulated would conform with acceptable community standards.

The Act was amended in 1978. The most significant amendments were the addition of two new classes of agents—store security officers and people who supply guard dogs—and the insertion of provisions enabling the board to grant interim provisional licences to employed agents entering their industry for the first time.

The common theme running through these apparently diverse occupations is the private prevention of criminal acts and the private enforcement of civil rights. That is why they were brought together in the original Act and this is why, with some adjustments and changes, the new Bill seeks similarly to regulate the conduct of those engaged in these varying activities on behalf of private persons or companies, ancillary to the publicly organised processes of law enforcement.

The original Act introduced to this Parliament by the then Attorney-General, the Hon. L.J. King, has been widely acknowledged as a leader in this field. However, in the light of developments in the approach to occupational licensing generally, and of emerging patterns of conduct and organisation in the industry, some problems became apparent. In 1983, shortly after coming into office, the Government established a Working Party to review the Act. The Working Party was chaired by the then Deputy Director of the Commercial Division of the Department of Public and Consumer Affairs and made up of representatives of agents' associations and two police officers. Its terms of reference were to review the Commercial and Private Agents Act 1972-1978 and consider in particular—

(1) The extent to which the administration of the Act can be simplified or improved.

(2) The need to alter either the conditions upon which licences are granted to applicants or the requirements necessary for the grant of such licences.

(3) The need to extend the provisions of the Act to apply to uncontrolled areas of activity related to the work of commercial and private agents.

The Working Party reported early in 1984. The report was released for comment in April 1984. Further comment was sought from interested bodies on a draft Bill. The present Bill draws extensively on the recommendations of the Working Party. It also includes several changes resulting from further consideration and from the consultations carried out during development of the Working Party's proposals.

The underlying intention of the Bill remains the same as that of the Act it is proposed to repeal: to regulate the activities of those who, as agents, are occupied in the private prevention of criminal acts and the private enforcement of civil rights. The Government remains satisfied that, in general, these activities, closely allied as they are to those of the police and of the judicial process, require regulation to guard against unacceptable conduct and impropriety.

The Bill brings the licensing of commercial and private agents under the Commercial Tribunal, as is being progressively done with occupational licensing systems generally. This will lead to the abolition of the Commercial and Private Agents Board, but, as in other areas, the expertise of that board will be preserved by the addition of appropriate industry and consumer representatives to the panels established under the Commercial Tribunal Act. Again, consistent with current licensing procedures, the existing system of separate and annual licences for the various occupations will be replaced by the single continuous licence, requiring an annual return and fee, and endorsed to authorise whichever activities the tribunal is prepared to license in each case. The requirement for commercial agents to lodge a fidelity bond is abolished, but the trust account and audit requirements and inspection powers are strengthened. In the interests of uniformity with other licensing legislation administered in the Department of Public and Consumer Affairs, these provisions have been re-cast in the present Bill.

Provision is also made for the development of codes of practice to reinforce the disciplinary powers of the tribunal. The existing Act provides for the licensing of the range of occupations I have already mentioned. The Bill approaches the matter from a different angle, reflecting the philosophy that it is the para-police and extra-judicial private activities that are at issue, rather than the names of occupations.

The various categories of agent are not separately named—with the exception of commercial agents, to whom special obligations apply. The general definition of 'agent' in clause 4 of the Bill will contain almost all of the activities currently performed by separate licence-holders, and some additions, in accordance with Working Party recommendations. These activities will be arranged to reflect the para-police, extra-judicial processes to be controlled: from the protection of property and persons, the prevention of crimes and the checking of personal details, to the private service of court processes once judicial intervention has been sought. Extra-judicial collection procedures will be dealt with in the separate definition of 'commercial agents'.

The 1972 Act provides for the licensing of loss assessors, so far as their work deals with claims arising out of motor vehicle or workplace accidents. Consistent with the present Bill's emphasis on activities rather than occupational titles, loss assessors and loss adjusters will no longer have to be licensed under this category. Provision is made for exemption of those loss adjusters who meet specified standards and qualifications.

The Working Party recommended that the occupations of giving advice about or selling or installing commercial electronic alarm devices be regulated. When coupled with its further recommendations that all licensees be properly trained or supervised the Working Party considered that the proposed regulation would 'reduce significantly instances of unwanted activations caused by poor installation or the fitting of equipment not suited to its operating environment'. The definition of agent will adopt this recommendation. Regulations will limit the scope of the licensing requirement to those whose business involves dealing with the more sophisticated sorts of alarm systems.

Exemptions from the licensing requirements are given to: a member of the Police Force of this State; a sheriff, deputy sheriff, sheriff's officer, bailiff or other officer of a court or tribunal; an officer or employee of the Crown or any instrumentality of the Crown; an officer or employee of local government.

Exemptions are also given to: a person who practices as a legal practitioner; a person who holds prescribed qualifications in accountancy or loss adjusting and practices as an accountant or loss adjuster; a person licensed as an agent under the Land Agents, Brokers and Valuers Act 1973; a company authorised by special Act of Parliament to act as a trustee; a society registered under the Building Societies Act 1975, the Friendly Societies Act 1919, or the Industrial and Provident Societies Act 1923; a credit union registered under the Credit Unions Act 1976; a person licensed as a credit provider under the Consumer Credit Act 1972; or a person who lawfully carries on the business of banking or insurance or the business of an insurance intermediary.

These exemptions apply also to employees of exempt persons or organisations. They reflect the fact that all the groups listed are already under some form of established regulation which it would be undesirable to duplicate. However, the Government will be alert to complaints about the activities of exempted people. An exemption is not a permit to disregard the standards of behaviour required of licensees under this Bill.

The 1972 Act gave an exemption to employees of non-agents. The review of the Act discussed problems in this lack of control of 'in-house' agents. Accordingly, that exemption has been narrowed, so that it will now only be available to employees whose performance of licensable activities is only incidental to their main duties. This will mean that people employed entirely to perform for their employers activities included in the definition of 'agent' will require a licence, unless the employer is exempt. However, employees of small businesses who are only occasionally engaged in those defined activities will not require a licence. The exemption for secretarial or clerical staff of agents has been preserved. To meet appropriate special cases, a power to grant further exemption by regulation has been retained.

The integrity of the licensing scheme will be protected by making it an offence to hold oneself out as an agent, or to act as an agent, within the meaning of clause 4, or to employ an unlicensed person to do the defined activities. As is true generally for proposed offences in the Bill, the monetary penalty has been increased greatly—in this case to $5 000.

This prohibition is supported by retaining, in clause 15, the inability of unlicensed persons to recover fees and charges and by adding a specific right of action for consumers to recover fees and charges paid in ignorance of that inability.

As mentioned, the licensing scheme itself is streamlined and simplified. Conditional licences, replacing provisional licences, will be available to employee agents, especially new entrants to the industry who will have to work under the supervision of a licensed person. Applicants for unconditional licences which allow them to carry on a business as agent will have to satify the Commercial Tribunal that they have made suitable arrangements to fulfil their legal obligations and that they have sufficient financial resources to carry on the business of the type for which their licences are endorsed.

I turn now to particular provisions affecting commercial agents. I have already referred to the abolition of the existing requirement for a fidelity bond. The Working Party recommended this abolition, and proposed instead a compensation fund to be based on interest from trust accounts.

In looking at the requirements in relation to other licensed groups the Working Party was impressed by the operation of guarantee funds which are made up of the consolidated contributions of all practising agents. It has been decided, however, that this mechanism is not appropriate in this case.

The general requirement that the tribunal be satified generally that 'the applicant has sufficient financial resources to carry on business in a proper manner under the licence' will make it unnecessary for a fidelity bond to be regarded as the only guarantee against default in the handling of clients' funds. A closer examination of applicants' financial stability by the tribunal, including the availability of real security against infidelity, will therefore be possible.

As well, the existing Act's requirement that commercial agents maintain trust accounts will be retained and will be strengthened, on the Working Party's recommendation, by requiring that moneys be promptly banked in those accounts. Trust accounts will also be opened to greater scrutiny with the insertion of a recommended power of random audit. Clients will therefore enjoy an increased measure of protection under the proposed new legislation.

The protection for consumer debtors against defaulting commercial agents to whom they have made payment is made by the declaratory clause 29, which makes clear the common law rule that payment to a commercial agent acting on behalf of a creditor discharges the liability of the debtor to the creditor for the amount paid.

Much concern has been expressed about some practices in debt collecting. It is clear that the practices are not confined to licensed commercial agents. For that reason, control on debt-collecting practices which were included in the previous Bill and directed at commercial agents will now be transferred to the proposed Fair Trading Bill which is part of a package of measures being developed to rationalise and bring uniformity to a large body of law in this area. In that legislation the controls on debt-collecting practices, which were originally proposed to apply only to commercial agents, will apply to all people collecting trading debts.

The present Bill still provides that an agent seeking any payment in addition to the debt is limited to fees to be prescribed by regulation or the amount actually charged to the creditor, whichever is less. Any claim for such fees may be challenged for reasonableness before the Commercial Tribunal.

The Bill establishes explicit control over the form and content of letters of demand used by commercial agents. Agents will be able to seek approval for pro-forma letters, which will be guided by the code of practice. Forms of letter or documents not approved in advance will have to be lodged within 14 days of first use. The prohibition against providing documents or forms that enable non-agents to pretend to be agents has been retained.

Clause 1 is formal.

Clause 2 provides for the commencement of the measure and, where necessary, for the suspension of operation of specified provisions of the measure.

Clause 3 provides for the repeal of the Commercial and Private Agents Act 1972.

Clause 4 provides definitions of expressions used in the measure.

'Agent' is defined as meaning—

(a) a commercial agent;

or

(b) a person who, for monetary or other consideration, performs on behalf of another any of the following functions:

(i) obtaining or providing (without the written consent of a person) information as to the personal character or actions of the person or as to the business or occupation of the person;

(ii) protecting or guarding a person or property or keeping a person or property under surveillance;

(iii) hiring out or otherwise supplying a dog or other animal for the purpose of protecting or guarding a person or property;

(iv) providing advice upon, hiring out or otherwise supplying or installing or maintaining a device of a prescribed kind for the purpose of protecting or guarding a person or property or keeping a person or property under surveillance;

(v) preventing, detecting or investigating the commission of any offence in relation to a person or property;

(vi) controlling crowds;

(vii) searching for missing persons;

(viii) obtaining evidence for the purpose of legal proceedings (whether the proceedings have been commenced or are prospective);

(ix) serving any writ, summons or other legal process.

'Commerical agent' is defined as meaning a person who, for monetary or other consideration, performs on behalf of another any of the following functions:

(a) ascertaining the whereabouts of, or repossessing goods or chattels that are subject to any security interest;

(b) collecting, or requesting the payment of, debts;

(c) executing any legal process for the enforcement of any judgment or order of a court;

(d) executing any distress for the recovery of rates, taxes or moneys.

Clause 5 provides that the measure is not to apply to—

(a) a member of the Police Force of this State;

(b) a sheriff, deputy sheriff, sheriff's officer, bailiff or other officer of a court or tribunal, while performing functions as such;

(c) an officer or employee of the Crown or any instrumentality of the Crown while performing functions as such;

(d) an officer or employee of a council within the meaning of the Local Government Act, 1934, or body vested with the powers of a council, while performing functions as such;

(e) any of the following:

(i) a person who practices as a legal practitioner;

(ii) a person who holds prescribed qualifications in accountancy and practises as an accountant;

(iii) a person who holds prescribed qualifications in loss adjusting and practises as a loss adjuster;

(iv) a person licensed as an agent under the Land Agents, Brokers and Valuers Act 1973;

(v) a company authorised by special Act of Parliament to act as a trustee;

(vi) a society registered under the Building Societies Act 1975, the Friendly Societies Act 1919, or the Industrial and Provident Societies Act 1923;

(vii) a credit union registered under the Credit Unions Act 1976;

(viii) a person licensed as a credit provider under the Consumer Credit Act 1972;

or

(ix) a person who lawfully carries on the business of banking or insurance or the business of an insurance intermediary,

while acting in the ordinary course of the profession or business as such or a person employed under a contract of service by such a person, company, society or credit union while acting in the ordinary course of such employment;

(f) a person employed under a contract of service who acts as an agent only as an incidental part of the duties of that employment;

(g) a person who performs only clerical or secretarial functions on behalf of an agent.

Clause 6 empowers the Governor to grant conditional or unconditional exemptions by regulation.

Clause 7 provides that the provisions of the measure are in addition to and do not derogate from the provisions of any other Act and are not to limit or derogate from any civil remedy at law or in equity.

Clause 8 commits the administration of the measure to the Commissioner for Consumer Affairs subject to the control and direction of the Minister.

Part II (comprising clauses 9 to 18) deals with the licensing and disciplining of agents.

Clause 9 provides that every licence under the measure is to bear one or more endorsements authorising the holder of the licence to act as an agent by performing one or more of the classes of functions prescribed by regulation.

Clause 10 provides that it is to be an offence (punishable by a maximum fine of $5 000) if a person claims or purports to be an agent authorised to perform functions of a particular kind or acts as an agent by performing functions of a particular kind unless the person holds a licence with an endorsement authorising the performance of functions of that kind. The clause also provides that it is to be an offence (with the same maximum fine) if a person employs another as an agent under a contract of service to perform functions of a particular kind unless that other person holds a licence with an endorsement authorising the person to perform functions of that kind.

Clause 11 provides that an endorsement to a licence may be subject to a condition preventing the licensee from carrying on business as an agent (as opposed to being employed to act as an agent), or subject to both that condition and a further condition requiring that the licensee be supervised by some other licensee of a particular standing prescribed by regulation.

Clause 12 provides for applications for licences. Applications are to be made to the Commercial Tribunal and are to be subject to objection by the Commissioner for Consumer Affairs or any other person. Under the clause, the Tribunal is to grant such a licence in the case of an applicant who is a natural person if the person is over 18 years of age, resident in South Australia, a fit and proper person to hold the licence with particular endorsement sought and has attained or complied with any standards or requirements of education, practical skill or experience prescribed in relation to that endorsement. In the case of an applicant that is a body corporate, the Tribunal must be satisfied that every person in a position to control or influence substantially the affairs of the body corporate is a fit and proper person for that purpose. In the case of an application for an unconditional endorsement, the Tribunal must also be satisfied that the applicant has made suitable arrangements to fulfill the obligations that may arise under the measure and has sufficient financial resources to carry on business in a proper manner under a licence with that endorsement.

Clause 13 provides that a licence is, subject to the measure, to continue in force until the licence is surrendered or the licensee dies or, in the case of a body corporate, is dissolved. A licensee is to pay an annual fee and lodge an annual return with the Registrar of the Commercial Tribunal. The clause provides that, where a licensee dies, the business of the licensee may be carried on by the personal representative of the deceased, or some other person approved by the Tribunal, for a period of 28 days and thereafter for such period and subject to such conditions as the Tribunal may approve.

Clause 14 provides that a body corporate holding a licence with a particular endorsement must ensure that the business of the body consisting of the functions performed in pursuance of the licence must be managed by a natural person

resident in the State who holds a licence with the same endorsement as that of the body corporate.

Clause 15 provides that where a person acts as an agent in contravention of a provision of Part II, the person is not to be entitled to recover any fee, commission or other consideration for so acting and that a court convicting the person of an offence against the Part may, on application by the prosecutor, order the person to repay any such fee, commission or consideration.

Clause 16 provides that the Commercial Tribunal may hold an inquiry for the purpose of determining whether there is proper cause to discipline a person who has acted as an agent (whether with or without a licence). An inquiry is only to be held under the clause if it follows upon the lodging of a complaint by the Commissioner for Consumer Affairs, the Commissioner of Police or some other person. The Registrar of the Tribunal may where appropriate request either Commissioner to carry out an investigation into matters raised by a complaint. Where the Tribunal is satisfied that proper cause exists to do so, it may reprimand the person the subject of an inquiry; impose a fine not exceeding $5 000; suspend or cancel the person's licence or an endorsement to the licence or impose conditions on an endorsement to the licence; disqualify the person from holding a licence or a licence with a particular endorsement. There is to be proper cause for disciplinary action against a person where the person—

(a) has been guilty of conduct constituting a breach of any provision of the measure;

(b) has failed to comply with an order of the Tribunal;

(c) the person has, in the course of acting as an agent, committed a breach of any other Act or law or acted negligently, fraudulently or unfairly;

(d) being a licensed person—

(i) has obtained the licence improperly;

or

(ii) has ceased to be a fit and proper person or, in the case of a corporation, has a director who is not or has ceased to be a fit and proper person to be a director of a corporate licensee;

or

(e) being a person holding a licence with an unconditional endorsement—

(i) has insufficient financial resources to carry on business in a proper manner;

or

(ii) has not maintained satisfactory arrangements for the fulfilment of obligations that arise under the measure.

Clause 17 makes it an offence if a person disqualified from being licensed is employed or otherwise engaged in the business of an agent. Under the clause, the offence is committed by both the disqualified person and the agent.

Clause 18 requires the Registrar of the Tribunal to keep a record of disciplinary action and to notify the Commissioner for Consumer Affairs of the name of any person disciplined and the disciplinary action taken against the person.

Part III (comprising clauses 19 to 27) contains provisions applying to all agents.

Clause 19 provides that a licence does not confer upon an agent any power or authority to act in contravention of, or in disregard of, any law or any rights or privileges guaranteed or arising under, or protected by, any law. The clause makes it an offence (with a maximum penalty of $2 000) if a licensed agent claims or purports to have by virtue of the licence any power or authority not conferred by the licence.

Clause 20 provides that a licensee shall not carry on business as an agent except in the name appearing in the licence or a registered business name of which the Registrar has been given prior notice in writing. The clause provides for a maximum penalty of $1 000 for contravention of the provision.

Clause 21 provides that an agent shall not, by any false, misleading or deceptive statement, representation or promise, or by concealment of a material fact, induce or attempt to induce any person to enter into an agreement in connection with the performance of functions as an agent. The clause provides for a maximum penalty of $2 000 for contravention of the provision.

Clause 22 provides that any advertisement relating to the business of a licensed agent (other than an advertisement relating solely to the recruiting of staff) must specify the name of the agent appearing in the licence or a registered business name of which the Registrar has been given prior notice in writing and the agent's registered address. The clause provides for a maximum penalty of $1 000 for contravention of the provision.

Clause 23 requires that there must be displayed in a conspicuous position in each place from which the business of an agent is carried on a notice clearly showing the name of the agent appearing in the agent's licence or a registered business name of which the Registrar has been given prior notice in writing, where the agent is a body corporate—the name of the manager who manages the business, and any other matters prescribed by regulation. The clause provides for a maximum penalty of $1 000 for contravention of the provision.

Clause 24 requires a licensed agent to produce the licence on demand by the Registrar, the Commissioner for Consumer Affairs, an authorized officer or a member of the Police Force. The clause provides for a maximum penalty of $1 000 for contravention of the provision.

Clause 25 provides that service of any notice, communication, process or document upon an agent otherwise than in pursuance of this measure may be effected by sending or delivering it to the registered address of the agent.

Clause 26 provides that where an agent claims or receives from another person any amount in respect of services rendered as an agent (whether or not being services rendered on behalf of that other person), that other person may apply to the Tribunal for a review of the agent's charges. The Tribunal may, on such an application, reduce the charges and, in that event, the successful applicant is to be entitled to recover any excess paid or to pay no more than the amount fixed by the Tribunal.

Clause 27 provides that an agent shall not, when acting on behalf of another, settle or compromise or attempt to settle or compromise any claim in respect of loss or injury arising out of the use of a motor vehicle, or injury arising out of or in the course of employment, after proceedings have been instituted in any court in respect of the loss or injury. The clause provides for a maximum penalty of $2 000 for contravention of the provision. The provision does not apply unless the process by which the proceedings are instituted has been served upon the defendant to the proceedings and does not apply if the agent proves that he did not know, and could by the exercise of reasonable diligence have discovered, that proceedings had been instituted.

Part IV (comprising clauses 28 to 42) contains provisions applying only in relation to commercial agents.

Clause 28 provides that a commercial agent is to pay trust moneys received in that capacity into a trust account maintained at a bank or prescribed financial institution.

The moneys are not to be withdrawn from the account except for the purpose of payment to or in accordance with the directions of the person on whose behalf they were received by the agent, or other specified purposes. A maximum penalty or $5 000 is fixed for contravention of the provision.

Clause 29 provides that payment to a commercial agent of moneys sought to be recovered by the agent on behalf of another in respect of a debt owed to the other constitutes a discharge of the debt to the amount of the payment.

Clause 30 requires a commercial agent to keep certain accounts, records and documents prescribed by regulation. The clause provides for inspection of such accounts, records and documents.

Clause 31 empowers the Tribunal to restrict or prohibit any dealing with the moneys in the trust account of an agent or to appoint an administrator of a commercial agent's trust account.

Clause 32 protects a bank or other financial institution at which a trust account is kept by providing that the bank or institution is not affected by notice of any specific trust to which trust moneys may be subject. The provision does not limit the liability for negligence of the bank or other financial institution.

Clause 33 provides for the annual audit of an agent's trust account by an auditor registered under the Companies (South Australia) Code.

Clause 34 provides for the appointment by the Commissioner of an inspector to examine trust accounts. The inspector is to furnish a confidential report to the Commissioner on the state of the accounts and, where such a report is furnished, a copy must also be furnished to the agent concerned.

Clause 35 deals with the powers of an auditor or inspector employed or appointed under the trust account provisions.

Clause 36 requires a bank or other financial institution to report any deficiency in a trust account to the Commissioner.

Clause 37 deals with the obligation of confidentiality to be observed by auditors, inspectors and officers involved in the administration of the trust account provisions.

Clause 38 provides that a commercial agent shall not when recovering or attempting to recover a debt on behalf of another seek or demand (directly or indirectly) from the debtor any payment in addition to the amount of the debt other than the amount allowed under the regulations, or the amount which the agent has charged the creditor, for the agent's services in recovering the debt, whichever is the lesser amount. The clause fixes a maximum penalty of $2 000 for breach of this provisions.

Clause 39 provides that where a commercial agent takes possession of a motor vehicle subject to a security interest, the police must be notified of that fact and given particulars of the vehicle. The clause fixes a maximum penalty of $1 000 for breach of the provision.

Clause 40 provides that a commercial agent shall not, for the purpose of recovering a debt on behalf of another, use or send to a person a document or letter demanding payment of the debt unless the form of the document or letter has been approved by the Tribunal or a sample of the form of document or letter is lodged with the Commissioner within 14 days after its first use by the agent. The clause provides for a maximum penalty of $1 000 for breach of the offence. The clause provides any form of document or letter approved by the Tribunal shall be deemed to comply with any provisions as to the form of documents or letters of demand contained in a relevant code of practice prescribed by regulations under the measure.

Clause 41 provides that a commercial agent shall not invite the public, or any debtor from whom the agent is seeking to recover a debt, to deal with the agent at any place other than the registered address of the agent. A maximum penalty of $1 000 is fixed for a breach of this provision.

Part V (comprising clauses 42 to 55) deals with miscellaneous matters.

Clause 42 provides that no person (whether licensed as an agent or not) shall supply or lend any document or form or provide any other assistance for the purpose of enabling another falsely to pretent to be a commercial agent. A maximum penalty of $2 000 is fixed by the clause for any breach of its provisions.

Clause 43 provides that an act or omission of a person employed by an agent (whether under a contract of service or otherwise) is to be deemed to be an act or omission of the agent unless the agent proves that the persons was not acting in the course of the employment.

Clause 44 provides that the Commissioner of Police may, in proceedings before the Tribunal, appear personally or be represented by counsel or a member of the Police Force.

Clause 45 provides that the Commissioner for Consumer Affairs or Commissioner of Police shall, at the request of the Registrar of the Tribunal, cause officers to investigate and report upon any matter relevant to the determination of—

(a) any application or other matter before the Tribunal; or

(b) any matter that might constitute proper cause for disciplinary action under the measure.

Clause 46 provides for the preparation and tabling before Parliament of an annual report on the administration of the measure.

Clause 47 provides for the service of documents.

Clause 48 creates an offence of providing information for the purposes of the measure that includes any statement that is false or misleading in a material particular.

Clause 49 provides for the return of a licence where the licence or an endorsement to the licence is suspended or cancelled.

Clause 50 provides that each member of the governing body of a body corporate convicted of an offence is also to be guilty of an offence unless it is proved that the person could not by the exercise of reasonable diligence have prevented the commission of the offence.

