LEGISLATIVE COUNCIL

Tuesday 30 March 1982

The PRESIDENT (Hon. A. M. Whyte) took the Chair at 2.15 p.m. and read prayers.

CONSTITUTION ACT AMENDMENT BILL (1982)

His Excellency the Governor's Deputy, by message, informed the Legislative Council that the Governor had reserved the Bill for the signification of Her Majesty The Queen's pleasure thereon.

ASSENT TO BILLS

His Excellency the Governor's Deputy, by message, intimated his assent to the following Bills:

Companies (Administration),
Companies (Application of Laws),
Companies (Consequential Amendments),
Electoral Act Amendment (1982),
Justices Act Amendment,
Land and Business Agents Act Amendment.

DEATH OF THE HON. C. D. HUTCHENS

The Hon. K. T. GRIFFIN (Attorney-General): I move:

That the Legislative Council expresses its deep regret at the death of the Hon. C. D. Hutchens, C.B.E., J.P., former Minister of the Crown and former member of the House of Assembly, and place on record its appreciation of his meritorious public services, and that, as a mark of respect to his memory, the sitting of the Council be suspended until the ringing of the bells.

The moving of such a motion is always an occasion of sadness because it records the passing of a member of this Parliament, no less so for the Hon. Cyril Hutchens who died on 27 March 1982. He died at the age of 78 years after a particularly active life that was a record of service not only to the Parliament but also to the community of which he was a part. It was said by a journalist of the Hon. Cyril Hutchens on his endorsement as an A.L.P. candidate for the State seat of Hindmarsh in 1950 that 'more will be heard of Mr Cyril Hutchens in the almost immediate future'. At that time he was a councillor for Croydon Ward on the Hindmarsh council.

From there, he was elected to the Parliament as a member of the House of Assembly on 4 March 1950 and served for over 20 years, retiring on 29 May 1970. During that period his service to the Parliament included membership of the Land Settlement Committee from 31 May 1956 to 14 November 1961, at a time, I suggest, when there was a great deal of work for that committee to do in view of the opening up of extensive new lands for settlement in this State. He was Opposition Whip from 1 May 1960 to 4 October 1960; Deputy Leader of the Opposition from 4 October 1960 to 10 March 1965; and the Minister of Works and Minister of Marine from 10 March 1965 to 16 April 1968.

The Hon. Cyril Hutchens was awarded the Order of Commander of the British Empire on 1 January 1970 and the title 'Honourable' was conferred on him on 11 July 1968. He served his political Party in many offices the highest of which was State President of the A.L.P. in this State. He was active not only in Parliament, in the community and in his Party, but also in the church of which he was a member at the date of his death.

The Hon. Cyril Hutchens made a significant contribution to the life of South Australia, to the work of this Parliament and to Governments of the day in serving the community. I want to place on record our appreciation of that public service and to extend the relatives of the Hon. Cyril Hutchens our condolences on his passing.

The Hon. C. J. SUMNER (Leader of the Opposition): I join the Attorney-General, and I am sure all other honourable members in this Chamber, in supporting this motion, which expresses the regret of the Council at the recent death of Cyril Hutchens, who was a member of the South Australian Parliament for some 21 years and, of course, a member of the Labor Party for many years longer than that. The Attorney-General has outlined his career, which in Parliamentary and public terms was very significant. As the Attorney has said, the Hon. Cyril Hutchens became a member of the House of Assembly in 1950 and retired in 1970.

During that time there were enormous changes in the political, social and economic life of South Australians. Cyril Hutchens contributed significantly to those changes, first as a member of the Labor Party in Opposition and then as a member of the Labor Government which held office from 1965 until 1968. Although he retired in 1970, I am sure all members recognise that much of Cyril Hutchenss' work in the 1950s and 1960s laid the groundwork for many of the achievements of which the Labor Party can be proud in this State during the 1970s and, indeed, during the period that Cyril Hutchens was a Minister from 1965 until 1968. He lived and was politically active, as a member of the Labor Party, in a time of change and he contributed to that change very significantly.

Of course, my personal recollection of him is not as a member of Parliament, because I was not a member at the same time that he was. However, I certainly knew him personally and I was always struck by a number of aspects of his personality. One aspect certainly was the fact that he was extraordinarily good natured; and he always went about whatever task he had at hand with incredible enthusiasm. From what I have heard he was also a great electoral campaigner—perhaps in the traditions of some of the older politicians of the 1950s and 1960s. Whether on the stump giving a speech, on the hustings generally or door knocking, Cyril Hutchens went about his work with enthusiasm and commitment.

As I have said, Cyril Hutchens was a politician of the old school, where speaking at public meetings was perhaps more prevalent than it is today. He did that with style. The amount of work he accomplished was considerable. During his career he had a reputation amongst his colleagues in Parliament and within the Labor Party for working enormously hard on behalf of his Party and the people in the community. As I have said, I had the pleasure of knowing him not so much politically but personally. Everything I have heard about him is borne out by my personal knowledge of him. He was personable; he was enthusiastic about his life and ideals; and, until recently, he lived life to the full. I join with the Attorney-General and, I am sure, all honourable members in extending sympathy and condolences to Cyril Hutchens's family.

The Hon. M. B. DAWKINS: As a member who knew the Hon. Cyril Hutchens for a very long time I join in paying a tribute to him and expressing regret at his passing. When I first entered this Chamber he was Deputy Leader of the Opposition in another place. Cyril Hutchens went out of his way fairly soon to welcome me as a new member. The late Mr Hutchens was always friendly and helpful. One piece of advice that he gave me early in the piece,

particularly in relation to Committee work, was, 'When the Government and the Opposition get together, progress is really made.'

I have quoted that statement in this Council on more than one occasion, even though I have not used the Hon. Mr Hutchens' name. Of course, this applies particularly to committee work, as honourable members would be well aware. In committee work, we get away somewhat from the cut and thrust of the Chamber, sit around a table and come to decisions that are the result of a consensus.

Later, as a Minister of the Crown, the Hon. Cyril Hutchens was always approachable, and was as helpful and as friendly as he was when a member of the Opposition. I should like to take this opportunity of expressing my sincere regret at his passing and join other honourable members in expressing condolences to Mrs Hutchens and family.

The Hon. K. L. MILNE: I, too, would like to support the tribute to the late Cyril Hutchens. I knew him personally over the years, from the beginning of his career until his retirement. Cyril Hutchens was a good friend to me and, indeed, to many others on numerous occasions over those years. As he became more and more involved, Mr Hutchens was still good to everyone who wanted help from him. I want to place on record that I am personally grateful to him, and I join with the Attorney-General and the Leader of the Opposition in expressing sympathy to Mr Hutchens' family.

The PRESIDENT: I am sure that the citizens of this State and members here present who knew the late Cyril Hutchens would wish to endorse the remarks of those honourable members who have paid a tribute to a very fine gentleman. I ask honourable members to carry the motion by standing in their places in silence.

Motion carried by members standing in their places in silence.

[*Sitting suspended from 2.32 to 2.47 p.m.*]

PAPERS TABLED

The following papers were laid on the table:

By the Attorney-General (Hon. K. T. Griffin)—

Pursuant to Statute—

Motor Vehicles Act, 1959-1981—Regulations—Registration Fees.

Business Franchise (Petroleum Products) Act, 1979—Regulations—Fuel Tax.

Supreme Court Act, 1935-1981—Supreme Court Rules—Fees for copies of evidence.

By the Minister of Local Government (Hon. C. M. Hill)—

Pursuant to Statute—

Corporation of West Torrens—By-law No. 50—Animals and Birds.

District Council of Mount Pleasant—By-law No. 22—Dogs.

District Council of Stirling—By-law No. 41—Dogs.

By the Minister of Community Welfare (Hon. J. C. Burdett)—

Pursuant to Statute—

Planning and Development Act, 1966-1981—Metropolitan Development Plan—Corporation of Mitcham Planning Regulations—Zoning.

Woods and Forests Department—Report, 1980-81.

MINISTERIAL STATEMENT: EMERGENCY FINANCE ASSISTANCE

The Hon. J. C. BURDETT (Minister of Community Welfare): I seek leave to make a statement.

Leave granted.

The Hon. J. C. BURDETT: Honourable members will be aware that the Department for Community Welfare has funds available for emergency financial assistance for people in urgent need. This scheme has always been seen and intended as a means by which people, whose normal income is either from their employment or from Commonwealth provided benefits, may obtain some cash in an emergency if they run out of money. For example, if a parent on a Commonwealth-funded sole support parent benefit has spent the fortnightly payment and expects the next payment in a day or two, that parent can seek an emergency cash payment for food or some other urgent need, such as medicine, from a Community Welfare Office.

In the last financial year over 75 per cent of all applications under the scheme were for food only. It is clear that emergency financial assistance is a supplement to other income—usually Commonwealth provided benefits—and not a substitute for it. Unfortunately, some Commonwealth benefits have not always kept pace with increasing costs in the community, or else some recipients either have not budgeted accurately or have been faced with a genuine emergency. This has meant that in many cases emergency financial assistance has become a means of 'topping up' Commonwealth income based benefits.

I have consistently expressed my concern about this to the Federal Minister for Social Security, Senator Chaney. At the same time, here as in other States, food, rental accommodation and other day-to-day costs have increased in the past year, and this has placed a considerably increased demand on emergency financial help being sought from the Department for Community Welfare and voluntary welfare agencies.

For the 1981-82 financial year, the State Government allocated $497 000 to emergency financial assistance. My department has always operated on a fixed budget for emergency financial assistance, although there have been discussions about making the guidelines less subject to decisions by staff members about how much a particular family or individual should receive. The New South Wales experience of this method of having strict guidelines to which staff must adhere is that in 1981-82 they are already considerably overspent.

In South Australia, my department has maintained careful and strict budgetary control on emergency financial assistance through the directors of each of the six regions in the State. However, the increased demand and the problem of 'topping up' Commonwealth benefits have placed pressure on all regions and, in particular, the region covering suburbs in the western metropolitan area. There, the average payment level has been 80c a day for each adult and child who qualifies for emergency financial help. It has been that for quite a short period.

During debate on the 1981-82 Budget Estimates last year, I indicated that, if funding for emergency financial assistance was insufficient to meet needs, I would make representations to have the funding increased. Accordingly, the State Government has decided to provide an extra $50 000 for the remainder of this financial year. This will enable the Department for Community Welfare to take the immediate interim step before the new financial year to provide an average of $1.20 for each person per day as emergency cash support.

In practical terms, this means that the payment to the average qualifying applicant under thhe scheme would be

approximately $24 in a week but obviously in some individual cases this 'average transaction payment' will significantly exceed $24 when, for example, it is made to a large family. I understand that a report to be released shortly by the Australian Council of Social Service will indicate that this level of payment compares favourably with that paid by welfare agencies interstate. The increased support by the State Government will ensure that those families and individuals who are the most vulnerable in coping with financial crisis are provided the minimum necessities of living.

QUESTIONS

POLICE INQUIRY

The Hon. C. J. SUMNER: I seek leave to make a brief explanation before asking the Attorney-General a question about the police corruption inquiry.

Leave granted.

The Hon. C. J. SUMNER: Considerable speculation exists in the community about the fate of a report into police corruption that was initiated by the Attorney-General in October 1981. Conflicting statements have emanated from the Government about the future of the report. The *Sunday Mail* reported at the weekend that the report would probably be released in Parliament this week. Yesterday's *Advertiser* contained a denial of that report by a spokesman for the Government, the Chief Secretary. It was said that it had not been decided what would happen to the report. On 9 February this year I asked the Attorney-General in this Council when it was likely that the report would be finalised.

The Attorney-General advised the Council that he hoped to make a statement in respect of the report before Parliament rose on 1 April. It has further been suggested by the Government that the report has not been finalised because certain court proceedings are pending. Parliament and the community have not been told what those proceedings are. Further, it has been suggested that the Attorney-General has had the report for some weeks but has done nothing about it in terms of providing a statement to the Council. It would appear that, whichever way it goes, Parliament is going to be denied an opportunity to publicly debate the report. If the report is tabled on Thursday, we must bear in mind that that is the last day Parliament will sit for two months and it appears that the Government is, by its actions, attempting to avoid Parliamentary debate and scrutiny of the report. That clearly is most unsatisfactory. If the report is tabled this week, particularly on Thursday, there will be no opportunity for Parliamentary debate on the report for a further two months unless the Government reconvenes the Parliament.

When did the Attorney-General receive the police corruption report? Is the report to be tabled in Parliament? In particular, is it to be tabled before Parliament rises on Thursday? What opportunity will there be for Parliamentary debate on the report?

The Hon. K. T. GRIFFIN: To take the third question first, it is purely a matter for Parliament to determine what it wants to do with any report tabled. Normally it is not the practice to debate reports which are tabled but it is entirely in the hands of each House of Parliament to decide what it wants to do with any report tabled. This case is no different from any other: it is entirely in the hands of each House of Parliament. I am not going to speculate on any aspect of the report. It will become obvious in due time as to which cases in the courts I have been adverting to in my recent answers on this matter. It would be quite improper to identify cases or make any comment on them or their relationship to the inquiry for reasons which ought to be clear to the Leader of the Opposition in view of his legal experience. I certainly do not want, by making comment, to prejudice in any way the presently outstanding court cases which impinge upon the inquiry or which might be the subject of comment in any report. Until those cases have been disposed of in the courts it would be improper for me to speculate upon when any report might be available. Certainly I would hope, and it is intended, that the report will be tabled in Parliament, but whether it is this week, next week or on 1 June is very much up in the air. I regret that I am unable to take that aspect any further at this stage.

The Hon. C. J. SUMNER: By way of supplementary question, will the Attorney-General answer my first question: has he received the report into police corruption and, if so, when did he receive it?

The Hon. K. T. GRIFFIN: I am not prepared to take that matter any further at this stage in light of my earlier answer to the question.

VINDANA WINERY

The Hon. B. A. CHATTERTON: I seek leave to make a brief explanation before asking the Attorney-General a question on Vindana Winery.

Leave granted.

The Hon. B. A. CHATTERTON: On a number of occasions I have raised the matter of Vindana Winery and the Morgen family group of companies which went bankrupt two years ago.

The Hon. K. T. Griffin: I have given the answer to the Leader.

The Hon. B. A. CHATTERTON: I am aware of that. Vindana went bankrupt two years ago owing wine grapegrowers in the Riverland just over $1 000 000 for their grapes which were delivered to Vindana in good faith. As the growers were categorised as unsecured creditors they were left with little hope of recovering any of the debts owing to them. Despite the efforts by the Wine Grapegrowers Federation and the questions directed to the Minister of Corporate Affairs in this place, no action was taken to help growers obtain some redress in this matter.

Largely because of the Morgen family's appalling behaviour in this case, I put forward a Private Member's Bill in 1980 which was designed to amend the Prices Act to prevent a winemaker from purchasing grapes from a grapegrower until the winemaker had settled all outstanding payments due on grapes purchased in the preceding harvest. I did this because one of the strategies undertaken by the Morgen family to evade their obligations was to defer payments from earlier harvests in order to make small payments when purchasing grapes from unsuspecting growers in subsequent harvests. With the support of the Government and the Minister of Consumer Affairs that private member's Bill was passed.

Reports continued to come in, however, of the Morgen family pursuing their practice of acquiring grapes and not paying for them, and I asked further questions of the Minister and his colleague the Minister of Consumer Affairs, only to be told by the Minister for Consumer Affairs on 24 February 1982 (page 3056 of *Hansard*) that there was no evidence to support allegations that Vindana and/or the Morgen family were still acting contrary to the law on this matter.

A few weeks ago the Minister, in response to a question from the Hon. Mr Sumner, said that at last legal proceedings had been started against Vindana. However, while the Minister has at last been able to report that some action is under way against Mr Morgen, Director of Vindana, the

same pattern is being repeated. I am taking up this matter because the wine grapegrowers have not been able to get any interest, let alone any action, from this Government to safeguard the interests of their members although they have been trying for some time to achieve this. The information I now have has been made available to the Government, and I now put it before the Council in an attempt to spur the Minister into taking action in this matter.

Growers have said to me that they are concerned that the Government finds it difficult to act in the case of corporate crime and they find it strange indeed that in the matter of the Morgen family actions which are clearly against the law are treated with such lethargy and indifference. The information I have received shows that the Morgen family are currently flagrantly breaching the South Australian Prices Act in the following manner. First, they are buying red grapes at $70 per ton. They are buying white grapes at $100 per ton. That is below the prices set by the Prices Commissioner in this State for this harvest. Secondly, the Morgen family are buying these grapes from growers in return for a slip which shows only the money value of the sale. There is no cartnote showing weight or variety and there is no provision for the Department of Primary Industry's requirement for a notification of the amount of grapes being crushed. Terms of payment are purported to be a 30-day delivery door payment and payments every three months thereafter, but no amount is specified, so that Morgen's may, if they wish, pay growers as little as 10 cents at each specified time. However, the requirements for the debts to be paid before further purchases are made are also being evaded, and, in fact, this is the case at the moment. Let me repeat: The Vindana Company is bankrupt and the Minister has said that legal proceedings are under way against the company, although they are operating through related companies.

The particular companies involved in this operation are the Tibs Winery, which is registered in Victoria and which belongs to the Morgan family, and Langwarra Wines of 1644 to 1646 Sydney Road, Campbellfield, Melbourne, which is directly involved in purchasing grapes in the Riverland. The wine is being made at the Vindana Winery and being sold there. My questions are as follows: first, will the Minister instruct the Department of the Corporate Affairs Commission to contact the Wine Grapegrowers Federation to assist it to initiate action in this matter? Secondly, will the Minister report to the Council at the first possible opportunity what actions have been taken? Thirdly, will the Minister take action to ensure that the Morgan group of companies does not continue to take down grapegrowers by setting up companies one jump ahead of the Minister's department?

The Hon. K. T. GRIFFIN: I indicated last week that action had been taken under the Companies Act against Mr D. K. Morgan. That matter is presently before the courts. The Prices Act is a responsibility of the Department of Public and Consumer Affairs. I will ask the Minister of Consumer Affairs to ensure that his officers investigate the allegations that the honourable member has just made, with a view to bringing back a report at the earliest opportunity.

I.M.V.S.

The Hon. J. R. CORNWALL: I seek leave to make a short statement before addressing a question to the Minister of Community Welfare, representing the Minister of Health, concerning the I.M.V.S.

Leave granted.

The Hon. J. R. CORNWALL: It is only infrequently that we have access to the inner workings of the collective Democrat mind. It is even more unusual for us to have an insight into the way in which Democrats are lobbied by Government Ministers. Let me relate to the Council precisely what happened last week with regard to the Institute of Medical and Veterinary Science Bill. That Bill, you would recall, Sir, was to go to the Committee stage in the Legislative Council last Wednesday, 24 March. The Government and the Democrats knew that the Opposition intended to move a comprehensive series of amendments to retain the I.M.V.S. as an integrated institution. Indeed, the Bill was debated into the wee small hours on Thursday morning through all stages, and all our significant amendments were defeated.

On Tuesday evening, the evening before the Bill was due to be debated in the Committee stage in this Council, the Minister of Health, Mrs Adamson, had the Hon. Lance Milne—the balance of reason—and the member for Mitcham (Mr Millhouse)—the public conscience—in her office for over an hour.

An honourable member: Was the door shut?

The Hon. J. R. CORNWALL: I understand that it was. Actually, all of this information was confirmed by Mr Millhouse when I spoke to him only half an hour ago, so honourable members can take it as being absolutely reliable. They were in the Minister's office for more than an hour. She 'heavied' them substantially to get them not to support the proposed amendments.

The PRESIDENT: I do hope that this explanation is relevant to the question.

The Hon. J. R. CORNWALL: Entirely relevant, Sir. The Minister 'heavied' them for more than an hour, putting pressure on the old balance of reason to support the Bill in its original form and to oppose our amendments. At the end of more than an hour, Mr Millhouse remained unconvinced. He left the Minister's room and, indeed, left the Parliament and went home where, as he normally does, he rapidly went to sleep (he inevitably sleeps well because he is always in good conscience).

After Mr Millhouse and the Hon. Mr Milne left her office, Mrs Adamson rang Professor Bede Morris in Canberra and, apparently, as far as one can gather, put a great deal of pressure on him, so much so that Professor Morris rang Mr Millhouse at home at midnight Canberra time. He got Mr Millhouse out of bed from that sound sleep. According to Mr Millhouse, the words that he attributes to Bede Morris at that time (although Mr Millhouse admits that he was somewhat sleepy) were that Professor Bede Morris told him that he thought it was a good idea to have the veterinarians removed from the institute. Those are the words of a learned silk, and I checked that in my conversation with Mr Millhouse. I said to him, 'To the best of your recollection are they the words, or very similar to the words, that he used?' and Mr Millhouse, an expert in the laws of evidence, said that, although he was a little sleepy, to the best of his recollection they were very similar to the words that were used.

The rest, of course, is history. They prevailed on Mr Millhouse and subsequent to the midnight call from Professor Bede Morris (who had been leant on by the Minister), Mr Millhouse, in turn, prevailed on Mr Milne not to support any of our amendments. What happened is quite curious in many respects. The final report of Bede Morris was brought into this Chamber and tabled during the course of the debate. There is no mention whatever in that report anywhere, no support implicit or explicit, of any suggestion that the institute be split up. Yet suddenly, it is alleged that Professor Bede Morris became an enthusiastic supporter of a separation and rang Mr Millhouse at home at midnight to tell him about that support. The inquiry begun by Professor Bede Morris was initially undertaken after a relentless

pursuit by Mr Millhouse in another place of the subject of cruelty to laboratory animals. All of the information that was used by Mr Millhouse during the pursuit of the Minister with regard to animal cruelty at the institute was supplied by Dr Duncan Sheriff, a senior veterinarian at the I.M.V.S.

The story I am now relating all became obvious only this morning when Mr Millhouse rang Dr Duncan Sheriff in an attempt to square off. That information has not come to me directly from Dr Duncan Sheriff, but I can assure you of its accuracy—this is a very small town. I ask on what date or dates the Minister of Health contacted Professor Bede Morris concerning the I.M.V.S. Bill. When did Professor Morris become an enthusiastic supporter of 'having veterinarians removed from the institute'? Why did Professor Bede Morris not canvass, or even mention, the idea in his final report which concerns experimental animals and which was dated 3 March, but not tabled in this Parliament until last week?

The Hon. J. C. BURDETT: I shall refer the honourable member's question to the Minister of Health and bring back a reply.

DRIVERS LICENCES

The Hon. FRANK BLEVINS: I seek leave to make a brief explanation before asking the Attorney-General, representing either the Minister of Health or the Minister of Transport, a question about drivers licences.

Leave granted.

The Hon. FRANK BLEVINS: On 4 March I asked the Attorney-General whether drivers licences could include a space for people to indicate that they wished to donate tissue, in the event of their death, to the medical profession so that it could be used to help people who were still alive. I asked whether such a provision could be included on drivers licences for those people who had no objection to such a course. The reasons behind my question are listed in *Hansard* of 4 March, so I will not go through them again.

I think that all members will appreciate that there is a problem in this area, particularly in relation to kidney transplants. Insufficient kidneys are available for transplant purposes. I have been informed of the number of people awaiting kidney transplants, and it is far higher than I first thought. Apparently, 72 people are now awaiting kidney transplant operations in South Australia. All of them could receive transplants if sufficient compatible organs were available. In view of the very large number of people awaiting kidney transplant operations, will the Minister treat my question and request of 4 March as a matter of urgency?

The Hon. K. T. GRIFFIN: I will refer the honourable member's question to my appropriate Ministerial colleague and bring down a reply.

WATER CHARGES

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Minister of Local Government, representing the Minister of Water Resources, a question about Engineering and Water Supply Department charges.

Leave granted.

The Hon. ANNE LEVY: A constituent has brought me a bill that she received from the E. & W.S. Department for the grand total of $1.60. Last financial year, her water consumption slightly exceeded the maximum allowed and she had a consumption of five kilolitres in excess of her allowance, which, at a charge of 32c per litre, resulted in her receiving a bill for $1.60. The cost of sending that bill was 24c for postage alone, quite apart from the stationery involved. Other costs include the preparation of the account and the wages of the people who had to process it, place it in an envelope, arrange for its postage, and so on.

When she sends back her payment of $1.60 considerable bureaucratic and administrative work will be involved in crediting her account with this sum. I am sure the total cost of processing this bill for the E. & W.S. Department would be well beyond the $1.60 charged. It would be more logical to keep the charge and add it to the next rate bill; surely that would be more efficient in all respects. Does the E. & W.S. Department have a policy about not sending trivial accounts but adding the sum owed to an occupier's next regular account? If such a policy does not exist, would it not be efficient to establish such a policy so that bills for sums of less than, say, $5 were not sent out individually, thereby increasing efficiency and cost effectiveness in the E. & W.S. Department?

The Hon. C. M. HILL: I will bring notice of the question and explanation to the Minister of Water Resources and ask him to explain the practice and the policy of his department in the instance that has been mentioned by the honourable member.

FLINDERS MEDICAL CENTRE CAR PARKING

The Hon. G. L. BRUCE: Has the Minister of Community Welfare, representing the Minister of Health, a reply to a question I asked on 3 March about Flinders Medical Centre car parking?

The Hon. J. C. BURDETT: My colleague, the Minister of Health, informs me that she has authorised the engagement of a consultant to survey the car-parking needs of the Flinders Medical Centre. The advertisement seeking the services of the consultant will appear in the press shortly. The effect of the by-laws introduction on car parking at Flinders Medical Centre will now be fully known, and the updated survey results will not only provide an updating of the historical data, but will address the areas of concern to the Public Works Standing Committee.

Whilst the Health Commission and the Board of Management of the Flinders Medical Centre are extremely concerned about the car parking facilities, they also appreciate the role of the Public Works Standing Committee in ensuring that public moneys are not wasted, and that their ultimate approval is to a scheme that is both adequate, functional and economic. Immediately the consultants report is available an updated submission will be presented to the Public Works Standing Committee. In the interim the specific management issues referred to by the honourable member have been drawn to the attention of the Board of Management of the Flinders Medical Centre in order that management practices can be reviewed, thus enabling the existing facilities to be used to their maximum potential.

SEX DISCRIMINATION ACT

The Hon. BARBARA WIESE: I seek leave to make a brief explanation before asking the Attorney-General a question about the Sex Discrimination Act.

Leave granted.

The Hon. BARBARA WIESE: On 19 November 1980, I asked the Attorney-General about a report prepared for him by the Sex Discrimination Board in March of that year. That report contained 26 recommendations which were designed to streamline the operation and effectiveness of the board and the work of the Commissioner by improving

staff funding and procedural arrangements. Other recommendations contained in the report called for legislative provisions affecting such areas as awards, superannuation and sporting bodies and clubs.

In November 1980, I asked the Attorney-General whether he had considered the report and, if he had, what action he intended to take. At that time the Attorney said that the Government had made no decision about the recommendations contained in the report. Sixteen months have now elapsed since I asked my last question about this matter, so will the Attorney-General say whether he has now considered the report presented to him by the Sex Discrimination Board? Has the Attorney implemented any of the recommendations contained therein and, if so, which ones? If the Attorney has implemented none of the recommendations, will he give his reasons for not doing so?

The Hon. K. T. GRIFFIN: The Government has decided to amend the Sex Discrimination Act. The Bill is currently being drafted and, when the drafting has been completed to the Government's satisfaction, it will be discussed with certain people involved particularly in the area of sex discrimination oversight. It will then be introduced into Parliament. However, I am not in a position to indicate which of the recommendations made by the Sex Discrimination Board in the submission have been approved for implementation. That will become obvious when the Bill is introduced.

POLICE ARRESTS

The Hon. N. K. FOSTER: I direct my question to the Minister of Local Government, representing the Chief Secretary. First, how many arrests were made by the police in the city area from 28 December to 31 December 1981 inclusive? Secondly, how many of the persons involved were males and how many were females? Thirdly, how many were held in custody, giving the numbers by sex?

Fourthly, how many persons (giving the sex) were released to appear in court the following day or days? Fifthly, how many were released and not subjected to any form of charge? Sixthly, what were the charges in relation to the northern, southern, western, and eastern areas, with King William Street and Franklin Street being the boundaries, in common with the four terraces?

Seventhly, were any group arrests made? How many were males, how many were females, and how many group arrests were made? Also, how many offences were traffic offences or sex-related offences? Also, how many were for being under the influence of liquor, and what sexes were involved in all those cases?

An honourable member: It will take a while to get this.

The Hon. N. K. FOSTER: No, it will not. It will take them only two seconds to get it from the computer. After all, the taxpayers are paying millions of dollars for this equipment. As a matter of fact, for starters, I can ring a police officer and ascertain the registered number of any vehicle. Will the Minister also ascertain how many charges were for resisting arrest, and what sexes were involved? Finally, how many charges were made for offensive behaviour, abusive language or conduct, or related offences?

The Hon. C. M. HILL: I will refer those questions to my colleague.

STATUES

The Hon. N. K. FOSTER: Has the Minister of Local Government a reply to the question that I asked on 3 March regarding statues?

The Hon. C. M. HILL: The statues which have been on loan to the Legislative Council, Parliament House, were required by the Gallery for the special exhibition *From the Sublime to the Ridiculous* which opened on 19 February, as part of the Art Gallery of South Australia's special activities for the 1982 Adelaide Festival of Arts. This exhibition will continue on show for several months and it is the Gallery's intention to place these statues on permanent exhibition within the Gallery because of their quality and appreciation by the public.

This exhibition, *From the Sublime to the Ridiculous*, in line with the 1982 festival, accents the narrative in the visual arts, and the statues are an integral part of this exhibition of Victorian and Edwardian narrative paintings, sculpture and other decorative arts. The exhibition has already aroused much favourable comment.

In January the Gallery's Registrar, who is responsible for recording the whereabouts of all works of art in the Gallery's collection, telephoned the Clerk of the Legislative Council, who agreed to the statues being removed from Parliament House and returned to the Gallery. The care and custody of all works of art on loan to the Legislative Council have always been vested in the Clerk, who makes the necessary arrangements for the return or supply of any such works to and from the Gallery. The Registrar acted with full authority of the Art Gallery Board. The statues had been on loan to Parliament House for over 40 years. Unfortunately, there are no other statues of a comparable nature in the Gallery's collection which could be offered as replacements, and this highlights the Gallery's need for the return of these works.

GLENELG COUNCIL

The Hon. C. W. CREEDON: I seek leave to make a brief explanation before asking the Minister of Local Government a question regarding Glenelg council.

Leave granted.

The Hon. C. W. CREEDON: During the latter stages of 1981, this Council set up a Select Committee to examine certain matters relating to Glenelg council. The Select Committee members were disenchanted with the attitude of that council, and a recommendation made by the Select Committee required the Minister to initiate a Ministerial inquiry into the operation of Glenelg council. Will the Minister say whether that inquiry has been made and when the results thereof will be made available to Parliament?

The Hon. C. M. HILL: The inquiry has taken place, and I hope that the report will be ready for tabling this week.

PREMIER'S OVERSEAS TRIP

The Hon. C. J. SUMNER: I seek leave to make a brief explanation before asking the Attorney-General a question regarding the Premierial junket.

Leave granted.

The Hon. C. J. SUMNER: The Parliament has received very little information about the absence from the Parliament this week of the Premier of this State. Speculation about the trip which we have heard and which has been given to the press (although certainly not to the Parliament) is that the Premier is on a delegation to promote South Australian wine and food in South-East Asia. We are given the additional information that the trip will take one month.

The fact is that the Premier, for the third time this year, will be missing from the Parliament when it is sitting. I have no objection to legitimate travel overseas by members of the Government on proper Government business. However,

I raise seriously the question why the Premier chose to miss the full week of Parliament on this occasion in order to go on this trip and, in particular, not to provide the Parliament with any explanation as to the nature and extent of the trip, thereby leaving the Parliament to glean from the press that he is promoting South Australia's wine and food in South-East Asia and travelling with a group of South Australian business men.

It seems that the Premier is on a travelling schutzenfest. I take the strong view that the Premier and Government members should be in the Parliament when it is sitting. Indeed, the former Premier (Hon. D. A. Dunstan), who went overseas in January 1979, arrived back with his health in a very poor state because he thought that he should be back for the Parliamentary sittings.

I object to the Premier's taking time off when Parliament is sitting. I believe that he could have organised any overseas venture to fit in with the sittings of Parliament. Indeed, I believe that the Premier and other Government members have an obligation to ensure that the overseas trips that they take are taken at times so as not to interfere with their attendance in the Parliament. No statement about the Premier's trip has been made to this Chamber and, I believe, no statement has been made to the other place, either. Why did the Premier not organise his Premierial junket, his travelling schutzenfest, so that he did not miss the sittings of Parliament?

The Hon. K. T. GRIFFIN: My understanding is that information was given to the House of Assembly by the Premier, in respect of this present overseas trip, either last week or during the part of this session in February. As I understand it, that information was well received, not only by the House of Assembly but by the public of South Australia, as an important initiative of this Government to encourage investment in South Australia by Asian businessmen. The Premier is overseas hosting a number of seminars in various Asian centres that are designed to tell Asian businessmen more about South Australia and the positive benefits to them of investing in this State, and to indicate the potential for expansion if they were to invest in South Australia.

That is what the Government is on about—attracting business and industry to South Australia. Any move to do that should receive praise rather than criticism. In addition to the seminars being hosted by the Premier, he will also be participating in food and wine fairs designed to promote South Australian produce, particularly of the wine industry, in an area which ought to be a substantial market for South Australian produce, including secondary produce.

It is all very well for the Leader of the Opposition to take exception, but I suspect it is a fit of pique rather than a valid objection to the overseas trip which the Premier is taking in conjuction with South Australian business interests. The trip is in the best interests of South Australia. The Premier is doing what the government has been doing for the past 2½ years—promoting South Australia in a way that it has not been promoted for the past decade.

The Hon. C. J. SUMNER: I have a supplementary question. In my explanation I said that I had no objection to legitimate overseas trips by members of the Government. I ask the Attorney-General now to answer the question. The Premier has seen fit to snub the Parliament by not being present in Parliament for the whole of this week. Why did the Premier not organise his trip so that he did not miss the Parliamentary sitting?

The Hon. K. T. GRIFFIN: I am not privy to that fine detail. Obviously, there are a number of people involved in several Asian countries, and I imagine that it was not possible to co-ordinate this extensive promotional undertaking to enable the Premier to be present in Parliament this week.

NON-PAROLE PERIODS

The Hon. N. K. FOSTER: Will the Attorney-General give serious and positive consideration to legislation to enable non-parole periods for people convicted of murder, killing by violence, sexual offences against defenceless children and sexual related crimes of violence?

Members interjecting:

The Hon. N. K. FOSTER: I do not know whether the lawyer considers this to be a laughing matter, but I am very serious. It does no credit to the previous Shadow Attorney-General, Mr Burdett, to be laughing about this matter. This matter is of great concern outside the walls of this building. I will repeat the question for the honourable member's benefit.

The PRESIDENT: Order!

The Hon. N. K. FOSTER: Will the Attorney-General legislate to require a non-parole period for people convicted of murder, killing by violence, crimes against defenceless children, sexual crimes against children, sex-related crimes against male and female adults and sex related crimes where violence has occurred? Since this Government has been in office, there has been an increase in crimes of this nature, and I refer particularly to two cases that have received attention in the past 12 months. I ask that the Attorney-General seriously consider this matter. A person was convicted of such an offence in the early 1970s and served less than a 10-year prison sentence before being released by the Parole Board.

