LEGISLATIVE COUNCIL

Thursday 27 November 1986

The PRESIDENT (Hon. Anne Levy) took the Chair at 2.15 p.m.

The Clerk (Mr C.H. Mertin) read prayers.

BRIGHTON HIGH SCHOOL

The PRESIDENT laid on the table the following progress report by the Parliamentary Standing Committee on Public Works:

Brighton High School—Redevelopment Stage II.

MINISTERIAL STATEMENT: CHAIRMAN OF THE HEALTH COMMISSION

The Hon. J.R. CORNWALL (Minister of Health): I seek leave to make a statement.

Leave granted.

The Hon. J.R. CORNWALL: The Governor in Executive Council today approved the appointment of Dr W.T. McCoy, M.B., B.S.(Adel.), F.R.A.C.R., F.R.C.R., D.A.B.R., F.R.A.C.M.A., Grad.Dip. Bus.Admin., as Chairman of the South Australian Health Commission. As Deputy Chairman, Dr McCoy has been carrying out this role since the resignation last month of the former Chairman, Professor Andrews. Dr McCoy's appointment is for six months, as the Government is considering the recommendations of the Review of Metropolitan Hospital Administrative Arrangements and Responsibilities (known as the Uhrig report) and the Review of the Commission's Central Office, Second Report (known as the Taeuber report).

These reports recommend significant change to the administration of the health system in South Australia, including the shape of the commission and its executive management. It is expected that the decisions concerning the executive structure will be settled by early next year following widespread consultation with hospital boards, other health unit management groups and industrial organisations.

It is intended that Dr McCoy will then be appointed as Chief Executive Officer of the South Australian Health Commission (in whatever restructured form) for a period expiring on 1 December 1990. Dr McCoy has had a distinguished career as a radiologist and as a hospital and health administrator. Educated at St Peters College and the University of Adelaide, he spent time as a radiologist at the Massachusetts General Hospital in Boston, USA and in Britain at the Leeds General Infirmary.

He was the Medical Superintendent at the Adelaide Children's Hospital from 1965 to 1978 and joined the South Australian Health Commission in 1978 as an Assistant Commissioner. In 1981, he was appointed Executive Director of the Health Commission's Central Sector and in 1985 assumed his previous position as the commission's Deputy Chairman. He has been actively involved with a large number of respected professional medical bodies and his work has been published in medical journals both in Australia and overseas.

QUESTION

DEPARTMENT FOR COMMUNITY WELFARE

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Minister of Community Welfare a question about the Department for Community Welfare.

Leave granted.

The Hon. K.T. GRIFFIN: Today, a mother of a 14-year-old girl raised her concerns about the way in which the Department for Community Welfare has handled problems relating to that girl. The mother has legal custody of the girl under a Family Court order. The father does not have access and until late October this year the daughter had not seen the father for seven years. The mother and father are divorced and the mother has remarried. With her husband she provides a happy and stable home environment.

The father has convictions in 1980 for multiple rape, abduction with a firearm and fraud which brought prison sentences totalling five years. Neither the mother nor the social workers believed he was a suitable person to have access to the daughter. The difficulties with the daughter began when she left home in August 1986. After Crisis Care became involved, the Department for Community Welfare placed the girl in Southern Admission, a centre for young offenders, even though the girl was not an offender. She was there for about 26 days but was not seen by a social worker in that time, although there was telephone contact between a social worker and the girl on two occasions. The mother wrote to me as follows:

> She stayed out overnight on several occasions; did not come home for three days at one stage. I was never notified; the only way I found she was away from the centre was if I had happened to ring and see how she was going. She completely dropped out of school. No effort was made to counsel her at all. Her life started to revolve around Hindley Street, booze, boys and drugs. All in 26 days. We were in constant contact with the DCW, but social workers are always busy, pushed for time, and not enough resources.

From Southern Admission the mother and DCW decided to send the girl interstate to live with her grandmother. That failed. On the girl's return she was placed in Western Central Admission, again a place for young offenders, and she was there for about 10 days.

From there she was placed in a foster home, where it turned out that the foster mother was out five days per week at work and on Sundays from 1 p.m. to 9 p.m. at church. The girl was not allowed in the house while the foster mother was not at home and this encouraged the girl back on to the streets.

In October the father's mother (the paternal grandmother) made contact after seven years saying that she wanted to see the girl after that long period. The mother was reluctant, but after two or three days of discussion finally and reluctantly agreed, provided there was no contact with the girl's father. But it went wrong. The girl saw the father and finally, of her own volition, went to live with him against the mother's wishes.

The mother contacted the Department for Community Welfare, which would not intervene. Finally, a social worker said that the mother should exercise her right as a custodial parent and bring the girl home. The social worker suggested getting the police to go with the mother, read the Riot Act to the girl, tell her she stays home until she reaches 18 or can support herself. The mother was desperate by now and called the police, who said, 'What do you think we are—a taxi service?' The mother and her husband then went to the house where the daughter was, but could not find her.

Finally, the department ordered a Child at Risk conference for 4 November this year, but the mother was told it takes three or four weeks to arrange and it could not be organised at shorter notice. The mother was pressing to have something done urgently. On 4 November, the morning of the conference, the mother was telephoned by the department and told that the Child at Risk conference was postponed for a week to 11 November, because the social worker was ill. The mother was told, in answer to a request,

that it could not be organised any earlier than that. In light of the delay, the mother asked the department to please send somebody to the house to check on the daughter because she was living with a rapist and kidnapper. The department said it would not do it because it did not have cause and, in any event, it did not have the staff to do it.

The Child at Risk conference was finally held on 11 November. One of the social workers at the conference said that that person was not happy with the daughter being with the father. She said, 'Give him enough rope and he'll hang himself.' The mother said, 'But at whose expense?' At the conference the father was said to have taken proceedings in the Family Court for custody, and then the officers backed off quickly. There was no such application and there was no attempt to check that assertion. A child psychologist, who was at the conference but who does not ordinarily make home visits, expressed concern about the child and a few days later visited the girl. The day after that visit the daughter is alleged to have been raped by the father and charges are now pending.

There are many more facts which highlight the problems in this particular case and the apparent indecision of departmental officers and an unwillingness to get involved in getting the daughter out of a dangerous environment back to a good family environment. Since this matter has been raised by the mother this morning, other people have made contact with me expressing likewise their concern about apparent indecision. Will the Minister urgently and fully investigate this case to identify where the deficiencies may be in the department and in its attitude to these sorts of cases with a view to ensuring that the prospect of them recurring in other cases is minimised?

The Hon. J.R. CORNWALL: I have already received a preliminary report which, on my recollection, was delivered to me several days ago. Obviously I have also asked to be brought up to date through a comprehensive report. I understand that the charges in relation to the alleged rape to which the Hon. Mr Griffin referred have been laid so, unlike the Hon. Mr Griffin, I do not intend to comment because it would be grossly unethical and entirely inappropriate. As the Hon. Mr Griffin also knows, ethics and confidentiality prevent me from saying anything about this matter which might tend in any way to identify the girl. That would be most improper and I do not intend to do it.

However, let me state some of the general principles upon which the department works and let me explain to the Council some of the grave difficulties under which community welfare workers and social workers with the Department for Community Welfare will always work. They work in a very vexed and difficult spectrum of human relations. A great deal of their time is taken up with child protection matters. As I said yesterday when I opened the first National Conference of Crisis Care Workers—and let me make clear that I am speaking in generalities and this has nothing whatsoever to do with the present case, which the Hon. Mr Griffin rodent-like has been nibbling away at this afternoon—very often, in the case of a caller to a talk-back radio program, who is protesting that the family may have been broken up in some way or that a child has been taken away, the department officers know that that person first came to their attention when the child perhaps presented at the Adelaide Children's Hospital casualty department with three fractured ribs, or it could be the case of a 13-year-old runaway who has been sexually abused for the previous five years. They are the sorts of cases that daily come to the attention of officers of the Department for Community Welfare.

It is a very difficult and stressful area. I am very pleased to note that the Opposition spokesperson on community welfare matters did not see fit to raise this matter; it was left to the law and order guru, the Hon. Mr Griffin, to dredge about. This is an area where, as I have said, we have received in the last financial year 2 600 reports of child abuse; approximately 700 of those involved child sexual abuse. It is an area where the reported incidence has been increasing exponentially for the past several years and we anticipate it will continue to increase exponentially over the next few years until it reaches a plateau at about double what it currently is. We anticipate that 6 000 cases of alleged child abuse—sexual, physical or psychological—will be notified to the Department for Community Welfare by the end of this decade.

As part of that I have just been given the Bidmeade review, which completely reviewed section 3 of the Child Protection and Young Offenders Act. It sets a blueprint and lays down a strategy for very substantially improving the administration of child protection matters generally. It canvasses the notion of a Commissioner for Children—a children's advocate. It canvasses, I believe very intelligently, the notion of a panel in the Children's Court to hear in-need-of-care applications. We have also recently received and released the task force report on child sexual abuse in South Australia.

I might also tell the Hon. Mr Griffin, since he has recently developed an interest in this area, that very soon I would hope to release a major discussion paper which outlines a comprehensive social welfare strategy for South Australia for the next five years. That will look at welfare in its broadest context. We have been moving quite rapidly towards a situation where we have two cardinal principles: first, we are intervening much earlier, wherever that is possible, to support families in crisis—keeping that family together wherever it is practical to do so.

The second principle, I must say quite unapologetically, is that the interests of the child are paramount. They are the directions in which we are moving quite deliberately as a matter of policy. I repeat that child protection and early intervention with families in crisis and intensive support of families in crisis are the two guiding principles of the department. They will continue to be so while I am the Minister.

MINISTERIAL STATEMENT: EASTERN STANDARD TIME

The Hon. C.J. SUMNER (Attorney-General): I seek leave to make a statement.

Leave granted.

The Hon. C.J. SUMNER: Unfortunately, it is clear, as the numbers stand at present in this Council with respect to the Bill introduced by the Government to move South Australia from Central Standard to Eastern Standard Time, that, with the views of the Liberals and the Democrats, unfortunately this Bill will fail at the second reading. Accordingly, I wish to provide the following information to the Council.

The Government is prepared to offer a compromise which it believes the Council should consider seriously. The compromise is to allow passage of the Bill at the second reading and to consider amendments which the Government will propose. Those amendments are basically for a sunset clause of one or two years after the Bill has passed. The Government firmly believes that this measure ought to be given a trial at least by the South Australian community. Clearly, there are direct benefits to the South Australian community

and indirect benefits as an important psychological impetus for South Australia seeing itself as part of the major economic and commercial markets of Australia. It is most unfortunate if immovable political stances—

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: —of Parties defeated this measure. Members ought to be allowed to consider the proposal on its merits. To allow this, the Government proposes, as a compromise, passage of the second reading, introduction of amendments by the Government to sunset the Bill after one or two years, or whatever is considered appropriate. The Government promises to carry out—

Members interjecting:

The PRESIDENT: Order!

The Hon.C.J. SUMNER—a proper survey of attitudes in consultation with the Opposition and the Democrats after the trial period of one or two years. The Government believes that this opportunity for a trial period on Eastern Standard Time—at least a trial period—should not be lost, and I am authorised by the Government to make this offer to the members of the Legislative Council for their consideration before the second reading vote is taken.

HEALTH COMMISSION CENTRAL OFFICE

The Hon. M.B. CAMERON: I seek leave to make a short explanation before asking the Minister of Health a question on the subject of a new report on the Central Office of the Health Commission.

Leave granted.

The Hon. M.B. CAMERON: I understand that, during a recent Cabinet meeting in the Riverland, the Minister of Health was told by his colleagues, including the Premier, to 'calm down' and stop his continual public and private confrontation because he was the most detrimental part of the Government. I am told it was a unanimous feeling that he is causing severe damage to the Government's public image.

Members interjecting:

The PRESIDENT: Order!

The Hon. M.B. CAMERON: His colleagues had obviously run out of patience with him, particularly his performance with the Health Commission and the waste that is going on there (the Minister has finally had to get rid of 68 positions—26 of those he built up in the previous year). They were sick of his obvious continuing feud with Professor Gary Andrews who has now been pushed aside and is to be replaced by his deputy at an approximate $400 000 cost to the taxpayer because we will continue to pay for Professor Andrews until the end of his contract. So, we are going to have a dissappearing chairman. They were sick of him setting up inquiries at the drop of a hat, to the point where it is now considered a joke at the Health Commission. I understand that at this particular Cabinet meeting the Minister was also told that the Premier's Department was going to take over the reorganisation of the Central Office of the Health Commission, and that two members of the Premier's staff, Messrs Guerin and Strickland, were given the task of preparing a report on the matter. I seek leave to table what I understand is the 'quicky' Guerin/Strickland report, and ask that it be authorised to be published.

Leave granted.

The Hon. M.B. CAMERON: We have, in the process, seen the Uhrig report on hospitals put into the wastepaper basket, though I hear the Minister, in his statement today, half resurrecting it. I might add, the Minister initially supported that report very strongly, but then went to water because it was clear to everyone in the system that it was the wrong direction to take. We have seen the Taeuber report on Central Office put into the wastepaper basket, although that seems to have had a bit of a resurrection today in the Ministerial statement—although when the Minister first indicated he had it, he said it would cause a bloody revolution if he showed it publicly. Now we have this new report, and it is obvious that that report was put together as a hasty solution.

What is the total cost of the Uhrig report and the Taeuber report, including the cost of public servants' time in preparing documents and any other work for these reports? Does the Minister intend to follow the instructions of the Premier to restructure the Health Commission Central Office along the lines of this new report, a very boring and unimaginative document? What was the total cost of the Guerin/Strickland report?

The Hon. J.R. CORNWALL: The Hon. Mr Cameron's performance really is pathetic. He is like a little boy on the beach throwing handfuls of sand and he thinks that if he throws enough handfuls of sand perhaps one or two grains might just lodge in my eyes. He is also a very lazy shadow spokesman. He does not show any diligence at all and, might I also say, he is grossly irresponsible. Almost every one of his actions and statements in the area is designed quite specifically to destabilise South Australia's health system. Almost every one of his statements in one way or another is crafted in such a way that it will tend to destabilise our hospital system. He was gravely disappointed, I am sure, when we reached a settlement with the nurses. He was doing all that he possibly could to foster industrial disruption in the public hospital system.

Members interjecting:

The Hon. J.R. CORNWALL: One only has to look at his public statements during the course of those sensitive few weeks in the eventual leadup to the settlement to see quite clearly that Mr Cameron was doing whatever he could to foster industrial disruption. He failed dismally, of course. In South Australia during the period I have been Health Minister over the past three years we have seen the introduction in the health services of the 38 hour week (19 day month); a major and orderly transition towards tertiary based nurse education from the hospital based system which will be completed in a most orderly way completely by 1993; very significantly restructured and upgraded clinical career paths for members of the nursing profession; and we have just seen a settlement concerning salaries in which, of course, we have led the country.

Mr Cameron was desperate for us to get into a Victorian type situation. He was gravely disappointed when that did not eventuate. Might I say that during those three years in which we have been going through a quiet, and at times not so quiet, revolution within the nursing profession, very much involving its upgrading as a noble profession, we have not lost one day through industrial disputation or disruption in the public hospital system of this State.

An honourable member: What has this got to do with it?

The Hon. J.R. CORNWALL: It has a great deal to do with the performance of Mr Cameron because he has been at it again today. It is about time that you lot took note of just what he gets up to. It is all about disruption.

The Hon. R.I. Lucas interjecting:

The Hon. J.R. CORNWALL: No, I assure you that Mr Cameron does not upset me at all. Mr Cameron is almost entirely irrelevant to the health services in this State. However, reverting to his smart alec performance today (Uhrig/Taeuber, and now he says Guerin/Strickland), it is perfectly true that very early in my second term as Health Minister

I asked John Uhrig, who had recently retired as the Managing Director of Simpson Pope and is now chairman elect of CRA (Australia's second largest company) to bring the perspective of a senior private manager—an industrialist—to the management of the metropolitan public hospital system. He looked at it from that perspective and produced a report which, in many ways, was very radical. Certainly, it took a futuristic approach to the sort of situation that might or perhaps should prevail in an ideal world.

Uhrig proposed the abolition of individual hospital boards of management and the setting up of one metropolitan hospital board to be run as a board of directors using the best elements of the private corporate sector. Of course, it also canvassed the idea of examining, organising and financing clinical programs across the hospital system so that we would have genuine coordination and integration of services and substantially more efficiency. Incidentally, speaking of efficiency, I think the need for the sorts of things that were canvassed in that area by John Uhrig were quite dramatically highlighted by the Allen report, which was prepared at the Royal Adelaide Hospital. The report highlighted quite dramatically the fact that productivity in the emergency services area and surgical areas left a great deal to be desired. So they are the sorts of things that Uhrig addressed.

Many of John Uhrig's recommendations will be adapted and adopted. I have made it very clear that it is not our intention to abolish individual hospital boards and to establish a major metropolitan hospital board—the one big board approach, as it has been called. However, there are many aspects and many recommendations in the Uhrig report which are very good indeed, and they will be adopted. Only this morning I spoke to a very senior ear, nose and throat surgeon. He came at the initiative of his own professional organisation to discuss with me the organisation of clinical programs on the basis that I have outlined. As I said, he came to me on the initiative of his professional organisation. So the idea of clinical programs being financed and coordinated across hospitals is something which is welcomed by a number of very senior people in the medical profession.

Early this week I announced that we will certainly look at the organisation of emergency services on a trans hospital basis. That will be done early in the new year. Mr Ken Taeuber's inquiry canvassed a number of options and a number of alternatives to the present South Australian Health Commission structure. The logical thing to do with both reports was to discuss them with the Premier (which I have done) and to discuss them with the Director-General of the Premier's Department, Mr Bruce Guerin (which I have done). The Hon. Mr Cameron described Mr Guerin as 'one of the Premier's staff'. I think it should be placed squarely on the record that Mr Guerin is the Director-General of the Premier's Department. I would have thought that that is rather different from 'one of the Premier's staff'.

Mr Andrew Strickland, of course, is a member of the newly created Government Management Board. A number of options have been canvassed and, as I said, I have had discussions with the various players. Dr McCoy has been involved in a number of discussions also during the period that he was Deputy Chairman of the commission. He has been involved in the discussions with Bruce Guerin and Andrew Strickland over the past few weeks. I have not seen which piece of paper our smart alec friend tabled today, but arising out of the discussions and the options a further position paper has been prepared, and that crossed my desk only in the past 24 hours.

I anticipate that I will go to Cabinet in the next few weeks (certainly before Christmas) with some firm recommendations as to how the commission might be modified or which of the options might be most acceptable. However, without canvassing the fine detail, at this stage it is not my intention, with regard to the commission in particular, that there should be any radical legislative changes. There will certainly be a number of significant administrative changes. I am happy to tell the Hon. Mr Cameron and his colleagues that we will certainly abolish sectors. Sectorisation was a device created by the previous Administration. Sectors served a useful purpose in a number of areas, particularly with regard to the organisation of country hospitals and health services. However, there is not the slightest doubt that they entrenched factionalism, as I have said in this place previously.

When you had a separate sector director for each of the three major teaching hospitals—each with its own budget—you had a recipe which ensured that there was competition rather than cooperation. When you had South Australia's two public psychiatric hospitals each in a different sector, of course you had a recipe for disorganisation. In fact, the mental health services of this State suffered to a significant extent under sectorisation. So, there will be administrative reorganisation; and there will certainly be some amendments to the Health Commission Act. Presumably, the Hon. Mr Cameron will be apprised of that, either officially or unofficially. For more than six years I have always told people that in a little place like Adelaide (and it is a relatively small city) you can have open government by default or you can have open government by design. I have always preferred the latter. I always regard any document as—

Members interjecting:

The PRESIDENT: Order!

The Hon. L.H. Davis: Fifteen love.

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: —being at least potentially a public document, so there is very little that the sand-throwing Mr Cameron is likely to table in this place at any time which will cause me embarrassment.

PUBLIC LIBRARIES BRANCH

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Minister of Local Government a question about the Public Libraries Branch.

Leave granted.

The Hon. L.H. DAVIS: On 30 October I asked the Minister a question about the sale of the Public Libraries Branch warehouse (located at Edward Street and Orange Lane in Norwood) to the Norwood Club. The Libraries Board had been reluctant to give up this space but had done so after being pressured for a number of years by the Labor member for Norwood, Mr Greg Crafter.

The Libraries Board only agreed to the sale of this 1 570 square metres of warehouse space after being told that the Norwood Club wanted the space for recreational facilities for young people in the Norwood community generally. More particularly, the Libraries Board had been assured that, if the sale of the warehouse took place, the proceeds of the sale (on my estimate about $400 000) would enable the Public Libraries Branch office located nearby on the Norwood Parade to be refurbished and, perhaps more importantly, the commencement of building of the Bastyan wing on the second floor of the State Library on North Terrace.

As I outlined on 30 October, nothing happened. The Norwood Club is advertising the warehouse for an annual rental of $42 000, and a three-year lease is available with

an option to renegotiate for a further three years. Ironically, it has been on the market now for two months. The Libraries Board is concerned that there are no plans to refurbish its office at Norwood and that there are still no plans to commence the Bastyan wing. In response to my question on 30 October, the Minister said:

It was certainly my understanding at the time of the sale of the land which was occupied by the Public Libraries Branch that the property that was to be sold to the Norwood Club would be used for community purposes, so I was quite concerned to hear that it was being advertised for lease. I sought a report on that so that I could find out exactly what happened.

The Libraries Board and the libraries community generally have continued to be alarmed that the body responsible for libraries in South Australia had been conned in a not very subtle fashion by a Cabinet Minister and the member for Norwood, who was doing a favour for a constituent, the Norwood Club, a working man's club. Mr Crafter, the member for Norwood, on 1 November, when defending this indefensible transaction, said that he expected recreational facilities to be available within the decade. Of course, with a six year lease available to the lucky lessee that takes it to 1992, so I presume that the Minister, when he talks about it being available by the end of the decade, is talking about 1996, 10 years away.

The fact is that the Libraries Board would have preferred to keep this valuable space for an additional six years as it is being used to raise $50 000 annually by way of book sales. It will not raise that figure this year or next year, it would seem, because it will not have the same suitable space available for a popular book sale. The Minister, four weeks ago, indicated that she had sought a report on this matter. Can she say whether she has discussed this matter with the Libraries Board? Will she say what the report stated and what action she has taken, or proposes to take, in relation to this serious matter?

The Hon. BARBARA WIESE: As I indicated last time this matter was raised in the Council, it is my understanding that the Norwood Club intends to build recreational facilities for young people in the Norwood area if it can have access to the property owned by the State Government and occupied by the Public Libraries branch. I have made inquiries about the matter since it was raised with me by not only the Hon. Mr Davis but also other people prior to that. I am informed that it is still the intention of the Norwood Club to provide recreational facilities for young people. I am also informed that recreational facilities for young people in the Norwood area are very much in short supply.

The Hon. L.H. Davis: They will all be grown up by the time they are available.

The PRESIDENT: Order!

The Hon. BARBARA WIESE: I am sure that people in that local area will be very pleased when the Norwood Club is financially able to construct the facility it has in mind. I am also informed that at this time the Norwood Club is not able to commence the construction program that it was planning and for that reason has decided to lease the area in order to increase revenue and thus be able to proceed.

I want to make another point about the Libraries Board preference in this matter. The Hon. Mr Davis implies that, some how or other, the Libraries Board has a final say over the use of the land occupied by the Public Libraries Division: that is not so.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: The land is owned not by the Libraries Board but by the Government and it is a Government decision whether it keeps that land or disposes of it. Certainly the opinion of the Libraries Board in relation to this matter is very important and has been taken into account.

The Hon. L.H. Davis: So you break promises and bargains.

The Hon. BARBARA WIESE: Will you shut up and listen to the reply! You are such a bore! Why don't you just sit there and listen? If you want to ask questions, then listen to the replies.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: If the honourable member gives me five minutes I might be able to get a reply in. The Libraries Board opinion on this matter was very important to the Government and certainly to me as Minister of Local Government.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: It was certainly important to me as Minister of Local Government. At the time that this matter was being discussed by the Government as to whether the property would be sold the Libraries Board indicated to the Government that that space, although not all of it is used at this time by the Libraries Division, was space that it felt would be needed in the future. Its preference at that time was for a second floor to be built on the Bastyan Wing on North Terrace if this space was sold to the Norwood Club.

As I have indicated previously in this place—and I am not sure why I have to keep answering questions more than once in this Council, but it seems that I have to do so over and over again—when I answered this question the views of the Libraries Board at that time are to some extent being superseded by the considerations of the Libraries Review Committee, which has been looking at the future of library services in South Australia. The Hon. Mr Davis laughs, yet he comes into this place constantly with half a story and most of the time with no story at all. The fact is that I was advised some months ago by the Chairman of the Libraries Review Committee that it was quite possible—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order, Mr Davis!

The Hon. BARBARA WIESE: —that the construction of a new floor to the Bastyan Wing would no longer be necessary if some recommendations of the Libraries Review Committee were put into effect. As I indicated at that time, it seems to me that it is not possible for me as Minister, or for the Government, to make a recommendation concerning construction or otherwise of a second floor until we have had an opportunity to fully assess the recommendations of the Libraries Review Committee and its view as to what future library services we will need in the City of Adelaide, for example.

For that reason the question of a replacement for the land which has now been sold to the Norwood Club has been deferred until we have an opportunity to assess these matters. If the Hon. Mr Davis is suggesting that that is an inappropriate action, I would like to know what is a more appropriate one. Should we go ahead and spend $5 million putting a new floor on the Bastyan Wing when we do not know whether or not we need it? Do not be so ridiculous!

The Hon. L.H. Davis: You shouldn't have told—

The PRESIDENT: Order!

The Hon. BARBARA WIESE: The honourable member comes into this place and talks of the Government stopping money for the Stage Company where we were talking about a relatively small amount of money, yet he now is saying that we should spend $5 million on a new floor of a buildng

when we do not even know whether we need it. The honourable member is a fool!

The Hon. L.H. Davis: You didn't make that promise?

The PRESIDENT: Order!

The Hon. BARBARA WIESE: Didn't make what promise?

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! The Hon. Mr Davis has asked his question and will not speak when I am speaking. He has asked his question. He can listen to the answer and if he has another question he can ask it as a supplementary question. However, his repeated interjecting must cease.

The Hon. BARBARA WIESE: When this matter was discussed, I think I have made perfectly clear that an option involving the second floor of the Bastyan Wing was being discussed. Since then I have been informed by the Chairman of the Libraries Review Committee—who also happens to be Chairman of the Libraries Board—that that may not be an option we need to pursue.

I think that I have made that perfectly clear. For that reason, we will be considering whatever options seem reasonable at the time when we make decisions about the recommendations of the Libraries Review Committee. That is perfectly appropriate behaviour and I will certainly be doing my best to act in the best interests of the Libraries Board and for the development of library services throughout South Australia.

ANTI-SMOKING CAMPAIGN

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister of Health a question about anti-smoking campaigns.

Leave granted.

The Hon. CAROLYN PICKLES: I refer to some comments made in this Chamber yesterday by the Hon. Mr Lucas. The honourable member made some quite outrageous statements about Dr Simon Chapman and his association with an organisation called BUGA UP. Dr Chapman is a world authority on smoking and health and these statements have cast a slur upon his professional and personal reputation. Can the Minister say whether Dr Chapman has made any comments to him in response to the allegations made by the Hon. Mr Lucas?

The Hon. J.R. CORNWALL: Yesterday the Hon. Mr Lucas continued the pattern which has been set by members opposite during their period in Opposition of naming, attacking and slandering senior figures in public employment in coward's castle.

The Hon. R.I. Lucas: You said he—

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: I said nothing of the sort.

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: This morning Dr Simon Chapman read the transcript of *Hansard* and he has sent me a quite lengthy minute, some of which I propose to read into the *Hansard* record. I do that because Dr Chapman is not able to defend himself against the cowardly and slanderous attacks of the Hon. Mr Lucas. The memo says, in part:

I have read the *Hansard* transcript where Mr R. Lucas, MLC, has made various allegations about my association with BUGA UP. I believe that a reasonable person would interpret his comments to imply that I am or have been involved in criminal activity—namely, graffiti-ing advertising billboards. I take grave exception to this insinuation and believe that if Mr Lucas were to make these suggestions outside the House, that I would consider issuing a writ of defamation.

I have been clearly identified as an 'enemy' by the international tobacco industry for several years and this is by no means the first time that I have been the subject of such insinuation by people who seem to be well-briefed (although considerably misled) by the tobacco industry. In 1979 I formed MOP UP (Movement Opposed to the Promotion of Unhealthy Products)—the comunity group that succeeded in having Paul Hogan taken out of Winfield advertising for his influence on children. MOP UP, incidentally, has been funded for several years by the Victorian Government. This was probably the beginning of the tobacco industry's concern about me and their various efforts at trying to have my reputation smeared.

Those efforts were continued, of course, by the tobacco industry's mouthpiece in this place yesterday, the Hon. Mr Lucas. The memo further states:

The litmus test of whether one's actions are of any consequence in smoking control is the tobacco industry's response to you. Mr Lucas has let us know very firmly that our recent efforts with the Tobacco Products Control Act have obviously outraged the industry yet again. If I can put it colloquially, they have failed to play the ball so now they're trying to play the man. Before I arrived in Adelaide over a year ago, a senior journalist at the *Advertiser* was sent a portfolio on me prepared by the Tobacco Institute containing some and more of Mr Lucas' claims.

Mr Lucas, by interjection only a few minutes ago, indicated that he had more—

The Hon. R.I. Lucas: Lots more!

The Hon. J.R. CORNWALL—lots more concerning Dr Simon Chapman. The Opposition spokesman on youth affairs is now the spokesperson in this Chamber for the Tobacco Institute. The memo further states:

I have had parts of the portfolio read out to me by the much amused journalist and much of it is quite inaccurate. In that portfolio, the industry claims I am a member of the Non-Smokers Movement of Australia yet I have never even set foot in their office, let alone been a member. The BUGA UP slur is central to their case against me.

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order!

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order, Mr Lucas! I will not call you to order again.

The Hon. R.I. Lucas: You only warned me three times—you warned him 20.

The PRESIDENT: If you wish me to name you, I am happy to do so.

The Hon. J.R. CORNWALL: The memo continues:

The Hon. Mr Lucas appears to have wild misapprehensions about BUGA UP. It is a totally informal movement of people across Australia, and also now operates in the USA and in Britain. It has no 'members', no 'consultants', no phone number, no consitution. It is nothing but a loose association of people who are opposed to tobacco advertising and who, in the tradition of civil disobedience movements like the suffragettes, the anti-war and the anti-aparthied movements, sections of the environmental movement and so on, have chosen to break the law occasionally by spray painting on sheets of paper to put up on billboards. There have been about 50 or so convictions around Australia in the past six years: these include many doctors, a university professor from Newcastle and many medical students. I have never engaged in illegal activities of any sort. If Mr Lucas believes I have, he should state so outside the House.

Dr Chapman goes on further to say:

The planned project, called SCRAMBLED ADS—

and this is the thing to which Mr Lucas referred yesterday—is modelled on a British exercise that took place in 1985 when I was working in England on a National Health and Medical Research Council fellowship. In Manchester, the organisers received 20 000 entries after expecting 700 or so. Interest in the project is very strong and includes the drug offensive national organising group and a leading businessman.