Clause 51 provides for continuing offences.

Clause 52 provides that proceedings for offences against the measure are to be disposed of summarily and must be commenced within 12 months and only by the Commissioner for Consumer Affairs, an authorized officer under the Prices Act, or a person acting with the consent of the Minister.

Clause 53 provides for the making of regulations.

The schedule contains appropriate transitional provisions.

Mr S.J. BAKER secured the adjournment of the debate.

GOODS SECURITIES BILL

Second reading.

The Hon. D.J. HOPGOOD (Deputy Premier): 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.

Explanation of Bill

This Bill provides the legislative basis to establish a system for registering security interests in motor vehicles and enabling inquiries to be made of the register to ascertain whether a motor vehicle is subject to a security interest.

The Bill is related to section 36 of the Consumer Transactions Act. Section 36 provides that where a person, other than a dealer, purchases goods for value in good faith and without notice of the prior interest of the third party under a consumer mortgage or lease, the purchaser acquires title to the goods notwithstanding the interests of that third party. As the credit provider, who is the owner or mortgagee of the goods, is liable under this section to lose his title or interest to a third party, a system of 'title insurance' was devised to enable the credit provider to ensure against that risk. In order to ensure that only reasonable premiums for such insurance were passed on to consumers, the amount of the title insurance premium that a credit provider may re-charge to a consumer is limited by a scale of premiums fixed by the Commissioner for Consumer Affairs.

Under this system, where a consumer disposes of goods which are subject to a consumer mortgage or consumer lease and the credit provider has taken out title insurance in respect of the transaction, a credit provider will claim the amount of his loss from his insurer. Where such a consumer disposes of the goods to a dealer and the credit provider becomes aware of this while the goods are still in the dealer's hands, the credit provider may seize the goods from the dealer as a dealer does not obtain title under section 36 of the Consumer Transactions Act. Where the dealer has already sold the goods to another person, the other person obtains good title but the dealer is guilty of conversion. In that situation, the credit provider may claim his loss from the dealer in a claim for conversion or he may claim on his title insurance. If he claims on his title insurance, the insurer will then usually exercise a right of subrogation to recover the loss from the dealer.

Motor vehicle dealers have faced an increasing number of claims for conversion as they have no way of ascertaining whether the vehicle is the subject of a security interest and therefore no effective means of protecting themselves from these claims. The essence of this Bill is to enable those who hold security interests to register them and for inquiries to be made of the register as to the existence of security interests.

When the register is operational, its first function will be the recording of security interests in motor vehicles. The Bill allows for the expansion of the system to permit the registration of security interests in goods other than motor vehicles; for example, white and brown goods. The present provisions of section 36 of the Consumer Transactions Act will, at this stage, continue to apply to goods other than motor vehicles, in other words, all goods other than those 'prescribed'.

The credit provider will be able to register his security interest on application to the Registrar. The definition of security interest is widely drawn to take into account not only consumer mortgages and consumer leases but a wide variety of commercial transactions.

Security interests are accorded priority according to the time of registration. It must be noted that there is no obligation on security holders to register their security interests. However, the Act gives priority to a registered security interest over an unregistered security interest. To this extent, the Bill amends the Bills of Sale Act 1986, so that registered security interest will take priority over a registered or unregistered bill of sale. Unlike the Bills of Sale Act, a registered security interest which is an unregistered bill of sale is not void against the Official Receiver of trustee in insolvency. This measure will actively encourage credit providers to register their security interest in motor vehicles. A considerable lead-in period will be provided to allow those with existing security interests to record them on the security interest register and provision is made to maintain any priority interest which exists by virtue of the Bills of Sale Act.

Once a security interest is registered all dealings in the secured chattel are subject to that interest. However, in recognition of the significance of section 36 of the Consumer Transactions Act, a person purchasing from a dealer will not be required to check the register. Rather, the dealer who offers the vehicle for sale will be required to make the appropriate inquiries to ensure that the vehicle is unencumbered. If there is a registered security interest in the vehicle, it would be the dealer who failed to search the register, not the purchaser, who suffers the loss. The purchaser will obtain good title to the motor vehicle. On the other hand, all people who purchase vehicles privately would be required to check the register in order to ensure that the vehicle was unencumbered. Anyone who then purchases goods subject to a registered security interest takes those goods subject to that interest; those who do not register their interests may lose title.

The requirement of a private purchaser to check the register represents a reduction in the level of protection presently conferred by section 36 of the Consumer Transactions Act. However, this disadvantage needs to be weighed against the following advantages:

1. The system will be cheaper for the consumer as title insurance will no longer be required.
2. Eventually, with the establishment of a national register system, details of stolen vehicles and encumbered interstate vehicles can be entered on the register making the disposal of stolen vehicles and interstate encumbered vehicles more difficult; and
3. The system will be more comprehensive in that it will not matter whether the security interests arose under a consumer lease or mortgage or under any other type of commercial transaction and is less anomaly ridden than section 36.

Any purchaser wishing to make inquiries of the register may do so by telephone or by making a written application to the Registrar. Upon written application, the Registrar will issue a certificate which will set out all relevant details of security interests registered against a particular motor vehicle. If, for any reason, an error has been made on the certificate the security holder who has suffered loss as a result may make an application for compensation. On the other hand, compensation will not be payable for purchasers making inquiries of the register by telephone. It is important to note that if a consumer is issued with a certificate which does not disclose a registered security interest, the consumer obtains good title to the motor vehicle and it is the security holder who will have to apply for compensation.

The Commercial Tribunal will have exclusive jurisdiction over applications for compensation and applications to review the Registrar's decisions. In all other matters arising under the Act, it will be a concurrent jurisdiction with the courts.

There has been extensive consultation in the formulation of this Bill and it has the active support of the Australian Finance Conference and the South Australian Motors Traders Association.

Finally it should be noted that the Government is actively participating in discussions with all other States for the

establishment of a national security register. To this end, it may be necessary at some future time to review this legislation to accommodate the development of a national scheme.

Clauses 1 and 2 are formal. Clause 3 is an interpretation provision. The attention of honourable members is drawn to the following definitions:

'prescribed goods' are defined as motor vehicles registered under the Motor Vehicles Act 1959, motor vehicles that have been so registered but are not currently registered under that Act or under any law of another State or a Territory of the Commonwealth, and any goods prescribed by regulation;

'security interest' is defined in relation to prescribed goods as a mortgage of the goods, a bill of sale over the goods, a lien or charge over the goods, the title to the goods held by a person who has hired out the goods under a goods lease, the title to the goods held by a person who has hired out or agreed to sell the goods under a hire purchase agreement (which is in turn defined to include a sale by instalment), or any other prescribed interest in the goods.

Part II provides for a register of security interests in prescribed goods.

Clause 4 provides that the Registrar (a person employed in the Public Service of the State to whom the Minister has assigned the functions of Registrar) shall keep the register which shall contain such information as required by the Act and regulations.

Clause 5 establishes the mode of registration of security interests: on application by the holder of a security interest in prescribed goods the Registrar must register the interest by entering in the register identification details of the goods and the holder of the interest, the type of security interest and details of the debt or other pecuniary obligation secured and the date and time of entry in the register. The clause requires the Registrar to register security interests in the same goods in the order in which applications for such registration are lodged.

Clause 6 enables the holder of a registered security interest to vary the particulars of registration.

Clause 7 enables the holder of a registered security interest to cancel registration of the interest. It also provides that the holder must apply to cancel registration within 14 days after discharge of the interest and that it is an offence to fail to so apply. A defence is provided where the defendant was not immediately aware of the discharge but within 14 days of becoming so aware made application for cancellation.

Clause 8 deals with correction, amendment and cancellation of entries in the register at the instance of the Registrar. It provides that the Registrar may correct any particulars incorrectly entered in the register and may, where a change occurs in circumstances to which a particular entered in the register relates, amend the entry to accord with that change. It further provides that the Registrar may require a person entered in the register as the holder of a security interest to show cause why registration of the interest should not be cancelled where it appears to the Registrar that an entry in the register should not have been made either because the interest to which it relates does not exist or, is not registrable under this Act, or that the interest has been discharged. Where a person fails to show cause the Registrar may give that person notice of a proposal to cancel registration. That person is given seven days within which an application may be made to the Commercial Tribunal for a review of the Registrar's decision.

Clause 9 provides for the issue by the Registrar, on the application of any person, of a certificate containing the particulars (other than details of the debt or other pecuniary obligation secured) of all registered security interests in specified goods or, where there are no such interests, a statement to that effect. It further provides that in any legal proceedings, a certificate is admissible as evidence of the matters specified in the certificate.

Clause 10 sets out the mode of making applications under the Act and requires payment of the prescribed fee for each application. Differential fees may be prescribed and the Registrar may waive payment of a fee in appropriate cases.

Part III regulates the discharge and priority of security interests in prescribed goods.

Clause 11 provides that where prescribed goods are purchased from the owner or apparent owner of the goods any unregistered security interests in the goods are discharged. Registered security interests in the goods are discharged if the goods are purchased from a dealer or if the purchaser obtained a certificate from the Registrar that did not disclose the registered interest. Where a person acquires an interest in prescribed goods from the owner or apparent owner of the goods, subclause (2) provides that the person acquires an interest that is valid against the holder of any unregistered security interests in the goods and has priority over such unregistered security interests. Registered security interests in the goods are similarly affected where the interest in the goods is purchased from a dealer or where the person acquiring the interest obtained a certificate that did not disclose the registered interest. Where title to or an interest in the goods is purchased from a dealer and a registered security interest is consequently affected by the operation of the clause, subclause (3) requires the dealer to compensate the holder of the registered security interest for the loss. Subclause (4) ensures that no security interest is affected by the clause where the parties to the transaction are related (this term being defined in subclause (5)) or where the transaction is subsequently rescinded.

Clause 12 establishes the following order of priority of security interests in prescribed goods: a registered security interest has priority over an unregistered security interest; registered security interests rank in priority in order of registration (except where an interest is postponed by the holder and this is noted on the register). The clause also provides that where particulars of registration of a security interest are varied to include debts not contemplated in earlier particulars, the order of priority in relation to those debts shall be determined as if the interest had been registered at the date of the variation.

Clause 13 gives the Commercial Tribunal (which may be constituted solely of the Chairman or Deputy Chairman) jurisdiction to determine any questions relating to the application of clause 11 or 12 to a security interest in prescribed goods and provides that the jurisdiction is not exclusive of any jurisidiction of any court.

Part IV deals with compensation.

Clause 14 provides that a person who suffers loss or damage in consequence of certain errors relating to entries in the register or the issue of certificates, may apply to the Commercial Tribunal for compensation not exceeding the lesser of the amount secured by the security interest and the value of the goods.

Clause 15 provides for the establishment of a fund out of which any order for compensation is to be satisfied—the Security Interest Registration Compensation Fund. The clause requires all fees paid under the Act to be paid into

the Fund (after deduction of the costs of administration of the Act) and provides that the Treasurer may advance money to the Fund. It also gives an investment power in relation to the Fund.

Clause 16 is an accounting provision in relation to the Fund.

Clause 17 requires an annual report on the administration of the Fund to be submitted by the Registrar to the Minister who must lay each report before both Houses of Parliament.

Part V deals with miscellaneous matters.

Clause 18 makes it an offence to make a false or misleading statement in any application lodged with the Registrar.

Clause 19 makes it an offence to sell prescribed goods subject to a security interest without the consent of the holder of the interest. It provides a defence where the defendant did not know and could not by the exercise of reasonable diligence have ascertained that the goods to which the charge relates were subject to a security interest.

Clause 20 provides that offences constituted by the Act are summary offences, except the offence constituted by clause 19 which is a minor indictable offence.

Clause 21 provides that section 27 of the Stamp Duties Act 1923 does not apply in relation to entries in the register.

Clause 22 gives the Governor regulation making power.

Schedule 1 amends section 28 of the Bills of Sale Act 1886 to provide that security interests registered under the measure are not void, as provided in section 28, by reason of not being registered under the Bills of Sale Act 1886. The schedule amends section 36 of the Consumer Transactions Act 1972, which deals with the indefeasible title of a *bona fide* purchaser for value of goods subject to a consumer lease or consumer mortgage. The amendment excludes prescribed goods from the ambit of section 36. The schedule amends section 25 (2) of the Sale of Goods Act 1895, and section 4 (5) of the Mercantile Law Act 1936, to provide that the subsections do not operate to defeat an interest that is registered under the Goods Securities Act 1986.

Schedule 2 contains transitional provisions. The schedule provides that where a bill of sale or a charge registered under the Companies (South Australia) Code is registered under this Act during a period declared by proclamation, the date and time of entry in the register shall be the date and time of first registration of the interest under, respectively, the Bills of Sale Act 1886, or the Code.

Mr S.J. BAKER secured the adjournment of the debate.

COMMONWEALTH POWERS (FAMILY LAW) BILL

Second reading.

The Hon. D.J. HOPGOOD (Deputy Premier): 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.

Explanation of Bill

This Bill refers to the Commonwealth Parliament power to legislate with respect to the maintenance of children and the payment of expenses in relation to children or child bearing, the custody and guardianship of, and access to, children.

Section 51 (xxi) and (xxii) of the Constitution empowers the Commonwealth Parliament to legislate in respect of 'marriage' and 'divorce and matrimonial causes; and in relation thereto parental rights and the custody and guardianship of infants'.

In exercise of this power the Commonwealth Parliament has conferred jurisdiction on the Family Court of Australia to make orders in relation to the maintenance, custody and guardianship of, and access to children of the marriage of the parties. The Commonwealth Parliament has no jurisdiction to legislate in respect of children who are not children of the marriage and custody and guardianship disputes concerning these children must be dealt with by State courts.

This Bill will enable the Commonwealth Parliament to confer on the Family Court of Australia jurisdiction to deal with maintenance, custody and guardianship of, and access to, all children in Australia.

The fragmentation of family law jurisdiction has given rise to confusion, inconvenience and expense for litigants who are unlucky enough to have chosen the wrong court in which to bring their action. Disputes as to jurisdictional questions benefit no-one.

The fragmentation of jurisdiction also leads to anomalies. As the law stands at present custody and guardianship disputes in relation to one child can, depending on the parties to the dispute, fall within the jurisdiction of both the State and Commonwealth courts. For example, the father of an ex-nuptial child in the custody of its mother must bring his action in the State court. However, if that child is living in the household of its mother and her husband a custody dispute between the mother and her husband would fall within the jurisdiction of the Family Court.

The divided jurisdiction not only creates confusion and anomalies but it:

- requires the maintenance of two legislative and court systems dealing with issues falling within the same category;
- denies some children access to the Family Court which is a specialist jurisdiction staffed by judges with special qualifications and training, assisted by counsellors and other experts in the field;
- represents at least a partial derogation from the status of children legislation, in that the exclusion of ex-nuptial children from the system that applies to nuptial children does not give effect to the principle that all children should be dealt with in the same way.

Discussions on how to eliminate the problems caused by this fragmentation of jurisdiction have been continuing for many years both in the Constitutional Convention and in the Standing Committee of Attorneys-General. Standing Committee 'C' of the Constitutional Convention recommended in 1974 that certain family law matters should be the subject of references of power by the State to the Commonwealth pursuant to section 51 (37) of the Constitution.

Agreement has finally been reached by New South Wales, Victoria, Tasmania and South Australia on the terms of the reference and with the enactment of this measure the unsatisfactory situation which has lasted too long will be resolved with the enactment of Commonwealth legislation in 1987.

It should be noted that the Bill does not give to the Commonwealth Parliament power to legislate in relation to adoption and child welfare. These are areas where the State has a long history of expertise and well developed practices and procedures to ensure that the welfare of children is protected. These are disparate areas which do not give rise to the same conflicts and confusion which arise in the custody and guardianship jurisdiction.

Clause 1 is formal.

Clause 2 provides for the commencement of the measure.

Clause 3 provides that certain matters, relating to the maintenance, custody and guardianship of children, are referred to the Parliament of the Commonwealth for a period commencing on the commencement of the Act and ending on a day to be fixed by subsequent proclamation. However, by virtue of subclause (2), the reference does not include matters relating to the adoption of children or the taking of action under the Children's Protection and Young Offenders Act 1979 or the Community Welfare Act 1972.

Clause 4 provides that the Governor may, by proclamation, fix a day on which the reference under the Act shall terminate.

The schedule specifies certain Acts the operation of which are not to be affected by the reference of powers under this Act.

Mr S.J. BAKER secured the adjournment of the debate.

OCCUPATIONAL HEALTH, SAFETY AND WELFARE BILL

In Committee.

(Continued from 29 October. Page 1665.)

New clause 3a—'Non-application of Act to mining and petroleum operations.'

Mr S.J. BAKER: When the debate was adjourned last night I was seeking clarification from the Minister as to the relationship of this Act with the mining and petroleum Acts and the regulations under those Acts. The Minister informed the House that this Act would be an umbrella Act for all legislation and that there would be separate Acts that could cover each individual jurisdiction. I know that a number of changes have been made to the Bill, because I noted in the Bill that was before the House that that facility was not available. Can the Minister clarify where he will have a number of Acts such as we have at the moment? I think Mathews picked up something like 20-odd Acts which have some health and safety component, and recommended that they should all be incorporated under the one Act. Can the Minister indicate his intentions in this regard?

The Hon. FRANK BLEVINS: Eventually, we will get to the position where the regulations under the various Acts mirror each other.

Mr S.J. BAKER: I take it, from what the Minister is saying, that it is his intention that all Acts, perhaps with the exception of the mining Acts which have specific provisions, will be incorporated via regulation into this Act and, in that case, over what time frame does he intend this to happen?

The Hon. FRANK BLEVINS: We cannot incorporate other Acts into this legislation but eventually, over all industries, and, under the various Acts, the standard will as far as possible become uniform, and that will be done by the various regulations appropriate to a particular Act or Acts.

New clause negatived.

Clause 4—'Interpretation.'

The Hon. FRANK BLEVINS: I move:

Page 2, lines 6 and 7—Leave out the definition of 'business day' and substitute the following definition:

'business day' in relation to a particular workplace means any day on which work is normally carried out at the workplace:

This amendment is in response to a submission received from the Chamber of Commerce and Industry. It has been pointed out that many businesses work on Saturdays, Sundays and public holidays. Accordingly, if a direction is given under clause 36, for example, that work cease, the reference to an inspector attending within two business days as presently defined may unfairly disadvantage these businesses. It is therefore intended to insert a new definition of 'business day' so that it will simply relate to days on which work is to be carried out at a particular workplace. That was always our intention, and the Chamber of Commerce and Industry pointed out that that might not actually happen. I was pleased to accept its suggestion.

Mr S.J. BAKER: We have an amendment in exactly the same form as that of the Minister, and we are pleased that this deficiency has been corrected.

Amendment carried.

The Hon. FRANK BLEVINS: I move:

Page 2, lines 8 and 9—Leave out the definition of 'the Chief Inspector' and substitute the following definition:

'the Chief Inspector' means—

(a) in relation to mines to which the Mines and Works Inspection Act 1920 applies—the Chief Inspector of Mines;

(b) in relation to operations to which the Petroleum Act 1940 or the Petroleum (Submerged Lands) Act 1967 applies—the Director-General of Mines and Energy;

(c) in any other case—a public service employee assigned under the Government Management and Employment Act 1986 to the position of Chief Inspector of Occupational Health and Safety:

As with the previous amendment, which was a suggestion from industry, these amendments are in response to submissions received from the Australian Mines and Metals Association and other mining interests. They substitute new definitions of 'Chief Inspector' and 'inspectors'. These definitions will in fact incorporate clause 4 (5), clause 4 (6) and clause 38. The reasons for those amendments are two-fold: first, to clarify the Government's intention that in relation to mining and petroleum operations the only inspectors to act under this legislation will be persons appointed under the Mines and Works Inspection Act, the Petroleum Act and the Petroleum (Submerged Lands) Act. Submissions have been received that it is possible under clauses 4 (5) and 4 (6) for various types of inspectors to act, which could cause confusion.

Secondly, the amendments ensure that the form of this legislation in relation to the appointment of a Chief Inspector of Occupational Health and Safety and inspectors of occupational health and safety is consistent with the procedures which now apply under the Government Management and Employment Act 1985. The amendments are the result of somewhat conflicting advice. There is a school of thought which says that the wording of the Bill as it stands is sufficient to protect the special position of the mining industry. However, there is another school of thought which says that they would prefer it to be clarified beyond doubt. So, in the interests of harmony, if not clarity, I have been happy to accede to the request of the Mines and Metals Association.

Mr S.J. BAKER: I have not had the opportunity to contact members of the mining chambers to satisfy myself that the new amendment is satisfactory, so I can only take the Minister's word for it. I know there was some concern within the mining industry about the previous references. However, I will draw the Minister's attention to the change in paragraph *(c)*. It somewhat changes the original intention of the Bill. Paragraph *(c)* provides:

In any other case a Public Service employee assigned under the Government Management and Employment Act to the position of Chief Inspector of Occupational Health and Safety.

According to my reading, this causes another aberration in the system. As far as I was aware, the commission would be the responsible body and the Department of Labour would be the major area from which inspectorial staff would come. Of course, there are other areas, such as Marine and

Harbors, of which we are well aware, and Environment and Planning, where inspectors exist. Paragraph *(c)* seems to mean that it will be assigned under the Government Management and Employment Act to the position of Chief Inspector of Occupational Health and Safety.

Can the Minister clarify whether that means that all positions will be assigned from the Government Management and Employment Act and that the commission will have no power, because under the previous reading of the Bill it seemed that the commission and the Director of the Department of Labour would be heavily involved in the determination of chief inspectors. Perhaps I have read the Bill wrongly, but this seems to create a new problem.

The Hon. FRANK BLEVINS: This is a purely machinery provision to ensure that inspectors are appointed in the normal way. If the honourable member wishes to discuss this matter with the officers, I shall be happy to respond on their advice.

Mr S.J. BAKER: The Bill defines the Chief Inspector as 'the Chief Inspector of Occupational Health and Safety appointed under this Act'. However, under the amendment the definition of Chief Inspector now includes mines and petroleum and paragraph *(c)*, which applies to all other areas except the mining and petroleum industry, provides:

> in any other case—a Public Service employee assigned under the Government Management and Employment Act 1986 to the position of Chief Inspector of Occupational Health and Safety.

So, the amendment provides that the assignment shall take place under the Government Management and Employment Act, whereas the original Bill provides that the Chief Inspector shall be appointed under this legislation.

The Hon. FRANK BLEVINS: I can only repeat that this is a purely machinery provision to ensure that inspectors are appointed under the Government Management and Employment Act. I cannot see the problem that the honourable member is trying to address. However, on reading the provision, I am not sure that it is correctly worded, but for a completely different reason than that advanced by the honourable member. The more I look at it the less I like it. I shall have the provision examined and, if necessary, will confer with the honourable member and draw up an amendment before the Bill goes to the Upper House.

Mr S.J. BAKER: Under the Bill, it seems that the commission shall have some say in the appointment of a Chief Inspector, but that authority has now been diverted to other areas.

The Hon. FRANK BLEVINS: Absolutely not.

Mr INGERSON: Many subcontractors are involved not only in the transport industry but also in the building and manufacturing industries where there is much subcontracting work. Where do prime contractors and subcontractors stand under the Bill as it relates to responsibility? The Bill contains a broad definition of 'contracting' and it seems that certain exceptions may constitute a let-out for some subcontractors. In the transport industry much of the work of shifting goods from A to B is done by a prime contractor who arranges for the services of a subcontractor who owns his own equipment and is his own boss. The same applies in the building industry. On the workers compensation legislation, we asked the Minister a similar question, and he clarified the matter. Where do the subcontractors stand in this instance?

The Hon. FRANK BLEVINS: The principles of this legislation are different from those of the workers compensation legislation. Here we are trying to create a safe workplace for everyone, including employer, employee, principal, or subcontractor. The principle of workers compensation is completely different as regards financial responsibility for injury. Clause 4 (2) clarifies the position by providing:

> . . . in relation to such workers extend only to matters over which the principal has control or would have control but for some agreement to the contrary between the principal and the contractor.

So, no-one can opt out: it is the law. However, if the principal does not have control, the provision does not apply.