The Hon. K. T. GRIFFIN: Last year this Government enacted legislation requiring courts to impose a non-parole period. It is now mandatory that, where a period of imprisonment is in excess of three months, the court is required to fix a non-parole period. This Government enacted that legislation to ensure that the courts exercise a responsibility at the point of imposing a sentence to ensure that there is a non-parole period fixed. Once that non-parole period has been fixed, it then becomes a matter after that period has expired for the Parole Board to determine the appropriate date for release, after that non-parole period has been served.

The Hon. N. K. FOSTER: I have a supplementary question; maybe the Attorney-General misunderstood me. I asked that the Attorney-General consider legislation to provide that sentences handed down by courts shall be nothing less than a life sentence in respect to the matters I have raised, and that there be a non-parole period. By a 'life sentence', I mean a natural life sentence.

The Hon. K. T. GRIFFIN: Is the honourable member suggesting that, where life imprisonment is imposed, there be no opportunity for release at all?

The Hon. N. K. Foster: That is what I am saying, in relation to the offences I have mentioned.

The Hon. K. T. GRIFFIN: If that is what the honourable member is suggesting, I will not introduce such legislation or even recommend it to the Parliament. The offences to which he has referred are serious offences. Penalties of imprisonment being imposed now for other than life sentences are getting progressively longer. With sentences of life imprisonment, the courts now are required to take into account all the circumstances of an offence in fixing a non-parole period and, after that, the Parole Board becomes involved in determining what is an appropriate time for release. The Parole Board takes into account the potential for rehabilitation of the offender, a matter that is most relevant in determining what should be the point of release on parole.

A blanket provision, as suggested by the honourable member, whilst I recognise that it is emotionally attractive, would militate against that aspect of the imposition of

penalties which requires some attention to be given to rehabilitation of the offender. This must be taken into account along with punishment and retribution but, notwithstanding that, it is still an important ingredient. I see real difficulties in seeking to impose a mandatory life sentence without any prospect of release.

The Hon. N. K. Foster: I didn't say that; I referred to parole and the manner in which it is now determined.

The Hon. K. T. GRIFFIN: I find it somewhat confusing because, in the interjection across the Chamber, I understood that what the honourable member was suggesting was that, for example, where life imprisonment was imposed, that should be the penalty without remission. My remarks have been directed towards that sort of situation. If the honourable member has some other possibility in mind, perhaps he can explore that with me in Question Time tomorrow.

REPLIES TO QUESTIONS

The Hon. J. R. CORNWALL (on notice) asked the Attorney-General: When will replies be given to my questions concerning peer review, delineation of clinical privileges, medical ethics, medical costs, medical secrecy and medico-legal proceedings asked on 20 October 1981, 27 October 1981, 10 November 1981, 11 November 1981, 12 November 1981, 1 December 1981, 3 December 1981 and 9 December 1981?

The Hon. K. T. GRIFFIN: I understand from the Minister of Consumer Affairs that the answers to two questions referred to in this Question on Notice, that is, those questions asked on 1 December and 9 December 1981 have been available but have not been asked for. The Minister has indicated that notification has been given that the answers to those questions have been available. The other answers are in the course of finalisation, I believe, and I ask the honourable member to put his question on notice for a subsequent date.

BRANDS ACT AMENDMENT BILL

Third reading.

The Hon. J. C. BURDETT (Minister of Community Welfare): I move:

That this Bill be now read a third time.

The Hon. Anne Levy has raised a number of interesting points on genetics which while scientifically sound are not relevant to the intention of the amendments before this Council. The intention of the amendments is to provide a legal mark which may be used for the identification of all sheep carrying or likely to be carrying on the basis of their breeding a gene or genes which in combination or singularly may allow the sheep or its offspring to demonstrate colour in its fleece. The determination of the amount of genes present in any individual sheep requires fairly sophisticated genetic experimentation which is outside the scope of the Brands Act.

Depending upon whether a gene providing a colour in the fleece is a dominant or a recessive gene the genetic experiments already referred to would be relatively simple or extremely complex and it is not the Minister's intention to further explore this avenue.

The most common gene for colour can be present in sheep exhibiting the full range of colour, including white; nonetheless such white sheep carrying this gene if interbred with other similar white sheep would throw a proportion of their offspring as coloured.

Thus, the amendment to the Act provides not only for identification of those sheep obviously carrying the coloured gene (by virtue of the fact that they have coloured wool) but also for identification of those animals which while demonstrating white fleeces probably carry the coloured gene because they are the offspring of coloured sheep. Such identification is seen as providing a measure of safeguard to the person involved in breeding white wool who thus has access to information on which to base a decision when he is purchasing white wool sheep.

At this stage in the development of the coloured wool industry it is not seen to be appropriate in this State or in any other State to make the earmarking of sheep carrying the coloured gene mandatory. Amongst the breeders of white woolled sheep there will be practised selection against the coloured gene, while amongst the breeders of coloured sheep there will be carried out selection against white wool sheep. This legislation provides for identification of those animals occurring at the interface between the cottage industry coloured breeder and the major wool industry of this country. In summary, clause 5 is to provide for a particular earmark to represent known heterozygous sheep.

The Hon. ANNE LEVY: I must comment on the statement that the Minister has just read out, most of which is absolute genetic nonsense. I sincerely hope that whoever wrote it out for the Minister was not a former student of mine because, if he or she were, then I would have had to fail that student.

The Hon. J. C. Burdett: That person is rather senior to you, I think.

The Hon. ANNE LEVY: I would be surprised if anyone with any great knowledge in genetics wrote that answer. The Minister or the person who has written that reply has obviously missed the entire point of what I was trying to say, both in the second reading and the Committee stages of the Bill. I know well that the *w* gene for coloured pattern is a recessive gene and, as such, will not be expressed unless it is homozygous, that is, that the animal has two doses of that gene. I also know that an animal can carry that gene, be heterozygous, not express it, but neverthless pass the gene onto its offspring.

Two different situations can arise for heterozygous animals. One is that the sheep is known to be a heterozygote, because it has had a coloured parent, or because it has had a coloured offspring. In either of those situations one knows for certain that that animal is heterozygous, and it is those animals that are referred to in this legislation. They are the animals which may be earmarked because they are known to be heterozygous.

There are other situations though where one does not know for certain that an animal is heterozygous. It has a high probability of carrying the particular colour pattern gene and situations where this arises are, as I stated earlier, cases where there is a coloured sibling to that animal or a coloured half sibling to that animal. We know that the animal is not homozygous from that gene, but there is a high probability that it is heterozygous.

I was merely suggesting that such animals could also be marked, but with a different mark. Obviously it would not be appropriate to put on them the mark from a known heterozygote because one does not know that these animals are heterozygous. One does know that there is a high probability that they are heterozygous. Simple genetic principles enable the probability to be accurately determined. I gave examples where the probability may be two-thirds or a half.

I appreciate that the Minister may not wish to undertake this, but please do not pretend that the animals which have a high probability of being heterozygous will be earmarked as set out in this legislation, because they do not fit the criterion for legislation as being known heterozygotes. It will be of disadvantage to the breeders (both coloured sheep breeders and those wishing to avoid coloured sheep) if animals which have a high probability of being heterozygous are not marked in some way to indicate that from their pedigree there is this high probability, although no certainty. Tomorrow, I hope to read the Minister's explanation in more detail—

The Hon. J. C. Burdett: What you are asking for does not occur anywhere interstate.

The Hon. ANNE LEVY: It is possible to be innovative and for South Australia to be first in something. That has happened on numerous occasions in the past and I see no reason why the fact that something has not been tried elsewhere is a reason for not trying it here. That is the most illogical statement I have ever heard. If everybody waited for somebody else to be the first nothing would ever happen.

The Hon. J. C. Burdett: We have been the first cab off the rank too many times.

The Hon. ANNE LEVY: With regard to recognising the problems of sheep breeders who wish to produce coloured sheep?

The Hon. J. C. Burdett: No, with regard to legislation.

The Hon. ANNE LEVY: I reiterate the remarks I made before in view of the nonsense uttered by the Minister a few minutes ago. I could hardly let that pass.

Bill read a third time and passed.

TRADING STAMP ACT AMENDMENT BILL

The Hon. J. C. BURDETT (Minister of Consumer Affairs) obtained leave and introduced a Bill for an Act to amend the Trading Stamp Act, 1980. Read a first time.

The Hon. J. C. BURDETT: I move:

That this Bill be now read a second time.

The Trading Stamp Act, 1980, permits many trade promotion schemes that were formerly prohibited by the repealed Trading Stamp Act and prohibits only third-party trading stamp schemes. The Government has become aware of certain trade promotion schemes that are designed to promote the sale of cigarettes. Some of these are specifically described as competitions for adult smokers. Competitions that are trade promotion lotteries within the meaning of the Trade Promotion Lotteries Regulations and which require proof of purchase of a packet of cigarettes as a condition of entry are obliged in this State to provide a free entry alternative. However, the alternative offered (for example, calling at a particular address to collect an entry form) is often such that a person wishing to take part is in fact more likely to purchase a packet of cigarettes.

If promotions of this kind are to be successful they must increase sales of a particular brand of cigarettes—that is, after all, their primary objective. In some cases this might be achieved by reason of smokers purchasing this brand rather than another. However, there is also a potential for promotions of this kind to act as a catalyst to encourage persons to purchase and smoke cigarettes when they might otherwise not have smoked at all.

In the interests of public health, the Government firmly believes that it should take all possible measures to discourage people from smoking and that particular attention must be given to discouraging people from taking it up in the first place. While not at this stage prepared to ban altogether the advertising of cigarettes, we believe that one step that can and should be taken is to prohibit all trade promotion schemes involving lotteries or trading stamps where the objective of the scheme is to promote the sale of cigarettes (or other tobacco products). Accordingly amendments are being drafted to the Trade Promotion Lotteries Regulations o prohibit trade promotion lotteries where—

(a) participation is limited to persons who smoke cigarettes, cigars or tobacco in any form;

(b) a participant is required as a condition of entry to submit a package containing, formerly containing or designed to contain cigarettes or other tobacco products, or a facsimile of such a package;

(c) a participant is required to answer questions or provide information in relation to the appearance of such a package or information appearing on such a package; or

(d) participation is otherwise dependent upon a participant having or having had in his possession such a package.

The Bill is designed to ensure that similar schemes which are not covered by these regulations are also prohibited. For example, promotions under which the purchaser of a particular brand of cigarettes receives a free cigarette lighter or some other free gift will be prohibited by the Bill.

Clause 1 is formal. Clause 2 amends section 4 of the principal Act by introducing a new definition of 'prohibited trading stamp', which includes a stamp supplied in connection with the sale of, or for the purpose of promoting the sale of, tobacco, cigarettes or other tobacco products. Clause 3 extends the prohibition of certain practices in relation to third-party trading stamps to other prohibited trading stamps as defined.

The Hon. FRANK BLEVINS secured the adjournment of the debate.

INSTITUTE OF MEDICAL AND VETERINARY SCIENCE BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments.

JUSTICES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 25 March. Page 3573.)

The Hon. K. T. GRIFFIN (Attorney-General): I appreciate the indications of support which have been given to the general principle of this Bill. However, I note the concern which the Hon. Miss Wiese has expressed about what she calls the wide-reaching powers contained in the Bill and suggestions that they really should be used only in special circumstances, particularly domestic disputes. With respect, I disagree with that, because I believe that this Bill is an important development on the present provision of the law relating to breaches of the peace. If one were to attempt to distinguish between what is, in effect, a domestic dispute and what is a threat of violence in another situation, the distinction might be difficult. In any event I believe that the peace complaint procedure which has been in operation for many years and evidenced by the Justices Act in this State is long overdue for reform.

I suggest that the Bill which we have before us provides an effective reform, but will also have some safeguards incorporated which will not prejudice the liberty of the individual. I will attempt to deal with that shortly. The Hon. Miss Wiese has suggested that the police, magistrates

and judges treat cases of domestic assault differently from assault between unrelated people, although they really are on the same footing at law. In making that comment, she disregards the fact that those very domestic assault cases involve not only violence but violence between people who may have to continue to live under the same roof, or who may choose to live under the same roof.

In dealing with domestic disputes, law enforcement and counselling agencies have very much a regard for the personal relationship of the parties in those situations of tension. What this legislation seeks to do is to put law enforcement agencies in a much better position to ensure the protection of those who are victims of assault or threatened assault in domestic situations, especially.

This Bill not only enables the person who alleges the threat or violence to complain but also allows the police to make that complaint on that person's behalf. I think it is correct to acknowledge that in many situations, particularly in the domestic situation, a party to such a dispute is reluctant to take legal proceedings because of the likely repercussions once those proceedings have been taken or continued. Of course, the other reason for such reluctance is the long delay which can currently occur in gaining an effective injunction or other remedy against continuing threats or violence and the inability of the courts to exclude persons from particular premises which might be part of any order for keeping the peace. This legislation comes to grips with those particular difficulties.

Initially, as we can see from the legislation, proceedings can commence on the complaint of a police officer or the person who is the victim or potential victim. They can initially take place in the absence of the assailant or potential assailant, but before the order is enforceable the assailant or potential assailant must be given an opportunity to put a case to the court. There is provision in the Bill for service of the summons or the notice of hearing. That person has all the rights available to any party before the court to put a case and then to allow the court to make a decision as to what is a proper order to make in the circumstances of that particular case.

Under our Bill the order becomes immediately enforceable. Under the old legislation, the old peace complaint procedure, the defendant had to enter into a bond and a breach of that bond required another lengthy process to bring the matter before the court. Probably once it got to court it would be most unlikely to be enforceable. There is in our Bill a power of arrest without warrant for breach of the order, but, again, in circumstances where the person alleged to be in breach is brought before the court.

In the application of this legislation it is important to have an immediate remedy against violent behaviour or threatened violent behaviour, whether it is in the domestic situation, between neighbours or between others, because the whole essence of this legislation is to prevent the offence rather than to deal with it after the event. The Hon. Miss Wiese has made some criticism of failure to come to grips with bail reform in the context of this Bill. The whole question of bail is a vexed one. It is a matter which is currently under review by my officers, but it is not an easy issue to resolve because there are conflicts as to whether bail should be tightened or relaxed.

For example, in the area of sexual offences there is a strong argument for tightening up on bail procedures. On the other hand, there are those who would argue that bail should be granted in all cases, except in those limited cases where it is likely that the offender might abscond or create further mischief. There are a number of competing claims with respect to bail which are not easy to resolve. There is a very delicate balance which must be achieved in reforming that area between those who would want bail procedures tightened and those who would want them substantially relaxed.

Although the Hon. Miss Wiese has made some criticism, I want to assure the Council that that is a matter which is currently being considered by my officers. It was considered by the Mitchell Committee and there have been other committees which have considered this matter, both in this State and elsewhere, over the past few years. I hope that I will be able to bring together the various proposals for reform of bail procedures and put the Government in a position where it can make some decisions in that area within 1982. However, the lack of any reference to bail in this Bill should not preclude consideration of the Bill on its merits and should not preclude the passing of this Bill.

The Hon. Miss Wiese has also suggested that Parliament should carefully consider the implications of legislation which, in her words, allows:

> . . . for example, the police to arrest individuals without a warrant, or legislation which empowers the court to deprive an individual of some personal liberty or freedom of movement merely on the basis of a telephone call from a complainant.

I agree with that sentiment, but I suggest that the emphasis is mistaken. The suggestion that a telephone call is a basis for the deprivation of a person's liberty or freedom is misleading. Of course, the police, if they are telephoned with an allegation of violence, threatened violence, or a breach of the peace, would react and would make a call as soon as was practicable. However, they would not deprive a person of liberty unless there was evidence of a breach of the peace or a breach of a bond. One has to remember that, if there is an order made by the court to keep the peace, this Bill creates an offence and that offence requires the presentation to a court in the normal circumstances of a charge with the guilt of the accused to be established beyond reasonable doubt. In the normal course, police officers do not lay complaints for breaches of the law unless there is a reasonable prospect of a conviction. The police are not going to institute proceedings in the sort of circumstance to which the Hon. Barbara Wiese has referred without having evidence upon which they can base a complaint. One has to recognise that there are remedies for wrongful arrest, and that there are remedies for wrongful imprisonment. Members of the Police Force are very sensitive to that as well as to the general principle of having sufficient facts upon which to proceed before laying a complaint.

The Hon. Barbara Wiese: What about the initial stages when the restraining order is applied for?

The Hon. K. T. GRIFFIN: I will come to that in a moment but, first, I will run through the provisions of the clause *in toto*. If there is a breach of the bond and a person is arrested there is presently provision to proceed, just as there is with any other charge relating to a breach of the law. In that respect, the offences created in this legislation are no different from any other offences. The Hon. Miss Wiese emphasised the level of emotional anxiety and continuing danger to a victim as the necessary criteria to distinguish the procedures referred to in this Bill from other breaches of the peace. To say that other legal remedies may be available—and there is no guarantee that they would be—to deal with other disputes and other breaches of the peace does not really take account of the fact that the procedures that this Bill seeks to modify are of general application.

I believe that they should continue to have that general application but with updated and more efficient procedures accommodated. To suggest that the legislation is inappropriate for industrial disputes does not really recognise the nature of this legislation. The legislation is certainly not intended to have special application in relation to industrial disputes. I do not think that this legislation could be used

except in the case of violence or threats of violence between individuals. In that situation those acts should be no different from other acts resulting in violence or threats of violence between ordinary members of the community.

Before an order can be granted under this legislation a complaint has to be made. The court must have proof in the first instance that, on the balance of probabilities, a defendant has caused personal injury or damage to property and that, unless restrained, he is likely again to cause personal injury or damage to property; or if a person has threatened to cause personal injury or damage to property that the defendant, unless restrained, is likely to carry out that threat. A complaint can also be made where a defendant has behaved in a provocative or offensive manner, or where his behaviour is likely to lead to a breach of the peace and that the defendant, unless restrained, is likely to again behave in a similar manner. Therefore, there are really three categories where this legislation applies. In each category more than one factor must be satisfied before a complaint can be taken to court.

What I have just said is important. In an area of law which has general application it is important that we do not distinguish between particular cases where a combination of these factors might make it appropriate to invoke the protections of this law for individuals. This law is related to actions between individuals. Digressing for a moment, I refer to the ambit of the present peace complaint procedure. It is not easy to do that, because of the extensive number of cases which have been heard in relation to peace complaints. In her book *Freedom in Australia*, Enid Campbell refers to the number of instances in which peace orders are made, as follows:

> Binding over orders have been made against people who have pestered others by repeated and unnecessary telephone calls, against senders of 'poison pen' letters, against people who make a practice of writing slogans on walls, against men who pester women, who frequent women's lavatories, or practise transvestism, against females who haunt military camps but without committing any offence, against the authors of criminal libels and for breach of by-laws. They have also been made against people who have used insulting language calculated to provoke disturbances even if there is no reason to fear personal violence, and against people who by their utterances or conduct incite others to break the law.

The general peace complaint provisions are presently applicable in those areas that I have just mentioned. To some extent the present legislation narrows that area of application. I think it clarifies the law in an area which has been previously developed largely by cases before the courts. I do not believe there is any good reason for limiting the operation of this law of general application.

This Bill implements an appropriate reform. In so far as it deals with matters of domestic violence it follows the general proposal embodied in the Commonwealth Family Law Act Amendment Bill, which I understand is currently before Federal Parliament. That Bill deals with disputes between parties to a marriage.

The Hon. Anne Levy: It is not getting very far, is it? It's been there for months.

The Hon. K. T. GRIFFIN: Yes, it has been there for months. I would like to see something happen to my Bill within the next few weeks. Although Federal Parliament is dealing with legislation in relation to a dispute between marriage partners, my Bill deals with domestic situations including parties to a marriage and, in that respect, I think it is an important Bill.

The Hon. Miss Wiese referred to the procedure. I will run through the detail of the provisions to ensure that all members fully understand the procedure. The first step is a situation of violence, potential violence or threats. If there is a fear of that, a complaint may be made. A complaint can be made by a member of the Police Force or by a person against whom the behaviour was directed. Initially, an order can be made in the absence of a defendant, if he was summonsed to appear at the hearing of a complaint and failed to appear in obedience to that summons. If an order is made in the absence of the defendant, notwithstanding that the defendant was not summonsed to appear, the court is required to summon the defendant to appear before the court and show cause why the order should not be confirmed. The Bill also contains the following provision:

> . . . the order shall not be effective after the conclusion of the hearing to which the defendant is summoned unless the defendant does not appear at that hearing in obedience to the summons or the court having considered the evidence of the defendant and any other evidence adduced by him confirms the order.

Then, the court may confirm that order and make an order restraining access to premises. Where the person involved has been served personally with that order and that person contravenes or fails to comply with the order, an offence is committed. The first stage must be proved on the balance of probabilities. This stage, the breach of an order, must be proved beyond reasonable doubt, just as any other complaint for which a charge has been laid must be proved.

If a member of the Police Force has reasonable cause to suspect that a person has committed an offence, that person can be arrested without warrant but, if arrested, must be brought before the court as soon as practicable, and, in any event, not later than 24 hours from the time of the arrest. This is important, too, because there are situations of violence that require the removal from the scene of one of the parties in order to allow a cooling-off period.

It is important to recognise that a party to those proceedings (a complainant, an accused or a victim) can apply to the court for a variation or revocation of the order at any time and, in that event, all the parties have an opportunity to be heard. I therefore suggest that there are in the Bill safeguards against abuse. There are rights of review and, of course, the rights of appeal to the Supreme Court remain. There is no attempt at all to remove those appeal rights. I believe that the legislation ought to be supported and that it should remain as legislation of general application, certainly reforming the present peace complaint procedure.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—'Orders to keep the peace.'

The Hon. BARBARA WIESE: I move:

Page 2, after line 18—Insert subsection as follows:

> (1a) The court shall not make an order under subsection (1) unless satisfied that the behaviour that forms the subject matter of the complaint arose from personal animosity between the defendant and the person against whom, or against whose property, the behaviour was directed and that there had been some prior manifestation of that animosity against the same person before the occurrence of the behaviour that forms the subject matter of the complaint.

As I indicated in my second reading speech, this Bill has very wide-ranging powers and could be very dangerous if applied generally, as the Attorney-General has suggested it will be applied, if it passes in its present form. The Bill allows a complainant or a police officer to obtain an order restraining certain forms of behaviour by another individual merely by one's placing a telephone call to a justice of the peace or a magistrate. The complainant must merely convince the justice of the peace or magistrate that, on the balance of probabilities, it is possible that such an individual will behave in a provocative or an offensive manner. It also gives the police power, without a warrant, to arrest an individual.

These are very wide-ranging powers which, if abused, could seriously and unfairly interfere with the liberties of the people of this State. Unfortunately, powers of this kind are necessary if victims of domestic violence are to be given

adequate protection. Therefore, the Opposition fully supports the introduction of these measures in those circumstances. However, there are other circumstances in which we believe that the use of such powers would be destructive and would amount to an unwarranted infringement of civil liberties. As the Bill currently stands, that is exactly what will be possible.

In my second reading speech, I cited the case of an industrial dispute where the workers may have, for example, set up a picket line outside a factory. This is considered by most people to be a legitimate form of industrial action, but using the powers provided in this Bill the employer would be able to obtain a restraining order on the ground that a disturbance might take place. This order could have conditions attached to it requiring the workers to stay away from the factory and, should they return to the picket line later, they would be breaking the order, and the police would have the authority to arrest them.

These circumstances are not unusual, and it is a legitimate activity for workers to form a picket line outside a factory. However, I believe that it will be possible, if this Bill passes in its present form, for an unscrupulous employer to interfere with the legitimate right of his employees to take that form of industrial action. The Opposition considers that this interference with those rights would be unwarranted and untenable. I imagine, too, that these powers could be used to prevent individuals taking certain action. For example, perhaps political candidates would be prevented from canvassing in their electorates. It might also be possible to prevent religious groups from spreading the word of the gospel. The possibilities involved are really rather frightening.

I point out also that the domestic violence committee's recommendations that form the basis for these amendments recognise the danger inherent in allowing this legislation to have general application. It was not that committee's intention that such provisions should apply in cases other than those involving domestic violence. The Opposition agrees with this point of view, and the amendment seeks to restrict the use of these powers to appropriate categories.

In drafting this amendment, we had two options. First, we could seek to exclude those areas that we thought should not be covered by the legislation. However, we rejected that option because it would obviously be extremely difficult to identify all the situations where legislation of this kind could be put into effect. Obviously, too, we would also miss the point of the amendment if we were to exclude a category that should have been included.

Our second option was to define the situations to which the legislation should be confined. This, too, was a very difficult problem because we obviously would not want to miss a category in our definition. Other Parliaments have identified the problems that are involved in defining an area like this. For example, when the domestic violence legislation was being considered in the United Kingdom, there was considerable discussion on this very question of how to define a domestic situation. The United Kingdom ended up with a definition which was so restrictive that eventually only married couples who lived under the same roof were covered. Clearly, the Opposition wants a definition which is broader than this; we want to cover not only married couples who are living together but also married couples who are living apart, *de facto* spouses, people sharing a relationship who have never lived together, fathers and sons, mothers and daughters, neighbours who have some disagreement, etc.

To keep our definition as broad as possible, while still confining the use of the legislation to appropriate categories, the Opposition suggests that the only disputes which may be dealt with are those which result from personal animosity between individuals, and that that animosity should have manifested itself on some occasion before the occasion on which the complaint has been raised. In other words, by restricting the use of the legislation to disputes based on personal animosity, the Opposition is excluding such situations as industrial disputes from the ambit of the legislation, since these disputes are based on antagonisms between classes of people (probably in more ways than one), rather than personal antagonism. I hope that the Committee will see the wisdom of this amendment which would, if it is carried, remove a very serious danger to the civil liberties of individuals in this State, a danger which is currently inherent in this Bill.

The Hon. FRANK BLEVINS: I support the amendment. I have little to add, as the reasons given by the Hon. Miss Wiese in moving her amendment were put to the Committee clearly and comprehensively. If the object of this Bill is to deal with situations of domestic violence and violence associated with personal disagreements, the Opposition is prepared to make some concessions in relation to the civil liberties we would normally expect to prevail throughout the general law. The Opposition appreciates that this is a special area which warrants special laws and in which the laws should not have to abide by the principles inherent in the general law.

The Opposition concedes that these are special circumstances. However, what we are not prepared to concede is that the deviation from normal practice, which is occurring in this area, should go right across the board. The broad way in which this Bill is framed means that the Act will apply right across the board and not just to those very specific and difficult areas. In particular, the Hon. Miss Wiese mentioned the question of industrial disputes. In my opinion it would be a tragedy if an Act such as this was to be used in this area.

I do not think that the Attorney-General or the Government intended, when introducing this Bill, that it should be used in a situation of industrial disputes. However, irrespective of the intention of the Government, it is what is in the Bill that counts. There is no doubt that this Bill, when an Act, could be used during industrial disputes. New section 99 (1) *(c)* provides:

> (i) the defendant has behaved in a provocative or offensive manner;

There is no doubt that, when there is a picket line at the gate of certain premises, that could be seen by the employer (and if one stands where the employer is, it is understandable) as being provocative. Certainly, if that employer were trying to keep his factory going, it would be an offensive act; it would be offensive to the employer to see that picket established at his premises. There is no doubt that it would be made perfectly clear to the employer that the picket line, unless the industrial dispute was solved, would be there again the following day.

The Hon. R. J. Ritson: You are trying to read an awful lot into this, aren't you?

The Hon. FRANK BLEVINS: It is not a question of reading something into it; that is what the Bill says. New section 99 (1) *(c)* also provides:

> (iii) the defendant is, unless restrained, likely again to behave in the same or a similar manner,

In the circumstances I have described, the pickets would clearly indicate that they would be doing the same thing the following day, unless the dispute was resolved. Those circumstances fit this provision completely. If an employer wished to use the provisions of this Bill, he would not have much difficulty in getting the appropriate order.

The Hon. K. T. Griffin: That's where I disagree with you.

The Hon. FRANK BLEVINS: That is right, but my opinion is that the employer would not be in much difficulty in obtaining that order. The overwhelming majority of

employers would not use this Bill, for a very good reason. The minute an employer did so, the dispute would escalate to a degree where that employer would wish he had not used it. The overwhelming majority of employers are rational and would not use this Bill. However, some employers are not rational; they have a blind hatred of their employees and all workers and see picketing as a violation of their right to operate their factory in any way that they wish.

The temptation to use this provision in a particularly difficult, nasty and intractable industrial dispute will be very high and such action will straight away involve the police and the ordinary courts in industrial disputes—a situation which should at all times, where possible, be avoided. If any legalities are warranted, industrial disputes should be heard within the industrial court and not in other courts.

Whilst I concede that the situation to which I have referred is not intended by the Government, a simple reading of the Bill will demonstrate that it is a possibility and, in the heat of industrial dispute, could certainly happen. If the aim of the Government is to maintain this State's record of relative industrial peace, of dealing with industrial matters through the process of negotiation, conciliation and arbitration, and of staying away from the general law, then it should agree to this amendment, which restricts the application of the law to a specific area and which has been worded brilliantly, because it takes the areas—

The Hon. R. J. Ritson: Did you draft it?

The Hon. FRANK BLEVINS: No, I did not. I compliment the person who did draft it, because it restricts the provision to those areas at which the Bill is aimed, yet the areas in the amendment are broad enough to pick up not just a dispute between husband and wife or between people living in a *de facto* relationship but also disputes between neighbours and people who, whilst they do not have a close relationship or are not living together, nevertheless have had some relationship and are in dispute with tempers running high and damage being done.

All that is retained, whilst excluding issues which the Government does not intend to be included. That is a reasonable approach, and the Hon. Miss Wiese should be commended for moving this amendment. Certainly, it does not interfere with what the Attorney-General wants to do in this Bill, an aim we support completely. It does not interfere with that, yet at the same time, if the amendment is accepted, it eliminates any possibility of the Bill's being used in a manner for which it was not intended. I urge the Committee to support the amendment. The Committee can do so knowing that it is supporting the principle of the Bill completely. We want the provisions to assist in these difficult areas of personal disputes while, at the same time, not producing a special law that is used in a way for which it was not intended.

The Hon. ANNE LEVY: I, too, support the amendment. I reiterate what the previous speakers have said and hope to emphasise to the Committee the amendment's importance. We all know that this legislation is designed for domestic disputes. It results from comprehensive study of what to do in situations of domestic violence. It is designed for such situations, and it is surely desirable that this legislation should be limited to that type of situation and not made so general that it can be applied in all sorts of situations where no such application was intended, situations which were far beyond those dealt with by the Domestic Violence Committee, which recommended legislation of this type.

Certainly, I endorse the congratulations to the Parliamentary Counsel who has devised the specific wording of the amendment. The problem of defining a domestic dispute has troubled legislators in many parts of the world. Legislation of this nature has been proposed in many different places, and the stumbling block has always been how to define a domestic dispute so that it will encompass all the domestic situations that one wished it to cover without going beyond that sphere.

As the Hon. Miss Wiese has said, previous attempts have usually erred on the side of narrowness and have thereby excluded from consideration situations which we, and I am sure the Government, would like to see included and covered by the procedures set out in the Bill. The Parliamentary Counsel has put forward the proposal that personal animosity must be a factor involved, and it seems that this is the answer that has been looked for by legislators throughout the world to restrict the applicability of the legislation to those situations for which it is designed. If this amendment is accepted, and I urge the Committee to accept it, we will be creating a legal precedent, and I am sure that the wording used will be taken up in many different places around the world, because it will be a solution to the problems that have faced people in trying to deal with the situations commonly known as domestic violence.

To insist that personal animosity must be present also covers all the situations that the Government wants covered in this Bill. Not to limit it in such a way will cast far too wide a net and include situations for which the Bill is not intended or designed and which could greatly interfere with the civil liberties of people in living their ordinary lives in the community. Therefore, I urge the Committee to support the amendment, which clearly defines the circumstances in which the legislation can be used and for which it was designed and intended.

The Hon. K. T. GRIFFIN: I cannot accept the amendment. I will deal with several of the points raised, first by the Hon. Barbara Wiese. I was wondering where she got the idea that a telephone call may be the basis on which action could be taken by the police or the courts. I must confess that I misunderstood the context in which she made reference to that earlier. It now seems that she is concerned that a telephone call to a special magistrate or justice of the peace could lead to an order's being made on the balance of probabilities. If that is a correct understanding of what she is putting, and of her fear, let me say that that understanding is wrong. The Bill does not allow the mere telephoning of a special magistrate or a justice of the peace to be the basis for making an order.

The Bill is clear: it has to be an order of a court of summary jurisdiction, and a court must be properly constituted. It can be a special magistrate or two justices of the peace, but it has to be a properly constituted court before which the complaint is made. It must take evidence, and then make a decision initially on the balance of probabilities. If the defendant has been summonsed and appears, then he has an opportunity to present a case. If the defendant does not appear, having been served with the summons, an order can be made in that person's absence. If the summons has not been served, an order is made, but the defendant must be given a summons to attend and be heard and after that hearing, if the order is not confirmed by the court, it shall not be effective.

Let me say that at no stage will the mere telephoning of a magistrate or a justice of the peace suffice. I had understood that it was a complaint by a person to the police which might set the wheels in motion. Obviously, I misunderstood because it is correct that the police will respond to a telephone call, but that is all it is: a response to a telephone call making a complaint. Before orders can be made, evidence has to be presented to a court of summary jurisdiction. I do not see that that is any cause at all for alarm.

I do not believe that this Bill interferes, as the Hon. Anne Levy suggests it does, gravely with civil liberties.

Safeguards are provided at each stage of the process of obtaining an order and reviewing the order. Rights of appeal are available; a right of appeal from the first order made on the balance of probabilities and against the conviction of breach of an order. Those rights of appeal, where they relate to the liberty of the individual, can be exercised quickly before the Supreme Court. So, safeguards are built into the legislation. If the amendment were to be passed, I suggest that it would severely limit the operation of even the present peace complaint procedures.

I have already indicated to the Committee a number of cases where the peace complaint procedure has been held to be applicable, cases where there is no personal animosity and where there has been no prior manifestation of any animosity. Let me remind honourable members of some of the examples that I have given—pestering by repeated and unnecessary telephone calls; senders of poison pen letters; people who make a practice of writing slogans on walls; and men who pester women. In those cases there is no personal animosity between the offender and the victim.

The Hon. Frank Blevins: Surely there is a great deal of animosity by the victim towards the offender.

The Hon. K. T. GRIFFIN: The amendment provides for personal animosity between the offender and the person to whom that behaviour was directed. I could give a number of examples where it is difficult to prove personal animosity. One person is well known to previous Attorneys-General and other Ministers; he occasionally takes it into his head to appear in the waiting area of the Minister's offices and some other Government offices, where he dumps a bag of broken bottles all over the floor. It is difficult to establish personal animosity. In many cases there has been no prior manifestation of that against that particular office or Minister. Is it personal animosity against the Minister or a member of the staff, or is it just a feeling that one wants to be disruptive? I think the introduction of personal animosity creates problems in the way in which the legislation could be reasonably used.

The Hon. Mr Blevins has raised the question of pickets. I have indicated that it is certainly not the Government's intention that the legislation be used in situations of industrial disputes. However, I did say that where there was violence between individuals, or threats of violence between individuals, in whatever context that arises, this legislation ought to be available. The employer who seeks to use this legislation in a picket situation, unless there have been acts of violence between individuals, would be a fool because of the consequences which would flow.