Mr Lucas argues that this project—which gets children to parody tobacco ads cut from magazines—will encourage them to go out and deface billboards. I believe this is a bit like arguing that children who write essays about bushrangers will turn into bank robbers. Every child in the State will have spent time in kindergarten making collages out of magazine ads by cutting them up and rearranging them—putting men's heads on women and so

on. Obviously such analogous activity will not cause children to go into shops and cut up clothing or turn into transvestites.

Obviously the industry are terribly piqued by what has happend to them over this State's Act. They are almost certainly annoyed at my presence in the commission and in attacking me personally, are trying to blame me for what is clearly a snowballing rejection of smoking in the population. Again, I deeply resent such remarks being made under the protection of parliamentary privilege and would ask the Minister to appeal to Mr Lucas to withdraw his inferences and apologise.

WOMEN'S SHELTERS

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation prior to addressing a question on women's shelters to the Minister of Community Welfare.

Leave granted.

The Hon. DIANA LAIDLAW: In late July the Minister announced that he would be insisting that women's shelters sign agreements with respect to financial accountability. On 27 August, in response to a question I asked about the future of funding arrangements for the Hope Haven shelter he indicated that that had been one of the first shelters to sign the agreement but that few others had done so within that month. However, he added the following statements:

I will have the opportunity to meet with some of them at least on this Friday, and I consider myself to be a reasonably skilful negotiator . . . I will be reasonable and in terms of the agreement I will be quite generous, provided there is financial accountability, and this whole thing then will become a storm in a teacup.

Three short weeks later, in response to a question from the Hon. Mr Hill on the same subject, the Minister stated:

I am pleased to say that the differences have been resolved and that a draft agreement has been prepared which appears to have the support of all the people who have been involved in the negotiations. The negotiations have been handled very amicably.

However, in today's *Advertiser* I note the following statement:

Although eight shelters had signed the agreement, Ms Balendran—

who is coordinator of the North Adelaide women's shelter—

said that at least four had asked for the agreements to be retracted because they had been signed under duress.

I repeat: 'signed under duress' and that four had asked for them to be retracted. This statement is most disturbing, not only in that it conflicts with the earlier statements that the Minister has made to this House, but—

An honourable member interjecting:

The Hon. DIANA LAIDLAW: Well, it would appear that he has. It is also disturbing because of the accusation that shelters have signed under duress. Will the Minister say whether it is a fact that only eight of the shelters have signed, and, of that number, four subsequently have sought to retract from those agreements? If the Minister does not have this advice at hand, will he bring back a report on this issue, including an explanation of the accusation of duress?

The Hon. J.R. CORNWALL: Yesterday, I made a quite lengthy and comprehensive ministerial statement to the Council. I suggest that Ms Laidlaw should read it. She will find that she will no longer then be under the misapprehensions that she appears to be labouring under at the moment. The review of course will look at all these matters. It is true that eight of these shelters have signed—four have not. I have read these allegations that they signed under duress, but they have not been made to me personally. Frankly, at this stage I am anxious that the reviewer get on with the review and that the committee to whom she reports and through whom she works is able to prepare a report for me expeditiously. The shelters have now been going for a decade. The time for a review is well passed; it is quite overdue. It is important now that the review be carried out expeditiously.

VEGETATION CLEARANCE

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Health, representing the Minister for Environment and Planning, a question about land clearance.

Leave granted.

The Hon. M.J. ELLIOTT: I have previously asked questions about my concerns about the level of compensation paid to farmers. I have now had concerns expressed to me about people who have been illegally clearing scrub, in particular, on Fleurieu Peninsula. One person in particular has come to me with photographic and video evidence that she says she has produced to the Department for Environment and Planning. She claimed she has been in contact with the department and had spoken to the Minister about such clearance going on and that she believes there has been no action taken whatsoever. I refer to a note that she gave to me, as follows:

The environmental destruction of the Fleurieu Peninsula has been brought to the attention of the Minister for Environment, Dr Hopgood, on several occasions. Nothing has been done to prevent the ongoing disappearance of the last 10 per cent of the native environment and no visible attempts have been made to repair the damage done, illegally, to specific areas in the Myponga district.

To the best of my knowledge the Minister has no first-hand knowledge of this situation even though his office is just a short drive from Myponga and I have offered to personally show him the affected areas. I do not accept his statement that officers of the department are monitoring the situation or that his department is aware of the urgency of the situation at all.

She has shown me, and I have copies of, photographs that show the clearance burning that has been going on illegally. Farmers have deliberately burned strips through land and then run stock through it, thus allowing erosion and grazing to reduce further the amount of scrub. This all seems to have come to nothing, so I ask the Minister:

1. Why is it that the department is not sending officers out to investigate reports of illegal clearance?

2. How many prosecutions have taken place as a result of illegal clearance on Fleurieu Peninsula?

3. What has been the result of those prosecutions?

4. Why is not replanting being enforced, because apparently it is not being done at present?

The Hon. J.R. CORNWALL: I will refer those questions to my colleague the Minister for Environment and Planning and bring back a reply.

PERSONAL EXPLANATION: Dr SIMON CHAPMAN

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

Leave granted.

The Hon. R.I. LUCAS: Ms President, I thank the Council for leave. The Minister of Health made a statement today in response to a question and read a statement from Dr Simon Chapman of the Health Commission. In it Dr Chapman and the Minister allege that I suggested or implied that Dr Chapman had been involved in criminal activity. Clearly, that is a misrepresentation of what I said; that is not the case. I did not indicate or imply yesterday that Dr Chapman had been involved in criminal activity. I said yesterday that

Dr Simon Chapman in a *curriculum vitae* listed as a consultant and adviser to BUGA UP in 1981.

The Hon. J.R. Cornwall interjecting:

The Hon. R.I. LUCAS: I could have got it from the journalist—I could have got it anywhere. I indicate that Dr Simon Chapman, when given the opportunity on television in *The 7.30 Report*, does not deny that allegation, and he did not deny it in the statement read in the Chamber today: it was not denied—it is fact.

Members interjecting:

The PRESIDENT: Order! A personal explanation involves personal matters.

The Hon. R.I. LUCAS: Yesterday, in response to the question concerning my allegation about Dr Chapman—

The Hon. J.R. Cornwall: What a sleaze bag you are.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: Ms President, can you control the Minister and ask him to withdraw and apologise?

The Hon. J.R. CORNWALL: Certainly, Madam President. It is a very funny role for the spokesman on youth affairs to claim to be—

The Hon. R.I. LUCAS: Come on, sit down! All I said yesterday, Ms President, as I indicated, was that Dr Simon Chapman was a consultant and adviser to BUGA UP in 1981. That has not been denied today in this Chamber and will not be denied publicly on television tonight—the interview has already been recorded. Yesterday, in this Chamber the Minister of Health said—

The PRESIDENT: Order, Mr Lucas! A personal explanation deals with personal matters only and cannot be a wide ranging debate covering a number of other matters. I am sorry, but that is the Standing Order. A personal explanation deals with personal matters. Can you limit your comments to such remarks?

The Hon. R.I. LUCAS: I accept that, Ms President. That is a proper ruling and I certainly will not stray from your ruling. As I indicated, it was the Minister who indicated that Dr Chapman was associated in his earlier days with BUGA UP. All I am saying is that clearly Dr Chapman is suffering from mistaken identity and instead of shafting me he should be shafting his own Minister.

WRONGS ACT AMENDMENT BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Wrongs Act 1936. Read a first time.

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

That this Bill be now read a second time.

This Bill proposes amendments to the Wrongs Act. It sets out the principles to be used by the courts in assessing damages in relation to injuries arising from motor accidents. The Bill is linked to the Motor Vehicles Act Amendment Bill 1986, and together the Bills form a package aimed at reducing the pressure on third party insurance premiums.

The Government is aware of the community's concern at the escalating premiums for third party compulsory insurance. These premiums continue to rise because of the effect of inflation on awards, because of increased hospital and medical costs and because of new and expanded heads of damages awarded by the courts. As a result of the failure of premiums to reflect these increases over a time, there has been a steady deterioration in the Compulsory Third Party Fund. In fact, figures recently released show that in the 1985-86 year the fund suffered a loss of $89.2 million.

As a result of the increasing deficit, the State Government Insurance Commission conducted an inquiry into the Compulsory Third Party Fund. The report was released earlier this year and sets out a number of recommendations aimed at:

- reducing costs;
- reducing delays and improving procedures; and
- reducing the road toll.

The Government has examined each of the recommendations in turn and has decided to implement a package of amendments at this time. It is likely that some of the remaining recommendations will be implemented by legislation at a later date, once their full effects have been properly assessed.

In addition, I advise that the Government is in the process of setting up a study to examine the administrative and financial implications of establishing a no-fault motor vehicle accident scheme in South Australia. The study will review previous reports on the establishment of such a scheme in this State and will monitor the movements interstate in this area. The aim of the study will be to produce options for a more equitable scheme of motor vehicle accident insurance which will better serve the long-term needs of the South Australian community.

In turning our attention to the Bill currently before Parliament, I advise that some of the amendments are not strictly in accordance with the SGIC recommendations. The Government has acted on the presumption that the community is prepared to accept the introduction of limits on the levels of damages in an attempt to reduce the pressure on premiums. However, the Government also recognises the needs of victims of road accidents to receive adequate compensation. Therefore, the Government has assessed each of the recommendations with a view to balancing the gains to the fund against the potential loss to victims.

In introducing these amendments I must caution that the flow through to premiums will be slow. The amendments will not result in an automatic reduction in premiums nor will they provide immediate relief from the need for further premium increases. As the amendments only apply to causes of action which arise after the commencement of the Act, there may not be any significant effect on premiums for two or three years.

The single most important recommendation made by SGIC is that the sum of $60 000 be fixed as the maximum award for damges for non-economic loss. Non-economic loss covers damages for pain and suffering, loss of amenities of life, loss of expectation of life and disfigurement. The Government has accepted this recommendation. Accordingly, the Bill provides for the court to grade the non-economic loss suffered on a scale of 0-60. That value is then multipled by the prescribed amount, an amount which will originally be set at $1 000. This 'grading' approach has been adopted so that the most serious cases do not suffer disproportionately by the imposition of the limit. In addition, the prescribed amount will be indexed so that the limit will maintain its relative value.

SGIC has estimated that, by the introduction of a limit of $60 000 on non-economic loss, the fund could save as much as $43 million on 1986 figures. The Bill also provides for limits to be imposed in relation to small claims so that:

- no payment is made for loss of earning capacity during the first week of the disability period; and
- payments for non-economic loss are made only where the disability period is greater than seven days or where the expenses incurred for medical and hospital expenses exceed the prescribed amount, which will initially be set at $1 000.

The justification for imposing such limitations is that small claims are very costly to administer and often provide victims with seemingly excessive payments in respect of pain and suffering for minor injuries. The Government is of the view that limits can be placed on such claims without causing undue hardships to accident victims.

The Bill also provides for limits on the range of persons who will be entitled to make claim for nervous shock. Payments for nervous shock are made where nervous shock is suffered by a person in the proximity of injury or peril caused to a third party by the negligence of another. The law was extended in the 1983 case of *Coffey v Jaensch* so that it covered the case where a wife suffered nervous shock from what she saw and was told at a hospital on the night of an accident and on the following day.

The proposed amendment does not significantly alter the law as it currently stands and contrary to the SGIC recommendation it recognises the result in the case of *Coffey v Jaensch*. However, by defining by statute the operation of nervous shock in cases involving motor vehicle accidents, the Government seeks to prevent any further expansion of this head of damage.

The new section 35a (1) *(e)* provides for the discount rate used by courts to be set by legislation. The discount rate is used by the courts in calculating the present value of future economic loss. Where moneys for pure economic loss would increase with inflation the appropriate rate to be used in such calculations is the anticipated difference between the rate of inflation and the nominal rate of interest that could be earned on investment. Several years ago the High Court effectively fixed this rate at 3 per cent and this is the rate used at present in common law settlements in South Australia.

However, interest rates are currently higher than has historically been the case and a real rate of 5 per cent or 6 per cent would be more appropriate at the present time since 3 per cent ignores the returns which can currently be achieved by prudent investment. Queensland and New South Wales have, already, legislated to set the discount rate at 5 per cent and other States are also moving to increase their discount rates. The effect of any increase in the discount rate is to reduce payouts.

Paragraph *(f)* of the new section 35a (1) provides for the abolition of managers' fees. Since 1984, managers' fees have been awarded by the courts where an accident victim, by reason of age or because of injuries, is unable to manage his financial affairs. The victim is now entitled to a sum of money for management of the award received. However, the Government does not consider such fees to be warranted as a professional manager should be able to earn higher investment returns than the average person and any fees payable to the manager should be covered by these higher returns.

The Bill further provides for a limit to be placed on payments for gratuitous services. The purpose of this award of damage is to compensate a victim for gratuitous services rendered by a spouse, parent or other person. Services covered can include caring for an accident victim, travelling to visit an accident victim and transporting an accident victim to medical facilities. It could be argued that the performance of such functions on a voluntary basis is part of a family relationship or friendship. However, in performing such tasks a relative or spouse may incur costs or suffer financially. The courts have seen fit in recent years to compensate for such costs or losses. Such payments, however, are not made to the person who incurred the costs or suffered the loss but to the accident victim. There is no obligation on the accident victim to pass the damages on to the person concerned. The SGIC report recommended the abolition of payments in relation to:

(a) expenses incurred by relatives and others in visiting the plaintiff; and

(b) the value of services gratuitously rendered by relatives and others.

The proposed amendment does not go as far as suggested by SGIC. The Bill retains the head of damage of gratuitous services but limits the amounts which can be awarded under the head of damage and restricts the range of people whose services will be taken into account when making such an award.

The SGIC recommendation has not been adopted as it is considered that, if payments for gratuitous services are not recognised, victims may replace these payments with claims for professional nursing or institutional care, resulting in even higher payouts by the fund. Some consideration was also given to allowing the provider of the service a direct claim against the insurer. However, the Government did not consider this to be desirable as the provider of the service may cease to provide such services and so force the victim to seek professional help, even though no allowance may have been made in the award of damages for such assistance.

The Bill currently before us also modifies aspects of the law of contributory negligence as it affects motor accidents. Under the present law, a court can reduce the damages payable to a victim if it is established that the failure to wear a seat belt had contributed to the injuries sustained: that is, there is a causal connection between the failure to wear the seat belt and the injury. However, under the proposed section 35a (1) *(i)* there would be an automatic minimum 15 per cent reduction in damages to persons who did not wear seat belts. This would mean that a person who did not wear a seat belt would receive 85 per cent of what they would otherwise have been paid. This provision does not apply to minors or to persons who are not required to wear seat belts by virtue of the Road Traffic Act 1961.

In addition, the Bill makes it easier for SGIC to prove contributory negligence against passengers who are injured in accidents where the driver of the vehicle has an impaired driving capacity because of alcohol or drugs. In cases where a passenger (not being a minor) voluntarily enters the vehicle he or she will be presumed to be negligent in failing to take sufficient care for his or her own safety.

Finally, the Bill also provides for limits on the payment of prejudement interest. The amendment provides for prejudgment interest to be limited to pretrial economic loss, that is, special damages actually paid by the victim and wages forgone by the victim to the time of judgment. Interest will no longer be payable on non-economic loss (for example, pain and suffering, etc.) as these matters are assessed at the current day values and so have built into them some allowance for inflationary increases since the commencement of the proceedings. The amendment is slightly wider than the SGIC recommendation as it allows for prejudgment interest to be paid on all pretrial economic loss, as well as on special damages.

I commend this Bill to members and 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 commencement of the measure.

Clause 3 inserts a new section 35a in the principal Act. The proposed section effects various alterations to the law

as it applies to the rights of recovery of persons who suffer personal injury out of the use of motor vehicles. In particular, it is proposed that the right of recovery for non-economic loss be restricted, that awards for mental or nervous shock be limited to being made in favour of an injured party, a person at the scene of the accident or a parent, spouse or child of a person killed, injured or endangered in an accident, that the first week of loss of earning capacity not be compensable, that a prescribed rate of discount be applied in assessing the actuarial multiples for future economic loss, that rights of recovery for gratuitous services be restricted, that contributory negligence shall arise if the person was not wearing a seat belt when required to do so or was voluntarily travelling with an intoxicated driver, and that interest not be awarded on damages compensating, for non-economic loss or prospective loss.

In relation to damages for gratuitous services rendered or to be rendered to the injured person by a parent, spouse or child, the right of recovery shall be limited so that awards for lost income shall not exceed four times State average weekly earnings. An exception is to be made if the services are being rendered in lieu of having to arrange the provision of the services by a third party. Where the court finds that the injured person was a voluntary passenger in a car being driven by an intoxicated driver and so was guilty of contributory negligence, the defence of *volenti non fit injuria* will not be available. In addition, provision is made for the situation where the damages are to be assessed by a court of another State or Territory. This should ensure that all actions for damages in respect of injuries arising from motor vehicle accidents occurring in this State are assessed according to the one set principles.

Clause 4 provides that the amendments to be made to the principal Act by this Bill are not to affect a cause of action that arises before the commencement of the measure.

The Hon. K.T. GRIFFIN secured the adjournment of the debate.

MOTOR VEHICLES ACT AMENDMENT BILL (No. 4)

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Motor Vehicles Act 1959. Read a first time.

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

That this Bill be now read a second time.

This Bill proposes amendments to the Motor Vehicles Act 1959 in relation to aspects of the third party bodily injury insurance scheme. This Bill is linked to the Wrongs Act Amendment Bill and together the two Bills form a package aimed at reducing pressure on third party insurance premiums.

The amendments arose as a result of recommendations made by the State Government Insurance Commission in its inquiry into the Compulsory Third Party Bodily Injury Insurance Fund. The amendments will not affect a cause of action which arises before the commencement of this Act.

The Bill provides for an amendment to section 99 of the present Act in relation to the meaning of the words 'arising out of the use of a motor vehicle'. The courts have taken a very expansive interpretation of this clause, and in doing so have ruled that the compulsory third party insurance fund would cover injuries sustained by a person while loading or unloading a vehicle, when slipping from the top of an oil tanker or when jumping from the tray of a truck. Some of the cases clearly fall outside what was originally intended by the legislation. Accordingly, the amendment will provide that an inquiry will not be regarded as being caused by, or arising out of the use of, a motor vehicle if it is not a consequence of the driving of the vehicle, the parking of the vehicle, or of the vehicle running out of control.

The Bill also makes it easier for SGIC to seek recovery of insurance moneys paid in cases involving the illegal use of a motor vehicle. Under the present legislation, for recovery to be made it is necessary for the illegal user of the motor vehicle to be convicted of the offence of illegal use. Under the proposed amendment, it will no longer be necessary to prove a conviction and it will be sufficient to show on the balance of probabilities that the driver was an illegal user of the motor vehicle.

The insurer's right to recovery will also be extended in relation to breaches of the policy of insurance involving drink driving. Under the new section 124a, the insurer will be able to seek full recovery from a driver who was so much under the influence of alcohol or drugs as to be incapable of exercising effective control over the vehicle or from a driver who was driving a motor vehicle with a concentration of .15 grams or more of alcohol in a hundred millilitres of blood. In respect to the insurer's right of recovery for other breaches of the insurance policy and for breaches of section 124 or 126 (that is, failure to notify a claim, or failure to observe the requirement not to negotiate a claim without the consent of the insurer), the insurer will need to show that it has been prejudiced by the breach and any recovery will be limited to such amount as the court thinks just and reasonable.

The new section 124ab provides for an excess of up to $200 to be paid by a driver where he or she is more than 25 per cent liable for an accident. The introduction of an excess will mean that persons who cause accidents are required to meet a small part of the payments made on their behalf by the Compulsory Third Party Insurance Fund.

The Bill also provides for the introduction of a compulsory exchange of medical reports. In addition, a claimant is required to advise the insurer of any visits to medical practitioners relating to the injury sustained in the accident. Failure to notify of consultations or to provide copies of reports may affect the damages received by the victim and can result in an award of costs against him or her.

Finally, the Bill provides for an amendment to the fourth schedule of the Act so that it will be a breach of the policy of insurance for a person to drive a vehicle or to allow another to drive his or her vehicle while there is present in his or her blood a concentration of .15 grams or more of alcohol in a hundred millilitres of blood. The provision for recovery in cases where a driver has a blood alcohol reading greater than .15 per cent has been recommended by a number of Supreme Court judges because of the present difficulties in proving a breach of policy on the grounds that a person was so much under the influence of alcohol or drugs as to be incapable of exercising effective control over the vehicle. I commend this Bill to members and seek leave to have the explanation of the clauses inserted into *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal.

Clause 2 provides for the commencement of the measure.

Clause 3 inserts an additional subsection in section 99 of the principal Act so as to provide that death or bodily injury

is not to be regarded as being caused by or arising out of the use of a motor vehicle if it is not a consequence of the driving of a vehicle, the parking of a vehicle or the vehicle running out of control.

Clause 4 revises section 123 of the principal Act in relation to the right of recovery of the insurer against an unauthorised driver of a vehicle.

Clause 5 proposes two new sections relating to the rights of recovery of the insurer. Proposed new section 124a will allow the insurer to recover money paid or costs incurred when the driver drove under the influence of alcohol or a drug or with a blood alcohol concentration of at least .15 grams per hundred millilitres of blood. The Act presently limits the right of recovery in such cases to situations where the driver is, by being intoxicated, in breach of the policy of insurance and the insurer can show that it has been consequentially prejudiced. Proposed new section 124ab will allow the insurer to recover the sum of $200 from the driver if it can show that the accident was to the extent of more than 25 per cent the fault of the driver.

Clause 6 substitutes a new section 127 relating to the medical examination of claimants and the provision of information and reports when the claimant consults a medical practitioner in relation to his or her injury. It is proposed that details of all consultations be provided to the insurer and that medical reports be forwarded to the insurer after receipt by a claimant.

Clause 7 amends the fourth schedule of the principal Act to include as a term of the policy of insurance provided by Part IV of the Act a provision that the insured vehicle will not be driven by the insured person, or, with his knowledge and consent, another person, while there is present in his or her blood a concentration of .15 grams or more of alcohol per 100 millilitres of blood.

Clause 8 provides that the amendments to be made to the principal Act by this Bill are not to affect a cause of action, right or liability that arises before the commencement of the measure.

The Hon. K.T. GRIFFIN secured the adjournment of the debate.

CORRECTIONAL SERVICES ACT AMENDMENT BILL

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

The Hon. C.J. SUMNER (Attorney-General): I move:

That this Bill be now read a second time.

As this matter has been dealt with in another place I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

The object of this Bill is to permit the release of selected prisoners at the discretion of the Permanent Head of the Department of Correctional Services, into a community correctional program which will require such persons to be detained in their homes.

Detainees will be visited several times each week by surveillance officers who are selected for their supervisory skills, and, in addition, random telephone contacts will be made. Detainees will be able to engage in appropriate employment, and participation in appropriate programs for the benefit of the detainee will be permitted. Such programs may include drug rehabilitation, education, and family counselling services. Each application for home detention will be reviewed by the Prisoner Assessment Committee which will recommend a decision to a senior departmental officer. Prisoners must nominate a residential address within the metropolitan area, and be accessible by telephone at all times. Other persons at the nominated address must agree that the offender be detained in those premises under the conditions of home detention, and must permit entry to the surveillance officer and respond to questions relating to the whereabouts of the prisoner. Any hinderance to the Surveillance officer by those persons will be punishable by fine.

Home detention will be managed according to tight criteria and firm administrative procedures. The program is to be viewed as a conservative program which is designed to maintain the security of the community and, as a secondary consideration, will assist with prisoner rehabilitation. Accordingly, prisoners whose current offence includes a crime of violence will be automatically excluded from the program. Those released into home detention will, at least initially, be those who have received a sentence of at least one month and less than 12 months, and must have served at leased two-ninths of their sentence.

Home detainees must maintain all the conditions of the program. If a condition is breached, a detainee is liable to return to prison to serve the balance of sentence. Further, if a detainee is not present at the aproved location at any time that person will be deemed to be unlawfully at large and be liable to be punished accordingly by the courts.

Home detention in this State is being introduced as a response to the severe problems of overcrowding which are currently being experienced throughout prisons in this State. At present the overflow is being accommodated by the police in police goals and watch-houses, places which are not designed for long term holding of prisoners. Initially, those approved for the program will assist in alleviating these pressures.

Home detention has been used widely overseas and is being used successfully in Queensland and the Northern Territory. Experience has demonstrated that the program has resulted in the reduction of the numbers imprisoned for short terms whilst maintaining appropriate standards of safety for the community.

As a tightly controlled correctional program, home detention will provide a cost effective alternative to imprisonment for selected prisoners. It is calculated that the costs of the Home Detention Scheme will be one-fifth of that of imprisonment.

Clauses 1 and 2 are formal.

Clause 3 enacts a new division providing for home detention of prisoners. New section 37a empowers the Director of Correctional Services to release certain prisoners from prison to serve a period of home detention. In order to qualify for such release a prisoner must be serving an actual sentence (that is, the prisoner is not on remand or in prison for contempt or non-payment of a pecuniary sum). The prisoner must also have served a minimum period of his or her term of imprisonment. Where a prisoner is not entitled to earn remission (that is, the term is three months or less), the minimum period is one-third of the term.

Where the prisoner is entitled to earn remission, the minimum period is two-ninths of the total term as it would be reduced if the prisoner earned full remission (that is, one-third of two-thirds of the term). This minimum period will be extended by the number of 'lost' days of remission (that is, any days of remission that the prisoner has already failed to earn). The prisoner must also satisfy certain other criteria to be determined by the Minister.

Home detention means that the prisoner must remain at his or her residence and may not leave the premises except to undertake paid employment or to undergo urgent medical or dental treatment. The officer who will supervise the prisoner during home detention may approve leaving the residence for any other purpose (that is, seeking a job or attending a course of instruction). The prisoner must be of good behaviour and must obey the lawful directions of the authorised officer during the whole of the period of home detention.

The period of home detention is the balance of the term of imprisonment reduced, where applicable, by the maximum period of remission. Conditions of home detention may be varied or revoked by the permanent head. New section 37b provides for the appointment of authorised officers and gives them the power to give certain reasonable directions as to the employment that a prisoner on home detention should or should not undertake, and also as to courses of instruction or counselling that a prisoner must undertake. Other directions may be given provided that they have general or special ministerial approval. An authorised officer is given the necessary power of entry (exercisable at any time) into a prisoner's home, and may also telephone at any time the prisoner's residence, place of employment or any other place that he or she is permitted to be at.

Questions as to the whereabouts of the prisoner may be asked of persons at those places. An offence of hindering an authorised officer or failing to truthfully answer a question carries a maximum fine of $2 000. It should be noted that these powers may be exercised in relation to a prisoner by any authorised officer, not only by the officer to whom the prisoner has been assigned. New section 37c provides that the Director must revoke a prisoner's release if a condition is breached and may revoke the release for any other reason. A prisoner is not in breach if, for example, he or she must flee from a burning house or cope with some other such disaster or emergency. A power of arrest is given to police officers and authorised officers.

If a prisoner is returned to prison for breach of condition, he or she is liable to serve the balance of the term of imprisonment unexpired as at the date of the breach. Similarly, if the prisoner is sentenced to further imprisonment while serving the period of home detention, the unexpired balance of the existing term must be served, being the balance as at the date of the offence (if the offence was committed during the period of home detention) or, in any other case, the balance as at the date on which the further sentence is imposed. The fact that a prisoner cannot be found until after the period of home detention has expired does not affect the operation of this provision. If a prisoner breaches the condition requiring detention at home, the prisoner is then unlawfully at large and therefore guilty of an offence under section 50 of the Act. This offence of 'escape' carries a maximum penalty of five years imprisonment. New seciton 37d provides that a sentence of imprisonment is extinguished upon the successful completion of a period of home detention.

Clause 4 repeals the provision that makes offences against Part V of the Act summary (unless indictable). This provision must now be made of general application and clause 5 accordingly replaces it in the miscellaneous provisions at the end of the Act.

The Hon. DIANA LAIDLAW secured the adjournment of the debate.

ANIMAL AND PLANT CONTROL (AGRICULTURAL PROTECTION AND OTHER PURPOSES) BILL

The House of Assembly intimated that it had agreed to the alternative amendment made by the Legislative Council in lieu of the House of Assembly's amendment No. 2.

OCCUPATIONAL HEALTH, SAFETY AND WELFARE BILL

In Committee.

(Continued from 26 November. Page 2345.)

Clause 28—'Election of health and safety representatives.'

The Hon. I. GILFILLAN: I move:

Page 16, lines 34 to 40—Leave out all words in these lines.

The amendment is intended to make what I consider to be a much more democratic and effective selection of people available for election as health and safety representatives. The Government Bill provided for work in groups to be formed. The amendment eliminates the restriction of those people that would have been available under the Government's Bill to a person who is a member of a union, if there was a single employee in the work group who belonged to a union. It is quite a bizarre discrimination. I cannot believe that the Government has put it forward as a serious restriction on those people who are available to be health and safety representatives. I would prefer to believe that the Government was relying on the Democrats to take the initiative and provide for a return to democracy by amending the clause so that the best person for the job is elected.

The Hon. K.T. GRIFFIN: I have an identical amendment (although it seems to be temporarily missing from the file). I am very supportive of removing paragraph *(b)* from subclause (2). Clause 28 provides for the election of health and safety representatives. Last night we dealt with clause 27, which provides for representation by health and safety representatives of designated work groups and the way they are to be formed. In both clauses there is a very heavy emphasis on registered associations being involved. It is clear that clause 28 is where trade unions carry much of their weight.

To be eligible for election as a health and safety representative, with all of the consequent powers associated with that position, a candidate must be a member of a designated work group that the health and safety representative is to represent and, more importantly, either a member of a registered association or, although the person is not a member of a registered association, no member of a trade union is a candidate for election. That means that you must be either a member of a union and, if not, you do not get a guernsey unless no other member of a union wants to stand against you. I maintain my rage—as the Hon. Mr Gilfillan suggested I should not do—because I think this, too, is an outrageous position which takes away from the equality in the workplace between employees and gives to those who are not members of a trade union a second class status. I do not believe that is appropriate; nor do I believe that it is conducive to a proper emphasis on occupational health, safety and welfare in the workplace.

The Hon. Diana Laidlaw: You're not necessarily getting the best qualified person for the job.

The Hon. K.T. GRIFFIN: That is correct, if you are giving priority to members of a union. It should be up to the employees in a designated work group to have available to them those employees who wish to seek the position of health and safety representative and then to be able to make

their choice as to which of two or more candidates is preferred. The deletion of paragraph *(b)* will enable that to occur. Later amendments will ensure that the election of a health and safety representative is carried out not by a trade union but by a person selected by agreement between a majority of the employees and, if they cannot agree, by a person nominated by the commission. So the object is to make it quite independent and impartial and to ensure that the employees control their own health and safety representative elections and get the person that they want. I am happy to support the amendment. As I have said, I have an identical amendment on file. I think it is an important and key amendment to the Bill.