Mr INGERSON: I accept what the Minister says: 'control' is the key word. However, I foresee a difficulty for the Government and for the individual in defining 'control'. Who will define 'control'? A semitrailer, owned by and under the control of a private contractor, may come into a depot, and I accept that up to that point it is under the control of the subcontractor. When it enters the premises of the prime contractor, however, is it still under the control of the person who owns it? Where does this Act begin and end? This question also applies in the building industry and in the manufacture of goods. For example, in the motor industry many goods are produced on behalf of the manufacturer and carried to the site. Where does it begin and end?

Is the boundary of the site going to be the point for consideration? Although I may be accused of being pedantic, these definitions are going to be vital for the public, and must be particularly understood by subcontractors and principal contractors.

The Hon. FRANK BLEVINS: The question of who has control of a particular workplace would be decided on the objective facts. If it was a depot, obviously the principals of that depot would be in the control of that depot. They would not be in the control of the driver of the truck: they would be in control of the depot. It must be safe. It must be wide enough for the truck to get in and out. It cannot have items lying across the road or traffic moving in an uncoordinated way. Clearly, the principals of the depot would have control. It would be decided on the objective facts of any case and, as with any legislation, if there is any debate it will be tested, I assume, at some time or other in the courts and ultimately be decided on the facts of each circumstance.

Mr INGERSON: My understanding is that the Minister is saying that there are clear definitions between the responsibilities of a depot owner and an individual driver. In the transport industry, once a vehicle goes on to the property of the prime contractor, if there are problems with the vehicle, who is the person responsible for the health and safety of the other people in the depot? Does it become the responsibility of the prime contractor to ensure that the exhaust system of a subcontractor's vehicle is adequate? There are plenty of other examples.

The Hon. FRANK BLEVINS: Clearly, the principal of the depot would have no control over a wheel falling off a vehicle that was inside the depot. Obviously, he has no control over that and control would be in the hands of the subcontractor who has control over the vehicle and the condition of the vehicle, unless the vehicle was being hired, for example (just to take the question further and complicate it further), so that whoever had the responsibility for sending out the vehicle in an unsafe condition would have problems. Clearly, as stated in the provision, it extends only as far as the principal has control.

Amendment carried.

Mr S.J. BAKER: I move:

Page 2—
Line 13—Leave out '(the worker)'.
Line 14—Leave out '(the employer)'.
Line 17—Leave out '(the worker)'.
Line 18—Leave out '(the employer)'.
After line 18—Insert new definition as follows:

'employee' means a person who is employed under a contract of service or who works under a contract of service:

My amendments are moved somewhat as a protest against the wording of the Bill, and I alluded to this in the second reading debate. One of the problems I always have in this House is that for some reason we get from members opposite a distinction between the boss and the worker. No-one has ever been able to define this area properly but, if one gives orders, one becomes a boss, and that is from a leading hand upwards.

I do not believe we should be making such a differentiation in legislation. We should be talking about employees, employers and self-employed people, and we can talk about corporate officers if we wish to identify them separately. My amendments try to clarify what I believe is an important principle (which seems to have escaped many members opposite), namely, that we are all workers—or at least I hope we are.

Perhaps some people out there think differently—that we do not work—but, if we have legislation that differentiates between them and us, where is the dividing line? To say that the manager of an enterprise is not a worker because of the definition in the *Oxford* or *Webster's Dictionary* is drawing a very long bow. This Bill continues that misconception peddled from the other side of the House that there is a group called 'workers' and another group called 'bosses'. It is important that we should not embody such discrimination in legislation. It is something that no-one seems to be able to define adequately. Certainly, we know when there is an employer, and we know when a person is an employee, but when is a person a worker? My amendment seeks to clarify those issues in the legislation.

The Minister will be aware that later in the Bill there is difficulty with the 'worker' definition, because he has said in regard to another provision involving the rights of workers that the union organisation can determine who is a worker. As I have said, that is dealt with later in the Bill, and I find that part of the legislation quite disgraceful.

It is important that, if we have this legislation, we must have simply understood terms such as 'employer', 'employee', 'self-employed person' and 'subcontractor'. I am trying to make it clear to everyone that we are on about safety and that we are not at all trying to wreck that concept by putting in dividing lines and distinguishing between one group and another.

The worst aspect is that, under this so-called definition of 'worker', in one area a worker is anyone who is employed and in another area a worker is by definition a person who is accepted by the trade union movement. We should not use a form of wording that reflects age-old antagonisms that mean nothing, anyway. I believe the present term is a somewhat illiterate one in relation to modern thinking. It might have been acceptable 100 years ago but in 1986 I seek something better.

I commend the amendment to the Committee, as it contains an important principle as far as the Liberal Party is concerned. Anyone who receives a salary or wage is a worker; anyone who is a manager is a worker; anyone who is employed on their own account is also a worker. Let us clarify the definitions and not let them be obscured by the terminology of this Bill.

The Hon. FRANK BLEVINS: I do not intend to respond to the difficulties that the member for Mitcham seems to have with the word 'worker'. I do not think the word involves a problem at all. It defines very clearly in this case who we are trying to define. My advice is that the amendment, if carried, would be to exclude subcontractors from the coverage of the Act.

Mr S.J. Baker interjecting:

The Hon. FRANK BLEVINS: I repeat: my advice is that subcontractors would be excluded. I am not sure, and it was certainly not made clear in the explanation that the member for Mitcham gave, whether or not that was his intention. Even if it was not his intention, my advice is that that is what would occur, and that is plainly undesirable. The whole thrust of this legislation regarding subcontractors is to include them. Subcontractors, who are overwhelmingly in the main only *quasi* employees, are entitled when they go to a work site to have that work site safe. They are just as entitled to that as somebody who works for a wage or salary. I certainly see no reason why poor old subcontractors should have to go onto unsafe work sites. As I say, that may not have been the intention of the member for Mitcham. It may well be that he does not like the terms used, and that is fair enough. That is always just a matter of opinion, whether one wants to call somebody a worker or a boss or other variations of the words. Certainly, based on the advice that that would be the effect, I reject the amendment.

Mr S.J. BAKER: Obviously, we looked to different legal advice on this matter. I ascertained that everyone was to be included under the Act. They will be included in different ways as the Minister would appreciate. If a subcontractor has employees, he is an employer. A subcontractor acting on his own behalf has some duties of care to himself and to whomever he works with. My advice was that subcontractors or self-employed people were covered, because the legislation does cover everyone. It is only when you get into the meat of the Bill that you actually have to grapple with these definitions as such. This is umbrella legislation and, from the Opposition's point of view, we are delighted that everybody is to have a duty under this legislation. I think that is entirely appropriate and certainly a step in the right direction.

There have been some areas which previously have not belonged under the ambit of the industrial health, safety and welfare legislation. We are determined that everyone should come under the ambit of that legislation. Some will have different duties of care as a result of their various responsibilities; just as the self-employed person will have a duty of care to himself and to those people he interacts with, the employer will have a duty of care to himself and to all the employees under his control. I could go through subcontractors in the same vein. It was not my intention to in any way derogate from the responsibilities of anyone under the system. My advice was that, whilst the definitions have some ramifications further into the legislation, the legislation covers everyone and we did not need to put in a separate definition of self-employed subcontractor.

Mr LEWIS: Let us face it, Mr Chairman: you know, the Minister knows and everybody sitting in this place knows that this definition has been put in here because he cannot get over his hang-ups about the way in which he considers that there is class warfare in his country of origin and birth. He reckons that there are workers and other people, and that the other people are out to screw the workers. I know that you and other members of the Labor Party want to entrench that view into Australian society. It is just so much piffle; it does not belong in this place or this country; it never has. We are an egaletarian country. It is not the kind of thing that is either Australian or appropriate, and I think it is disgusting for the Minister and the Labor Party who dwell and indeed thrive on this paranoia that they get out of the kind of people in substantial proportion, way out of all proportion to their occurrence in the natural population, who have accents other than Australian, and try to perpetrate that on the rest of us.

I think it is both foolish and unnecessary. It is divisive and discriminatory. I claim to have been a worker all my life, whether I was employed by somebody else directly for a straight wage; employed on a piece rate, as a shearer or as a fruit picker, employed on a contract rate for the amount of output regardless of time as, say, a rabbit trapper; when I worked in the Department of Agriculture as an officer of that department; or when I worked for myself selling the fruits of my labour—almost literally—in the form of vegetables, to whoever wanted to buy them. I took my chances as to what the hour of my labour would be worth according to how much I could get from that hour's work in the form of saleable articles, rather than taking a reward for the time spent or the output per time, and so on.

Australia is populated by people who, at least until the likes of the ilk of the Minister started to arrive here in the last 20 years, believe in that principle: if you want to live, you have to work. It does not matter what you do, how you are paid for it, so long as you do it honestly and honourably. That is what you get paid for. I do not see at all why it is necessary to attempt to entrench this kind of class distinction into not only the cultural mores of the population where it does not belong but into legislation. It is regrettable that the Minister has attempted in this sophistry to argue that, if he did not have his definition of worker and include it as a term, he could not include 'subcontractors'. That is piffle. The Minister knows that and so do all members of the Labor Party. Furthermore, the stupidity of that proposition has been well argued by the member for Mitcham not only in the remarks he just made but in the remarks that he made during the course of the second reading.

I think there is another underlying reason as well. It suits the Minister and people of his political persuasion to have everybody so defined as to ultimately confuse and confound people (a majority of them who may not be articulate but who are skilful, reliable, honourable workers in the subcontracting business) into joining a union, demanding that, since they derive the benefits which he will say were fought for and won by this noble Party of idiots that call themselves the Labor Party, they should join a union—'they' being the subcontractors.

Members interjecting:

Mr LEWIS: If you don't like the truth, you don't have to sit there. The regrettable part about it is it is doing just as I said in my second reading speech, that is, building into Australia this corporate structure of big unions with big corporations, because little people will never be able to afford the cost of getting started in business, given the effect of this and similar legislation on their capacity to get a business started. The cost of doing so is not just the initial capital outlay in some equipment as a grub stake in getting started; it is an enormous amount of money that has to be found to register the names and in the places appropriate according to the kind this legislation dictates, and to pay not only registration fees but the licence fees necessary. Approval is required to build this, to use that, to employ someone in this circumstance, instead of getting on with the job. Two years lead time or the like is needed.

Many approvals are required from so many different people who will withhold those approvals if undertakings are not given through the back door to force employees to join unions and become workers under the definition of this clause. If that is the kind of thing that this legislation is doing, then it is not only un-Australian, it is unproductive, unhelpful and unnecessary. The Minister knows that, and I think it reflects on his capacity to argue honourably and honestly in this place when he said, at the outset in his response to the member for Mitcham, 'I cannot help the member in his difficulties.' Whose difficulties are they? I think they are the difficulties of the Minister and people of his ilk when they insist that there must be this class division which is artificial, unrealistic and indeed non-existent.

However, in so far as it is possible, the Minister and the Labor Party want to enhance the establishment of that division and force it not only upon the economy but into the minds and thoughts and ideas about the structure of society that affect the way that people think about the world in which they live, thereby forcing this class conflict upon all of us so that they can go and live and thrive politically on the paranoia produced as a consequence. That is regrettable.

The Hon. FRANK BLEVINS: I do not intend to dignify that contribution—

Mr Lewis: You couldn't dignify it—it is way above you.

The CHAIRMAN: Order!

The Hon. FRANK BLEVINS: —with much of a response. At best, it was xenophobic and at worst it was racist.

Mr Lewis interjecting:

The CHAIRMAN: Order!

The Hon. FRANK BLEVINS: I would correct the honourable member's mathematics. He said that people of my ilk started coming to this country 20 years ago. Actually, they started coming to Australia 198 years ago and to South Australia 150 years ago.

The Committee divided on the amendments:

Ayes (15)—Messrs Allison, P.B. Arnold, S.J. Baker (teller), and Blacker, Ms Cashmore, Messrs Chapman, Eastick, S.G. Evans, Goldsworthy, Gunn, Ingerson, Lewis, Meier, Olsen, and Oswald.

Noes (24)—Mr Abbott, Mrs Appleby, Messrs L.M.F. Arnold, Bannon, Blevins (teller), De Laine, Duigan, and M.J. Evans, Ms Gayler, Messrs Gregory, Groom, Hamilton, Hemmings, and Hopgood, Ms Lenehan, Messrs McRae, Mayes, Payne, Peterson, Plunkett, Rann, Robertson, Trainer, and Tyler.

Pairs—Ayes—Messrs D.S. Baker, Becker, and Wotton. Noes—Messrs Crafter, Klunder and Slater.

Majority of 9 for the Noes.

Amendments thus negatived.

The Hon. FRANK BLEVINS: I move:

Page 4, after line 25—Insert new definition as follows:
'the Industrial Commission' means the Industrial Commission of South Australia:.

This amendment inserts a definition of the Industrial Commission and is consequential on later amendments to clauses 27, 28 and 31. It is intended that the Industrial Commission instead of the Occupational Health and Safety Commission will act in a conciliatory role if a dispute arises under one of those clauses.

It has been submitted that the Occupational Health and Safety Commission should not become directly involved in the resolution of disputes and that it is more appropriate for the Industrial Commission to act in these matters. I was very easily persuaded that that should be the case. I thank those people who made this submission. As I have said, I am very happy to accede to their request by moving this amendment.

Mr S.J. BAKER: From where did the suggestion come that it should be the Industrial Commission rather than the Occupational Health and Safety Commission?

The Hon. FRANK BLEVINS: I am not entirely sure. I think it was raised by a number of people, and I am certain one of them was the legal officer of the ACTU, I think when he was over here attending a conference. A fair number of people have mentioned that the Occupational Health and Safety Commission certainly should stay at arms length

from any disputes, and I think that is fair enough. By the same token, I think the group of people most experienced in the resolution of disputes is certainly the South Australian Industrial Commission so, to me, it is perfectly logical. However, I cannot give the honourable member chapter and verse. Probably a dozen people mentioned it.

Mr S.J. BAKER: We do not happen to agree with the Minister. As far as I am aware, everyone was quite happy with the arrangement in the Bill in this regard. Certain responsibilities are placed on the Industrial Court and the Industrial Commission under this Bill to resolve other conflicts of an industrial nature. We are talking here about a difference of opinion which should be sorted out through the commission. I remind the Minister that it is the anxieties in the system that the commission will have to assist. A major item of its charter is to improve occupational health and safety in the workplace.

If we are going to have disputes that can be resolved very amicably, at least the commission can understand what is going on and fulfil its role. It has been set aside in a number of areas, where notices have been put on premises, that the ultimate responsibility must be through review committees formed by the Industrial Court. In this circumstance I should have thought that it would be very healthy for the safety commission to understand what was going on out there. As far as I was aware, certainly employers were in favour of the mechanism provided in the Bill.

The Minister has suddenly thrust this on us. It seems that someone from the ACTU, after all this time, has come along and said that it is not right. I cannot understand why the Minister made this last minute determination. It does not seem to have support from the local area at all. I have not heard anything pertaining to this matter in relation to this Bill. As far as I was concerned everyone was satisfied.

The point was made that everyone was also satisfied that the Minister had shifted the review committees from the auspices of the safety commission to the industrial arena; and that was applauded by employers. I do not find it acceptable that the commission abrogates its responsibility in this area. I think it is a very healthy area in which to be involved. The Opposition cannot accept that suddenly a new force of feeling and advice has suddenly changed everything that has been discussed either in the Mathews report or in relation to everything that has gone on since the Mathews report was laid down. We have suddenly had this appear from nowhere. The Opposition opposes the amendment.

The Hon. FRANK BLEVINS: It is a question of philosophy and—

Mr S.J. Baker interjecting:

The Hon. FRANK BLEVINS: You pays your dime and you takes your pick.

Mr S.J. Baker interjecting:

The CHAIRMAN: Order!

The Hon. FRANK BLEVINS: To me it is important to keep the Occupational Health and Safety Commission, as much as possible, at arm's length from any disputes.

Members interjecting:

The CHAIRMAN: Order!

The Hon. FRANK BLEVINS: If the commission can generate greater respect through having a role that oversees it all, rather than being actively involved in disputes, it will be to its benefit. I am not suggesting that the other view has no merit. It is like many things. I have stated on a number of occasions that there is usually some merit in all arguments. However, on balance, I am persuaded that the South Australian Industrial Commission is a more appropriate place for resolving disputes rather than the Occupational Health and Safety Commission.

Amendment carried.

The Hon. FRANK BLEVINS: I move:

Page 2, lines 27 and 28—Leave out the definition of 'inspector' and substitute:

'inspector' means—

(a) in relation to mines to which the Mines and Works Inspection Act 1920, applies—an inspector of mines under that Act;

(b) in relation to operations to which the Petroleum Act 1944, applies—an authorised officer under that Act;

(c) in relation to operations to which the Petroleum (Submerged Lands) Act 1967, applies—an inspector under that Act;

(d) in any other case—a public service employee assigned under the Government Management and Employment Act 1985, to the position of an Inspector of Occupational Health and Safety:.

This amendment is further to the resolution of the interesting debates that have occurred amongst the legal profession as to whether 'inspector' in relation to the Works Inspection Act means one thing or something else under the Occupational Health, Safety and Welfare Act. The Government's intention is perfectly clear: mines inspectors will play the role of policing this Bill in mines in this State. I was persuaded by members of the Mines and Metals Association that they would welcome this clarification again, so I am quite happy to do it.

Amendment carried.

Mr S.J. BAKER: I move:

Page 2, after line 28—Insert new definition as follows:

'metropolitan area' means the area comprised by—

(a) 'Metropolitan Adelaide' as defined in the Development Plan compiled under the Planning Act 1982; and

(b) the City of Adelaide and the Municipality of Gawler:.

The reason for this amendment becomes apparent when we get further into the Act. There has been considerable comment about the fact that people in business sometimes cannot wait two days for an inspector to arrive on the premises. We understand it is impractical in some country areas to have an inspector on the doorstep within 24 hours. However, the Opposition sees no reason whatsoever, if there is a crisis at a plant where people have to be laid off or it has to stop production, why they cannot be serviced by an inspector in less than 24 hours. This amendment simply inserts a definition of 'metropolitan area' to make clear that inspectors of the Department of Labour, or whichever authority is involved, should there be a crisis between management and staff, will be able to resolve it as quickly as possible to ensure that there is no loss of time and that anxieties are not compounded because everyone is standing around without the conciliator—the person who has to determine whether or not a risk exists. I commend the amendment to the Minister.

The Hon. FRANK BLEVINS: In practice, I believe that what the amendment seeks to do will occur. However, we require some flexibility. The resource implications of having such an inflexible or short deadline on these things may cause difficulties and mean that we cannot fulfil our obligations under the Act from time to time, unless one had sufficient staff to be there for every possible eventuality. I assure the House that in practice what the amendment seeks to do will occur, anyway.

Mr S.J. BAKER: The Opposition will insist on this amendment. We do not believe that any leeway should be given in this situation. The Act should require the Minister and his staff to comply. We are talking about the section of the Act where work has had to stop because of an

identified safety problem brought on by the safety representative. The Minister says that he is sure that it will happen in practice, anyway. However, I believe that we should make our intention clear and not leave it to the determination of any one reading the Act to say that they do not have to be there in the first day but can be there in two days.

There is nothing to prevent a person being on the premises within 24 hours in the metropolitan area. We could even say, if the Minister wanted a fine line, that it should be within 12 hours, because that also is realistic. We have made it 24 hours. We understand that in non metropolitan areas, particularly outlying areas, it is sometimes impossible to get an inspector on site within the one day time limit. We have therefore drawn the distinction there. While the Minister will not accept the amendment (I know that he is not going to accept any amendments; that is in keeping with normal practice), I commend the amendment to the Committee.

Amendment negatived.

The Hon. FRANK BLEVINS: I move:

Page 3, line 4—After 'Council' insert 'of South Australia'.

The amendment alters a reference to the United Trades and Labor Council in the Bill to its full name of United Trades and Labor Council of South Australia. I would have argued that, as this Bill applies only to South Australia, we could not be binding the UTLC of Egypt or somewhere else. However, the pedants have persuaded me to their view, so that is the purpose of the amendment.

Amendment carried.

The Hon. FRANK BLEVINS: I move:

Page 3, after line 6—Insert new definition as follows:
'safe' connotes safe from injury and risks to health:.

The Government is anxious to ensure that there is no doubt that, when reference is made in this Bill to safe working conditions, etc., this is taken to mean both safe from risks of injury and safe from risks to health. In fact, many provisions of the Bill refer specifically to both of these matters, but it has been decided that the inclusion of both within the concept of what is safe should be reinforced by an appropriate definition.

Mr S.J. BAKER: The amendment that the Minister read out was somewhat different from the wording of the amendment on file—perhaps he knows more about this. It seems that he has read in a few lines. He started off saying 'safe from risks of injury and risks to health'. That is not what it says. It says 'safe from injury and risks to health'. I am a little confused about the Minister's motives here. If I knew, perhaps I would accept it at face value. However, as the Minister has now read out a different definition from the one contained here, I am not sure that the Minister knows what he has in the Act. I understood 'safe' to mean that, as far as was humanly possible, there should not be risks to health and injury in the workplace. I cannot understand what the Minister is on about.

The Hon. FRANK BLEVINS: That is fine. I can assure the honourable member that it is just to explain the word 'safe' a little more. It is thought in some circles, apparently, that the Bill as it stood did not make it clear enough. I personally was quite happy with the previous description. However, it is our lot in life to make a few people happy, and, if this makes somebody happy, I think it ought to be amended.

Amendment carried.

Mr S.J. BAKER: I move:

Page 3, lines 7 to 9—Leave out the definition of 'secondary injury'.

The Minister has an amendment on file. We on this side of the House do not believe it is proper and appropriate that we should have a definition of 'secondary injury' within the Bill. 'Secondary injury' relates to workers compensation terminology and has nothing to do with occupational health, safety and welfare. It is purely a terminology which relates to aggravation of existing conditions. We have incorporated it in relation to work related injury, because that is where it belongs. Nowhere in the Act could I find any reference to secondary injury until we went down to the work related injury.

It is poor drafting on behalf of the Minister that we should have a reference to 'secondary injury' in the Bill. It should be incorporated in relation to work related injury, which we have undertaken, and clarified. Whilst there is a very strong relationship between safety and compensation in a reverse sort of way, it is important that we do not have compensation concepts within the safety Bill; otherwise, other people will wonder whether this is a compensation Bill rather than a safety Bill. I do not believe it is appropriate to have a separate definition of 'secondary injury'.

The CHAIRMAN: If this amendment is carried, we cannot proceed with the Minister's following two amendments.

The Hon. FRANK BLEVINS: I reject the amendment but, in doing so, give an undertaking to the member for Mitcham that I will have a closer look at what he is saying. Again, there is some validity in it, but just how much I am not in a position at the moment to assess. However, if 'secondary injury' stays in, I think the suggestion that someone will get confused between this and the Workers Compensation Bill is drawing somewhat of a longbow. However, the first part of the honourable member's explanation of his amendment had some merit. I will over the next few days assess how much I can assure the honourable member that if, on balance, his amendment has more merit than otherwise I will be happy to have the Attorney-General move it in in the Upper House.

Amendment negatived.

The Hon. FRANK BLEVINS: I move:

Page 3—
Line 7—After 'an injury' insert ', disease or disability'.
Line 9—After 'injury' insert ', disease or disability'.

The amendments to the definition of 'secondary injury' clarify the term to include not only injuries but also diseases and disabilitites that recur at work. Again, it is a debate as to whether the Bill as before the House included that. Some say it did and some say it did not. In the interests of clarification, and to satisfy that side of the argument which said it did not, my amendments will insert that.

Amendments carried.

Mr S.J. BAKER: I move:

Page 3, lines 25 and 26—Leave out the definition of 'worker'.

We have already canvassed the definition of an employee. I made the point at the time that it was ill considered for legislation in 1986 to bear a distinction between the boss and the worker. I certainly will not continue with the reasoning behind that. I think we made it fairly clear that we are dissatisfied with that item.

The definition of 'worker' also encompasses to some extent the concept of the subcontractor. We are taking out the definition of 'worker' not only because it is anathema today but because it encompasses people who should not be encompassed under the same heading. The matter of subcontractors will be canvassed in greater detail when the Committee is considering subclause (2).

Amendment negatived.

Mr S.J. BAKER: I move:

Page 4, lines 29 to 37—Leave out the definition of 'work-related injury' and insert new definition as follows:

'work-related injury' means an injury, disease or disability that is suffered by a person and that is attributable to his or her work and includes—

(a) death; and

(b) the aggravation, exacerbation or recurrence of a prior work-related injury:.