One has to recognise that this Bill is a reinforcement of the criminal law; it is not a reinforcement of an industrial law. It essentially deals with relationships between individuals. I do not believe that it could be used effectively in that industrial context, remembering also that a matter has to go to court before orders can be made. A lot can pass between the threat or the breach of the peace and the order being made, and much can happen even after that. I would personally find great difficulty accepting that the Bill should be so limited because of the fear that in certain limited circumstances it might be used unwisely. First, I do not believe it would be so used and, secondly, I would have grave doubts whether such use, if it occurred, would be successful.

The Hon. K. L. MILNE: The Attorney-General has said twice he is not prepared to accept the amendment. Reference to personal animosity is creating a problem. Perhaps we could consider leaving out the reference to 'personal', and talk simply about animosity. There are two questions: first, as to the matter of personal animosity and, secondly, in regard to the last two lines of the amendment, which refer to some prior manifestation of such animosity. I do not think that that is necessarily a good idea. It may be the first manifestation, and one would not want another. Maybe the amendment should leave out that reference.

Would the Government be prepared to consider amending the clause the other way around, by stating clearly that the provision shall not apply to groups of people, so that it would exclude any possibility of interfering with actions of political groups, churches, or other groups? I would be prepared to seek an adjournment if the Government were interested in canvassing the ability of an amendment of a different kind to get rid of some of the qualms which the Opposition has expressed.

The Hon. BARBARA WIESE: I wish to make some comments relating to the points Mr Milne has raised and then take up a couple of points to which the Attorney-General referred earlier. First, it would seem to defeat the purpose of the amendment if we were to delete the word 'personal'. If we were dealing with antagonism or animosity in general, that would include animosity created in industrial disputes. So, I cannot see any value in dropping that word. As far as prior manifestation of animosity is concerned, it seems important to include such a reference in the amendment to avoid situations in which somebody might bring a frivolous charge to a court. In the real world it is hardly likely that an individual would go to a court to seek a restraining order if there had not been some prior manifestation of the behaviour being complained about.

I really see little value overall in the suggestions that the Attorney has put forward. I come back to the points made earlier by the Attorney-General, the first being the point about the mechanism for obtaining a restraining order. If it is the case that I have misunderstood that mechanism, then I stand corrected, but I do not think that that really detracts from the point I am trying to make with regard to this, because it is still possible for a restraining order to be obtained in the absence of the offender even though he has an opportunity at a later stage to put his case. It is still the case that the police are able to arrest individuals without a warrant and they are fairly hefty powers to give to the Police Force. We ought to be very careful about handing over powers like that.

I think that the point I made earlier still stands: that these powers ought to be confined to particular categories. On the other point that the Attorney has raised concerning matters outside the domestic dispute situation which are currently dealt with by the peace complaints procedure, it seems to me that, first, a number of the issues that he has raised can be dealt with adequately already by other areas of the law. The Police Offences Act, for example, under section 18 deals adequately with people who are found loitering near lavatories. Section 50 of the Police Offences Act deals with people who are proving some sort of nuisance by unnecessarily ringing a doorbell or knocking on doors. Section 45 deals with people who are street musicians, for example, who have been requested for any reasonable cause to cease making music and who do not cease. For that sort of activity they then can be charged under the law.

I should imagine (but I am not sure, so perhaps some of the legal experts here can advise me) that pestering telephone calls and poison pen letters that come through the post are matters which can be dealt with under Commonwealth laws. It seems to me that many of the issues raised by the Attorney-General as being matters that are currently dealt with under peace complaint procedures are matters that could be taken up under the auspices of other laws. The Attorney-General might say that the problem with these other laws is that the charges have to be proved beyond reasonable doubt, but I would argue that that is reasonable and that they ought to be proven beyond reasonable doubt in most of those cases.

I also raise the question as to how many of these other offences that the Attorney has cited have actually occurred in recent times. Are we talking about large numbers of offences, or are we talking about a small number of other cases that have been dealt with at some time or other but which involve powers that are called on very rarely? Some indication along those lines would be very useful. It seems to me that, whatever the incidence of those cases, most of them can be dealt with by other sections of the criminal law, and should be.

The Hon. K. T. GRIFFIN: It is correct that the peace complaint procedure is used mostly in cases where the parties are known to each other, and in domestic situations, but the peace complaint is used in other cases. Any legal practitioner will have recent experience of peace complaint procedures in areas other than domestic situations. One of the difficulties is that it is so cumbersome. In many cases, practitioners advise their clients that it is a waste of time and energy and that, whilst the procedures are being taken and there is delay in finally obtaining the order and then prosecuting a breach of the complaint, a number of months can elapse. It is possible within that time for the person against whom the order has been made to commit other breaches of the peace and to continue his behaviour with some impunity. Therefore, it is not so much a matter of finding alternatives: it is a matter of finding an effective alternative. Certainly, telephone calls of a pestering nature can be dealt with under the Telecom Act. Writing slogans on walls is an offence, but an effective alternative is needed against continuing offences.

One might say that there is no guarantee that a restraining order will do that, but at least there is the opportunity for the court to impose a restraining order which, if breached, will mean that the person who commits the breach will be brought back before the court and that there is a potential for some sort of effective remedy. The Hon. Barbara Wiese has raised the question of the power to arrest without warrant. If one reads the clause carefully in the Bill one sees the power to arrest without warrant as the power to arrest when there is an offence committed.

The Hon. Barbara Wiese: Anticipated, too.

The Hon. K. T. GRIFFIN: Essentially in proposed new subsection (7), it states:

> Where a member of the Police Force has reasonable cause to suspect that a person has committed an offence under subsection (6), he may, without warrant, arrest and detain that person.

Subsection (6) is that subsection which creates the offence of failing to comply with an order. The arrest is essentially for the purpose of a cooling-off period. In any event, there is provision that that person must, in general terms, be brought before a court not later than 24 hours after the time of the arrest, which is largely within the general principle that a person should be brought before a court as soon as reasonably practicable after an arrest.

I am not persuaded by those points that the amendment ought to be carried. The Hon. Lance Milne makes several points, two of which have already been dealt with by the Hon. Barbara Wiese, about the deletion of the word 'personal' and the deletion of the reference to a 'prior manifestation of that animosity', which would certainly improve matters from my point of view, but I do not really think it adds anything to the Bill. It provides an ingredient which will ordinarily be taken into consideration by the court in determining whether or not an order ought to be made in any event. The Hon. Lance Milne has referred to some limitations and he said that it should not apply to groups. With respect, the Bill does not apply to groups now: it relates to individuals. It is directed towards a defendant who has done certain things and it relates to a person against whom those things have been done, so it relates to individuals now. With respect, I cannot see how a restriction which would limit the operation in the way suggested would in any way help the operation of this proposed clause.

The Committee divided on the amendment:

Ayes (10)—The Hons Frank Blevins, G. L. Bruce, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, Anne Levy, C. J. Sumner, and Barbara Wiese (teller).

Noes (11)—The Hons J. C. Burdett, M. B. Cameron, J. A. Carnie, L. H. Davis, M. B. Dawkins, R. C. DeGaris, K. T. Griffin (teller), C. M. Hill, D. H. Laidlaw, K. L. Milne, and R. J. Ritson.

Majority of 1 for the Noes.

Amendment thus negatived.

The Hon. BARBARA WIESE: My intention was to improve the situation for people who sought revocation or variation of their restraining orders. I have made further inquiries and have discovered that this could hold up proceedings, particularly in country areas where, very often, magistrates are not present on a regular basis. In view of that, I do not intend to proceed with the other amendment that I have on file. However, I have a question in relation to new subsection (11).

I am concerned about the legislation as it affects those individuals who will be involved in its enforcement, particularly police officers, who should be made well aware of their new powers and responsibilities. What measures will be taken to publicise the new provisions and bring about a changed view amongst members of the Police Force in relation to the new powers available to them? My second question relates to the back-up support available to people who are involved in violent domestic situations. I note that the Domestic Violence Committee Report recommended that there should be much better counselling services available to people who find themselves involved in situations of domestic violence. Will the Attorney-General improve the counselling services that are available to people involved in these situations?

The Hon. K. T. GRIFFIN: Traditionally, police officers have been reluctant to take action in situations involving domestic strife, because they frequently have difficulty in getting witnesses to appear before a court. In my time as Attorney-General I have initiated a number of actions for, say, assault where we have had to determine whether or not the matter should proceed because the complainant has sought to withdraw and has refused to give evidence. In several of those cases complainants refused to proceed with a prosecution because pressure had been brought to bear upon them. In those cases there is no alternative but to accept the reality of the situation that a complainant is not prepared to give evidence, so it is foolish to proceed. I believe that the wider provisions of this Bill will allow police officers, whilst still being sensitive to the peculiarities of domestic tension, greater power to deal with those situations. Instead of a victim being the complainant, it will be the police officer. If the Bill passes I am sure that the Police Commissioner will take adequate steps to ensure that police officers are made fully aware of the changed law and are made sensitive to the manner in which it should be implemented.

There are no plans at this stage to do that, because there is no certainty that the Bill will pass. However, I undertake that that will be my request to the Chief Secretary in relation to the implementation of this legislation. Also, the Women's Adviser to the Premier is most anxious to ensure that this remedy becomes available and that it will play an active part in wider publicity as to the enactment of this law; she will be very much interested to ensure that police officers and others are aware of it and that they will administer it sensibly.

Regarding back-ups, again the recommendations of the domestic violence committee have been referred to various Ministers, and their departments are examining the recommendations. I understand that the Minister of Community Welfare has been having some discussions with departmental officers about this, but again there was no point in making firm plans about this until the legislation was enacted. However, I can give an assurance that, if the Bill passes, that area will receive early attention, because it does need special attention.

Clause passed.

Title passed.

Bill read a third time and passed.

WORKERS COMPENSATION ACT AMENDMENT BILL

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

The Hon. J. C. BURDETT (Minister of Community Welfare): I move:

That this Bill be now read a second time.

As the explanation of the Bill is of considerable length, I seek leave to have it inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

Historically, one of the most difficult and complex areas of State industrial jurisdiction has proven to be legislation to provide for the compensating of employees injured in the course of their employment. From the passage of the first Workmen's Compensation Act in South Australia in 1900, successive Governments have found it necessary progressively to amend and update the legislation to reflect changes in social values and to correct administrative anomalies as they became apparent.

The current Act, which came into force on 1 July 1971 and was subsequently substantially amended in 1973, completely restructured the workers compensation legislation in South Australia. That legislation vastly increased the amount of compensation payable, broadened the grounds on which an injured worker could gain compensation and gave the Industrial Court the jurisdiction to hear and determine the claims under the Act. It introduced benefits far in excess of those payable elsewhere in Australia at that time and, although all States have subsequently raised the levels of compensation payable under their respective legislation, only Tasmania has chosen to adopt the equivalent basis for payment of weekly compensation benefits.

The effect of the legislative changes made in the early 1970s was reflected in rapid increases in the number of workers compensation claims made and the amount paid out annually in compensation. The number of claims peaked in 1974 but has progressively fallen since that time, due, I believe, to greater awareness by employers of the costs of compensation and the introduction of measures to reduce the number of accidents. Compensation costs, however, have continued to escalate.

During the mid 1970s several quite serious anomalies in the new legislation became apparent. Not the least of these was the opportunity for an injured worker to receive far more whilst on compensation than would be paid where the worker was still on the job. It is of more than passing interest that a former Labor Premier said on 18 June 1976 that 'the Government is seeking to ensure that a person on workmens compensation will not receive more while he is away from work than he would if back on the job.' We are very conscious of the cost to employers of workmens compensation. This notion closely conforms to provisions of the Bill now before the House.

My colleague in another place made efforts to amend the Act in 1976 when, together with the Hon. D. Laidlaw, M.L.C., attempts were made to provide not only for the reasonable compensation of injured workers but also to ensure their speedy re-entry into the work force. In fact, it is interesting to recall extracts from my colleague's second reading speech for an amendment Bill delivered on 8 September 1976. He said in part:

> There is an urgent need to amend the Act because of the major rehabilitation problems it has caused, the increase in premiums that has occurred, the ridicule directed at the Act by many workers, and the abuse of the Act by a small minority.

The amendments that were introduced at that time highlighted the need for an emphasis on rehabilitation rather than just compensation under the terms of the Act. It became something of a personal campaign on my colleague's part to achieve this redirection of emphasis through which legislation could take account of the large number of people who felt that they had been thrown into the human scrapheap, simply because they had had a previous injury at work.

During the formulation of proposals for inclusion in a further amending Bill in 1978, the then Premier's Industrial Development Advisory Council recommended a comprehensive study of the whole approach to workers compensation in this State be instituted. Accordingly, a tripartite committee was appointed in July 1978 to examine and report on the most effective means of rehabilitating and compensating any person injured at work. At the time the present Government took office that committee was well advanced in its investigations, having just released a comprehensive discussion paper and arranged an overseas study tour to examine the workers compensation systems in operation in Canadian provinces and in New Zealand. These arrangements were quickly confirmed by the incoming Government.

The tripartite committee subsequently presented its report to the Government in September 1980. I wish to place on public record the Government's appreciation for the considerable work done by that committee and the individual contribution made by each of its members. It is obvious from the committee's report that a thorough review of all aspects of the workers compensation system was carried out and that considerable thought went into the formulation of the recommendations. However, the terms of reference of the committee had been framed in such a manner that it was required to put forward 'a proposed scheme' rather than also give consideration to the alternative of modifying the existing legislation to meet today's social and economic environment. As a result, the committee recommended that the existing Workers Compensation Act be replaced by a new Act with the emphasis on rehabilitation.

The basis of the new scheme proposed by the committee was the establishment of a Workers Rehabilitation and Compensation Board as an independent statutory body with power to oversee the rehabilitation of injured workers, determine all claims, appoint medical panels to determine disputes on medical matters, settle all appeals, except questions of law, and administer a central workers compensation fund. Other major features of the system were the abolition of the right to take common law action in any workers compensation matter; the replacement of lump sum settlements by weekly pensions; and the establishment of a single workers compensation fund replacing the existing private insurance arrangements.

The committee stressed that the report was a consensus document and that 'the resulting scheme must be viewed

as a total package'. Because of the fundamental changes to the present system that would result from the adoption of the committee's recommendations, Cabinet decided that public comment should be sought before making a final decision on the matter. As a result of this invitation, a total of 44 organisations and individuals chose to comment upon the report.

Only four submissions expressed unqualified acceptance of the committee's recommendations and these generally represented rehabilitation interests. Eleven organisations rejected the report outright. The majority of submissions indicated support for various facets of the proposed scheme. In view of the lack of general support for the package recommended by the committee, the Government decided that it should not accept the new workers compensation arrangements. Nevertheless, it firmly supports the general principle outlined in the report that much greater emphasis needs to be given to early and effective rehabilitation in the workers compensation system.

In order to explore ways in which this emphasis might be written into the existing Workers Compensation Act, and to determine other measures to improve the operation of the legislation, the Government last year discussed a number of proposals with those organisations most concerned in workers compensation matters. Following those discussions a draft Bill was prepared and was quite widely circulated on 11 February 1982 for comment to employer, union, insurance, legal, rehabilitation and occupational health interests. I am aware that the time given for comment on the Bill was limited. However, an extensive period had been given to all organisations to comment on the proposals of the tripartite committee and the views expressed were taken into account in formulating the provisions of the draft Bill. Unfortunately, although there were discussions with the United Trades and Labor Council before Christmas on the Government's proposals, my colleague in another place was unable to obtain specific comments from that body on the draft Bill, despite repeated requests until immediately prior to the introduction of the Bill in another place. In the past two weeks discussions between my colleague and the Secretary of the U.T.L.C. have taken place.

However, I can assure members that the Bill I now put before you has taken into account the comments of those who have responded. For example, it became apparent that certain proposals regarding medical referees were considered unworkable. They have therefore been deleted from the Bill. In other cases, such as the provisions relating to the new rehabilitation arrangements, considerable changes were made to the Bill in the light of the comments received. I am pleased to report that various organisations have commended the Government on the initiatives contained in the Bill.

Turning now to consider the more important features of the Bill, I wish first to explain the proposed rehabilitation arrangements set out in clause 21, the main aim of which is to ensure that all seriously injured workers receive appropriate rehabilitation without delay. The Bill provides for the appointment of a Workers Rehabilitation Advisory Board to advise the Minister on effective measures to promote and facilitate the early rehabilitation of injured workers and to monitor and advise upon the activities of and policies to be pursued by the proposed Workers Rehabilitation Advisory Unit. I stress that the board is to advise only on rehabilitation matters, not workers compensation generally, and for that reason representation has been restricted to interests which will have direct involvement with the rehabilitation system.

The Workers Rehabilitation Advisory Unit has been designed to fill a gap in the existing workers compensation system. Its specific role will be to monitor the rehabilitative arrangements made for seriously injured workers and facilitate, through consultation, the early return to work of such workers. The unit will be not undertake any rehabilitation programmes of its own and is specifically barred from undertaking medical examinations or medical treatment of any kind. It will, however, have the responsibility for arranging and carrying out promotional and educational programmes regarding the importance of early rehabilitation in the workers compensation system. Where a worker fails to attend counselling arranged for him by the unit or fails to make satisfactory attempts to rehabilitate himself for employment, the executive officer may certify accordingly. Such a certificate may form the the basis of an application by the employer for an order to suspend the worker's right to receive weekly payments in respect of the period of default.

One particularly important aspect regarding the work of the unit relates to the deleterious effects long delays may have in the settlement of workers compensation claims on the rehabilitation prospects of an injured worker in certain cases. The Bill provides that where this occurs the executive officer may certify accordingly. This certificate is to be filed in the Industrial Court, and the court shall, when determining the order of cases, give that particular case such priority as is reasonably practicable. There are two additional provisions contained in the Bill which it is believed will assist in facilitating earlier settlement of claims and rehabilitation of the injured worker back to work. The minimum period for furnishing to all parties medical evidence to be adduced as evidence in proceedings under the Act has been increased to 28 days. Secondly, a regulatory-making power has been inserted to enable the prescription of the form and information to be shown on medical certificates or reports relating to workers compensation injuries.

The lack of increase since 1974 in the maximum benefits payable under the Act has been of concern to the Government ever since it took office. However, it was considered desirable to defer making any adjustment until the more comprehensive amendments now before you were finalised. In most cases, the benefits have been doubled in the Bill now before Parliament. The Government recognises that such increases are not in line with the total change in the consumer price index since 1974, but believes that full adjustment would place an intolerable burden on industry. In the circumstances we believe the increase to be a fair compromise.

Although consideration has been given to automatically indexing the maximums to provide for future adjustments, the experience in Western Australia showed that the increase in sums under such a system was so rapid and of such magnitude that some limitation was required. The Government was therefore not prepared to incorporate such a measure in the Bill. In respect of weekly benefits payable under the Act, two changes are proposed. First, the Bill excludes from the calculation of average weekly earnings overtime and special site allowances. The exclusion of overtime will correct the long-standing anomaly whereby a worker on compensation may receive more than he would were he at work.

The second major change to weekly benefits is the reduction in weekly payments to 95 per cent of average weekly earnings after the first 12 weeks of incapacity. This is designed first to introduce some incentive for a worker not to delay his return to work and secondly to provide funding for the proposed rehabilitation advisory service. The sum represented by the 5 per cent reduction in average weekly earnings will therefore be put to good use rather than lost entirely to the worker, as occurs in most other States where a substantial reduction in weekly benefits occurs after the first 26 weeks. For example, the maximum weekly compen-

sation payable after the first six months is currently $115.60 in New South Wales, $130 in Victoria, $103.40 in Queensland, $101.70 in the Northern Territory, and $114 for Commonwealth Government employees. All these would represent much less than half the normal weekly earnings. Several amendments in the Bill relate to limiting the liability of employers to pay compensation in certain instances. First, the scope of journey accidents has been limited by restricting the journey to those commencing from, or ending, at the principal place of abode. Liability has also been excluded where the accident involved certain breaches of the Road Traffic Act.

The Bill further provides that compensation entitlement will cease on retirement or upon reaching the age of 65 years, which is the age accepted by the Federal Department of Social Security for payment of an age pension. The only exception to this rule is that a person working beyond the age of 64 years is entitled to compensation by way of weekly payments for injury for a period of one year from the commencement of the incapacity. This amendment has been included to restrict the scope of the Act to the true intention of the workers compensation, that is, to assist financially a worker who, through a work caused disability, is unable to continue his job and thereby receive his normal income. It is not a pension and weekly entitlements should therefore cease on retirement. However, the employer's liability to pay all medical and similar expenses will continue.

Due to the large financial and administrative burden, that the almost 'trendy' spate of noise induced hearing loss claims has had on the compensation system, proposals have been developed to exclude certain cases. Where a worker retires, any claim for hearing loss must be commenced within a year and any resulting payment will be based on the benefits applying at the date of retirement. In addition, the first 20 per cent of noise induced hearing loss will not be compensable on the basis that hearing loss below that level would rarely affect the ability to perform the job. Further, it is believed that this amendment will make it easier for those persons suffering from a hearing loss disability to obtain employment. Before moving away from the benefit-related aspects of the Bill, I wish to highlight the recognition of the services of a registered chiropractor in the list of those services for which the employer is liable for payment. This is in line with the growing recognition of chiropractic services throughout Australia, both in workers compensation legislation and more generally through acceptance as a claimable service under the health benefit funds.

Turning now to those amendments bearing on the financial aspects of the compensation system, the Bill contains two significant measures. The first of these concerns the apportionment of liability between two or more employers where death or incapacity results from an injury arising out of, or in the course of, employment with two or more employers. The Bill provides that where death or incapacity results in such a situation, the last employer liable for the death or incapacity may recover contribution from any other employer so liable. The liability of any former employer is limited to a period of 10 years immediately preceding the time when the employment last contributed to the injury. This provision will apply only to injuries which occur after the date of proclamation of the amending Act.

From time to time the Department of Industrial Affairs and Employment has been approached by employers who have been unable to find an insurer willing to issue a workers compensation policy as required by the Act or to obtain a policy at a premium commensurate with the risk involved. The Bill provides for the establishment of a small Insurance Assistance Committee to assist employers in such cases. Where the committee is unable to place the risk the State Government Insurance Commission is required to issue a policy at a premium determined by the committee. The commission is entitled to recoup any losses made on such policies from the existing statutory fund established to cover unmet liabilities in the event of insurer and/or employer failure. In effect, this means that the insurance industry will ultimately share claims pay-out on high risk policies if that exceeds the premium income received on such policies. However, it is expected that the number of cases where this will apply should be fewer than 10 a year. As a measure to discourage the initiation of frivolous, unnecessary or fraudulent applications or claims under the Act, certain penalties for such practices have been included in the Bill.

Finally, the opportunity has been taken to incorporate into the principal Act the provisions of the Workers Compensation (Special Provisions) Act, 1977-1980, and the Workers Compensation (Insurance) Act, 1980-1981. This is yet another example of the way in which this Government is continuing to reduce the number of individual Statutes, where appropriate, to assist the private sector in interpreting its obligations under State legislation. I commend the Bill to the Council as a well balanced and much needed update of the workers compensation legislation in this State. In doing so, I point out that the Bill is the result of considerable consultation with all interests in the workers compensation system and certainly has the support of the majority of those interests.

Clauses 1, 2 and 3 are formal. Clause 4 amends the definition section, section 8 of the principal Act. Three new definitions are incorporated into the Act. The most important of these is the new defintion of 'place of abode', which is limited to the worker's principal place of abode. However, a worker who is absent from his principal place of abode on his employer's business will be covered. Clause 5 amends section 9 of the principal Act in relation to 'journey injury'. At present the Act covers any worker who is injured 'in the course of a daily or any other period journey between his place of abode and his place of employment'. This phrase has been interpreted by the courts to mean that a journey has not been completed until the worker enters into the premises which constitute his 'place of abode'. This interpretation would seem to have taken the scope of the 'journey injury' far further than originally intended by Parliament. The new amendment restricts the scope of journey injuries by providing that a worker does not commence his journey until he has passed from the private property on which his principal place of abode is situated to the abutting or adjacent public property. A journey is completed when the worker passes on to the private property from the adjacent public property.

Section 9 of the principal Act is further amended by enacting that where a worker is involved in a 'journey accident' and he is convicted, in relation to that journey, of an offence against certain sections of the Road Traffic Act he is to be denied workers compensation. The relevant sections of the Road Traffic Act encompass driving under the influence of alcohol or drugs, driving whilst having .08 level of alcohol in the blood, failure by a person to submit to an alco-test or breath analysis and failure by a person to submit to a compulsory blood test. Clause 6 amends section 27 of the principal Act by enacting that where a worker retires on the grounds of age or ill health a claim for noise induced hearing loss must be commenced by the worker within one year of his date of retirement.

Clause 7 amends section 32 of the principal Act. Subclause *(a)* is a drafting amendment. Subclause *(b)* strengthens the current provisions relating to the production of medical reports. At present, evidence as to the condition of a worker cannot be adduced from a medical practitioner in legal

proceedings unless, at least seven days before the evidence is to be adduced, a copy of the medical practitioner's report and his statement of facts, conclusions and opinions of the worker's condition have been furnished to the other party. The seven day requirement has been increased to 28 days. Clause 8 repeals section 32A of the principal Act.

Clause 9 amends section 49 of the principal Act by doubling those amounts of compensation to be paid to dependants of a deceased worker. Transitional clauses are included. Clause 10 amends section 50 of the principal Act. The amendment doubles the amount of compensation payable, including funeral expenses, where a worker dies without dependants. Transitional clauses are included. Clause 11 amends section 51 of the principal Act. Amounts of compensation to be paid on incapacity are doubled. Thus the maximum amount payable where a worker is totally and permanently incapacitated for work is increased from $25 000 to $50 000, whilst the maximum sum for partial incapacity is increased from $18 000 to $36 000. The discretion at present vested in the Industrial Court to increase beyond the maximum the amount payable on total, permanent incapacity is removed. In effect the maximum payable is, in this situation, fixed at $50 000.

Two new concepts are inserted in subclause *(e)*. First, the amount of weekly payments paid to a worker after 12 weeks on workers compensation is to be reduced by 5 per cent. This 5 per cent is to be paid into the Workers Rehabilitation Assistance Fund and all moneys from this fund are to be used towards defraying costs of the new rehabilitation administration. The other new concept is the ending of the liability of the employer to make weekly payments to a worker where a worker has either retired from employment or reached the age of 65 years. The only exception is a person working beyond the age of 64 years who is entitled to weekly payments of compensation for any injury occurring after that age for a period of one year from the commencment of the incapacity. Transitional clauses are also included.

Clause 12 amends section 53 of the principal Act. It empowers the Industrial Court to impose a penalty of $500 on any employer, or any person who, on behalf of the employer, issues a section 53 application without reasonable grounds for doing so and knowing that he had no reasonable grounds for doing so. The penalty is payable to and recoverable summarily by the Crown. Clause 13 amends section 54 of the principal Act. This amendment clarifies an ambiguity in the Act regarding annual leave taken whilst on workers compensation. Pursuant to the amendment where an employee has been on compensation for a continuous period of 52 weeks or more the liability of the employer to grant annual leave to the worker for that year is deemed to have been satisfied. This does not remove the obligation on the employer to pay the annual leave loading.

Clause 14 amends section 56 of the principal Act. The weekly payments of compensation to a worker are suspended if he goes on overseas holidays whilst in receipt of such payments, without the approval of either his employer or the executive officer of the Workers Rehabilitation Advisory Unit. Clause 15 amends section 59 of the principal Act. The first amendment complements the clause 11 amendment. It provides that an employer who is no longer liable to make weekly payments to a worker who has retired or reached the age of 65 years nonetheless remains liable for the worker's medical and similar payments pursuant to this section. Following the registration of chiropractors and the recognition of their services by the health funds, their services are included in the list of those services for which the employer is liable for payment.

Clause 16 amends section 63 of the principal Act. Overtime and site allowances are to be excluded from the computation of a worker's average weekly earnings. Clause 17 amends section 69 of the principal Act. A new concept is introduced in compensation for noise induced hearing loss. A minimum level is set below which no claim can be made for noise induced hearing loss. This is fixed at 20 per cent. Further, where claim for noise induced hearing loss is made after the worker's retirement due to age or ill health, the injury is to be deemed to have occurred on the date of retirement, not the date of the claim as is the situation now. Other provisions in the clause double the lump sums payable for section 69 table injuries. At present the maximum sum payable for these injuries is $20 000. This sum is to be raised to $30 000 for those injuries occurring from 1 July 1982 to 30 June 1983, and then raised to $40 000 for all injuries occurring after 1 July 1983.

Clause 18 amends section 70 of the principal Act by doubling the maximum amount payable for specified injuries not mentioned in the section 69 table from $14 000 to $28 000. Clause 19 amends section 72 of the principal Act by doubling the maximum lump sum payable on redemption of weekly payments from $25 000 to $50 000. Clause 20 amends section 75 of the principal Act by removing the discretion vested in the Industrial Court to order, where moneys are paid into court on behalf of a spouse and her children, either that the sum be paid out to the widow or that it be invested and weekly payments made to the spouse from the resulting trust. Moneys paid into court are henceforth to be paid out directly to the spouse. However, where there is an amount paid in, specifically on behalf of a dependent child of a deceased worker, that amount is not to be paid out to the widow unless the court is satisfied that the widow is maintaining the dependent child.

Clause 21 inserts a new Part VIA (into the principal Act) covering rehabilitation of injured workers. The new section 86a establishes a Workers Rehabilitation Advisory Unit, which is to oversee rehabilitation of appropriate cases. The unit is to be headed by an executive officer and comprise such other staff as the Minister determines. The functions of the unit include creating broad educational programmes on rehabilitation, encouraging the establishment of rehabilitation programmes by employers, the maintenance and publication of statistics, and advising injured workers on the most appropriate methods of rehabilitating themselves for employment. The unit is not empowered to carry out medical examinations or medical treatments. To facilitate maximum co-operation between all interested parties, it is provided that any statement made by any person to an officer of the unit, concerning a worker who is in receipt of weekly payments of compensation, shall not be admissable as evidence in legal proceedings without the consent of the executive officer, the person making the statement and the person to whom the statement was made.

New section 85b establishes the Workers Rehabilitation Advisory Board. The board is to be chaired by a person with experience in the rehabilitation field. Its members are to include a medical practitioner with experience in rehabilitation and a representative from employers (including self-insurers), workers and the insurance industry. The powers of the board include investigating and reporting to the Minister upon policy for rehabilitation promotion and the monitoring of the activities of the unit.

New clause 86c provides that, whilst the employer may at any time notify the unit of the details of incapacitated workers in his employment, in the cases where an injured worker is incapacitated from work for a period of 12 weeks, he must notify the unit of this fact within 21 days. Where it is appropriate the executive officer of the unit will make arrangements for the worker to be counselled by relevant officers. Where a worker fails to submit himself for counselling by the unit or where a worker fails, in the opinion

of the executive officer, to make satisfactory attempts to rehabilitate himself for employment, the executive officer may issue a certificate as to this fact. Such a certificate may form the basis of an application by the employer for an order from the Industrial Court suspending the worker's right to weekly payments in respect of any period during which the worker is in default.

New clause 86d concerns delays in court hearings. To overcome this problem the executive officer of the unit has been empowered to certify where a delay in the settlement or determination of the claim is having an adverse effect on the rehabilitation of a worker. Such a certificate is to be filed in the Industrial Court and the court shall, when determining the order of the court's trial list, give the case such priority as is reasonably practicable. The court is also empowered to make, of its own motion, any directions it considers necessary to expedite the hearing of the matters. New section 86e empowers the Minister to pay all administration expenses relating to the board and unit from the rehabilitation fund.

Clause 22 incorporates into the principal Act the Workers Compensation (Special Provisions) Act, 1977-1980. This Act covers sporting injuries. It has been incorporated into the principal Act as a rationalisation measure. Clause 23 repeals section 90 of the Act and inserts a new Part VIII—contribution. Where death or incapacity results from an injury arising out of or in the course of employment with two or more emloyers the last employer is liable for compensation for the injury. However, the last employer may seek contribution to the sum paid out in compensation from the former employers. The liability of the former employers is limited to a period of 10 years immediately preceding the time when the employment last contributed to the injury. Where the worker elects to proceed against a former employer instead of his present employer, any aggravation or exacerbation occurring in the latter employment is to be disregarded in determining the extent of the former employer's liability. Clauses 24, 25 and 26 are amendments consequential upon clause 23.

Clause 27 repeals section 103 of the principal Act. The new provision empowers the Minister to extend, vary or revoke the provisions of any silicosis scheme. Clause 28 inserts a new part XA—Insurance—in the principal Act. It incorporates into the principal Act the Workers Compensation (Insurance) Act, 1980-1981, relating to the provisions of workers compensation payments to workers in the event of the insolvency of the employer and/or insurer. As with the Workers Compensation (Special Provisions) Act 1977-1980 (supra) this has been included as a rationalisation measure. Two new sections are inserted relating to the establishment of an Insurance Assistance Committee, which will assist employers who are either unable to obtain workers compensation insurance as required by the Act, or to obtain insurance at rates commensurate with the risk.

New section 118f establishes the Insurance Assistance Committee whose membership will consist of a representative of the State Government Insurance Commission and two persons representing the interests of other insurers. New section 118G provides that where the committee is approached by an employer for assistance the committee is to attempt to find an insurer who is prepared to accept the risk at what, in the committee's opinion, is a reasonable premium. Where the committee is unable to obtain such insurance the State Government Insurance Commission shall offer the applicant a policy of insurance at a premium recommended by the committee. Any losses made in respect of such policies are to be recouped from the Statutory Reserve Fund. Clause 29 repeals sections 123 and 124 of the principal Act. These sections are relocated in more appropriate areas within the Act.

Clause 30 amends section 126 of the principal Act. It widens the regulatory-making power of the Act by enabling the prescription of the form of medical certificate and of the information to be contained therein where the medical certificate is issued in respect of a workers compensation claim. Clause 31 complements clause 12 of the Bill. It empowers the court to impose a penalty of $500 on any worker who wilfully makes a false claim for compensation under the Act. Clause 22 repeals the Workers Compensation (Special Provisions) Act 1977-1980 and the Workers Compensation (Insurance) Act, 1980-1981. Both Acts are now contained within the body of the Bill.

The Hon. FRANK BLEVINS: My first inclination, when looking at this Bill, was to oppose it. There is no doubt in my mind that this is one of the most vicious attacks on the rights of injured workers in this State that I have had the misfortune to see. As I said, my first inclination was to reject the Bill out of hand. However, on reflection, the Opposition will support the second reading of the Bill in an attempt to be constructive, to move amendments in Committee, and to rectify some of the very severe problems that the Bill will create.

The hatred for workers that this Government shows is manifest in this Bill. Not one item of legislation that has been brought before Parliament by this Government has in any way been constructive or has sought to minimise industrial disputes or to create harmony and fair play between employers and employees. Every industrial Bill has been an attack on either the employee or the independence of the Industrial Commission. Why this is so, I do not understand.

It can only be understood if one goes back to the basic premise of the Government, namely, that it has a hatred for the workers of this State—workers who have done nothing at all to engender that hatred. Indeed, those workers have a record of being amongst the most compliant workers in Australia. This is shown clearly by the level of industrial disputes in this State, which is lower than that of any other State. It is also shown by the level of productivity here, which level is equal to that of any in Australia.

It is also shown that, despite the low wages that are paid in this State (they are much lower than in any other State in Australia), the work goes on, with very few stoppages occurring. What on earth have the workers, particularly sick workers, done to warrant an attack such as this Bill? It can be put down only to spite. When dealing with workers compensation, we must go back to 1973.

The Hon. D. H. Laidlaw: You should go back to 1900.