The Hon. C.J. SUMNER: The amendment seeks to remove the involvement of trade unions from the election procedures of health and safety representatives. Such a move is out of touch with reality. In Victoria, of the 5 000 to 6 000 representatives appointed, less than 20 are non trade unionists. In the United Kingdom under Mrs Thatcher, no less, the involvement of trade unions in such elections is specifically provided for and recognised. The Government rejects the amendment.

Amendment carried.

The Hon. K.T. GRIFFIN: I move:

Page 16, lines 41 to 44 and page 17, lines 1 to 7—
Leave out subclause (3) and insert new subclause as follows:
(3) The conduct of an election of a health and safety representative shall be carried out by a person selected by agreement between a majority of the employees who comprise the designated work group that the health and safety representative is to represent or, in default of agreement, on application to the Commission, by a person nominated by the Commission.

As I indicated when I spoke on the amendment just carried, the conduct of the election of a health and safety representative is with a trade union. Subclause (3) provides for the conduct of an election where any employee at a workplace is a member of a trade union or, if employees are members of various trade unions, by all of those trade unions acting together (heaven forbid, but in some work places there may never be agreement and we may have constant demarcation disputes). Where there is no employee at a workplace who is a member of a trade union, it is to be conducted by a person selected by agreement between employees or, in default of agreement, by a person nominated by the Industrial Commission. My amendment, which is mirrored by an amendment proposed by the Hon. Mr Gilfillan, will take trade unions out of the conduct of elections (which would be a contentious issue) and give it to a person selected by agreement between a majority of employees who comprise the designated work group. If they cannot agree, it will be by application to the commission.

The Hon. I. GILFILLAN: I am in favour of the amendment, which we move in harness. I point out that it is more than likely that, where there is a significant number of union members, a majority of employees may well choose someone who comes from a registered association. That seems to us to be a satisfactory state of affairs and definitely improves the flexibility and working arrangement available, which would have been restricted as it is in the Bill.

The Hon. C.J. SUMNER: The Government opposes this amendment, as it does the whole package of amendments that the Democrats and the Liberals seem to be in accord on in relation to this particular topic. I want to make the Government's position clear: we oppose the amendments. However, in light of the indications from the Hon. Mr Griffin and the Hon. Mr Gilfillan, I see little point in dividing.

Amendment carried.

The Hon. K.T. GRIFFIN: I move:

Page 17—
Line 11—Leave out 'The' and insert 'Subject to subsection (5a), the'.
After line 13—Insert new subclause as follows:
(5a) The election must be carried out by secret ballot if any member of the designated work group so requests.

I think this is fair and reasonable and that no one can really quarrel with a request for a secret ballot.

The Hon. I. GILFILLAN: I am happy with that. They are identical with amendments that I have on file. Can I ask for your observations, Madam Chair on a matter? When there has been a duplicated amendment, I have not gone to great pains to make sure that I have personally announced it to the world so that it appears in *Hansard*. When you are introducing amendments or commenting on them, are you acknowledging that they are on file to both of us so that that is recorded.

The CHAIRPERSON: *Hansard* does not follow the official record that we have here.

The Hon. I. GILFILLAN: Does it take down what you say?

The CHAIRPERSON: *Hansard* only records what is said in the Committee.

The Hon. I. GILFILLAN: So, if you indicate that an amendment is on file to both myself and the Hon. Mr Griffin, that is recorded?

The CHAIRPERSON: I shall be happy to do so.

The Hon. I. GILFILLAN: I do not want to expose us to an attack for not being involved in these amendments.

The Hon. C.J. Sumner: The people out there must know that you have voted for it.

The Hon. I. GILFILLAN: I am discussing this matter with you, Madam Chair, not the Attorney-General. I see no point in my making a further point, if you are good enough to refer to the fact when amendments are discussed that they are on file to both of us. Would that be agreeable?

The CHAIRPERSON: I am happy to make that statement as it will certainly help speed up the procedures of the Committee. An amendment can only be moved by one person and, even though the Hon. Mr Gilfillan and the Hon. Mr Griffin have a number of identical amendments on file, as the Hon. Mr Griffin's were on file first he gets priority with the call to actually move them.

The Hon. I. GILFILLAN: I am not objecting to that. I am happy not to refer to the fact that we have these amendments on file if you are happy to do what we have said. Many of these amendments are perfunctory and it is merely a matter of agreeing to them: I am not going to make a speech on each one.

The CHAIRPERSON: I am quite happy to mention the Hon. Mr Gilfillan's name.

Amendment carried.

The CHAIRPERSON: The Hon. Mr Griffin and the Hon. Mr Gilfillan have an amendment to line 19.

The Hon. K.T. GRIFFIN: I move:

Page 17, line 19—Leave out 'a worker' and insert 'an employee'.

This amendment is consequential on the change from 'worker' to 'employee'.

Amendment carried.

The CHAIRPERSON: The Hon. Mr Griffin and the Hon. Mr Gilfillan both have amendments on file relating to lines 20 and 21.

The Hon. K.T. GRIFFIN: I move:

Page 17, lines 20 and 21—Leave out 'or any registered association of which such a worker is a member'.

This amendment is consequential on the earlier amendments being passed.

Amendment carried.

The Hon. K.T. GRIFFIN: My amendments to lines 21, 22, 23 and 26 are consequential on an earlier lost amendment, so I do not propose moving them.

Clause as amended passed.

Clause 29 passed.

Clause 30—'Term of office of a health and safety representative and disqualification.'

The CHAIRPERSON: There are amendments at page 18 from the Hon. Mr Gilfillan and one from the Hon. Mr Griffin which are not identical but which I suggest can be canvassed at the same time.

The Hon. K.T. GRIFFIN: I move:

Page 18, after line 2—Insert new subclause as follows:

(2a) If the composition of a designated work group is substantially varied, the health and safety representative representing the group ceases to hold office as such and a fresh election must be held.

My amendment is not identical with the one that the Hon. Mr Gilfillan has on file. Clause 30 deals with the term of office of a health and safety representative and the circumstances in which that representative may be disqualified and thereby cease to hold office. My amendment seeks to provide that if the composition of a designated work group is substantially varied the representative representing that group ceases to hold office as a representative and a fresh election is to be held. If there is any dispute as to when that occurs that is something which, of course, can be resolved, under the general review provisions of this Bill, by the Industrial Commission, as it is to be.

It seems to me that that is the preferable way of dealing with the matter rather than as proposed by the Hon. Mr Gilfillan. He depends upon an agreement for a further election to be held and in that event the safety representative is to resign and a fresh election must be held. That does not deal with the situation where there is no agreement. Presumably it would then go to the Industrial Commission. I will listen with interest to what he has to say on that subject. However, it does depend upon the representative actually resigning before the fresh election is held, whereas under my provision there is a virtually automatic vacancy created and a fresh election to be held. I therefore prefer my amendment.

The Hon. I. GILFILLAN: I move:

Page 18, after line 2—Insert new subclause as follows:

(2a) Where the composition of a designated work group is substantially varied and it is agreed at that time that a fresh election should be held to elect a health and safety representative, the health and safety representative who was representing that work group must resign and a fresh election must be held.

The reason for the variation of wording is that 'substantially varied' is not a precisely defined term and it seems to me that the group given responsibility for designating a work group—and we have dealt with a couple of amendments to the Bill already on that matter—can and should be in a position to make a judgment as to the degree of substantial variation and whether that variation would leave the previously elected safety representative in a position of perhaps not being representative for the role to carry on without a fresh election.

It is with that in mind that it ought not be automatic. The procedure of an election is not to be taken lightly and I feel that the alternative, which is embodied in my amendment, allows for a variation of the designated work group. Since we have entrusted those people who are making that decision with the responsibility of designating that work group, I feel it is appropriate that they should also have the responsibility of determining whether a fresh election should be held or not.

The Hon. C.J. SUMNER: The Government prefers the Democrats on this occasion.

The Hon. K.T. Griffin's amendment negatived.

The Hon.I. Gilfillan's amendment carried.

The Hon. K.T. GRIFFIN: I move:

Page 18, lines 7 to 9—Leave out paragraph *(b)*.

This amendment proposes to leave out paragraph *(b)*. Under this subclause an application for the disqualification of a health and safety representative may be made to the President of the Industrial Court for determination by a review committee. The Bill provides that the employer can make that application, a majority of the members of the designated work group can make the application or a trade union of which any member of the designated work group belongs may make that application.

My amendment is to remove the influence of the registered association and leave the right of request for a review to the employer or a majority of the members of the designated work group. It seems to me that maybe the Hon. Mr Gilfillan has inadvertently omitted to mirror this amendment in his own list of amendments, because I would have thought that it was to a large extent consequential upon the removal of the involvement of trade unions in the actual election of a health and safety representative. It seems to me that if a trade union is not involved in the election, there is no place for the trade union conversely to be involved in the disqualification. Accordingly, I hope that the Hon. Mr Gilfillan sees his way clear to support this amendment.

The Hon. I. GILFILLAN: Can I indicate, Mr Acting Chair, that I oppose the amendment?

Amendment negatived.

The ACTING CHAIRPERSON: Clause 30, page 18, lines 23 to 27 are amendments of both the Hon. Mr Griffin and the Hon. Mr Gilfillan.

The Hon. K.T. GRIFFIN: I move:

Page 18, lines 23 to 27—Leave out all words in these lines and insert new subparagraph as follows:

(ii) disclosed information (being information acquired from the employer) for an improper purpose.

This amendment proposes to leave out all words in these lines and to insert a new subparagraph. Subclause (4) deals with the grounds upon which a health and safety representative may be disqualified. Among those grounds are that the representative has disclosed information acquired from the employer intending to cause harm to the employer or a commercial business undertaking of the employer or is recklessly indifferent as to whether such harm is caused. I think that is too narrow and, if any information is disclosed, being information acquired from the employer for an improper purpose, that is a more appropriate basis upon which a representative may be disqualified.

The Hon. I. GILFILLAN: Mr Acting Chair, I remind you that a facilitating step that the President was using was to identify if the amendments were on file.

The ACTING CHAIRPERSON: I identified both the amendments.

The Hon. I. GILFILLAN: I am just reminding you of that. I indicate my support for the amendment.

The Hon. C.J. SUMNER: The Government opposes the amendment.

Amendment carried; clause as amended passed.

Clause 31—'Health and safety committees.'

The ACTING CHAIRPERSON: There are overlapping amendments of the Hon. Mr Gilfillan and the Hon. Mr Griffin; they are both allowed to canvass their amendments.

The Hon. K.T. GRIFFIN: I move:

Page 18, lines 42 and 43 and page 19, lines 1 and 2—Leave out subclause (1) and insert new subclause as follows:

(1) At the request of—

(a) a health and safety representative;

(b) a majority of the employees at a workplace;
or
(c) a prescribed number of employees at a workplace,
an employer shall, within 2 months of the request, establish one or more health and safety committees.

Clause 31 of the Bill deals with the formation of health and safety committees. Subclause (1), which I wish to replace, provides that if a representative or a prescribed number of workers should be employees, or a trade union representing one or more employees at the workplace make a request, within two months of the request the employer has to establish those committees. I wish to provide that the request may be made by the representative, by a majority of the employees at a workplace or a prescribed number of employees at a workplace may request the formation of the health and safety committee, and that request has to be complied with within two months. Again, it seems to me to be more appropriate to the theme of the Bill if employees control their own workplace and not be the subject of any intervention from trade unions. The Hon. Mr Gilfillan does not have a similar amendment on file, as far as I can see, and that worries me because I would have thought that this is an area where the principals ought to be the employer and employees and that the registered association or trade union has no place in making a formal request for the formation of such a committee. This gives an opportunity for the trade union to interfere with what is happening in the workplace with respect to the health and safety committees. I think it gives them a leg in the door, which is undesirable, and it is for that reason that I move my first amendment, to replace subclause (1).

The Hon. C.J. SUMNER: There is a series of amendments involved here of which this one is part. The amendment moved by the Hon. Mr Griffin attempts to remove the input of trade unions and, in this case, to eliminate their role in the formation and composition of health and safety committees. The Government considers that to be counterproductive and not in accordance with the realities of the workplace nor in accordance with the realities of the important role that trade unions have in representing workers in industrial organisations and elsewhere. Accordingly, it rejects the amendment.

The Hon. I. GILFILLAN: Based on closer scrutiny, I realise that the Hon. Mr Griffin's amendment appeals to me. I have an amendment on file to a subsequent subclause which I hoped would keep a consistency in our attitude to the involvement of registered associations, and that would be at the request of an employee. I indicate that I will support the Hon. Mr Griffin's amendment. I will speak to a subsequent amendment dealing with this matter, but it does give the union—the registered association—ready access, provided an employee of a union requires it.

Amendment carried.

The Hon. K.T. GRIFFIN: I move:

Page 19, lines 5 and 6—Leave out 'and any registered association of which a worker at the workplace is a member or, if there is no such registered association, the workers' and insert '(if any) and any other person appointed by a majority of the employees at the workplace, having regard to the guidelines published by the commission'.

To some extent this amendment is consequential on the amendment just carried. It follows the theme of my amendments and I think it is consistent with that later amendment to which the Hon. Mr Gilfillan has referred about consultation with trade unions in proposed subclause (2a). Basically, what I am proposing in this amendment is that the composition of the committee is determined by agreement between the employer, the health and safety representative and, if any, any other person is appointed by a majority of the employees at the workplace, having regard to the guidelines published by the commission. It ensures that there is adequate opportunity for employees at the workplace to be involved in the formation of those committees.

The Hon. I. GILFILLAN: There is a difference between the amendments on file (those of the Hon. Mr Griffin and myself) and I prefer mine. I shall vote against the Hon. Mr Griffin's amendment.

Amendment negatived.

The Hon. I. GILFILLAN: I move:

Page 19, lines 5 and 6—Leave out all words in these lines after 'and any' and insert 'interested employees'.

Amendment carried.

The Hon. I. GILFILLAN: I move:

Page 19, after line 6—Insert new subclause as follows:
(2a) If an employee is a member of a registered association, that registered association shall, at the request of the employee, be consulted in relation to the composition of a health and safety committee under this section.

My new subclause (2a) is to encourage and facilitate union involvement in discussion and it follows the pattern where that involvement requires the request of an employee.

The Hon. K.T. GRIFFIN: I have no real objection to this amendment.

Amendment carried.

The ACTING CHAIRPERSON (Hon. G.L. Bruce): The next consequential amendment has been moved by both the Hon. Mr Griffin and the Hon. Mr Gilfillan.

The Hon. K.T. GRIFFIN: I move:

Page 19, line 8—Leave out 'workers' and insert 'employees'.

Amendment carried.

The ACTING CHAIRPERSON: An identical amendment to lines 9 and 10 is on file by both the Hon. Mr Griffin and the Hon. Mr Gilfillan.

The Hon. K.T. GRIFFIN: I move:

Page 19, lines 9 and 10—Leave out subclause (4).

The question of publishing guidelines has already been dealt with earlier and accordingly this provision seems to be superfluous.

Amendment carried.

The Hon. K.T. GRIFFIN: I have on file amendments to page 19, lines 13, 15, 16 and 19 which are consequential to amendments lost earlier, and I do not propose to move them.

The ACTING CHAIRPERSON: There is an amendment of both the Hon. Mr Griffin and the Hon. Mr Gilfillan to page 19, line 29.

The Hon. K.T. GRIFFIN: I move:

Page 19, line 29—Leave out '2' and insert '3'.

Subclause (10) provides that a health and safety committee shall hold at least one meeting every two months: I think that is too frequent. I think that three months is adequate. If there is a problem, there are other procedures by which committees can be called together quickly.

Amendment carried.

The ACTING CHAIRPERSON: Page 19, lines 36 to 38—amendments are on file from both the Hon. Mr Griffin and the Hon. Mr Gilfillan.

The Hon. K.T. GRIFFIN: I move:

Page 19, lines 36 to 38—Leave out all words in these lines after 'and' in line 36 and insert 'a majority of the members of the committee who are employees'.

This is consistent with earlier amendments which have been carried. The composition of a health and safety committee may be varied by agreement between the employer and, if my amendment is carried, a majority of the members of the committee who are employees. It seems to me that that is more appropriate than putting the variation of the composition of the health and safety committee in the hands of the employer and the trade union. As I say, my amend-

ment is consistent with earlier amendments relating to the higher role of employees as such, rather than trade unions.

The Hon. I. GILFILLAN: I am in favour of the amendment and indicate that the reason for it is not an active measure to disqualify unions from having an input but, in these circumstances, the composition of the health and safety committee, it is appropriate that 'a majority of the members of the committee who are employees' should replace those words, and I indicate our support for it.

The Hon. C.J. SUMNER: The Government opposes it.

Amendment carried.

The ACTING CHAIRPERSON: Page 19, line 38—amendments are on file from the Hon. Mr Griffin and the Hon. Mr Gilfillan.

The Hon. K.T. GRIFFIN: I move:

Page 19, after line 38—Insert new subclause as follows:

(12a) In addition to the other matters provided by this section, the regulations may make provision for—

(a) the term of office of a member of a health and safety committee;

(b) the disqualification of a person from acting, or continuing to act, as a member of a health and safety committee;

(c) the appointment of a person to a casual vacancy in the membership of a health and safety committee.

It seems to me appropriate that there be a regulation making power to try to establish some reasonable and uniform standards which might apply to these matters.

Amendment carried; clause as amended passed.

Clause 32—'Functions of health and safety representatives.'

The ACTING CHAIRPERSON: Both the Hon. Mr Griffin and the Hon. Mr Gilfillan have amendments to page 19, line 44.

The Hon. K.T. GRIFFIN: I move:

Page 19, line 44—Leave out 'workers' and insert 'employees'.

Amendment carried.

The Hon. K.T. GRIFFIN: I move:

Page 19, line 46—Leave out 'the workplace' and insert 'any workplace where an employee in the designated work group that the health and safety representative works'.

My amendment deals with the power of a health and safety representative to inspect the workplace. Paragraph *(a)* provides that such a health and safety representative may inspect the whole or any part of the workplace. My amendment seeks to limit that to 'any workplace where an employee in the designated work group that the health and safety representatives works', so that we do not have a situation where, in a large operation particularly, we have health and safety representatives from different parts of the plant all with a right as a health and safety representative to move around the plant to areas which are not the areas which that person represents.

It seems to me that a quite ludicrous position can be arrived at where a whole train of health and safety representatives would have access to every part of a plant and would be able to accompany an inspector during inspection of the whole workplace, not just in relation to the area which that person represents. I am seeking to place some limits on the power of a representative to move around areas which are not within the areas where that person works.

The Hon. I. GILFILLAN: I indicate to members that I will be moving to insert new subclause (3a) after line 30, which reads:

The powers and functions of a health and safety representative under this Act are limited to acting in relation to the designated work group that the health and safety representative represents.

That restricts reasonably the activities of a health and safety representative to the area of his or her responsibility, but that may well mean that that person needs to take an interest and move into areas of the workplace that are outside the constraints of the Hon. Mr Griffin's amendment, '. . . the designated work group that the health and safety representative works.' It is for that reason that I oppose this amendment as being too restrictive, and indicate that a sensible definition of the area is intended in my amendment after line 30. I oppose the amendment.

The Hon. C.J. SUMNER: The Government opposes this amendment in that it restricts the health and safety representative to the physical area of his or her designated work group's workplace. The safety risks or hazards which affect a work group may originate in or from other areas and, therefore, the health and safety representative cannot be restricted to his or her location only. That seems to have been accepted by the Hon. Mr Gilfillan, so we will oppose the amendment of the Hon. Mr Griffin. Although we do not really consider the Hon. Mr Gilfillan's amendment necessary, we will support it, as it seems to be the only option.

Amendment negatived.

The Hon. K.T. GRIFFIN: I move:

Page 20, line 10—Leave out paragraph *(b)* and insert:

(b) accompany an inspector during an inspection of the workplace where—

(i) the inspector is at the workplace to resolve a health, safety or welfare issue or dispute;

or

(ii) the inspector requests the assistance of the health and safety representative;.

I move this amendment on the basis that a health and safety representative may accompany an inspector during an inspection of the workplace where the inspector is at the workplace to resolve a health, safety or welfare issue or dispute, or the inspector requests the assistance of the health and safety representative. The Bill allows a representative to accompany an inspector during an inspection of the workplace for whatever purpose, whether related to the designated work group or not. This could mean in practice that health and safety representatives in a particular working environment would then have a right to accompany an inspector on an inspection of the whole workplace, regardless of whether or not it had any impact on the area which that particular representative represented. So, my amendment is to limit the right of the representative to accompany an inspector in circumstances which I believe to be reasonable.

The Hon. I. GILFILLAN: I oppose the amendment. I think it is unnecessary because subclause (1) would already have an effect on paragraph *(b)*, so there already is a restriction.

The Hon. C.J. SUMNER: The Government opposes the amendment for the same reason.

Amendment negatived.

The ACTING CHAIRPERSON: The Hon. Mr Griffin and the Hon. Mr Gilfillan have the same amendments on file in relation to page 20, line 12.

The Hon. K.T. GRIFFIN: I move:

Page 20, line 12—Leave out 'workers' and insert 'employees'.

Amendment carried.

The ACTING CHAIRPERSON: The Hon. Mr Griffin and the Hon. Mr Gilfillan have the same amendments on file in relation to page 20, line 13.

The Hon. K.T. GRIFFIN: I move:

Page 20, line 13—Leave out 'unless the worker objects' and insert 'at the request of the employee'.

Again, we are dealing with the functions of a health and safety representative. Subclause (1) *(d)* provides that, unless the worker objects a representative is entitled to be present

at any interview concerning occupational health, safety or welfare between an inspector and an employee (or a 'worker' as the Bill presently provides). That means that there is a right to be present unless that worker objects. I think that that places the employee in a somewhat difficult position and I prefer the reverse situation—that the representative can be present if the employee requests it. It gets much easier for a request to be made than an objection to be made. In those circumstances I believe that my amendment corrects what I perceive to be an imbalance in this particular paragraph of the Bill.

The Hon. I. GILFILLAN: My amendment does the same thing, and I support the amendment before the Chair.

The Hon. C.J. SUMNER: The Government opposes the amendment. This is an unacceptable reversal of the approach adopted in the Bill in relation to worker safety representatives being involved in interviews by inspectors involving workers. The danger with the amendment is that the employers may place pressure on workers not to make such a request.

Amendment carried.

The ACTING CHAIRPERSON: The Hon. Mr Griffin and the Hon. Mr Gilfillan have identical amendments in relation to page 20, line 15.

The Hon. K.T. GRIFFIN: I move:

Page 20, line 15—Leave out 'a worker' and insert 'an employee'.

Amendment carried.

The ACTING CHAIRPERSON: The Hon. Mr Griffin and the Hon. Mr Gilfillan have identical amendments in relation to page 20, line 16.

The Hon. K.T. GRIFFIN: I move:

Page 20, line 16—Leave out 'unless the worker objects' and insert 'at the request of the employee'.

This amendment is similar to the amendment that has just been carried and relates to an interview between the employer and an employee.

Amendment carried.

The ACTING CHAIRPERSON: The Hon. Mr Griffin and the Hon. Mr Gilfillan have identical amendments in relation to page 20, line 18 and line 26.

The Hon. K.T. GRIFFIN: I move:

Page 20—
Line 18—Leave out 'a worker' and insert 'an employee'.
Line 26—Leave out 'worker' and insert 'employee'.

Amendments carried.

The Hon. I. GILFILLAN: I move:

Page 20, after line 28—Insert new subclause as follows:

(2a) Subsections (1) and (2) are subject to the following qualifications:

(a) a health and safety representative is only entitled to be accompanied on an inspection by a consultant approved by—

(i) The commission;

(ii) a health and safety committee that has responsibilities in relation to the designated work group that the health and safety representative represents;

or

(iii) the employer;

and

(b) a health and safety representative should take reasonable steps to consult with the employer in relation to carrying out an investigation of the workplace and the outcome of any such investigation.

This amendment is to define the consultants that a health and safety representative can get to undertake inspections and tours of the workplace. We believe that paragraph *(a)* recognises that consultants can and should have a right to thoroughly assess the details of the work area and should be approved and accepted as being competent and of assistance by other than the safety representative. We believe that paragraph *(b)* provides for the sort of courtesy that will encourage better rapport between the employer and the health and safety representative. There will be a more efficient use of the time spent if there is an undertaking that the knowledge and experience of the inspection is shared with the employer.

The Hon. C.J. SUMNER: The Government opposes the amendment. It places unnecessary restrictions on the use of consultants. The Bill requires that such persons be appropriately qualified or experienced, provided that they can show proof of this. If an employer queries the matter they should be allowed to accompany a safety representative on an inspection. The use of consultants places workers on more of an equal footing with management in terms of the knowledge of hazards in a particular workplace. The amendments are seeking to restrict workers' rights to alternative sources of information on the hazards in their workplace. They seem quite unreasonable.

The Hon. K.T. GRIFFIN: There should be some clarification as to who may be a consultant. I think it is proper for that to be specified in the Bill. I intend to do it after line 37 in a much more restrictive way and identify consultants as those who are approved by the commission to act as a consultant for the purposes of the clause. I prefer that amendment. The Hon. Mr Gilfillan's provision is too wide and allows a health and safety representative to be accompanied on an inspection by a consultant approved by the commission, by the health and safety committee or by the employer. I think that is too wide. If there are to be consultants they ought to have their credentials validated by the the Occupational Health and Safety Commission. For that reason I will not support the Hon. Mr Gilfillan's amendment but will proceed with my amendment after line 37.

The Hon. I. GILFILLAN: It may help the Hon. Mr Griffin to grapple with the dilemma if I indicate that I will oppose his amendment. If he wishes to have any credentials for consultants I invite him to reconsider his attitude to my amendment.

The Hon. K.T. GRIFFIN: I cannot follow the logic in what the Hon. Mr Gilfillan says. I certainly understand the implications in what he says, but the logic escapes me. If his amendment is not accepted and he does not accept my amendment, I would have thought that there would be no restriction—

The Hon. C.J. Sumner: We'll recommit the clause.

The Hon. K.T. GRIFFIN: I still oppose the amendment. My amendment is limited to a consultant approved by the commission.

The Hon. C.J. SUMNER: We have reluctantly noticed the reality of the situation and I must switch my vote.

Members interjecting:

The Hon. C.J. SUMNER: We would not have introduced the Bill in its present form if we did not think that this was the best approach. However, with the numbers as they are and, overwhelmed as I am by the situation, I have no alternative but to accept the best option, which happens to be the Hon. Mr Gilfillan's and not the Hon. Mr Griffin's.

Amendment carried.

The Hon. K.T. GRIFFIN: I move:

Page 20, after line 30—Insert new subclause as follows:

(3a) The powers and functions of a health and safety representative under this Act are limited to acting in relation to the designated work group that the health and safety representative represents.

I think the amendment provides an appropriate limitation.

The Hon. I. GILFILLAN: My amendment is identical, so I support the Hon. Mr Griffin's amendment.

The Hon. C.J. SUMNER: The Government opposes the amendment.

Amendment carried.

The Hon. K.T. GRIFFIN: I move:

Page 20, after line 30—Insert new subclause as follows:

(3b) A health and safety representative representing a particular work group is, in the performance of his or her functions under this Act, subject to the general direction of a health and safety committee that has responsibilities in relation to the same work group.

I think this is an important amendment. Regardless of what people may think of my later amendments to clauses 35 and 36, it seems to me that it is appropriate for committees (if there are committees), because of their representative nature and wider forum, to give general direction to the health and safety representatives in the performance of their functions. I think it is a good check and balance on an over-enthusiastic representative or a representative who seeks to abuse his or her powers. I think also that there would be an advantage for the representative and for the promotion of health and safety in the work environment if there were a broadly representative body with more than an advisory role so that it could exercise some responsibility. That body should be the health and safety committee. I think it is an important amendment.

The Hon. I. GILFILLAN: This is a significant issue. I oppose the amendment. Incidentally, the previous amendment to insert new subclause (3a) was on file as my amendment. I consider that that is a helpful and useful definition of the area in which a health and safety representative should work. However, this amendment to insert new subclause (3b) reverses what I see as a very effective and heavy responsibility that health and safety representatives will carry. It is for that reason that some of my later amendments recognise that responsibility in penalties where a substantial abuse of power is proved. However, if our aim is to create a safer workplace, there is certainly a very strong argument that a health and safety representative will have the power to make an instant decision on his or her initiative.

Therefore, I think this amendment makes that ineffective. Although it is quite a brave departure from what has been previous practice, I think the advantages of reducing potential accidents is appreciable in this Bill and that ability would be dramatically diminished if this amendment were carried. I oppose the amendment.

The Hon. K.T. GRIFFIN: I still regard it as a matter of some significance. If I lose on the voices, I will not call a division because I can see that I do not have the numbers. I think that the sharing of responsibility does not prejudice the capacity of a representative to act quickly. It merely ensures that there are some checks and balances on an abuse of power.

Amendment negatived.

The ACTING CHAIRPERSON: Both the Hon. Mr Gilfillan and the Hon. Mr Griffin have amendments after line 33. Are they the same amendments?

The Hon. K.T. GRIFFIN: No, Mr Acting Chairperson, there is an important difference. I move:

Page 21, after line 33—Insert new subclause as follows:

(4a) Where a health and safety representative exercises or performs a power or function under this Act for an improper purpose intending to cause harm to the employer or a commercial or business undertaking of the employer, the health and safety representative is guilty of an offence.

Penalty: Division 6 fine.

My amendment seeks to provide for an offence and a division 6 fine, if a health and safety representative exercises or performs a power or function for an improper purpose with the intention of causing harm to an employer or a commercial or business undertaking of an employer. That has been included because we want to guard against an abuse of power, and the use of occupational health and safety powers for industrial and other purposes.

The powers of this representative will be quite wide and unless there are suitable disincentives to abuse of that power the very real temptation is to abuse it. My information is that in Victoria, where safety representatives have very wide powers under new legislation in that State, the current record is that there is one occasion at least each week where it is regarded that the representative abuses the power and responsibility conferred on him. I think that this penalty provision will appropriately guard against that sort of abuse of power in addition to the other matters which I deal with in later clauses. Although I have moved my amendment, I am interested in the additional provision in the Hon. Mr Gilfillan's amendment and may reconsider my position once I have heard his position explained.

The Hon. I. GILFILLAN: I move:

Page 21, after line 33—Insert new subclause as follows:

(4a) Where a health and safety representative exercises or performs a power or function under this Act—

(a) for an improper purpose intending to cause harm to the employer or a commercial or business undertaking of the employer;

or

(b) for an improper purpose related to an industrial matter, the health and safety representative is guilty of an offence.

Penalty: Division 6 fine.

The reason for this amendment is similar to that of Mr Griffin's for paragraph *(a)*. I remind honourable members that in arguing for the particular right of a safety representative to have the authority and automatic power of quite profound decision making in the workplace, that ought to be accompanied by the conditions outlined in this new subclause with a commensurate penalty. The penalty involves a maximum—and I repeat maximum—fine of $5 000. I hope and believe that the incidence of abuse will be minimal and will be restricted to people who from time to time very quickly prove to be an unsatisfactory choice and who will be quickly replaced by others who will deal with their responsibilities conscientiously and honestly. I fervently believe that that will happen. However, to reassure employers, and for the sake of justice and fair play, it is important that this clause and its penalties go in. The reason for paragraph *(b)* is that there may be an intention of abuse or improper purpose which is not identified clearly to harm the employer or commercial or business undertaking of the employer, although a side effect might be that, but the prime intention may be involvement in an industrial dispute. I think it would be tragic if those who hold the responsibility of safety representative were tempted to use their powers in any way related to an industrial matter and that is why I have included paragraph *(b)* in my amendment.