This amendment relates to work-related injuries. I have already pointed out the inconsistency of having this secondary injury definition in occupational and safety legislation. The amendment ties up the situation and, although it changes the sense of the Bill slightly, it improves the Bill. I am not sure that the wording of the Bill does what the Minister intends shall be done. The definition of 'work-related injury' is an important definition because it refers to those who have suffered injury or disease in the workplace. Secondary injury is now covered by the words 'the aggravation, exacerbation or recurrence of a prior work-related injury'. In moving the amendment, the Opposition is trying to get over the phrase 'arises out of or in the course of work'. The prevention of work related injuries is important, so this definition is important.

I do not know whether the wording 'arises out of' occurs anywhere else. On the one hand, those words suggest that the injury arises out of the work situation, yet on the other they could mean that any injury sustained outside working time arises 'out of work'. The definition in the Bill lacks clarity and the wording of the amendment ('attributable to his or her work and includes') is a great improvement. Employers must be responsible for keeping a safe working environment and so preventing work-related injuries in the work situation.

The words 'arises out of or in the course of work' in the Bill may well be subject to further legal interpretation, so we have said that it can only be the responsibility of a manager, employer or anyone else in charge of employees to ensure that all measures are taken to prevent risk of injury and disease. That is a far better way of tackling this matter than is the definition in the Bill, which surely is open to various forms of interpretation.

The Hon. FRANK BLEVINS: There is little difference in the end result of the amendment and that of the original provision in the Bill. The honourable member chooses the form of words in his amendment and I choose those in the Bill. From the honourable member's remarks, I understand that, if his amendment is accepted, it would make little, if any, difference except to remove the concept concerning artificial limbs.

Mr S.J. BAKER: Will the Minister take advice on the words 'arises out of'? What do those words mean? I admit that my amendment omits artificial limbs, but that was an oversight. Artificial limbs should be attached to the body and not stacked in a cupboard, and the Minister might consider how there can be a work-related injury in the case of a leg which, when stacked in a cupboard, is destroyed by fire. Surely it must be attached to the body of the person suffering the injury.

Amendment negatived.

Mr S.J. BAKER: I move:

Page 4, line 38—After 'place' insert 'under the control of the employer'.

The question of who has control of the workplace invariably becomes a question of law. The Bill provides that 'workplace' means 'any place (including any aircraft, ship or vehicle) where a worker works and includes any place where a worker goes while at work'. There is conflict in that definition as to what is under the control of the employer because some sections of the legislation refer to the workplace.

It is wrong of the Minister to enact any legislation that requires the employer to be responsible for a place over which he has no control. Missing from the definition is the phrase 'under his control'. The member for Bragg has already talked about the difficulty of a subcontractor or an employee going to another place over which the employer has no control, but this definition of 'workplace' includes all those places. The position should be clarified in this clause to remove any doubt that the Minister intends 'workplace' to relate only to the employer's ability to control that place. I commend the amendment to the Minister.

The Hon. FRANK BLEVINS: The definition clause provides definitions throughout the Bill. In some places it spells out the definition of 'control of the workplace'. Where an employer sends someone to a workplace over which the employer has no control, there are certain hazards that can be foreseen. For example, if ETSA sent out a worker on his own to do maintenance on the Nullabor Plain and did not make provision by way of a radio or whatever was required in connection with the health and safety of that worker, it would be appropriate that some liability or obligation should be placed on the employer in that situation. I appreciate the point that the honourable member makes but we are trying to cover as many workplace situations as we can and as the employer can reasonably be expected to foresee.

Mr S.J. BAKER: I will have to read the legislation again, as I believe we have created an anomoly. The Minister recognises that 'workplace' is mentioned blandly in various parts, and the employer is responsible for the workplace. I will have to check through the Bill on the wording, but the position should be clarified in this clause. The Minister says we should take account of those people who are travelling from one place to another not necessarily under the control of the employer. There are provisions in the Bill that ensure that a person who travels under the instructions of the employer is covered under the general duty of care. It is wrong to say that it has not been provided for.

If this matter is not clarified, we will have a situation where, under this definition, in the case of a person travelling from their own employment to another area under the control of someone else, two people will be responsible. We believe that the situation should be tidied up.

The Hon. FRANK BLEVINS: It is very tidy indeed. We have given the broadest possible obligation to the employer, and in various parts have defined clearly who is responsible for certain things. We have indicated certain behaviour where it is reasonable for the employer to have some control.

The Bill does not put any obligation on the employer to make the Nullabor Plain safe for the occasional electrician fixing the ETSA line. What we are saying is that if you do send a worker into that area, even though the area is not under your control, you have an obligation as far as is reasonable to see that the employee is taken care of. That is a reasonable proposition.

Mr S.J. BAKER: The argument the Minister has just advanced is incoherent, because he has said that anywhere is a workplace. That is exactly in line with all the letters that I have received from people involved in contracting. They ask what is a workplace. They have some information to say that they are going to be responsible in some way or another. They want the Minister to say in what way they will be responsible. To say that every 1 000 kilometres of bitumen on the Eyre Highway is the workplace of the worker fascinates me. Under the responsibilities he has, the employer is required if a person goes to outlying areas to ensure he has enough water, a spare tyre and various other things before he even leaves the premises.

The Hon. Frank Blevins: He can pick them up—

Mr S.J. BAKER: He could pick them up in a Port Augusta garage. It is not important! The important thing is that under the employer's responsibility he has the duty of care. Under that prescription the whole of Australia is the workplace of every employee in South Australia, and it is nonsensical. If you draw that concept out, that is what the Minister is saying. Every letter received by the member for Bragg in regard to transport and those I have received from the building industry and other areas ask how people can live with the situation where they do not know for what they are responsible.

To my mind, we are getting into a dual responsibility area. It does not have the same connotations as double jeopardy or anything like that, but it means that we should be trying to define as strictly as possible employers' responsibilities. Does it mean that every time he sends a truck out he has to send another person out to supervise to make sure that, when they reach other premises where it has to be unloaded, they have someone there who will be responsible in their own right, because the employer is responsible? Does it mean we must have a caretaker or troubleshooter accompanying these people?

I think that this definition causes a few problems. It is important in the definitions clause that we get it correct. If the person is travelling, it is quite clear to me that the employer responsibilities pick this up without any doubt, without any equivocation. They are covered within the Bill. To then put on this dual responsibility—and nobody really knows who is responsible—I find very difficult to accept. It is a bit like the work related injury one, where it arises out of work. That needs working on, and the workplace definition needs some attention. I would like the Minister to rethink this area very carefully. There is concern by a number of employers about it and, given the Minister's answer, I can only say that their concern is fully justified.

The Hon. FRANK BLEVINS: I just point out that the duty or obligation on the employer is to ensure as far as is reasonably practical that the worker, while at work, is safe. The ETSA linesman does not need a supervisor right behind him. I think it is a great pity that the member for Mitcham trivialises the debate in that way. It is a very important issue.

Mr S.J. Baker interjecting:

The Hon. FRANK BLEVINS: The member for Mitcham seems incapable of understanding that it would be quite unreasonable to suggest that on every occasion a supervisor would have to go with a worker or that a supervisor would have to look after the supervisor, and he is just extrapolating to the ridiculous.

Mr S.J. Baker interjecting:

The Hon. FRANK BLEVINS: I have made it perfectly clear and have given a very good example of what exactly is intended. In any event, it is 'as far as is reasonably practical' to do so. The employer cannot make provision for every eventuality for the linesman on the Nullarbor Plain, but he can do some things. He does not have control of the workplace but he can do some things that are reasonable and we would expect the employer to do so. I do not think any responsible employer would object.

Mr S.J. BAKER: I just make the point that we are making an ass of the law in this circumstance. We cannot say that on the one hand we have this and on the other we have that. The Minister's get-out is 'as far as is reasonably practical'. He does not want to address the principal clause and say that it is deficient. He has now recognised that there is a deficiency, because he says, 'as far as is reasonably practical'.

The Hon. Frank Blevins: I am not trying to get out of it. It is in the Bill.

Mr S.J. BAKER: The Minister is now relying on another provision to say that it will be all right. The fact that the clause is deficient in the first place does not seem to worry him.

The Hon. Frank Blevins interjecting:

Mr S.J. BAKER: I would like to treat the Bill as a whole. There are some pretty heavy penalties in there. A person has to go through this 'as far as is reasonably practical'. The employers must be wondering what they are responsible for. I think it is incumbent on the Government to make sure that they know what they are responsible for and to say that the universe of Australia is their responsibility, because that is what we are saying under the Bill, I think is—

The Hon. Frank Blevins interjecting:

Mr S.J. BAKER: Exactly: whilst that worker is working for that person, the employer has a duty of care. The workplace definition, by its lack of clarity, does not induce any confidence amongst employers that the Minister has worked it out.

Mr INGERSON: I would like to clarify again this situation of the subcontractor, because the comment that the Minister has just made is one of a direct employer-employee relationship. The comment related to ETSA, and there is an understanding that that is very clear. It has been put to me by people in the transport industry that this definition of workplace is in fact locking them into a situation that is not reasonable and practical. They are also looking at that definition of worker, which refers to a person being under a contract of service, 'whether or not as an employee.' The inference is very clearly a reference to the subcontracting setup. I have no objection to that being there, but it is very clearly saying that. The transport industry in particular, as the Minister knows, is principally one of small business—subcontractors. They are very concerned, not only as the prime contractor but from the point of view of a subcontractor. I have received a comment from subcontractors asking where they stand. That situation does not make sense.

Will the Minister again clarify who is responsible for the workplace, where the workplace begins and ends in a situation of a depot with prime movers coming in and out, and who is responsible once they go out on the road. It seems that this workplace referred to here is actually a movable factor, not something that is sitting still. In his comment relating to ETSA, the Minister said that it was ETSA's responsibility to look at that travelling. In this instance, it is not ETSA, but a contractor *versus* subcontractor relationship, and there needs to be a clear understanding. I know I am going again over the same ground, but I want it absolutely clear, so that everybody in the transport industry understands what the Minister has in mind.

The CHAIRMAN: The Chair has been very patient, but I would point out to the honourable member that he is asking the same question on separate occasions, clause by clause. Although I have been very tolerant as Chairman, I do not think my tolerance can continue along those lines.

The Hon. FRANK BLEVINS: So as not to incur your wrath, Mr Chairman, I will not repeat my answers to the same question. The position is decided on the objective facts as to who has control of that worksite, of the depot. I really cannot see the problem.

The Committee divided on the amendment:

Ayes (15)—Messrs Allison, D.S. Baker, S.J. Baker (teller), and Blacker, Ms Cashmore, Messrs Chapman, Eastick, S.G. Evans, Goldsworthy, Gunn, Ingerson, Lewis, Olsen, Oswald, and Wotton.

Noes (24)—Mr Abbott, Mrs Appleby, Messrs L.M.F Arnold, Bannon, Blevins (teller), De Laine, Duigan, and M.J. Evans, Ms Gayler, Messrs Gregory, Groom, Hamilton, Hemmings, and Hopgood, Ms Lenehan, Messrs McRae, Mayes, Payne, Peterson, Plunkett, Rann, Robertson, Trainer, and Tyler.

Pairs—Ayes—Messrs P.B. Arnold, Becker, and Meier. Noes—Messrs Crafter, Klunder, and Slater.

Majority of 9 for the Noes.

Amendment thus negatived.

Progress reported; Committee to sit again.

The Hon. FRANK BLEVINS (Minister of Labour): I move:

That the time for moving the adjournment of the House be extended beyond 5 p.m.

Motion carried.

The Hon. FRANK BLEVINS (Minister of Labour): I move:

That the sittings of the House be extended beyond 6 p.m.

Motion carried.

OCCUPATIONAL HEALTH, SAFETY AND WELFARE BILL

Adjourned debate in Committee (resumed on motion).

Mr S.J. BAKER: I move:

Page 3, lines 41 to 44 and page 4, lines 1 to 5—Leave out subclause (2).

This provision relates to subcontractors, an issue that we have already canvassed in a number of ways in terms of responsibility and the duty of care. There is no doubt in our minds that the Act covers them sufficiently. We do not believe that subclause (2) should appear in the Bill for all the reasons that we have already discussed, including the confusion that will arise and indeed the suggestion that there will be an attempt through these subclauses to achieve *de facto* recognition of subcontractors as employees.

We know that for a number of years the union movement in many legislative measures has attempted to subject subcontractors to unionisation measures. We reject that proposition and the proposition that subcontractors need to be covered in the legislation in this way. We reject the Minister's proposition in the measure about the principal contractor being responsible for the actions of other subcontractors on a work site. Again, there is a dilemma of what is 'under the control'. The most obvious case is the building work site. As the Minister knows, the principal contractor (perhaps Baulderstones or Frickers) has a number of subcontractors on site. Not only do those subcontractors have a duty to their employees, they also have a duty to the building company. That is clearly described in the legislation and needs no clarification whatsoever.

The problem with this provision is what is meant by 'control'. Does the principal contractor have to supply in each case, because they are on site, a person to supervise the work of the subcontractor, to ensure that this provision does not come into force? It is very important that the Minister understands that when a principal contractor and a subcontractor are on the same site we get ourselves into difficulties when we start to mess around with who is responsible for what. The legislation clearly specifies a subcontractor with employees is responsible for those employees on site and is responsible to the principal contractor. In the case of the principal contractor, if he has no direct control over the subcontractor on site, except for the fact that he has subcontracted for the work, that may be classed by the Minister as actually having control because the company is responsible for the overall working of the site. We now get ourselves into difficulties because the principal contractor in each case must be responsible for the actions of subcontractors on site. I do not believe that that was intended. So, for those three reasons we ask that subclause (2) be deleted.

The Hon. FRANK BLEVINS: I reject the amendment, because subclause (2) is extremely important in that it sets out the responsibility for health and safety in contractual relationships. The subclause is very specific about the responsibility of the principal and it resolves the subcontractor dilemma. It does this by limiting the responsibility of the principals to those matters over which they have control. It is very specific. As a matter of interest, subcontractors have been covered in Victoria for many years with no legal or other problems, and they came under that control by an amendment moved by the then Liberal Government.

Mr S.J. BAKER: I ask this question so that the community can be sure what is meant by this clause. I take the ASER site as an example. If Baulderstones are the principal contractor and it gets a subcontractor to do the plumbing, who has the responsibility?

The Hon. FRANK BLEVINS: Obviously, the people who have control of the site. The honourable member picked a bad example with ASER as it breaks down into a few principal contractors. Obviously, if the site is in an unsafe condition with pieces of dangerous material strewn around, the responsibility would lie with the people who had control of the site. However, the plumber has responsibility for his work. This matter relates to where the actual control is. I find it surprising that anyone finds difficulty with it at all. We must remember that if people have a safe working environment as much as is possible, whether it is controlled by ASER or anyone else, and work in a safe manner, there can be no dispute and, hopefully, no injuries.

Mr S.J. BAKER: The Minister's last remark suggests that somehow the problems will be solved overnight. Countries with the best safety records are still having difficulties. Legislation goes only so far, and there are human behavioural problems and circumstances beyond control, as the Minister would well realise. The Minister says that, if a subcontractor comes on site, the only responsibility of the principal contractor is to ensure that no metal is lying around. Is that where the duty of care rests?

The Hon. FRANK BLEVINS: I am not saying that at all. I am saying that there is an obligation for people who have control of a work site to ensure that it is safe.

Mr S.J. BAKER: We will talk about plumbing, because that often involves working at great heights. If the principal contractor, in this case Baulderstones, has a limited knowledge of the specific requirements relating to plumbing, where does the responsibility start and end, because something could go wrong at a height which could be caused by deficiencies in the building of which the principal contractor is not aware?

The Hon. FRANK BLEVINS: If a plumber comes on a building site and the job is on the outside of a building that is 16 storeys high, obviously there will be scaffolding. The plumber does not have to do the scaffolding, but the people who control the building site must ensure that that scaffolding is safe. It does not seem to me to be a terribly difficult problem to grapple with. If there is a dispute about where responsibility lies, that will be resolved, as all disputes are, by an objective assessment of the facts in that specific

circumstance. That is what happens every day in our lives in all areas, and I cannot see why the member for Mitcham feels that there is a problem with this.

Mr S.J. BAKER: That is the example that highlights it. Scaffolding that is safe for building and construction workers who are used to working at great heights may not necessarily be safe for plumbers. Is it the responsibility of the principal contractor to understand that plumbers need a greater area in which to work—as that is not their area of technical expertise—or is it up to the subcontractor to ensure that there is proper scaffolding before he starts the job?

The Hon. FRANK BLEVINS: The principal contractor has control of the site and, if he is having carpet laying done on the outside of a building 27 storeys high, it is obvious that for the carpet layer, who will not be used to working at that height on the outside of a building, special provisions will have to be made for his safety. That then would be the responsibility of the person who had control of the site. In my view it would be no defence to say that they did not realise; if they do say that, they are incompetent builders and should not have control of a site. If they do, they should smarten up their act. If they do not, there are severe penalties. It is not a difficult problem to analyse.

The Committee divided on the amendment:

Ayes (14)—Ms Cashmore, Messrs Allison, D.S. Baker, S.J. Baker (teller), Chapman, Eastick, S.G. Evans, Goldsworthy, Gunn, Ingerson, Lewis, Olsen, Oswald, and Wotton.

Noes (22)—Mr Abbott, Mrs Appleby, Messrs L.M.F. Arnold, Bannon, De Laine, Duigan, and M.J. Evans, Ms Gayler, Messrs Gregory, Groom, Hamilton, Hemmings, and Hopgood (teller), Ms Lenehan, Messrs McRae, Mayes, Payne, Plunkett, Rann, Robertson, Trainer, and Tyler.

Pairs—Ayes—Messrs P.B. Arnold, Becker, Blacker, and Meier. Noes—Messrs Crafter, Klunder, Peterson, and Slater.

Majority of 8 for the Noes.

Amendment thus negatived.

Mr S.J. BAKER: I move:

Page 4, line 12—Leave out 'and psychological'.

The wording of this subclause is unacceptable. Suggestions have been made that the subclause itself is irrelevant and should not be included because we have throughout the legislation a number of references to the responsibilities of everyone involved in health and safety. One aspect of that subclause which is of concern deals with psychological needs. I mentioned during the second reading debate that mental stress is a multi-variant function. It takes into account in many cases the home environment as well as the working and sporting environment.

It is important to understand that in the original draft the Minister did not include the words 'at work.' I am not sure whether his original intention was that employers should cover employees for psychological risk, no matter in what environment they were operating. Employers could suddenly become responsible for cover for employees 24 hours a day. While the Minister may have craved that, it was totally unacceptable to anyone involved in employment, because it was simply not their responsibility in the first place and impractical in the second place.

I was going to spend the time of the House talking about some of the ways in which other countries have grappled with or overcome the responsibilities to minimise mental stress within the work-place. However, we do not have the time available. Because of the nature of psychological problems, I believe it is wrong for the employer to be responsible for the psychological needs of his work force in the terms of this Act. The law recognises those areas of stress, and we have seen them in workers compensation cases.

If any person should be convicted, it should be the Minister of Education, because in the area of stress that Minister has the most stress cases of any jurisdiction, be it private or public. We should say that the Minister—no matter of what political persuasion—will continually fail. The question then, is, 'What is the duty of care?' We all know that certain professions have greater stress associated with them than others, yet we have a homogenous item here called 'psychological needs and well-being of the workers while at work.' There is no difference of opinion between the Opposition and the Government that the employer should at all times attempt to keep down noise levels, because that can cause stress. That can have psychological as well as hearing problems. Where we go from there is a question that will have to be addressed quite seriously, and, may I suggest, very seriously in the Education Department.

This Bill specifies that the Minister of Education is responsible and, when we get to the responsibility of the Crown, I wish to canvass with the Minister the responsibilities that are on the head of every Minister. There is no doubt that if this Act is taken in the way that the Minister has written for employers, and if it is applied in the same way to the Crown, as we will discuss later, we will probably find that there will not be too many heads of departments left and no Minister in place. We will get to that clause shortly.

We do not object to the fact that employers should have regard to the well-being of their workers; in fact, it is very important. But, to say that they must be responsible for psychological needs whilst at work covers a grave range of sins, and it then gets down to proving which extraneous forces have led to this mental stress. I will not take up the time of the House. I did have a very long screed on this subject to present, but that course of action is not appropriate at this time. I can only say that the Opposition asks that this reference to psychological needs be removed.

The Hon. FRANK BLEVINS: I reject the amendment. The psychological aspects of work are equally important as the physiological aspects. I think the member for Mitcham was arguing against his own amendment. In the case of the Education Department, for example, to have class sizes of 50, to be extreme, may not be physically more demanding than to have a class of 30, but psychologically it could be very damaging to the health of the teacher. So, it is very important.

In rejecting the amendment, I stress that, as in all these things, the general duty of care is as far as is reasonably practicable. While it might perhaps be reasonably practical to have 35 students in a class, it would be quite outrageous and damaging to the psychological needs of a teacher, for example, if there were 50 or 60. The question is what is reasonable and practical.

Mr S.J. BAKER: I only use that as an example, because I know that in the school that I attended in year 8 we had 67 in our class. I can honestly say that the teachers in those days did not suffer the psychological problems that seem to be occuring in the education system today. That points to the problem of what is a standard. It is a perfect example, because one person may capably handle perhaps 35 or even 60 students. On the other hand, a person who is susceptible to pressure may be able to handle only 20 people. The fact is that someone must sort out those dimensions.

Who chooses the working conditions that will produce that result? I do not know. The symptoms of stress are often not apparent until there are enormous problems arising from a range of reasons. What is the duty of care? It is

an indefinable term. The Minister may say that someone should have picked it up, but how can anyone pick it up? This area will probably be subject to legal interpretation.

Where there are visible signs of stress obvious to the employer, he should take the trouble to find out the reason. After all, if an employee is not functioning 100 per cent, surely it is in the employer's best interests to have such problems dealt with. Most managers would do that as a matter of course if they recognised such signs and symptoms. Unfortunately, however, few people can recognise the signs and symptoms of stress. The definition provisions of clause 4 set the standard for the rest of the Bill. A psychological problem often manifests itself in physical change, so 'physiological' is probably a far more determinate definition than 'psychological'. Therefore, we ask the Minister to remove the definition from the Bill.

The Hon. FRANK BLEVINS: When the member for Mitcham was in a year 8 class of 65 students, I would guess, without being offensive to the honourable member, that that was in the Playford era before a Labor Government assumed office and improved the education system. It may explain some other things as well. It is extremely important that the needs of individual workers are, as far as is practicable, taken into account. If we do not do that, we are dehumanising the work site, and that does not benefit anyone, either employer or employee. Therefore, the individual requirements, of teachers, homemakers and everyone else should be considered, as indeed the Bill does consider them by ensuring that any injury means a psychological injury as well as a physical injury.

Amendment negatived.

The Hon. FRANK BLEVINS: I move:

Page 4, lines 19 to 33—Leave out subclauses (5) and (6).

These amendments are consequential on the earlier amendment to clarify the position of inspectors in the mining area.

Amendment carried.

Mr S.J. BAKER: I move:

Page 4—
Line 35—Leave out '$100 000' and insert '$50 000'.
Line 36—Leave out '$50 000' and insert $25 000'.
Line 37—Leave out '$20 000' and insert '$10 000'.
Line 38—Leave out '$15 000' and insert '$7 500'.
Line 39—Leave out '$10 000' and insert '$5 000'.
Line 40—Leave out '$5 000' and insert '$2 500'.

I canvassed this matter in the second reading debate. The Minister has bandied heavy fines about ever since he had the Bill in draft form. He has used them at the forefront of his occupational health and safety policy. I made it clear in the second reading debate that the Liberal Party does not believe in that philosophy. At the same time, we said that the Act should have proper application, and we have divided the penalties in half. Not only is it a form of protest about the way that the Minister has carried on but, importantly, when we were putting together our original occupational safety propositions we intended to increase the penalties to $20 000. That was 18 months ago. The maximum penalty is now $100 000.

The Minister should have spoken less about the penalties and ensured that the Government concentrated its efforts on improving occupational health and safety. The Minister would have been better advised to talk about the positive aspects of the Bill and how safety improvements would occur.

The Hon. FRANK BLEVINS: I reject the amendment. I believe strongly that the fines are at an appropriate level. I could be unkind and say that I have twice the regard for our workers than has the honourable member, who wants to cut the fines in half.

Mr S.J. Baker: You should have made it $10 million, and you could have shown your regard to be 100 times greater.

The CHAIRMAN: Order!