The Hon. FRANK BLEVINS: I will leave that to the Hon. Mr Laidlaw. He is much older than I, and perhaps he can go back further. Certainly, if we go back to 1973, we see that that was when the last major change to workers compensation legislation occurred in this State. All reasonable members of the Council would agree that before 1973 the position regarding workers compensation was absolutely atrocious. The standards then were positively mediaeval, even worse than the position going back to 1900. As I said, the position for injured workers was absolutely atrocious.

In 1973, Parliament passed a significant alteration to that position. There was a great deal of jubilation in the work force when those amendments were passed and the new workers compensation legislation was enacted. However, I did not share that jubilation. I thought in 1973 that the workers got merely a fair and equitable Workers Compensation Act. That should not have been any cause for joy. It should have been accepted completely as a proper measure for dealing with the vexed question of workers compensation. It did not give the workers anything to which they were not entitled, and it did not unduly (if at all) affect the rights that employers had. It did not, in a compensation sense, put any additional costs on employers. It was perfectly

fair. I will back that up: it did not put any additional costs, in a compensation sense, on employers.

I see that one of the key haters of the workers of this State, namely, the Minister of Community Welfare, is laughing. Let me tell him this (I assume that that Minister has read the second reading explanation): after that significant change in 1973, there was a reduction in the number of workers compensation claims.

The reason for this is clear: employers and insurance companies did a lot of tidying up in work places and ensured that work places were safer. Hence, the incidence of industrial accidents and claims against insurance companies decreased. That is moving towards the ideal situation as far as the Opposition is concerned. When there are no claims for workers compensation the Opposition will be happy. When work places are completely safe and, therefore, industrial accidents do not occur, the Opposition will be happy.

The Hon. D. H. Laidlaw: There will be people falling out of bed on their way to work, stubbing their toes and claiming compensation.

The Hon. FRANK BLEVINS: The Opposition does not want claims for workers compensation, because there is, behind every claim for workers compensation, a great deal of misery for the injured worker. The Hon. Mr Laidlaw interjects and says that, however safe one makes the work place, one will still have somebody stubbing their toe.

The Hon. D. H. Laidlaw: Falling out of bed on their way to work.

The Hon. J. C. Burdett: That is what he said.

The Hon. FRANK BLEVINS: Obviously that type of accident will occur, but to suggest that any significant number of claims under the workers compensation legislation will be for injuries of that nature is nonsense. The overwhelming majority of injuries are injuries incurred, not through stubbing one's toe, but because of the dangerous nature of various industries. If we eliminate the danger and there are next to no claims on workers compensation, then the Opposition will be happy.

After 1973 injured workers were given a fair Act; industrial accidents decreased and nobody was disadvantaged. For this Government, in 1982, to attempt to turn the clock back to before 1973, is a proposition that the Opposition cannot support. I do not think that any person in the community will support it either. Members on this side of the Chamber are not in the business of reducing the conditions available to injured workers to a position that prevailed eight years ago. If anything, we are in the business of increasing those conditions. It is not something we have in mind at the moment because we believe that with the indexation of the various amounts it is basically sound, fair and equitable.

The Opposition is not going to agree to any turning back of the clock. Notice has clearly been given by the Deputy Leader in the House of Assembly that the moment the Labor Party is in Government, the previous position will prevail. If this Bill passes, it will be law for a very short period. The Government is creating considerable disruption in this area for both employers and employees. However, the problem is, as I will come to shortly, far greater than the mere different calculations.

The Hon. M. B. Cameron: Are you threatening?

The Hon. FRANK BLEVINS: I am threatening categorically. There will be no hedging.

The Hon. M. B. Cameron: Where do you think you are, in the Trades and Labor Council?

The Hon. FRANK BLEVINS: I threaten you with what will occur; that is totally naked, absolutely clear and unashamed. Basically, this is a Committee Bill. The provisions are different within the various clauses. It is not my intention to canvass in any depth the different provisions. I will refer to them now briefly and, in the Committee stages, when the Opposition attempts to amend the Bill to bring it back into the 1980s, I will go into more detail as to the problems that will arise from the Bill and how our amendments seek to do away with those particular problems.

I will outline to the Chamber the main areas of concern; there are at least half a dozen of them. The question of average weekly earnings is one that has currently upset the Government. At the moment, a worker who is injured is paid in weekly compensation payments the average of his earnings for the previous 12 months. In 99.9 (recurring) per cent of individual cases this will be actually a lower figure than what the worker would have earned had he remained at work. There is a theoretical possibility under the present provisions, although no evidence has been brought forward to date to prove the theory, that a worker on workers compensation could be paid more than the amount he would have received had that worker remained at work.

The Opposition does not support this remote possibility, of which we have never had an example. We oppose the theory of that. When we were in Government we attempted to alter the Act to see that that would not happen. However, the then Opposition tossed that amendment out. I will be seeking to amend this Bill to ensure that that does not happen. I will also be attempting to amend the Bill to ensure that average weekly earnings continue and, in the Committee stages, I will be outlining more fully the reasons why.

A further provision that gives the Opposition some problems, and one we totally reject, is the new basis for compensation for hearing loss. To now attempt to restrict hearing loss to over 20 per cent is, in our opinion, quite wrong. The Opposition bitterly opposes that provision. I will outline the reasons in greater detail later, but they should be self-evident to everyone in this Chamber.

The question of lump sum and other payments is one which also gives the Opposition a great deal of concern. The present payments were set in 1973. Obviously, with inflation, those payments are no longer adequate. We believe and have believed that they should be indexed. I was not a member of this Council in 1973 when the present Act was passed, so I do not know why no indexation provision was included.

The Hon. D. H. Laidlaw: They're not indexed in New South Wales.

The Hon. FRANK BLEVINS: I am not interested in what occurs in New South Wales. That does not interest me at all—

The Hon. D. H. Laidlaw: Unless it suits you.

The Hon. FRANK BLEVINS: I am happy to point out to the Hon. Mr Laidlaw, as he introduced the question of New South Wales, some of the problems arising from workers compensation in regard to average weekly earnings in New South Wales. I can assure the honourable member that the problems experienced by employers in New South Wales, when employees attempted to obtain average weekly earnings, will be experienced shortly by employers in South Australia.

With the Government, we believe that lump-sum payments should be increased. We believe the increase should be by the amount that the c.p.i. has increased since 1973. I appreciate that there is a doubling in the amending Bill which is an improvement but, if one looks at the level of payments in 1973, one sees that, in effect, a doubling is a decrease from the 1973 level.

The Hon. D. H. Laidlaw: What about the other States?

The Hon. FRANK BLEVINS: As I have said, the other States do not concern me.

Members interjecting:

The Hon. FRANK BLEVINS: Members opposite can laugh, but I do not think that this is a Bill, when we are dealing with sick and injured workers, which lends itself to the type of levity that is being demonstrated by the Minister, the Hon. Mr Burdett, the Hon. Mr Laidlaw and the Hon. Mr Cameron. Whenever anyone mentions sick and injured workers, they laugh—

The Hon. M. B. Cameron: Don't talk rot.

The Hon. FRANK BLEVINS: That is what you have done for the last 15 minutes. The honourable member has found this whole subject to be one for mirth and hilarity. I hope that honourable members opposite will attempt to hide their hatred of workers, particularly sick and injured workers, by treating the Bill in the manner in which it should be treated. Whilst we appreciate that lump-sum payments are an improvement on what presently exists, it must be understood clearly that what the Government is asking the workers of this State to accept is a decrease in the standard set in 1973.

The Hon. D. H. Laidlaw: What about poor old New South Wales?

The Hon. FRANK BLEVINS: My understanding is that the Hon. Mr Laidlaw is the speaker to follow me in this debate. I know that he is leaving this Chamber within the next few months. Now for the first time in seven years, he has suddenly found his voice. It is a pity that at this stage of his career he has decided to behave a bit like a lair. It would be more appropriate if he contained himself for a few minutes until his opportunity to address the Council in his usual quiet but vicious manner against the workers who have the misfortune to suffer under this type of legislation.

A further clause that we will be opposing deals with the question of an injured worker's compensation being reduced by 5 per cent after a worker has been on compensation for 12 weeks to finance a so-called rehabilitation scheme. The principle of asking a sick and injured worker to pay, if this Bill is passed, from his depleated compensation payments for his own rehabilitation when he has been injured is one of the most revolting provisions of which I have ever heard. Insurance companies are not asked to contribute, nor are employers. If this Government were sincere about a rehabilitiation programme, it would need greater amounts of money than are provided for in this Bill, because the overwhelming number of people on workers compensation are back at work within 12 months.

This provision will hit those who have been injured the worst and not the ordinary cases involving the stubbing of a toe, as the Hon. Mr Laidlaw tried to interject a while ago. It will hit the people who are seriously injured. They alone will be the ones who will be paying for rehabilitation. The most vulnerable people are those who are hurt the most. They have the least money, yet they will be the ones that this Government says will have to pay. Honourable members should think about the reaction of workers to this demand. Certainly, I can tell the Council what that reaction will be, and we will be opposing that provision.

Another important question concerns chiropractors having direct access to patients. Whatever one thinks about chiropractors (and this varies from whether or not they should be involved in the treatment of patients at all to whether patients should be referred by medical practitioners), that is not the argument here. The position is that an undertaking was given by the Minister of Industrial Affairs to the chiropractors that certain things would be in the Bill. According to the chiropractors, the Hon. Mr Brown 'betrayed' them. That is a strong word; it is not my word but the word used by the chiropractors. I believe them, knowing Mr Brown as I do. However, that is a strong word and, in my opinion, if untrue, it would be actionable. If the Hon. Mr Brown chooses to turn a blind eye to today's *News*, I can only believe that he is not willing to defend his actions in court *vis-a-vis* the chiropractors, because the word 'betrayed' is a strong word.

One further area which we will be attempting to introduce in dealing with this Bill and which I wish to mention briefly is the question of Q fever and other related diseases in the meat industry. Apparently, at the moment white collar staff working alongside blue collar workers in the industry have certain provisions in relation to these diseases that occur. The white collar worker gets paid when off sick as a result of these diseases, and the blue collar worker does not. I do not think anybody in the Council would want that to continue; I do not see any contention between the two sides in this place over that. If ever an injustice was occurring it is in that area. I have briefly outlined the major points with which we have some difficulty. It is certainly a Committee Bill and it will be explored fully at the Committee stages.

The Hon. Mr Cameron interjected about threats. He can take it as a threat, a promise or anything he likes. I am making a statement of fact. In 1982 workers will not tolerate a reduction in standards of compensation paid to their sick or injured colleagues. This situation takes us back to the situation before 1973. It is unrealistic and stupid for the Government to imagine that workers in 1982 will tolerate that. Perhaps in the depression they had to cop some lowering of standards. However, times have changed and in 1982 they will not tolerate it. There will be claims on individual employers to make up the provisions to the 1982 standards. The individual employers will suffer direct action by employers in an attempt for an employee to retain the *status quo.*

There will be no attempt to improve on provision beyond indexation. There will not be a claim for 1c more or one improvement on conditions; we merely want to maintain the *status quo.* That is what employees will be fighting for. If employers in this State go along with this Bill and allow the Government to bring on industrial disputes for the maintenance of payments and conditions, they are absolutely stupid. There is a stone cold guarantee that individual employers will eventually have to pay the 1973 standard. There is no doubt about that because they will not be able to resist the action that the workers take.

The Hon. D. H. Laidlaw: You don't care if we are above every other State?

The Hon. FRANK BLEVINS: The Hon. Mr Laidlaw will speak next in the debate. He is defending the right of employers, and intervening in a debate on behalf of the interest that he represents. He is a significant employer in this State and has a vested interest in this Bill. He has a vested interest in maintaining profits at maximum level. If he can enhance his profit at the expense of sick and injured workers, he will do it. In the seven years he has been here he has made no contribution whatsoever to the Parliament other than to protect the interests of employers, of which he is one.

The Hon. M. B. Cameron: That's disgraceful.

The Hon. FRANK BLEVINS: It is a fact. The Hon. Mr Laidlaw has a pecuniary interest in these matters and should not be voting on them at all. If this measure goes through, the profits of his companies will be enhanced and his not inconsiderable income will be enhanced. When the Hon. Mr Laidlaw speaks I would like anybody who listens to the debate or who reads *Hansard* to realise that he will get even wealthier as an individual. If that is not a pecuniary interest, I do not know what it is. His wealth will be enhanced at the expense of sick and injured workers.

I have stated quite clearly that employees will maintain their standard. They will do it by one means or another; they can do it peacefully through the Parliament or they will do it through the shop floor. The Government every

day is saying to representatives of overseas interests that South Australia has a lower level of industrial disputes than other States have. This will not be a case of employees asking for improvement in conditions; it will only be an attempt to maintain standards set nine years ago. If the Government wants industrial disputes for those reasons it can go ahead and it will get them. I support the second reading and, at the Committee stage, I will move several amendments to maintain the standard set nine years ago.

[Sitting suspended from 6.2 to 7.45 p.m.]

The Hon. D. H. LAIDLAW: This is the fourth occasion since I entered this Chamber on which we have been called on to consider the provisions of the Workers Compensation Act. The subject is as divisive as any that comes before this Council. That is a pity, because with some common sense, and with give and take by the three Parties in this Chamber, we could create a model for the rest of Australia to follow. In many respects the provisions in our Act are more beneficial to workers than those in any other State.

The Opposition spokesman for industrial affairs, Mr Wright, said during debate last week in another place that this Act is in need of change. With that remark I concur. Some of the speeches, such as that by the Hon. Frank Blevins and by Labor members in the other place, have been highly inflammatory. The Hon. Frank Blevins suggested before dinner that I have a conflict of interests with regard to this Bill and I should not vote on it. I suggest to him that, if the provisions which have been moved by the Government are carried, it will increase quite considerably the insurance premiums that employers are called on to pay. In the companies with which I am involved no doubt the increase will be tens of thousands of dollars, so I find it hard to understand what the Hon. Frank Blevins is getting at when he says that there is a conflict of interests.

The Hon. J. R. Cornwall: It retains the ridiculous adversary situation, doesn't it? There is no attempt to get away from it at all, or to follow the suggestions of the tripartite report.

The Hon. D. H. LAIDLAW: The Labor Party tried in 1974 to introduce a national compensation Bill. Unfortunately, it brought sickness in as well and that made it too costly, so it did not come off. To suggest that the Government does not care about workers and wants to destroy their right to compensation is utter poppycock. I suggest that a hundred thousand or more blue collar workers voted for the Liberal Party in 1979 because they believed that the Liberals could look after their interests as well as the Labor Party could, and I suggest that those voters will do the same at the next election.

The Hon. Frank Blevins: Want to bet?

The Hon. D. H. LAIDLAW: Yes. Workers compensation legislation was passed first in South Australia in 1900, only 19 years after it was originally introduced in Germany. It has become a sacred cow to the trade union movement, which probably believes it is the only group that should change it. In 1976 the Minister of Labor and Industry, Mr Wright, introduced a Bill to vary the basis of average weekly earnings for the purpose of workers compensation. He introduced the concept of a nominal insurer who would give protection to workers in the event of insolvency of the employer or in the case of the employer who failed to get compensation cover.

He also created an insurer of last resort who would provide a means whereby hitherto uninsurable risks could be covered at reasonable rates. This Bill was amended extensively in this Chamber and went to a conference. Although there was no serious dispute about the concept of insurer of last resort and nominal insurer, the Bill lapsed because the Labor members refused even to discuss any variations to the calculation of average weekly earnings.

In 1978 I introduced a private member's Bill to provide much needed changes to the sections dealing with noise induced hearing loss. I did that after consultation with Mr Dean Brown, who was then Opposition spokesman on Labor and Industry. That Bill passed through this Chamber after opposition from the Labor Party but subsequently languished and was not debated in the other place. Early in 1979 the Labor Government introduced its own amending Bill to cover noise induced hearing loss and other minor matters. On that occasion the Bill did pass.

In 1980, after the collapse of Palmdale Insurance Limited, the Liberal Government brought in a Bill to create a fund to be financed by insurance companies out of premiums received. That fund protects workers with legitimate claims for compensation when an employer or its insurance company has gone into receivership or liquidation and cannot carry out its obligations. Once again, that Bill passed and the provisions of that Act are incorporated for ease of comprehension in the present Bill.

I propose to comment on four salient aspects of this amending Bill—average weekly earnings; the 5 per cent levy to be deducted from the worker's entitlement after three months injury and paid to a rehabilitation fund; the increase in lump-sum payments for defined injury; and the exclusion from compensation of the first 20 per cent of hearing loss. In 1976, during an earlier debate, the then Premier, Mr Dunstan, said:

> The Government is seeking to ensure that a person on workmens compensation will not receive more while he is away from work than he would if back in his job.

Mr Dunstan used the term 'workmen' which has since been changed to 'worker' in deference to women in the work force.

Last week the Opposition spokesman, Mr Wright, during a debate on this Bill, made precisely the same remark and I agree with both of them.

Unfortunately, section 51 of the present Act may be inconsistent with their sentiments, because it states that, where total or partial incapacity for work results from injury, the amount of compensation shall be a weekly payment during incapacity equal to the average weekly earnings of the worker during the 12-month period immediately preceding the incapacity. If he had been employed for a lesser period, the average weekly earnings over that lesser period would apply.

A person who goes to work has to pay for the cost of transport between home and work, the cost of his work clothing, lunch and so on, whereas if he is absent on compensation he does not incur such expenses. Furthermore, a worker who, for example, spent much or all of the previous 12 months on a construction site where he received site allowances and high overtime and then returned to base without such benefits may suffer an incapacity such as a bad back or strained wrist and be entitled to compensation on average weekly earnings which are far in excess of his weekly earnings. It would seem from these two examples that the existing provisions may not meet the wishes of Mr Dunstan and Mr Wright that a person absent on compensation should not receive more than weekly earnings at work.

Except in Tasmania, the basis of compensation under other State Acts is not as generous as average weekly earnings, as applies here. However, provisions have been inserted in many Federal awards to make up pay whilst on compensation to full average earnings over a preceding period. In 1976, Mr Wright attempted to amend section 51 so that a worker at his option would receive the highest of either average weekly earnings, excluding overtime and special payments, plus average weekly overtime for the four weeks prior to injury, or the weekly wage excluding overtime

and special payments at the time of incapacity, or the prescribed wage. He tabled similar amendments to the present Bill. In my opinion this accentuates the problem, because a worker with a nagging back problem could choose a period to make his claim when, owing to seasonal conditions or the like, his overtime payments were at a maximum. In that way he is likely to receive more whilst absent on compensation than he would if he were at work.

Under section 63 of the principal Act, disability payments such as dirt or height money are not included in calculating average weekly earnings. In an effort to keep compensation payments below pay when at work, this Bill specifies that overtime payments and site allowances shall also be excluded. That may not be a perfect solution, but it should be remembered that site allowances may be as high as $100 a week in some parts of Australia.

Clause 11 provides that, when a worker has been absent on compensation for 12 weeks, thereafter he shall receive only 95 per cent of his average weekly earnings and the balance of 5 per cent shall be paid to the Minister for credit to a Workers Rehabilitation Assistance Fund. There is merit in such a proposal. First, an employer or his insurance company is still liable for the full 100 per cent of average weekly earnings, but the employer pays the money to two recipients. Secondly, it provides some funds to help in the rehabilitation of injured workers. In the past, in contrast with overseas countries, too little has been done in Australia to train injured workers so that they can return to employment, albeit to do light or other types of work. The Government is short of funds and is reluctant to fund such an exercise from Revenue Account.

Opposition members in another place protested vehemently that under this scheme a worker would be taxed on that 5 per cent, even though he did not receive the money. However, I am advised that that is not true. The worker will not be paid the 5 per cent and then required to pass it to the rehabilitation fund; nor is it specified in the Bill that the amount should be earmarked by the trustees for that particular worker's benefit. The Bill merely states that 5 per cent shall be paid to the fund and, under clause 21, it will be used to maintain the Workers Rehabilitation Advisory Unit, which will conduct education programmes and so on.

Some employers who engage workers under Federal awards are worried about this proposal. I have mentioned that some Federal awards contain make-up provisions so that an incapacitated worker will receive from his employer the difference between average weekly earnings and the entitlement under respective State awards. It has been usual to exclude South Australia from these provisions because average weekly earnings entitlements have existed here since 1973. In future, if a worker in this State receives only 95 per cent of his average weekly earnings after 12 weeks on compensation Federal unions will almost certainly seek to have make-up provisions apply in South Australia, as elsewhere. If the commission agrees to vary the awards, the employers in this State will then be liable to pay 100 per cent to the worker plus 5 per cent to the fund, and that would place them at a disadvantage in relation to their interstate competitors.

The Hon. Frank Blevins: Serves them right!

The Hon. D. H. LAIDLAW: They are the ones who pay people and keep them in employment. I remind those members opposite who may argue that it is unfair to reduce a worker's entitlement to 95 per cent after 12 weeks compensation that the maximum entitlement after six months of incapacity in New South Wales, which is a State still governed by the Labor Party, is $115.60 per week.

The Hon. G. L. Bruce: That doesn't make it right.

The Hon. D. H. LAIDLAW: The Labor Party has been in power in that State for several years and has had plenty of time to make a change. In Victoria it is $130, in Queensland it is $103.40—

The Hon. Frank Blevins: That's not the end of it—tell us the rest.

The PRESIDENT: Order!

The Hon. D. H. LAIDLAW: In the Northern Territory it is $107.70 and in the A.C.T. it is $114.

The Hon. Frank Blevins interjecting:

The PRESIDENT: Order! The Hon. Mr Blevins has already spoken.

The Hon. Frank Blevins: And I had no peace from the Hon. Mr Laidlaw.

The PRESIDENT: Order! The Hon. Mr Blevins had a pretty good run.

The Hon. Frank Blevins: No, I didn't. The Hon. Mr Laidlaw was persistent.

The PRESIDENT: Order!

The Hon. Frank Blevins: He was not pulled up once.

The PRESIDENT: Order! The Hon. Mr Blevins will not take charge of the situation, at this stage at least. I ask the Hon. Mr Blevins to desist from the type of interjection he is promoting at the moment.

The Hon. D. H. LAIDLAW: Thank you, Mr President. The Hon. Mr Blevins has a very poor case. Even workers in this State on, say, $160 per week will be better off than those in other States, especially those in New South Wales, because those workers entitlement in this State at 95 per cent would amount to $152 per week.

The third item on which I wish to comment relates to the lump sum payable for defined injuries. At present, under section 49 where an employee dies as a result of injury either at work or when travelling to and from work his dependants shall receive a sum equal to the wages earned during the preceding six years, plus $500 for each dependent child, provided that the amount does not exceed a maximum of $25 000 plus $500 for each dependent child.

This lump sum for death has not been altered since 1974 and the value of money, because of inflation, has depreciated substantially since then. Clause 9 of the Bill seeks to double the maximum entitlement to $50 000, plus $1 000 for each dependent child. Labor members in another place argued that this amount is inadequate, and the member for Price claimed that, if consumer price index increases had been applied, the amount should be set at between $60 000 and $70 000.

From a social aspect no sum is adequate compensation for the death of a spouse. The Minister should have regard to amounts set in other States. At present, in New South Wales the lump-sum payment for death is $45 200, excluding dependent allowances. That sum is raised in that State, as it is in South Australia, when Parliament sees fit to do so. In Victoria, it is $41 093 and is subject to indexation based on average weekly earnings; in Queensland it is $36 230 and is subject to indexation based on the State basic wage; in Tasmania it is $44 730 and is subject to indexation based on the metal trades award.

The Hon. J. R. Cornwall: What about Canada?

The Hon. D. H. LAIDLAW: I am concerned about South Australia and our employers who must compete with competitors in other States. There will be even more unemployment in this State if we cannot compete with employers in other States. Finally, in Western Australia it is $50 052 and is subject to indexation based, curiously, on the earnings of the average male unit. However, the Government in that State recently froze this amount until other States catch up. The Minister has chosen to raise the level to equal that in Western Australia, which is the highest level in Australia. Labor members have argued that this sum should be indexed, and I agree that there is merit in adding some form of indexation, say, to be adjusted annually. That practice

applies in other States. However, under this proposal we are raising the limit to the Western Australian level, which has now stopped indexation. If indexation is to apply, it should start at a lower level.

Section 69 deals with lump sum payments for defined injuries other than death. Presently the maximum is $20 000 and injuries such as permanent loss of mental capacity are not entitled to workers compensation. Total loss of sight is rated at 100 per cent, while some lesser injuries such as the loss of sense of smell is rated at only 25 per cent, the loss of one's little finger at 14 per cent and the loss of the phalanx other than from the big toe is rated at only 7 per cent.

Clause 17 proposes that the maximum shall be increased gradually from 1 July 1982, to 30 June 1983; the maximum increases from $20 000 to $30 000 and, after 1 July 1983, to $40 000. This increase by stages has been set to ensure that insurance premiums for compensation cover do not rise too rapidly during a period of economic recession. The percentages set for various defined injuries have not been changed except in the case of noise induced hearing losses. This is the fourth and last item to which I wish to refer. Presently a workman who suffers total loss of hearing is entitled to 75 per cent of the maximum lump sum payment, namely, $15 000. This will increase by July 1983, to $30 000.

Under clause 17 *(b)* it is provided that, where a worker suffers noise induced hearing loss, no compensation shall be payable unless the injury exceeds 20 per cent of the total hearing and compensation shall be payable only in respect of the percentage loss in excess of 20 per cent. This means that if, after July 1983, a worker establishes a claim for total loss of hearing, he will receive 80 per cent of $30 000, which is, $24 000. This provision has been introduced to restrict the spate of claims for slight loss of hearing which rarely affect the worker's way of life or his ability to continue in his present occupation, but which add considerably to the rate of insurance premiums.

The Hon. Mr Wright, the Opposition spokesman in another place on industrial affairs, objected strongly to this provision. He quoted from the records of the A.M.S.W.U. which stated that, out of 743 claims for hearing loss lodged on behalf of members in 1978-1979, 526 involved less than 20 per cent deficiency and 217 more than 20 per cent deficiency. Therefore, if this provision had been in force in that period, 70 per cent of those members of the A.M.S.W.U. would have received no compensation payments.

The Hon. Mr Wright referred to a joint letter from Messrs Chiveralls and Nelson, who are both lecturers in audiology. In conclusion that joint letter said:

> Many of the concerns would be removed or reduced if the Act included an amendment having the following intent: no worker should be allowed to claim compensation until the loss of hearing reached or exceeded 10 per cent (or 20 per cent) except in the case of retirement for age or ill health. However, when a claim is made and established, the entire loss of hearing should be compensable.

There is some merit in the suggestion from these two audiologists. Perhaps this could form the basis of some compromise on this problem. There are several other amendments of consequence in this Bill, but I shall not prolong my second reading speech. There will be an opportunity for me to comment, if I get a chance, after Mr Blevins has spoken, in the Committee stage.

The Hon. Mr Wright said during debate in another place that aspects of this Bill need changing. I commend the Minister of Industrial Affairs for consulting with various groups which are interested in workers compensation. I also commend him for the care he and his advisers have taken in preparing these amendments. I support the second reading.

The Hon. G. L. BRUCE: I rise to oppose what is a deplorable Bill. I have gone through the Bill and not one passage in it seeks to prevent an accident. Nowhere is the employer penalised for accidents or injuries that are on his premises. Therefore, what is the thrust of the Bill?

The Hon. R. C. DeGaris: Aren't those clauses in the Act at present, the ones you are referring to?

The Hon. G. L. BRUCE: There is not one clause to amend the Act and ensure that the employers make premises safer so that there are fewer accidents.

The Hon. D. H. Laidlaw: Out of an employer's own interest he has to see to that; otherwise, his premiums will get too high.

The Hon. G. L. BRUCE: That is not true. With this Bill employers immediately have a loophole so that they will not have to provide sound proofing. This Bill says the worker can suffer one-fifth loss of hearing without an employer having to compensate that worker. If a factory has a high noise level that interferes with the well-being of a worker and that gives that worker one-fifth deafness, an employer does not have to worry about sound proofing or making conditions better.

The Hon. D. H. Laidlaw: I was agreeing with the audiologists' letter.

The Hon. G. L. BRUCE: The thrust of the Bill certainly does not agree with that, although the honourable member may have been agreeing. What the Bill says is that a one-fifth loss of hearing does not count. It may as well say that a one-fifth loss of an arm, leg or hand does not count. By saying that a one-fifth loss of hearing does not count, it gives an out for employers not to have to tighten up on the sound problem in their factories. The whole thrust of the Bill is against the worker.

I agree with the Hon. Frank Blevins when he says that the Government has a hatred for workers. Rather, it has contempt for workers. This Bill shows the contempt in which the Government holds workers. My understanding of industrial relations is that workers do not seek to go backwards or seek to have something taken away from them that they already have. These amendments to the Act do that; they take away something from the worker. Members of the Government are saying that the worker should sit there and wear it and that the Government is being kind, that it is looking after him better than is any other State; even though it rips into the Workers Compensation Act, the Government says that the worker is still better off.

I was appalled to hear the speech of the Hon. Mr Laidlaw, who is considered to be the protector of the interests of workers and the labour situation on the other side of the Chamber. Last Thursday, 25 March, his credentials were in the *News,* and I took the trouble to look them up. I am appalled at the attitude that the Hon. Mr Laidlaw has taken. He has some credentials and I expected something better from him on this Bill, especially when he owes no allegiance to the Liberal Party because he is retiring and he can speak as a free agent. In the *News* his credentials were listed. The article said:

> He has been one of its most influential members for years, with an archetypal Liberal pedigree.
>
> As a boy and young man he attended St Peters College and Adelaide University, where he gained a Bachelor of Laws. At Magdalen College, Oxford, he became a Bachelor of Letters.
>
> Politically, he has been a member of the Federal Liberal Party Manufacturing Committee since 1969, a member of the Immigration Planning Council, the Manufacturing Industries Advisory Council, and was treasurer for the South Australia party from 1974 to 1977.
>
> During his parliamentary career he was chairman of the Industries Development Committee.

That was in a copy of the *News* which I read. I thought that I had read more about the honourable member and went to the Parliamentary Library and found that there was more. I found that he was also Managing Director of Perry Engineering for 12 years and I also understand that

he is now the Chairman of Directors. I thought that I read more, which evidently the *News* has buried, on how they saw him on that particular day. The *News* published more in one edition than in another.

In view of the pedigree of the honourable member, I cannot possibly see how he can go backwards in this Workers Compensation Act. I do not intend to become involved at this stage because it is a Committee Bill and I believe that there is a lot to be said in debate. I believe that we will go backwards if we say to workers that they are going to suffer under the Workers Compensation Act and that after 12 weeks of compensation they will have 5 per cent of their salary deducted as it goes to the rehabilitation of the worker.

The Hon. D. H. Laidlaw: They are not getting 5 per cent less; they are going from $18 000 to $36 000.

The Hon. G. L. BRUCE: If a worker is getting 100 per cent of his salary and some 12 weeks later his salary goes down by 5 per cent, do you say that he will not get less? I cannot understand the reasoning behind that. What you are asking the worker to do is pay for his own rehabilitation.

The PRESIDENT: Order! We will not have this cross-chat.

The Hon. G. L. BRUCE: I do not mind the interjections. I want to see what the Government is thinking. What you are saying to the worker is that under this Act he pays for rehabilitation himself. The Government is saying the worker should get back into the workforce and, if he does not, 5 per cent of his salary will be deducted because the Government regards him as a bludger and he will then not get 100 per cent of his salary.

A worker may have been off for 12 weeks. Anyone with an ounce of commonsense knows that any person who is off for more than 12 weeks on workers compensation is seriously injured. It is not through their own choice. There is the odd malingerer, but the Government wants to brand all people on workers compensation for more than 12 weeks as malingerers, and I cannot see the justice in that.

Any worker who has to pay 5 per cent of his compensation to rehabilitate himself is placed in a backward sitation. The Government says that this is not a backward step, but I will take some convincing about that.

I wish to refer briefly to other matters. Many amendments to the Bill will be moved by the Opposition. If a worker is on workers compensation for more than 12 months, under the Bill, he will not qualify for annual leave, because his workers compensation will count as annual leave. The Government is saying that if a man is on workers compensation for 18 months and then comes back to work, his annual leave entitlement will have been taken up by the workers compensation. It does not matter whether the injured worker has been in bed with a broken back, his four weeks entitlement has gone. If the worker can manage to get to see a movie during his time on workers compensation, that is part of his four weeks annual leave, but it really does not matter if the worker is in bed with his leg in a cast, because the Government is saying that his annual leave entitlement is lost, and he is deprived of it. There should not be a double standard.

If the worker returns to work after 12 months, he should qualify for his four weeks annual leave. If he does not come back, he should qualify for payment, and he should not be penalised merely because he has been injured. The Government claims that this amending Bill is not a backward step; that is not so. The Bill provides that a worker shall not, while receiving weekly payments, take a vacation outside the Commonwealth. The Government believes that, because a worker is on compensation, that it is a vacation and the worker cannot go outside the Commonwealth.

If a person has an ethnic background he may wish to go home to, say, Italy, because his parents may die, but that will be regarded as a holiday, even if he must carry a broken leg on the plane. True, a worker can apply to go, but otherwise it is classed as a vacation in the Bill. The Government believes that anyone who goes outside the Commonwalth is taking a vacation. How does one work out whether it is a vacation? I question the mentality of Government members who draft these Bills in regard to a person going outside the Commonwealth and regarding that journey as a vacation. The worker could be in a wheelchair and put on a plane, but they will regard it as a vacation, but it is certainly not a vacation.

If a worker is on compensation, he should be regarded as being on compensation until such time as he is cleared fit for work and he should be able to go anywhere as he sees fit. It should be his right to see family in another country if he wants to. Certainly, that should not be regarded as a vacation. That is another backward step.

Clause 16 will not allow a worker his average weekly pay. The Government intends to do even worse than that—it will rip off his overtime payments. For that reason, I suggest that Government members get out in the real world and see the people in the work force who, unless they get overtime payments, go under. Such people rely on overtime to get them a reasonable living wage. That overtime is committed to their living standards, to pay for housing and hire purchase commitments, for running their car, and they are committed to that overtime. What do other Government members believe happens to working people as housing rates increase? Workers more than ever depend on that little bit extra. If the Government cuts out the overtime, these people will be in queer street, and there is no doubt about that.

A worker could have been picking up $300 a week including overtime, shift work, penalty rates and dirt money and the like. If he gets injured through no fault of his own, if a bucket falls and cracks his arm, he loses all that extra to meet his commitments into which he is locked, and there is no working man that I know who saves any sort of money and who is not committed to the money earned each week. Under this Bill all that overtime is gone through no fault of the worker, merely because he is unfortunate enough to be injured.

Companies never pay for anything, and pass all increases on to the consumer. As soon as premiums are increased to companies, the worker is paying for his own compensation anyway through passed on costs. The Government should not kid itself in this matter; the consumers pay for the compensation. The Hon. Mr Laidlaw asked about the situation in New South Wales. I ask him, what about New South Wales? Merely because it has an Act that is worse than ours, does the honourable member believe that we should have it applying here? The quality of life should be considered to have much higher priority than the quantity of life.

What is wrong about the whole thrust of these arguments about workers compensation and wages is that the States play off against one another. They compete through advertising. Last week there was an advertisement concerning New South Wales, telling business that, if it wanted plenty of power, then South Australia ws the place to get it. Conversely, if a company wants cheap compensation rates it should go to New South Wales and should not come to South Australia. The Government seeks to play the workers off in order to attract business to South Australia. The Government is kowtowing to the sacred cow of industry.

Industry should face up to its responsibilities. Industry should be penalised if it provides an unsafe work situation. I refer to the accident ratio and factors which in many cases show an increase in the climb of an accident graph. If the line is not coming down, industry should be penalised through insurance premiums, inspectors and safeguards.