The Hon. K.T. GRIFFIN: I am happy to withdraw my amendment to allow the Hon. Mr Gilfillan's to proceed. I think that there is an advantage in the additional paragraph that he has in his amendment, so I seek leave to withdraw my amendment.

Leave granted; the Hon. K.T. Griffin's amendment withdrawn.

The Hon. C.J. SUMNER: The Government opposes this amendment and would have opposed both amendments had Mr Griffin proceeded with his, which would have been preferable to that of the Hon. Mr Gilfillan. However, as they now seem to have joined forces, the Government opposes the amendment *in toto*. This new subclause would remove the indemnity granted to a health and safety representative and should be rejected by the Committee. The problem with this sort of situation in the Bill is that there is a great disincentive on people to take the job—that is the reality of the situation. Disqualification is severe enough.

Where a worker representative did step outside the proper functions of the office that worker could be open to dismissal and a civil damages action, so a further penalty would be unfair.

As to the Hon. Mr Griffin's accusation that there is a weekly occurrence of worker representatives abusing their positions, that is certainly not the information that has been provided to the department. As I indicated in my second reading response, in Victoria since the commencement of the new occupational health and safety laws in October 1985 there have been 13 work cessations ordered by worker safely representatives to the knowledge of the Department of Industrial Relations in that State. Of those, only one has proved not to have been founded on a reasonable basis and that involved an overreaction to an asbestos scare problem where levels were found not to be endangering the workers involved. However, that is an area where there is a lot of justified emotion and concern. That is the information from Victoria, which does not match up with what the Hon. Mr Griffin has said. I think that this does have the capacity to severely undermine the legislation and the role of the health and safety representatives: in effect, it is an inbuilt intimidation in the legislation. On that basis, the Government opposes the amendment.

Amendment carried.

The Hon. K.T. GRIFFIN: It is not appropriate for me to now move my amendment to line 37, in light of the Hon. Mr Gilfillan's amendment passing.

Clause as amended passed.

Clause 33—'Functions of health and safety committee.'

The Hon. K.T. GRIFFIN: I move:

Page 20—
Line 39—Leave out 'workers' and insert 'employees'.
Line 42—Leave out 'workers' and insert 'employees'.
Line 46—Leave out 'workers' and insert 'employees'.

Amendments carried.

The Hon. K.T. GRIFFIN: I move:

Page 21, line 3—Leave out 'consult with the employer on any' and insert 'assist in the formulation of'.

This amendment is related to the functions of a health and safety committee and paragraph (d) refers to the function of consulting with the employer on any proposed changes to occupational, health safety or work practice procedures or policies. It seems to me to be more appropriate to provide for the committee to assist in the formulation of any proposed changes to occupational health, safety or welfare practices, procedures or policies, which gives it, in my view, a more positive role than merely consultation with the employer, which suggests that it is the employer who is principally responsible for the development of these practices, procedures or policies. The emphasis on assistance is, in my view, a wider responsibility.

The Hon. I. GILFILLAN: I am not persuaded of the need for this amendment and oppose it.

The Hon. C.J. SUMNER: The Government rejects the amendment.

Amendment negatived.

The CHAIRPERSON: At line 21 both the Hon. Mr Griffin and the Hon. Mr Gilfillan have an amendment on file. I suggest that they be discussed together.

The Hon. K.T. GRIFFIN: I move:

Page 21, lines 6 to 11—Leave out paragraph *(e)* and insert new paragraph as follows:

(e) to assist—

(i) in the return to work of employees who have suffered work-related injuries;

and

(ii) in the employment of employees who suffer from any form of disability;.

Again we are dealing with the functions of a health and safety committee and under the present paragraph *(e)* the committee is to keep under review developments in the field of rehabilitation of workers who suffer work-related injuries, and the employment of employees who suffer from any form of disability.

My amendment assists in the return to work of employees who have suffered work-related injuries and in the employment of employees who suffer from any form of disability. It seems to me that it is more appropriate for a health and safety committee to assist in the return to work of employees who have suffered work-related injuries and to assist in the employment of employees who have suffered any form of disability than it is to merely keep under review developments in the field of rehabilitation and employment.

The mere fact of keeping under review does not do anything, I would suggest, of a positive nature. It is merely a general brief to keep an eye on what is happening in the field generally without giving the committee any responsibility at all to be involved in rehabilitation or employment of disabled workers. I think it is quite appropriate for a committee to have the wider power that I seek to give to it. It is positive; it does something realistic; and it does something more than just look at the general field of rehabilitation and employment. I hope my amendment will be supported because it is a much broader and more positive paragraph in the list of functions of the committee.

The Hon. I. GILFILLAN: On the face of it, I am not persuaded to support the amendment. I acknowledge that the purpose of Mr Griffin's amendment is reasonable. I have an amendment on file stating 'review and report on'. I ask myself, 'report on to whom?' I am not sure to whom they will be reporting so I am probably leaving myself open to criticism of my own amendment. 'Report on' is certainly better than the vague term 'reviewing' because at least there is something tangible that can be shared with the employer and, one would hope, the committee. The actual wording in Mr Griffin's amendment is not going to allow for what I consider is equally important—to keep records and to have a report on these areas made available to those who would find it substantially interesting. The committee and obviously the employer should be taking note of it.

The Hon. K.T. GRIFFIN: Paragraph *(e)* does not say that the committee has to keep under review what happens in the field of rehabilitation in the workplace for which the health and safety committee is responsible. It is just an airy-fairy general provision which says they have got to keep under review developments, wherever they occur—Canada, United Kingdom, New Zealand or wherever—in the field of rehabilitation of workers and the employment of workers who suffer from any form of disability. But what do they do with that information once they have got it? How widely do they keep it under review? I think this opens up a Pandora's box in the sense that they can request information from a whole range of areas or a whole range of countries, which might be interesting in the field, but it does not require them to do anything more than be familiar with them. It does not require them to apply the knowledge; it does not require them to assist in their own workplace with rehabilitation; it is just a general provision, which might be interesting, but is certainly, in my view, a positive obligation which is practical and related to a responsibility in the particular workplace. That is why I think that my amendment provides for a specific task which is related to the workplace and will certainly be relevant to the area of work-related injuries.

The Hon. I. GILFILLAN: I invite the Hon. Mr Griffin to consider whether he would vary the wording of his

amendment: 'To assist in and report on' and then delete 'in' in both those subparagraphs. If that was the case, I would be prepared to support his amendment.

The Hon. K.T. GRIFFIN: I would be delighted to do that. I seek leave to amend my amendment to read:

Page 21, lines 6 to 11—Leave out paragraph *(e)* and insert new paragraph as follows:

(e) to assist in and report on—

(i) the return to work of employees who have suffered work-related injuries;

and

(ii) the employment of employees who suffer from any form of disability;

Leave granted.

The Hon. C.J. SUMNER: The Government's proposal is clearly a better one as it is much broader than that of the Hon. Mr Griffin and now the amendment that is going to be passed as a result of this.

The Hon. I. Gilfillan: You explain what you mean by 'under review'.

The Hon. C.J. SUMNER: What do you think 'under review' means? It is used in this place every day of the blooming week. I am surprised that after all your years in politics you have not worked it out. Politicians and Governments have things under review all the time.

The Hon. I. Gilfillan: The *Financial Review* is reviewing finance. It is a completely innocuous clause as it is now.

The Hon. C.J. SUMNER: What it provides for is that health and safety representatives and committees keep up to date with developments in the field of rehabilitation of workers who suffer work-related injuries with a view to assisting workers and employers in the development of—

The Hon. K.T. Griffin: It doesn't say that.

The Hon. C.J. SUMNER: What does the honourable member want us to do—write a book or something? This is an Act of Parliament. I would have thought it was fairly self-evident that that is what keeping 'under review' meant. As I said, it is broader than the Hon. Mr Griffin's proposal and it is broader than the belated amendment.

The Hon. I. Gilfillan: If you are happy, we'll put 'review' in as well.

The Hon. C.J. SUMNER: We were happy with the Hon. Mr Gilfillan's amendment but now he has gone to water. We prefer the wording in the Bill, of course, because we think it is more general. The Hon. Mr Griffin's amendment, now agreed to by the Hon. Mr Gilfillan, limits the role under this particular clause, but it looks as though that is water under the bridge now.

The Hon. T.G. ROBERTS: If there is a hope of convincing the Hon. Mr Gilfillan in an educated way, I point out that there are practical ways of applying information and reviewed information at a workshop level. You are not going to be able to legislate for the way people use that information but, if you restrict its ability to be applied by being restrictive in the form in which you draw up your legislation, then its broad application will be denied.

By keeping in paragraph *(e)* we are going to allow minds to develop ways in which the application of that knowledge will be applied. If the paragraph is left out, the provision will be restricted to 'rehabilitation', and it will provide for 'the return to work of employees who have suffered work-related injuries'. However, there are many other ways that one can apply knowledge developed in overseas countries. There is nothing there now.

The Hon. I. GILFILLAN: Certainly, I would not want the amendment to restrict in any way access to information. The material that the Hon. Mr Roberts says is important should be distributed automatically. Perhaps the optimum situation would be—

The Hon. C.J. Sumner: Why don't you keep our paragraph *(e)* and include your own paragraph? We would agree to that.

The Hon. I. GILFILLAN: It appears that constructive partial consensus is coming up. I suggest that the Hon. Mr Griffin no longer move to leave out paragraph *(e)* and that his paragraph be added.

The Hon. K.T. GRIFFIN: I take the point that it is important for committees and representatives to be alert to developments in the area of rehabilitation and the employment of workers who suffer any disability. That must be agreed. The difficulty with paragraph *(e)* is that it does not relate the review to the responsibility of the committee operating in the workplace. That may be implicit. I am partially agreeable to the proposal, except that paragraph *(e)* as it stands needs to be more specifically related to the application of those developments in the workplace. That is why I was critical of the words 'to keep under review'. That does not in any way relate it to the workplace for which the committee has responsibility. Perhaps we can develop a form of words that can be agreed as focusing on developments in the workplace and relate them to responsibilities of the committee, because I would go along with that. Presently it is too broad and vague. Perhaps the Attorney could postpone further consideration of this clause until later or recommit it at the end of the Committee stage with a view to resolving the difficulty.

The Hon. I. GILFILLAN: Perhaps on reflection the Hon. Mr Griffin will realise that this is not so essential. Even if it is reworded to 'keep under review relevant developments', someone will have to make a judgment or assessment of the material. Nothing will be achieved by trying to be particular about the change of wording and we could leave paragraph *(e)* as it is. It will not suddenly authorise the committee to go on world tours and the Hon. Mr Griffin's paragraph would be useful as an addition.

The Hon. T.G. ROBERTS: If we put in 'to keep under review and apply' it would get us into more trouble. If the Hon. Mr Griffin is saying that the relevant parts of that knowledge ought to be applied to rehabilitation or whatever work situation one is in, one then gets into more trouble than leaving the provision broad. It is left broad so that the relevant parts of rehabilitation developments can be applied to the workplace.

Similar industries overseas may be looking at similar rehabilitation methods in like industries world wide or even nationally and they would make some sort of comparisons on what information they would use. For instance, you would not have perhaps the chemical industry looking at the car industry for methods of rehabilitation, but you would have applications of, say, the principles of rehabilitation in the chemical industry, say, in Canada or North America, and hopefully making them apply in Australia. If we make it specific, we may have people in the car industry looking at rehabilitation applications for industries that do not have any significant relevance to our own industry. If it is left broad, common sense will prevail.

The Hon. K.T. GRIFFIN: I seek leave to withdraw my amendment.

Leave granted: amendment withdrawn.

The Hon. K.T. GRIFFIN: I move:

Page 21, line 6—After the word 'review' insert 'insofar as may be relevant to the particular workplace.'

The Hon. C.J. SUMNER: We do not accept it. It seems to me we are having an argument virtually about nothing. We think that the broader words are satisfactory and, as the Hon. Mr Roberts said, common sense will prevail. So, there is really no need to tie it down to the particular

workplace. In fact, it is unnecessarily limiting, and I think there is nothing wrong in the safety committees keeping a broad brief on rehabilitation of workers, etc.

Obviously, the primary focus will be insofar as it is relevant to the particular workplace. I do not think people want to run around finding work to do which is not relevant to what they are doing. As the honourable member says, in the chemical industry the health and safety committee representatives are hardly likely to be wanting to keep under review developments in some completely unrelated industry.

The Hon. I. GILFILLAN: If the Government feels uncomfortable with the word 'relevant' it is in fact part of what I argued before, that someone has to do the reviewing to find out which will be relevant, so I do not see that it will achieve very much. I hope we can get over this and digest both. There does not seem to be any objection—or, at least, I do not read it as any objection—to what the Hon. Mr Griffin has in his amendment—just that there is resentment that it was going to chop out paragraph *(e)*. Why do we not accept them all?

The Hon. C.J. Sumner: We accept *(e)*—now *(ea)*. We just do not think the words added in *(ea)* are necessary.

The Hon. K.T. GRIFFIN: I say that they are necessary, and my original objection to paragraph *(e)* was that it was too vague and needed to be related more to the responsibilities of the safety committee in the workplace for which they have responsibility. It seemed to me that the amendment which I have just moved, to ensure that they keep under review, insofar as may be relevant to the particular workplace, focuses on those developments in the field of rehabilitation and employment of employees who suffer from any form of disability to the workplace, in the area for which the committee has responsibility. That is a reasonable focus and that is what it is designed to do. Otherwise, even though the Attorney-General says they are not going to look around for work, the fact is they will be entitled to do it and will be entitled to range far and wide under this very general power and function referred to in paragraph *(e)*. So, I would adhere to my amendment to qualify *(e)*.

The Hon. I. GILFILLAN: I oppose the wording, as it is unnecessarily restrictive and will not work, anyway, as a safety committee will look across the board and will pick up what is relevant. We can incorporate the advantages of the Hon. Mr Griffin's amendment by having paragraph *(ea)*. That is the way in which I will vote.

Amendment negatived.

The Hon. I. GILFILLAN: I move:

Page 21—
Line 7—Leave out 'workers' and insert 'employees'.
Line 10—Leave out 'workers' and insert 'employees'.

Amendments carried.

The Hon. K.T. GRIFFIN: I move:

Page 21, after line 11—Insert new paragraph:
(ea) to assist—
(i) in the return to work of employees who have suffered work-related injuries;
and
(ii) in the employment of employees who suffer from any form of disability;.

Amendment carried; clause as amended passed.

Clause 34—'Responsibilities of employers to health and safety representatives and committees.'

The Hon. K.T. GRIFFIN: I move:

Page 21, line 29—Leave out 'health and safety representatives and'.

My focus is on the committees and changing the emphasis that an employer is to consult with health and safety committees and, if appropriate, health and safety representatives, rather than making it mandatory to consult both with representatives and the committee. To some extent it is consequential on amendments that I have previously lost, but I still move it.

The Hon. I. GILFILLAN: We oppose it.

Amendment negatived.

The Hon. K.T. GRIFFIN: The first part of the amendment that I have on file is consequential, and I will therefore not move it. I move:

Page 21, line 30—Leave out 'the workplace' and insert 'any workplace that is under the management and control of the employer'.

The amendment tries to limit the consultation with the health and safety representatives and health and safety committees to any proposed changes relating to a workplace that is under the management and control of the employer. It would seem that with the wide definition of 'workplace' we could end up with some part of a workplace that is not under the management and control of an employer who has the health and safety representatives and health and safety committees. Therefore, it is appropriate to limit the responsibility of the employer to consultation in respect of those workplaces under his or her management and control.

The Hon. I. GILFILLAN: We oppose it.

Amendment negatived.

The Hon. K.T. GRIFFIN: I move:

Page 21, line 35—Leave out 'workers' and insert 'employees'.

Amendment carried.

The Hon. K.T. GRIFFIN: My proposed amendments in relation to lines 36, 37, 40, 41 and 43 seem to contain the same principle that was voted on in relation to paragraph *(a)*, and I was not successful there. Therefore, there is no point in my moving these amendments.

The CHAIRPERSON: The Hon. Mr Griffin and the Hon. Mr Gilfillan have the same amendments on file in relation to the next proposed amendment, which is to page 22, line 1.

The Hon. K.T. GRIFFIN: I move:

Page 22, line 1—Leave out 'unless the worker objects' and insert 'at the request of the employee'.

This amendment is consistent with earlier amendments moved to clause 32 and identifies responsibilities of employers to health and safety representatives and committees. This is the converse of the earlier provision where we deleted 'unless the worker objects' and inserted 'at the request of the employee'.

Amendment carried.

The Hon. K.T. GRIFFIN: I move:

Page 22, line 4—Leave out 'a worker' and insert 'an employee'.

Amendment carried.

The CHAIRPERSON: The Hon. Mr Griffin and the Hon. Mr Gilfillan have the same amendment on file in relation to the next proposed amendment, which is to page 22, line 10.

The Hon. K.T. GRIFFIN: I move:

Page 22, line 10—After 'workplace' insert 'where employees in the designated work group that the health and safety representative represents work'.

This amendment relates to the power of a health and safety representative to have access to information of the employer relating to risks that arise or may arise at any workplace out of work conducted at the workplace or out of plant or substances used at the workplace. I believe it is important with respect to access to information that the access be limited to the workplace where employees in the designated work group that the health and safety representative represents work. I do that because, otherwise, one will have, in larger workplaces, the safety representatives having access to all sorts of information which may have no relevance to

their particular responsibility with respect to a designated work group or that part of the workplace where that designated work group works. I am attempting to limit the accessibility to information, but not to those who are legitimately entitled to it and have a reasonable right and need for it.

The Hon. I. GILFILLAN: This is certainly not an unfairly restrictive measure. I have on file an amendment the same as the Hon. Mr Griffin's. If the risk arises from somewhere other than the workplace where the group that the representative represents works, this still enables that person to have access to that relevant information. It may appear as if it is restrictive to the point that it can only give access to information relating specifically to that workplace, but that is not my understanding. I think that a reading of that clause as amended would still show that where there was a risk the relevant information would be available and the health and safety representative would have access to it. I support the amendment.

Amendment carried.

The Hon. K.T. GRIFFIN: I move:

Page 22—
Line 14—Leave out 'workers' and insert 'employees'.
Line 16—Leave out 'a worker' and insert 'an employee'.
Line 17—Leave out 'worker' and insert 'employee'.
Line 23—Leave out 'worker' and insert 'employee'.
Line 26—Leave out 'a worker' and insert 'an employee'.

These amendments are consequential.

Amendments carried.

The Hon. K.T. GRIFFIN: I move:

Page 22, after line 31—Insert new subclause as follows:
(1a) An employer is not required to give prescribed information to a health and safety representative under subsection (1) *(g)*.

I hope that the Attorney will accept the proposal to insert new subclause (1a). It relates to prescribed information, which, as honourable members may remember, was defined as information that is privileged on the ground of legal professional privilege, information that would tend to incriminate the person who has the information of an offence; and information that is relevant to proceedings that have been commenced under this legislation.

I believe it is important and consistent with the acceptance by the Attorney-General of the principle that I have included in the definition of 'prescribed information'. Access to information should be subject to the three principles defined as 'prescribed information'. Whether it is a safety representative, the commission or a committee of review, it is appropriate to include this protection.

The Hon. C.J. SUMNER: The only concern may be that this could unreasonably limit a worker safety representative's access to information where an employer could just refuse to provide any information on the basis that it might incriminate.

The Hon. K.T. GRIFFIN: I would have thought there were dispute resolution provisions in the Bill which overcame that hesitation. Someone has ultimately to determine whether the prescribed information has in fact been satisfied by the employer's claim. That happens whether it is a court of review, the Industrial Commission or whatever. Someone must ultimately rule on it.

The Hon. C.J. SUMNER: There is some concern with that. I do not know about the Hon. Mr Gilfillan. I understand the principle that the Hon. Mr Griffin is putting, but in this sort of environment you could end up with a situation where an employer says that he will not provide any information relating to an unsafe piece of equipment on the basis that it might incriminate the employer; the worker safety representative would then not be in a position to advise the members or enter into any sensible negotiations with the employer about what he might consider to be an unsafe piece of plant or whatever. That is the problem and that is the concern that has been expressed. Maybe there is an alternative way of going about the matter. At the present time, as I understand it, the Department of Labour and Industry inspectors can get information from employers about industrial accidents. They prepare reports which often have incriminating photographs, and I do not think there is any restriction on their capacity now to get photographs of things.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: There may be—I just gave that as an example. I have not done one of these for a while, but my recollection of an industrial accident report from the Department of Labour and Industry was that it contained a lot of information, including statements and the like. That often contained incriminating information that had been provided by the employer because the employer was forced to provide it once an industrial accident had occurred. This is a slightly different situation in that there may not have been an industrial accident but there may be the potential for one. I would have thought a restriction on information provision in that context was even less defensible than that currently applying to the Department of Labour and Industry's access to information if the honourable member's argument was accepted.

The Hon. I. GILFILLAN: I am concerned about paragraph *(b)*. I think that that would frustrate what has been part of the intention of the Bill. It seems acceptable, on the face of it, that paragraph *(a)*, relating to information that is privileged on the ground of legal or professional privilege, should be excluded from access by health and safety representatives; the same applies to paragraph *(c)*, if there are proceedings under the Act. I think I heard the Attorney (or maybe it was Mr Griffin) say that he felt that relevant information would be made available to the tribunal or the Industrial Commission, anyway.

It appears to me to be rather difficult if those three factors are to be taken together, because in *(b)* I quite clearly oppose any means whereby an employer can avoid making that important information available on that ground.

Progress reported; Committee to sit again.

[*Sitting suspended from 5.55 to 7.45 p.m.*]

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 4)

Adjourned debate on second reading.

(Continued from 25 November. Page 2251.)

The Hon. R.I. LUCAS: I rise to speak briefly on this matter. I indicate my broad support for the second reading of the Bill. I indicate that I will be addressing a number of questions to the Minister during the Committee stages of this Bill in relation to amendments to the voting or electoral system included in the Bill under clause 13, which repeals section 100 of the principal Act, and substitutes the following section:

100. (1) A person voting at an election (whether the election is held to fill one vacancy or more than one vacancy) shall make a vote on the ballot paper—

(a) where the method of counting votes applying at the election is the method set out in section 121 (3)—by placing the number 1 in the square opposite the name of the candidate of the voter's first preference and, if the voter so desires, by placing the number 2 and consecutive numbers in the squares opposite the names

of other candidates in the order of the voter's preference for them;

(b) where the method of counting votes applying at the election is the method set out in section 121 (4)—by placing consecutive numbers beginning with the number 1 in the squares opposite the names of candidates in the order of the voter's preference for them until the voter has indicated a vote for a number of candidates not less than the number of candidates required to be elected.

On comparing that provision with the provisions in the principal Act the only difference I can see is that Parliamentary draftsperson are using non-sexist language in drafting this particular provision. This is the point that I think the Hon. John Burdett raised in a debate on an earlier Bill. I seek confirmation from the Minister that the only change to sections 100 (1) *(a)* and *(b)* of the principal Act is the inclusion of non-sexist language: that is, instead of saying 'his vote' the term 'voter' is used all the way through those particular provisions.

That is my reading of the Bill, and I do not believe that any substantive change is made to that part of the Act. New section 100 (2) introduces a substantive change to the voting system for local government. It provides:

A tick or cross appearing on a ballot paper is equivalent to the number 1.

That is a new provision in the Local Government Act. Those members who survived some 30 hours of debate in this Chamber in relation to amending the State Electoral Act relating to the voting system for State members of Parliament will recall that this was one of many provisions that attracted much controversy during the debate at that time. I still have reservations about supporting in any electoral system the notion of a tick or cross appearing on a ballot-paper as being equivalent to the number 1.

I indicated during the debate on the State Electoral Bill that one of the problems that I foresaw as a result of scrutineering the Senate voting at the last Federal election was the possibility that a number of voters would put the figure 1 in a box and, as a number of voters do, they would neatly cross out each of the other boxes corresponding to the other candidates. I also indicated in that debate that I foresaw a number of voters invalidating that vote by that procedure and I hoped that it would not result in the loss of too many votes during the State election. The result of the scrutiny with which I was involved in the State election indicated that, once again, a small number of voters rendered their vote informal by a procedure which I am sure they really did not appreciate: namely, they put a number 1 in a box and they neatly crossed out all the other candidates for whom they had no wish to express a preference.

Under the State Electoral Act (and now as envisaged under the Local Government Act) because a cross is equivalent to a number 1, those voters were, in the eyes of the scrutineers (because they had to interpret the Electoral Act) registering not one first preference but, rather, they were registering up to six and seven first preference votes. Of course, because no distinction was able to be made between their preferences, their vote was rendered informal and invalid. I think that that is one of the unfortunate side effects of the notion of accepting ticks and crosses as being the equivalent of a number 1.

I indicated also during the debate on the amendments to the State Electoral Act that I could see the argument for accepting a tick as being the equivalent of a number '1' because, virtually to everyone, a tick is a sign of positive preference for someone and, if someone has ticked a box alongside the name of a candidate, it is likely that that voter wishes to express a preference for that candidate. However, in that debate I indicated (and I again indicate) my reservations that the notion of a cross means many things. Some people from a European background are perhaps used to voting with a cross in their electoral systems, but for many people a cross is a sign of a negative preference; that is, it is an indication that they do not wish to express a vote in any way for a particular candidate and, as a result, many people put neat crosses against the names of candidates for whom they do not wish to express a preference. That is one of the unfortunate side effects of the State Electoral Act. It is a provision that the Democrats and the Government, against what I suggest was the good sense and good argument of the Liberal Opposition in this Chamber, chose to accept for insertion in the State Electoral Act.

One of the needs of the electoral systems in local, State and Commonwealth Governments is, as much as possible, to try to introduce some uniformity. I believe that the problem we have in people understanding electoral systems is that, for every level of government, we have a different method of voting, so that, in voting for State Government, certain things are formal and others are informal. Again, there are differences with the Commonwealth Government and there are differences with local government. I think that, when one looks at electoral systems, one ought to try to introduce, as far as is possible, uniformity in the voting systems so that when the humble voter goes along to the voting booth, whether it be for local, State or Federal elections, there is at least some degree of uniformity. Over a period of time they can begin to learn the electoral systems that exist in the various levels of government in South Australia.

I urge members, when they look at the local government electoral system and when we have another go at the State electoral system (because they are the two systems about which we have something to say) to try, whether it be in the Caucus, the Party room, or in the Chamber (and sometimes, sadly, perhaps the latter is a little too late) to introduce, as far as is possible, uniformity in voting systems to make it easier not only for scrutineers (because we all have to train them for elections), but also for the voters on voting day.

So, whilst I do have reservations about new subsection (2), I will be exploring in greater detail that provision in Committee. The one advantage is that it has been accepted in the State Electoral Act. Because people have been asked to get used to it during State elections, there is at least some semblance of an argument to accept it, albeit grudgingly, in a local government electoral system. New subsection (3) provides:

If a series of numbers (starting from the number 1) appearing on a ballot paper is non-consecutive by reason only of the omission of one or more numbers from the series or the repetition of a number (not being the number 1), the ballot paper is not informal and the votes are valid up to the point at which the omission or repetition occurs.

I have some concerns and reservations about this provision.

The Hon. K.T. Griffin interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Griffin indicates that we knocked it out of the State Electoral Act. In trying to undertake quick research during the dinner break I ascertained that it was a system that the Hon. Mr DeGaris in his time (and obviously a majority here) introduced for the Legislative Council voting system prior to our last change some two years ago to the Electoral Act. During that marathon debate we argued and the majority accepted—the Democrats as well—that this provision was not an acceptable provision for the State Electoral Act. It is a very confusing provision.

Certainly, it is very difficult for even scrutineers to understand and it is considerably more difficult for voters to

understand. The argument that can be mounted against it is that it introduces another element of inconsistency between the State electoral system and the local government electoral system whereas, at least, new subsection (2), which talked about ticks or crosses, introduces consistency between the two voting systems.

If a voter voted 1 in a box for Joan Smith and then put two 2s next to two other candidates and a 3 against the fourth candidate, that ballot paper in the State election was an informal ballot paper under the new provisions of the State Electoral Act.

From my quick reading of new subsection (3), I believe that this new provision would render valid that ballot paper in a local government election as a valid first preference for Joan Smith with no further preferences to be allocated to the other candidates. As I said, I have reservations about the provision and will be seeking some explanation from the Minister about it because I believe it is confusing. Also, it is not consistent with the equivalent provisions in the State Electoral Act. New subsection (4) provides:

A ballot paper is not informal by reason of non-compliance with this section if the voter's intention is clearly indicated on the ballot paper.

This provision exists in the principal Act at present. A similar provision exists in the State Electoral Act and the Commonwealth Electoral Act and for that reason it is a uniform provision between the various electoral systems. It is acceptable and fairly readily understood by scrutineers and candidates because it has been part of the various voting systems for some time.

Finally, I will be seeking further explanation from the Minister about certain provisions involved in the issue of advanced voting papers under the new provisions, but I will leave that for the Committee stage. In indicating my general support for the second reading, I express my reservations about one or two matters concerning the electoral system. I seek a response from the Minister in replying to the second reading debate or in Committee.

The Hon. M.J. ELLIOTT: It has been drawn to my attention that some people are concerned that in the City of Adelaide five people have the ability to cast 140 or 150 votes between them. That is rather significant, given the voluntary voting system and the number of people who vote in a council election. Many of those votes are concentrated in a few wards.

There were two reasons for that. First, some of those people were holding proxies for other individuals; on my reading of clause 7, that practice will no longer be possible. Secondly these people own a number of different properties through separate companies. I do not want to name names. There could be Fred Bloggs Company 1, Fred Bloggs Company 2, and Fred Bloggs Company 3: those three companies could own three different places and thus be entitled to three votes. If there was simply a Fred Bloggs Company owning the three sites, that person would be entitled to only one vote. On my reading of clause 7, it appears that that person would still be entitled to cast three votes. People might say, 'Fred has made a massive investment in the area, so why not?' I am not sure why, just because a person has established three companies, he should be entitled to three votes.

One three-storey building might be of the same value as three single storey buildings; nevertheless, the owner of the three single storey buildings will have a different entitlement from that of the owner of one building. The question of how many votes a person may cast must be considered. I am glad that clause 7 will stop people from getting proxy votes from other people; that is unhealthy. I do not wish to move an amendment, but I believe that the question of people who cast more than one vote in a ward should be considered. One person may cast as many as 20 votes. If several people do that, many more votes are involved, and that can virtually decide the outcome of an election, which one individual cannot normally do. I support the second reading.

The Hon. CAROLYN PICKLES secured the adjournment of the debate.

COMPANIES AND SECURITIES (INTERPRETATION AND MISCELLANEOUS PROVISIONS) (APPLICATION OF LAWS) ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 November. Page 2230.)

The Hon. K.T. GRIFFIN: The Opposition supports the Bill. It is designed to overcome a technical problem in the way in which proceedings are commenced by the Corporate Affairs Commission under the Companies and Securities Codes and relates to a practice in South Australia of proceeding by complaint for those offences punishable by imprisonment for a period not exceeding six months, rather than by indictment.