The Hon. FRANK BLEVINS: If the honourable member wishes to move an amendment to that effect, I will certainly consider it. To some extent it is quite arbitrary as to what level of fines one chooses to include in a Bill. One could find support for any figure plucked out of the air but the intention is to make the fines as high as it is responsible to provide, without being outrageous, and the $10 million that the member for Mitcham suggests is a little over the top. These fines are appropriate.

Regarding the publicity surrounding the Bill, it is not always possible for the Minister to set the debate. The media highlights what the media believes is newsworthy, rather than what the Minister believes is newsworthy. At times I find that very annoying. However, upholding the principle that the media has the right to highlight what it wishes in a responsible way, I have consistently stressed the positive features of the Bill. I point out that these fines are easily avoidable and no-one need pay them. All they need do is keep the workplace safe in a manner consistent with the Act, and the level of fines will not matter.

Again, I would congratulate those employers who have approached me quite unsolicited in both Adelaide and Whyalla indicating that the penalties cannot be too high for people who kill workers. They have also stipulated that they certainly do not do that: the level of fines does not bother them one iota; there is a financial cost to that, and their competitiors who do not seem to care about these things get away with a rap across the knuckles under the present Act.

One thing that has concerned me since this debate on fines has been in the public arena is that I have not heard one word from the Liberal Party condemning the actions of a company that has received much publicity recently because of its responsibility for the amputation of eight fingers of one of its employees in most irresponsible circumstances. That company had 27 reports with the Department of Labour for prosecutions involving operating machinery that was unguarded. The company gave no training at all to the employee other than saying, 'Don't put your fingers in the machine.' Within two hours of that employee starting work the machine left him minus eight fingers. That employer was fined $450. I condemn that situation out of hand, and I would like to think that someone from the Liberal Party would do the same.

I am the first one to praise employers—I will praise them now—who have good occupational health and safety records. There are a vast number of them in this State. I have visited their work sites and complimented them on what they did. I have also commented on some of the work sites where I was appalled at the way that employers do not enforce appropriate safety standards on their work force. I have advised them of the powers open to them to do so and indicated that they will have the full support of this Government and the trade union movement in acting against workers who do not abide by the appropriate safety standards.

I praise those companies who dismiss workers without any notice whatever for significant breaches of safety regulations at the work site. I support them completely, and I have told them so. They are the companies that have no objection at all to this legislation, and no objection to the level of fines or to workers compensation legislation, because those companies have got their act together.

I believe the fines are totally appropriate, and I will certainly not be supporting any dimunition of them. Referring to *Hansard* from last year, I would like to give an example of the fines that exist now. Of 48 convictions under the Industrial Safety, Health and Welfare Act, a total amount of fines for those 48 convictions was $9 790. The average fine was $204. That shows the total inadequacy of the present level of fines.

Mr S.J. BAKER: We reject the imputation that we somehow suffer bad employers. It was made very apparent in the speech that I made in this Chamber that negligent employers should suffer the full ramifications of the law. The Minister has told us about a specific instance. He has detail that has never been made available to this place, and I would say that I have no difficulty in supporting the Minister's statements whatsoever—not one difficulty would I have in saying that, on the evidence that has been produced, that employer has been totally irresponsible and he should wear the law as a result. I have no difficulty with that concept.

The Hon. Frank Blevins interjecting:

Mr S.J. BAKER: The Minister suggests five years in gaol. I think that will be an interesting question as to where negligence and lack of care start and end.

The Hon. Frank Blevins interjecting:

Mr S.J. BAKER: Is the Minister suggesting that the person should spend five years in gaol? Perhaps he could clarify that.

The Hon. Frank Blevins interjecting:

Mr S.J. BAKER: The Minister says he wants him to have five years in gaol.

The CHAIRMAN: Order! I do not want this to be conducted as a private conversation across the Chamber. Let us conduct the Committee as it should be.

Mr S.J. BAKER: The Minister did say five years in gaol. He said the corporation should bear the full brunt of the law, and we do not disagree with that, but every one of those corporate people should also spend five years in gaol, because that is exactly what this Bill says. Everybody who is one of the corporate officers of Spic N Span, I think was the—

The Hon. Frank Blevins: I never named it.

Mr S.J. BAKER: I am not sure; I think somebody else named them, actually. The Minister said that every one of those people should get five years in gaol. I think that is something that the employers out there should know about, because that is exactly what the Bill does, and we will debate that provision further down the track. If someone at Spic N Span is to bear five years imprisonment, what further terms does the Minister suggest for all of those other people who actually have offences far worse than Spic N Span? There will be some, as the Minister realises. He is saying five years for Spic N Span: perhaps he could work down the list and work out who will get one year, two years, three years and four years. Obviously, what the Minister is doing here is despicable.

The Hon. Frank Blevins interjecting:

Mr S.J. BAKER: Well, it is despicable. The Minister is saying we should put all those corporate officers in gaol for five years. That is exactly what he has said under the Bill. Certainly, the fines have been upgraded; I have made the point before. It is a pity that the Minister did not talk a little more about the positive things that are going on in South Australia—the very positive improvements that have taken place in South Australia. Indeed, South Australia has the best safety record in Australia. I have interstate statistics to confirm that, if members opposite wish to have them presented. The Australian Bureau of Statistics has actually got a consolidated series. I seek leave to have this statistical table inserted in *Hansard.*

Leave granted.

COMPENSATED OCCUPATIONAL INJURY AND DISEASE CASES, STATES AND A.C.T. 1983-84 *(a)*

Due to differences in the legislative provisions and administrative arrangements for workers compensation in each State and the ACT, and to differences in the procedures used in the collection and compilation of data, the statistics shown are not directly comparable between States.

	NSW*(b)*	Vic	Qld	SA	WA	Tas	ACT
Injury cases:							
Outcome—							
Fatality	116	17	32	14	23	5	1
Permanent disability—							
Total	11	63	684	36	9	15	—
Partial	1 556	855		758	505	53	17
Temporary disability	66 128	34 417	29 546	9 491	18 137	3 995	900
Total injury cases	67 811	35 352	30 262	10 299	18 674	4 068	918
Time lost (weeks) *(c)*	1 200 067	216 051	180 535	61 359	128 912	17 678	5 641
Cost of claims ($'000) *(d)*	413 158	201 644	(e)	64 697	104 910	9 465	2 592
Disease cases *(f)*							
Outcome—							
Fatality	65	69	28	7		—	—
Permanent disability—							
Total	2	37	749	29		1	—
Partial	8 667	951		158	*(g)*	2	6
Temporary disability	6 115	4 408	1 118	758		104	90
Total disease cases	14 849	5 105	1 895	962		107	96
Time lost (weeks) *(c)*	29 607	52 076	8 760	11 479		600	1 356
Cost of claims ($'000) *(d)*	94 964	54 854	(e)	11 312		291	596
Total deaths	181	86	60	21	n.a.	5	1

(a) Cases compensible under principal State/Territory workers compensation legislation (plus cases relating to State police officers in Queensland and Tasmania not covered under general workers compensation provisions) in respect of injuries occurring during 1983-84 (except see *(b)* below) and disease cases reported in that year (except see *(f)* below).

Excluded are: (i) cases compensible under Commonwealth legislation (approx. 37 000 new cases in 1983-84)
(ii) journey and recess cases
(iii) cases involving less than one week time lost from work (5 days in Victoria and WA, 7 days in other States and ACT). This coverage threshold has been applied to temporary and permanent partial disability cases in SA, WA and Tasmania and temporary disability cases only in the other States and ACT
(iv) cases compensible under NT legislation

(b) New cases reported during 1983-84.
(c) Definition and accounting procedures differ between States (eg see footnote *(a)* (iii) above). For cases which were not finalised at the close-off of the year's processing, time lost includes estimated future time off work, except in Queensland.
(d) Definition and accounting procedures differ between States. However, in general cost includes total compensation payments (eg weekly, lump sum, medical etc.) made in respect of those cases shown, net of recoveries known as at close-off of processing. For claims not finalised, cost includes estimated future payments. Note: the cost data shown does not refer to total compensation payments made during the year.
(e) Not available.
(f) Diseases cases reported in 1983-84 except in Queensland, where refers to disease cases for which compensation was commenced in that year, and in SA where refers to disease cases where date last worked or date diagnosed was in last year.
(g) Not available for release.

Mr S.J. BAKER: Not only do we recognise that these improvements have taken place, but more improvements have to take place. That is what we are on about, but it may not be what the Minister is on about.

The Hon. FRANK BLEVINS: When the member for Mitcham was speaking I interjected—quite strongly, Sir—and referred to five years gaol—

The CHAIRMAN: I do not want to interrupt the Minister, but in this clause I cannot see any reference to gaol.

The Hon. FRANK BLEVINS: You are quite right.

The CHAIRMAN: I wonder whether we can get back to the clause?

The Hon. FRANK BLEVINS: Certainly. I believe that the maximum responsible range of options ought to be available to the courts. This table of fines is one of them. Gaol is another, but I will not go into that in detail. It may well be that people in the firm that was named by the member for Mitcham warranted fines of this level or warranted gaol. They are options that ought to be available to the court to determine the appropriate punishment consistent with the gravity of the offence. That is what we are attempting to do. To suggest that giving the option to the court of the fine not exceeding $100 000 in very specific circumstances where somebody has been recklessly indifferent or is a repeated offender is, in the words of the member for Mitcham, despicable—

Mr S.J. BAKER: A point of order, Mr Chairman. I do not want to sit here and listen to the Minister twist and turn on what I said. We were simply referring to the five years imprisonment for the people involved in Spic N Span.

The CHAIRMAN: Order! There is no point of order. In Committee debates the Minister has a wide scope available to him when answering questions, in the same way that the member has in due course.

The Hon. FRANK BLEVINS: Suffice to say, I believe very firmly indeed that the widest range of very significant sanctions ought to be available to the court if the court feels it needs to use them. When we are talking about workers being killed by the reckless indifference of employers, that is where we come into this level of fines and, later in the Bill, gaol. If an individual who did not have that employer-employee relationship was recklessly indifferent to the health and welfare and even the life of another person, then the court has a wide range of options, which very often include gaol or high fines. I see no reason at all, because there is an employer-employee relationship, that the same principles should not apply. If I were to be so recklessly indifferent to the health and welfare of the member for Mitcham and caused him to lose eight of his fingers because I could not care less when he was in my house or in some way being associated with me—

Mr Lewis: Psychological stress—

The Hon. FRANK BLEVINS: I would suggest that, in a pretty good field, the person who would be most knowledgeable about psychological problems would be the member for Murray-Mallee. Again, it seems to me where the relationship is a working relationship, if the same or a very similar duty of care and obligation on the person is not exercised properly, then the same or a similar range of penalties ought to apply.

Amendments negatived; clause as amended passed.

Clause 5—'Application of Act.'

Mr S.J. BAKER: A number of cases have been brought to my attention of problems within the Government service. The opinion has been expressed to me that the duty of care is not being taken. The statistics that I presented during the second reading debate showed that the number of people in the public sector permanently injured has increased quite dramatically (on the figures available for 1980-81). To what extent is the Crown bound? Does the responsibility extend to the Minister himself? Is the Minister of Education responsible if he is aware of certain stress cases and he does not have the resources to adequately cope with them in the way that he would like or for some reason he ignores the concerns expressed to him? Is the Minister responsible and, if not, where does the responsibility end? The responsibility is quite clear in the employers' area. The Bill is quite finite in relation to employers, but I would like the Minister to give an opinion about the area of the Crown.

The Hon. FRANK BLEVINS: I understand that it does not go as far as the Minister. It certainly applies to the Crown employees and department heads. That is my advice at the moment. It applies as high as departmental heads, but certainly not to the Crown itself. As Minister, I understand that I am the Crown (or something very similar) and therefore the Crown cannot prosecute the Crown. All the constitutional lawyers, pseudo lawyers and bush lawyers will have to work that out for me. Certainly, if, for example, permanent heads (or chief executive officers, as they are now called) are recklessly indifferent to the health and welfare of people under their control, I am advised that they can be prosecuted.

Mr S.J. BAKER: I refer to a case where extra resources are required but the Minister refuses to provide them, even though all the executive officers have brought the problem to the attention of the Minister. Nothing is done about the problem and the only person who can do anything is the Minister, by negotiating with his Cabinet colleagues for more funding. The important point is that that person has control over the safety, health and welfare of employees within the public sector. Therefore, why should not the Minister be bound in the same way as his executive officers are bound?

The Hon. FRANK BLEVINS: This Minister is not a constitutional lawyer. Perhaps that is a pity, because I would do very well. However, the most eminent and senior law officer of the Crown will be handling this measure in another place. I am sure that he will be delighted to explain to Parliament at great length just why that is the case. From my knowledge of many years of the Hon. Mr Griffin I am quite sure that he will be equally as delighted to expand on these matters at great length, also. It is a great sight to see the Attorney-General and the Hon. Mr Griffin in action together.

The member for Mitcham appears to have a great interest in this constitutional question and I can only suggest that that would be the ideal place to see this matter debated. Without getting something in writing from the legal advisers

to the Parliament and reading it to the honourable member, I am not competent to explain the constitutional niceties. However, the State's principal law officer will be able to do that in another place.

Mr S.J. BAKER: I think it is worth noting that, in terms of the disgraceful record of the public sector over the past few years (in terms of the improvements that have occurred in the private sector), that could be rectified if the Minister had ultimate responsibility. According to this legislation, and according to constitutional lawyers, the Minister is not responsible because he is precluded from being prosecuted for breaches, for negligence, for an oversight or whatever else. That probably explains why the public sector duty of health and care has not been exercised as strongly as it should have been over the past few years. There is no doubt that the improvements that we have seen in the private sector have not been reflected in the public sector. The alternative proposition is that someone is doing something wrong with the statistics.

I think it is important for the Committee to understand that a Minister bringing this Bill before us should operate under the principle that he should do as he says and that he shall say as he does, and not get into a situation where he says that he will absolve himself from responsibility because he can find a reason for not being responsible. There are many reasons why Ministers do not have to be responsible. One is money, another is priorities, and there are many others. Some are just pure negligence. I remind the Committee that the Minister has introduced a very complex and far reaching Bill that he says will set South Australia on a new path of improved occupational health and safety. However, by his own admission, the Minister says that it does not apply to him because he is not bound. We think that, if it is good enough for all private employers to be responsible for the health and safety of their workers, if the Minister has been informed of deficiencies and fails to act accordingly, he too should be responsible.

The Hon. FRANK BLEVINS: I think the Government should be given credit for having this legislation bind the Crown. Of course, there are numerous Acts where that is not done, and for very good reasons. We believe that the position is intolerable. At the moment, large sections of the public work force do not have the protection of this type of legislation. When the member for Mitcham's Party was in Government it did not see fit to bind the Crown to the occupational health and safety legislation that was then available. So it strikes me that it is hypocritical, to say the least, to start complaining now.

In relation to how far the responsibility should go, I believe very strongly that it should go as high as is necessary. However, as I have said, I do not want to get involved in an argument. People far more learned in the law than I have written volumes about this to clarify the situation. We believe that the Government should be congratulated. The Government is very proud that all Government employees will have the benefit of this legislation.

Mr M.J. EVANS: The Minister's answer raises an intriguing question in relation to the Crown because most of the obligations in the Act are on the employer. 'Employer' is defined to be the person by whom the employee is employed, obviously enough. In most of the cases in which the Crown is involved the Minister is the nominal employer. However, the Minister is saying that a Minister is not, in effect, himself bound by the Act, and that it is only the departmental head or whatever. In many cases the departmental head is not the employer: it is the Minister. Since the obligations are on the employer, alias the Minister, and the Minister is not bound, as I understand it, how are the employees then to receive the benefit if their employer is not bound?

The Hon. FRANK BLEVINS: Like the member for Elizabeth, who has joined this debate at this late stage, I am not a lawyer. Unless we want to wait and get some legal answers drafted which I can give him, there is otherwise no point in doing so. Suffice to say that this Act binds the Crown, and employees of the Crown have the protection of the Act. Whether Ministers have some other obligation because they are responsible to Parliament, I am not quite sure. I am sure that the member for Elizabeth has as much idea as I have of that, which is not the same as the member for Mitcham. However, as I said earlier, the State's principal law officer, the Attorney-General, will at great length go through all these questions when the Bill is before the Upper House. I am certainly not going to attempt to bring him here at 5.56 p.m.

Mr Oswald interjecting:

The Hon. FRANK BLEVINS: I would have liked some assistance from a lawyer on your side. It is an insult to the Liberal Party that it cannot get one as your preselection system fills the benches with dills. That person could have given me a hand.

Mr Lewis: Does the Minister mean that if someone is not a lawyer he is a dill?

The CHAIRMAN: Order! I ask the Minister to come back to the business before us, which is subclause (5).

The Hon. FRANK BLEVINS: Suffice to say that all employees of the Crown will have the protection of the Act.

Mr LEWIS: During the course of my second reading contribution I alluded to this clause. I drew the Minister's attention to two matters that he did not address in response. First, are shipping vessels such as cray boats covered by the Act? If so, how does the Minister square the provisions of the previous clause about making it all safe, and psychologically safe at that, when somebody suddenly gets a fear of being washed overboard or whatever? Whose fault is it if a deckhand cannot cope?

The Hon. FRANK BLEVINS: My information is that a cray boat is covered. In relation to the second part of the question, it would depend entirely on the circumstances of the case.

Mr LEWIS: While subclause (3) binds the Crown, I draw the Minister's attention to the fact that subclause (1) provides:

> This Act or specified provisions of this Act do not apply in relation to—
> *(a)* work or classes of work;
> or
> *(b)* workers or classes of workers,
> excluded by regulation from the application of this Act or specified provisions of this Act.

Therefore, the Minister in any department anywhere can oblige himself and his department by bringing in a regulation that excludes any provision of this Act that does not happen to suit him. Is that not so?

The Hon. FRANK BLEVINS: No. Regulations must come before Parliament. Parliament would do it, not the Minister.

Clause passed.

The CHAIRMAN: The time for this Bill has expired. It is now my intention to put the remainder of the amendments that have been circulated.

Mr S.J. BAKER: I rise on a point of order. I am not going to stand by and see this House treated in the disgraceful—

The CHAIRMAN: Order!

Mr S.J. BAKER: I am not going to stand by and see the Chairman of Committees and the ALP treat this House in the disgraceful way that it is doing at present.

The CHAIRMAN: Order! The member will resume his seat.

Mr S.J. BAKER: I will not resume my seat. We have not even debated this measure. It is all right for members on the other side to smile and laugh, but for a person—

The CHAIRMAN: Order! I order the member to resume his seat.

Mr S.J. BAKER: Sir—

The CHAIRMAN: Order! I name the member for Mitcham.

Mr S.J. BAKER: This is disgraceful, absolutely disgraceful.

The Speaker: having resumed the Chair:

Members interjecting:

The SPEAKER: Order!

Mr FERGUSON: Mr Speaker, I have to report that I have named the honourable member for Mitcham for persistently refusing to regard the authority of the Chair.

The SPEAKER: Order! The Chair is about to uphold the ruling of the Chairman.

Members interjecting:

The SPEAKER: Order! I am about to uphold the ruling of the Chairman of Committees, and in the process it is possible that I may end up having to name someone else.

The Hon. B.C. EASTICK: I rise on a point of order.

The SPEAKER: Order! In the process of upholding the point of order I name the member for Mitcham. Is that the point of order that the honourable member wishes to raise?

The Hon. B.C. EASTICK: I was going to ask whether you were going to give the member for Mitcham an opportunity to explain his position.

The SPEAKER: That is traditionally the next step. I call on the honourable member for Mitcham.

Mr S.J. BAKER: I have been in this Parliament for four years, and I have never seen—

Members interjecting:

The SPEAKER: Order!

Mr S.J. BAKER: —the process of debate cut off before this time. This is an extremely complex measure. We have been debating for some—

Mr GUNN: I rise on a point of order. Why has the member for Mitcham been named when other members on your side of the House are defying your ruling, Mr Speaker. The member for Fisher and the member for Mawson have both continued to interject, but no action has been taken against them.

The SPEAKER: Order! Prior to proceeding with the business before the House, which is receiving an explanation from the member for Mitcham, I point out that when I issued a caution to particular members in here, without mentioning them by name, it was not for the offence of interjecting *per se*; it was for certain members defying the Chair and, in particular, for the Standing Order which requires all members to assume total silence when the speaker is on his feet. The member for Mitcham.

Mr S.J. BAKER: This is the fourth year that I have been here, and at no time have we had debate restricted. In this case more than ever the Minister has found fit—

The SPEAKER: Order!

Mr S.J. BAKER: I am explaining my position, Sir. I spent an enormous amount of time putting together a debate which I think is worthy of Parliament. However, the debate is now being restricted. The Minister has had this Bill on file for five weeks. Parliament did not sit for five months. In the week before we did nothing. Now the Minister says that we must get this measure through the House.

I do not believe that anyone can condone the actions of the Minister or of this House. If this is the way that the Australian Labor Party wishes to carry on government in this place then so be it. Let every member of the press recognise that this Government has no desire to see this place work properly. We asked about this at the very beginning of the week, and I said that we needed two full days to debate this issue. However, we have had only eight hours on this issue. In 1981 the Government spent 34 hours debating one clause of an Industrial Conciliation and Arbitration Act Amendment Bill—one clause! Now, we have 24 pages of amendments and we cannot even consider them.

Mr GUNN: On a point of order—

The SPEAKER: No, I will not accept a point of order for the moment, because I wish to draw the attention of the member for Mitcham to the fact that he is supposed to be explaining why he defied an instruction from the Chairman of Committees. It is not a key matter of debate—although it may be ancillary—what the member for Mitcham's opinion may be about certain other matters. The member for Mitcham should continue with his explanation, but only in terms of explaining why he should have defied the ruling of the Chairman of Committees.

Mr S.J. BAKER: I believe that I have been unreasonably provoked. I believe that the right of speech has been taken away from this House. Anyone who believes that this House has become undemocratic should not sit in this House unless it becomes democratic. All those members who believe in the due processes of Parliament should stand up, because the due processes of Parliament have been denied in this circumstance. I have made it quite clear: I have cut down on the amount of debate during this period. I had a speech which could have gone on far longer. We have kept ourselves particularly tight during the Committee stages in order to facilitate the passage of this Bill, on which I believe we could have spent three or four days.

Members interjecting:

The SPEAKER: Order! The honourable member will have to resume his seat for a moment because of the discourtesy shown towards the House by the Deputy Leader of the Opposition.

The Hon. E.R. Goldsworthy interjecting:

The SPEAKER: Order! I warn the Deputy Leader of the Opposition.

The Hon. E.R. Goldsworthy: Well, don't bloody well provoke me!

Members interjecting:

The SPEAKER: Order! I name the Deputy Leader of the Opposition.

The Hon. E.R. Goldsworthy: Good luck to you!

Mr GUNN: I rise on a point of order. Why do you not name the member for Florey? He interjected and shouted—

Members interjecting:

Mr GUNN: On a point of order. We rise on a point of order.

The SPEAKER: Order! The member for Eyre has a point of order.

Mr GUNN: You named the Deputy Leader but you allowed the member for Florey to make the most outrageous statements against the member for Mitcham. In conformity with what you have done with the Deputy Leader, you must now apply the same ruling and name the member for Florey.

The SPEAKER: The Chair is not aware—

Mr GUNN: On a point of order—

Members interjecting:

The SPEAKER: Order!

The Hon. E.R. Goldsworthy: At least I will be allowed in to collect my papers, I hope. What a pain in the neck!

The SPEAKER: It appears that the Deputy Leader of the Opposition will not be present to issue an explanation as

to why he has been named. The honourable member for Eyre was in the course of making a point of order, and the Chair was in the position of pointing out that the most important matter before the House is the authority of the Chair. The member for Florey may or may not have been guilty of some transgression which missed the eye of the Speaker. However, what we have to concentrate on is the matter of defiance of the Chair, and that must have primacy above all else. The member for Mitcham is in the course of his explanation.

Mr GUNN: I rose to take a point of order and you, Sir, made me sit down because you again referred to the member for Mitcham. I took the point of order at the time the offence was committed. Therefore, it was in your hands. You, Sir, prevented me from informing you of the offence committed by the member for Florey. If you are going to be even-handed, you must name the member for Florey, because his conduct was just as bad as that which you allege against the Deputy Leader. Therefore, in conformity with fairness and Standing Orders, I request that you name the member for Florey.