Industry should be forced in some way to reduce the accident rate or to get out of business.

The Hon. R. J. Ritson: Industry is heavily penalised already.

The Hon. G. L. BRUCE: So it should be, but presently industry can pass on the cost to the consumer. I have visited tin-pot factories where workers themselves, because of the push from management, have done away with the safeguards on machines in order to push out three articles instead of two. Management approves of such practices, and I have seen that occur repeatedly. I have visited factories where workers will not wear ear-muffs and where management condones it. There should be greater emphasis on safety factors and the prevention of accidents. These amendments do nothing, and certainly they do not penalise employers in any way.

The Hon. D. H. Laidlaw: If you force a worker to wear ear-muffs it can be seen as an invasion of privacy.

The Hon. G. L. BRUCE: I have not seen that. All the unions that I have been involved with in regard to heavy industry have approved of safety measures and have put up notices to that effect, that safety provisions should be complied with. There was a rumble from workers initially which was like the rumble in regard to seat belts, but in no time it was an accepted fact. Because it is easy not to have or buy equipment and not to police it, management turns a blind eye to the situation, but there should be more emphasis on that part of it.

There should be rehabilitation for workers who are injured, but the rehabilitation provisions provided in this Bill are of concern. I am concerned about workers being taken off compensation and whether there is a right of appeal. At this stage I am not sure, and I hope that that will come out in Committee. Further, we shold be looking at the indexation of lump-sum payments and payments for injury. I cannot see why, as the dollar rises and the cost of living increases, workers compensation should suffer. We are not locked into such a situation with housing interest rates which go up much faster than the c.p.i. Why cannot workers compensation be on a similar basis? The argument that we are flying in the face of the other States does not hold water with me. South Australia was in front of the other States when we first introduced this legislation, when we were the pioneer in regard to average weekly payments over 12 months. This Government has a case to answer to the workers of South Australia in regard to workers compensation. This Government is trying to introduce amendments which show its contempt for workers. If workers were stupid enough to want more of the same that this Government is dishing up, I would be appalled.

If workers cannot see that these provisions contained in the Bill are detrimental to the Act, there is something wrong with them and they deserve what they get. However, I have greater belief in the intelligence of workers, who will see what we are trying to do on their behalf. Clearly, they will see the contempt that the Government holds for them. There should be a much stronger emphasis on preventing accidents rather than using workers as an industrial sop, as cannon fodder for industry, by saying that workers are replaceable. The Government is saying that, if a worker loses less than 20 per cent of his hearing, one should not worry about it, and that if he does not go back to work within a specified period it will rip off 5 per cent of his compensation from him and rehabilitate him more quickly because there will be a few more bob down the drain.

I think the whole thrust of the Bill is deplorable. I hope the publicity out in the wide world will make people aware of the situation. As the Hon. Mr Laidlaw will know, no industrial worker will take a step backwards unless it is forced on him. The Government is forcing that step upon him but I am sure that he will see what it will do to his situation and his standard of living.

The Hon. D. H. Laidlaw: His payments go from 100 per cent to 195 per cent.

The Hon. G. L. BRUCE: Where?

The Hon. D. H. Laidlaw: The lump sum payment is going to double.

The Hon. G. L. BRUCE: Well, shouldn't it? It should have been done years ago. The Minister of Industrial Affairs has been saying, 'Don't worry about the lump sum payments. We are going to amend this Bill. We have major changes to the Workers Compensation Act.' If these are the major changes, God help the worker in South Australia.

The Hon. R. J. RITSON: I would like to approach this matter in a calm fashion. It is a very complicated and difficult matter. Unfortunately it has been approached with brute force and bloody ignorance by the Opposition. The first thing to realise is that it is an insurance policy. Like all other insurance policies it has terms, conditions and costs. The difference between the private insurance policies and this one is that this is compulsory. It is enforced by Statute and, as a natural consequence, it is not unreasonable for a Government which has given birth to that Statute to seek to have a say in its terms and conditions. This Bill, in fact, alters a number of terms and conditions, some in one direction and others in another direction, but with a net benefit, I believe, to the workers of this State. It is a Bill that has been much misunderstood.

Many of the earlier criticisms stem from people who saw earlier drafts and misprints. I will come to that in due course. It is important, when we consider it, to think of it as an insurance policy, as a sickness and accident policy, which does not depend on fault. Where employer fault exists there is a substantial common law remedy. It is a sickness and accident policy for which the boss must pay, the limitations of which are determined by Statute.

Before we come to some of the questions of the extent and limitations of this insurance policy, I want to mention briefly the matters which appear to be the principal subjects of controversy. We have, first, the question of the rehabilitation unit and we have the question of the hearing loss threshhold. We also have the question of the increase in lump sum benefits, the question of the reduced weekly payments in prolonged disability cases, the question of the overseas travel whilst receiving weekly payments, the question of the beginning and end of liability in accidents whilst journeying to and from work and also the question of alternative insurance arrangements for people who might otherwise be uninsurable or unemployable. We have the question of chiropractors and, finally, we have a question which is not in the Bill but one which I am going to raise very strongly towards the end of my remarks: namely, the question of a most untruthful advertisement inserted by the Public Service Association in this morning's *Advertiser*.

The rehabilitation unit proposed in the Bill which has been commented on and referred to by almost everyone who has spoken to the Bill has clearly not been understood by almost every speaker opposite. It appears that it is construed as some sort of Government gymnasium where people will be treated against their will and sent back to work too soon. It is, of course, nothing of the sort. I believe that the term 'rehabilitation unit' is not an accurate description of it. I would see it more as a medico-legal ombudsman. If one examines the Act one will see that it is specifically precluded from examining or treating anybody. It has powers of compelling discovery of documents but it has not power to send anybody back to work.

It has no power to stop anybody's compensation. It has only a general advisory power, the power to write a certificate

to the effect that a person has refused to attend, to disclose documents or to co-operate with treatment prescribed by their doctor. Such a certificate would be considered by the court, and the court would make the decision. It is absolutely untrue to say that this unit will be stopping anybody's compensation, will be treating anybody, or, as the advertisement in the paper stated this morning, overturning medical opinion and ordering people back to work. That is complete rubbish. The sort of work this unit will do (and I believe it will by very useful work) is unclogging the mechanism which has in the past created a large amount of chronic disability within the workers compensation system. The system itself has created a disability.

It is universally accepted by those members of the medical profession well versed in this subject that the early management of an injured worker determines the outcome of the case. It is not only the technical or medical aspects of the early management which have an effect but also the early management by the insurance company, the lawyer, the doctor who is asked for a medical report, and the courts. Many of these long-standing cases involve people who are unfortunately disabled by what is sometimes called 'compensation neurosis' although some European writers on the subject refer to it as 'justification neurosis'. I hasten to add that this must never be confused with malingering.

The symptons are produced by being messed around by a slow, cumbersome system, administered by a group of unco-ordinated professionals who, to the patient, seem to not care at all. I have been guilty of this myself in my early days in general medical practice because the receipt of a request for a medical report by an employer or insurance company was a cause of anxiety to me. I was frightened by the boldness of the type on the letterhead. I did not know what to do with the thing. I resented it because I felt that paperwork intruded on my clinical work. I put it in the 'too hard' basket. When a hastener from the company or the insurers came later, the anxiety would arise again. I am sure that in the 'too hard' baskets of doctors and lawyers across the nation many documents are being neglected in this way for these sorts of emotional and administrative reasons.

The legal profession is not immune to this, and I am not sure that the courts are immune. The consequence is that, by the time a worker has been told by an unsympathetic boss to get back to work and by his lawyer that he must not go back to work until the medical report has been received and until the lawyer has written four letters to the doctor, to which the doctor has not replied, the dreadful chain of events is in motion. European writers on the subject call it a justification neurosis, because the injured worker who is genuinely suffering from functional indigestion as a result of being messed around by the system seeks to be justified. He wants someone to notice him. The only thing he has to justify himself by are symptoms. He emphasises the symptoms in order to say 'Please notice how sick I am.' The symptoms increase, and that is the fault of the system.

That neurosis is created by the system. It is not malingering: I rarely see a malingerer in this field. It is a very real problem, about which something must be done. The first thing the unit can do is to unclog the system. Provided the Government employs the correct professional, the wise doctor, the man who can get on with all sorts of people, I can foresee a great deal of assistance to workers whose cases are bogged down in the system. I could foresee an officer of the unit telephoning a doctor and saying, 'Look, Fred, this is beyond the pale. The lawyer has approached the unit asking it to hasten things. Can you get your report in quickly?'

I can see the same thing happening under the powers given in the amending Bill to a person approaching the court. I can see the wise medico-legal officer in the rehabilitation unit approaching the courts to get the listings altered perhaps on behalf of someone who has been messed around in this way. It is not all employer oriented. I can foresee a workman, if he is properly advised by his union, approaching a unit, and saying, 'My lawyer keeps giving me an appointment on the 93rd of May, and when I get there he tells me he has no medical report. Can you help me?' The unit should and could help him if it is run properly.

As a medico-legal advisory unblocker of the system, it has great potential if the correct people are chosen to run it, and that is something that the Parliament will be able to follow up as the years go by. The Parliament will be able to look at the results, question the Minister, and determine whether, in fact, the unit is being run correctly. Real physical things can be done, and I can give an example.

A worker with an injured back was given a certificate for light duties by his doctor. He wanted to work and the employer wanted to make work for him. So he was given a job that consisted of his picking up meat hooks and putting them on a rail, as the rail moved past. Each meat hook weighed only a fraction of a kilogram. That work was classed as light duties. The worker's back became worse and worse, and he said to his doctor, 'I can't keep doing these light duties; it hurts my back.' I suppose many medical practitioners would have let it go at that and simply written a certificate for a complete abstention from duties, but the doctor involved did not do that. He was interested in the case and went to the factory to look at the set-up.

When the doctor saw what was involved, everthing became clear. The meat hooks were contained in a long, thin, tall bin. As the man took the meat hooks from the top of the bin and put them on to the rail, everything was all right, but by the time the bin was three quarters empty, he was bending over to pick up each hook, and that was aggravating his back. By placing a tray so that all of the hooks were at the same level, he no longer had to bend. That man remained at work at those duties until he was completely better.

It is my understanding that this unit will have access to professional people, both medical and paramedical, who are experienced in the ergonometrics of the work place and who, on request of the employer, will ascertain whether some simple aspect of the work can be changed in the way I have described in the case of the meat hooks. I suspect that at present hundreds of people are being cast on the scrap heap and being given an invalid mentality by the system and who would indeed be happily placed in light duties to the benefit of everyone if the unit was to function in that way.

From discussions I have had, it is my understanding that the Government intends to use the unit in this imaginative way. I do not want to hear any more about this unit being an ogre that will stop people's compensation and send them back to work: that is complete rubbish, and anyone who says that without bothering to understand this complex subject is being either partisan or completely blind.

I now refer to the question of hearing loss threshold. Many people have talked about this subject, but I am sure that few people understand what is meant by the percentage question. I will begin by talking about percentage losses of function in other than hearing, because that will exemplify the nature of the problem that is faced when people have to certify that a person or an organ is or is not disabled to a certain extent. Those honourable members who have looked at the schedule to the parent Bill would see that percentage payments are made in regard to various organs.

Let us consider the little finger. If one considers the entire substance of the little finger, there is a percentage loss, if one considers loss of a part of the little finger. There

can be a circumstance in which the little finger is damaged and permanently curled over to the point where, when a person grabs hold of something, he cannot let it go. The finger catches. Not only can one not use the finger to grab, but also it is a terrible nuisance. The best treatment is amputation. If one accepts that it must be amputated, then there is full loss of the little finger. The injury is worse than losing the little finger, but it cannot be called 100 per cent loss.

Therefore, we could take a guess and call it 20 per cent loss of the use of the right hand or 10 per cent loss of the use of the right upper limb. Every doctor has a different guess, and no doctor's guess is any better than the guess of any other doctor, and not necessarily better than the judge's guess at the end of the hearing at which he has to listen to this sort of evidence.

In terms of expressions of percentage, the consideration of hearing is rather complicated, but I ask the Council to bear with me while I work through a technical explanation, which, if one does not understand it, one cannot possibly argue the threshold case. In the case of the little finger, it is quite clear that one starts with the whole little finger, but in the case of hearing it is not quite clear with what one starts, because everyone's hearing is different. It would be like saying that the mean range of heights of 90 per cent of healthy human beings is between 5 feet 2 inches and 6 feet 2 inches; the median of that range is 5 feet 10½ inches; therefore, the norm is 5 feet 10½ inches, and a person who is 5 feet 8 inches is abnormal by so many per cent.

It is not possible to have a rigid standard, but as a fiction we create a rigid standard. What has been done is that one of these sorts of median fictions is based on the audiometry of the average normal human being taken as a base. But, in determining the percentage loss, a very subjective value judgment creeps in because the hearing is tested at a number of different frequencies varying from about 500 cycles a second up to about 8 000 cycles a second. I have a loss of 60 decibels in one ear and 40 decibels in the other. That was caused by gunfire. I cannot hear birds chirping and I cannot hear myself speaking. I can hear speech and I can hear musical tones either side of that.

The Hon. J. C. Burdett: Can you hear the Hon. Mr Foster?

The Hon. R. J. RITSON: Unfortunately, I can hear the Hon. Mr Foster. However, if I have to listen to a lot of him, I may yet be fortunate enough to lose my hearing in that frequency range. Even though mine is a major hearing loss in certain frequencies, it is small in terms of my enjoyment of life. I do not hear the triangles in the orchestra, but I can still enjoy a concert by sitting in the front row. I can enjoy music on the hi-fi by distorting the treble sound to the extent that my son does not like listening to it, but it has no practical effect that causes me personal anguish or suffering and I would not dream of seeking compensation. If I had the same hearing loss in the speech frequencies, the lower frequencies, I would not understand what people said to me and so the same number of decibels lost in those frequencies would cause a grave disability.

The Commonwealth Acoustic Laboratory has produced a table which begins with a bench mark being the average normal hearing, whatever that may be, and it ascribes its own social value to each of these frequencies. It has presumed that most people are like me and can put up with a severe loss in a narrow band in the high frequencies. It has not imagined what the social affect would be if I were a professional musician. It has produced a very complicated table in which varying combinations of loss in different frequencies equal a certain social disability in its view, and it regards that as a certain percentage loss of total medico-social value of the ears. It is that table to which this percentage figure in the Bill refers.

The first thing that is quite clear is that, because the initial benchmark of nought per cent loss is the median of normal people, half of the people will be underneath that figure, so if compensation were allowed from the beginning of any loss half of the normal range of people would be on compensation to begin with. The other problem that arises is that there is a normal nerve deafness of the same type producing a similar audiological pattern as noise induced deafness which occurs with age, so that if, instead of the benchmark being the median of the general population it is taken as the median of 55 or 60 year olds, people would not be hearing properly and, to all practical intents and purposes, 100 per cent of people never exposed to noise would be on compensation. I have been through all this to demonstrate that there must be a threshold somewhere and that there must be a significant threshold.

I understand that the courts are currently awarding compensation at levels of 5 or 6 per cent disability. In discussions with a medical colleague this morning about my audiometry I discovered that I would probably be approaching 5 per cent loss myself, so I think it is right that this percentage be substantially raised in line with the technical meaning of the standard expressed in terms of percentage. I think that it is right that the Bill has provided that, where people retire owing to age or illness, they should lodge their claim within 12 months; otherwise they will come back in some years with, say, a 10 per cent loss on this scale of disability as a result of the normal ageing process and charge that retrospectively to the fund. That is just not fair and, even if we wanted to be kind instead of fair, the number of people of that age who would have a slight hearing defect on audiometry is such that we might as well say we will put everyone in Australia on compensation and be done with it. That would not be a very sensible economic move, so there must be a substantial threshold. I must confess that I do not know enough about the depths of the specialty of ear, nose and throat surgery to comment precisely on the 20 per cent figure. However, I do say that there is a very real scientific reason why a significant threshold is a fair thing.

The question of reduced weekly payments has been canvassed, and I will not deal with that at length. I merely remark that South Australia is right up there with the best provisions in the Commonwealth. Naturally, the Opposition will oppose any slight reduction, even though it is part of an overall package which is of net overall benefit. I think that the arguments on both sides are so different that never the twain shall meet. I am upset at the misconstruction by some people of the question of the overseas, so-called, vacations. First, when the Hon. Gordon Bruce emphasised the word 'vacation' and asked why it was used, it occurred to me that the word implies something quite different from a reference to a trip which is for some reason other than recreation. Quite clearly, travelling overseas to visit a sick relative or to seek medical treatment not available in Australia would not be a vacation.

The very special reason why this was put in was to keep someone who is under medical treatment within the jurisdiction of the Commonwealth. I will give an example of an actual case (I am sure that the person will not be identifiable from the details I give). A patient took himself off to Europe for two years and proceeded to post from Europe to his solicitor a series of pieces of paper which he alleged to be certificates. It was difficult to know whether they were certificates or not. Some of them had the name of clinics on the top and most of them were written in foreign languages that were difficult to read immediately without having recourse to a translator. The problem of these cer-

tificates being admissible in our courts arose, and that is a question I will raise in the Committee stage.

As a result of this difficulty, the man's lawyer rang me about six months after the man had gone overseas. He told me that this man had gone overseas, and that the courts would not accept the Armenian hypnotherapist's certificate. He asked me to give him a retrospective certificate for the last six months stating that this person was unfit to work. He also asked me to keep sending him a certificate every three months, until he returned, stating that this man was unfit to work. I am sure all honourable members can imagine the answer he received. I may have long arms, but I cannot reach over to Europe to examine someone and I certainly do not write certificates for people I have not seen and whom I will not see for two years. There is that sort of difficulty in certain cases.

I do not believe that a person should be allowed to put himself quite beyond the ability of the authorities in Australia to have any idea whether or not he is fit to return to work, and yet still pay him. That promotes the holiday on the Riviera situation. I do not believe any more than one-tenth of 1 per cent of patients would do that. Probably not even one-tenth of 1 per cent of patients are malingerers and would do that. However, if two people did it that would be two too many and it should be stopped. There is no intention to stop workers with plaster casts on their legs from visiting their friends. The unit would be sensible and compassionate. This provision will simply stop workers from having a holiday on the Riviera, putting themselves beyond the jurisdiction of Australian courts and sending back certificates that cannot be tested in Australia. I do not think that members opposite would want to encourage that practice.

The Hon. J. R. Cornwall: You're putting an absurd scenario. Holidays on the Riviera cost more than $150 per week.

The Hon. R. J. RITSON: Sometimes the currency is quite strong. There is also a question about journey accidents. I recall on one occasion I gave a gentleman an X-ray result on a Monday morning following a fracture he sustained the afternoon before whilst he was working in his backyard. He abused me because he had already telephoned his employer and told the true story. Whereas if he had known that he had a fracture he would have said that it happened on the way to work. The problem is that there is a little bit of a person's backyard or front yard which is not beyond the control of the employer. Statistically, I do not think that this provision will take very much away from workers, particularly because, as master of their house, they have control of their front doorstep and front yard. A worker should be reasonably expected to keep the confines of his own premises in safe order. Once a worker leaves his front gate it is a different matter. I think that a worker should be reasonably expected to keep his front porch and front yard safe for himself. I see no difficulty with that amendment to the journey accident provision.

The alternative insurance arrangements are of immense value. Any doctor or social worker who has ever attempted to place a willing and able worker, who has had a previous claim with another employer or who has some residual disability which does not prevent re-employment, will be delighted with this clause, because many of these people are rejected by employer after employer purely on an insurability basis. I have spoken to orthopaedic surgeons, medical practitioners and social workers and they are all delighted at the insurance arrangements contained in this Bill. I notice that the Opposition has seen fit not to criticise this part of the Bill. Therefore, I can only assume that the Opposition agrees with it, but is too miserly to give the Government credit for it.

I do not wish to enter into any technical arguments about the merits of chiropractors or the relative merits of other forms of medical treatment for muscular-skeletal disorders. It has been blown up out of all proportion. Chiropractors' fees were previously not remitted under workers compensation provisions, but now chiropractors have been placed on exactly the same footing as all other paramedical people. There are certain consequences in placing them above other paramedical people; I do not believe that those consequences have been thought through properly. I believe there is an amendment on file to ensure that chiropractors have their fees paid in relation to patients who see them unreferred.

Mr Blevins's proposed amendment will elevate other paramedicals to this level as well, so that chiropractors, speech therapists, occupational therapists and clinical psychologists will be able to see patients unreferred. No thought has been given to an unreferred patient who sees a paramedical without seeing the doctor and then returns to work. The patient will have his fees paid but he will not receive his weekly payments, because courts only accept medical certificates from medical practitioners. At the moment courts will not accept certificates of unfitness to work from chiropractors or optometrists. I do not think that can be changed tonight. I have been informed that the measure is contained in the regulations, which cannot be amended here and now.

If we do not think carefully about this provision we face the possibility of creating a situation in which for the next few months people will have their medical bills paid but will not receive weekly benefits. The Council has only had an hour or so to consider the Hon. Mr Blevins's amendment and it would be a pity to simply say that it is a good amendment which should be passed because the hour is getting late. We have done that too often in the past. However, I will leave that matter until the Committee stage. If members think about the amendment they will see that it creates a real problem.

In conclusion, I refer to the Public Service Association advertisement in this morning's *Advertiser*, which states that the board 'will be able to examine your legal and medical records without your permission'. That is half true, but it does not give the other side of the coin. The advertisement does not mention the provisions in the Bill which protect workers against disclosure or against admitting matters as evidence without their permission. The advertisement ignores that and continues, as follows:

> Overturn medical opinion and order you back to work.

That is totally false, as I demonstrated at the beginning of my remarks and as anyone who has bothered to read the Bill would know. One can only draw two conclusions about Mr Ian Fraser, whose name is appended to this advertisement: he is either stupid and has not read the Bill or he prefers to publicise half-truths.

The Hon. J. E. Dunford: Say that outside the Council.

The PRESIDENT: Order!

The Hon. R. J. RITSON: The advertisement also states:

> You will not be able to take a holiday without the board's permission, even though it may assist your rehabilitation.

The Hon. J. E. Dunford: That's true.

The Hon. R. J. RITSON: That is not true; you can go to Victor Harbor—

The Hon. J. E. Dunford: You can't go overseas.

The Hon. R. J. RITSON: It is true that one can not take a holiday overseas without the board's permission, but that is not what the advertisement says. It says that one will not be able to take a holiday. I have never seen anything more dishonest and disgraceful in my life. It is terrible that people with public responsibility have to stoop to that level to debate what is a good Bill.

The Hon. J. E. DUNFORD: I will not reply to the Hon. Dr Ritson because it is obvious he has not been talking to the people affected by the Bill, that is, the working people. He said that he had spoken to social workers, doctors and other people in that category, and that they were delighted with the Bill. At least he was honest: he did not try to mislead the Chamber and pretend that he had spoken to a worker who had been happy about the Bill.

Workers are not as well off as members of Parliament if they are injured or get sick. I can be off work for two years if I fall down the steps of Parliament House, and I will receive $35 000 a year, no questions asked. We now want a lot less for people who keep the wheels of South Australia turning. I have always been of the opinion that workers should receive more than we receive, because they do more, are worth more and are more productive. The reason why the Hon. Dr Ritson and, more especially, the Hon. Mr Laidlaw (a man who should know about these matters and, I am sure, does know) are trying to prop up the legislation is that it takes something away. Later tonight we will be giving something away; we will be dealing with the Pastoral Act Amendment Bill which gives half of South Australia to those wasters in the north, the large landowners.

The only people that we can take something off are the workers and it can be taken from them because they do not know that we exist. Workers do not know what Parliament is doing and do not have time to study Bills. Therefore, they rely on members of the Labor Party to protect their interests. They know that the Liberal Party will not tell them what is happening but will say things in the privacy of the Council. The Government denigrates the workers and suggests they are malingerers.

It is suggested that this legislation will be of great benefit to workers and the community. If the worker believed what has been said about clause 11(7), he would either be drunk, stupid or deaf. Under that clause, after three months of workers compensation, there is a decrease in earnings of 5 per cent. If a worker is on $300 a week, after three months he will have $15 a week taken out of his pay arbitrarily, without any appeal by him.

If a worker at the local pub or a worker who works for you, Mr Laidlaw, is told about that and also told that that is good for him, I would be very surprised if he supports you. A worker who is enjoying his wages and is not enjoying his incapacity will suddenly face a 5 per cent reduction in his wage. He will be taxed for the misfortune of having an accident at work. That is how he would accept it. If I was a worker that is how I would accept it; I would not regard it as being good for me.

I place no blame on honourable members absent from the other side of the Chamber. I place blame on the Minister, about whom I have spoken on many occasions and who our Leader indicated will be the next Leader of the Liberal Party. I certainly hope that that is true, because we will have an even easier task beating him than beating the Hon. Dr Tonkin. The workers would direct their hatred at the Minister of Industrial Affairs if they knew what this Bill provided, whereby the Minister intends taking away from the workers many of the privileges they now enjoy.

In the capitalist press one sees reference to $50 000 and to the doubling of compensation, with rehabilitation now coming under this Act. That comes over well and keeps the worker quiet. His wife reads the paper, if he has not read it, and says that she can be sure of getting $50 000 if the worker is killed coming home from work. That is not the case. It depends on whether the wife is a dependant of the husband.

It seems to me that so many workers are unfamiliar with the Act which governs their workers compensation while they are injured and which governs the provisions for their dependants, their wives and children, after death. These provisions are not clear, and we have amendments on file that deal with this matter.

Clause 11(8) *(b)* provides that no weekly payments shall be payable in respect of a period of incapacity from work falling after the date on which the worker reached the age of 65 years of age. All of us who have been in industry and have worked with our hands know that it is not compulsory in industry to retire at 65 years of age, although in local government and the Public Service it is compulsory.

The Hon. Mr Laidlaw is asleep and is not listening to me, but I hope that tomorrow he reads what I have said and shows his concern for the employees he says he looks after so well. I am sure he has many workers of 65 years of age on his pay-roll working at Perry Engineering, Adelaide and Brighton Cement or in one of those dirty quarries. I challenge the Hon. Mr Laidlaw to deny what I am saying.

As an example, let us take a machine operator working in one of the quarries of Quarry Industries (and I know many men from that industry because I was representing them in that area). This man is aged 64 years 11 months and, through no fault of his own, but because of worn out machinery provided by the employer—say, a truck with bad brakes—he goes over a cliff.

The Hon. Mr Laidlaw says that the legislation that he is supporting on behalf of this shoddy Minister will look after the worker. However, under the previous legislation, the worker could receive overtime, penalty rates, and site allowance. Under this new Bill, after being on compensation for one month at $300 a week, if $100 of that $300 is overtime and site allowance, the worker immediately drops to $200 a week. In the case I have cited, after one month of compensation the worker would get no payment at all, and that would be legal. No court would uphold any case against that legislation.

Therefore, that 65-year-old man would be penalised in relation to his age and with regard to gaining employment; he will have been used in two ways. The Government will take his workers compensation and, by a later clause, reduce his weekly payments, because site allowance and overtime up to $100 will not be included.

This Bill has been highlighted by members of the Government as good for the workers. Clause 13 deals with annual leave and is supposed to be good for the worker. It provides that, once a worker has been on workers compensation for 12 months, he will not receive his annual leave entitlement. This means that, if a worker is off on compensation for, say, 14 months, and then goes back to work, he does not get his accrued leave. However, if he returns to work one day less than 12 months he will be entitled to four weeks annual leave. That provision is supposed to be good for the worker.

Once again we have the situation arising just as I commented in regard to the man of 65. A worker in industry on compensation after 12 months will not receive his accrued annual leave. That is absolutely wrong. This provision takes away the annual leave entitlement. If one works for 12 months, one is entitled to four weeks leave. If one is sick for 12 months recuperating from injury sustained through no fault of one's own, there is no entitlement. That takes away the position that a worker—

The Hon. J. C. Burdett: You have to be paid 52 weeks of the year.

The Hon. J. E. DUNFORD: If one is working normally and does not take annual leave, or it the boss asks you not to take it at Christmas time, it is deferred, but one takes it eventually. That will not be the case under this Bill, because the Government is taking that provision away.

Here are three matters important to workers. The first concerns weekly pay when a worker retires at 65. Although

an employer may employ him on the basis that he does not have to retire at this age, this Bill will require him to retire. The second matter is that the Government is taking away an annual leave entitlement. If a worker is on compensation for two years, he will lose entitlement to annual leave over two years.

Government members opposite representing the Minister say that this Bill is one of the best pieces of legislation introduced. This has been printed in the press in regard to the great challenge presented here, with statements about what a conscience the Hon. Mr Brown has, what a vision he has for South Australia. If the workers knew how crook he was I do not know what they would say about him.

Clause 14 was referred to by the Hon. Dr Ritson, who is a great and humane person. He obviously joined the Liberal Party after he heard talk about freedom of rights, freedom to travel, freedom to go where one likes, when one likes, without any tribunal directing you otherwise. I refer to the Public Service Association advertisement, and I congratulate the association's bringing this matter to my notice and to that of all South Australians. That notice states:

> You will not be able to holiday without the board's permission even though it may assist in your rehabilitation.

The clause provides:

> A worker shall not, while receiving weekly payments, take a vacation outside the Commonwealth unless the employer or the executive officer of the Workers Rehabilitation Advisory Unit consents in writing, and if the worker does so without such consent, his entitlement to receive weekly payments shall be suspended for the duration of the vacation.

The Hon. Dr Ritson referred to Kangaroo Island but, with all the lunatics running around there, who would want to visit Kangaroo Island? One can visit New South Wales or the Gold Coast, but if one wants to visit Fiji or Bali one could lose the compensation entitlement. That is unfair, unreasonable and it is a matter that should not be left to a tribunal. A sick worker's doctor could advise the worker to go to Bali or Fiji and lie in the sand to forget his worries. It might assist the worker but, if is is left to the unit, it could say that such a trip was not on and say that if the worker leaves the Commonwealth his payments will cease.

That is a breach of the Universal Declaration of Human Rights, which has often been referred to by the Hon. Mr Hill when he has talked about trade unions. When he was in Opposition, the Hon. Mr Hill went crazy talking about the evil socialist Government. The Hon. Mr Hill may not support the Bill, because this provision is a breach of that universal declaration. Article 13 provides:

> 1. Everyone has a right to freedom of movement and residence within the borders of each State.
> 2. Everyone has a right to leave any country, including his own, and to return to his country.

One can leave and return from this country but, under this Bill, one gets no money. A worker will be penalised for abiding by and taking advantage of the Universal Declaration of Human Rights to which Australia is a party.

Here is another restriction imposed by this Liberal Government, which claims that it will not restrict people, that it will deregulate and that it will provide more freedom. The only freedom that I have seen since this Government took office is the freedom of employers now to take action against workers in this sort of manner with the support of the Government by not paying people their correct wages, and I will be dealing with that later. Employers can now breach all sorts of customs and codes. There has been no deregulation to any great extent, as the Council has heard from the Leader of the Opposition, but there is a go-slow attitude in regard to action against people who offend against industrial awards and safety codes.

The departments responsible under this Minister are not working and are told to look after the employers' interests. Under this provision the Minister will prevent people going overseas, because they will not be able to appeal against the decision of the unit. That is contrary to the Universal Declaration of Human Rights. There is another problem.

This rotten policy has infested the whole of the Government Party. The Liberal Party will never live down this outrageous clause 14. Never will its lies about individual liberty be believeable again if this clause remains in the Bill. Although I do not wish to take up a great deal of the Council's time, because I have much to say in Committee when we will deal with each clause individually, I do wish to refer to two clauses in this second reading debate.

Clause 16 deals with average weekly earnings. It really puts the icing on the cake. The Government is trying to tell workers that it is a beneficial proposition for them, that this provision will increase prospects of rehabilitation, because it deals with weekly payments on the basis of average weekly earnings. Why should any worker have his income reduced as a result of an injury sustained at work? That is a fair question that should be asked of Government members.

The Hon. D. H. Laidlaw: It happens in all other States.

The Hon. J. E. DUNFORD: I am glad the honourable member mentioned that. He is suggesting that this Act is a better one than those which exist in other States. I will not have that. I will tell honourable members what happens in this State and what happens in other States. I will now have to explain the matter further.

This Bill has taken away five important factors which determine the welfare, the rehabilitation and the future of the worker and his family. No wonder members opposite want me to sit down. Why should any worker have his income reduced due to an injury at work? Surely we have reached the day when provision can be made through a system of insurance for no reduction in income. The Minister wants to punish people for being injured. If we are injured on our way home tonight and we are off for two years we do not lose one zac; in fact, we get indexation or an increase in pay. Mr Brown could be my industrial officer at any time. He supports the 11 per cent.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Dunford was very well behaved during other speakers' contributions and he will now be heard.

The Hon. J. E. DUNFORD: Thank you, Mr President. You have always protected me against these impostors. They have to support the Minister because he will be the next Leader. They are afraid because he is a wake up to them. He knows they do not like him or trust him although they always support him. However, he wants complete loyalty and subservience.

I refer to the Minister's lack of exposure in the working areas and the fact that there may be an explanation of the Minister's ignorance in some areas. He may be ignorant of common law and the award provisions making the working of overtime compulsory. He may be ignorant that shiftworkers are required to work overtime to ensure that the rotation of work through shift rosters is capable of being effected. He may be ignorant that workers work overtime when their employers want them to and need them to do so. Workers unfortunate enough to be injured, quite probably in many cases whilst working such overtime, are not to be compensated accordingly. The Minister may be ignorant of the fact that site allowances are often fixed to attract labour, often specialised labour, to a particular job. The Moomba to Stony Point pipeline is an example. I do not have the rates of pay to quote as an example. A worker employed on the Moomba to Stony Point pipeline will receive approx-

imately $700 a week. I know that the approximate base rate of pay for that worker will be somewhere around $200 a week. The other $500 will be received by way of site allowances, overtime, and so on. That will be his weekly package for the period during which he works on the site.

Under this legislation that will not be included if that part of the legislation is not carried. If this legislation, which Dr Ritson says is good for the workers, is passed he will receive $200. Therefore, he will lose at least $300 a week. That is $15 000 a year. This is the legislation which Mr Brown has been quoted in the press as saying is visionary, with conscience, and which Dr Ritson is saying he has not heard one person knock. He has not met any workers yet. Dr Ritson tried to explain to me in private conversation the principle of the 6 per cent and the 20 per cent. I know what that means but he was talking in medical terms about the loss of hearing. I have now also heard his speech. He seemed to say that it did not matter to a workman in medical terms if he loses another 14 per cent hearing.

I refer to clause 17 of the Bill. If I went to work at Perry Engineering or at Mr Laidlaw's Adelaide-Brighton Cement with perfect hearing and suffered an injury at work to the extent of losing 20 per cent hearing, I would be very worried. Under the present Act with 5 per cent loss of hearing one gets workers compensation. Dr Ritson is saying that one can lose three times as much as that again and will not be compensated. If I returned home from work with that amount of loss of hearing I would want compensation. I would not be surprised to see a Bill in here which states that a worker can get by with eight fingers or eight toes. That is what we are coming to when we see that a Bill which states that it does not make any difference if one loses 20 per cent of one's hearing. It is an outrageous proposal which suggests that hearing is of no value. People like to enjoy music and the sound of their children laughing. I am sorry that Dr Ritson cannot enjoy these things. He has told the Council that he lost his hearing through gunshot noises. I think it was possibly from duck shooting. It is not good enough for a doctor to say that 6 per cent is compensatable under the present Act and try to convince the Council that by trebling that amount a worker should not be entitled to compensation.