Any offence against a relevant code that is punishable by an imprisonment period exceeding six months is required to be tried upon indictment, but if the Corporate Affairs Commission deems it inappropriate to be looking for a penalty beyond six months, then a complaint may be issued and the matter will be dealt with summarily, and a period not exceeding six months imprisonment is the penalty which the magistrate may impose. The provision brings in line with the practice of the Corporate Affairs Commission the provisions of the code. I see no harm or mischief in them and, accordingly, support the second reading.

Bill read a second time and taken through its remaining stages.

OCCUPATIONAL HEALTH, SAFETY AND WELFARE BILL

In Committee (resumed on motion).

(Continued from page 2423.)

Clause 34—'Responsibilities of employers to health and safety representatives and committees.'

The Hon. K.T. GRIFFIN: We previously had a debate about the appropriateness of all the paragraphs in the definition of 'prescribed information' which we had resolved at an earlier time of sitting. I thought that the issue had largely been resolved, but it appears not. We had some discussions with Parliamentary Counsel and new amendments have been drafted which seek to incorporate specifically 'prescribed information' in each of the clauses to which I think they may be relevant. That would mean later recommitting clause 4 to remove the definition of 'prescribed information' and then deal with the question of what information is accessible on each of the relevant clauses specifically rather than referring back to a general definition which might be relevant to some clauses but which either in whole or in part may not be relevant to others.

The Attorney-General raised some question about that part of the definition of 'prescribed information' in clause 4 which related to information that would tend to incrim-

inate a person who has the information of an offence. I still believe that it should go in, although I can see the point he is making. For that reason, it is probably preferable to now forget the definition of 'prescribed information' and relate the question of information which cannot be available to each of the relevant clauses that I will identify as we go through the Bill.

Clause 34 (1) *(g)* permits a health and safety representative to have access to certain information from the employer. It seems to me that if we now move for a new subclause (1a) an employer will not be required to give a health and safety representative under subclause (1) *(g)* information that is privileged on the ground of legal professional privilege—and I do not think anyone can quarrel with that—or information that is relevant to proceedings that have been commenced under this Act—and again I do not think that anyone can quarrel with that.

I still think that the argument about information that would tend to incriminate is relevant, but I am not persisting with it on this clause, although I will persist with it on other clauses, because other clauses contain different connotations. I seek leave to withdraw the amendment that I have moved, with a view to my moving a new amendment.

Leave granted; amendment withdrawn.

The Hon. K.T. GRIFFIN: I move:

Page 22, after line 31—Insert new subclause as follows:

(1a) An employer is not required to give to a health and safety representative under subsection (1) *(g)*—

(a) information that is privileged on the ground of legal professional privilege;

or

(b) information that is relevant to proceedings that have been commenced under this Act.

The Hon. C.J. SUMNER: This is becoming very complicated. I appreciate the honourable member's efforts, but we still have some difficulties with clause 38.

The Hon. K.T. Griffin: We are not up to clause 38.

The Hon. C.J. SUMNER: I know, but it is on the one sheet and relates to the same issue. Therefore it is relevant to address it. I think the same problem would arise with respect to clause 38. I am not quite sure what the current position is in relation to the rights and powers of entry of inspectors. I guess the best thing to do is accede to it at this stage and sort it out later. I need more information before coming to a final view on the topic. The easiest way is to pass the member's amendment in the knowledge that it can be reconsidered when the Bill comes back.

The Hon. K.T. GRIFFIN: I know that it is complicated, but it is an important question, and if the Attorney is prepared to accede to it on the basis that that is not to be taken as being a final view on the question and that he will look at it before the matter is finally resolved by the Parliament, I will be pleased with that course of action.

Amendment carried.

The Hon. K.T. GRIFFIN: I move:

Page 22, line 32—After 'representative' insert '(but not a deputy health and safety representative)'

This amendment relates to subclause (2) of clause 34, which provides:

A health and safety representative is entitled to take, without loss of pay, such time off work as is reasonably necessary or authorised by the regulations for the purposes of performing the functions of a health and safety representative under this Act or taking part in any course of training relating to occupational health, safety and welfare that is approved by the Commission.

It seems to me that that is not unreasonable for a representative. However, it is not appropriate for a deputy health and safety representative. I think that would be an unnecessary burden for the employer, and I do not believe it is necessary for the work of the representative or that of health and safety committees. Therefore, I seek to exclude the deputy health and safety representative from the operation of this provision.

The Hon. C.J. SUMNER: The Government does not accept this. Pursuant to clause 29 (2) of the Bill, a deputy is to be empowered to perform all the functions of a worker safety representative in the latter's absence. The proposed amendment would completely negate the role of the deputy to act in such circumstances. I therefore oppose the amendment.

The Hon. I. GILFILLAN: I apologise at this point: I have actually been tracking down something else, and I wonder whether the Hon. Mr Griffin can briefly go through that again.

The Hon. K.T. GRIFFIN: The amendment relates to the right of a health and safety representative to take without loss of pay such time off work as is reasonably necessary or authorised, either for the purposes of performing certain functions under the legislation or for taking part in the course of training. It seems to me to be inappropriate that a deputy health and safety representative should also have that right which, of course, may prove to be quite burdensome for employers, particularly if both representatives were away at the same time and both taking time off for these sorts of purposes.

The Hon. I. GILFILLAN: This matter is reflected in an amendment to this clause that I have on file, namely, paragraph *(b)* of my proposed new subclause (3). The amendment contains some other restrictions on the automatic rights for training courses to be undertaken. I suggest that, as I certainly intend to support my own amendment, I would certainly prefer to see this matter dealt with there, and I ask whether the Hon. Mr Griffin will consider that.

The Hon. K.T. GRIFFIN: The Hon. Mr Gilfillan wants to support his own amendment and I can understand that. I am inclined to support his amendment later, anyway. I think I will continue with my amendment and leave it up to the Hon. Mr Gilfillan to decide whether or not he wants to put it in in two places.

The Hon. I. GILFILLAN: I do not support the amendment.

Amendment negatived.

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

Page 22, after line 37—Insert new subclauses as follows:

(3) The commission may prepare and publish guidelines in relation to the operation of subsection (2).

(4) If a dispute arises in relation to the entitlement of a health and safety representative under subsection (2), the health and safety representative or the employer may refer the dispute to the Industrial Commission.

(5) The Industrial Commission may determine the dispute and the decision of the commission is binding on the health and safety representative and the employer.

This amendment relates to the right of a health and safety representative to take time off work to perform his or her functions under the legislation and attend a course of training. One new subclause directs the commission to prepare guidelines to assist in relation to the operation of the provision; and the other new subclauses provide that, in the event of dispute, the matter can be resolved by the Industrial Commission. The new subclauses should guarantee that any dispute that may arise under the provision can be resolved quickly and expeditiously according to defined principles.

The Hon. I. GILFILLAN: I really do not see that my amendment and the Attorney's can be treated automatically as parallel and debated at the same time. I have not really had time to consider the Attorney's amendment. However, his amendment and my amendment are not altogether unrelated in that I assume that this is a machinery provision to

deal with disputes in relation to training rights. I will briefly explain the purpose of my amendment to see whether it is linked to this amendment.

The Hon. K.T. Griffin: They are compatible.

The Hon. I. GILFILLAN: Yes. I have placed my amendment on file to insert a new subclause because, if the automatic availability of taking training time is exercised by an employee who is a health and safety representative (particularly in a small workplace), it will impose an unreasonably hard burden on the employer. Obviously, if the fruits of that training make for a safer workplace and reduce accidents, that is a very good reason for entering into it. An employer who is influenced by the impact of this legislation and other encouragements will ensure that a health and safety representative is encouraged to have adequate training.

What I have seen and heard already from employers causes quite alarming concern that the Bill as it is currently drafted would expose them to losing arbitrarily the services of one of their employees at the decision of the workers. I hope that my amendment, if it is carried, will do no more than create a cooperative climate in which there will be give and take, where the safety representatives will still have adequate training to effect the best safety measures in the workplace.

I consider that the Bill as it is currently drafted leaves the capacity for quite unacceptable interference with the ordinary working processes of those workplaces which employ a smaller number of people. Paragraph *(b)* reflects the same motive as Mr Griffin's earlier amendment which I indicated I would oppose because of this paragraph *(b)*, that a deputy health and safety representative—and this is regardless of the number of employees in the work group—may only take time off for a particular course when that is agreed to by the employer.

Finally, my paragraph *(c)* is really an encouragement for good relations in that the health and safety representative ought to discuss with the employer the appropriate course for the job in hand. I confess that I had considered the employer having the decision on that, and I know it has been the pressure from employer groups that the employer should actually choose the course that the safety representative should take. I am not prepared to go that far. I do not think that portrays the cooperation, responsibility and significance of the role of health and safety representative, but I do feel it is appropriate to urge that there be some consultation so they can discuss what course is most appropriate. I admit that probably paragraph *(a)* would be the point of more intensive debate than perhaps the other two. From my understanding of what the Attorney has now moved, I think that there could be a situation involving a dispute as to time off for training courses which could be dealt with in this dispute mechanism contained in the amendments of the Attorney. I would indicate that, if my interpretation is correct, I would support the Attorney's amendments because I do not consider that they are prejudicial to the amendments that I have on file.

The Hon. C.J. SUMNER: I am not sure if the two can really sit satisfactorily together. The Hon. Mr Gilfillan's amendment limits the rights to training of the worker safety representatives. It is too inflexible. The Government's amendments, which I have just moved, will enable the commission to issue appropriate guidelines on training and any disputes to be settled in the Industrial Commission. The Democrats' amendment would give exemptions on training for small business. This is not appropriate, because small business is recognised as being a major contributor to industrial accidents and disease. I think the mechanism set up by the Hon. Mr Gilfillan is too tight, too inflexible, with respect to this issue. The Government's amendment enables guidelines to be promulgated and, if there is a dispute, the matter can be resolved in the normal industrial way.

The Hon. K.T. GRIFFIN: I think the two are compatible. I am not prepared to support the Attorney-General's new subclause (3), but I am happy to support the new subclauses (4) and (5), because if disputes arise it is reasonable that they be resolved by the commission. We have now resolved, under an earlier vote which I lost, that it should in fact be the Industrial Commission and not the Occupational Health and Safety Commission, so subclauses (4) and (5) of the Attorney's amendment are appropriate. I think subclause (3) introduces a sense of confusion, in that the Occupational Health and Safety Commission sets guidelines in relation to the way subclause (2) is to operate, yet it is the Industrial Commission which resolves disputes.

I think that that is a conflict. I am happy to support the Hon. Mr Gilfillan's amendments. I think that it is not unreasonable and one could expect that if there is a dispute then the dispute resolving mechanisms in the Bill will come into play. I agree with what the Hon. Mr Gilfillan has had to say: I think that there are real problems if, in fact, the safety representative in a small business could really take off as much time as he or she believes is appropriate for the purpose of performing functions under subclause (2).

The Hon. I. GILFILLAN: I support both amendments. The last line of paragraph *(a)* of my amendment includes the words 'as the employer reasonably allows'. I am relieved that the Attorney-General has included the subclauses for a dispute resolution, because I think that, where there has been unreasonable restriction by an employer, that is where the answer could and properly should be sorted out. I now rest quite content that both amendments on file are workable together and I support them both—obviously, my own and that of the Attorney-General.

The CHAIRPERSON: Has the Hon. Mr Gilfillan moved his amendment?

The Hon. I. GILFILLAN: No, but the Attorney has moved his. I have not yet moved mine.

The CHAIRPERSON: It is suggested to me that it is preferable to take the Hon. Mr Gilfillan's amendment first and that the Attorney-General's amendment be renumbered. Perhaps the Attorney-General can withdraw his amendment.

The Hon. C.J. SUMNER: I seek leave to withdraw my amendment.

Leave granted; amendment withdrawn.

The Hon. I. GILFILLAN: I move:

Page 22, after line 37—Insert new subclause as follows:

(3) Subsection (2) is subject to the following qualifications:

(a) where the employer employs ten or less employees, the health and safety representative may only take such time off work to take part in a course of training as the employer reasonably allows;

(b) a deputy health and safety representative may only take time off work to take part in a course of training with the consent of the employer;

and

(c) where there is a reasonable choice of courses of training available to a health and safety representative, the health and safety representative shall consult with the employer before choosing the course that he or she is to attend.

Amendment carried.

The CHAIRPERSON: We will renumber the Attorney-General's 4, 5 and 6.

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

Page 22, after line 37—Insert new subclauses as follows:

(4) The Commission may prepare and publish guidelines in relation to the operation of subsection (2).

(5) If a dispute arises in relation to the entitlement of a health and safety representative under subsection (2), the health and safety representative or the employer may refer the dispute to the Industrial Commission.

(6) The Industrial Commission may determine the dispute and the decision of the Commission is binding on the health and safety representative and the employer.

The Hon. K.T. GRIFFIN: I indicate that I do not support (4) but am happy to support (5) and (6).

The Hon. I. GILFILLAN: As I indicated earlier, I am prepared to support the amendment completely.

Amendment carried; clause as amended passed.

Clause 35—'Default notices.'

The CHAIRPERSON: There are several indicated amendments from the Hon. Mr Griffin, starting at line 45. Are they consequential amendments?

The Hon. K.T. GRIFFIN: Not all of them, Madam Chair. First, I move:

Page 22, line 45—After 'employer' insert 'and any health and safety committee that has responsibilities'.

There are a series of amendments to clause 35, some of which are related to others. Clause 35 deals with default notices. It is to be contrasted with clause 36, which deals with action where the health or safety of a worker is threatened. Clause 35 provides:

(1) Where a health and safety representative is of the opinion that a person—

(a) is contravening a provision of this Act;

or

(b) has contravened a provision ... in circumstances that make it likely that the contravention will be repeated,

the health and safety representative shall consult with the employer ...

If the representative and the employer are unable to resolve a matter then, if there is a health and safety committee that has responsibility, the matter is to be referred to that committee or, if there is no committee, then it goes to an inspector. After taking reasonable steps (which may not necessarily include the steps to which I have just referred, because they can in fact be bypassed), then the representative is able to issue a default notice requiring the person to whom the notice is issued to remedy the contravention. Such a default notice is not to be issued if any matter is already the subject of an improvement notice or a prohibition notice which relates to notices which can be issued by an inspector.

One of the difficulties with this clause is that, although a provision was passed earlier which provides a penalty for any representative who acts otherwise than in the course of his or her duties under the Bill, the fact is that there is still a reasonable opportunity for a representative to act unilaterally without really acting in the best interests of both the employees and the employers in a particular workplace. I want to give an earlier and more significant involvement to health and safety committees.

The first amendment requires the representative to consult with the employer and the health and safety committee that has responsibilities. I think that that is more appropriate than leaving it to the second stage in subclause (2). If the matter is not resolved, then the other consequences can be followed through the clause. Later, I want to delete reference in subclause (3) to a safety representative being able to bypass that consultative process and I want to provide that the health and safety representative is not to issue a default notice if an improvement notice or prohibition notice applies or if an inspector has attended at the workplace, because then the inspector's authority overrides that of the safety representative.

Later, I want to provide also that a default notice can be cancelled by the representative who issued the notice or by a health and safety committee, because that involves a wider range of experience and I see no reason at all why the committee should not be able to exercise responsibility in that respect.

The Hon. J.R. CORNWALL: I appeal to the Committee to reject the amendment, which seeks to significantly involve the health and safety committee in the resolution of health and safety issues and—this is the part to which we object most strenuously—it requires the health and safety representative to automatically consult with the health and safety committee, rather than having to consult where necessary. If the amendment were passed it would mean the health and safety representative in every instance would have to consult with the health and safety committee rather than consult where necessary. If one thinks about it, it is pretty obvious that this is unduly cumbersome and would lead to delays—sometimes inordinate delays—in action being taken. I ask the Committee to reject it.

The Hon. I. GILFILLAN: As I indicated earlier, I am not willing to hobble the operations of the health and safety representative in this manner. We have included some substantial penalties for abuse of that power and I think that that theme is followed through in the drafting of the Bill and, without being able to speak entirely for the whole web of the amendment which I confess to having not sorted out exactly yet, it is my intention to oppose amendments that will oblige the safety representative to defer to, or compulsorily consult with, the committee in the way that I understand these amendments intend.

The Hon. R.I. LUCAS: This is one of the matters to which I referred in the second reading debate. I intend to speak to clauses 35 and 36 as I see them being inter-related. In the second reading debate I said that we ought to consider the powers and responsibilities of the health and safety representatives. Where there are important health, safety and welfare issues involving the activities of the representatives, it might mean that immediate corrective action ought to be taken, and we should not be putting anything in the legislation which might, even in isolated circumstances, prevent that.

I indicated in the second reading debate that I believed that there ought to be checks and balances to the powers and responsibilities of the health and safety representatives. I was pleased to see the amendments moved by both the Hon. Mr Griffin and the Hon. Mr Gilfillan to clause 32. It was eventually Mr Gilfillan's amendment which was accepted and which provided penalties for improper use of the power of the representative.

I will certainly be supporting the latter provision of the Hon. Mr Griffin's amendment, and I ask the Hon. Mr Gilfillan to seriously consider supporting it, because it would introduce a further safety check on the power of the representative. The provision with which we will deal in a moment is related. It would mean that, if a default notice was instituted by a health and safety representative, it could be cancelled at any time by either that representative or the health and safety committee. That is a good safety check in line with the sort of thinking that the Hon. Mr Gilfillan and the Hon. Mr Griffin instituted earlier against what might be on certain occasions improper use of power by the health and safety representative. I oppose this part of the amendment, because it would hobble the proper responsibilities of the health and safety representative.

Amendment negatived.

The Hon. K.T. GRIFFIN: I will not proceed with my amendment to page 23, line 1, as it is consequential. Fur-

ther. the amendment to lines 3 to 6 is not relevant, given that the first amendment was lost. I move:

Page 23, line 7—Leave out 'Notwithstanding subsections (1) and (2), if' and insert 'If'.

Subclause (3) enables the safety representative to bypass the consultative process, and that is inappropriate. The procedures laid down in subclauses (1), (2) and (3) should be followed in that order rather than providing an opportunity to bypass the procedures.

The Hon. J.R. CORNWALL: We reject the amendment. In a sense, it has both the spirit and intent of the amendment that the Committee rejected only five minutes ago.

The Hon. I. GILFILLAN: I oppose the amendment. It unnecessarily hinders a decision that might necessarily be made on the spur of the moment. I do not see any reason why that should be an imposition on the representative.

Amendment negatived.

The Hon. K.T. GRIFFIN: I move:

Page 23, lines 13 to 15—Leave out subclause (4) and insert subclause as follows:

(4) A health and safety representative shall not issue a default notice—

(a) if an improvement notice or a prohibition notice applies in relation to the matter;

or

(b) if an inspector has attended at the workplace in relation to the matter.

The provisions under subclause (4) are reflected in my amendment, but in addition I desire to add a paragraph to provide that, if an inspector has attended at the workplace in relation to the matter and if the inspector has not issued a prohibition notice or an improvement notice, it is inappropriate for the health and safety representative to subsequently issue a default notice. At present, it is possible that an inspector could call at the premises, look at a work situation, deem that it is not a problem, and issue neither an improvement notice nor a prohibition notice, yet the health and safety representative, as soon as the inspector leaves, can issue a default notice in relation to that work area. That is inappropriate, and this amendment is designed to overcome the potential threat.

The Hon. I. GILFILLAN: I may ultimately be on my own, but I do not support the amendment because I do not see any reason why a health and safety representative, who is entrusted with this decision making power, should be restricted in this way. The health and safety representative is not going to arbitrarily make decisions out of the air. If he does, he will be penalised.

Amendment negatived.

The CHAIRPERSON: There are consequential amendments to be moved by the Hon. Mr Griffin and the Hon. Mr Gilfillan to lines 29, 33 and 42 and page 24, line 15.

The Hon. K.T. GRIFFIN: I move:

Page 23—

Line 29—Leave out 'a worker' and insert 'an employee'; leave out 'worker' and insert 'employee'.

Line 33—Leave out 'a worker' and insert 'an employee'.

Line 42—Leave out 'a worker' and insert 'an employee'.

Page 24, line 15—Leave out 'worker' and insert 'employee'.

Amendments carried.

The Hon. K.T. GRIFFIN: I move:

Page 24, lines 23 and 24—Leave out subclause (14) and insert subclause as follows:

(14) A default notice may be cancelled at any time by—

(a) the health and safety representative who issued the notice;

or

(b) a health and safety committee that has responsibilities in relation to the matter.

It seems to me it is still appropriate to proceed with this amendment. Under subclause (14) at present it is only the health and safety representative who has issued the default notice who may cancel that notice. It seems to me that the cancellation of the notice could effectively be the responsibility of a health and safety committee as much as the responsibility of a health and safety representative. It does not face the difficulties to which the Attorney-General and the Hon. Mr Gilfillan referred in the sense that it hobbled the representative and prevented the representative from acting swiftly in the case of an emergency.

It gives a quite appropriate right of review by a group of persons who are engaged in the workplace, who collectively may reach a conclusion that either the default notice was inappropriate or the problems in the default notice have been remedied. So, I believe the amendment is appropriate and I move it accordingly.

The Hon. I. GILFILLAN: The Hon. Rob Lucas also used the word 'hobbled'. It is very appropriate. At the same time as he was speaking in support of my attitude to the earlier amendments, he urged very serious attention to this amendment. As with all the amendments, I continue to do so with this one. Being practical, were the health and safety representative who issued the notice not available—and there may be certain reasons for that—if that person is the only one who can cancel the notice, there could be an unreasonable restriction on the resumption of operation of the equipment. I do not see any reason that would prevent a health and safety representative—if that person is still concerned and not happy about the cancellation by the committee—reimposing a default notice. So, on the face of it, certainly, this amendment seems to me to be a practically useful suggestion to minimise the amount of obstruction that could take place in a workplace.

The Hon. C.J. SUMNER: It is not acceptable to the Government. The clause already provides that a health and safety representative who has issued a default notice may cancel the notice, and that seems to be sufficient. The Hon. Mr Griffin's amendment seeks to allow the health and safety committee to override the actions of a representative who is much better placed and able to make the decision and is less likely to be open to unreasonable influence by management. We consider it appropriate that this responsibility should repose with the health and safety representative.

The Hon. R.I. LUCAS: As I indicated earlier in opposing the early part of the amendment of the Hon. Mr Griffin in relation to clause 35, I indicated that I saw in subclause (14) a protection and further safety valve—further than the one that had been introduced earlier by the Hon. Mr Gilfillan in relation to clause 32.

I saw this provision as a further safety valve in that, if something was incorrectly imposed by a health and safety representative there was the further protection that the health and safety committee, once pulled together by the representatives on the health and safety committee, could reverse that decision and I see that as a further protection or safety valve and I support the provision. I am pleased to see that the Hon. Mr Gilfillan has also seen good sense in this provision.

The Hon. I. GILFILLAN: The dispute matter is a reasonable comment, but I do not think it overrides the value of the amendment. One question not answered was that I understand the safety representative, if not satisfied with the lifting of the default notice by the committee, can reimpose it. Can the Attorney answer?

Amendment carried; clause as amended passed.

Clause 36—'Action where the health or safety of a worker is threatened.'

The Hon. K.T. GRIFFIN: I move:

Page 24, line 26—Leave out 'a worker' and insert 'an employee'.

Amendment carried.

The Hon. K.T. GRIFFIN: The principle has been resolved in clause 35, so in light of that it is not worth persevering with my objective. I do not wish to proceed with the amendments to lines 28, 30 and 32 to 35. I move:

Page 24, lines 36 to 40—Leave out subclause (3) and insert new subclause as follows:

(3) If the threat continues after taking reasonable steps to avert, eliminate or minimise the threat by consultation and the health and safety representative is of the opinion that given the nature of the threat and the degree of risk work should cease, the health and safety representative may direct that work cease until the matter is resolved.

This amendment is still relevant. Present subclause (3) provides that, notwithstanding subclauses (1) and (2), if the health and safety representative is of the opinion that given the nature of the threat and degree of risk work should immediately cease, the representative can direct that work cease until adequate measures are taken to protect the health and safety of the worker.

My amendment has a different emphasis. If the threat continues after taking reasonable steps to avert, eliminate or minimise the threat by consultation and the representative is of the opinion, given the nature of the threat and the degree of risk, that work should cease, the representative may direct that work cease until the matter is resolved. It introduces the concept of consultation but does not make it as obligatory as in clause 35. I think that my subclause contains a more appropriate expression of the power of the safety representative.

The Hon. I. GILFILLAN: It is sensible to take this amendment into account as a guideline comment. There is no doubt that the commission, in making its suggestions as to how safety representatives should work would, I hope, give this encouragement, so that reasonable steps would be taken to avert, eliminate and minimise the threat by consultation. I commend the Hon. Trevor Griffin on his amendment. I think it displays how significantly he—if he is speaking for the Opposition—views the power of the safety representative to be able to stop the work process.

I must say that I am pleasantly surprised. The amendment came on the scene rather belatedly, but let us not cast any aspersions about that. It is a welcome sign that we are close to a consensus about the responsibility that a safety representative can have. However, to have it as part of the statute may cause an unease and a lack of confidence by the safety representative to make that spontaneous decision which could, under certain circumstances, save lives or prevent serious injury. For that reason, I oppose the amendment but expect that the encouragement to consult will be emphasised in the guidelines.

The Hon. C.J. SUMNER: The Government rejects the amendment.

The CHAIRPERSON: Because there is also a consequential amendment to the last word in subclause (3), I must put the question in the following form, 'That all the words in subclause (3) down to, but not including, the last word stand part of the Bill'. Those in favour say 'Aye', against 'No'. The Ayes have it.

Amendment negatived.

The CHAIRPERSON: The Hon. Mr Gilfillan and the Hon. Mr Griffin have on file identical amendments to page 24, line 40.

The Hon. I. GILFILLAN: I move:

Page 24, line 40—Leave out 'worker' and insert 'employee'.

Amendment carried.

The Hon. K.T. GRIFFIN: I move:

Page 24, lines 41 to 47 and page 25, lines 1 to 5—Leave out subclause (4) and insert new subclause as follows:

(5) A work cessation direction may be cancelled at any time by—

(a) the health and safety representative who gave the direction;

or

(b) a health and safety committee that has responsibilities in relation to the matter.

In relation to my proposed new subclause (4) I have lost the battle, so I will not proceed with that amendment. However, I have moved to insert proposed new subclause (5) which, again, is consistent with the amendment that we have already carried to clause 35 where, in this instance, a work cessation direction may be cancelled at any time by the representative who gave the direction or by a health and safety committee that has responsibilities in relation to the matter.

The Hon. I. GILFILLAN: I think members need to perhaps compare this with an earlier provision where a default notice could be cancelled by the committee and determine whether the same argument applies to a work cessation direction. The Hon. Mr Griffin is encouraging me to see it in exactly the same context. It may well be: it depends how long the work cessation exists. But, certainly matters would not be helped if there was a haggling situation with the safety representative and the committee standing alongside each other with one turning the switch off and the other turning it back on again; that would not be likely to increase the safety of the venue. In those circumstances I think the actual work cessation is more spontaneous and therefore more likely to be under the control of the health and safety representative, who has this direction. I am not prepared to compromise that by saying that the health and safety committee could gather around and contradict that.

It would be very difficult to take this issue and have it calmly debated if two conflicting points of view were both present on the work floor. However, I must admit that it is a difficult thing to decide whether or not there is a significant enough difference between the two situations. But that is the way that I interpret it: that there is a difference between a default notice, as such, which is applicable to machinery and equipment and circumstances involving a cessation of work. This may well involve some sort of procedure that the employees enter into themselves, individually. I am not confident that one should allow the possibility of on the floor conflict between two authorities, both with equivalent responsibility here. Therefore, I oppose the amendment.

The Hon. C.J. SUMNER: The Government opposes the amendment.

The Hon. K.T. GRIFFIN: I do not see the difference to which the Hon. Mr Gilfillan has referred.

The Hon. I. GILFILLAN: Perhaps the Hon. Mr Griffin could explain the difference between work cessation notice and a default notice—or indeed the similarity.

The Hon. K.T. GRIFFIN: The consequences are, of course, more serious from both sides if one looks at it in the context of a cessation notice rather than in relation to a default notice. Whether it is a default notice or a cessation notice, it is the same exercise of power by the health and safety representative regardless of the consequences. I would have thought that there is a similarity in the procedures being followed which would at least lead to a reasonable conclusion that, if a work cessation direction was given by a health and safety representative, there would be others in the work group who might have a different point of view as to whether or not it is such a risk to health and safety as to warrant the cessation of the plant.

I would have thought that it was quite reasonable to have a health and safety committee which is broadly representative and with a number of people to share the responsibility

of making a decision on whether or not a work cessation direction should be continued rather than leaving it to one individual, namely, the health and safety representative. I think there is a good argument for, and a consistency between, making this clause similar to the previous clause.

The Hon. I. GILFILLAN: I think that a committee could be easily divided on this and, the more I think about it, the more it appears that I am right. I think there is a clear difference. Where there is an argument within a health and safety committee about a work direction, the committee will vote, and it may be that the vote is carried by a margin of one. I believe there is good sense in making only one person responsible. That person would know that he or she carries that responsibility. Therefore, I oppose the amendment.

Amendment negatived; clause as amended passed.

Clause 37—'Attendance by inspector.'

The Hon. K.T. GRIFFIN: I move:

Page 25, lines 9 and 10—Leave out 'within 2 business days' and insert—

(i) where the workplace is within the metropolitan area—within 1 business day;

(ii) where the workplace is outside the metropolitan area—within two business days;

Subclause (1) deals with attendance by an inspector in two respects: first, if a direction has been given that work cease, it is within two business days or, in any other case (that is, a default notice), within seven business days. I made the point earlier that I think two business days for the attendance of an inspector where a workplace has been closed down is inordinately long and that there should be a mandatory requirement that an inspector attend within one business day in the metropolitan area and within two business days if it is outside the metropolitan area. I believe that that is reasonable. After all, it is the department and the Occupational Health and Safety Commission which is promoting health and safety and they should provide a service recognising that, if a business is closed down, the cost to both employer and employees is likely to be quite significant and that that will have some repercussions within the revenue collection side of the Government through lost wages and lost production from which taxes and charges may be paid. I believe that it is important to require attendance within the metropolitan area within one business day and outside the metropolitan area within two business days.

The Hon. I. GILFILLAN: I have a similar amendment and support it. It is essential that these matters be dealt with as expeditiously as possible, and I repeat one of the observations I made in my second reading speech: I hope the Government is treating very seriously the need to provide adequate people on the ground to do this. The budgetary allocation was not particularly encouraging in that regard, so I hope that prompt attention will be given to providing the necessary number of people so that this one day requirement for metropolitan area and two days for the rural area can be complied with.

The Hon. C.J. SUMNER: The Government opposes the amendment.

Amendment carried.

The CHAIRPERSON: The next amendment apparently appears on the additional sheet from the Hon. Mr Griffin and it is to clause 37, not clause 36.