The SPEAKER: Order! The Chair has heard enough of the member for Eyre's point of order to be aware of the point that he is trying to make. In response, the Chair will make two points: first, that it is traditional, when a member has been named, that the process of dealing with that particular member takes primacy over all other matters, and the Chair cannot be in the situation of having to name other members in that process.

However, secondly, the Chair was forced into that unfortunate situation because of the gross defiance on the part of the Deputy Leader of the Opposition. A third point that the Chair will now add is that it cannot give a ruling on the part of comments made by the member for Florey which the Chair honestly did not hear.

Mr S.J. BAKER: The great pity is that we are talking about a measure that results from some form of agreement between the Government and the Opposition. We have attempted to be totally constructive. If anyone looks through the speeches made in the House they will see that we have been more than constructive: we have facilitated debate, and to be told, after we have debated one major piece of legislation, namely, the Controlled Substances Act Amendment Bill, that we are still working on the same time frame is disgraceful. For the Minister to say, 'I am determined that this Bill is not going to be debated' is a disgrace to himself and to this Parliament, and the Leader of the Government on the other side is also a disgrace.

In the process they have not allowed the debate to follow its proper course. They were informed. The Deputy Leader of the Government was informed well before the event of our concerns about this, and they were never met. Despite the fact that the controlled substances debate continued longer than was expected, no arrangements were made to make up lost time.

This Parliament has sunk to a very low level when it allows not only the Minister but also the Deputy Premier to bring down the guillotine on a debate that is very important to South Australia. I have travelled in many countries of the world to find out what are the proper measures, and not to be able to express a point of view on the legislation before us is disgraceful.

The Minister came up to me during my second reading speech, which lasted two hours and probably should have lasted four hours, and said, 'We'll deal with this in Committee.' Of course, he knew that we would never finish the Committee debate, because there was no possibility of that happening. He has lied and cheated: he has cheated South Australia and this Parliament. I do not believe there is any place in Parliament for the Minister in view of how he has acted. There is no place for the Deputy Premier, either, who has been the Minister's cohort in this endeavour, and I am happy to leave Parliament.

Mr OLSEN (Leader of the Opposition): I move:

That the honourable member for Mitcham's explanation to the House be accepted.

The SPEAKER: Is the motion seconded?

Opposition members: Yes, Sir.

Mr GUNN (Eyre): I want to support the member for Mitcham, who has clearly outlined to Parliament how he was provoked in trying to put a clear point of view on behalf of the majority of electors of South Australia who believe that every clause of the Bill should at least be debated. The honourable member has on file a series of amendments which he has researched and discussed and which he wishes to put before Parliament. To be cut off in midstream is an undemocratic act and something that the overwhelming majority of the community will not accept.

Yesterday the Minister put on file, I think, a series of amendments which in themselves are complex and which we have been denied the right to even consider at any length. Of course, the member for Mitcham had to continue to speak on this matter so that he could clearly and precisely explain matters to the House and try to obtain information from the Minister. This is a most complex measure, as members would be aware.

If the member for Mitcham is not permitted to question the Minister on this clause, how are the people of South Australia expected to know the Government's intention? If one cannot debate matters in Parliament, where should they be debated—in the streets? This Parliament is elected to represent the community and to debate issues at length. It is not here for the convenience of the Deputy Premier; it is not here for the convenience of the Labor Party: it is here to debate the appropriate issues, and that is why we are here today. The member for Mitcham has given a clear and precise account of his actions which I believe should be accepted and supported. The honourable member should not be suspended from the service of this House when he is only carrying out his duty.

The Hon. D.J. HOPGOOD (Deputy Premier): I ask the House to reject this motion.

Mr Lewis interjecting:

The SPEAKER: Order!

The Hon. D.J. HOPGOOD: I do not have all the Standing Orders of Parliament in my head, but I do know enough to state that 'provocation' does not appear anywhere.

Mr Gunn interjecting:

The SPEAKER: Order!

The Hon. D.J. HOPGOOD: The only issue that is before us is whether the member for Mitcham wilfully and persistently disobeyed the call of the Chairman of Committees to resume his seat. Every member of this House knows that that is exactly what happened. It is a performance that I have not seen in all the 16 years I have been in this place. I believe that the member for Mitcham undertook a course of action which meant that he would continue to disobey the Chair until such time as he was named. In fact, that is exactly what happened.

The other matters raised in this debate are completely irrelevant. The matter of the machinery into which we are about to proceed was resolved by the House on Tuesday in the way that for some weeks now it has been resolved every week of sitting. Members have been aware throughout this

week that this eventuality could well arise. That aside, the issue before us is simply this: the honourable member has been named because of persistent and wilful interjection and defiance of the Chair. Everybody in this place knows that that is what happened, and the Chair deserves to be supported.

The Hon. E.R. Goldsworthy: I made perfectly clear to you on Monday that the program—

The SPEAKER: Order! The Deputy Leader of the Opposition is aggravating the existing situation.

The House divided on the motion:

Ayes (14)—Messrs Allison and S.J. Baker, Ms Cashmore, Messrs Chapman, Eastick, S.G. Evans, Goldsworthy, Gunn, Ingerson, Lewis, Meier, Olsen (teller), Oswald, and Wotton.

Noes (23)—Mr Abbott, Mrs Appleby, Messrs L.M.F. Arnold, Bannon, Blevins, De Laine, Duigan, M.J. Evans, and Ferguson, Ms Gayler, Messrs Gregory, Groom, Hamilton, Hemmings, and Hopgood (teller), Ms Lenehan, Messrs McRae, Mayes, Payne, Plunkett, Rann, Robertson, and Tyler.

Pairs—Ayes—Messrs P.B. Arnold, D.S. Baker, Becker, and Blacker. Noes—Messrs Crafter, Klunder, Peterson, and Slater.

Majority of 9 for the Noes.

Motion thus negatived.

Mr LEWIS (Murray-Mallee): I move:

That the House do now adjourn.

The SPEAKER: I do not accept that motion. The Chair must now direct the member for Mitcham to leave the Chamber.

Mr S.J. BAKER: Does that mean that I have to leave the Chamber?

The SPEAKER: That means that you have to leave the Chamber.

The honourable member for Mitcham having withdrawn from the Chamber:

The Hon. D.J. HOPGOOD (Deputy Premier): I move:

That the member for Mitcham be suspended from the service of the House.

The House divided on the motion:

Ayes (23)—Mr Abbott, Mrs Appleby, Messrs L.M.F. Arnold, Bannon, Blevins, De Laine, Duigan, M.J. Evans, and Ferguson, Ms Gayler, Messrs Gregory, Groom, Hamilton, Hemmings, and Hopgood (teller), Ms Lenehan, Messrs McRae, Mayes, Payne, Plunkett, Rann, Robertson, and Tyler.

Noes (13)—Mr Allison, Ms Cashmore, Messrs Chapman, Eastick, S.G. Evans, Goldsworthy, Gunn, Ingerson, Lewis, Meier, Olsen (teller), Oswald, and Wotton.

Pairs—Ayes—Messrs Crafter, Klunder, Peterson, and Slater. Noes—Messrs P.B. Arnold, D.S. Baker, Becker, and Blacker.

Majority of 10 for the Ayes.

Motion thus carried.

The SPEAKER: The Chair is now in the position of having been forced to name the Deputy Leader of the Opposition.

The Hon. E.R. Goldsworthy: You weren't forced to name me.

The SPEAKER: The Chair, in a conciliatory mood, would suggest to the Deputy Leader of the Opposition that he not further aggravate the situation.

Mr Lewis: How?

The SPEAKER: Order! The Chair was forced to name the Deputy Leader of the Opposition for gross and flagrant breach of Standing Order 169b regarding his refusal to conform to Standing Orders of the House, and in particular to regard the authority of the Chair. Does the Deputy Leader of the Opposition wish to make a personal explanation or an apology?

The Hon. E.R. GOLDSWORTHY (Deputy Leader of the Opposition): I certainly wish to make an explanation. I do not believe an apology is called for so I do not intend to make one. Your last comment, Sir, is typical of the way in which you treat some members of this House. You stated that you were forced to name me. You certainly were not forced. You chose to name me after an interchange between you and me—provoked, I suggest, by you, as the *Hansard* record will show if it is not tampered with in the meantime.

Members interjecting:

The Hon. E.R. GOLDSWORTHY: Mr Speaker, the fact is that you said yourself, in trying to maintain order later during the proceedings this evening, that members should not provoke the situation. I would suggest to you, Sir, that you have played a leading role in all of this in provoking the situation, and in particular in provoking me. This has been the first time in over 10 years that I have got really cross in this place. I might debate vigorously on occasions, but I do not lose my temper. The last time I remember getting really cross in this place would be well over 10 years ago. I do not deny that I got really cross tonight, and I got really cross for good reason.

I have been negotiating with the Deputy Premier since Monday about the week's program. I told the Deputy Premier at the first opportunity after discussing the week's program with my colleagues that I believed it was quite unreasonable. I told him what I believed was a reasonable program for the week, taking the work of the Parliament seriously, and not seeking to filibuster in any way. I also indicated to the Deputy Premier that on one occasion we took a whole week, when the Labor Party was in Opposition, to deal with one matter in relation to an amendment of the Industrial Code. That, of course, was a classic filibuster which we tolerated without using the guillotine. In no way did we seek this week to filibuster.

We have had three substantial Bills, two particularly controversial, to deal with. It has not been uncommon in this place to spend a week on one Bill, and even more common to spend time on two Bills. We had a particularly controversial Bill, namely the *de facto* legalisation of the use of marijuana on which members on both sides of the Parliament hold strong views. Members on both sides chose to debate that Bill. Of course, the Opposition members took their right of truncated depleted time—now 20 minutes per member—to debate the Bill. Not only do we have new Standing Orders which mean we cannot speak as long, but the Government, not content with that, wants to see that the Parliament is not given sufficient time to debate Bills.

I say in defence of the Deputy Premier that I have found him in latter weeks to be quite reasonable. I believe that he has been overridden today. I think that his better sense would have dictated that we adjourn this Bill and come back to it on Tuesday. Perhaps I am being charitable to him, but in my discussions with him it was made clear, as he said to me, in discussions with his colleagues that the axe was going to fall. I believe that that is making a complete travesty of this place. However, the Opposition has very little chance to say what happens in this place if the Government is going to use the jack boot, which is what it has chosen to do today and this week: the hobnailed jack boot. The Opposition is not worth a crumpet.

We have a Bill under discussion in this House where the Minister's own amendments have not been discussed—eight pages of amendments were presented to the Opposition last night, after the second reading debate, just before midnight.

We went home at midnight last night and got back here this morning, with not only our own extensive amendments to this very important Bill to deal with but a whole host of amendments dreamed up by the Government at the eleventh hour—or if they were not they were certainly not presented to the Parliament.

It was in that background that we approached the situation this afternoon—one which is completely unsatisfactory. I would have been content to sit through all this. We have had late nights this week and members are understandably a little on edge, particularly the Opposition members who have been choked off. To exacerbate this system, Sir, you sought to provoke the Opposition and, on this occasion, me in particular, with your remark. Your remark to me invited response. I gave a response, and was promptly named. I have no intention whatsoever of apologising. I repeat that it is the first time that I have lost my temper in this place for well over 10 years. It takes a bit to really stir me. I might debate vehemently, but I believe that I am well under control.

I believe, Sir, that you have contributed significantly to the events which have led to my naming. I deplore it. I did not expect to be named again during my Parliamentary career, because I know the limits of tolerance in this place. However, your provocative remark to me, Sir, extended beyond the bounds of my tolerance and under those circumstances I believe that you certainly have contributed to the situation in which I now find myself.

I do not know whether you are prepared, Sir, to stick with the sort of comment you made that you were forced to name me. You were not forced to do anything. You are in charge here; you chose to name me. That in itself was provocative, and does not reflect the proper role of the Speaker; nor did your earlier remarks, Sir. If you are prepared to back off a bit, I think that this place will work a lot more harmoniously. I trust that my explanation will be accepted.

Mr OLSEN (Leader of the Opposition): I move:

That the honourable Deputy Leader of the Opposition's explanation be accepted.

In moving this motion I think that it has to be recognised that, during the course of the week we have had to deal with two major pieces of legislation in one of which the Opposition was confronted with eight pages of amendments to a Government Bill during the course of a debate which is, in essence, eight hours—a major piece of legislation in South Australia.

We put clearly to the Government on Monday, when the program was being set for this week, that we did not believe that there was adequate time to debate the two pieces of legislation put down by the Government, and we requested that the matter be rolled over until Tuesday next.

We also gave a commitment to the Government that the first Bill, the controlled substances legislation, would be finished within a set time.

We did not like the time constraint put on us by the Government, but were prepared at least to attempt to work within the guidelines that the Government wanted to achieve for its legislative program this week. That controlled substances legislation went over time by several hours, through no fault of the Opposition. There were many participating in the debate who the Government had not advised of the cut-off time. It is the Government's responsibility and the responsibility of the Government Whip to consult all members on that side of the House, and it is the responsibility of the Whip on this side of the House to consult all members sitting on your left. The fact is that all members on this side of the House were apprised of the Government's wish and our agreement.

That was not the case on the Government side. In fact, we went over time through no fault or responsibility of the Opposition. Because of that, we believe that there should have been a little tolerance and understanding by the Government and those controlling the business of the House because it was the Government—not the Opposition—that erred. Government administrators erred. It is quite clear and well established where the problem occurred yesterday. Despite that, we then proceeded with this vitally important legislation currently before the House.

The Opposition has responsibilities, and it will exercise those responsibilities on behalf of all South Australians. Those responsibilities are to be the watchdog, to propose amendments where we do not agree with Government legislation and to question the Government on various measures within a Bill before the House. That is our responsibility and we will not shirk it. However, we must have the opportunity to discharge that responsibility. The opportunity to discharge that responsibility to the people who elected us and the wider South Australian community has been thwarted today by the activities of the Government in dropping the guillotine only halfway or thereabouts through a major Bill, despite the fact that the Government itself brought in about eight pages of amendments to its own Bill. Surely that is not fair and reasonable and surely it does not give this Parliament the opportunity to discharge its responsibilities to the South Australian electorate.

The Hon. E.R. Goldsworthy: There wouldn't have been time to deal with the Government's amendments, if that was all we were doing.

Mr OLSEN: Exactly. In addition, not only do we have the responsibility that I have mentioned but also the Opposition in this Parliament has some basic rights. The Government is hell-bent on taking away the rights of the Opposition in this Parliament. That has been amply demonstrated by the sitting program where we attempted to negotiate and played the game. So it is through no fault of ours—

The Hon. E.R. Goldsworthy: We kept the bargain.

Mr OLSEN: Yes, we kept the bargain and the program overran because the Government administrators erred in advising Government members about the program. We are now denied the right to continue to debate amendments on behalf of the Opposition because the Government wants to go home at 6 or 7 o'clock on Thursday night. The Government will devote no time next Tuesday to continue debate on what is a very important piece of legislation. In those circumstances, is it any wonder that the Deputy Leader, who is responsible for the control of business of the House on behalf of the Opposition, reacted in the way he did when the agreement was breached and when the responsibilities that we attempted to discharge were thwarted. Is that any reason for the guillotine to be dropped?

Mr Speaker, you provoked the Deputy Leader into responding. Given the circumstances that prevailed, there is no doubt in the heat and tension that was prevailing in the Chamber at that time that you, Sir, with your side remark to the Deputy Leader provoked a response from him. In those circumstances, and given that background, I believe that the explanation by the Deputy Leader is fair and reasonable and that, on the basis of parliamentary democracy, it should stand and be accepted.

The Hon. JENNIFER CASHMORE (Coles): I second the Leader's motion that the Deputy Leader's explanation be accepted. I urge you, Sir, and the House to consider the

context in which this event occurred and consider what I suggest was the unendurable provocation to which the Deputy Leader was subjected and which led to the events that have occurred. The context in which these events occurred began when the guillotine was brought down on clause 4 of a Bill comprising 68 clauses. The Opposition has been preparing for this Bill for many months. The Deputy Leader was defending his colleague the member for Mitcham who, as the member himself said, has travelled all over the world in order to do the necessary research so that he could do justice to the Opposition's responsibility of scrutinising this legislation in the interests of the people of South Australia.

An enormous amount of time, effort and trouble has been put in by the Opposition. Imagine then the feelings of a member who receives the guillotine at clause 4 of a 68 clause Bill, with as yet to be debated no less than 17 Government amendments and 29 Opposition amendments. I ask, Mr Speaker, with what contempt does the Government treat the Parliament when its own amendments are not given time to be debated, and when important Opposition amendments, which have been discussed with interest groups who will be affected by this legislation, have not been put to the House? That is beyond reason, and I suggest that it is beyond endurance. It is on the basis of that situation that the Deputy, in an effort to defend his colleague the member for Mitcham, who in turn was trying to uphold the rights of the Opposition and therefore the rights of the electorate in this State, was forced into the course of action that he took.

I think it is important when considering the Deputy's explanation to consider the purpose for which Standing Orders are established, and quite clearly that is to maintain order in the House. But behind that purpose is a deeper purpose—that order be maintained so that the rights to free speech can be maintained. What happened in this House this evening was a blatant and contemptible curtailment of the right of free speech—moved by the Government, upheld by the Chair—the Opposition being left with no alternative but to protest in the only way possible. That was what occurred and I believe that in all the circumstances both the member for Mitcham's actions and the Deputy Leader's, in upholding the member for Mitcham's actions, were justified, and in all those circumstances I believe that a sympathetic review of the situation, in the interests of the House and the people of South Australia, should occur, and I urge the House to accept the Deputy Leader's explanation.

The Hon. D.J. HOPGOOD (Deputy Premier): The Opposition has again chosen this opportunity to raise the whole question of the guillotine, rather than the matters that are currently before us. The Deputy Leader of the Opposition has said that you, Sir, did not have to name him—but the Deputy Leader did not have to lose his temper. Displays of temper and petulance can be tolerated, but not when they impinge on the authority of the Chair. I ask members to reject this motion.

Mr S.G. EVANS (Davenport): I find that I have to support the proposition that the explanation be received. In so doing I point out that I believe that it is the bad management of this Parliament that has got us into this situation. I say quite sincerely that it is bad management. The Minister can talk about the use of the guillotine and that that matter should not be debated, but it is bloody-mindedness on the part of the Government to say that this Parliament will pass a Bill (which the Government says is important and most people in this State, I think, believe is important) without members being able to debate Government amendments, let alone Opposition amendments.

I have no amendments to this Bill on file. During last week's sitting we finished at 10.28 p.m. on Tuesday, 6.23 p.m. on Wednesday and 3.51 p.m. on Thursday afternoon, but this week we sat until midnight two nights in a row and then ran into trouble at 6 p.m. tonight. I say it is bad management. I have raised this matter with you, Mr Speaker, by way of motion and personal approach, pointing out that we need to get to the point of having proper management and ensuring that Parliament sits for the appropriate amount of time that is necessary to discuss issues. For the Government to abuse the powers—

The SPEAKER: Order! The Chair has been fairly tolerant about the degree of relevance allowed in the course of remarks made by those members wishing to speak on the motion 'the Deputy Leader's explanation be accepted'. But the member for Davenport is certainly getting very far off the mark at the moment by referring to another matter that he has before the House.

Mr S.G. EVANS: I will not refer to that any more. However, I say that the Deputy Leader made the point in his explanation that matters came to the point of the member for Mitcham's becoming, if you like, upset, because of the process by which the Bill was being forced through the House, and because of the Government's using its numbers to abuse the proper processes of Parliament.

You, Sir, as Speaker, have a responsibility to do all in your power to give as much opportunity as possible to people to debate issues and, if possible, have some tolerance with the position that individuals like the Deputy Leader and the member for Mitcham were placed in. I have to support the explanation from the Deputy Leader because I believe he has been forced into a situation that all of us could take up on this side of the Chamber because of the abuse of power by the Government that no-one seems set to try to correct.

The SPEAKER: Order! Does any other member wish to speak?

The Hon. B.C. EASTICK: Mr Speaker—

Members interjecting:

The Hon. B.C. EASTICK: That is another denial of right.

The SPEAKER: Order!

The Hon. B.C. EASTICK: That is an interesting little grumble from the Minister and the member for Hartley—yet another incident where members opposite would have the Opposition throttled. Mr Speaker, I briefly comment that on the earlier occasion that the Deputy Premier spoke he indicated that he had never seen a performance like this before. I indicate that he is the architect of the program and, therefore, responsible for the performance.

The SPEAKER: Order! Before putting the question before the House in relation to the Deputy Leader of the Opposition I have obtained a rough *Hansard* transcript of the interchange that took place between myself and the Deputy Leader. In bringing that to the attention of the House I am aware that in one sense the Speaker is in a privileged position in having immediate access to those first rough transcripts. The Chair is also aware that they are rough transcripts and cannot be guaranteed as being 100 per cent accurate. Nevertheless, they contain a reasonable guide as to what transpired in the House a few minutes ago. At the time that the House was attempting to hear the explanation of the member for Mitcham the record shows Mr Gunn interjecting, and does not show the Deputy Leader of the Opposition interjecting at the same time. However, the Speaker then called:

Order! The honourable member—

meaning the member for Mitcham—

will resume his seat for the moment because of the discourtesy shown towards the House by the Deputy Leader of the Opposition.

The transcript then shows the Hon. E.R. Goldsworthy interjecting. It then shows:

The SPEAKER: Order! I warn the Deputy Leader of the Opposition.

The Hon. E.R. Goldsworthy: Well, don't bloody well provoke me!

The SPEAKER: Order! I name the Deputy Leader of the Opposition.

The Hon. E.R. Goldsworthy: Good luck to you!

Mr GUNN: I rise on a point of order. I move:

That debate be adjourned so that the Opposition can examine the *Hansard* transcript.

It is not fair that the Opposition has not had an opportunity to examine the *Hansard* transcript when it is being used in your defence, Mr Speaker, not in the defence of the Deputy Leader.

The SPEAKER: Order! The Chair will not entertain that as a procedural motion. However, with leave of the House the Chair is prepared to pause for a minute or so to give the Deputy Leader of the Opposition time to peruse the transcript.

The House divided on the motion:

Ayes (12)—Ms Cashmore, Messrs Chapman, Eastick, S.G. Evans, Goldsworthy, Gunn, Ingerson, Lewis, Meier, Olsen (teller), Oswald, and Wotton.

Noes (21)—Mrs Appleby, Messrs L.M.F. Arnold, Blevins, De Laine, Duigan, M.J. Evans, and Ferguson, Ms Gayler, Messrs Gregory, Groom, Hamilton, Hemmings, and Hopgood (teller), Ms Lenehan, Messrs McRae, Mayes, Payne, Plunkett, Rann, Robertson, and Tyler

Pairs—Ayes—Messrs Allison, P.B. Arnold, D.S. Baker, Becker, and Blacker. Noes—Messrs Bannon, Crafter, Klunder, Peterson, and Slater.

Majority of 9 for the Noes.

Motion thus negatived.

The Hon. D.J. HOPGOOD (Deputy Premier): I move:

That the Deputy Leader of the Opposition be suspended from the sittings of the House.

The House divided on the motion:

Ayes (21)—Mrs Appleby, Messrs L.M.F. Arnold, Blevins, De Laine, Duigan, M.J. Evans, and Ferguson, Ms Gayler, Messrs Gregory, Groom, Hamilton, Hemmings, and Hopgood (teller), Ms Lenehan, Messrs McRae, Mayes, Payne, Plunkett, Rann, Robertson, and Tyler.

Noes (11)—Ms Cashmore, Messrs Chapman, Eastick, S.G. Evans, Gunn, Ingerson, Lewis, Meier, Olsen (teller), Oswald, and Wotton.

Pairs—Ayes—Messrs Bannon, Klunder, Crafter, Slater, and Peterson. Noes—Messrs Allison, Becker, P.B. Arnold, D.S. Baker, and Blacker.

Majority of 10 for the Ayes.

Motion thus carried.

Mr GUNN: I now wish to raise my point of order. When the member for Mitcham was addressing the House I attempted to rise to draw to your attention, Mr Speaker, the action of the member for Florey, who was, quite discourteously, making threats against and endeavouring to prevent the member for Mitcham carrying out his explanation. You have named the Deputy Leader for being discourteous and for other reasons. The member for Florey was observed by my other colleagues here in relation to this matter. You prevented me from drawing the attention of the House to the matter at that time. I therefore ask you that you be consistent—that the same rules apply to the member for Florey and that he will also be named.