Mr Laidlaw challenged the South Australian Act compared with other Acts interstate. The meat workers union has told me that if a meat inspector, a white-collar worker, suffers Q fever and other diseases communicated between animal and man he will receive workers compensation. However, if one is a freezer operator, a blue-collar worker, as I once was and contracted the same disease, he will get nothing at all.

The Hon. Mr Laidlaw referred to New South Wales. I point out that, in October 1979, that State saw fit to do something about this proposition, so that every worker in the slaughter houses and abattoirs in New South Wales is now covered. That is not the case in South Australia. If you, Mr President, were a workman, I do not believe that you would accept that proposition as being good for you; neither would any practical, reasonable, thinking politician, except the Minister, who is incompetent, villainous and treacherous. He tried to tell the workers that this Act is good for them and good for rehabilitation.

The Bill will benefit only insurance companies. It is a pay-back to the employers, who refuse to do anything about safety for employees, and it is a means of obtaining money for the next election campaign. This is the crookest Bill I have had the displeasure to speak to. However, I support the second reading.

The Hon. N. K. FOSTER: Approximately 100 years ago (as I remember from my reading), the first Workers Compensation Act to be even remotely considered as any sort of parallel with the nineteenth century was introduced into the German Parliament. The name of the person who introduced that Bill now escapes me. Having done some research into this matter some years ago when I chaired a meeting on workers compensation at the Adelaide University in regard to workers compensation Acts generally, I can recall that, as a result of that occurrence in about 1884 in Germany, the British press went absolutely berserk for about six consecutive weeks, blocking the printed media, which was the only type of media in those days. In fact, it was stated that this Act would be the absolute and utter ruin of the British Empire and of the world. It was believed that, if such an Act was introduced into the United States or the Northern American Countries, it would be less harmful than in the United Kingdom, but they would be saddled with the same irresponsibility that had occurred across the English Channel.

We have not come such a long way in this matter. I can recall that an Italian worker was jammed between the platform and the train in 1928 at Cheltenham on his way to work in the Finsbury area. That man was dragged along and was reduced to a mess. Of course, the accident brought about his death. At that time the Playford Government stated that compensation for injuries that occurred on the way to and from work is for bludgers and 'ne'erdo wells'. The local Trades and Labor Council and other interested unions and organisations ensured that a 'to and from' clause was inserted in the Workers Compensation Act. It did not eventuate quickly, but it did come to pass.

There are no privileges under the Workers Compensation Act, and anyone who took part in the debate this afternoon or this evening and suggested that there are privileges has not really understood the purport of workers compensation Acts, nor the import of the infamous Bill that is before us. Let me say that the department of the author of this Bill is administered by Mr Brown.

A near neighbour of mine was involved in an accident which could be termed a 'to and from work' accident. The lady was sacked by the Minister during the course of her compensation claim coming before the courts. There was considerable hesitancy by medical practitioners about the extent to which she should hasten very slowly to go before the courts. That lady was 47 years of age and her injuries meant that she would suffer from an arthritic condition. It was believed that she could suffer from stiff joints, including the main joints, the joints of the spine.

There are many cases in which doctors and individual workers would say, 'No, I do not want to settle yet because I am now 47 years of age and I want to return to my place of occupation.' In this case, the woman was sacked: her services were terminated. I telephoned the department, but I could not get through to the Minister. I spoke to a female officer, and I got absolutely nowhere. Anyone who works in social welfare and deals with injured workers would come to the conclusion after a short time that that is one of the most difficult areas in which to work, bearing in mind the work load involved and the injuries that occur to and from work, perhaps as a result of vehicular accidents.

Any member in this place may be taken to the Royal Adelaide, the Queen Elizabeth, or any other hospital after an accident; when he is lying on the stretcher, and with his last dying breath, he may have to answer whether the claim is under workers compensation. If there is a workers compensation claim, the hospital can load the costs considerably. I do not disagree with that for a moment, because at least the hospitals are bearing some real costs towards the rehabilitation of a patient.

Rehabilitation does not commence at the door of St Margaret's on Payneham Road. I do not knock the success

rate of that hospital, because the inability of industry to provide work for seriously injured workers is practically nil. People no longer drive lifts. The lifts are automatic: one merely presses the button. If we cast our minds back to the late 1940s and 1950s, we rememeber that debilitated workers drove lifts in this city. Thank goodness that does not occur today. The Hon. Mr Davis may well laugh.

The light work load in industry has gone completely, yet the Government has the audacity to introduce this Bill and to create a monster in respect to a rehabilitation unit which can dictate terms to the court and which can, in fact, frustrate the delays on properly based medical examinations, X-ray results, scan results, and so on, in respect of an injured person. The rehabilitation unit can force the matter before the court. That in itself is a denial of justice.

Let the Minister of Transport enact in the House of Assembly tonight a Bill that will impose that same restriction on people within the third party sphere. Members of the public would be involved in regard to pedestrian or vehicular accidents. The Government would not have the guts or courage to do that. Members opposite have an ingrained, wrong approach to compensation, because they believe that 90 per cent of people who want compensation are bludgers. One can never enact a Bill to cover the smarty: he will find a way around it. The Government will surely inflict a further and greater penalty on the innocent people in the community.

I want to relate an incident that happened to me when I was a Federal member. Across the road at the A.M.P. building, a fellow marched into my office at 2.10: he was with me for seven hours with a loaded gun on the desk. I have related this story before. I will trace the history of that man. I finally drove him home at about 7.30 p.m. I will not name that person in this debate or in any other debate. He threatened the life of a politician. He also threatened the life of an insurance manager. I telephoned United Motors on Glen Osmond Road—his employer; that company gave an exemplary record of his conduct. He was a very good mechanic.

One morning he marched into the building and found that the place had been supplied with a completely new hoist; a pit had been built; there was a new, shiny surface, painted a beautiful red colour. The workman went into his wonderful surroundings, finished up in the pit, and the insurers of United Motors, which company had the best possible word to say about this bloke, knocked off his insurance and his weekly payments.

That man flogged off his washing machine, some of his furniture, his car, tradesmen's tools and had nothing left to sell but his body, but he was not disposed to do that. He was a Yugoslav who was without any form of payment of any kind for seven weeks and who came to me in a most distressed state. I understand from speaking to the Hon. Mr DeGaris that he visited him later in respect of some 1973 legislation that was about to be enacted. The Hon. Mr DeGaris cannot recall that experience, probably because he did not have the experience I had with the man. I say to the Chamber, and particularly to members opposite, that that man was driven to a point of absolute despondency and was prepared to do anything because he was not able to feed his children.

Surely we are not going to see a return through the provisions of this Bill to that type of anarchy, because that is anarchy. I say this to the Hon. Mr Laidlaw very seriously, because we are both leaving this place at the next election (he to better endeavours than I—I may be going to a greater leisure period than I have at the moment). If I return to the trade union movement (that is a possibility), I will kick the very hell out of this particular legislation. I will be suggesting forcibly that the bargaining table not be restricted to wages, conditions and annual leave loading, but that the conditions of workers compensation be a bargaining point across the table, too.

I speak with some experience in respect of this matter because of the lackadaisical way employers have carried on over the years. I hope that this Bill does not overrule (and the Hon. Mr Laidlaw knows what I am talking about) the precedent set in the stevedoring industry, where trade union representatives have wrung from employers at the conference table terms and conditions applying to workers compensation. I hope that they are outside of the ambit of this infamous Bill. If they are not, one can expect a great deal of trouble in that area because the earnings that the workers enjoy are spasmodic and they are so entitled to them that they will fight for their retention, as is their right.

I suppose that one of the things that has lost credibility over the years along with politicians is the arbitration system, by its own hand but not entirely—by the hand of the legislative jackhammer, too. The Government is going to be in strife whichever way it turns. It can put a head shrinker on this infamous committee proposed by Mr Brown (it was the brainchild of him and the Hon. Mr Laidlaw before they achieved office because of the stupidity of the Party to which I belong). I will deal with this matter at the appropriate stage in Committee because we want to get on with this second reading debate so that we ensure that we get this Bill to the third reading stage tonight.

The fact is that Mr Brown has never soiled his hands in his life. He has never been down a mine, nor has he worked in industry. He owes his elevation to this Parliament to a few young liberal so-called radicals of the late 60s and early 70s who wanted to pack everyone else in their age group off to Vietnam but never had the courage to go themselves. That is the group to which they belong, as does the Attorney-General, the little fellow talking to the Minister of Local Government at the moment. That is the sort of mentality we have looking into workers compensation. How many bludgers has the Minister turned up? If a headshrinker does not believe his profession is a bar to being appointed to this committee, the weight and authority given to him in this Bill is a damnation to those who have suffered as a result of injuries sustained at work or when going to or from work.

If the Party to which I belong had been forceful enough we would be amending this Bill to a far greater extent than we are attempting to at the moment. We ought to be giving a legislative green light to every trade union in heavy industry, mining and the like to make provision in awards. Certain areas have brought about death and destruction such as happened at ETSA the other week (and I do not want to go further and be pulled up by you, Mr President, because the matter may be *sub judice* at the moment) when three or four men died (and the Attorney leaves the Chamber as I speak) whose families were left destitute while the Minister of Community Welfare (and I emphasise 'welfare') sits there and laughs. The Minister ought to be thrown to the dogs as his Bill intends to throw women and children to the dogs when a wage earner does not make the journey home.

It was my lot when in the trade union movement to have to visit no less than six women to say that their husbands had been killed on the job. That is not a very nice task. I do not want to be emotional about this as I want to be as practical as I can in addressing the four members of the Liberal Party left in this Chamber.

The Hon. J. C. Burdett: There are only two members of your Party left.

The Hon. N. K. FOSTER: That does not matter because it is the Minister's party, the Government, that is proposing this Bill, not Mr Dunford, the only other member of the

Labor Party in this place at the moment. The Minister is proposing the Bill; we are not the architects of it. We hope, however, to be able to convince the Minister later of the wilful way he is going in respect of these matters. I have dealt with the questions of the headshrinker, but let me say that in the six or seven years I have been here (and in the number of years I spent elsewhere) the popular thing among insurance companies, particularly when dealing with women workers (and sometimes when dealing with male workers), is to force them or intimidate them into going to a psychiatrist. Then, the headshrinker in the pay of the employers writes a certificate saying that the injury was psychosomatic, all in the mind—there is nothing wrong with the woman's elbow even though she fell over and caught it in a machine—it is all in her head.

I thought to myself that there was a way around that, so my advice to a number of people who had been on rather extended compensation was to consult a headshrinker of their own choice first and to get a certificate to say the reverse of what the company's headshrinker would say when they visited him. That had amazing results—that approach was never used again. The industry in which I worked, the Waterside Workers Federation, and the maritime industry expressed concern over a number of years about the number of people killed in that industry. One ship had a death in every port at which it called caused by the pontoons that covered the hatches. There was a death in Melbourne, Sydney, Brisbane and Adelaide. The unions said that they had had enough of that.

There were many cries for the provision of four wires instead of two on the lifting appliance. If it tilted, an unsuspecting workman would fall 30, 50, even 70 feet to his death. That company had a death in every port and the union finally said 'To hell with it'. The union had inserted in its award a provision that any death occurring as a result of a falling beam would be *prima facie* evidence of neglect on the part of an employer: the employers could not argue negligence on the part of employees. I have screamed in the trades hall and in other places that such an insertion should have been made in the E. & W.S. award for those people who have died in tunnels and trenches as a result of inadequate shoring up. Unfortunately, that has not been done.

I heard today that the New South Wales Parliament is amending mining regulations. That is being done for the first time in 80 years. If honourable members listen I am sure they will hear the bellows coming from employers in New South Wales, because some of the fines range up to $10 000. However, even that sum is not sufficient and it is not the way to tackle the problem. This Bill does not ensure that the safety of workers is protected. It imposes no obligation on employers to provide a proper and safe working place for employees.

In 1980, along with the Hon. Mr Milne and the Hon. Mr Davis, I visited the Mary Kathleen uranium mine, which has been closed for some years. That mine has a long line of different procedures on different levels before the yellowcake stage is reached. Hot and cold showers were provided for workers because acid was involved in the processing of the ore. I turned on tap after tap on the different levels and could not obtain one drop of water. The rem counters which measure radioactivity, which we hear so much about from members opposite, were not visible. The only one I saw was on the safety officer sent out from Brisbane; it was attached to a safety helmet that he was wearing. I looked at other safety helmets but I could find no other rem counter. That was the worst industrial situation I have seen in relation to workers conditions. At least the I.C.I. operation, which is not dissimilar, has never been as bad as that.

This Government has the temerity to hand to the maulers in Rundle Mall a Bill which gives them a great deal. I wonder whether the Minister is in a position to answer questions which will arise at the third reading. I have questions about the economic input of insurance companies in relation to the amount given to workers. How much is lost in legal costs in relation to the very small amount that will find itself into the pockets of the workers?

The Bill itself places a great deal of emphasis on rehabilitation. At the moment the Government's policy is to harass members of the Public Service over 55 into retirement. That is occurring all the time, whether a member is an ex-serviceman eligible for a pension at 60 or a person who is not eligible until he reaches 65 year of age. Pressure of that type is being placed on workers in this very building. Neither the Minister nor his department has any compassion in relation to this matter. Words fall very easily from the lips of politicians, and I include myself. Responsibility is the preserve of the Government; but irresponsibility is not the sole preserve of the Opposition. That point has been proved in this Bill in relation to some unfortunate members of the community.

I now turn to the 5 per cent rip off. The Minister is pilfering 5 per cent of a widow's compensation. He is also pilfering from the estate of workers who die as a result of their employment. I implore members opposite to correct me if I am wrong. If a person is injured and suffers a fate worse than death, that is, he becomes a paraplegic, the Government will pinch 5 per cent of his entitlement for rehabilitation. This measure has been introduced only a few short weeks after the year of the disabled. Members opposite know full well that there is no possible way for such a person to be rehabilitated. The Government will place people of its choice on a committee to advise a court in relation to rehabilitation.

This Bill is the most notorious piece of legislation ever enacted by this Minister, who thinks that it will curry favour within the halls of power of the Liberal Party and place him closer to the Deputy Leadership of his Party. He claims to be a member of a society known as Moral Rearmament. Among that society's aims is the destruction of the trade union movement. Through service to your country during the war, Mr President, you suffered the loss of an arm. How would you feel, Mr President, if forever and a day you had to pay 5 per cent of your entitlement to a fund which can in no way rehabilitate your lost arm? The Government may as well insert a measure in this Bill telling doctors not to make any attempt whatsoever to give workers unable to work the right of perambulation again for the rest of their lives, because 5 per cent of their entitlement will be placed in the fund. That fund will simply grow like Topsy and have within its wake the disaster of the disabled. I am referring to those people who are so disabled that they are unable to fetch themselves to this building to protest. That is the type of measure that the lousy pack of politicians opposite have put before this Council this evening. That is what this lousy mob has inflicted into this Chamber from another place. This is a time when men should be men and people should be people and not lousy politicians.

The PRESIDENT: Order! The Hon. Mr Foster has done very well so far, and I ask him not to overdo it.

The Hon. N. K. FOSTER: I do not intend to restrain myself, Mr President. However, I will abide by Standing Orders; surely to goodness I have been doing that for the last 15 or 20 minutes.

I hope that builders labourers and maritime workers defy the Adelaide City Council and jam the mall, which some city councillors consider to be their preserve. One should be given the right to express public opinion at least four days a week. I have been saying to unions this afternoon

that a demonstration for 10 minutes in front of the granite wall—the radioactive bricks and mortar of this place which the Hon. Mr Burdett so often referred to during the course of the Select Committee on Uranium— is practically useless. What is needed is guerilla activity in this city that would turn the twisted minds of members of the Liberal Party back to the straight and narrow.

The Government brought in the Bill in haste, to placate the cries of people who festoon this city during the course of the Festival of Arts. If one walks down the so-called golden half mile one will find that it is still somewhat smarting under its great plans of the past three to five years and that, in stores in Rundle Mall, five women are employed to do an eight-hour shift instead of, as a few years ago, one woman. Never mind that the wage structure has been cut and divided five times where it is only ample for one. These stores deny annual leave, annual leave loading, long service leave, sick pay, and overtime rates and give employees time off in lieu thereof, but they still have to pay workers compensation. These stores which came clamouring to the press barons in respect of this matter a few short years ago, now want to rid themselves, within 12 weeks, of any responsibility toward workers compensation, because that is the import of this Bill.

If the Hon. Mr DeGaris was working at General Motors-Holden's, left the Elizabeth factory at 10.30 tonight and was involved in a car crash on Salisbury Highway and was injured, he has a limitation imposed on him in respect of this Bill. But, if he was travelling as a citizen and went past G.M.H., did not come out the factory gates, and received the same injury, he would get unlimited compensation. We have all experienced compensation on the basis of road traffic accidents which are non-compensable accidents.

Workers compensation has been somewhat better in cases of straight-out on-the-job industrial accidents, without travelling involved. Why should that be so? What is the principle that lies behind that? There is no principle behind it other than the amount of principal for commission, where insurance companies can run riot over the whole community.

A committee was set up by a previous Government, overlorded by a judge who, from time to time, put up third-party premiums, and this was said to suffice for the injured in third-party cases. Insurance companies have a knock-for-knock understanding between them in this regard. Only two Adelaide insurance companies are outside of that understanding. No knock-for-knock policy prevails on behalf of injured workers, their widows or families. The Hon. Mr Burdett, being a lawyer, should know about the knock-for-knock policy for vehicle accidents. He may sit there and turn his head, but he knows that that is true. There is no knock-for-knock policy in the industrial world; there is no deal done from one insurance company to another. They will get a bonanza from this Bill.

A great deal more could be said in this debate. The prospectus, put out by the Commonwealth Government (a publication supported by the Commonwealth Publications Committee and usually in regard to workers compensation) lists liabilities and expenditures and, if one looks down the columns, one sees the mammoth inroads that have been made in respect of workers compensation. Several industrial clinics in Adelaide do well out of the selected number of employees sent to them. I read that the Workers Rehabilitation Advisory Committee has been designed to fill a gap in the existing workers compensation system; that is rubbish. On Payneham Road at Felixstow there is a rehabilitation centre for the benefit of workers where doctors have sent patients for at least 15 years. There is no gap in this area; it has been adequately filled. I have attended frequently, especially when I was a member for that area. These centres are attended by people with smashed limbs and, in some cases, reduced faculties, reduced perambulations and other physical disabilities, and the greatest problem is to find an industrial employer who will take such employees on.

In fact, the replacement rate is appallingly low. Where does the Hon. Mr Laidlaw suggest that he will put the half-legged person to work on light duties in his Mile End engineering plant? Will he sack the clerk when the injured worker is retrained as a clerk? How does that solve the problem? Will he tell the crane driver that he has to go, that because he is not a tradesman and cannot take the boilermaker's place that he will have to go? Will he say, that because a plate slipped and the boilermaker lost half a leg, that he will now drive the crane? What sort of rehabilitation is that measured in terms of the right of people to be employed?

I know of two relevant cases, one which I heard about today, and the other one involving a person over two years. The resulting aggravation was considerable, as was the hospitalisation. The lady concerned is unable to carry out her previous occupation. Even if she could carry out her previous occupation, she has already been told by her employer that her services are no longer required because of rationalisation within the industry. The Bill makes no provision for that.

A very old saying is that familiarity breeds contempt. I have been able to find no application of that phrase in the industrial sense, and it is obviously a misnomer. Familiarity breeds indifference, and from indifference flows accidents. However, there is nothing in this Bill to suggest that working hours in one area should be varied or that the rotation of workers is in the interests of industrial safety. Nowhere does it say that the rotation of workers on a factory line, where one poor devil sits for eight hours at the same machine, could reduce industrial accidents. The Bill boldly states a cruel economic measure, on the one hand, for the benefit of employers and, on the other hand, it cold-handedly indicates that it will deprive those in the most need in industry at a time when they most need it.

I was once on workers compensation for seven weeks when I fell down a ship's hold. Once I was on my back at Queen Elizabeth Hospital with spinal injuries, and I know something about it. There was no dough coming in. The Minister knows nothing about that, and he will dodge the issue of those poor unfortunate wretches who will seek the assistance of members of Parliament to guide them through the labyrinth that the Government has created so that they may in some way hope at the end of the tunnel they will see some form of justice in a claim for disability.

The Liberal Government has not done anything federally in respect of those who went to the Vietnam war. It has never provided justice in regard to those involved in previous wars, and it is not likely to do so in this Bill, no matter how much we debate this matter at the third reading. Obviously, the Government met in a telephone box to decide this issue because of the clamouring, whingeing and whining of the captains of industry to assist in ripping off the public right, left and centre. Not a piece of footwear or anything that is sold in the golden half mile in Rundle Mall has a tag in anything but the strictest confidence, including a code that none dare attempt to crack.

The Minister of Consumer Affairs lounges in his seat, yet he has wound his department down to such a low level that the only area in which it can operate is in regard to secondhand cars—a dismal record at that. The Minister has done nothing about the 258 per cent mark-up in commodity prices.

Who would introduce such a Bill as this? Surely such comments draw the Minister from the mental morass that he must feel this evening. All the Minister's yellings and

handwavings will do him no good. If the Labor Party were in Government and introduced a Bill (inspite of the number of legal personalities that we have allowed to creeep into this broad-based Party) to restrict the right of lawyers drawing up wills for elderly widows, the Minister would scream the Council down.

When we wanted to introduce a nationalised insurance scheme—not to nationalise insurance companies—members opposite ran up the walls for weeks.

The Hon. C. M. Hill: Rubbish!

The Hon. N. K. FOSTER: The Hon. Mr Hill knows what that has to do with this Bill, because he makes trips at taxpayers' expense once a quarter to sit in a Sydney board-room meeting of an insurance company in which he has a direct interest. The Hon. Mr Hill should not tempt or provoke me, because otherwise I will mention his scungy mates in respect to that area.

Insurance companies stand to gain in respect of this Bill. Indeed, Mr President, if you think that by my reference to insurance companies I am outside the scope of the compulsory insurance aspects of workers compensation, please do the right and proper thing and draw my attention to Standing Orders.

My case rests on the mental lapse of those who are responsible for the introduction of this infamous Bill to this Council. If this measure passes through both Houses, I hope that people outside will continue to take positive and direct action, not to the extent that they will be denying themselves a weekly salary but by fighting employers on the job for as long and as hard as they can, making it as expensive as they possibly can for employers, as employees fight for their own interests and those of their dependents.

The Bill does not provide for a teenage person without dependants to be compensated. If he has a dependant the insurance company has to pay $50 000, $60 000 or $100 000. The insurance company has absolute gain in regard to a person who dies intestate. That is not a bad cop. When that used to happen in my days on the waterfront people were advised, if they had no dependants, to leave the money to the union and they did that, particularly in the Eastern States.

The Government has not progressed at all. I would have thought that it would have some compassion for the parents who had lost their children in industry. However, it did not dwell on the mind of the moralist Minister. He has never been to New York Harbor or to the Swiss Chalets where members go for three months to meditate upon their infamous actions both inside and outside the Parliament. I look forward to the next stage of the Bill when further positive action will be taken in this matter.

The Hon. K. L. MILNE secured the adjournment of the debate.

LICENSING ACT AMENDMENT BILL (1982)

Adjourned debate on second reading.

(Continued from 24 March. Page 3455.)

The Hon. C. J. SUMNER (Leader of the Opposition): I support the second reading of the Bill. I do not wish to debate the issue at any great length this evening. I have a number of questions in relation to the measure that I will raise during my second reading speech and to which I would appreciate an answer during the second reading reply or in the Committee stage.

First, in making one or two general comments about the Bill and the Licensing Act in general, I have no hesitation in saying that, as a result of this Bill, we have arrived at a hotch-potch compromise in the licensing laws in this State. The licensing laws are always, to some extent, a matter of compromise between a number of groups interested in the area, whether they are employers, employees, the public or organisations which believe that there should be greater restrictions on outlets from which liquor is sold. However, in this Bill we are continuing the situation in which we have a compromise, and I believe that we have a hotch-potch compromise.

Let us take the issue that has received the most publicity: the question of Sunday trading in hotels. I am not sure what the Government intends in this respect. Sunday trading has been an issue for some considerable time. The Australian Hotels Association supports the opening of hotels on Sunday on an optional basis, and has done so now for some time. The Government has steadfastly refused to accept that there should be any Sunday trading.

The Hon. R. C. DeGaris: All Governments.

The Hon. C. J. SUMNER: Yes, but this Government in particular, because it has been during its term that there has been more recent public comment about Sunday trading. The A.H.A. launched a campaign for Sunday trading. Indeed, on 22 August 1980 in the *News* the Premier was quoted as saying: 'Never on Sunday'. Hotel trading on Sunday, as far as the Premier was concerned, was not on.

The Hon. J. C. Burdett: Read exactly what he did say; that was the headline.

The Hon. C. J. SUMNER: The Minister can read to me what the Premier said. The heading is, 'Pubs told "Never on Sunday".' The article states:

> Sunday trading will not be introduced in South Australia. The decision announced by the Premier, Mr Tonkin, ends months of speculation and pressure on the Government. The South Australian Hotels Association will be most disappointed if this is the Government's final decision.

Mr Tonkin also said:

> The Government has no plans to relax existing laws regarding Sunday trading.

The Hon. J. C. Burdett: It had no plans at that time.

The Hon. C. J. SUMNER: I am not quite sure what point the honourable Mr Burdett is making. The Government unequivocally stated on 22 August 1980 that, as far as the Government was concerned, there was no intention of relaxing existing laws regarding Sunday trading. The Government has repeated the statement since that time up until the day this Bill was introduced. It has not had the courage of its convictions and has decided to introduce Sunday trading via the back door in a compromise which has tried to use the tourist industry as the basis for introducing Sunday trading. The attitude to Sunday trading is typical of the general approach of this Government.

We can also consider the casino issue. In a Bill introduced in another place we have had announced the intention to establish a casino. Up until this time the Government has said steadfastly that there will be no casino. The Premier said that he was opposed to a casino, as did the Minister of Tourism, and now the Government introduces and is sponsoring a Bill to establish a casino. At the same time, it says that everyone in the Parliament can have a free vote on it, both Ministers and back-benchers. In a sense, what the Government is doing with the casino is just floating the idea. It is not taking any responsibility for the establishment of a casino. Frankly, it has introduced the Bill because it knows it has a reputation for not being able to make hard decisions on anything.

Its 2½ years in Government have been characterised by indecisiveness and dithering. Now it is running up to an election and has decided to do something positive. It goes half-way with the casino. It has not got the guts to introduce the Bill itself but rather introduced one as sponsored by

the Government. On the question of Sunday trading, it cannot make up its mind. The Hon. Mr Burdett may not realise that he has been in Government for the past 2½ years.

The Government as an organisation cannot make up its mind about Sunday trading, so it has introduced a mealy mouthed compromise. The Government believes it can get the Bill passed by relying on an appeal to tourism. We end up—

The Hon. J. C. Burdett: I think you may have to make up your mind on Sunday trading by the end of this debate.

The Hon. C. J. SUMNER: I am a member of the Chamber, and I am sure that I will have to make up my mind. The responsibility for the administration of the Licensing Act rests with the Government. That is what the Government was elected to do. This Bill is a hotchpotch and a compromise. The Government did not have the guts to introduce Sunday trading: it is introducing Sunday trading by the back door. It will give a few hotels a couple of hours here and there, and hope that in the future it can assist public opinion along the way and introduce full Sunday trading. The Government cannot deny that that is what has happened. Until recently in regard to casinos and Sunday trading, the Premier, the Minister, and everyone concerned said that such things were not on. They now realise that they have gained the reputation of being ditherers and of doing nothing, even in relation to Football Park. That matter has been going on for two years; the Government cannot make a single decision in that regard.

In the face of community feeling about the Government, members opposite decided to try to do something to indicate that they are very decisive and go-ahead. What they have produced to give the community that impression is a hotchpotch compromise, and they have used tourism as a device. I would like to know whether the Government supports full Sunday trading for hotels. Does the Government intend to introduce legislation in the future to provide for Sunday trading? I believe that the Parliament deserves an answer to those questions. We have a limited proposition before us at present. The Government could not make up its mind to go all the way. I want to know what the future holds in this area.

The Government's attitude to clubs is a further indication of the sort of compromise in which it has involved itself. The general proposition has been that licensed clubs must purchase their liquor from a retailer (a hotel), not wholesale. As a bit of a sop to the clubs as part of the compromise, the Government has provided that licensed clubs can purchase all liquor, except beer, wholesale, and not necessarily from hotels. That is part of the compromise that the Government has tried to put together, because it could not make up its mind what it wanted to do.

There will be problems in regard to the definition of a hotel at which there is a demand from the tourists. First, what is a tourist? How will a tourist be defined? Is a tourist a person who goes from Glenelg to Adelaide? Is it a person who goes from Adelaide to the Barossa Valley? The Bill contains no definition of 'tourist' or 'tourism'. What does the Minister mean in that clause? What hotels does the Minister envisage will be able to obtain a licence under this clause? Will some hotels in the Barossa Valley be able to obtain such a licence, or will all hotels in the Barossa Valley be involved in the new Sunday trading hours? Will Adelaide hotels be able to obtain such a licence because they may be patronised by a few interstate tourists? Will hotels at Victor Harbor, Whyalla, Port Augusta, or Hawker, be able to obtain such a licence? The Government must have some idea.

The Hon. R. C. DeGaris: Don't forget the Tantanoola tiger.

The Hon. C. J. SUMNER: A former Premier is very concerned that the Tantanoola Hotel should get a Sunday trading exemption. I assume that the Tantanoola tiger will be a sufficient tourist attraction to enable the Tantanoola Hotel to obtain such a licence. I would like clarification from the Government on where it believes the lines of demarcation will be drawn in this situation. Some surburban hotels may qualify, so on what basis will they qualify?

My stating the situation in such a manner shows what a compromise and a hotchpotch the Government has got itself into in this matter. The Government is importing into the Licensing Act another fictitious sort of situation. We are gradually building up a number of fictions in the Licensing Act, such as we had in the provision that restaurants and hotels that remain open after midnight may supply liquor, provided the customer consumes a *bona fide* meal. That is the present situation, and it will be changed by this Bill. The whole question of consumption of liquor with a *bona fide* meal developed in practice into a means whereby the Act was avoided. It was an unreal situation, which was out of touch with social reality. That situation was criticised quite heavily by Judge Grubb, and that has no doubt led to some of the amendments we are considering today. Eventually, an artificial situation was created.

Let us consider another fiction that I believe is being incorporated into the Act. Clause 19 provides that 'entertainment' is defined as meaning a gathering of two or more persons at which it is proposed that liquor will be consumed. I do not know whether members have any respect for the English language or whether the draftsman's inspiration left him when he drafted this clause, but I do not see how anyone in any way could define 'entertainment' according to the common and normal use of the English language as meaning a gathering of two or more persons at which it is proposed that liquor will be consumed. Clearly, that is not entertainment.

An artificial definition is being imported into the Bill in order to overcome problems. The only point I make is that, in regard to the sort of compromise that this Bill introduces with respect to Sunday trading, the definition of 'entertainment', and other compromises that were previously incorporated, we will get to a position in which there will be a lot of fictions and artificial situations. I do not wish to go into any detail at this stage as to how that might be resolved, but I certainly believe that there is a need for a thorough review of the Licensing Act in due course.

I now refer more specifically to some of the questions that the Bill addresses. First, I believe that the noise control provisions would be welcomed, and I hope that they will give residents and the people who object to the noise that emanates from licensed premises a greater say in ensuring that the quiet of the neighbourhood is not disturbed and that the court can impose conditions relating to noise where previously the power in that area was not quite clear enough.

I certainly support the provisions contained in clause 24 regarding the court's control over noise emanating from licensed premises. The second issue I wish to address myself to is the tourist facility licence which it is proposed will be introduced by this Bill. I support that clause. The only suggestion that has been put to me is that the employees in a tourist facility licensed premises would not be covered by any industrial award, so I am giving consideration to an amendment to ensure that anyone employed in a facility which has this type of licence will be entitled to the benefits of wages and conditions under an industrial award.

The next question I wish to raise with the Minister concerns clause 31, which removes from the Licensing Act the clause that places in the Prices Act the power for the Minister to determine minimum prices for the sale of liquor. The second reading explanation does not, to my mind,

explain the need for the withdrawal of this section of the Prices Act adequately. I would like clarification of that point by the Minister. The situation, as I understand it, is that with section 189 of the Licensing Act the Minister does have power to impose minimum prices on the sale of liquor.

The Hon. J. C. Burdett: He does not have power at the present time.

The Hon. C. J. SUMNER: He does have power under the Prices Act, which was amended by section 189 of the Licensing Act. What the Government now proposes to do is remove the power of the Minister to declare minimum prices. If that is the case, does that mean that there will be no power in any authority, Minister, Government or Prices Commissioner to impose minimum prices with respect to the sale of liquor? If that is the case, then I find it difficult to see why the Government is moving for the removal of this section.

The Government's explanation is that the section has never been used. There are probably a lot of items that are not placed under price control under the Prices Act, but they could be so placed if the Prices Commission felt that it was justified, or if the Government, in effect, felt that it was justified. In this situation the power exists for the Minister to declare minimum prices for the sale of liquor. That power has not been exercised to date, but does the Government feel that it ought to be in certain circumstances, and if it does feel that it ought to be where does the authority to fix those minimum prices best reside? If this clause is passed, if the section that is in the Prices Act is removed, does that mean that there will be no power in any body or organisation to fix minimum prices? I would like the Minister's comment on that clause.

I now direct my attention to what is the proposed new section 66b., which is in clause 20 of the Bill and which deals with the late night permit. This is the device that the Government has decided upon to try to overcome the problems that I have already referred to regarding consumption of liquor with a *bona fide* meal. It means that any restaurant, hotel or motel that can get a late night permit because it proposes to have entertainment of a high standard will be able to sell liquor from 9 o'clock on in the evening until 3 in the morning. The only condition relating to food is that the establishment will have to provide it if it is requested by a patron.

There have been a number of things put to me in relation to the late night permit. First, it would appear that the late night permit will not be available to wine bars, for instance. Many wine bars and many establishments that have a wine bar licence now virtually operate as restaurants in that they serve food. The only difference is that they do not serve liquor other than wine. This question has been put to me: why should wine bars be excluded from the provisions of proposed section 66b? Why should wine bars not be able to obtain a late night permit? I would like the Government's responses to those questions.

Returning now to those with a restaurant licence or full or limited publican's licence in this area, that needs to be clarified. Will this be the position, that up until 3 o'clock establishments that get one of those permits will be able to provide liquor without providing a meal and that after 3 o'clock (that is, between 3 o'clock and 5 o'clock) establishments will be able to provide liquor if it is ancillary to a *bona fide* meal? In other words, the fictional problem that occurs now may still occur in a situation from 3 o'clock until 5 o'clock in the morning. It has also been put to me, and I would like clarification on this point, that at the present time the restaurants or hotels which trade and provide a *bona fide* meal have been able to trade on Sundays doing that, but under this legislation will not be able to get a late night permit for Sunday. It has been put to me that, in effect, the present proposal is more restrictive than what already exists, except in this respect, of course, that it will be no longer necessary to provide a *bona fide* meal if an establishment does get a late night permit. I would like clarification of the Government's intention in that respect, as well.