The Hon. K.T. GRIFFIN: I move:

Lines 27 to 32—Leave out subclause (3) and insert new subclause as follows:

(3) Where a work cessation direction is given, any employee employed in the work who is remunerated by wages or salary and who cannot reasonably be assigned by the employer to suitable alternative work is not entitled to be paid for the period of cessation unless an inspector determines that the health and safety representative acted reasonably in giving the direction that work cease.

Clause 37 deals with the attendance of an inspector, and subclause (3) provides that, where there has been a work cessation direction given and an inspector determines that there was an immediate threat to health or safety which justified that cessation of work, or the health and safety representative reasonably believed that a threat existed, then any employee who is remunerated by wage or salary is entitled to be paid for the period of cessation. That is a fairly sweeping provision. I want to modify that in my subclause (3) by providing:

Where a work cessation direction is given, any employee . . . who is remunerated by wages . . . and who cannot reasonably be assigned by the employer . . . is not entitled to be paid for the period of cessation unless an inspector determines that the health and safety representative acted reasonably in giving the direction that work cease.

This means that there is in a sense a desire for any employees affected by the cessation of work to be reassigned by the employer to suitable alternative work. If they cannot be reassigned to such work, they do not get paid unless the inspector resolves that the health and safety representative acted reasonably. It seems to me that that is a not unreasonable provision and a reasonable modification of the emphasis of subclause (3).

The Hon. I. GILFILLAN: I think the amendment would deter safety representatives from making a decision in their best judgment, because quite rightly they would be very conscious that the other employees might suffer some loss of wages. I do not think that a decision on the basis of health and safety should be influenced by that.

The Hon. C.J. Sumner: Hear, hear!

The Hon. I. GILFILLAN: That 'hear, hear' is somewhat appropriate. It strikes me that there is a very casual attitude to the poor businessman, the employer, from the Government. We cheerfully give these people, and rightly so, the right to stop the workplace, but blithely ignore the fact that there should be prompt attendance in such a situation by inspectors. The Government did not take any notice of the suggestion we put forward that they should visit the metropolitan area. They quite cheerfully say that business, which is far from becoming in this place, should have to suffer the penalty of a dilatory group of people, probably short staffed. If you are going to try to put the cane in on one side it has to be done with a certain amount of even-handedness. I am rather angry that the Government sits back and let us tiptoe through this minefield trying to get an even balance. I am disappointed that the Government did not see that previous amendment—

The Hon. C.J. Sumner: It was passed, what are you talking about?

The Hon. I. GILFILLAN: Not with the Attorney's help. Why not have a little bit of sensitivity to the issue? I am opposing this amendment because I think that the health and safety representative has an important responsibility to make a decision based on the health and safety (in the particular case—the safety) of the people in the workplace. He or she should not be influenced by thinking, 'My God, I am going to cut the income of my mates if I make the wrong decision.' Therefore, I am going to oppose it, but I have taken this opportunity to grumble a little about what I think is a casual indifference to the effect on the employer if these workplaces are stopped.

The Hon. C.J. Sumner: There is no need to carry on like that.

The Hon. I. GILFILLAN: The Attorney-General did not even get off his seat to justify the Government's position. He just said 'No', as if the question is not worth debating.

The Hon. C.J. Sumner: We have been doing that since the Bill started. People have been talking unnecessarily.

The Hon. I. GILFILLAN: Why did the Attorney-General not vote in favour of it instead of just grumbling 'No' over there and pay some respect to the amendment?

The CHAIRPERSON: The Hon. Mr Griffin's amendment affects lines 27 to 32, and the Hon. Mr Gilfillan's amendment affects line 30, which is our old friend the consequential amendment. I put the question that the words from the beginning of the subclause down to but not including the word 'worker' in line 30 stand part of the Bill.

Question carried.

The CHAIRPERSON: Will the Hon. Mr Gilfillan formally move his amendment?

The Hon. I. GILFILLAN: I move:

Page 25, line 30—Leave out 'worker' and insert 'employee'.

Amendment carried.

The CHAIRPERSON: There is another consequential amendment of the Hon. Mr Griffin's at line 41.

The Hon. K.T GRIFFIN: I move:

Page 25, line 41—Leave out 'worker' and insert 'employee'.

Amendment carried; clause as amended passed.

Clause 38—'Powers of entry and inspection.'

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

Page 26, line 8—Leave out 'Chief Inspector' and insert 'Director of the Department of Labour'.

This amendment replaces a reference to 'Chief Inspector' with 'Director of the Department of Labour' in relation to authorising inspections under the Act. Further consideration has been given to the role of the Chief Inspector under the Act. It is the case that the Chief Inspector will be more concerned with technical matters that will arise under this Act while the Director will be concerned with the administration of the Act. Accordingly, it is appropriate to make this amendment and the related amendments to lines 36 and 37.

The Hon. K.T. GRIFFIN: Chief Inspector is defined in clause 4 and it is the Chief Inspector of Mines in relation to the Mines and Works Inspection Act; in relation to the Petroleum Act it is the Director-General of Mines and Energy; and in any other case a Public Service employee who is authorised by the Minister to exercise the powers of Chief Inspector. I would have thought that in this clause the authorising of inspectors would be more properly the function of the Chief Inspector. I cannot understand why suddenly it is changed to the Director of the Department of Labour when the Chief Inspector is the person who, I think, has the responsibility for exercising the inspectorial powers of this Act. I have some difficulty in appreciating why the change is necessary.

The Hon. C.J. SUMNER: The Director of the Department of Labour is responsible for the administration of the Act and is also responsible to the Minister for the Act. The Chief Inspector is an employee of the Department of Labour and he is responsible to the Director of the Department of Labour. It is therefore considered more appropriate to include the Director rather than the Chief Inspector in this clause, that apparently being in accordance with the present practice.

The Hon. K.T. GRIFFIN: So, in relation to the exercise of powers under this clause, any member of the commission may exercise the powers; an inspector who is defined in clause 4 as an inspector of mines under the Mines and Works Inspection Act; somebody who is an inspector under the Petroleum Act 1940; somebody who is an inspector under the Petroleum (Submerged Lands) Act 1967; and in any other case a Public Service employee authorised by the Minister, or a person authorised by the commission, or the Director of Labour. If that is the case, I am curious about why we need the reference to Chief Inspector in the definition clause, which I thought was related ultimately to clause 38.

The Hon. C.J. Sumner: Do you think the Chief Inspector is responsible to the Director of Labour under this Act? Would the Director give him directions as to how to exercise his powers?

The Hon. K.T. GRIFFIN: I would not have thought so. I would have thought the Chief Inspector had some statutory obligations and is referred to specifically in that context. I am trying to understand why we are referring to the Chief Inspector in clause 4 and why we are getting rid of him in clause 38, which is one of the important clauses in the Bill. I would have thought it more appropriate for him to exercise the powers: he is defined in clause 4. It may be that, if you put in the Director, the Chief Inspector becomes superfluous. Perhaps I do not fully appreciate what is the role of the Chief Inspector.

The Hon. I. GILFILLAN: I can find no amendment to delete or alter the words 'Chief Inspector' in lines 44 and 45, and perhaps the Attorney can examine that.

The Hon. K.T. GRIFFIN: I now understand the situation and am happy with the change to 'Director of Labour'. As I now understand it, the Chief Inspector is a technical person who is not in charge of the inspectors under the Bill or within the department but is responsible for technical aspects of the regulations. There is a provision in clause 64 dealing with modifications of regulations and it is the Chief Inspector who has the responsibility of approving modifications to regulations in respect of particular workplaces or employers, and is not exercising the powers of inspection, as such.

I understand from my inquiries that it is the Director of the Department of Labour who is the manager of the inspectorial staff of the department. I believe I am clear on that, and therefore I am happy to accept the amendment.

Amendment carried.

The ACTING CHAIRPERSON (Hon. Peter Dunn): There are amendments in the name of the Hon. Mr Griffin and the Hon. Mr Gilfillan to page 26, line 22.

The Hon. K.T. GRIFFIN: I move:

Page 26, line 22—Leave out 'the workers' and insert 'persons'.

Amendment carried.

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

Page 26, after line 26—Insert new subclause as follows:

(1a) Where—

(a) a person whose native language is not English is suspected of having breached this Act;

(b) the person is being interviewed by an inspector in relation to that suspected breach;

and

(c) the person is not reasonably fluent in English, the person is entitled to be assisted by an interpreter during the interview.

This amendment is similar to a provision in another Bill that is before the Parliament relating to a person's right to an interpreter when being questioned in relation to a suspected offence. It ensures that, where a person whose native language is not English and who is not reasonably fluent in English is being questioned in relation to a possible breach of the Act, that person may request the assistance of an interpreter.

The Hon. K.T. GRIFFIN: I am happy to support the amendment. It is consistent with earlier amendments to both this Bill and the Summary Offences Act Amendment Bill relating to the presence of interpreters when certain persons who are not fluent in English are being questioned. It is a good idea, and I am happy to support it.

Amendment carried.

The Hon. K.T. GRIFFIN: I move:

Page 36, after line 26—Insert new subclause as follows:

(1a) A person is not required to provide under subsection (1)—

(a) information that is privileged on the ground of legal professional privilege;

(b) information that is relevant to proceedings that have been commenced under this Act;

(c) information that would tend to incriminate the person who has the information of an offence;

or

(d) personal information regarding the health of a person who does not consent to the disclosure of the information.

This amendment deals with information that may not be required, and with what was prescribed information under an earlier amendment but is now set out specifically in four paragraphs. Paragraph *(d)* is different and is picked up from clause 34, which deals with the responsibilities of employers to health and safety representatives and committees. It is to be noted that in paragraph *(g)* (ii) of subclause (1) the information to which a health and safety representative may have access is information concerning the health and safety of the employees of the employer, but personal information regarding the health of an employee shall not be divulged under that subparagraph without the consent of the employee. I am really continuing that principle from that clause into this, and I move the whole of that new clause accordingly.

The Hon. C.J. SUMNER: I do not think the Government can accept paragraphs *(c)* and *(d)* in this clause, but we addressed this previously. Certainly, we removed paragraph *(d)* when we considered 'prescribed information' under the definition clause. I am concerned as to whether or not paragraph *(c)* restricts rights an inspector currently has to obtain information, because my impression of the situation is that inspectors are entitled to obtain virtually any information they require where there has been industrial action, so I cannot accept that. I accept paragraphs *(a)* and *(b)*; paragraphs *(c)* and *(d)*, if passed, certainly will need more consideration.

The Hon. I. GILFILLAN: I will be led by the Attorney-General.

The Hon. K.T. GRIFFIN: Can I suggest, if it is not too much trouble for the table staff, that we might vote on each of the paragraphs one by one and then we can get some resolution of what is agreed by the Democrats and the Government and what is not.

The ACTING CHAIRPERSON: The question is 'That subclause (1a) *(a)* be inserted in the Bill'.

Amendment carried.

The ACTING CHAIRPERSON: The question is 'That subclause (1a) *(b)* be inserted in the Bill'.

Amendment carried.

The ACTING CHAIRPERSON: The question is 'That subclause (1a) *(c)* be inserted in the Bill'.

Amendment negatived.

The ACTING CHAIRPERSON: The question is 'That subclause (1a) *(d)* be inserted in the Bill'.

Amendment negatived.

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

Page 26, Lines 36 and 37—Leave out 'Chief Inspector' and insert 'Director of the Department of Labour'.

It is the same principle, relating to the Director of the Department of Labour.

Amendment carried.

The Hon. I. GILFILLAN: I move:

Page 26, lines 44 and 45—Leave out 'Chief Inspector' and insert 'Director of the Department of Labour'.

The Hon. C.J. SUMNER: We agree to that.

Amendment carried.

The Hon. K.T. GRIFFIN: I move:

Page 27—

Line 13—

Leave out 'the workers' and insert 'employees'.

Line 14—

Leave out 'workers' and insert 'employees'.

Line 39—

Leave out 'workers' and insert 'employees'.

These amendments are consequential.

Amendments carried; clause as amended passed.

Clause 39 passed.

Clause 40—'Prohibition notices.'

The Hon. K.T. GRIFFIN: I move:

Page 28, line 37—Leave out 'worker' and insert 'person at work'.

Page 29, line 6—Leave out 'worker' and insert 'person'.

These amendments are consequential.

Amendments carried.

The Hon. K.T. GRIFFIN: I move:

Page 29, line 12—Leave out '$10 000' and insert '$5 000'.

Clause 40 deals with prohibition notices and subclause (4) deals with a person who contravenes or fails to comply with a prohibition notice. That person is guilty of an offence. A division 2 fine is the maximum penalty—$50 000. There is a daily fine of $10 000 maximum for each day a contravention or failure continues. Although we have lost the argument on the reduction of the various maximum penalties in an attempt to reduce them to half of what they are in the Bill, this is still a relevant amendment to reduce the $10 000 for each day back to $5 000 for each day. Whilst that is a high penalty it is still more appropriate than the very high penalty of $10 000 a day for a continuing offence.

The Hon. I. GILFILLAN: We oppose the amendment.

Amendment negatived; clause as amended passed.

Clause 41—'Notices to be displayed.'

The Hon. I. GILFILLAN: I move:

Page 29—

Line 15—

Leave out 'a worker' and insert 'an employee'.

Leave out 'worker' and insert 'employee'.

Line 20—Leave out 'workers' and insert 'employees'.

Line 22—Leave out 'worker' and insert 'employee'.

Amendments carried; clause as amended passed.

Clause 42—'Review of notices.'

The Hon. I. GILFILLAN: I move:

Page 29—

Line 32—Leave out 'a worker' and insert 'an employee'.

Line 35—Leave out 'worker' and insert 'employee'.

Amendments carried.

The Hon. K.T. GRIFFIN: I move:

Page 29, line 42—After 'shall' insert ', subject to an order of the review committee to the contrary'.

This amendment ensures that a review committee can vary the application of an improvement notice or a prohibition notice. I would have thought that it was reasonable for a review committee to have that flexibility. It is not obliged to alter the terms of any improvement notice or prohibition notice. Nevertheless, I think it is important to give it the power to do that.

The Hon. C.J. SUMNER: This amendment provides the review committee with the ability to require an improvement notice to remain in effect or a prohibition notice to be suspended while the committee reviews the notice. The amendment is at odds with article 13 of ILO convention (1981) which was ratified in 1975 by Australia that such prohibition notices should stand until such time as they are found not to be warranted.

The Hon. K.T. GRIFFIN: Courts and tribunals have power to alter orders while they are hearing a matter. We can have a review committee going on for days or even weeks. It may even want to adjourn for a period of time, and in that time, if it thinks that it is appropriate to vary

or suspend the prohibition notice, why should it not have power to do it? While an ILO convention may relate to it, I would be most surprised if it was on all fours with this to the extent that we were to blindly follow the ILO convention. I would have thought that it was eminently reasonable to give the review committee power to make some variations while it was hearing the matter.

If it did not, I would have thought that that had a potential for being a breach of natural justice on which, I am sure, I could find a convention somewhere. I think we have to be reasonable about this and, if the review committee believes that it is appropriate and that adequate steps are taken to safeguard the health and safety of employees, why should it not have the power to vary a prohibition notice or an improvement notice? I ask the Attorney-General to reconsider his position on this.

The Hon. I. GILFILLAN: So would I. I feel that the review committee has the power to make the final determination and that it is reasonable to give it this authority. To me it seems quite sensible.

Amendment carried.

The Hon. K.T. GRIFFIN: I move:

Page 30, after line 1—Insert new subclause as follows:

(4) Where a prohibition notice has been issued, the proceedings on a review under this section must be carried out as a matter of urgency.

The Hon. C.J. SUMNER: That amendment is accepted.

Amendment carried; clause as amended passed.

Clause 43 passed.

Clause 44—'Workers' entitlement to pay while notice is in force.'

The Hon. K.T. GRIFFIN: I move:

Page 30, line 20—Leave out 'a worker' and insert 'an employee'.

This amendment is consequential.

Amendment carried; clause as amended passed.

Clauses 45 and 46 passed.

Clause 47—'Constitution of review committees.'

The Hon. K.T. GRIFFIN: I move:

Page 31, lines 12 and 13—Leave out 'after consultation with the Minister'.

I think it is quite wrong to establish a panel of judges after consultation with the Minister. It is not a function of the Minister to interfere with a decision of the judges and magistrates, whether they be of the Industrial Court or other jurisdictions: it may well be construed as interference with the independence of those judicial officers. The Attorney has been very strong on the fact (and so have I) that they do have to be independent. I am surprised that subclause (3) *(a)* has been included in the Bill, because it demonstrates a measure of interference with that independence.

The Hon. I. GILFILLAN: It is a great credit to Mr Griffin that he is so perceptive in picking up some of these amendments. It is a tedious business to go through and find all these perhaps minor blemishes and inconsistencies. I congratulate him. I feel that there is merit in this amendment, and I will support it.

Amendment carried.

The Hon. K.T. GRIFFIN: I move:

Page 31—

Lines 14 and 15—Leave out 'consultation with' and insert 'taking into account the recommendations of'.

Lines 17 and 18—Leave out 'consultation with' and insert 'taking into account the recommendations of'.

These amendments really reflect amendments already made to an earlier portion of the Bill in respect of the formation of the commission where we have removed the words, 'after consultation with employer groups' and 'after consultation with the United Trades and Labor Council' respectively and have taken into account the recommendations of those respective organisations. It seems to me to be quite consistent to also move for the deletion of the words 'consultation with' and replace them with 'taking into account the recommendations of' in these two paragraphs

The Hon. I. GILFILLAN: I support the amendments.

Amendments carried; clause as amended passed.

Clause 48—'Procedures of the committee.'

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

Page 32, after line 19—Insert new subclause as follows:

(5a) Where—

(a) the native language of a person who is to give oral evidence in any proceedings before a review committee is not English;

and

(b) the witness is not reasonably fluent in English, the person is entitled to give that evidence through an interpreter.

(5b) A person may present written evidence to a review committee in a language other than English if that written evidence has annexed to it—

(a) a translation of the evidence into English;

and

(b) an affidavit by the translator to the effect that the translation accurately reproduces in English the contents of the original evidence.

This amendment is similar to another amendment before the Parliament to amend the Evidence Act. It will entitle a witness before a review committee to give evidence through an interpreter. It may be noted that the Bill specifically provides that the review committee is not bound by the rules of evidence. So, to ensure that people appearing before a review committee are able to give evidence through an interpreter, it is considered appropriate to make a specific provision in relation to interpreters.

The Hon. K.T. GRIFFIN: I support the amendment. That support is consistent with earlier support on similar proposals by the Attorney-General and reflect the Opposition's view that there ought to be a recognition of the right to an interpreter where a person is not reasonably fluent in English.

The Hon. I. GILFILLAN: I place on the record that we support this amendment.

Amendment carried.

The Hon. K.T. GRIFFIN: I move:

Page 32, line 41—Leave out 'Subject to the regulations, a' and insert 'A'.

This subclause at the moment grants a person the right to appear personally or by representative in proceedings before a review committee, but qualifies it and makes it subject to the regulations. I have said on previous occasions, most recently in relation to the Private Parking Areas Bill, that I believe it is inappropriate for regulations to withdraw rights, whether they be rights of appearance or defences or other matters which affect the rights of individuals appearing ultimately in courts or before tribunals.

It seems to me to be quite inappropriate to qualify by regulations the right of a person to appear personally or by representative in those proceedings before a review committee. If there is to be any qualification on that right it ought to appear in this Bill and not in the regulations. As there is no indication as to what qualifications may be placed on that right, I believe that it is more appropriate to delete reference to the regulations in this subclause.

The Hon. I. GILFILLAN: I support the amendment.

Amendment carried; clause as amended passed.

Clause 49—'Appeals.'

The Hon. K.T. GRIFFIN: I move:

Page 33, line 11—Leave out subclause (3) and insert new subclauses as follows:

(3) An appeal under this section may be on a question of law or a question of fact.

(3a) An appeal on a question of fact may only occur with leave of the Supreme Court (which should only be granted where special reasons are shown).

Clause 49 deals with appeals. A party who appears before a review committee may appeal to the Supreme Court, but that right of appeal is qualified so that it is only to be on a question of law. There is to be no appeal on a question of fact. I find that rather disturbing. It means that the committee of review, which can have quite significant impact upon employers and employees, will not in any way be subject to review except on the very limited area of a question of law, so whatever complexion the committee of review places on a factual situation, if there is a miscarriage of justice then there is no way that that can be reviewed except possibly—and then only possibly—by the procedure of what used to be a prerogative writ under the old Supreme Court rules.

I think that there should be an appeal on both questions of law and fact allowed to the Supreme Court, that where the appeal is on a question of fact it may occur only with leave of the Supreme Court, which should only be granted where special reasons are shown. That picks up the point that I am concerned about, that if there is a miscarriage of justice then the Supreme Court, in determining the question of leave, will have the material before it and will then be able to make a determination either as to whether leave should be granted or if it should be granted, whether the appeal should be allowed. I think that this is a more appropriate safeguard for all parties in respect of matters which occur before a committee of review.

The Hon. I. Gilfillan interjecting:

The Hon. K.T. GRIFFIN: What this does is ensure that the committee of review is more accountable. I would have thought that anything that enhanced the rights of parties would be supported by the Hon. Mr Gilfillan. I hope that I can persuade him to do so in this instance. It is not as though it is a reduction in any party's rights, it is a widening of the right of appeal to ensure that justice is ultimately done and to deal with situations where there may in fact be a miscarriage of justice by the committee of review, so I urge the Hon. Mr Gilfillan to support this widening of the right of appeal.

The Hon. C.J. SUMNER: The Government does not feel that this amendment is necessary. We are not talking about appeals against convictions following prosecution, but about appeals with respect to a review committee decision. The appeal provisions in the Bill are already more extensive than those in the current Act. The problem arises of getting excessive legalism introduced into what ought to be reasonably informal proceedings.

The Hon. I. GILFILLAN: I think the winning words are 'excessive legalism'. That swings me around to the Government's point of view. I oppose the amendment.

The Hon. K.T. GRIFFIN: With respect, it is nonsense to talk about excessive legalisms. The fact is that the Supreme Court is the ultimate protector of individuals' rights and the Attorney-General wants to deny an amendment and the Hon. Mr Gilfillan seems to be persuaded to deny the rights of parties appearing before committees of review, which resolve quite significant issues, at least having their rights protected by the Supreme Court. I find it quite amazing that the Hon. Mr Gilfillan would fall for that line from the Attorney-General. I do not like excessive legalism; I do not like excessive litigation, but there are some occasions when one has to ensure that there are adequate rights of appeal, because the only way to keep committees of review, tribunals and lower courts in check and make sure that they do not act as a law unto themselves is by ensuring that they are ultimately subject to review. The Supreme Court does that with a committee of review and I think that support for the amendment is an important way not to increase legalisms but, rather, to ensure that rights are preserved.

I can foresee that, if there are not reasonable rights of appeal, the committee of review may well become a body exercising quite extensive powers and thumbing its nose at particular parties in extreme circumstances, because it is not subject to any check by a higher court.

Amendment negatived.

The Hon. K.T. GRIFFIN: I move:

Page 33, line 16—After 'shall' insert ', subject to an order of a review committee or the Supreme Court to the contrary,'.

This amendment seeks to ensure that, if there is an appeal, even in the limited circumstances that now apply, on questions of law, either the review committee or the Supreme Court have a power to suspend the operation of a prohibition notice. It is really consistent with what we have already done in relation to a committee of review itself. It seems appropriate to be consistent where a matter ultimately goes to the Supreme Court, even under the now very limited rights of appeal which are provided in clause 49.

The Hon. I. GILFILLAN: I support this amendment. I take the opportunity of commenting that it is quite ridiculous for a substantial interpretation of the rights or wrongs on appeal in quite involved areas of law to be expected to be debated exhaustively here. If an honourable member of this Council cannot lean, to a certain extent, on the Attorney-General, who ought to be the ultimate legal authority in this State, for some judgment—

Members interjecting:

The Hon. I. GILFILLAN: I ask that the interjections be muted at least to the point where members can hear what I am saying. I have listened intently, as I expect most members would realise, to the amendments moved and the argument put by the Hon. Trevor Griffin, but where that argument moves into an area which I suggest most members would not be able to follow with any knowledge or experience, it is irresponsible of the Opposition to expect me to be wavering around in their direction when we have the Attorney-General of the Government, who gives an opinion, which I at least regard as being balanced, on what he assesses as the proper facts and justice of the issue.

If he is intimidated by what are the pressures from the union, that is his problem. He will have to wear it—not me. I want to place that on the record. It is appropriate to make those comments because, otherwise, it can be easily interpreted that I am setting myself up as a legal authority. I am not doing that. I am not unique: there are few of my colleagues, with the possible exception of the Hon. Mr Griffin, the Hon. Mr Burdett and the Attorney, who have the experience to speak with knowledge. I want to make that proviso to some of the reactions I make to the argument on legal points.

The Hon. K.T. GRIFFIN: Although I do not want to prolong the debate, one has to recognise that, although the Attorney is the first law officer of the Crown in respect of prosecutions for criminal matters and other issues, he is here as a politician. He has a point of view that is contrary to mine on this issue. There is no reason at all to suggest that, because the Attorney-General puts the view, it is right.

Amendment carried; clause as amended passed.

Clause 50 passed.

Clause 51—'Immunity of inspectors and officers.'

The Hon. K.T. GRIFFIN: I move:

Page 33, line 26—Leave out ', or purported exercise or discharge,'.

This clause deals with the immunity of inspectors and officers and is different from clause 50, which deals with the immunity of members of the committees of review. This matter has been the subject of debate over a number of years as to the extent to which an inspector or an officer, in this case of the commission, who acts in good faith in the exercise or discharge of an official power or function ought to be granted immunity from personal liability.

I have always argued that it is inappropriate to leave in such a clause the extension which is referred to in my amendment, that is, for the act in good faith in purported exercise or discharge of an official power or function—that they ought to act within power and that they ought to be strict in their exercise of that power granted by statute, and that we ought not to grant the latitude which those words allow.

The Hon. C.J. SUMNER: The Government rejects the amendment, which attempts to tighten the conditions for immunity for inspectors and others in exercising powers under the Act. There is less room for an inspector to claim that he thought he was acting within his power. There is a need to retain these words to provide reasonable protection for inspectors for actions done in good faith.

The Hon. I. GILFILLAN: I oppose the amendment.

Amendment negatived; clause passed.

Clause 52 passed.

New clause 52a—'Delegation by Director.'

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

Page 33, after line 34—Insert new clause as follows:

52a. (1) The Director of the Department of Labour may, by instrument in writing, delegate any of his or her functions or powers under this Act.

(2) A delegation under this section—

(a) may be made subject to such conditions as the Director thinks fit;

(b) is revocable at will;

and

(c) does not derogate from the power of the Director to act in any matter himself or herself.

This new clause will allow the Director of the Department of Labour to delegate his or her functions or powers under the Act. There is similar power of delegation in the present legislation, and it is of particular importance in country regions where the Act is to be administered on a regional basis. So, applications for registration of premises can go, for example, to a regional manager for expeditious decision at a local level.

The Hon. K.T. GRIFFIN: I do not disagree with the spirit of the amendment, but I would have preferred to have it limited, as I sought to limit the powers of the commission to delegate so that that power of delegation should not extend to safety representatives or to registered associations of either employers or employees. However, I lost that argument in relation to an earlier clause, and therefore I did not prepare an amendment to that effect to this proposed new clause. However, I want to put on the record that I believe there should be some limitation on the power to delegate in circumstances that are similar to those under the amendment I endeavoured to have carried earlier but was not successful in achieving.

New clause inserted.

Clause 53—'Power to require information.'

The Hon. K.T. GRIFFIN: I move:

Page 33, after line 37—Insert new subclause as follows:

(2) A person is not required to furnish prescribed information to the Commission under subsection (1).

It is important to include a provision that the commission cannot require information that is privileged on the ground of legal professional privilege; information that is relevant to proceedings that have been commenced under this Act; information that would tend to incriminate the person who has the information of an offence; or personal information regarding the health of a person who does not consent to the disclosure of the information. Each of those provisions is appropriate for this clause. The last two may not be relevant to the earlier provisions that we have inserted, but in this respect a statutory authority that is directly responsible to the Minister and under the control and authority of the Minister should not be able to gain information of the nature referred to in paragraphs *(a)* to *(d)* of the amendment.

The Hon. C.J. SUMNER: I think more work has to be done on this area. I can agree to paragraphs *(a)*, *(b)* and I can see the argument of the honourable member on *(c)*, but more work needs to be done on this.

Amendment carried; clause as amended passed.

Clause 54—'Confidentiality.'

The Hon. K.T. GRIFFIN: I had intended to move to leave out 'intentionally' in line 1. There is some difficulty with this amendment and I had intended to give some closer consideration to it. Accordingly, I do not propose to proceed with the amendment because I think that it has to be intentional disclosure which attracts the penalty, otherwise we could have an inadvertent disclosure subject to a penalty. After line 8, I propose to move in a slightly different form. It will be to insert a new item. Accordingly, I move:

Page 34, after line 8—Insert new item as follows:

Penalty: Division 4 fine.

I move that because I think there are some difficulties with the way in which the amendments are proposed, and I wish to seek to impose a maximum penalty of a division 4 fine for a breach of this subclause (1). I think it is of a serious enough nature to warrant that division 4 fine, which is $15 000.

The Hon. I. GILFILLAN: My amendment is not quite as substantial in the imposition of a fine, but I recognise that the intentional disclosure of this information should be an offence and there should be a deterrent. I believe that the word 'intentionally' stays in the clause. A division 6 fine is lower than the penalty that would apply in general terms for the legislation. If penalties are not specified they are division 5 fines but, because I recognise that this could apply to health and safety representatives, I consider the maximum fine of $5 000 to be an adequate deterrent. I will oppose the amendment moved by the Hon. Mr Griffin and move my amendment in due course.

The Hon. K.T. GRIFFIN: I will not support the Hon. Mr Gilfillan's amendment. At least the general provision in the Bill is better than what he is proposing. There needs to be a stiff deterrent against disclosure of confidential information. Trade secrets may be involved with a great deal of monetary inducement to disclose trade secrets. To run the risk of being caught for a measly maximum fine of $5 000 would not be a deterrent. Even $15 000—the fine that I propose—could be ineffective as a deterrent in some cases, but at least it is better than $5 000. I cannot accept the Hon. Mr Gilfillan's proposal, because it weakens the provision in the Bill rather than strengthening it as I propose.

The monetary inducement to trade in business secrets may certainly be much more attractive than the mere fact of a maximum $5 000 fine. That is why I wanted $15 000. It is important to have a reasonable deterrent as it applies to a whole range of people—members of the commission, staff of the commission, inspectors and safety representatives. So, it applies not just to safety representatives but covers a wide field, and I therefore insist on my amendment.

The Hon. C.J. SUMNER: The Government opposes the Hon. Mr Griffin's amendment and supports the Hon. Mr Gilfillan.

Amendment negatived.

The Hon. I. GILFILLAN: I move:

Page 34—after line 8—Insert new item as follows:
Penalty: Division 6 fine.

Amendment carried; clause as amended passed.

Clause 55—'Discrimination against workers.'

The Hon. K.T. GRIFFIN: I move:

Page 34—
Line 16—Leave out 'a worker' twice occurring and insert, in each case, 'an employee'.
Line 17—Leave out 'a worker' and insert 'an employee'.
Line 18—Leave out 'worker' and insert 'employee'.
Line 30—Leave out 'worker' and insert 'employee'.
Line 31—Leave out 'workers' twice occurring and insert, in each case, 'employee'.
Line 33—Leave out 'worker' and insert 'employee'.