The SPEAKER: Order! First, the matters that have just transpired hinge around the question of defiance of the authority of the Chair, which is the most serious offence that can take place within the Parliament. Secondly, the Chair was not in a position to be able to name the member for Florey because the Chair had not observed the transgression which had allegedly taken place on the part of the member for Florey. It would appear to the Chair that the correct procedure for the member for Eyre should have been to call on the member for Florey to withdraw his remarks, if the member for Florey actually did make some unparliamentary remark.

Mr GUNN: I rise on a further point of order. I attempted to do that, but you, Sir, refused to allow me to get to my feet. You asked me to resume my seat. You would not allow me to take a point of order at that time, so I was denied the opportunity. This is the first chance I have had. What was said was intimidating to the member for Mitcham and to other members of the House and I believe that the member for Florey should be named, in conformity with Standing Orders.

The SPEAKER: The Chair cannot uphold that point of order.

Mr GUNN: On a further point of order. It would appear that there is some misunderstanding of Standing Orders on your behalf, Sir, or on mine. The Chair must be even-handed. I have taken exception to the threatening gestures of the member for Florey and yet you, Mr Speaker, have acted most harshly with the member for Mitcham and the Deputy Leader. Even when the *Hansard* record indicates that I, not the Deputy Leader, could have been one of the offenders, the Deputy Leader has been named. We had little time to consider the *Hansard* record. Members opposite seem to be able to get away with that sort of conduct, but many members on this side during that period were asked to sit down and denied their right to take a point of order. I believe that at the very least the member for Florey should be called upon to withdraw, but he should be named so that there is consistency in complying with the Standing Orders of this House.

The SPEAKER: Order! The Chair has made every endeavour since assuming the office to be as even handed as possible. There have been occasions when the Chair might have been for too conciliatory towards some members in the interests of preventing quarrels and being even-handed. The Deputy Leader was named not for interjecting but for defiance of the Chair. There is no point of order.

Mr GUNN: I require a withdrawal by the member for Florey for his threatening gestures towards the member for Mitcham and telling him to resume his seat.

The SPEAKER: The member for Mitcham may or may not have been aggrieved by remarks that may or may not have been made by the member for Florey. It was incumbent on the member for Mitcham, if so aggrieved, to move in that way.

Mr GUNN: A further point of order, Mr Speaker. It was offensive not only to the honourable member but also to all members on this side who observed the action. It is hard to understand that you, Sir, can take such firm action with members on this side but you will not even call on the member for Florey to be courteous, to do the right thing and withdraw that conduct which was intimidating to members on this side.

The SPEAKER: There is no point of order. The Chair wishes to make clear that the most serious offence in the eyes of the Chair is defiance of the Chair and it is on matters of that nature that the Chair will be most strict.

Mr GREGORY (Florey): I seek leave to make a personal explanation.

Leave granted.

Mr GREGORY: According to my recollection, I interjected, 'Speak up, I can't hear you'. If I said that and if it is offensive, I withdraw it.

The Chairman having resumed the Chair:

The Hon. B.C. EASTICK: I rise on a point of order. There is a series of amendments in the name of the member for Mitcham. It is my intention, with your concurrence, Sir, to take the voting on those amendments. In the first instance, I seek your concurrence that that is in order. It is the practice of this Committee when a series of amendments has been distributed in the name of a member and that member is not in his place, for a variety of reasons, that that situation applies. Is it your intention, Sir, that that be permitted on this occasion?

The CHAIRMAN: I cannot accede to the request of the member for Light.

Members interjecting:

The CHAIRMAN: Order! Standing Orders require that amendments be put forward to the House one hour before the suspension. As the amendments are now in the name of the member for Mitcham and he is not available, I am afraid that I cannot accede to the request.

The Hon. B.C. EASTICK: On a point of order, Sir, if it is a reasonable expectation of people in this place that consistency will apply, how is it that you accepted amendments by me to a Bill which my colleague the member for Eyre was handling on vertebrate pests and plants which had been circulated only in his name but which I put in this place two or three weeks ago? That situation has applied on many occasions in the past, and I am asking for a consistent decision.

The CHAIRMAN: I will take further advice. I would like to hear the Deputy Premier, before the answer. This may resolve—

Mr Olsen: Who's running this place?

The CHAIRMAN: Order!

The Hon. B.C. EASTICK: On a point of order, Mr Chairman, I acknowledge the call that you have made to the Deputy Premier, who is going to seek to find an 'out', but I make the point that it is not the Deputy Premier who rules the Committee stage or the Speakership stage. What has been just demonstrated is an indication of Executive Government interfering with the activities of the Parliament. I have asked you, Mr Chairman, with the advice available to you, to make a decision, and not a decision which the Deputy Premier is going to tell you to make.

The CHAIRMAN: I still cannot accept the proposition put by the member for Light. The circumstances of his amendments are quite different to these circumstances—

The Hon. D.C. Wotton: Why are they?

The CHAIRMAN: Because if this proposition was acceptable, and I was to accept the proposition, the member for Mitcham would avoid the consequences of his suspension.

The Hon. B.C. EASTICK: On a further point of order, Mr Chairman, I indicate that, whilst the amendments may be in the name of the member for Mitcham, he is leading the debate for the whole of the Opposition. What you have just suggested is a denial to the Opposition of a consideration of the amendments it has put in proper form.

The Hon. D.J. HOPGOOD: I would like to suggest a procedure to assist here. I am not sure why the member for Light imputed certain motives to me when I tried to get to my feet a few moments ago.

Members interjecting:

The CHAIRMAN: Order!

The Hon. D.J. HOPGOOD: What I intended to say and will still say, despite provocation from members opposite, is that the Government has no objection to the member for Light sponsoring, as it were, the amendments of the missing member for Mitcham. I have taken further advice, and it would appear that the only procedure we can follow is to report progress so that we can suspend Standing Orders so far as to enable the member for Light to so sponsor those amendments. The Government is quite happy to do that, and in the circumstances I so move.

Progress reported; Committee to sit again.

The Speaker having resumed the Chair:

The Hon. D.J. HOPGOOD (Deputy Premier): I move:

That Standing Orders be so far suspended as to enable the member for Light to move those amendments standing in the name of the member for Mitcham.

The Hon. JENNIFER CASHMORE: I rise on a point of order, Mr Speaker. Will the Speaker advise the House which Standing Order is being suspended to enable a member to move amendments that are in the name of another member, which has been a custom and practice of this House, as demonstrated by the member for Light, for some considerable time?

The SPEAKER: Standing Order 144a. I have counted the number of the House and, there being present an absolute majority of the whole number of the members of the House, I accept the motion. Is it seconded?

Honourable members: Yes.

The SPEAKER: The question before the Chair is that the motion be agreed to. For the question say, 'Aye'; against 'No'. I hear no dissentient voice and there being present an absolute majority of the whole number of members of the House, the motion for suspension is agreed to.

Motion carried.

The Hon. D.J. HOPGOOD (Deputy Premier): I move:

That consideration in Committee of the Occupational Health, Safety and Welfare Bill be resumed.

The SPEAKER: Is the motion seconded?

Honourable members: Yes.

The Hon. JENNIFER CASHMORE: I rise on a further point of order, Mr Speaker. Before the motion is put I ask you to explain the response you just gave to my request for an explanation of the Standing Order which was being suspended. Standing Order 144a refers to limitation of debate and the guillotine. In the time that has so far elapsed, I have been unable to find anything in that Standing Order relating to the right of a member to move amendments on behalf of another member. The Standing Order does not even appear to deal with that particular issue.

The SPEAKER: The Chair will give an explanation privately, if that is required.

The Hon. JENNIFER CASHMORE: I rise on a further point of order. If an explanation is sought from the Chair, I know of no precedent which enables the Chair to give a private explanation and not an explanation to which the House is entitled to be privy. I believe that the House should know what Standing Order is being suspended, particularly before we vote upon this matter. As far as I can see from my reading of Standing Order 144a, it bears no relationship to the ruling which the Speaker has just given. I do not believe that in those circumstances a private explanation to me, as member for Coles, is good enough, nor is it in any way to do with the traditions and forms of the House. For the record, I believe that the explanation of your ruling should be put on the *Hansard* record for all to see so that the somewhat extraordinary convolutions of this evening can be used as a guide for the future if such events occur again.

The SPEAKER: The question before the Chair is that the Occupational Health, Safety and Welfare Bill in Committee be resumed. For the question—

The Hon. JENNIFER CASHMORE: I rise on a further point of order, Mr Speaker. I have raised what I believe is a valid point of order and I have not as yet received an explanation. I would be grateful, as I believe my colleagues and the rest of the House would be grateful, for an explanation of your ruling on Standing Order 144 and its relevance to the motion before the Chair that the Standing Orders be suspended be explained to the House.

The SPEAKER: The Chair does not uphold the point of order.

Mr LEWIS (Murray-Mallee): I move:

That this House no longer has confidence in you.

The SPEAKER: Is the member bringing that up in writing?

Mr Lewis: Yes.

The SPEAKER: The honourable member for Murray-Mallee states:

That the House no longer has confidence in you as Speaker because you failed to give a satisfactory explanation to the point of order taken by the member for Coles.

Is the motion seconded?

An honourable member: Yes, Mr Speaker.

Mr LEWIS: It grieves me to have to do this—it really does. Earlier this year the forms and procedures of this House were changed by Executive Government without consultation with the Chamber, unilaterally, and without prior notice. As a consequence of the change in those arrangements, the House came into some disorder, during the course of which I believe I was unjustly named and suspended from the service of the House. As it is in this instance again, Mr Speaker, you, not in consultation with Standing Orders (as originally printed in 1972 and subsequently amended) or with any of the learned documents and publications on the table of the House but on whim and perhaps in consultation with other members of Executive Government, decided to spuriously take a procedure and give a reason for that procedure which in no way relates to the procedure on which you took that decision.

For the sake of honourable members I ask them to consider the reason why it was necessary for the House to report progress from Committee and then for you, Sir, having received the report of progress, to permit the course of action that you directed should be followed, giving Standing Order 144a. I will read that Standing Order for the benefit of members, from whom I seek the commonsense interpretation that must be made by them. Notwithstanding your good intentions, Sir, to allow the debate to proceed on the substantive matter before the House, by this device you sought to save the face of the Chairman of Committees. In so doing, you have set a precedent, if the House upholds your decision. Standing Order 144a provides:

On the reading of a message from the Governor recommending an appropriation in connection with any Bill, on the calling on of a motion for leave to introduce a Bill or at any stage of a Bill or on the consideration of Legislative Council amendments or suggested amendments to a Bill, a Minister may forthwith, or at any time during any sitting of the House or Committee and whether any other member is addressing the Chair or not, move a motion or motions—no amendment or debate being allowed—specifying the time which shall be allotted to all or any of the following:

That is the 'Limitation of debate (guillotine)'. It has nothing whatsoever to do with the procedure with which you were dealing, Sir. To ensure that honourable members understand, the Standing Order continues:

(i) The initial stages of the Bill up to, but not inclusive of, the second reading of the Bill;
(ii) The second reading of the Bill;
(iii) The Committee stages of the Bill;
(iv) The remaining stages of the Bill;
(v) The consideration of Legislative Council amendments or suggested amendments to the Bill.

and the order with regard to the time allotted to the Committee stage of the Bill may, out of the time allotted apportion a certain time or times to a particular clause or clauses or to any particular part or parts of the Bill.

It is all to do with the guillotine—nothing whatever to do with giving, as it were, the Chairman of Committees the right to decide to breach a precedent that has stood for as long as I have been in this place, that is, that once amendments have been circulated by a member, in the event that that member is not present in the Chamber, the amendments may be taken in Committee by some other member, whether nominated by him or not, to ensure that the House has the opportunity to consider them. Standing Order 144a *(b)* provides:

When any motion of any kind whatsoever has been moved, a Minister may forthwith or at any time during a sitting of the House or Committee and whether any other member is addressing the Chair or not, move a motion specifying the time which shall be allotted to the motion—no amendment or debate being allowed—if the debate be not sooner concluded, then forthwith upon the expiration of the allotted time the Speaker or Chairman of Committees shall put any questions on any amendment or motion already proposed from the Chair.

Again, that has nothing to do with whether or not the Chairman can decide to accept in this instance a precedent that has been established over a long period of time—for as long as I have been here—that it is possible for any other member to take the amendments standing in the name of another member. Then, Standing Order 144a *(c)* provides:

For the purpose of bringing to a conclusion any proceedings which are to be brought to a conclusion on the expiration of the time allotted under any motion passed under any of the preceding paragraphs of this Standing Order, the Speaker or the Chairman shall, at the time appointed under the motion for the conclusion of those proceedings, put forthwith any question already proposed from the Chair and any other question requisite to dispose of the business before the House or Committee, including, when considering any Bill in Committee or any Legislative Council amendments or suggested amendments to a Bill, any amendment, new clauses and schedules, copies of which have been circulated among members one hour at least before the expiration of the allotted time. No other amendments, new clauses or schedules may be proposed.

Standing Order 144a *(c)* does not preclude the possibility of the Chairman following a precedent that has been set for as long as I have been a member of this place; nor does it give you, Mr Speaker, the responsibility or the requirement to authorise the Chairman to so behave. Next, Standing Order 144a *(d)* provides:

Where any time has been specified for the commencement of any proceedings in connection with any business under this Standing Order, when the time so specified has been reached the business, whatsoever its nature be then before the House or Committee shall be postponed forthwith, and the firstmentioned business shall be proceeded with, and all steps necessary to enable this to be done shall be taken accordingly.

To my mind, that does not in any way address itself to the set of circumstances to which the member for Coles drew attention and upon which you, Sir, cited this Standing Order as your authority. Standing Order 144a *(e)* provides:

Standing Order No. 186 shall not apply to any proceedings in respect of which time has been allotted in pursuance of this Standing Order.

Standing Order 186 provides:

The closure motion 'That the question be now put', moved at any time and seconded, shall take precedence of all other business.

It was not that, either. That is not what we were about. So, it is for that reason I stand here, regrettably, having to draw the attention of the House to the fact that for the second time this year a serious departure from the practices and

precedents and Standing Orders of this place is being made—unless the House decides to agree with me and pass the motion that I have put. If we do not do that, then we are indeed such whimps as to fail in our responsibilities utterly as elective representatives of the people, to do the business, according to the rules that we have already accepted, that we have duly brought before the Chamber, in the course of determining what should be done in the best interests of the people of South Australia. It is on that basis that I put forward this proposition.

The Hon. D.J. HOPGOOD (Deputy Premier): I urge the House to reject the motion. It seems to me that this is an attempt by the honourable member to delay the proceedings of the Chamber. I believe that you, Sir, have acted properly in this matter.

Mr Lewis: That is a reflection on me.

The Hon. D.J. HOPGOOD: It is meant to be.

The SPEAKER: Order! The member for Light.

The Hon. B.C. EASTICK: I ask you, Mr Speaker, to rule that to impute an action against another member of the nature that has just been proposed by the Deputy Premier is not parliamentary and does the Deputy Premier little justice.

The SPEAKER: Order! In spite of the number of imputations that have already been hurled around the Chamber today the Chair upholds the point of order of the member for Light and asks the Deputy Premier to redirect his remarks away from that direction.

The Hon. D.J. HOPGOOD: In those circumstances I am only too happy to proceed in accordance with your ruling, Sir. Let me proceed. What we have been attempting to do for the past 25 minutes is facilitate a wish that was expressed by the member for Light. As I understand it, we effectively have, because the motion for the suspension of Standing Orders has been carried. I moved that we go out of Committee so that we would be able to have this procedure. I moved a motion for the suspension of Standing Orders, and that was carried unanimously.

At that stage, as I recall it, the member for Coles asked for an interpretation from you, Mr Speaker, and it is clear enough for my purposes. However, I understand that you, Sir, in seeking to expedite the business of the House, indicated to the honourable member that you would be happy to give her an explanation. That seems to me to be very slender evidence on which the House should withdraw from you its confidence. For the benefit of honourable members, I draw their attention to Standing Order 144a *(c)*, where it is perfectly clear that the sort of informal arrangement that seems to have grown up during the Committee stage of Bills is overriden by the exact verbiage of paragraph *(c)*, which provides that any amendment or new clauses must be circulated among members. It is the clear implication there that they attach to a particular honourable member. The Chairman of Committees ruled correctly on that matter, and the only way out of it if the House wanted to assist the member for Light, as we do, was to proceed in the way that we have. That seems to me to be a perfectly tolerable procedure, and I can see no reason why we should proceed further with a matter that has now been put before us by the member for Murray-Mallee.

I do not know whether honourable members now are starting to repent of the vote that they just took. I assume that they are not. I assume that they do want to assist the member for Light in his desire to be the further sponsor of the amendments of the member for Mitcham. In fact, we have done that, and I suggest that we reject this motion and get on with the business.

The Hon. JENNIFER CASHMORE (Coles): I wish to point out that had you, Mr Speaker, responded to my request for clarification by pointing out the very matter to which the Deputy Premier has just alluded, the motion before the Chair would doubtless not have been moved.

The Hon. D.J. Hopgood interjecting:

The SPEAKER: Order!

Mr Lewis interjecting:

The SPEAKER: Order! As the Chair sees it, the four most important priorities of the Chair are: first, to uphold the authority of the Chair; secondly, to prevent disputes; thirdly, to protect members' rights; and, fourthly, to expedite the business of the House. The member for Coles did not raise a point of order *per se* but called for an explanation which the Chair was not obliged to give and chose not to give in order to expedite the business of the House.

Motion negatived.

The Chairman having resumed the Chair:

The CHAIRMAN: In accordance with the resolution passed by the House, the amendments provided by the member for Mitcham are now in the name of the member for Light and are deemed to be his amendments. It is my intention to put *seriatim* and without debate the remainder of the amendments as circulated by the Minister and the member for Light as well as the remaining clauses of the Bill and, if there are any amendments with which either the Minister or the member for Light do not wish to proceed, would they indicate that fact, and we can proceed, provided that it is without debate.

Clause 6—'Non-derogation.'

The Hon. B.C. EASTICK: I move:

Page 5, line 10—Leave out 'The' and substitute 'Subject to subsection (1a), the'.

The Committee divided on the amendment:

Ayes (11)—Mr Allison, Ms Cashmore, Messrs Chapman, Eastick (teller), S.G. Evans, Gunn, Ingerson, Lewis, Olsen, Oswald, and Wotton.

Noes (21)—Mrs Appleby, Messrs L.M.F. Arnold, Blevins (teller), De Laine, Duigan, and M.J. Evans, Ms Gayler, Messrs Gregory, Groom, Hamilton, Hemmings, and Hopgood, Ms Lenehan, Messrs McRae, Mayes, Payne, Plunkett, Rann, Robertson, Trainer, and Tyler.

Pairs—Ayes—Messrs P.B. Arnold, D.S. Baker, Becker, Blacker, and Meier. Noes—Messrs Bannon, Crafter, Klunder, Peterson, and Slater.

Majority of 10 for the Noes.

Amendment thus negatived.

The Hon. B.C. EASTICK: I move:

Page 5, after line 11—Insert new subclause as follows:

(1a) In the event of an inconsistency between this Act or a code of practice under this Act and the Equal Opportunity Act, 1984, this Act (or the code of practice) prevails.

Amendment negatived.

The Hon. B.C. EASTICK: I move:

Page 5, lines 12 to 14—Leave out subclause (2) and insert new subclauses as follow:

(2) Subject to subsection (3), the provisions of this Act do not limit or derogate from any civil right or remedy.

(3) Where, in respect of a matter relating to the health or safety of another, a person—

(a) complies with this Act;

or

(b) acts in accordance with a recommendation of the Commission or a direction of an inspector in relation to that matter,

the person is indemnified by the Crown against any common law claim that may be made by that other person in relation to the matter for a breach of any duty of care.

Amendment negatived; clause passed.

Clause 7 passed.

Clause 8—'Membership of the commission.'

The Hon. B.C. EASTICK: I move:

Page 5, line 35—Leave out '10' and insert '9'.

Amendment negatived.

The Hon. B.C. EASTICK: I move:

Page 6, line 3—Leave out 'consultation with' and insert 'taking into account the recommendations of'.

Amendment negatived.

The Hon. B.C. EASTICK: I move:

Page 6, line 5—Leave out 'consultation with' and insert 'taking into account the recommendations of'.

Amendment negatived.

The Hon. B.C. EASTICK: I move:

Page 6, lines 8 to 12—Leave out the word 'and' and paragraph *(f)*.

Amendment negatived.

The Hon. B.C. EASTICK: I move:

Page 6, after line 14—Insert new paragraph as follows:

(aa) the need for the Commission to consist of members who have extensive knowledge of and experience in occupational health, safety and welfare;.

Amendment negatived; clause passed.

Clause 9—'Terms and conditions of office.'

The Hon. B.C. EASTICK: I move:

Page 6, line 23—After 'years' insert 'in the case of the full-time member and not exceeding 3 years in any other case'.

Amendment negatived; clause passed.

Clauses 10 to 13 passed.

Clause 14—'Functions and powers of the commission.'

The Hon. FRANK BLEVINS: I move:

Page 8, line 31—Leave out 'issue' and insert 'prepare'.

The Committee divided on the amendment:

Ayes (21)—Mrs Appleby, Messrs L.M.F. Arnold, Blevins (teller), De Laine, Duigan, and M.J. Evans, Ms Gayler, Messrs Gregory, Groom, Hamilton, Hemmings, and Hopgood, Ms Lenehan, Messrs McRae, Mayes, Payne, Plunkett, Rann, Robertson, Trainer, and Tyler.

Noes (11)—Mr Allison, Ms Cashmore, Messrs Chapman, Eastick (teller), S.G. Evans, Gunn, Ingerson, Lewis, Olsen, Oswald, and Wotton.

Pairs—Ayes—Messrs Bannon, Crafter, Klunder, Peterson, and Slater. Noes—Messrs P.B. Arnold, D.S. Baker, Becker, Blacker, and Meier.

Majority of 10 for the Ayes.

Amendment thus carried.

The Hon. B.C. EASTICK: By your leave, Mr Chairman, I believe it has already been demonstrated that this debate has been forced into a farcical situation. The Opposition could very easily call for a division on every one of the issues that remain on the Notice Paper—all 46 of them. The manner in which Government has processed this Bill before the House does not, I suggest, do any good for the image of Parliament, and the Opposition will not continue this farcical situation. We will call for no further divisions.

The Hon. FRANK BLEVINS: I move:

Page 8, lines 35 and 36—Leave out paragraph *(f)*.

Amendment carried.

The Hon. B.C. EASTICK: I move:

Page 9, line 27—Leave out 'if it thinks fit' and insert 'so far as reasonably practicable'.

Amendment negatived.

The Hon. B.C. EASTICK: I move:

Page 10, after line 3—Insert new subclause as follows:

(6a) The Commission may engage experts to assist in the performance of its functions or to advise it in relation to any technical matter.

Amendment negatived.

The Hon. B.C. EASTICK: I move:

Page 10, after line 13—Insert new subclause as follows:

(9) The Commission shall prepare and publish guidelines to assist people who are subject to the operation of this Act and in particular guidelines relating to—

(a) the responsibilities of employers, workers, occupiers of workplaces and manufacturers under this Act;

(b) the formation of work groups;

(c) the establishing of health and safety committees;

(d) the procedures and functions of health and safety committees;

and

(e) the resolution of health, safety or welfare issues.

Amendment negatived; clause as amended passed.

Clause 15—'Commission to have regard to various differences in the work force.'

The Hon. B.C. EASTICK: I move:

Page 10, after line 24—Insert new subclause as follows:

(2) The Commission should, so far as reasonably practicable, ensure that any guideline or information provided for use in the workplace is in such languages and form as are appropriate for those expected to make use of it.

Amendment negatived; clause passed.

Clause 16—'Delegation.'

The Hon. B.C. EASTICK: I move:

Page 10, after line 27—Insert new paragraph as follows:

(aa) may not be made to a registered association or a health and safety representative;.

Amendment negatived; clause passed.

Clauses 17 and 18 passed.

Clause 19—'Duties of employers.'

The Hon. B.C. EASTICK: I move:

Page 11, lines 43 and 44—Leave out '(in such languages as are appropriate)'.

Amendment negatived; clause passed.

Clause 20—'Employers' statements for health and safety at work.'

The Hon. B.C. EASTICK: I move:

Page 12, line 14—Leave out 'any' and insert 'and any'.