On 15 June 1981 I wrote to the Minister, having received written representations from the owner of a wine bar, as follows:

> I understand you currently have amendments to the Licensing Act under consideration and I would appreciate it if you could give consideration to the following suggestions.
>
> Licensees who have a wine licence but also provide food are, of course, only entitled to sell wine with the food. It has been put to me that perhaps this could be extended to include certain liqueurs. At present it is possible for the licensee to sell a port as an after-dinner drink but most other liqueurs are prohibited by the terms of the licence.
>
> Accordingly, I would appreciate it if you could consider extending the terms of the licence to cover liqueurs to be sold after dinner in those wine bars which also provide food.

I have not received any response to that correspondence. I assume that the Minister considered it and I would like him to indicate why he felt that he could not accede to my request. I think that covers most of my specific questions in relation to this Bill. I have raised them at this stage to allow the Minister to consider them and respond in his reply or during the Committee stage.

I have foreshadowed one amendment in relation to the tourist facility licence. I foreshadow that consideration is being given to another amendment dealing with the new late night permit whereby the Licensing Court considering a late night permit would have to notify the local government authority of such an application. The local government authority would then be given the right to appear and put submissions before the court before such a permit was granted. Apart from the qualifications I have mentioned and the two amendments I have foreshadowed, I support the second reading of the Bill. I reserve any further comments until we reach the Committee stage.

The Hon. R. C. DeGARIS: I support the second reading of the Bill. I also support a good deal of the Hon. Mr Sumner's comments in relation to the Bill. I will be raising a number of questions in Committee. I rise mainly, after 15 years, to express my views about Sunday trading. In September 1967—

The Hon. C. J. Sumner: You've not progressed very far.

The Hon. R. C. DeGARIS: I have not progressed very far at all. In September 1967, I moved an amendment whereby liquor could be sold in licensed premises on a Sunday between the hours of 12 o'clock and 7 o'clock for consumption in a lounge, but not otherwise. This followed the recommendations of the Commissioner who inquired into the Licensing Act. However, the Government of the day did not follow the recommendations in the Commissioner's findings. Fifteen years ago I was concerned that the revamped Licensing Act granted a permit to licensed clubs to operate on a Sunday but told hotels that they could not operate. I felt that that situation had to be changed.

In 1967, I moved for the introduction of Sunday trading and I was supported by the Hon. Mr Hill and the Hon. Mr Potter, but I was not supported by any other Liberal members or by members of the Labor Party. I believe that we should not allow one section of the industry to trade on Sundays to the detriment of another section of the industry. If there is going to be drinking on a Sunday it should be on an even and fair basis and in the best possible circumstances.

The Government has partially grasped the nettle by introducing a tourist facility licence. I think it is time that we

looked at this question carefully and got away from the concept of more regulations. This Bill introduces another licence, which means that a person must go to the court and demonstrate that he wants a licence for a tourist area. I do not know how the court will make its determination. What do the terms 'tourist' and 'in the vicinity' mean?

The Hon. J. C. Burdett: A tourist facility licence does not refer to the facility.

The Hon. R. C. DeGARIS: Whether I am correct or not, I believe that the Bill should state quite clearly that, if a hotel wishes to open for certain hours on a Sunday, it should be allowed to do so. It should not have to apply to the court for the right to trade on a Sunday. I will be moving for the deletion of clause 6 of the Bill. I have no other amendments drafted, but I will test the feeling of the Council by moving for the deletion of clause 6. If that amendment is carried I will seek to report progress so that further amendments can be drafted.

The Hon. C. J. Sumner: You've got it mixed up. Have another look at it.

The Hon. R. C. DeGARIS: I think I am correct in saying that, if I wish to make other changes, I should first attempt to delete clause 6.

The Hon. C. J. Sumner: What is happening is that the Government is establishing a tourist facility licence, which is a separate licence. It is also giving hotels which can establish a tourist demand the right to open on a Sunday.

The Hon. R. C. DeGARIS: That is exactly what I meant. I concede that I probably put it incorrectly, but I knew what I was trying to say and I think the Council understands what I mean. I can see no reason why this situation cannot be resolved once and for all. I think that Sunday trading will eventually become a reality. I do not know how we will determine which hotels will be able to open and which cannot. I believe that hotels should be able to trade on Sundays in open competition.

I am also concerned about clubs which have the right to purchase certain of their liquor outside normal hotel trading hours. This provision created much debate in 1967. I do not object to this clause, but I point out that it will not have very much effect on the operation of hotels in the city area. However, it will have a heavy effect on some small country hotels. This is where the impact will be in relation to this matter. I have been approached by a number of small country hotels, but I have not been approached by any city hotels. I understand that these small country hotels have a problem as far as this matter is concerned. I do not take it any further than that and will not oppose the clause. I point out that presently there is concern from small country hotels in relation to this matter. There are other matters I will be raising in the Committee stage. I support the second reading. I will be attempting to proceed with an amendment I moved in 1967 for Sunday trading under certain conditions in South Australia.

The Hon. G. L. BRUCE: I support the second reading of the Bill. In doing so I will briefly go through the Bill and raise some of the points that should be considered. I will take the points in the order they are in the second reading explanation. I believe that tourist licences could fill a need for the tourist industry and I see no wrong in it. My main concern—and this has been touched on by the Leader of the Opposition—is that the Opposition would want to ensure that staff working in those facilities are covered by an award or agreement so that they are not award free and operating in unfair competition to people under existing awards. An amendment will be moved accordingly to try and rectify that position.

Regarding Sunday trading, I believe that the Government is hypocritical. What we have now is a sop to the random breathalyser. This is a balance for the public outside. The Government is saying that it is not a bad sort of mob, that although it slaughtered the public through the random breathalyser, it will now rectify the situation and have another bite of the cherry for Sunday trading. This shows how hypocritical the Government is. The Government said previously that it had no intention of having Sunday trading; the Government said that at no time was it going to examine it. I do not know whether the industry was consulted about Sunday trading. The stop press in the *News* of 24 March 1982 said:

> Unrestricted Sunday hotel trading was inevitable, the Consumer Affairs Minister, Mr Burdett, said today. However, the Government had no plans at this stage to extend Sunday trade beyond tourist areas. 'The tourist trading licence cannot be looked on as a foot in the door for blanket Sunday trade,' he said. 'But we will certainly look closely at how it works and take this into account when we review the Licensing Act next year.'

This is a contradiction. At the top of the article the Hon. Mr Burdett said he sees it as 'inevitable'. If that is not a foot in the door I do not know what is. I am not saying that it should not be a foot in the door. I completely agree with the Hon. Mr DeGaris. It is a most hypocritical and difficult situation, if one hotel can operate on Sunday and another hotel cannot. The haste with which this has been brought in concerns me. What happens to a tourist hotel? Who is going to define a tourist?

If a hotel in Glenelg is to be granted a tourist licence because it will be catering for swimmers in the summer, yet two or three streets back from the main hotel another hotel applies for a licence and is denied that licence because it is not on the Esplanade and is not a tourist hotel, its owner will sit there and watch his customers walk to the tourist hotel. The first occasion on which a court knocks back a tourist licence there will be immediate trouble. Why not be honest and say, 'We will give you Sunday trading for two hours on and two hours off. Ignore the tourist aspect.'

New subsection (2a) *(b)* provides that persons residing or worshipping in the vicinity of the licensed premises will not be unduly inconvenienced as a result of the granting of the application.

The Hon. J. C. Burdett: Don't you agree with that?

The Hon. G. L. BRUCE: That is hypocritical: you are trying to be all things to all people. You are saying that you can have Sunday trading, sort of. I also object to the spread of hours. To allow Sunday trading from 11 a.m. to 8 p.m. is a spread of nine hours but with only four hours work in that nine-hour period. The situation could be a five-hour gap between trading. Will one lot of staff operate that particular four-hour trading period and have five hours dead time during the day? Alternatively, there could be two lots of duplicated staff operating two hours each day. I believe that this has not been gone into thoroughly.

If there is to be Sunday trading, let us have proper Sunday trading. I believe that it is hypocritical that hotels do not have Sunday trading. I understand the objections of the trade union movement to Sunday trading because workers think they will be disadvantaged by having to work on a Sunday. I do not think that workers will be further disadvantaged because they have already been disadvantaged by having to work in clubs. The industry as a whole should sit down and thrash the matter out thoroughly. The present situation does not achieve what everybody wants; it is a dishonest way of bringing Sunday trading in.

If Sunday trading is the issue, let us debate it and not use the red herring of tourist facilities. Most local residents, if hotels open, will be using those tourist facilities. The second reading explanation says that vigneron permits are to be increased. That is good for the tourist industry. After a trip to the Southern Vales wineries, I believe the potential is there for this type of licence. The quality of life in South

Australia can be improved by that sort of promotion. Busloads of people can be catered for with a proper meal and products available for tasting at a particular winery or in the general area.

We have this facility in South Australia which no other States have. It will be a step in the right direction for the tourist industry and it has tremendous tourist potential which can be developed as far as the tasting of wines is concerned. This would promote the South Australian wine industry and make the granting of permits easier.

The next item in the second reading explanation is for a full licence through to 3 o'clock in the morning. The noise factor covers that and we have an amendment we will be moving to ensure that the Licensing Court considers the local council area concerned and that that council should be able to put a submission to the court on behalf of the residents it represents. Clause 19 provides a new definition of 'entertainment' as a gathering of two or more persons at which it is proposed that liquor will be consumed. Clause 20 provides a new section 66b (1) *(a)* requiring that the licensee provide entertainment on premises of high standard. This is most confusing. Is it to provide entertainment of high standard or premises of a high standard? Clause 20 also provides in new section 66b (5) *(b)* that the holder of the permit shall provide entertainment on that part of the licensed premises throughout the period that the permit authorises the sale, supply and consumption of liquor.

The definition of 'entertainment' needs tidying up so that it does not merely mean two people having a drink. I do not know whether I am right in my interpretation. In regard to the licence, a *bona fide* meal is no longer mandatory, which is the way it should be, yet the Bill provides that a person may request a *bona fide* meal with his liquor. I am concerned about what such a *bona fide* meal would consist of. If it is a leg of cold chicken taken from the freezer, that would not be suitable. A reasonable meal should be provided and people should have the right to order a decent meal. Therefore, a *bona fide* meal should be better defined.

I agree with the concept of the Licensing Court's being able to be involved in the direction of the industry. It is important for the court to have flexibility to deal with such activity and for the industry to have some say in its own direction. Past experience shows that it is necessary for the court to have flexibility in dealing with licensing activities. One does not need to go too far back to recall the situation involved in the sale of discount beer and other liquor from a chain of bottle shops. Without that flexibility and the power for the court to step in and ensure that the industry is viable in all sections, we could witness the destruction of small country hotels in certain areas and some suburban hotels if that necessary power is not given to the Licensing Court.

Under the Bill, licensed clubs will have the power to purchase their wines and spirits from a wholesale source. A deal has been done. It seems that clubs are not objecting to hotels getting Sunday trading if they can get their supplies at wholesale rates, and it seems that hotels will wear what is happening with the clubs if they can get their leg into Sunday trading. However, I believe that these provisions are not properly tackling the problems confronting the industry. These provisions really do nothing for anyone: it is more a case of 'you scratch my back and I will scratch yours, but we will do it a bit more.'

What must eventually be tackled is the number of licences in this State, because far too many exist. Licensing should be tightened up and, if necessary, licences should be revoked so that the industry can be more consolidated and more viable.

The Hon. R. J. Riston: How would that help your members?

The Hon. G. L. BRUCE: It would help people get employment. I understand that at present in the liquor industry there are 80 per cent casuals and 20 per cent permanents. In the club area there are few permanents because its needs are serviced mainly be free labour; unions have had a battle royal trying to get paid labour in that area. There are too many licences.

The Hon. R. J. Ristson: I cannot follow that if you have fewer licences the industry will be more viable.

The Hon. G. L. BRUCE: I believe that that is so. In many instances, casuals earn a second wage; they are often bringing in pin money. In many situations the best that a casual can do is five hours a week on Saturday night. This is what will happen on Sundays. Jobs will be created for casuals. Under the present award it will be a penalty to employ permanent staff in preference to casuals. If a permament staff member works on Sunday his overtime will cost more than casual rates. This situation encourages more casuals in the industry. There is little stability in the industry, yet it has the potential of providing a large growth industry through the tourist and service industries. However, people in the industry should be looked after and encouraged to make their career a lifetime job.

The way the industry is structured now and the piecemeal structuring of the Act does not encourage that at all. The whole Act should be reviewed, perhaps by a Royal Commission inquiring into the industry. It is presently a stopgap push and shove situation, and every vested section has a finger in the pie to ensure that it is looked after. That is a wrong concept to be dealt with by a Licensing Act. Overall, the Bill will do some good for the industry, at least the tourist industry. I have grave doubts about the tourist facility hotel, and I cannot see this provision working properly. I do not believe that the Government is completely honest or candid about it, but I will watch with interest and enter the debate in Committee.

The Hon. J. C. BURDETT (Minister of Consumer Affairs): I thank honourable members for their contributions, which were all thoughtful ones. I will confine myself to answering the specific questions mainly raised by the Leader. First, in regard to Sunday trading, he asked what was the Government's intention in regard to full Sunday trading for hotels. I would have thought that that answer was fairly obvious. As the Leader said, some time ago we indicated that we were not willing to move in the direction of full Sunday trading at this time. The fact that we have introduced this measure, which provides *inter alia* for limited trading for hotels where there is a need to fulfil the needs of tourists, indicates that that is what the Government proposes to do at this time.

We will, as I think was said in the second reading explanation (I have certainly stated it at some time), closely monitor the way in which this operates. The Leader said that there was a need for a thorough review, and I have said that often, and the Government intends to conduct a complete and thorough review of the Licensing Act.

The Hon. C. J. Sumner: When?

The Hon. J. C. BURDETT: I would think it would be next year, by the time it could be set up. This measure indicates the kind of amendments that we believe are essential at this time. In his speech the Hon. Mr DeGaris said that there was a need for less regulation, and I agree with that. I hope that that will result from the review. I believe that the review ought to be conducted on the basis that one is tearing up the Licensing Act and starting again and, if we start all over, what would we do now? Without wanting to pre-empt the outcome of the review, I am sure that that will be its outcome, that there will be much less regulation, because regulation does not always produce the kinds of

controls on drinking and moderation in drinking for which we would hope.

The Leader referred to clause 7 and the limited ability to open on Sunday in tourist areas. He asked what lines of demarcation the Government had in mind. The Government has in mind what is contained in the Bill's provisions and, in view of the Leader's comments, I intend to read what they are. Clause 7 provides:

(2) The court may, by endorsement on a full publican's licence, authorize the holder to sell and dispose of liquor under the licence on a Sunday during a period of not more than two hours or during two separate periods each of which is not more than two hours and which are separated by an interval of not less than two hours.

(2a) The court shall not grant an application for an authorization under subsection (2) unless it is satisfied that—

(a) the sale and disposal of liquor by the licensee on a Sunday is required to satisfy a demand by tourists in the vicinity of the licensed premises;

and

(b) persons residing or worshipping in the vicinity of the licensed premises will not be unduly inconvenienced as a result of the granting of the application.

The Hon. C. J. Sumner: I can read, too.

The Hon. J. C. BURDETT: It sounded as though the Leader could not read. I suggest that it will not be beyond the wit of the court to interpret that provision and to act accordingly. At present, in the Licensing Act the court is called on to adjudicate on all sorts of things which are not specified. For example, in regard to most licences the court has to be satisfied that there is a need. It will not be any more difficult to establish that there is a demand. I do not believe that there is any need to define 'tourist'. The courts normally operate on the plain meaning of the words in the Act.

The Leader went on to refer to what he regarded as being the artificial definition of 'entertainment'. That is exactly what one finds; definitions usually are artificial. They generally postulate artificial situations—they are a type of shorthand to save repeating it all the time. The next question by the Leader was in regard to clause 31, relating to section 189 of the principal Act. The Leader seemed to have a different sort of view on that clause than did the Hon. Mr Bruce. The Hon. Mr Bruce correctly assessed the affect of this clause. It is true that that part of section 189 in the principal Act has never been used. The effect of repealing it will be that the Act will then stand with that subsection excised as though it did not exist. The courts interpret the existence of that subsection in the principal Act at present as meaning that, in regard to full publicans' licences, they do not have any power to impose conditions as to price.

The Hon. C. J. Sumner: You're getting out from under.

The Hon. J. C. BURDETT: I am not getting out from under at all. If this clause passes it will mean that the courts will have power to impose conditions, including conditions as to price. I would expect that that would happen only in special cases. I would not expect the courts to take over in fine detail any sort of price controlling role. However, it will mean that there will be the ability to impose that condition, something that cannot be done at present.

Wine bars are not in the same position as a restaurant. The position of a wine bar is a hangover from the previous laws. People who conduct wine bars at present can apply for a full restaurant licence if they wish to do so. That answers both matters raised by the Leader in regard to wine bars.

The Hon. C. J. Sumner: You aren't prepared to give them the right to sell liquor.

The Hon. J. C. BURDETT: If they want to apply for a full restaurant licence, nothing is stopping them. In regard to the period between 3 o'clock and 5 o'clock, that is fairly clear. At present, until 5 o'clock restaurants can serve liquor with a meal and they will continue to be able to do so. Between the period of 3 o'clock and 5 o'clock they will be able to do that as they can now. The purpose of the amendment is fairly clear, namely, to allow the opportunity within the time limits of 9 p.m. and 3 a.m. to serve liquor where entertainment is being held without the requirement of ensuring that the patrons consume a *bona fide* meal, but with the requirement that the meal be available upon request.

In regard to the late night permits, and Sunday night trading, hotels can continue to do what they do now. A specific late night permit will not be available on Sunday nights.

Bill read a second time.

The Hon. J. C. BURDETT: I move:

That it be an instruction to the Committee of the whole Council on the Bill that it have power to consider a new clause relating to the constitution of the Licensing Court.

Motion carried.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. J. C. BURDETT: The Leader has indicated, as have other members, that he has amendments. As yet all amendments are not on file. To enable them to be drafted and placed on file, I ask that the Committee report progress and seek leave to sit again.

Progress reported; Committee to sit again.

CONSTITUTION ACT AMENDMENT BILL (No. 2) (1982)

Adjourned debate on second reading.

(Continued from 23 March. Page 3390.)

The Hon. C. M. HILL (Minister of Local Government): In replying at the second reading stage, I thank the Hon. Mr Sumner for indicating that the Opposition will support the Bill. However, he did raise certain matters on which I should comment. It is correct that this move to introduce the measure has been under discussion for a considerable time. However, to lay the blame on the present Commonwealth Government or State Government is misleading. Over many years the Commonwealth has been discussing this matter at Immigration and Ethnic Affairs Ministers conferences. Until 1979, two of the States, New South Wales and South Australia, held out for a residentially based franchise, while the Commonwealth and all of the other States adopted, as a matter of principle, that citizenship should be the basis. Because the Federal Government very properly felt unable to legislate without complimentary legislation in all of the States, progress was held up.

In 1979, with the change of Government in South Australia and the adoption by this Government of a citizenship-based franchise, one of the two States in disagreement changed its position. New South Wales continued to argue for a residentially based franchise, but in 1980 that State agreed to accept the position that was adopted by every other Government in Australia. Although I acknowledge that South Australia, prior to 1979, and New South Wales were arguing on a position of principle, the other Governments held firmly to the principle that any franchisement should be properly the entitlement of the citizens of the country. The residentially based system tended to downgrade the concept of citizenship and remove some incentive for new settlers to consider committing themselves to their new country through citizenship.

In his contribution, the Hon. Mr Sumner rightly pointed out the discrimination that is enshrined in the present legislation, particularly in the matter of Commonwealth

countries, such as Cyprus; Turks and Greeks from that country had a set of entitlements that their national colleagues from Turkey and Greece did not have. The Hon. Mr Sumner quoted Federal Labor Party policy, which also accepts citizenship as the basis for enrolment but which reduces the time to 12 months.

However, the Hon. Mr Sumner went on to advance the somewhat curious proposition that there is something different between Federal and State elections. He argued that citizenship is appropriate for participation in Federal elections but is less compelling at State level. Because he did not elaborate on that argument, it is difficult to understand the logic behind it, although of course the concept of a unitary Government with the States assuming the roles of regions is not new within the A.L.P. I will simply—

The Hon. N. K. Foster: Why are you bringing this up?

The Hon. C. M. HILL: Because the honourable member in his contribution made the point that elections for the Federal Government were far more important than elections for the States. He tended to downgrade the States in the general picture that he painted. I simply stress that the State Government believes that the fundamental criterion for the franchise should be citizenship. The Leader said that the Bill will level down the rights of migrants, rather than bringing them up. Again, it is clearly a matter of perspective, but it would seem that citizenship is a clear demonstration that the settler intends to remain in Australia and take up a permanent place in our national community.

The question of discrimination was raised by the Leader. All new settlers will have to meet the new rules, regardless of their country of origin. British subjects who are already enrolled will be entitled to retain their rights, and any British subject who applies from now until the proclamation of this Bill will also maintain the present rights. This is accepted as a necessary consequence of this action. A long-standing right of a British subject is now to be removed. It would be an act of incredible savagery to disfranchise those British subjects who are already enrolled and who are not Australian citizens.

The Hon. C. J. Sumner: Who was suggesting that?

The Hon. C. M. HILL: The Leader was getting pretty close to suggesting that when he was speaking.

The Hon. C. J. SUMNER: I rise on a point of order. That is a complete and absolute misrepresentation of the position I took on this Bill. At no stage did I suggest that those British migrants who came here and who were enfranchised should be disfranchised. I said that other migrants who came here should also get the franchise. At no stage did I suggest that disfranchisement should occur.

The PRESIDENT: That is not a point of order.

The Hon. C. J. SUMNER: The point of order is that the Minister is completely misrepresenting me.

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

The Hon. C. M. HILL: I think the honourable member has made his views well known. The position is that the rolls will hold over many years people whose entitlement is not based on citizenship but, given the magnitude of the shift, the Government believes that this is a very small cost. Very clearly, it means that future migrants from British countries will not share the entitlement which the migrant already arrived can exercise. The Hon. Mr Sumner spoke at length about the New Zealand system, and I can only repeat that this Government, in line with every other Government in Australia, has accepted that enrolement be based on citizenship and not residence.

The question of a person's transferring electorates who has been on a roll in the three months immediately preceding the commencement of this Act is dealt with in clause 8. The Leader might have had a query in that regard. The Leader raised the subject of a British person who is on the roll, returns to the United Kingdom, stays there for 20 years, returns to Australia, and continues his entitlement to vote. To write legislation so as to overcome such possibilities would be to make the Bill incredibly detailed and prescriptive. It would seem that the potential number of people so involved is so few that the further complication of the legislation would be unwarranted and unnecessary.

Lastly, I point out that the amendment that will be moved by the Government (which is on file) will provide for the partial proclamation of this Bill when it is enacted, because this new provision must be carefully co-ordinated with the Commonwealth and other complimentary legislation in each of the other States. Adequate publicity will be given to the change, and all British subjects who are not enrolled will be given a chance to exercise their option before the proclamation.

The Government has not addressed itself to the question raised by the Leader concerning the terms of office of newly elected members of this Council following a double dissolution of the Parliament.

The Hon. Frank Blevins: It's about time someone did.

The Hon. C. M. HILL: The Labor Party introduced it and did not do much about it. In regard to the matter raised by the Hon. Mr DeGaris, I appreciate the point he made, although it is an instance that is most unlikely to occur. In principle, I believe it is one that the Council should support, and I will be prepared to support any amendment that he produces which takes into account the situation the honourable member raised in the debate.

The PRESIDENT: This Bill is of such a nature as to require the second reading to be carried by an absolute majority of the whole number of members of the Council. I have counted the members and, there being an absolute majority, I put the question 'That this Bill be now read a second time'. I declare the second reading carried by an absolute majority of the whole number of the members of the Council.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. C. M. HILL: I move:

Page 1, after line 9—Insert subclause as follows:

(2) The Governor may, in a proclamation fixing a day for this Act to come into operation, suspend the operation of specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

This is the amendment to which I referred a moment ago to proclaim the Bill in stages. Some clauses of the Bill deal with amendments to the Constitution Act which are of a machinery nature and with regard to which the Bill could be proclaimed forthwith. However, the final section of the Bill dealing with voting for migrants will not be proclaimed until all the other States have passed comparable legislation. This amendment is moved because of the need to withhold the proclamation of that section of the Bill.

Amendment carried; clause as amended passed.

Clause 3 passed.

Clause 4—'Periodical retirement of Legislative Councillors.'

The Hon. R. C. DeGARIS: I move:

Page 1, line 15—Leave out 'subsection' and insert 'subsections'.
After line 19—Insert subsection as follows:

(3) For the purpose of calculating the term of office of a member of the Legislative Council who was elected at an election held in pursuance of subsection (2), that election shall be deemed to have taken place at the time of the last preceding general election of the House of Assembly.

I explained this point during the second reading stage. It is possible that elections will fail or be avoided, in which case there would need to be another election. It is unlikely

that there would be another election, and it is even more unlikely that that election would take place later and fall within the constitutional provisions regarding the six-year period for members of the Legislative Council. There is a possibility, if those two things occur, that a Legislative Councillor could be elected for nine years. I objected to that earlier in my career. At this stage I think it would be unwise—

The Hon. Frank Blevins: It would have cut down your term considerably.

The Hon. R. C. DeGARIS: The Labor Party contributed to my longevity by calling many elections, and not wishing to stand against me. I had to fight strong Independent candidates all the way through, but never a Labor Party candidate. One can imagine what the Hon. Peter Duncan would say if the Hon. Mr Blevins was elected for a nine-year period—it would cause a ruckus within the Labor Party, I am certain. Therefore, to overcome any possibility of a Legislative Councillor being elected for a period of nine years, I have moved the amendment.

The Hon. C. J. SUMNER: I am concerned about clause 4, because the second reading explanation tells us absolutely nothing about what it is designed to do. Clause 4 states:

(2) Where an election held in pursuance of subsection (1) is avoided or fails, a fresh election to supply vacancies in the membership of the Legislative Council shall take place as soon as practicable after the date of that election.

We are not told in what circumstances an election would be avoided or would fail and we are not told in the second reading explanation what is the need for this new clause. I think that the Minister should provide some explanation of the need for clause 4. How has it arisen? Who suggested that there was any problem? I would have thought it would be obvious that, if a Court of Disputed Returns, for instance, declared that an election was void, obviously a fresh election would be held as soon as practicable.

I do not think that a Government could get away with anything in that regard so far as the commmunity is concerned, so I am at a bit of a loss to understand what the Government has in mind or what events it anticipates would avoid or cause an election to fail and, if that does happen, why it sees the need to place in the Constitution the fact that any subsequent election should be held as soon as practicable after the date of the previous election. I would have thought that that was obvious.

The Hon. C. M. HILL: The Bill includes clause 4 because there had been concern expressed in the community that the eventuality was not taken into account in the Constitution Act. Existing section 14 of the Act does not deal with the question of what would happen if an election failed. The Government thought it was proper that this ought to be written into the legislation and taken account of. The situation could arise, as the Hon. Mr Sumner has said, where two candidates might be killed in an accident the night before an election. In a situation such as that, obviously there would be a need for some action to be taken. The Government thought it proper to lay down in the Constitution Act what should occur. That is why new subsection (2) is included in the Bill.

The Hon. R. C. DeGARIS: We passed a Bill recently dealing with the question of the death of any person in a Legislative Council team between nomination and the election. It is not a difficult problem to solve in relation to single member electorates, but when there is a PR system and two of the candidates on the list are killed, say, in a plane accident, six would have been elected in that team; if seven were nominated the PR system would not then elect to the Parliament the actual choice of the people. In that case, the election would fail and there would need to be another election. That is why the change is needed in the Constitution Act, to allow for that eventuality. My amendment goes a shade further. Supposing that, from nominations for an election, in a car accident three Labor candidates are killed. If the amendment is passed, that election is avoided because of the death of those three candidates.

The Hon. C. J. Sumner: How many—any number?

The Hon. R. C. DeGARIS: If two deaths occur between nomination and election, the election is avoided.

The Hon. C. J. Sumner: Two candidates from any Party?

The Hon. R. C. DeGARIS: Then the election is avoided.

The Hon. C. J. Sumner: What if only one candidate is killed?

The Hon. R. C. DeGARIS: The election is not avoided. I am telling the Leader what the Committee has already passed. The amendment in the Bill picks up a point made previously. My amendment takes it a step further to prevent a period of nine years.

The Hon. FRANK BLEVINS: The problem with this clause is indicative of a number of problems that need serious attention in relation to the selection of long and short term Legislative Councillors after a double dissolution. The Legislative Council has been aware of these problems since 1975 and probably beforehand. It is very easy to keep on ignoring these problems or, in a Bill such as this, to iron out the small wrinkles which, from time to time, arise in relation to the system of electing members to this Chamber. I believe that after eight years the Council should address itself to some of the major problems. If we do not do that there is no doubt that one day the Act under which members of this Chamber are elected will create some terrible problems. If that occurs, it will be no good blaming the Constitution Act or the Electoral Act. When that occurs it will be members of Parliament who will be to blame.

All members are aware of these problems. Governments of both political persuasions have been aware of the problems that we could get into, and I do not mean on an individual basis. These problems may arise at some time in the future, and it may be sooner than anyone thinks; then the Government of this State will be in an awful jam.

The people of this State place a lot of trust in us, possibly naively, and believe that we are on top of things such as this. When we get ourselves into a constitutional bind over oversights such as these, they will ask, quite rightly, just what we have been doing for all these years. We will have to say that we have been messing around abolishing the Land Settlement Committee, endlessly debating the horse racing industry and so on. We seem to be able to find time to deal with things of that nature, but we never seem to find time to consider issues of this type. It does not necessarily require action by the Government; perhaps it could be by the Chamber itself, but someone should address themselves to these problems before the problems produce enormous difficulties for this Parliament.

The Hon. N. K. FOSTER: I wish to expand on the point that has been made about the mess that this Bill could create. It is not simply a question of each Party nominating 11 candidates for each election. If two candidates are killed the night before an election, the election will be declared null and void. Most people probably think that the next two candidates on the ticket beyond number 7 would naturally move up. The Bill does not deal with that situation. In another place if a candidate drops by the wayside the night before an election the election proceeds. For some strange reason this Council is stuck with a relic from the past.

I also refer to another matter which has been the subject of a great deal of conjecture and debate. I congratulate the previous Government on its integrity in relation to extraordinary vacancies which occur in this Council from time to

time. The Leader of the Opposition in this Chamber owes his place to a situation that the previous Government understood was a convention of Parliament in relation to casual vacancies. I clearly recall that the then Leader of the Opposition, Mr Tonkin, refused to be drawn on this question when the last casual vacancy occurred and either the Hon. Mr Griffin or the Hon. Mr Davis entered this Chamber. The Government has not seen fit to mention one word about that situation. I recall that, during that debate, Mr Corcoran asked Mr Tonkin a specific question about this situation, but Mr Tonkin avoided it. In fact, if one reads *Hansard* it is quite clear that Mr Tonkin deliberately evaded the question. He would not accept that the filling of a casual vacancy was a convention, although it was the second occasion that an extraordinary vacancy had to be filled. I refer to the situation when the Liberal Movement went out of existence. That created a lot of debate, with Mr Millhouse being the only remaining member of that Party. He spoke at length about the actual legal position.

The Bill remains silent on this matter. I suppose I should not be addressing myself to this matter, because it does not relate to the Bill. I think the Hon. Mr Blevins quite rightly extended his comments to cover extraordinary vacancies. As I see it, the Court of Disputed Returns has no power in relation to this Council.

The Hon. C. M. Hill: Yes it does.

The Hon. N. K. FOSTER: If the Minister will let me finish, I was going to say when compared to the House of Assembly. A number of constitutional changes have been made, and I doubt very much whether those changes have properly considered the Court of Disputed Returns as a part of the Constitution. I support and extend the remarks of the Hon. Mr Blevins in relation to this matter. I think the situation should be looked at very closely. It is not that long ago that half the members of a Federal Cabinet were wiped out in the early 1940s. If that occurred in relation to this Council it would create enormous difficulties. The Hon. Mr Sumner asked why it is not one, two, three, four, five or even six members.

The Hon. R. C. DeGaris: The Committee passed that.

The Hon. N. K. FOSTER: The whole of the Chamber is at fault. The Hon. Mr Blevins has done us a service in recognising it. This matter should be attended to quickly to provide for vacancies that may occur in extraordinary circumstances. Anyone can come into the gallery and throw an incediary bomb on to the floor and wipe us out. The Chamber could then no longer consider the matter or take a motion because it would be non-existent.

The Hon. C. J. Sumner: That will be one way to abolish it.

The Hon. M. B. Cameron: If you were driving we would all be wiped out.

The Hon. N. K. FOSTER: I am not talking about driving. I am talking about someone heaving something down here. It could well be the end of us. What the Hon. Mr Sumner says in a jocular sense is correct. The Chamber could not resolve the matter because there would be no-one in the place. That probably has not been thought of. Those who are responsible for the passage of the Bill should rewrite it and re-present it to us.

The Hon. C. J. SUMNER: If an election of the Legislative Council was avoided by a Court of Disputed Returns, then a fresh election would take place as soon as practicable. If the election fails because of the death of two candidates between the date of nomination and the date of the election, then a fresh election would take place as soon as practicable. The Government, out of an excess of caution, wants to see the clause inserted. On that basis I do not intend to vote against it.

On consideration of clause 4, we have now had brought to our attention again the question of an election failing because two candidates might die between the date of nomination and the date of the election. That provision was included in amendments to the Electoral Act which this Council considered in March of last year and provisions to that effect were passed. On reading the second reading explanation there does not seem to have been any reason given at all as to why this provision was necessary. At the time the Chamber thought that it was satisfactory and obviously, if a number of candidates died, then with the proportional representation system probably the true will of the electors in any election might not be expressed.

I would like the Government to say at some stage (either subsequently or by correspondence) why it was necessary for that amendment in March last year to refer to the death of two candidates. Would not the death of one candidate be enough to cause the election to fail for the sorts of reasons that caused the introduction of a Bill in the case of the death of two candidates? As that has now been drawn to the attention of the Chamber, the Government should have the matter investigated and provide a report.

The Hon. K. T. GRIFFIN: I will provide detailed information to members on the question raised by the Leader of the Opposition. Essentially, it is an electoral matter which falls within my area of responsibility. I do not have all the particulars available tonight regarding this matter. The best course to follow is for me to obtain information at the earliest opportunity and, if the Council is sitting, let the Council have that information. If the Council is not sitting, then I will reply by letter to the Leader of the Opposition and ensure that he has that information. If it is necessary to take the matter further, we can do it on a subsequent sitting day. I undertake to obtain information relevant to this particular matter.

Amendment carried; clause as amended passed.

Clause 5 passed.

The CHAIRMAN: A clerical correction is necessary. The present clause 4 deals with section 14 and the present clause 5 deals with section 12. Clause 5 will now become clause 4 and clause 4 will now become clause 5.

Remaining clauses (6 to 10) and title passed.

Bill reported with amendments. Committee's report adopted.

The PRESIDENT: I have counted the Council and, there being present an absolute majority of members, I put the question 'That the Bill be now read a third time. I declare the Third reading carried by an absolute majority of the whole number of the members of the Council.'

Bill read a third time and passed.

PREVENTION OF POLLUTION OF WATERS BY OIL ACT AMENDMENT BILL

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

The Hon. K. T. GRIFFIN (Attorney-General): I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill removes from section 5 (2) of the principal Act liability of agents of ships to prosecution for an offence where an oil spillage occurs. Agents have no control over the operation of ships and the handling of oil cargo and in such circumstances they are blameless though nevertheless

made guilty of an offence by the principal Act. The purpose of making the agent liable was to avoid the difficulty of proceeding against the owner or master of the ship who was usually resident in a foreign country.