Amendments carried.

The Hon. K.T. GRIFFIN: I move:

Page 34, lines 44 and 45 and page 35, lines 1 and 2—Leave out subclause (3).

I want to delete subclause (3). It provides a significant reverse onus of proof on a defendant in criminal proceedings. It is wrong to have this sort of provision imposed on a defendant, whether an employer or employee. It provides that if, in proceedings for an offence against clause 55, all the facts constituting the offence other than the reason for the defendant's action are proved, the onus of proving that the act of discrimination was not actuated by the reason alleged in the charge shall lie on the defendant. That is an extraordinary provision to include in a Bill such as this where there is a prosecution for a criminal offence. I cannot accept that it gets anywhere near being reasonable. I am surprised that the Government would seek to introduce this quite extraordinary reverse onus provision in this sort of clause.

The Hon. C.J. SUMNER: The problem here is that a similar provision already exists in section 157 of the Industrial Conciliation and Arbitration Act, and this merely seeks to continue the existing law in this respect.

The Hon. K.T. Griffin: Not in relation to occupational health and safety.

The Hon. C.J. SUMNER: Yes, it does.

The Hon. K.T. Griffin: You said the Industrial Conciliation and Arbitration Act.

The Hon. C.J. SUMNER: It is taken out in the third schedule, Part I, section 157, because those sections are coming out of the Industrial Conciliation and Arbitration Act in relation to industrial safety and into this Bill.

The Hon. I. GILFILLAN: I oppose the amendment.

Amendment negatived.

The Hon. K.T. GRIFFIN: I move:

Page 35—
Line 9—Leave out 'a worker' and insert 'an employee'.
Line 10—Leave out 'worker's' and insert 'employees'.
Line 12—Leave out 'worker' and insert 'employee'.
Line 13—Leave out 'worker' and insert 'employee'.

Amendments carried; clause as amended passed.

Clause 56—'Assignment of workers during a cessation of work.'

The Hon. K.T. GRIFFIN: I move:

Page 35, line 20—Leave out 'a worker' and insert 'an employee'.

Amendment carried; clause as amended passed.

Clause 57—'Offences.'

The CHAIRPERSON: Both the Hon. Mr Gilfillan and the Hon. Mr Griffin have different amendments to subclause 6.

The Hon. K.T. GRIFFIN: I move:

Page 35, lines 33 and 34—Leave out subclause (6) and insert new subclauses as follows:

(6) Notwithstanding any other Act or law, where—
(a) the Crown allegedly contravenes or fails to comply with a provision of this Act;
and
(b) the alleged contravention or failure occurs in relation to health or safety in a department of the Public Service of the State,
proceedings may be brought against the Minister who is responsible for that department.

(6a) Subject to subsection (6b), proceedings for an offence against this Act may only be brought—
(a) by the Minister;
(b) by an inspector;
or
(c) by a person acting with the written consent of the Minister.

(6b) A person may bring proceedings under subsection (6) without the consent of the Minister.

My intention here—which I think is really the same as the Hon. Mr Gilfillan's, but mine has been developed further—is to try to make Ministers accountable for any failure to comply with the Occupational Health, Safety and Welfare Act regulations or codes of practice. The Bill places a very heavy onus on those who are directors of bodies corporate and persons who are executive officers and managers in the private sector, and it seems to me to be quite unreasonable that that same sort of obligation should not be carried over to Ministers, who, ultimately, should have responsibility for any breaches within their respective departments.

My amendment seeks to achieve that accountability of Ministers in the same way as the Government wants directors and others in the private sector to be accountable, and I think it is really a *quid pro quo*. As I have said, my amendment takes into account some technical difficulties, which I do not think are met by the Hon. Mr Gilfillan's amendment, although the spirit of the two amendments is the same.

The Hon. I. GILFILLAN: I would accept that the Hon. Mr Griffin's amendment is an improvement, and probably more effective in implementation than mine. Some doubt has been expressed about the means whereby our intention could be implemented, and, if the Hon. Mr Griffin's amendment has been properly drafted, I will be very relieved. I think it would be a travesty of the sincerity of this whole legislation if a major employer in this State, or certainly the ultimately responsible officer, was left exempt from being pursued properly to pin down the ultimate blame if workplaces in various departments have been allowed to be unsafe. I think this is a very important provision to include in the Bill.

I hope that the Government will support it on the grounds that no-one should be exempt from this responsibility. And, even if there are deficiencies in the Hon. Mr Griffin's amendment, I urge the Attorney in a cooperative manner, to suggest ways, if need be, in which that it could be further amended so that the intention that both the Hon. Mr Griffin and I share—and I trust the Attorney as well—is assured of becoming effective. So, I would indicate that, unless persuaded by argument to follow that there is any reason not to support Mr Griffin's amendment instead of mine, I do not intend to move my amendment, and I will be happy to accept his amendment, accepting as I do that it embraces the intention of my amendment.

The Hon. C.J. SUMNER: I am not sure whether the honourable member is suggesting that a Minister ought to be personally responsible in these sorts of circumstances. If he is, I find that a somewhat surprising proposition. It would mean, for example, that the Minister of Forests should be prosecuted if there was some difficulty in the

operation of the Woods and Forest Department in the South-East. I find it difficult to see how a Minister can be made personally liable in those circumstances.

I suppose that, if one is going to prosecute the Crown, one is just getting the fine paid from one pocket into another. There does not seem to be much point in doing that, either. There are real difficulties in imposing upon a Minister of the Crown personal liability for this sort of situation. In any event, the Government would indemnify the Minister. What honourable members seem to be forgetting is that Public Service departments are accountable in a way that the private sector just simply is not accountable.

Ministers have to answer to Parliament and, if there are bad work practices and unsafe working conditions, they must answer for that in Parliament. What is the point in personally prosecuting a Minister and then the Government indemnifying the Minister, who then pays the fine back to the Government? There is something illogical about that.

The Hon. I. Gilfillan interjecting:

The Hon. C.J. SUMNER: In this case they do not pay the fine personally. The Minister would pay the fine—but he or she would be indemnified—into general revenue. Conceptually, it is wrong. I do not quite know what the point is. Is the honourable member suggesting that the Minister ought to be prosecuted personally and then pay the fine personally? If he is suggesting that, that is bizarre. Is the honourable member suggesting that the Minister should be prosecuted by the Government, fined by the courts and ordered to pay the fine back to the Government, after being indemnified against—

The Hon. I. Gilfillan: Yes.

The Hon. C.J. SUMNER: That is a bit odd.

The Hon. K.T. GRIFFIN: I know that there are difficulties in this area. I have tried to address those difficulties in my amendment. There are important issues to be considered. I was making the point that we are trying to find a means whereby Ministers are not just accountable to Parliament but they assume (as having responsibility for operating departments) the same sort of responsibility that is placed on employers in this Bill, particularly large corporations (and even small corporations) and bodies corporate. A later clause provides that where a body corporate is guilty of an offence every responsible officer is also guilty of an offence. That is the object.

The Hon. C.M. Hill: There has to be some equality.

The Hon. K.T. GRIFFIN: We are trying to identify a mechanism whereby we can ensure that there really is true accountability in both the private and public sectors.

The Hon. C.J. SUMNER: How do you achieve that by this method? It is quite bizarre, with respect.

The Hon. I. Gilfillan: What's the alternative?

The Hon. C.J. SUMNER: There is no alternative. The Act binds the Crown and, therefore, the Crown is bound by the Act. There is no question that the Crown itself must comply with the provisions of the Act. If it does not, presumably, there can be court proceedings to ensure that it does. There can be questions in Parliament and that sort of public accountability about whether or not the Crown has breached some provisions of the Act. What the honourable member seems to forget in conceptual terms is that the Crown is not like a private employer; in effect, the Crown is the public interest. The Crown is responsible, through its Ministers, to Parliament.

In any event, it is the Crown that does the prosecuting. So, there is conceptually a situation where the Crown prosecutes the Crown and the Crown pays the fine back to the Crown. I really have a little difficulty coping with that concept.

The Hon. I. GILFILLAN: No wonder: you portray the most idiotic interpretation of it that you can and then say you do not understand it.

The Hon. C.J. SUMNER: You say that this is a legal issue and that you would take my advice on it. That is the fact of the matter. I am telling you that what you have in here is bizarre.

The Hon. I. GILFILLAN: This Bill is being proposed by the Government in its original terms, whereby every responsible officer in a corporation is liable to the full penalty. Great fun: knock them all off—get everyone feeling responsible for safety! With a certain amount of modification—because most of this legislation needs a bit of modification so that it can live in the real world—let us have a degree of distributive responsibility for the safety of the people in the workplace.

ETSA had an accident with some sort of paraphernalia to do with a power line, and one of its officers eventually carried the can. Accidents will happen in all Government departments sooner or later, and someone will have to be responsible. If this legislation is serious, it will try to track down the cause and provide a penalty which is a deterrent. Ministers obviously will not be responsible all the time, but why should they sit in ivory towers and be exempt with this sort of blase indifference to it all saying, 'We're immune.' It will be someone down there, if anybody. Incidentally, the Attorney was talking about the Minister or the Crown—

The Hon. C.J. Sumner interjecting:

The Hon. I. GILFILLAN: Could I ask for a little protection from shouted interjections? For one thing, I am concerned about *Hansard.* The actual amendment specifically spells out where an individual—it is not necessarily only the Crown—will institute these actions. Neither should it be only the Crown. It may well be that there are other areas of legislation where individuals who feel aggrieved should be able to take action against the Government or departments or Ministers in the Government. So, I think that where I am prepared to bow to superior knowledge is in the interpretation of what may be flaws in this amendment, and I very humbly made that sort of observation when I first started talking about it. But what the Attorney has been shouting about has not been how we can achieve this end. He has been wiping this off as something to be ridiculed, as though it is a waste of time even thinking about it, and I reject that attitude. Unless the Attorney can come up with something better, I intend to support Mr Griffin's amendment.

The Hon. C.M. HILL: What the honourable member is seeking is some comparability between the responsibilities of officers in the private sector with officers in the public sector. It is as simple as that and that is what those who are supporting the amendment are trying to achieve. I support the principle. I think that everyone out there in the street would support the principle, and something ought to be done to achieve it.

The Hon. C.J. SUMNER: If the Hon. Mr Griffin can tell me how the Crown can prosecute the Crown then I will examine it: how can the Crown prosecute the Crown?

The Hon. I. Gilfillan: Under 6 *(b)* it is a person.

The Hon. K.T. Griffin: The Minister.

The Hon. C.J. SUMNER: It is, in effect the Crown. In any event, the Government has to indemnify the individuals involved, so there is a conceptual problem, first, if it is the Crown prosecuting the Crown, and secondly, if it is the Crown prosecuting an individual in one of its own departments, the Crown has to indemnify the person it has just prosecuted, and pay back to the Crown the fine for that person who has been prosecuted.

The Hon. I. Gilfillan: The actual consequence of an action like that is more significant than the money—there is the deterrent and the publicity of it.

The Hon. C.J. SUMNER: The honourable member is introducing a new concept into British jurisprudence hitherto unknown, as far as I can make out. The Hon. Mr Griffin knows that.

The Hon. I. Gilfillan: It is his amendment.

The Hon. C.J. SUMNER: I know, but he is not game to get up and defend it, because he knows that it is nonsense.

The Hon. C.M. Hill: He does not need to defend it. We know the principle.

The Hon. C.J. SUMNER: He will not get up and defend it, but if he was Attorney-General he would not put up with this in a fit.

The CHAIRPERSON: Order! I think we have had a fair discussion on the amendment.

Amendment carried.

The CHAIRPERSON: There are further amendments to lines 35 to 44 to be moved by the Hon. Mr Griffin and the Hon. Mr Gilfillan.

The Hon. K.T. GRIFFIN: I move:

Page 35, lines 35 to 44—Leave out subclause (7).

I seek to delete subclause (7), which finally allows a trade union to prosecute as a complainant in respect of an alleged offence: where a person is allegedly guilty of an offence no proceedings are brought within six months after the date on which it was committed and an employee who is a member of a trade union has an interest in the matter. I think that that is extraordinary. I do not believe that we ought to be allowing trade unions to issue prosecutions and lay complaints. We will have the courts full of these sorts of prosecutions and it will seriously impede the proper administration of the Act if employers are to be subject to prosecutorial action by trade unions. I see no valid reason for this at all, other than to give to the trade unions a very important weapon that they can hold over the heads of employers. I reject it completely and move for the deletion of that subclause.

The Hon. I. GILFILLAN: I have amendments on file which modify the wording in the Bill. I move:

Page 35, line 35—Leave out 'Where' and insert 'If'.

The amendment seeks to amend subclause (7) to read:

If a person is allegedly guilty of an offence against this Act and no proceedings are brought against the person within six months after the date on which the offence is alleged to have been committed—

I would then include paragraphs *(c)* and *(d)* to provide:

(c) At the request of an employee who has an interest in the matter, a registered association of which that employee is a member may bring and prosecute proceedings as a complainant in respect of the alleged offence, or

(d) At the request of an employer who has an interest in the matter, a registered association of which that employer is a member may bring and prosecute proceedings as a complainant in respect of the alleged offence.

I believe that it is important that, where these offences are to be resolved (and particularly on the invitation of the employee and/or employer), the registered associations can become involved. There seems to be no point in keeping them completely ostracised from these activities. I resisted the right of a registered association (and in this case, as the Bill is worded, a union) to be able to institute prosecution proceedings of its own initiative. I indicate that I will oppose the amendments on file of the Hon. Mr Griffin.

The Hon. C.J. SUMNER: This matter has been carefully considered and, in the circumstances, we prefer the Hon. Mr Griffin's amendment.

The CHAIRPERSON: I put the question that the word 'where' stand part of the Bill. Both the Hon. Mr Griffin and the Hon. Mr Gilfillan want to withdraw the word 'where'.

Question negatived.

The CHAIRPERSON: I now put the question that the word 'if' as proposed to be inserted by the Hon. Mr Gilfillan be so inserted.

Question negatived.

The CHAIRPERSON: I put the question that the remaining words in subclause (7) as proposed to be struck out by the Hon. Mr Griffin stand as part of the Bill.

Question negatived.

The Hon. K.T. GRIFFIN: I move:

Page 36, line 2—Leave out 'five years' and insert '12 months'.

This subclause provides that a proceeding for an offence against the Act is to be commenced within five years after the date on which the offence is alleged to have been committed. Earlier I drew attention to the fact that that was quite an extraordinarily long period of time and that it should be reduced to something more appropriate. Under the Justices Act until recently it has been six months. Recently we considered moving to 12 months, or at least in some areas of the law we have extended it to 12 months. That seems to be an appropriate time frame in which to launch prosecutions. There are variations between statutes, but five years is an extraordinarily long period where, for example, an employer may not be aware of a pending prosecution. Nothing may have been drawn to the employer's attention or, even if an employer is aware of an investigation having been conducted, if nothing is done for four years and 11 months, one would think it reasonable for the employer to expect that there would be no action taken. Suddenly there could be a knock on the door from the bailiff involving a summons concerning, say an alleged offence with a penalty of $100 000 and five years imprisonment.

This is an oppressive application of the law. I know that these sorts of things can happen. Files can languish in a Government department for several years and then be revived, particularly if there are difficult matters of proof or difficult concepts involved. This provision is oppressive and unreasonable. People should not be placed under such pressure for up to five years: 12 months is a reasonable period which is reasonably consistent with other areas of the law which provide for the issuing of proceedings within 12 months after an offence is alleged to have been committed. It will not create any injustice on either side.

The Hon. I. GILFILLAN: I move:

Page 36, line 2—Leave out '5' and insert '2'.

Five years is a try on. Many of the ingredients of the legislation depend on the moderation of the Democrats to get some sort of balance. We are coming back from five years. One point that the Hon. Mr Griffin did not refer to in his lurch into a short period of time is the disclosure of confidential information about which he is so concerned. It may not appear for a period over 12 months.

In that case, I still believe that the culprit should be liable to prosecution. This is a reasonable balance, bearing in mind that offences can be serious and can impinge both ways. I will oppose the Hon. Mr Griffin's amendment and look for support for my amendment.

The Hon. K.T. GRIFFIN: I am not lurching anywhere: I am just trying to be consistent with the general law as it is applied at present. I have not forgotten anything about confidential information. That is not relevant to whether the period should be 12 months, six months or five years. What is relevant is whether it is oppressive on any person under this Bill to be under threat of prosecution for five years from the date of an occurrence, which might be an

alleged offence, and then to find that towards the end of that five year period prosecutions are launched.

The Hon. I. Gilfillan: Five years is too long.

The Hon. K.T. GRIFFIN: Even two years is too long, in my view. The Hon. Mr Gilfillan has said he will support a two year period and vote against my amendment. I really have no option but to concede that he has the numbers.

The Hon. C.J. Sumner: He hasn't always had them.

The Hon. K.T. GRIFFIN: No, but he gets them occasionally: he seems to make up the Attorney's numbers more often than he makes up mine.

Members interjecting:

The Hon. K.T. GRIFFIN: If members look at the *Hansard* record they will see that. I do not intend to call for a division, because I do not have the numbers, but I am disappointed that the Hon. Mr Gilfillan has decided not to support my amendment.

The Hon. C.J. SUMNER: As usual, we have to pick between one or other of the options offered by members opposite. We will opt for the Hon. Mr Gilfillan's amendment, on this occasion.

The Hon. R.I. LUCAS: This was one of the two matters I raised in my second reading contribution. I referred to the problem of chemicals in the workplace. I will not repeat the arguments I put then, but I was concerned about the amendment and I will support a two year penalty, as I believe that that is an acceptable compromise in relation to what I see as the good arguments that the Hon. Trevor Griffin put forward regarding the problem of a five year penalty. As I indicated in the second reading stage, there are problems in relation to certain employers who might be negligent in the use of chemicals in the workplace, and I believe that the 12 month provision is unnecessarily restrictive and that the two year period should be supported.

The Hon. Mr Griffin's amendment negatived.

The Hon. Mr Gilfillan's amendment carried; clause as amended passed.

Clause 58—'Aggravated offence.'

The Hon. K.T. GRIFFIN: I move:

Page 36, lines 10 to 13—Leave out all words in these lines after 'offence' and insert:

Penalty: Division 1 fine.

Clause 58 deals with aggravated offences. Where a person contravenes a provision of part III knowing that the contravention was likely to endanger seriously the health and safety of another and being recklessly indifferent as to whether the health and safety of another was so endangered, that person is guilty of an aggravated offence. The penalty is double the monetary penalty that would otherwise apply under part III for that offence, or imprisonment for a term not exceeding five years or both. I made the point earlier in the debate that the Government seems to have an up-front attitude of confrontation over this Bill, and uses the bludgeon of penalties to extract compliance.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: You can prove manslaughter under the criminal law. We do not need to double up by putting it under this Bill.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: Because you can't prove that it is manslaughter. Anyway, I make the point in the debate that the penalties are quite severe—in fact, draconian in many respects—and I do not believe it is appropriate in the context of this Bill to have these sorts of penalties. I propose the deletion of the penalty as provided in the Bill and the insertion of a division 1 fine, which is a maximum of $100 000.

The Hon. I. GILFILLAN: I oppose the amendment and point out that one of the laments made frequently is that the maximum penalties in other jurisdictions are so far from the penalties imposed by the courts that there are appeals and protests. So, I think that the effort to try to lower the maximum is not indicative of what is obviously the current way in which the judiciary interprets penalties applicable to offences. They are maximums and they very rarely, if ever, are applied. I think that the penalties included in the Bill are appropriate in these circumstances.

Amendment negatived; clause passed.

Clause 59—'Continuing or repeated offences.'

The Hon. K.T. GRIFFIN: I move:

Page 36, line 34—Leave out $20 000' and insert '$10 000'.

I have lost this amendment on many occasions previously.

The Hon. I. GILFILLAN: I oppose the amendment.

Amendment negatived; clause passed.

Clause 60—'Offences by bodies corporate.'

The Hon. K.T. GRIFFIN: I move:

Page 36, lines 35 to 39—Leave out subclause (1) and insert new subclause as follows:

(1) Where a responsible officer of a body corporate causes the body corporate to commit an offence against this Act, that responsible officer is also guilty of an offence and liable to the same penalty as is prescribed for the principal offence.

This clause relates to offences by bodies corporate and to the earlier debate on the question of responsibility within the public sector. The present provision provides that, where a body corporate is guilty of an offence, every responsible officer is guilty of an offence and liable to the same penalty as is prescribed in the principal offence unless it is proved that that person could not, by the exercise of reasonable diligence, have prevented the commission of that offence. This provision has been floating around in a number of pieces of legislation for some time and is used with growing regularity in legislation. However, in this Bill it is in my view offensive because of the reverse onus nature of the clause. A responsible officer is defined in subclause (2), and I will be addressing some remarks to that, as I have two amendments which are appropriate when we come to that subclause.

My amendment seeks to remove the reverse onus provision to provide that, where a responsible officer of a body corporate causes (with the emphasis on 'causes') the body corporate to commit an offence, that responsible officer is also guilty of an offence. I notice that the Hon. Mr Gilfillan's amendment is in similar terms, but instead of referring to 'causing the body corporate to commit an offence' he is referring to the fact that, where the commission of an offence by a body corporate is directly attributable to the act or omission of a responsible officer, the responsible officer is also guilty of an offence. My amendment is preferable. It is wider but does encompass the sort of obligation which ought to be placed upon officers of a body corporate if they cause the body corporate to commit an offence. If they are instigators of the offence, they ought to carry some liability.

The Hon. I. GILFILLAN: I move:

Page 36, lines 35 to 39—Leave out subclause (1) and insert new subclause as follows:

(1) Where the commission of an offence against this Act by a body corporate is attributable to the act of omission of a reasonable officer of the body corporate, that responsible officer is also guilty of an offence and liable to the same penalty as is prescribed for the principal offence.

As usual it seems almost to go without saying that the original clause was quite draconian in its implications and quite unacceptable to me. There needs to be some officer or officers in corporations and at the top of corporations where the principal decisions are made who must be liable to carry the full responsibility. The wording that I have sought to incorporate in my amendment is that a respon-

sible officer or officers will be liable to be found guilty of an offence.

Incidentally, it is important that eventually in some legislation there is an obligation on a corporation to have a director who is directly responsible for safety and health and that that be one of the requirements for a body corporate to be allowed legally to operate.

I say this not with any desire to bother people who are running businesses. However, we have accepted that a business will be more profitable with fewer accidents, that it is a humane gesture to people in the work force, and that it will have economic effects across the board if we reduce the number of accidents. There should be enthusiasm and initiative from the top in the corporate bodies or any area where people are employed (and that is why I made so much issue of the fact that Ministers of the Crown and those close to them must feel vulnerable and that they should take a personal interest; otherwise they will have the embarrassment of possible prosecution).

My amendment is aimed at enabling a responsible officer, who was proved to be the person whose act or omission caused the danger in the workplace, to be found guilty of an offence. However, that offence will need to be proved by established argument in front of the Industrial Commission, no doubt. To have this broadband type of culpability that the Government was attempting to have in the Bill was unfair and probably would not have been particularly effective in getting a person to see that their responsibility for safety was a high priority right down the track.

I have had the chance to be briefed by some businesses that take safety very seriously, and they have this track of responsibility for people well up in the managerial hierarchy. This is to be encouraged, and it will be encouraged by my amendment. I think the Hon. Mr Griffin's amendment is extremely difficult to prove. There would need to be a fair amount of test litigation before the responsible officer could actually be proved to have caused a body corporate to commit an offence.

The Hon. K.T. Griffin: Your amendment is no easier.

The Hon. I. GILFILLAN: I think it is easier. However, let the Attorney-General, who is obviously intently studying the matter, arbitrate between us. I oppose the Hon. Mr Griffin's amendment and look for support for my amendment.

The Hon. Mr Griffin's amendment negatived.

The Hon. Mr Gilfillan's amendment carried.

The Hon. K.T. GRIFFIN: I move:

Page 36, line 42—Leave out ', secretary'.

Subclause (2) deals with the definition of a 'responsible officer' in relation to a body corporate. According to the Bill, it means a director, secretary or executive officer of a body corporate, and it then goes on to deal with other paragraphs, to which I will refer later. A director has some statutory responsibilities towards the management of a company as a member of the board of directors, and the board of directors is ultimately responsible for the running of a body corporate. An executive officer has executive and management responsibilities within the body corporate.

However, the poor old secretary has none of those things. The secretary originally derived from a bookkeeper status and, although the secretary may sign annual returns and other company documents, he has no executive status within a body corporate and no power to dictate to either the board of directors, the executive officer, or other managers within the body corporate anything that goes on within the body corporate.

So, it is a ludicrous proposition to have the secretary in there as a person who is a responsible officer and liable to prosecution under this clause. I see no justification at all for a secretary to be included in this description. I think it is unique; I know of no other legislation where the secretary is placed in the same position as a director and an executive officer, and I do not believe that this provision in the Bill is at all appropriate and that it really flies in the face of the provisions of the Companies Code.

The Hon. I. GILFILLAN: I suppose there is some sense in that. There can be joint director-secretaryships—

The Hon. K.T. Griffin: Without any directors.

The Hon. I. GILFILLAN: I understand that, which is why I make the point—who could still be described as directors. Unless the Attorney can see a good reason for a reference to secretaries in this provision, I consider that this broad sweep, including secretaries, is a little excessive.

Amendment carried.

The Hon. K.T. GRIFFIN: I move:

Page 37, lines 4 to 6—Leave out the word 'or' and paragraph *(c)*.

In this clause 'responsible officer' is defined in paragraphs *(a)* and *(b)* of subsection (2) as meaning a director, an executive officer, or a person in accordance with whose directions or instructions the directors are accustomed to act. In paragraph *(c)* this is extended to include 'a person concerned in the management of the body corporate'. We have made amendments to other Bills to exclude this sort of phrase, because it is very wide. It may be that there is a clerk who is concerned in the management of the body corporate, because the clerk assists the executive officer to carry out the decisions of the executive officer, and in that context that clerk would be a person concerned in the management of the body corporate. If it was confined to a person who was the manager of the body corporate and who carried the responsibility for management decisions, that would be another matter. I just think it is quite unreasonable to try to get all those who are involved in the chain of authority, but not necessarily ultimately accountable and finally responsible, to be caught by this extensive provision.

The Hon. I. GILFILLAN: I oppose the amendment. Before people involved in management are guilty of, or liable for, an offence they will need to have been prosecuted under the amendment that we have now made, and in those circumstances I am happy for paragraph *(c)* to remain in the clause.

Amendment negatived; clause as amended passed.

Clause 61—'Code of practice.'

The Hon. K.T. GRIFFIN: I move:

Page 37, after line 12—Insert new subclause as follows:

(2a) The commission should in the preparation of a code of practice relating to the health, safety or welfare of persons employed in schools consult with, and take into account, the recommendations of—

(a) the Director-General of Education;

(b) the Independent Schools Board;

and

(c) the South Australian Commission for Catholic Schools.

One would expect that sort of consultation to occur, but I want to make sure that it is specifically provided in the Bill, because there is quite a difference between an industrial environment and an educational environment. Of course, the Bill will have significant ramifications in the education sector.

I understand that the three groups in question are already working on a draft code of practice and that it will in fact be uniform across the three school systems, if it is approved by the commission. There is a need, because of problems experienced in schools with inspectors and questions of safety standards in technical education centres, science laboratories and canteens in particular, that we make special reference to this particular area of consultation in this Bill.

[Midnight]

The Hon. C.J. SUMNER: The Government opposes this amendment. It does not believe that it is necessary. It seems odd that a compulsion to consult with a limited group of people involved in one particular area should be placed in the legislation and that there should be no obligation to consult in a whole lot of other industries. It just seems unnecessary. Presumably, as a matter of practice, this will occur, but to actually insist on it as a matter of obligation seems to me to be unnecessary.

The Hon. I. GILFILLAN: That may well be true. I do not know whether it is gilding a lily to have it spelled out here, but it does appear to be a reasonable group of people to consult. I accept that one could clutter up the Bill if each special interest group came in saying that X, Y and Z must be consulted; it could clutter it up in a whole lot of extraordinary ways. I assume that the commission, being a responsible body that I trust it will be, would consult with those people, anyway. On the face of it, I see no harm in the amendment and intend to support it.

The Hon. R.I. LUCAS: I strongly support this provision being included in the Bill. As the Opposition, we have received considerable representations in relation to this special position of schools and the problems being experienced by non-government schools in particular. The Government, in the State budget, made a special allocation of $1 million to assist Government schools in updating their tech study areas after the DLI inspectors had been through them. The DLI inspectors had also been through the non-government schools, which are now left in the position with their facilities closed down in many instances but with no extra allocation from the Government to assist in the upgrading of those schools. I think this is a small step but it is a recognition of the circumstances of the schools, and I strongly support the amendment of the Hon. Trevor Griffin.

Amendment carried.

The Hon. K.T. GRIFFIN: I move:

Page 37, after line 36—Insert new subclause as follows:

(7) An approved code of practice or the revision of a code of practice is subject to disallowance by Parliament.

(8) Every approved code of practice or revision must be laid before both Houses of Parliament within 14 days of notice of its approval being published in the *Gazette* if Parliament is in session or, if Parliament is not then in session, within 14 days after the commencement of the next session of Parliament.

(9) If either House of Parliament passes a resolution disallowing an approved code of practice or the revision of a code of practice, then the code of practice or revision ceases to have effect.

(10) A resolution is not effective for the purposes of subsection (9) unless passed in pursuance of a notice of motion given within 14 sitting days (which need not all fall in the same session of Parliament) after the day on which the code of practice was laid before the House.

The CHAIRPERSON: This amendment is on file from both the Hon. Mr Griffin and the Hon. Mr Gilfillan. Do you wish to speak to this, Mr Griffin?

The Hon. K.T. GRIFFIN: I have already spoken to the codes of practice. I indicated that I moved the amendment to which I have already spoken.

The Hon. I. GILFILLAN: I do not intend to speak at length on this matter. It is important that I express our support for the amendment which is also on file in my name. I think the codes of practice are a very important part of the legislation. We have spent a lot of time and will continue to spend more time on this matter. I think it is important that the codes of practice be subjected to the scrutiny of the Parliament.

Amendment carried.

The Hon. R.J. RITSON: It is after midnight and I appreciate everybody's exhaustion and under the circumstances I appreciate the patience and responsibility of the Government in its respect for the parliamentary process in working through this complicated Bill. I have waited for three days for clause 61 to be considered. The matter of codes of practice is really, in the end, where the whole business is going to be at. The Bill creates structures and authorities, but in the end what will count is what is promulgated as the code of practice.

I am pleased that the Government has, in the end, perhaps not accepted but come to be saddled with the amendment of the Hon. Mr Griffin. I do not think that we can go through all areas and codify every industry, so I will not move any amendments. However, I have two particular areas of concern. I wish to ask the Minister in these two areas about the Government's attitude administratively to codes of practice when the Bill is passed.