Amendment negatived.

The Hon. B.C. EASTICK: I move:

Page 12, lines 15 to 17—Leave out 'and, on the application of the registered association, any registered association of which those workers are members'.

Amendment negatived; clause passed.

Clause 21—'Duties of workers.'

The Hon. B.C. EASTICK: I move.

Page 12, after line 36—Insert:

, and, in particular, shall so far as is reasonable—

(c) use any equipment provided for health or safety purposes;

(d) obey any reasonable instruction that his or her employer may given in relation to health or safety at work;

(e) comply with any policy relating to occupational health, safety or welfare applying at the workplace;

and

(f) ensure that he or she is not, by the consumption of alcohol or a drug, in such a state as to be a threat to his or her own safety at work or the safety of any other person at work.

Amendment negatived; clause passed.

Clause 22—'Duties of employers and self-employed persons.'

The Hon. B.C. EASTICK: I move:

Page 12, line 38—Leave out 'An employer or a' and insert 'A'.

Amendment negatived.

The Hon. B.C. EASTICK: I move:

Page 12, line 43—Leave out 'employer or the'.

Amendment negatived; clause passed.

Clause 23 passed.

Clause 24—'Duties of manufacturers, etc.'

The Hon. FRANK BLEVINS: I move:

Page 13, lines 39 and 40—Leave out 'or transported' and insert ', transported or disposed of'.

Amendment carried.

The Hon. FRANK BLEVINS: I move:

Page 13, line 43—Leave out 'or transportation' and insert ', transportation or disposal'.

Amendment carried; clause as amended passed.

Clause 25—'Duties applicable to all persons.'

The Hon. FRANK BLEVINS: I move:

Page 14, line 16—After 'person' insert '(not being an employer, worker or occupier of a workplace)'.

Amendment carried; clause as amended passed.

Clause 26—'Preliminary.'

The Hon. B.C. EASTICK: I move:

Page 14, lines 35 to 38—Leave out paragraph *(b)* and insert new paragraph as follows:

(b) a person employed in a managerial capacity in relation to whom a majority of workers at the particular workplace have resolved that on account of the nature of his or her work as a manager it is inappropriate to treat the person as a worker for the purposes of this Part;.

Amendment negatived; clause passed.

Clause 27—'Health and safety representatives may represent work groups.'

The Hon. B.C. EASTICK: I move:

Page 15, lines 7 to 20—Leave out subclauses (3) and (4).

Amendment negatived.

The Hon. B.C. EASTICK: I move:

Page 15, line 21—

After 'formed' insert 'by an employer'.

After 'to' insert 'guidelines published by the Commission and'.

Amendment negatived.

The Hon. B.C. EASTICK: I move:

Page 15, lines 32 and 33—Leave out subclause (7) and insert new subclause as follows:

(7) Where an employer is requested by a worker to form one or more work groups at a workplace, the employer shall respond to the request within 14 days of its receipt.

Amendment negatived.

The Hon. B.C. EASTICK: I move:

Page 15, lines 34 to 39—Leave out subclause (8) and insert new subclause as follows:

(8) Where—

(a) an employer fails to respond to a request in accordance with subsection (7);

or

(b) a worker is dissatisfied with the action of an employer in forming work groups under this section,

a worker may refer the matter to the Commission.

Amendment negatived.

The Hon. FRANK BLEVINS: I move:

Page 15, line 39—After 'the matter to the' insert 'Industrial'.

Amendment carried.

The Hon. FRANK BLEVINS: I move:

Page 15, line 40—After 'the' insert 'Industrial'.

Amendment carried.

The Hon. FRANK BLEVINS: I move:

Page 15, line 41—Leave out ', either itself or by its nominee,'.

Amendment carried.

The Hon. FRANK BLEVINS: I move:

Page 15, line 44—After 'subsection (9), the' insert 'Industrial'.

Amendment carried.

The Hon. B.C. EASTICK: I move:

Page 16, lines 5 and 6—Leave out ', the workers and any registered association of which a worker at the workplace is a member,' and insert 'and any interested workers at the workplace'.

Amendment negatived; clause as amended passed.

Clause 28—'Election of health and safety representatives.'

The Hon. B.C. EASTICK: I move:

Page 16, lines 16 to 22—Leave out all words in these lines.

Amendment negatived.

The Hon. B.C. EASTICK: I move:

Page 16, lines 23 to 32—Leave out subclause (3) and insert new subclause as follows:

(3) The conduct of an election of a health and safety representative shall be carried out by a person selected by agreement between the workers who comprise the designated work group that the health and safety representative is to represent or, in default of agreement, on application to the Commisison, by a person nominated by the Commission.

Amendment negatived.

The Hon. FRANK BLEVINS: I move:

Page 16, line 31—After 'to the' insert 'Industrial'.

Amendment carried.

The Hon. FRANK BLEVINS: I move:

Page 16, line 32—After 'by the' insert 'Industrial'.

Amendment carried.

The Hon. B.C. EASTICK: I move:

Page 16, line 36—Leave out 'The' and insert 'Subject to subsection (5a), the'.

Amendment negatived.

The Hon. B.C. EASTICK: I move:

Page 16, after line 38—Insert new subclause as follows:

(5a) The election must be carried out by secret ballot if any member of the designated work group so requests.

Amendment negatived.

The Hon. B.C. EASTICK: I move:

Page 16, lines 45 and 46—Leave out 'or any registered association of which such a worker is a member'.

Amendment negatived.

The Hon. FRANK BLEVINS: I move:

Page 16, line 46—After 'to the' insert 'Industrial'.

Amendment carried.

The Hon. FRANK BLEVINS: I move:

Page 17, line 1—After 'the' insert 'Industrial'.

Amendment carried.

The Hon. FRANK BLEVINS: I move:

Page 17, line 2—Leave out ', either by itself or its nominee'.

Amendment carried.

The Hon. FRANK BLEVINS: I move:

Page 17, line 5—After 'subsection (8), the' insert 'Industrial'.

Amendment carried; clause as amended passed.

Clause 29 passed.

Clause 30—'Term of office of a health and safety representative and disqualification.'

The Hon. B.C. EASTICK: I move:

Page 17, after line 26—Insert new subclause as follows:

(2a) If the composition of a designated work group is substantially varied, the health and safety representative representing the group ceases to hold office as such and a fresh election must be held.

Amendment negatived.

The Hon. B.C. EASTICK: I move:

Page 17, Lines 31 to 33—Leave out paragraph *(b)*.

Amendment negatived.

The Hon. B.C. EASTICK: I move:

Page 18, lines 2 to 6—Leave out all words in these lines and insert new subparagraph as follows:

(iii) disclosed information (being information acquired from the employer) for an improper purpose.

Amendment negatived; clause passed.

Clause 31—'Health and safety committees.'

The Hon. B.C. EASTICK: I move:

Page 18, lines 21 to 24—Leave out subclause (1) and insert new subclause as follows:

(1) At the request of—

(a) a health and safety representative;

(b) a majority of the workers at a workplace;

or

(c) a prescribed number of workers at a workplace,

an employer shall, within 2 months of the request, establish one or more health and safety committees.

Amendment negatived.

The Hon. B.C. EASTICK: I move:

Page 18, lines 27 and 28—Leave out 'and any registered association of which a worker at the workplace is a member or, if there is no such registered association, the workers' and insert '(if any) and any other person appointed by a majority of the workers at the workplace, having regard to the guidelines published by the Commission'.

Amendment negatived.

The Hon. B.C. EASTICK: I move:

Page 18, lines 31 and 32—Leave out subclause (4).

Amendment negatived.

The Hon. FRANK BLEVINS: I move:

Page 18, line 35—After 'the matter to the' insert 'Industrial'.

Amendment carried.

The Hon. FRANK BLEVINS: I move:

Page 18, Line 37—After 'the' insert 'Industrial'.

Amendment carried.

The Hon. FRANK BLEVINS: I move:

Page 18, Line 38—Leave out ', either by itself or by its nominee,'.

Amendment carried.

The Hon. FRANK BLEVINS: I move:

Page 18, Line 41—After 'subsection (6), the' insert 'Industrial'.

Amendment carried.

The Hon. B.C. EASTICK: I move:

Page 19, line 5—Leave out '2' and insert '3'.

Amendment negatived.

The Hon. B.C. EASTICK: I move:

Page 19, lines 12 to 14—Leave out all words in these lines after 'and' in line 12 and insert 'a majority of the members of the committee who are workers'.

Amendment negatived.

The Hon. B.C. EASTICK: I move:

Page 19, After line 14—Insert new subclause as follows:

(12a) In addition to the other matters provided by this section, the regulations may make provision for—

(a) the term of office of a member of a health and safety committee;

Amendment negatived; clause as amended passed.

Clause 32—'Functions of health and safety representatives.'

The Hon. B.C. EASTICK: I move:

Page 19, line 232—Leave out paragraph *(b)* and insert:

(b) accompany an inspector during an inspection of the workplace where—

(i) the inspector is at the workplace to resolve a health, safety or welfare issue or dispute;

or

(ii) the inspector requests the assistance of the health and safety representative;.

Amendment negatived.

The Hon. B.C. EASTICK: I move:

Page 19, line 35—Leave out 'unless the worker objects' and insert 'at the request of the worker'.

Amendment negatived.

The Hon. B.C. EASTICK: I move:

Page 19, line 38—Leave out 'unless the worker objects' and insert 'at the request of the worker'.

Amendment negatived.

The Hon. B.C. EASTICK: I move:

Page 20, line 1—After '*(a)*' insert 'after consultation with the employer,'.

Amendment negatived.

The Hon. B.C. EASTICK: I move:

Page 20, after line 11—Insert new subclause as follows:

(4a) Where a health and safety representative exercises or performs a power or function under this Act for an improper purpose intending to cause harm to the employer or a commercial or business undertaking of the employer, the health and safety representative is guilty of an offence.

Penalty: Division 6 fine.

Amendment negatived.

The Hon. B.C. EASTICK: I move:

Page 20, line 15—After 'welfare' insert 'and who is approved by the Commission to act as a consultant for the purposes of this section'.

Amendment negatived; clause passed.

Clause 33—'Functions of Health and Safety Committees.'

The Hon. B.C. EASTICK: I move:

Page 20, line 6—After '*(c)*' insert 'after consultation with the employer,'.

Amendment negatived.

The Hon. B.C. EASTICK: I move:

Page 20—After line 8—Insert new subclauses as follow:

(3a) The powers and functions of a health and safety representative under this Act are limited to acting in relation to the designated work group that the health and safety representative represents.

(3b) A health and safety representative representing a particular work group is, in the performance of his or her functions under this Act, subject to the general direction of a health and safety committee that has responsibilities in relation to the same work group.

Amendment negatived.

The Hon. B.C. EASTICK: I move:

Page 20, line 27—Leave out 'consult with the employer on any' and insert 'assist in the formulation of'.

Amendment negatived.

The Hon. B.C. EASTICK: I move:

Page 20, lines 30 to 35—Leave out paragraph *(e)* and insert new paragraph as follows:

(e) to assist—

(i) in the return to work of workers who have suffered work-related injuries;

and

(ii) in the employment of workers who suffer from any form of disability;.

Amendment negatived; clause passed.

Clause 34—'Responsibilities of employers to health and safety representatives and committees.'

The Hon. B.C. EASTICK: I move:

Page 21, line 9—Leave out 'health and safety representatives and'.

Amendment negatived.

The Hon. B.C. EASTICK: I move:

Page 21, line 10—After 'committees' insert 'and, if appropriate, health and safety representatives'.

Amendment negatived.

The Hon. B.C. EASTICK: I move:

Page 21, line 16—Leave out 'health and safety representatives and'.

Amendment negatived.

The Hon. B.C. EASTICK: I move:

Page 21, line 17—After 'committees' insert 'and, if appropriate, health and safety representatives'.

Amendment negatived.

The Hon. B.C. EASTICK: I move:

Page 21, line 20—Leave out 'health and safety representatives and'.

Amendment negatived.

The Hon. B.C. EASTICK: I move:

Page 21, line 21—After 'committees; insert 'and, if appropriate, health and safety representatives'.

Amendment negatived.

The Hon. B.C. EASTICK: I move:

Page 21, line 23—Leave out 'representatives' and insert 'committees and, if appropriate, health and safety representatives'.

Amendment negatived.

The Hon. B.C. EASTICK: I move:

Page 21, line 26—Leave out 'unless the worker objects' and insert 'at the request of the worker'.

Amendment negatived.

The Hon. B.C. EASTICK: I move:

Page 21, line 35—After 'workplace' insert 'under the control of the employer'.

Amendment negatived.

The Hon. B.C. EASTICK: I move:

Page 22, line 10—After 'representative' insert '(but not a deputy health and safety representative)'.

Amendment negatived; clause passed.

Clause 35—'Default notices.'

The Hon. FRANK BLEVINS: I move:

Page 23, after line 5—Insert new subclause as follows:

(5a) A health and safety representative may specify in a default notice a day by which the matters referred to in the notice must be remedied.

Amendment carried.

The Hon. FRANK BLEVINS: I move:

Page 23, lines 11 and 12—Leave out all words in these lines after 'remedy' and insert:

—

(a) if a day has been specified under subsection (5a)—by that day;

(b) if a day has not been specified under subsection (5a)—within a reasonable time,

the matters referred to in the notice.

Penalty: Division 3 fine.

Amendment carried; clause as amended passed.

Clause 36—'Action where the health or safety of a worker is threatened.'

The Hon. FRANK BLEVINS: I move:

Page 24, line 12—Leave out ', the degree of risk and all the other circumstances of the case' and insert 'and the degree of risk'.

Amendment carried; clause as amended passed.

Clause 37—'Attendance by inspector.'

The Hon. B.C. EASTICK: I move:

Page 24, lines 30 and 31—Leave out 'within 2 business days' and insert—

(i) where the workplace is within the metropolitan area—within 1 business day;

(ii) where the workplace is outside the metropolitan area—within 2 business days;.

Amendment negatived.

The Hon. B.C. EASTICK: I move:

Page 25, lines 3 to 8—Leave out subclause (3) and insert new subclause as follows:

(3) Where a work cessation direction is given, any worker employed in the work who is remunerated by wages or salary and who cannot reasonably be assigned by the employer to suitable alternative work is not entitled to be paid for the period of cessation unless an inspector determines that there was an immediate threat to health or safety justifying a cessation of work or that the health and safety representative reasonably believed that such a threat existed.

Amendment negatived.

The Hon. FRANK BLEVINS: I move:

Page 25, after line 8—Insert new subclauses as follow:

(3a) Where an inspector confirms a default notice or confirms such a notice with modifications, the inspector shall order the person to whom the notice was issued to comply with the notice within a period specified by the inspector.

(3b) A person who contravenes or fails to comply with a default notice that is confirmed by an inspector within the period specified by the inspector is guilty of an offence.

Penalty: Division 3 fine.

Amendment carried; clause as amended passed.

Clauses 38 and 39 negatived.

Clause 40 passed.

Clause 41—'Improvement notices.'

The Hon. FRANK BLEVINS: I move:

Page 28, line 9—After 'may' insert:

—

(a).

Amendment carried.

The Hon. FRANK BLEVINS: I move:

Page 28, after line 11—Insert new paragraph as follows:

(b) specify in an improvement notice a day by which the matters referred to in the notice must be remedied.

Amendment carried; clause as amended passed.

Clause 42—'Prohibition notices.'

The Hon. B.C. EASTICK: I move:

Page 28, line 32—Leave out '$10 000' and insert '$5 000'.

Amendment negatived; clause passed.

Clauses 43 and 44 passed.

Clause 45—'Powers of committee on review.'

The Hon. FRANK BLEVINS: I move:

Page 29, line 37—Leave out '3' and insert '2'.

Amendment carried; clause as amended passed.

Clause 46 passed.

Clause 47—'Workers' entitlement to pay while notice is in force.'

The Hon. FRANK BLEVINS: I move:

Page 29, line 42—Leave out 'Where' and insert 'Subject to subsection (1a), where'.

Amendment carried.

The Hon. FRANK BLEVINS: I move:

Page 30, line 3—After 'may' insert ', after giving reasonable notice to the person required to take the measures,'.

Amendment carried.

The Hon. FRANK BLEVINS: I move:

Page 30, after line 6—Insert new subclause as follows:

(1a) If a person who has been required by an improvement notice or prohibition notice to take specified measures stops using plant that is subject to the notice and satisfies an inspector that the plant will not be used again until the notice is complied with, action may not be taken under subsection (1) in relation to that plant (unless the plant is used again before the notice is complied with).

(1b) If a person referred to in subsection (1a) uses plant that is not to be used again until an improvement notice or prohibition notice is complied with before that notice is complied with, the person is guilty of an offence.

Penalty: Division 6 fine.

Amendment carried; clause as amended passed.

Clauses 48 to 53 passed.

New clause 53a—'Inspector to produce certificate of authority.'

The Hon. FRANK BLEVINS: I move:

Page 32, after clause 53—Insert new clause as follows:

53a. Where an inspector exercises a power or performs a function under this Act, the inspector must, at the request of a person affected by the exercise of the power or the performance of the function, produce a certificate of identification, in a form approved by the Minister, for inspection by that person.

New clause inserted.

Clause 54 passed.

Clause 55—'Confidentiality.'

The Hon. B.C. EASTICK: I move:

Page 33, line 7—Leave out 'intentionally'.

Amendment negatived.

The Hon. B.C. EASTICK: I move:

Page 33, after line 14—Insert new item as follows:

Penalty:

(a) in the case of an intentional disclosure—Division 5 fine;

(b) in any other case—Division 6 fine.

Amendment negatived; clause passed.

New clause 55a—'Discrimination against workers.'

The Hon. FRANK BLEVINS: I move:

Page 33, after line 21—Insert new clause as follows:

55a. (1) An employer shall not dismiss a worker, injure a worker in employment or threaten, intimidate or coerce a worker by reason of the fact that the worker—

(a) Is a health and safety representative or a member of a health and safety committee or has performed

the functions of a health and safety representative or of a member of a health and safety committee;

(b) has assisted or given information to an inspector, health and safety representative or health and safety committee;

or

(c) has made a complaint in relation to a matter affecting health, safety or welfare.

Penalty: Division 6 fine.

(2) An employer or prospective employer shall not refuse or deliberately omit to offer employment to a prospective worker or treat a prospective worker less favourably than another prospective worker would be treated in relation to the terms on which employment is offered by reason of the fact that the prospective worker—

(a) has been a health and safety representative or a member of a health and safety committee or has performed the functions of a health and safety representative or of a member of a health and safety committee;

(b) has assisted or given information to an inspector, health and safety representative or health and safety committee;

or

(c) has made a complaint in relation to a matter affecting health, safety or welfare.

Penalty: Division 6 fine.

(3) If in proceedings for an offence against this section all the facts constituting the offence other than the reason for the defendant's action are proved, the onus of proving that the act of discrimination was not actuated by the reason alleged in the charge shall lie on the defendant.

(4) Where a person is convicted of an offence against this section, the court may, in addition to any penalty it may impose, make one or both of the following orders:

(a) it may order the person to pay within a specified period to the person discriminated against such damages as it thinks fit to compensate that person;

(b) it may order that a worker be reinstated or re-employed in the worker's former position or, where that position is not reasonably available, in a similar position, on conditions determined by the court, or that a prospective worker be employed in the position for which the prospective worker had applied or a similar position.

(5) This section does not derogate from any right under any other Act or law of a person against whom an offence has been committed.

New clause inserted.

Clause 56 passed.

Clause 57—'Offences.'

The Hon. FRANK BLEVINS: I move:

Page 33, after line 37—Insert new subclause as follows:

(5a) Subject to subsection (6), proceedings for an offence against this Act may only be brought by the Minister or by an inspector.

Amendment carried.

The Hon. B.C. EASTICK: I move:

Page 33, after line 37—Insert new subclause as follows:

(5a) Notwithstanding any other Act or law, where—

(a) the Crown allegedly contravenes or fails to comply with a provision of this Act;

and

(b) the alleged contravention or failure occurs in relation to health or safety in a department of the Public Service of the State,

proceedings may be brought against the Minister who is responsible for that department.

Amendment negatived.

The Hon. B.C. EASTICK: I move:

Page 33, lines 38 to 43 and page 34, lines 1 to 4—Leave out subclause (6).

Amendments negatived; clause as amended passed.

The CHAIRMAN: In order to safeguard the amendments for the Minister I will put the question in relation to the amendments for the member for Light to clause 58, that all words on page 34, line 14, after the word 'offence' be left out. That is, up to the point at which the Minister's amendments seeks to have effect. If that question passes, the balance of the member for Light's amendment will be put and the Minister's amendment is lost. If the first question is negatived, the member for Light's amendment will not be proceeded with and the Minister's amendment can be put.

Clause 58—'Aggravated offence.'

The Hon. B.C. EASTICK: I move:

Page 34, lines 14 to 16—Leave out all words in these lines after 'offence' in line 14 and insert':

Penalty: Division 1 fine.

Amendment negatived.

The Hon. FRANK BLEVINS: I move:

Page 34, lines 15 and 16—Leave out all words in these lines and substitute—'A monetary penalty not exceeding double the monetary penalty that would otherwise apply under Part III for that offence or imprisonment for a term not exceeding 5 years or both.

Amendment carried; clause as amended passed.

Clause 59—'Continuing or repeated offences.'

The Hon. B.C. EASTICK: I move:

Page 34, line 37—Leave out '$20 000' and insert '$10 000'.

Amendment negatived; clause passed.

Clause 60—'Offences by bodies corporate.'

The Hon. B.C. EASTICK: I move:

Page 34, lines 38 to 42—Leave out subclause (1) and insert new subclause as follows:

(1) Where a responsible officer of a body corporate is responsible for the commission of an offence against this Act by the body corporate, that responsible officer is also guilty of an offence and liable to the same penalty as is prescribed for the principal offence.

Amendment negatived; clause passed.

Clause 61—'Code of practice.'

The Hon. B.C. EASTICK: I move:

Page 35, after line 38—Insert new subclauses as follows:

(7) an approved code of practice or the revision of a code of practice is subject to disallowance by Parliament.

(8) Every approved code of practice or revision must be laid before both Houses of Parliament within 14 days of notice of its approval being published in the *Gazette* if Parliament is in session or, if Parliament is not then in session, within 14 days after the commencement of the next session of Parliament.

(9) If either House of Parliament passes a resolution disallowing an approved code of practice or the revision of a code of practice, then the code of practice or revision ceases to have effect.

(10) A resolution is not effective for the purposes of subsection (9) unless passed in pursuance of a notice of motion given within 14 sitting days (which need not all fall in the same session of Parliament) after the day on which the code of practice was laid before the House.

Amendment negatived; clause passed.

Clauses 62 to 64 passed.

Clause 65—'Consultation on regulations.'

The Hon. B.C. EASTICK: I move:

Page 37, lines 32 and 33—Leave out all words in these lines and insert 'The Minister'.

Amendment negatived; clause passed.

Clause 66—'Regulations.'

The Hon. FRANK BLEVINS: I move:

Page 38, line 34—Leave out 'single judge' and insert 'Full Industrial Court'.

Amendment carried; clause as amended passed.

Clause 67—'Repeal.'

The Hon. B.C. EASTICK: I move:

Page 39, line 6—Leave out 'The' and insert 'Except as expressly provided in the second schedule, the'.

Amendment negatived; clause passed.

Clause 68 passed.

First and second schedules passed.

New second schedule 2a.

The Hon. B.C. EASTICK: I move:

Page 41—Insert new second schedule as follows:

2a. (1) Section 32 of the repealed Act (and any regulations made for the purposes of that section) continue in operation until section 24 of this Act comes into operation.

(2) A person who contravenes or fails to comply with section 32 of the repealed Act, as continued in operation by this clause, is guilty of an offence against this Act and liable to a Division 5 fine.

Amendment negatived.

Third schedule.

The Hon. FRANK BLEVINS: I move:

Page 42—Leave out proposed amendment to section 157 and insert new amendment as follows:

By striking out paragraph *(b)* of subsection (1).

Amendment carried.

The Hon. B.C. EASTICK: I move:

Page 42—Leave out proposed amendment to section 9 of that Act.

Amendment negatived; third schedule as amended passed.

Title passed.

Bill read a third time and passed.

EDUCATION ACT AMENDMENT BILL

Returned from the Legislative Council with amendments.

ADJOURNMENT

At 8.32 p.m. the House adjourned until Tuesday 4 November at 2 p.m.