The Government however has initiated through the Australian Chamber of Shipping an arrangement with the shipping agents involving the obtaining of an indemnity in the event of an oil spill to cover possible penalties under the Act and costs associated with clean-up operations. Indemnities will be given by either the vessel's agent or the Protection and Indemnity Club representatives in this State. The offending ship will not be permitted to depart from State waters until such an indemnity is received. It is obviously desirable to save agents the stigma of conviction if possible. To facilitate the prosecution of the owner and master a provision (new section 17a) is inserted into the principal Act to the effect that service of court proceedings on the agent amounts to service on the owner or master.

The Bill also clarifies the extent of the defence provision that may be available to a ship's agent or master under sections 7c and 7d following a discharge of oil. Those sections provide a defence where a spill is caused by someone who is not a servant or agent of the defendant. Of course, the master and crew are not servants or agents, of the ship's agent, and the crew are not servants or agents of the master. The amendments preserve the liability of the owner, agent and master where the other of those three causes the spillage. The agent's liability is preserved in relation to offences to cater for possible liability for an offence under section 10 of the principal Act.

Section 7 has been amended to meet improved clean-up procedures with advanced equipment and further clarifies the section to ensure that no civil liability attaches to the Minister for any loss as a result of that action. The inclusion of the provision under section 16 for the onus of proof on the defendant of advising of an oil spill has been incorporated to correct previous deficiencies in this area. A number of other minor but no less important amendments are made to the Act to meet administrative changes and operating procedures that have become necessary in previous oil spill investigations and proceedings undertaken.

Clause 1 is formal. Clause 2 amends section 3 of the principal Act to incorporate a definition of 'Director-General', and a definition of 'harbormaster'. Clause 3 amends section 5 of the principal Act by removing from paragraph *(a)* of subsection (2) the reference to 'the agent'. At the moment subsection (2) provides that the owner, agent and master of a ship from which oil is discharged are guilty of an offence. The Government believes that it is wrong that the agent, who has no control over the ship or the oil that it carries, should be guilty of an offence in these circumstances. The provisions of subsection (1) that the agent is, with the owner and master, liable for damage caused by the discharge will, however, remain. The Government believes that fines imposed by a court under subsection (2) on the owner or master of a ship can be recovered by refusing the ship permission to leave South Australian waters until a suitable indemnity is received. Clause 4 amends section 7 of the principal Act to provide, in addition to the removal and prevention of the discharge, authority to disperse or contain the discharge. It further provides that no liability is to attach to the Minister for an act or omission under this section.

Clause 5 amends section 7a of the principal Act so that in the event of non-compliance with a notice from the Minister all parties will be liable for costs incurred by the Minister due to that non-compliance. The master of a ship, for instance, may be the only person served with the notice but it would be reasonable to recover costs from the agent. Clause 6 amends section 7c of the principal Act to limit the availability of the defence that may be available to an owner, agent or master of a ship, following a discharge of oil into the sea. Clause 7 effects a similar amendment to section 7d of the principal Act, which concerns civil liability.

Clause 8 removes from section 8 of the principal Act a reference to 'the agent' so that, in the future, agents will not be guilty of offences under this section. The reasons for this change are the same as those for the change made to section 5 of the principal Act. Clause 9 amends section 10 of the principal Act to provide for advice of an oil spill to be given to the Minister, Director-General or the harbormaster, and accordingly provides a mechanism of direct advice to the department for immediate action in an emergency situation.

The amendment also provides for certification of copies of records by the master as the responsible person for shipboard record keeping, and for the investigator in an oil spill incident to require any person to take oil samples on his behalf. Clause 10 amends section 12 of the principal Act in the same way and for the same reasons as sections 5 and 8 are amended. Clause 11 amends section 14 of the principal Act to achieve consistency with the provisions of section 10.

Clause 12 amends section 16 to provide that in any proceedings the onus of proving that an oil spill was reported forthwith lies with the defendant. It is almost impossible to prove that a spill was not reported and, if the Act were strictly interpreted, it would be necessary to call the Minister as a witness in every case. The amendment also deletes a provision which could have pernicious effects, because it could confer the presumption of truth on conflicting or self-serving statements. Clause 13 amends section 17 of the principal Act to provide the correct title of 'Director-General' for the Permanent Head of the department. Clause 14 inserts new section 17a into the principal Act. The new section provides that process issued against the owner or master of a ship may be served on the agent. This provision will facilitate prosecutions of the owners and masters of ships for offences against the Act and claims for compensation against them. Clause 15 effects a consequential amendment to clause 18 of the principal Act.

The Hon. FRANK BLEVINS secured the adjournment of the debate.

PRICES ACT AMENDMENT BILL (1982)

Returned from the House of Assembly without amendment.

EVIDENCE ACT AMENDMENT BILL (1982)

Returned from the House of Assembly without amendment.

FRIENDLY SOCIETIES ACT AMENDMENT BILL

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

The Hon. C. M. HILL (Minister of Local Government): I move:

That this Bill be now read a second time.

Under section 7 (2) of the Friendly Societies Act the maximum amount that may be paid out on a life insurance policy issued by a friendly society is limited to $4 000; a figure set in 1961. Inflationary and market trends make it desirable that this limit can be conveniently updated from time to time. The Bill provides for the limit to be set by

regulation, rather than by the Act. The Bill also allows for different limits in relation to different classes of life insurance. The Act presently specifies maximum dollar amounts for annuities, sickness benefits, superannuation benefits and for personal loan funds. The Bill provides that these too may, in future, be fixed by regulation. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides for the limit on the sum that may be paid out by a friendly society on a policy of life assurance to be fixed by regulation. It also provides for limitations on maximum rates of annuities and sicknesss pensions to be fixed by regulation. Clause 3 provides for maximum rates of superannuation pension to be fixed by regulation. Clause 4 provides for the limitation on the maximum amount that may be lent by a friendly society to any one of its members to be fixed by regulation. It also provides that a regulation may specify a limitation on the amount which a friendly society can lend to its small loans fund from its other funds.

The Hon. ANNE LEVY secured the adjournment of the debate.

STAMP DUTIES ACT AMENDMENT BILL (No. 2) (1982)

Adjourned debate on second reading.

(Continued from 24 March. Page 3489.)

The Hon. C. J. SUMNER (Leader of the Opposition): I support the second reading of the Bill, and I wish to raise three matters in relation to it. First, it has been put to me that the Bill does not do what I think the Government intends that it should do in connection with stamp duty payable on transfers of property following a matrimonial settlement in divorce proceedings. Honourable members will recall that following the passage of the Family Law Act in 1975, stamp duty on transfers following matrimonial settlement in divorce proceedings was not payable.

On 24 December 1981 that provision in the Family Law Act was held to be invalid. It was found to be beyond the power of the Federal Government to provide an exemption from stamp duty, the imposition of stamp duty being a matter for the States and not the Federal Parliament. Following that decision in Gazzo's case on 24 December 1981 I asked on a number of occasions in this Council what the Government's position would be, whether or not it intended to introduce a Bill to provide for exemption from stamp duty for transfers subsequent upon matrimonial settlement.

Following the decision of 24 December 1981 the Government collected stamp duty in these situations. It has now decided that it will provide certain exemptions, but the exemptions are not as broad as was previously applicable under the Family Law Act. It has been put to me that because the relevant section of this Bill is deemed to come into operation on 24 December 1981, which is the date of the High Court decision, there will be a hiatus in relation to some transfers and deeds which were agreed to before 24 December but which had not been stamped or submitted for stamping and which may not have been submitted even at the present time for stamping and therefore do not have an exemption granted in respect to them.

It has been put to me that a transfer which was executed on 23 December 1981 would not be exempt from stamp duty, because this provision will apply only from 24 December 1981, and therefore is retrospective only to that date. Prior to 24 December 1981 any attempt to collect stamp duty has been declared illegal by the High Court, as being beyond the power of the Federal Parliament. The question arises whether those transfers or deeds signed before 24 December would attract the exemption intended by this Bill.

It has been put to me that a number of orders of the Family Court could still be left over. Because it takes some time for orders to be sealed in the Family Law Court, there may be some orders and transfers at this time that were made prior to 24 December 1981 which have not been submitted for stamping. If they are now submitted for stamping the exemption will not apply because the Bill is deemed to apply only from 24 December 1981. That is the first question. The second question deals with the scope of the exemption. It appears that the exemption proposed is not as great as the exemption which was provided under the Family Law Act.

Transfers to spouses will be exempt under this Bill. However, the exemption under the Family Law Act is broader than that and included transfers from a spouse to a spouse and children or from a spouse to children. That exemption is not provided for in this Bill. I would have thought that this would interest those members of the Council with certain farming interests where it might be that there is a matrimonial settlement with a transfer from a spouse to children, the notion being that the property ought to remain in the name of the family. However, under this Bill the transfer will not be exempt from stamp duty. I am at a loss to see the rationale behind that. If that exemption was provided for under the Family Law Act, why can it not be provided for in this legislation?

Another area where some hardship occurs (and I am not sure whether it was previously covered by the Family Law Act but perhaps the Attorney-General can convince me) is the situation where a settlement is arranged which involves a transfer to a third party. That third party may be the current companion of a wife who has been involved in divorce proceedings. The wife cannot afford to purchase the husband's property, but the third party might be able to assist in the purchase and the resolution of a property settlement can be facilitated, the *quid pro quo* being that he wants to retain some interest in the property transferred because he will be putting up part of the money. It has been suggested that this is a means whereby the problems of some property settlements can be fixed up, as such transfers are not exempt from stamp duty. I am not sure whether they were under the Family Law Act. They are certainly not exempt under the Bill we are discussing at the moment.

I would like the Attorney-General to respond, giving the Council reasons as to why this Bill does not, in all respects, accord with the exemptions of the Family Law Act with regard to such transfers. Secondly, will the Government consider extending the exemptions to cover the third situation that I have outlined? It may be that I will have to consider some amendments to this Bill. I am particularly concerned about the first matter I raised where they may be an hiatus. If the Attorney-General is not able to resolve the matter to my satisfaction I think an amendment should be moved to clarify the situation.

The Hon. K. T. GRIFFIN (Attorney-General): The first matter to which the honourable member refers is the date of the operation of the Bill. If documents were lodged prior to 24 December 1981 they would have been dealt with under the working rules which the State's stamp duties office brought to bear on any transactions which had been approved under the Federal Family Law Act. The stamp duties on the documents lodged with the Stamp Duties

Office are not assessed on the basis of the order being sealed or agreements being entered into but on the basis of documents lodged. If those documents were lodged before 24 December 1981 and came within the ambit of the working rules there would be an exemption from stamp duties. However, if an order was made before 24 December 1981, but the documents relating to that order were not lodged until after 24 December 1981, the working rules would not apply; this Bill will apply. If the transaction comes within the criteria affected by the Bill it will be exempt from State stamp duty. The Stamp Duties Commissioner informed me that, if there are any obscure cases, each one will be dealt with on its merits. In some limited cases provision might be made for an *ex gratia* payment. However, each one will have to be considered on its merits.

It has been recognised that there has to be some cut-off point. It happens with a variety of legislation. It happened when we dealt with the abolition of succession and gift duties. With the abolition of succession duties, if one happened to die the day before the operative date of the legislation, the estate paid duty, but if one died the day after it came into operation no succession duty was payable. One could say it was the luck of the draw.

The Hon. C. J. Sumner: That is ridiculous in relation to this Bill.

The Hon. K. T. GRIFFIN: It is not. Working rules were in operation on the basis that the then Solicitor-General had advised the Government, as as I understand it, that section 90 was beyond the Constitutional competence of the Commonwealth. However, the State Government was prepared to allow certain transactions to be exempt until validity of that section had been challenged. Working rules provided a basis for determining which instruments were exempt from duty and which instruments were not.

On 24 December the High Court held that section 90 no longer applied. Technically, one could go right back to 1975 and say that duty was payable on all those transactions which were assessed under the working rules because the duty should have been payable, but the Government is not doing that. Any instruments which have been stamped prior to 24 December 1981 and which met the criteria of the working rules for exemption will continue to be exempt. If documents relating to a transaction before 24 December 1981 are not lodged at the Stamp Duties Office until after 24 December 1981 then they have to satisfy the criteria of this Bill to be exempt from State stamp duties. That practice is not uncommon with stamp duty legislation.

The Hon. C. J. Sumner: Which is the more restrictive—the working rules or this Bill?

The Hon. K. T. GRIFFIN: This Bill is more restrictive than the working rules, but it is not uncommon to provide in stamp duty amendments which have been passed by this Government and previous Governments that the date of lodging the documents is the relevant date even if they may have been executed before the operative date or, in this case, an order of the court was made but no documents lodged with the Stamp Duties Commissioner. I suggest that 24 December 1981, being the date of the High Court decision, is the appropriate date for the consideration of exemptions. If a document is lodged before then, it is dealt with under the working rules. If it is lodged after that date, then it is to be assessed according to the provisions of the Bill.

The Hon. C. J. Sumner: If it is lodged before the 24th?

The Hon. K. T. GRIFFIN: It is assessed according to the working rules.

The Hon. C. J. Sumner: It is likely they would have got a broader exemption than that proposed by this Bill.

The Hon. K. T. GRIFFIN: That is correct. Dealing with the second point the Leader raised, the question of the disposition for children and perhaps other third parties, I should point out that the New South Wales Bill which was tabled several weeks ago follows the format of this Government's Bill. This Bill does not extend to dispositions for children or other third parties. The New South Wales Government, as I understand, when it introduced the Bill indicated that in cases of hardship the Government would consider an *ex gratia* payment, which is in effect an exemption where there is a disposition to children. No-one has been able to ascertain what the criteria would be for that hardship and, because the Bill has not yet passed in New South Wales, there has been no opportunity to watch that being implemented. As I am informed, the Bill we have before us is identical to the Bill introduced in New South Wales. The same position would apply in South Australia as in New South Wales, that if there is any hardship then, as with other transactions involving stamp duty, the Government would give consideration to that case of hardship. Each one is judged on its merits.

The third matter related to transfers to a third party other than children. As I understand the position, previously under the working rules there was a limited exemption in those circumstances. The principal emphasis was on exemption of transactions between parties to a marriage and children. The Government is not prepared to contemplate granting an exemption under this Bill to a transfer to a party to a marriage which has been dissolved and a third party. That is a matter of judgment. However, the Government believes that the concessions which it has granted in the context of this Bill will deal with all those cases which are appropriate for exemption in the context of the High Court's recent decision.

Bill read a second time.

Clause 1 passed.

Progress reported; Committee to sit again.

PAY-ROLL TAX ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 March. Page 3490.)

The Hon. ANNE LEVY: The Opposition supports the Bill before us, which has the effect of bringing pay-roll tax exemptions into line with those applying in the State of Victoria. It has been a long held policy in South Australia that pay-roll tax exemptions should be the same as those in Victoria. Throughout the years of the Labor Government this policy was always maintained. However, since the coming of the Liberal Government that policy has not been maintained and small business in South Australia has been at a considerable disadvantage when compared to its counterparts in Victoria.

The Hon. L. H. Davis: What about New South Wales?

The Hon. ANNE LEVY: In Victoria at the moment the exemption rate for pay-roll tax is $125 000. That has been the exemption rate in Victoria since 1 January this year. Moreover, in January this year the figure for South Australia was only $84 000. In January 1981 the pay-roll tax exemption in Victoria was $96 600. However, in South Australia it was only $84 000. In January 1980, the exemption rate in Victoria was $84 000, whereas in South Australia it was only $72 000. However, if we go back to 1979, we see that the general pay-roll tax exemption was $66 000 in both Victoria and South Australia. In 1978, it was $60 000 in both States, and in 1977 it was $48 000 in both States. So I could go on.

Throughout the years when a Labor Government was in office, with Don Dunstan as Treasurer, the general pay-roll tax exemption was exactly the same in South Australia as

it was in Victoria. However, the nexus has been broken with the coming of the Liberal Government. For the information of the Hon. Mr Davis, the general pay-roll tax exemption in New South Wales is currently $120 000, very different from what has applied in South Australia.

The Hon. L. H. Davis: With the 1 per cent levy upwards.

The Hon. ANNE LEVY: With the temporary 1 per cent levy, it is considerably more than applies in South Australia at the moment. The 1 per cent levy is on the pay-roll tax, but we are talking about the pay-roll tax exemption—the figure below which no pay-roll tax is payable with or without the levy. To start discussing the levy is not the province of honourable members in relation to this legislation at all.

There is also the fact that the Premier of Victoria has promised that the pay-roll tax exemption in that State will be raised to $175 000 should he be returned to office on Saturday. It is most unlikely, of course, that he will be returned, so I think that we need not worry too much about that occurring. However, if by some mischance Mr Thompson were again the Premier of Victoria, we would again have the situation where the Victorian pay-roll tax exemption would be raised to a figure considerably in excess of the South Australian one, once more building in a disadvantage for small businesses in this State.

The failure of this Government to bring the pay-roll tax exemption into line with that in Victoria has caused considerable hardship in this State. After much questioning, the Leader of the Opposition in another place finally obtained from the Premier figures showing how many people have been and are affected. There are currently 2 600 employers in South Australia, employing 32 000 employees, who have pay-rolls between $84 000 and $250 000, the figures at which South Australian employers must pay a larger amount of pay-roll tax than do their counterparts in Victoria.

The raising of the exemption level will cause problems for some employers who have in the past six months, for the first time ever, been paying pay-roll tax. As the exemption levels have not kept pace with wage rises, it has meant that quite a number of employers have recently moved into the area of paying pay-roll tax and, although I am sure that they will welcome the exemption that will apply to them when this legislation becomes operative, it will nevertheless cause great problems in terms of their having to alter their whole accounting system and revert to the system that they were using prior to having to pay pay-roll tax. This on-again off-again situation will be very disruptive, time consuming and annoying for many employers.

Again, let me state how many employers have been affected. There is a total of 260 employers employing 2 200 employees in this State who this year have been forced to start paying pay-roll tax for the first time ever and who will now no longer be eligible to pay pay-roll tax. They will therefore have to alter their complete accounting procedures to take care of this.

One question on which I hope the Minister will be able to enlighten us relates to when the next review of pay-roll tax exemptions will take place. It may be difficult to place much credence on what answer may be given, as the Treasurer's record in this regard is not very good. There has been considerable unrest about the fact that the South Australian pay-roll tax exemptions have not kept pace with those in Victoria. Numerous representations have been made to the Treasurer to bring the exemption level in this State into line with that in Victoria.

In fact, on 10 November 1981 the Premier stated in another place that the general exemption level for pay-roll tax would be examined before Christmas. That was before Christmas last year. The business community therefore expected any change to occur as from 1 January this year and hoped to come into line with Victoria at that time. However, nothing happened before Christmas.

At a later stage, in reply to a letter from the Chamber of Commerce, the Premier said that he would implement changes in the pay-roll tax exemption by 1 March 1982, which date came and went with no change in the exemption rate. I am not raising a wild furphy: it is quite clear that this was a written promise to the Chamber of Commerce about changing the pay-roll tax exemption level by 1 March this year. That is yet another promise that the Premier has broken.

Finally, we have the Bill which is now before us and which is really misleading, in that, by the Government's bringing it forward now, the business community might be forgiven for thinking that the Premier is honouring his promise to raise the pay-roll tax exemption level. However, the legislation is not to apply until 1 July. By bringing the legislation in in March, it looks as if the Premier is adhering to his promises to bring in such legislation to be operative from 1 March. In fact, the legislation first saw the light of day on 24 March and is not to become operative until 1 July, that is, until the new financial year. Therefore, small business in this State will suffer under a considerable disadvantage compared to its Victorian counterparts, and this anomaly is not to be corrected until 1 July.

As the Victorian Government has regularly changed its pay-roll exemption level in its annual Budget and made it retrospective from 1 July, it may well be that the parity will exist for a short period only and that, by the time our exemption level is raised to the Victorian exemption level, the Victorian level will again have been raised, so maintaining the disadvantage to South Australian business which this Government seems determined to maintain. There is a very interesting statement in the second reading explanation as presented by the Minister. The Minister said:

> While it is difficult to argue that the extra cost represented by pay-roll tax actually influences the decision to hire the marginal employee, the overall burden of the tax almost certainly influences employers to minimise labour costs . . .

That statement is a complete renunciation of the Premier's election strategy and promises at the last election. One might remember that in 1979 the Premier made great play of the fact that he was hoping to give pay-roll tax rebates to employers if they hired extra staff and that this, by itself, would create 7 000 jobs. Or was it 10 000 jobs? The figures seemed to vary according to which day of the week the announcement was made.

We all know that that scheme did not work, that employment did not rise by that amount, and that the amounts budgeted for this pay-roll tax rebate scheme have declined remarkably in successive Tonkin Budgets, so that obviously very little use was being made of it and very little employment has been created. It is interesting to see the Premier finally admitting that such a scheme is useless in terms of creating jobs and that the whole strategy on which he based his job creation programme at the last election was totally ineffective and misleading to the South Australian public.

In summary, I repeat that the Labor Party has a very good record in terms of pay-roll tax exemptions and that small business in this State is well aware that throughout the Labor years in Government the pay-roll tax exemption rate in this State was exactly the same as in Victoria, where our main business competitors are situated. Small business is also well aware that, since the Tonkin Government came into office, the pay-roll tax examption rate in this State has lagged far behind that in Victoria and is likely to continue doing so despite the legislation before us, as it does not become operative until 1 July, contrary to the promises made by the Treasurer.

The Opposition hopes the legislation will be implemented before 1 July in view of the promises made by the Premier. It would seem highly desirable for him to keep those promises and for the Parliament to insist that he do so, by raising the exemption level as from the date the legislation was introduced, rather than the date mentioned in the Bill. This would go some way in keeping faith with the promises regarding raising the exemption level. I support the second reading of the Bill.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. ANNE LEVY: I move:

Page 1, line 9—Leave out 'come into operation on the first day of July, 1982', and insert 'be deemed to have come into operation on the 24th day of March, 1982.'

The day that the legislation was first presented to Parliament was 24 March 1982. This is the closest date to 1 March, the date the Premier promised the Chamber of Commerce that the exemption of pay-roll tax would be brought into line with Victoria. It seems undesirable that small business in this State should suffer, compared to its counterparts in Victoria, until the beginning of the financial year, particularly as the Victorian exemption rate may well change again as from that date. It seems that the day of introduction of the legislation would be far more appropriate as being much closer to the day promised by the Treasurer for the introduction of this measure.

The Hon. K. T. GRIFFIN: The information I have is that if it were possible to back-date the operation of this Bill there would need to be other substantial amendments to the Act, particularly in relation to the formula. In any event, the Government is of the view that 1 July 1982 is the most appropriate date, being the beginning of a new financial year. This gives certainty to the business world as well as having the impact of a concession to take effect in that next financial year, rather than the current financial year. Accordingly, I oppose the amendment.

The CHAIRMAN: As this is a money Bill, I will put the question that this amendment be a suggestion to the House of Assembly.

Amendment negatived; clause as amended passed.

Remaining clauses (3 to 6) and title passed.

The Hon. K. T. GRIFFIN (Attorney-General): I move:

That this Bill be now read a third time.

The Hon. ANNE LEVY: I wish to explain briefly that I did not call for a division in Committee because you, Mr President, ruled that the amendment moved was to a money clause and that hence it could be only a suggested amendment. The clause was not regarded as a money clause in another place, although no ruling was given by Mr Speaker or Mr Chairman on the floor of the House, and there is no report about it in *Hansard*. Nevertheless, I understand that a private ruling had been given to this effect by Mr Speaker in another place. It is referred to in the speeches in *Hansard*, and it was clear to all members in another place that Mr Speaker did not regard the clause as a money clause.

Obviously, Mr President, I accept your ruling on this matter, but it was because in another place it had been deemed not to be a money clause that I felt it appropriate to move an amendment in Committee, as had been moved in another place. It is undesirable for money clauses to be amended in a second Chamber, but I moved my amendment in the light of the ruling in another place. Of course, Mr President, you are entitled to differ in your interpretation from that of Mr Speaker in another place, but it was in view of his ruling that I moved my amendment. I did not call for a division as a result of your ruling.

The PRESIDENT: It would be difficult to ascertain what the ruling was in another place, because it does not need to move suggested amendments. That it is a money Bill does not necessitate the use of a suggested amendment, whereas in this Council an amendment to a money Bill must be a suggested amendment.

Bill read a third time and passed.

TRADE MEASUREMENTS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 23 March. Page 3370.)

The Hon. FRANK BLEVINS: The Opposition supports this Bill. It is a trivial matter. As I have said on numerous occasions, it is another example of the Government's attempting to pad out the Notice Paper to give the Government the appearance of having a substantial legislative programme, which of course it does not have. Once this measure passes, it will go on the Government's list of statutory authorities that it has abolished. It is true that the Government has abolished this committee, which apparently does nothing any more, and the Opposition is certainly happy to see it abolished. Certainly, we would not dignify the measure with any substantial debate.

Bill read a second time and taken through its remaining stages.

TRUSTEE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 25 March. Page 3567.)

The Hon. C. J. SUMNER (Leader of the Opposition): The Minister's second reading explanation states that the Bill makes two important amendments to the Act. I am not sure how important the amendments are, but the Opposition is willing to support them. The first one provides that an authorised trustee investment shall include a commercial bill of exchange, which has been accepted or endorsed by a bank. The Opposition cannot see any objection to that extension of a trustee investment. Banks are authorised trustee investments and, if a commercial bill is endorsed and accepted by a bank, the Opposition cannot see any reason why that also ought not to be an authorised trustee investment.

The second amendment deals with the question of whether a trustee is in breach of trust in loaning moneys which are equivalent to the full value of any security which is taken out to secure the loan. The rule is that there is no personal liability for a trustee if a loan does not exceed two-thirds of the value of the property secured. The exception to that is in the case of repayments of the loan being insured with the Housing Loans Insurance Corporation, where a trustee can lend up to 100 per cent of the value without attracting any personal liability in the unlikely event of the moneys not being repaid.

The present proposal is to do away with specific reference to the Housing Loans Insurance Corporation and provide, where the repayment of loans is insured by any prescribed organisation, that the trustee would not be in breach of his trust if he loaned up to 100 per cent of the value of the property securing the loan. I cannot quite see why the Government is proceeding with this amendment. I can see that the first amendment is reasonably important, but this amendment seems to be unnecessary unless the Government has some inside information on the future of the Housing Loans Insurance Corporation, which was established by

Federal Parliament. If that corporation continues in existence, I cannot see why the present Act needs any amendment. It may be that the Housing Loans Insurance Corporation will be abolished by the Federal Government. If that happens, I would have thought that then would be the appropriate time to consider an amendment to the legislation.

The Hon. K. T. Griffin: It may be a bit difficult in timing. We are just taking a precaution.

The Hon. C. J. SUMNER: The Attorney-General says that he is taking a precaution. I do not really see that it is all that necessary at this stage, although there have been suggestions that this corporation be abolished. However, it has not been abolished at this time. I do not know of any present intention to abolish it. Perhaps the Attorney-General can advise us if he has some inside information; he is more likely to have it than we are. Will the Housing Loans Insurance Corporation be one of the bodies prescribed as being capable of insuring repayment of a loan such that a trustee will not then be in breach of his trust if he lent up to 100 per cent value of the property securing the loan? I assume the Housing Loans Insurance Corporation would be so prescribed.

The Hon. K. T. Griffin: The answer is 'Yes'.

The Hon. C. J. SUMNER: That answers that question. My second question is about what other organisation will be prescribed. Can the Attorney give the Council some indication of that? I am not particularly fussed about this part of the Bill. I doubt whether it is necessary but, if it keeps the Government happy, at this late hour I am prepared to agree to it. I would, however, be disappointed if this Bill did give some indication that the Housing Loans Insurance Corporation was to be abolished. It has fulfilled a useful purpose in this area. What other organisations or companies will be prescribed as being able to insure repayment of loans such that the protection of this provision is available to trustees to loan up to 100 per cent?

The Hon. K. T. GRIFFIN (Attorney-General): There is no present intention to proclaim or prescribe any other guarantee corporation at this stage. I hope that answers the Leader's question.

The Hon. C. J. Sumner: What will happen if—

The Hon. K. T. GRIFFIN: I complete what I have said by saying that, if there is a stable body that provides for housing loan insurance and the Government is satisfied as to the security of the insurance, it would give careful consideration to prescribing that body. I am not aware of any body which presently falls into that category that might fall under this provision.

The Hon. C. J. Sumner: Does the Federal Government have any intention to abolish the corporation?

The Hon. K. T. GRIFFIN: It was announced last year that there would be such a move but I have no more information than that. As I indicated earlier, it is a precautionary move. It makes good sense while the Act is currently up for amendment.

Bill read a second time and taken through its remaining stages.

STATUTORY AUTHORITIES REVIEW BILL

Adjourned debate on the question: That this Bill be now read a second time:

Which the Hon. C. J. Sumner had moved to amend by leaving out all words after 'That' with a view to inserting in lieu thereof the words 'the Bill be withdrawn and the Public Accounts Committee Act, 1972-1978, be amended to include the objects contained therein'.

(Continued from 24 March. Page 3464.)

The Hon. J. A. CARNIE: The question we are now dealing with, is, I suppose, the amendment moved by the Hon. Mr Sumner. It is an interesting ploy that I can only recall having seen once before in this Council. The best way I can deal with it is to say right at the outset that I oppose the amendment moved by the Leader of the Opposition, and I intend to speak to the Bill.

Although this is not a Bill which has received wide public attention, to me it is one of the most important pieces of legislation to come before this House for a long time.

The Hon. C. J. Sumner: You haven't read it.

The Hon. J. A. CARNIE: I do not know what causes the Leader to say that I have not read it. Honourable members will be aware, including the Leader who knows this perfectly well, that I have maintained ever since I have been in this Chamber that a greater use could be made of the Legislative Council through the use of Standing Committees such as those that operate, for example, in the Federal Senate. I raised this matter in my maiden speech in this place in 1975, again in my Address in Reply speech in 1978 and again last year when dealing with the Budget papers. Obviously, I am not alone in this now, although there was a time when I felt very lonely in advocating it because nobody ever backed me up. However, I am pleased that the two previous speakers on this Bill think it is a good idea, and it appears to be A.L.P. policy.

Earlier this month, with flurry and flair, the Hon. Mr Sumner issued a press release dealing with the Labor policy for the Legislative Council. They had quite a pretty brochure released and there are five familiar and two unfamiliar faces on that brochure (I suggest that after the next election those two faces will remain unfamiliar so far as this Council is concerned). The point I make from the press release issued by the Leader is that he said, when talking about the role of the Legislative Council in it, that the committee system of the Parliament could be expanded and developed to ensure that Parliament can properly review Government activity. He said that democracy is threatened by the declining power of Parliament in relation to the bureaucracy. He said the same thing the other day in his contribution to this Bill.

The Hon. R. C. DeGaris: You would agree with that?

The Hon. J. A. CARNIE: If the Hon. Mr DeGaris is patient, he will hear my views. The Hon. Mr Sumner, at the same time, expanded on things he and the Labor Party think could be done with the Parliament to strengthen the power of the Parliament *vis-a-vis* the bureaucracy. I cannot say that I do not disagree with some of the things he says, but as they are not relevant I will not deal with them now. There does seem to be a slight difference between his view on this matter and that of his Leader in another place, the Leader of the Opposition in the House of Assembly. I cannot find the exact quote but the Leader would agree that when he was speaking about expanding the Public Accounts Committee to embrace the function envisaged in this Bill he said he would agree it could be expanded to include members of the Legislative Council.

The Hon. C. J. Sumner: No.

The Hon. J. A. CARNIE: Perhaps I had better take the time, if the Leader is denying that he said it.

The Hon. C. J. Sumner: You had better find it.

The Hon. R. C. DeGaris: I agree, he did say that.

The Hon. J. A. CARNIE: Yes, it was an interjection when the Hon. Mr DeGaris was speaking.

The Hon. C. J. Sumner: I said I would give consideration.

The Hon. J. A. CARNIE: The Leader in another place said that there is no place for the Legislative Council members on the Public Accounts Committee and that we

should reserve the Public Accounts Committee to be solely a committee of the Lower House.

The Hon. C. J. Sumner: You haven't read what he said.

The Hon. J. A. CARNIE: I heard what he said.

The Hon. C. J. Sumner: You had better get it out again.

The Hon. J. A. CARNIE: The Hon. Mr DeGaris in his contribution dealing with the system I have advocated for some time also expressed this support.

The Hon. C. J. Sumner: In the context of—

The PRESIDENT: Order!

The Hon. C. J. Sumner: 'It may be we could look at making the Public Accounts Committee a joint committee.' That is what the Leader said.

The PRESIDENT: Order! The Leader will have an opportunity to speak later.

The Hon. J. A CARNIE: He has had his opportunity.

The Hon. C. J. Sumner: There is a slight difference of emphasis, that is as far as one could take it.

The Hon. J. A. CARNIE: Getting back to the committee system which I have spoken about many times in this Chamber, it is used in the Senate in Canberra and in some other Commonwealth countries—the United Kingdom, New Zealand and Canada. Of course, the Senate committees and committees of Congress in the United States are well known and have operated for some time. They have operated also in the States of the United States. Of course, a direct comparison cannot be made with what is advocated here because of the different system of government. I believe that the use of Standing Committees has become widespread in different Parliaments for two main reasons: first, the volume and complexity of business before Parliament cannot be coped with adequately within the confines of a Parliamentary timetable and to be dealt with properly should be delegated to a committee; and secondly, the floor of a House is not always the most appropriate place to properly delve into all pieces of legislation, yet such delving is surely a proper function of Parliament. The other Parliaments I have mentioned believe that committees can more conveniently conduct such investigations because those investigations can offer, and perhaps should include, the examination of witnesses and comments. That, as I said, cannot properly be done within the confines of a Parliamentary Chamber. Therefore, the adoption of an effective Standing Committee system can only strengthen the Parliament in the performance of its legislative role, particularly as against even more powerful Government.

This could do nothing but enhance the value and reputation of the House concerned. In recent years a couple of investigative committees have been set up, but with one very important difference from what I have advocated—they have been committees of the House of Assembly; I refer to the Public Accounts Committee, which was constituted in 1972, and more recently the Budget Estimates Committees which are set up each year to review the Budget and allow for the questioning of Ministers and senior public servants. There could be a case made out for this to be extended to a Budget review committee which not only examines the Budget papers at the time of presentation but is permanently constituted to provide an overview and to see that departments keep within the confines of their Budget plan. That is another story and not relevant to this Bill. The thing that these committees have in common is that they specifically exclude the Legislative Council. Both are comprised solely of members of the House of Assembly. The argument put forward is that only the Lower House has any real control over the finances of this State; for example, money Bills can only be introduced in the House of Assembly. I do not argue with that and I do not say that it is wrong, but if you are going to take literally the view that only the House of Assembly can deal with financial matters, then this Council would never see financial Bills at all. We can and do debate money Bills and we can and do make suggested amendments to money Bills.

While any measures directly to do with the finances of this State must originate in the House of Assembly (and I believe that that is the right procedure), we are not prevented from contributing during the passage of any such legislation. This being the case, what is the difference if a committee of this Council investigates public accounts or the Budget papers and reports to the Parliament? Any action as a result, if it did involve State finances, could well originate in the Lower House.

I wish to expand a little more on the function of committees of the Parliament and the Legislative Council but, in view of the late hour, I seek leave to continue my remarks later.

Leave granted; debate adjourned.

ADJOURNMENT

At 1.37 a.m. the Council adjourned until Wednesday 31 March at 2.15 p.m.