The first matter relates to diving safety. There is an Australian standard 2299, which in an answer to a question about two and a half years ago the Attorney-General was able to inform me had been incorporated by Cabinet in regulations controlling divers. Subsequent to that Cabinet decision one department in particular, the Department of Fisheries, persistently excused itself from observing those standards on the basis that those divers were scientists. It may be that there are different operational requirements for different classes of divers in terms of the laying out of buoys or signals and whether one carries knives, but the time/depth limitations, the sheer physiology of when you have your nervous system destroyed, is no less kind to scientists than to any other divers.

I have consulted with the top authority in Australia, who happens now to work in our centre of excellence, of which the Minister of Health has boasted in recent times, who is absolutely of the opinion that there should be one standard in respect to the following matters: the time/depth limitations, the composition of the dive team in terms of standby divers, supervisors and attendants; the standards of medical fitness to dive; and the provision of chamber support for decompression dives.

Earlier this year I asked the Minister of Labour (Hon. Frank Blevins) a question in the Council, following which he wrote to me. In his reply by letter he stated that the Fisheries Department employees were entitled to observe this alternate code of scientific practice. I point out that that code includes diving to a depth of 210 feet on compressed air (a fact of which Mr Blevins informed the Council in reply to a question a couple of years ago) and that the size of the dive team observes standard 2299 where manpower allows (and that is a cost limitation; in other words, pennies are pinched, and if they do not have enough people they excuse themselves from the full dive team). That is the only department that has produced a life threatening case of bends amongst Government divers. It is the opinion of the hyperbaric unit—the centre of excellence—that they behave like cowboys.

Under this Act the Department of Labour has—and will have—a responsibility to enforce industrial health, welfare and safety on other departments like Fisheries, Police, E&WS and Marine and Harbors maintenance divers. I ask for an assurance that the Government will apply at least the same standard to itself (namely, 2299, adopted by Cabinet on a date which the Attorney-General can research when he gave me the date in answer to a question) as it does to private industry. I recognise that there will be occasions when the sheer importance to the State of a particular dive or the sheer urgency in terms of humanitarianism may require additional risk. I therefore accept that, if 2299 is proclaimed as a code of practice, there should be provision for ministerial exemption from in particular chamber support and,

to some extent, depth/time limitations, having regard to the humanitarian urgency or economic imports of the dive.

If the lesser standard (namely, the scientific code of practice) is promulgated instead of 2299 with powers of exemption, then that will set back the whole movement towards greater safety; it will endorse a code of practice that is dangerous and born of wilful blindness of modern advances in underwater medicine. I ask the Minister to consult with his officers and to give me an assurance that the standard proclaimed for Government divers with respect to depth/time limitations, decompression stoppages during ascension; the composition of the dive team; the standards of medical fitness to dive; and chamber support will be the national standard 2299 and no other standard. I would accept a provision to empower ministerial exemption from some of those standards, subject to urgency.

The Hon. C.J. SUMNER: I acknowledge the honourable member's very deep interest and concern in this area, as it is an issue that he has raised on a number of occasions.

The Hon. R.J. Ritson: And made some progress.

The Hon. C.J. SUMNER: And made some progress with on previous occasions. I am pleased to see that his persistence is paying off with my colleagues. Unfortunately, I am not in a position to give the honourable member a full rundown on the situation because, clearly, it is a matter of some technicality and I would need to get the appropriate Minister's view of it.

This Act binds the Crown and therefore the Crown would be bound by the Act and any regulations that were promulgated under it, but the codes of practice have a somewhat less formal status. They may be used in an area of prosecution. Clearly, we have had that debate earlier as to the Crown prosecuting itself.

It is not the intention of the legislation to create exceptions for the Crown as far as safety practices are concerned. So, in general terms, it would be the intention of the Government that the Crown be bound by the relevant codes of practice. It may be that, if there need to be exceptions to a code of practice, they ought to be written into the codes themselves. The honourable member referred to certain circumstances such as life-threatening situations where the general standards have to be modified to cope with that particular emergency.

Perhaps the best way of handling that would be to incorporate that exception in the code of practice. Although I cannot be any more specific, I acknowledge the honourable member's deep interest in this matter. I reiterate: the Act binds the Crown; the regulations will bind the Crown; and there is a general intention on the Crown to abide by an approved code of practice. I do not have the necessary technical expertise to respond further.

The Hon. R.J. RITSON: I appreciate the Minister's position. I conclude by saying that we have before us a Bill which says that in prescribing a code of practice the Government need not prescribe the same code as the national standard. I am saying that there is one small group of Government divers lobbying for a lesser code of practice than the national standard against the highest advice. The code that they may urge on one Minister in another place is regarded by all the experts as a dangerous code.

We cannot argue that further because we do not have the appropriate Minister in this Chamber. Because it involves medicine, Boyle's Law and a number of other matters, it could only be resolved by a coroner after the event. I would have hoped that the Government would say to me, 'We will go down North Terrace and ask the opinion of the Director of Hyperbaric Medicine about the appropriate code of practice and ensure that we will take his advice.'

The Hon. C.J. SUMNER: What the honourable member is saying can be answered this way: this commission is established as a tripartite body comprised of Government, employer and employee representatives and will have the responsibility for assessing and coming to conclusions about an appropriate code of practice in this area. If there is a dispute about the code of practice and what is relevant, the commission would have to consider the dispute, get the technical evidence it needs, and make a decision. Perhaps the divers would put a point of view—I do not know. They would be free to do it, presumably. As Government divers, they would be subject to Government direction. The honourable member would be free to put his view. He could direct the commission's attention to a body of expertise or an individual with expertise in the area.

The commission would then consider all the relevant evidence, including, in accordance with the Act, occupational health and safety policies and codes of practice developed or adopted by the National Occupational Health and Safety Commission and make its determination. I trust that that clarifies the position for the honourable member.

The Hon. R.J. RITSON: It is for that very reason that I am not moving amendments or seeking to incorporate 2299 here. I am merely making the point that the Bill provides that the Government may prescribe less safe codes of practice than the national standard provides, and I am pointing out that there is an interdepartmental dispute where one group of Government divers wish to have a less safe code of practice and in the end the Department of Labour will have to decide whether to enforce the national standard or promulgate a lesser standard. I am not seeking to resolve that issue here: I am bringing it to the notice of the Government. I will be watching it, as the coroners will be watching it.

The Hon. L.H. Davis: I hope they take notice, because you have been right all along in this.

The Hon. R.J. RITSON: I do not want to be so right that there are funerals. My next question refers to the Rescue One helicopter. This aircraft is a Bell 206 long ranger designed as an executive transport aircraft. It was originally designed as a military scout aircraft during the Vietnam War. The contract was lost to the Hughes Corporation and the aircraft was therefore marketed civilly in the form of a jet ranger and extended to the long ranger. It was leased from Lloyd Aviation by the South Australian Government at a cost—here I will not claim infallibility, but my informants say that a standing charge of $30 000 a month or $300 per flying hour applies. It was very appropriate and successful for general police transport. Because it was there, demands were made on it for emergency use in the form of air medevac transport and search and rescue operations.

I will not argue whether the State has any sort of duty to provide a search and rescue helicopter for the citizens of South Australia or people in nearby waters. That is not relevant to my argument. My argument is that, when it is called on to perform such duties, Rescue One has certain design limitations which, some of the users claim, places people in danger. The medical officers who call upon the aircraft for air medical evacuation state that the cabin volume is such that the amount of space compromises the forms of treatment that can be carried out in flight. There have been problems where the size of the doors creates great difficulties in loading obese patients or humidicribs.

The Police Association has written a letter to the Minister of Emergency Services stating that, because of its gross lifting capacity (and this has nothing to do with the winch—there is the same problem when it is a static line), sometimes when victims are lifted a policeman has to be left behind.

Incidents of a policeman being left behind on disabled vessels to fend for themselves until the aircraft can return for them, having ferried the victim to shore, are documented. In the letter from the Police Association it is stated that the lives of the rescuers are compromised and that the Government is in an invidious position in that it might have ignored expert advice and might have required workers (namely, the Police Star Force operators) to compromise their safety because of inadequate equipment.

A police sergeant, Trevor Hartman, who carried out a study tour in his capacity as a senior fixed wing pilot of police airwing visited a number of countries and discussed the question of search and rescue operations with a number of overseas police airmen. He could not find one police airwing that used the Bell 206 for search and rescue, and when he raised the matter, in the words of the study report. 'They simply shook their heads in disbelief or laughed derisively and stated, "The safety margin is just not there." ' I understand that the Government did not lease this aircraft with the intention of providing search and rescue facilities; it was leased as a police transport and eye in the sky.

Nevertheless, the humanitarian instinct is such that, when an emergency requiring the aircraft occurs, these people do the job, knowing that they may have to do jobs beyond the safe limitations of the aircraft, and the Government has refused to upgrade the aircraft, knowing that the humanitarianism of these people will mean that they will not form a safety committee and refuse the task. If the Government is serious—and if the Hon. Frank Blevins, when he was addressing workers on the steps of Parliament House, was serious in saying that he finds it dreadful that employers would put money before safety—the Government has to examine its conscience and ask whether it will continue trading upon the humanitarianism of the Star Force when officers have to place themselves in this situation, or whether it will examine other options.

I point out again that the Department of Labour will have to police these safety regulations. One of the things it will have to do is ask itself and ask the police whether the standards of occupational safety, health and welfare are met. It will have to examine the Police Association letter; it will have to examine Sergeant Hartman's report; it will have to examine the Taeuber report and ask whether that was an adequate analysis of the situation. The Taeuber committee, in relation to Rescue One, was a group of users of the aircraft chaired by Mr Taeuber with the aviation advice given by Lloyds Aviation. Lloyds Aviation had representatives on the committee; it has the present contract on Rescue One; and it was the firm which the committee recommended provide a lease of a new aircraft at enormously increased cost. That committee unanimously agreed that Rescue One was inadequate for search and rescue or air medevac.

It is very interesting that the existing contract holders sat on a committee and recommended unto themselves a much more expensive contract—and no other aviation firm was contacted. I have had costings from other firms of a much more modern, powerful and capacious aircraft at less cost than the Government is paying at the moment. I have forwarded them to the Government and not had that acknowledged. So, I think that the Government must examine its conscience; must look at the Taeuber report on Rescue One; must look at the Police Association letter; must look at Sergeant Hartman's report; and must look at the very limited canvassing of a very valuable contract to Lloyds. It must look at the reasons why other aircraft firms were not canvassed, and ask itself whether it has really attempted to address the search and rescue problem in a cost effective and safe way, or has something else funny about contracts occurred. The Government has to do that with the same conscientiousness as it would do if it were General Motors-Holden's choosing two machines or two presses, one that might be safer than the other.

There cannot be two standards—one for the Government and one for private industry. I guess that, because I did not get an understanding reply on the question of divers, I will not get one on this matter, but I simply want these matters to be on the record for the Coroner in future.

The Hon. C.J. SUMNER: I appreciate the honourable member's interest in this topic and the point he was making. I am sure that they were directly relevant to occupational health and safety.

The Hon. R.J. Ritson: There are either one or two standards—Government and private.

The Hon. C.J. SUMNER: It is unfair of the honourable member to make that accusation. The Act binds the Crown.

The Hon. R.J. Ritson interjecting:

The Hon. C.J. SUMNER: It does now, according to an amendment moved by the Hon. Mr Griffin.

The Hon. R.J. Ritson: When did the Crown last prosecute itself?

The Hon. C.J. SUMNER: The Crown cannot prosecute itself.

The Hon. R.J. Ritson: When did the Crown last pay a fine to the Crown?

The Hon. C.J. SUMNER: The Crown cannot pay a fine to the Crown.

The Hon. R.J. Ritson interjecting:

The CHAIRPERSON: Order!

The Hon. C.J. SUMNER: The Act says that this Act binds the Crown. That ought to be fairly clear. I do not want to get into an argument with the honourable member, but that is what it says. Because of the nature of the Crown there are certain difficulties in enforcing the Act.

The Hon. R.J. Ritson interjecting:

The Hon. C.J. SUMNER: If the matter got into court the Crown would be bound by the Act. It does not mean that the Crown prosecutes itself for a breach of the Act. The Act binds the Crown. If there is a court dispute at some time the court would say that the Crown is obliged to abide by the Act. If it does not get to court, what is often forgotten about the Crown is that it is publicly accountable to the Parliament in the democratic community in which we live whilst private corporations are not. That is a significant distinction in terms of how we get accountability of Crown authorities. I am not able to respond to the honourable member's question and the issues he has raised. He has expressed concern about them before. I can only repeat the principle established before.

The Act binds the Crown and the Crown will be bound by regulation. It is the intention of the Crown to be bound by the codes of practice established by the tripartite commission. There may need to be some exception to that situation—I do not know. Presumably, if there are to be exceptions to a code of practice they would be incorporated in some form in the code of practice. That is the general principle, although there may be some exceptions to it.

The Hon. R.J. RITSON: I understand now. The Minister is saying that, if the Crown chooses to promulgate unsafe codes of practice, all it has to do is obey its own unsafe codes of practice with its own workers and in the end it will be up to the political process to decide whether it was to be sanctioned politically or not because of the difficulties of doing anything about it. I understand that. I just wanted the matter exposed and on the record.

The Hon. C.J. SUMNER: That is a ridiculous interpretation. The member should be ashamed of himself for coming up with that sort of tripe at this time of night. What he is suggesting is that somehow or other the tripartite body will proclaim and lay down unsafe work practices.

The Hon. R.J. Ritson: I am afraid of that in two instances. Haven't you seen the—

The CHAIRPERSON: Order!

The Hon. C.J. SUMNER: In that case the member can make submissions to the tripartite body, which is not Government alone: it is an instrumentality of the Crown (the commission), subject to the general control and direction of the Minister, but it has employers and employees on it. It has a person specifically on it with experience in occupational health matters. We included that the other people on it also ought to have an interest in occupational health matters. Therefore, we set up a *quasi* expert body. The member is now suggesting that that body will make codes of practices that are unsafe.

To put it in those terms is really quite ridiculous. One presumably establishes a body like this with the sort of expertise that is in it in order to get the best advice and to promulgate codes of practice that are appropriate and safe for the working environment, taking into account all the information that it can glean. That will be the position and once those codes of practices are promulgated, the intention is that the Crown will abide by them. I cannot raise the technical issues that the honourable member raised. There may be some exceptions and in certain circumstances, but I would have thought that the exceptions would be incorporated in the code of practice.

The Hon. R.J. RITSON: I understand. I will have nothing more to say—

The Hon. C.J. Sumner: You don't understand, that's the problem. I thought you did when you started off, but you don't.

The Hon. R.J. RITSON: I had hoped that it would not get to this. My only concern was that the Bill provides for codes of practice less than the national standard. The Hon. Mr Blevins wrote to me early this year proposing a code less than the national standard.

The Hon. C.J. Sumner: Who did?

The Hon. R.J. RITSON: The Hon. Mr Blevins wrote to me earlier this year advocating a less than safe diving practice.

Clause as amended passed.

Clause 62—'Evidentiary provision.'

The Hon. K.T. GRIFFIN: I move:

Page 37, line 39—Leave out 'of workers'.

Amendment carried.

The Hon. K.T. GRIFFIN: I move:

Page 38, after line 5—Insert new subclause as follows:

(2) Nothing said or done during the course of conciliation proceedings under this Act shall subsequently be given in evidence in other proceedings under this Act.

This amendment is important; that is, where there is conciliation under a number of provisions of the Bill anything that is done during the course of those conciliation proceedings should not be subsequently used in evidence in other proceedings.

The Hon. C.J. SUMNER: The Government accepts this amendment.

Amendment carried; clause as amended passed.

Clause 63—'Annual report.'

The Hon. K.T. GRIFFIN: I move:

Page 38, line 22—After 'against this Act' insert '(except that a person must not be identified if to do so would be in contravention of a suppression order)'.

This amendment deals with the annual report of the commission. One of the things on which it has to report is the prosecutions brought under the Act identifying persons who have been convicted of offences against the Act. It has to be qualified. If a suppression order has been made under the Evidence Act, I think it is quite improper for the annual report to contain the name of, or information which might identify, that person in breach of the suppression order. Therefore I move the amendment to exclude the name where it has been suppressed in a court decision.

Amendment carried; clause as amended passed.

Clause 64—'Modification of regulations.'

The Hon. K. T. GRIFFIN: I move:

Page 38, line 43—Leave out 'worker' and insert 'employee'.

Page 39—

Line 10—Leave out 'workers' and insert 'employees'.

Line 16—Leave out 'workers' and insert 'employees'.

These amendments are consequential.

Amendments carried; clause as amended passed.

New clause 64a—'Exemption from Act.'

The CHAIRPERSON: New section 64a has been proposed by the Hon. Mr Gilfillan. However, he is not present.

The Hon. K.T. GRIFFIN: I am happy to move this amendment. I think there is some merit in it. It concerns just the power to apply to the Commission for exemption in certain circumstances. I think the amendment has some merit. I therefore move to insert the following new clause:

64a. (1) Where—

(a) an employer applies to the Commission under this section for an exemption from all or any of the provisions of this Act;

and

(b) the Commission is satisfied—

(i) that the granting of the exemption would not adversely affect the health, safety or welfare of any employee;

(ii) that it is reasonable to grant such an exemption,

the Commission may, by notice in writing to the employer, grant an exemption under this section.

(2) A notice under subsection (1) may exempt—

(a) the employer;

(b) specified operations carried on by the employer;

or

(c) a specified workplace under the management of the employer,

from all or any of the provisions of this Act.

(3) Before deciding on whether or not to grant an exemption under this section the Commission shall, so far as is reasonably practicable, consult with—

(a) any registered association that represents one or more employees who might be affected by the granting of the exemption;

and

(b) any registered association representing employers that might have an interest in the application.

(4) An exemption under this section may be granted subject to such limitations as the Commissioner thinks fit.

(5) The Commission has an absolute discretion to revoke an exemption granted under this section.

The CHAIRPERSON: I should perhaps point out that the Hon. Mr Gilfillan indicated that he wished to move this amendment in a slightly amended form in that after the words in placitum (ii) it would read: 'the Commission may, by unanimous decision, by notice in writing to the employer, grant an exemption under this section'.

The Hon. K.T. GRIFFIN: I have moved it in the printed form on file, and it can be sorted out later when the Hon. Mr Gilfillan is around to vote.

The Hon. C.J. SUMNER: I am prepared to move the amendment proposed by the Hon. Mr Gilfillan. Accordingly, I move:

That the amendment be amended by inserting in paragraph *(b)* of new subclause (1) after the words 'the Commission may,' the words 'by unanimous decision,'.

I will oppose the Hon. Mr Griffin's amendment, but at this stage it is a bit better at least with that in.

The Hon. C.J. Sumner's amendment carried.

The Hon. C.J. SUMNER: In relation to the amendment moved by the Hon. Mr Griffin, I point out that the Government opposes the amendment which would enable the Commission to exempt the employers from all or any of the provisions of the Act. Clause 5 of the Bill already enables the exemptions to be achieved by regulation. In any case, it is quite inappropriate for the Commission to become involved in what would be a regulatory role, when its main function is to oversight and review the operation of the system. In fact, after further consideration of it I really wonder why the Hon. Mr Griffin is pursuing this, in that clause 5 apparently enables the exemptions to be achieved by regulation.

The Hon. K.T. GRIFFIN: The matter is on the record. The Hon. Mr Gilfillan has decided that he is not going to be here after midnight, and I just feel that the amendment ought to go. It seems all right on the face of it, but at a quarter to one in the morning—

The Hon. C.J. Sumner: You would have supported it anyway.

The Hon. K.T. GRIFFIN: I would have supported it—and we can sort out any other problems later, if necessary.

New clause 64a as amended inserted.

Clause 65—'Consultation on regulations.'

The Hon. K.T. GRIFFIN: I move:

Page 39, lines 27 and 28—Leave out all words in these lines and insert 'The Minister'.

My amendment seeks to remove the flexibility which is apparently to be given to the Minister under this Bill. I suppose it is largely irrelevant, anyway, because the Minister can direct the commission and to that extent the consultation may be worthless. However, it is probably worth including the amendment if only to demonstrate a principle which may not be honoured. The amendment will get rid of the apparent flexibility which the Minister is given.

The Hon. C.J. SUMNER: I oppose the amendment. In fact, if you asked me in principle, I would probably oppose the whole clause. Again, you are derogating from the Minister's responsibility to Parliament and to the electors. If Ministers wish to take this sort of action to promulgate regulations, they take the political consequences in Parliament with disallowance, and the like. I would oppose the whole clause, but it is a Government Bill introduced by my colleague in another place. My only solace is that I do not think the issue is as large as the issues that are splitting the Democrats at the moment. I think the amendment derogates from ministerial responsibility. I think there are many areas where we are introducing legislation which diminishes ministerial responsibility and creates all sorts of fetters and barriers such as advisory committees, and the like, in a way that I think tends to confuse and make less clear the appropriate lines of ministerial responsibility that should exist in a democracy.

Amendment carried; clause as amended passed.

Clause 66—'Regulations.'

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

Page 40, after line 41—Insert new paragraph as follows:

(ab) may leave any matter or thing to be determined, dispensed with, regulated or prohibited according to the discretion of the Director of the Department of Labour or the Chief Inspector, either generally or in a particular case or class of case;.

Considering the regulations that are to apply under the new Act, various situations have been identified where actions should or need not be taken according to the discretion of the Director of the Department of Labour or the Chief Inspector. If this is to be the case, expressed provision should be made in the Bill, as provided by this amendment.

The Hon. K.T. GRIFFIN: The Minister seeks to give a fairly wide discretion, which I am not sure is appropriate. Will the Attorney repeat what he had to say?

The Hon. C.J. SUMNER: More simply than my previous explanation, it is to provide express power for the regulations to include discretions which can repose in the Director of Labour and the Chief Inspector with respect to certain exemptions or prohibitions. They are in the existing regulations. Parliamentary Counsel says that, if that approach is continued with, a specific power is needed under the regulation making provision to enable the regulation to be made which provides that certain things can be done at the discretion of the Director.

The Hon. K.T. GRIFFIN: I understand what the Attorney says about the power being in existence now. I have some concern about it and therefore put my reservations on the record. I think that any provision for something to be regulated or prohibited by the Director of the Department of Labour or Chief Inspector is entrusting them with much too wide a power which is not subject to any parliamentary scrutiny, and that is what worries me about this clause.

Amendment carried; clause as amended passed.

Clause 67—'Repeal.'

The Hon. K.T. GRIFFIN: My amendment is related to the amendment in the second schedule which I lost on clause 2, where I was seeking to put a moratorium of two years on the question of unsafe machinery. The Hon. Mr Gilfillan voted against me on that occasion on the basis that he had a later amendment for the second schedule. In the light of that, I will not persist with my amendment to clause 67.

Clause passed.

Clause 68 passed.

First schedule.

The Hon. K.T. GRIFFIN: I move:

Page 42—
Item 17—Leave out 'workers' and insert 'employees'.
Item 20—Leave out 'workers' and insert 'persons at work'.
Item 24—Leave out 'workers' and insert 'employees'.

I am not moving any of the Hon. Mr Gilfillan's amendments.

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

Page 42, item 11—After 'use' insert ', testing'.

This is the amendment that the Hon. Mr Gilfillan kindly put on file for me.

The CHAIRPERSON: I wondered whether it was consequential on something that happened many moons ago.

The Hon. C.J. SUMNER: No.

Amendment carried.

The Hon. K.T. Griffin's amendments to items 17 and 20 carried.

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

Page 42, after item 21—Insert new item as follows:

21a. The minimum standards that must be observed in providing information, instruction and training for the health and safety of workers whose native language is not English and who are not reasonably fluent in English.

This amendment is simply intended to facilitate the prescription of standards that should be observed in providing information, instruction and training for the health and safety of workers whose language is not English and who are not reasonably fluent in English. The promulgation of appropriate regulations should assist in the operation of various provisions of the Bill and provide assistance to people who must cater for immigrant workers.

The Hon. K.T. GRIFFIN: I support the amendment.

Amendment carried.

The CHAIRPERSON: We now have item 24, consequential.

The Hon. K.T. Griffin's amendment to item 24 carried.

The Hon. K.T. GRIFFIN: I move:

Page 42, item 31—Leave out 'a Division 2 fine' and insert '$1 000'.

I put very strongly that a Division 2 penalty, being the maximum which can be imposed by regulation, is to me quite out of this world. Usually we talk about regulations imposing penalties of $500 or $1 000, and that is where it ought to rest. If there is to be a large penalty imposed then it ought to be imposed by statute and not by regulation. This amendment inserts a figure of $1 000, which is about the ordinary rate of penalty that may be fixed by regulation. I think that it is appropriate.

The Hon. C.J. SUMNER: The Government opposes this amendment.

Amendment carried; first schedule as amended passed.

Second schedule.

The Hon. K.T. GRIFFIN: My amendment on file to the second schedule is no longer relevant in the light of an amendment I lost on clause 2.

New clause 5a—'Special provisions relating to plant.'

The Hon. K.T. GRIFFIN: I move:

Page 43, after clause 5—Insert new clause as follows:

5a (1) It is a defence in proceedings for an offence against this Act in relation to failing to use safe plant for the defendant to prove—

(a) that the plant was manufactured before the commencement of this Act;

(b) the plant was being used for pastoral or agricultural purposes;

and

(c) that its use would not have been in breach of the repealed Act if the provisions of that Act as they applied immediately before its appeal were still in force.

(2) This clause expires on the fifth anniversary of the commencement of this schedule.

In the light of the fact that the Hon. Mr Gilfillan rejected my earlier amendment, I would have supported this. I think it is better than nothing.

The Hon. C.J. SUMNER: We oppose this amendment.

Amendment carried; second schedule as amended passed.

Third schedule and title passed.

Bill recommitted.

Clause 4—'Interpretation'— reconsidered.

The Hon. K.T. GRIFFIN: I move:

Page 3, after line 17—Leave out the definition of 'prescribed information'.

It is now no longer relevant and I move accordingly.

Amendment carried; clause as amended passed.

Clause 49—'Appeals'—reconsidered.

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

Page 33, line 11—Leave out subclause (3) and insert new subclauses as follows:

(3) An appeal under this section may be on a question of law or a question of fact.

(3a) An appeal on a question of fact may only occur with leave of the Supreme Court (which should only be granted where special reasons are shown).

In the absence of the Hon. Mr Gilfillan, I hope that good sense and the fundamental principles of British justice will prevail.

Amendment carried; clause as amended passed.

Bill reported with amendments. Committee's report adopted.

COUNTRY FIRES ACT AMENDMENT BILL (No. 3)

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

The Hon. C.J. SUMNER (Attorney-General): I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

Compensation for volunteer firefighters and their dependants for death or injury arising in the course of their volunteer activities is a matter which has been in need of reform for some time. The former Deputy Premier and Minister of Emergency Services the Hon. Jack Wright initiated proposals for reform which were included in proposed legislation which came before this House during the last session in the form of the Workers Rehabilitation and Compensation Bill.

Unfortunately those proposals did not receive the support of the Opposition at that time and the proposals have temporarily stalled in another place. As a consequence the reform of compensation provisions relating to volunteers has been unacceptably delayed.

The Government has therefore decided not to await the major reforms of the general compensation law but to improve benefits provided under the Country Fires Act. The Worker's Compensation Act 1971 will also continue to apply to volunteers generally.

The Bill significantly modifies the compensation provisions of the principal Act. Under the existing provisions a volunteer's actual income can not be taken into account when determining compensation. In a number of cases this has resulted in some financial disadvantage to injured volunteers and their families. Under the proposals included in this Bill compensation for volunteers who are employed will be determined by reference to their actual earnings. With respect to self-employed or unemployed volunteers compensation will be determined by reference to notional employment in the field in which they are skilled or able to be employed. These changes will significantly reduce the potential for anomalies which exists under current provisions.

For the purpose of determining dependency and the extent of dependency of the spouse of a deceased firefighter the Bill excludes income derived by the spouse from partnership arrangements with the deceased to the extent that that income is attributable to the deceased's work on behalf of the partnership. The Government and the Country Fire Services Board are most anxious to have these provisions in place before the height of the fire season.

Clause 1 is formal.

Clause 2 provides that the measure will come into operation on a day to be fixed by proclamation.

Clause 3 substitutes section 27 of the Act which deals with the obligation of the Country Fires Services Board to pay compensation in respect of injury to or death of fire control officers, fire party leaders and members of C.F.S. fire brigades while serving in that capacity.

The proposal extends this obligation to members of the public who assist in fire-fighting or dealing with an emergency at the request or with the approval of a person apparently in command, in pursuance of the principal Act, at the fire or emergency. Such persons may presently receive compensation at the discretion of the trustees under the

Volunteer Fire Fighters Fund Act, 1949. As in the existing section the proposal provides that the Workers Compensation Act, 1971, applies subject to certain qualifications. The qualifications relating to the determination of whether and to what extent a volunteer fire-fighter is incapacitated for work are not substantively altered.

The new section provides that the average weekly earnings of a volunteer fire-fighter must be determined by reference to, if the volunteer was self-employed, the rate of pay that the volunteer would have received if he or she had been doing the same work but as an employee or, if the volunteer was unemployed, the rate of pay that the volunteer would have received in employment for which he or she was reasonably fitted. Any award or industrial agreement applicable to that class or grade of employment must be taken into account. The existing section provides that average weekly earnings of a volunteer shall be taken to be the prescribed percentage of the amount last published by the Commonwealth Statistician as an estimate of average weekly earnings of adult males working ordinary hours in full-time employment in this State.

A further qualification is added by the new section. Where a claimant and a deceased volunteer fire-fighter were in partnership prior to the date of the volunteer's death, the claimant may establish dependency on the deceased despite receiving income from the partnership. To the extent that the income is attributable to the work of the deceased on behalf of the partnership it will be treated as an allowance made by the deceased, out of the deceased's own income, for the maintenance of the claimant. The new section also removes the obligation on the Country Fire Services Board to call for public tenders before entering contracts of insurance relating to workers compensation for volunteer fire-fighters.

The Hon. J.C. IRWIN secured the adjournment of the debate.

VOLUNTEER FIRE FIGHTERS FUND ACT AMENDMENT BILL

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

The Hon. C.J. SUMNER (Attorney-General): I move:

That this Bill be now read a second time.

In view of the lateness of the hour 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 is complementary to amendments to the Country Fires Act. In future under the measures included in the Country Fires Act Amendment Bill (No. 3) 1986 volunteer fire-fighters including registered volunteers and casual volunteers co-opted in the event of an emergency will be covered by that Act and the Workers Compensation Act 1971.

Clause 1 is formal. Clause 2 provides that the measure will come into operation on the same day as the Country Fires Act Amendment Act (No. 3), 1986.

Clause 3 inserts a new section 17 that provides for the winding up of the Volunteer Fire Fighters Fund. The new section provides that claims will not be able to be made against the Fund in respect of injury or death attributable to an incident occurring after the day on which the measure comes into operation. It also provides that the principal Act will expire on a day to be fixed by proclamation and that any balance of the Fund will then vest in the Treasurer.

The Hon. J.C. IRWIN secured the adjournment of the debate.

COMMERCIAL AND PRIVATE AGENTS BILL

Returned from the House of Assembly without amendment.

SITTINGS AND BUSINESS

The Hon. C.J. SUMNER (Attorney-General): I move:

That the sitting of the Council be suspended until the ringing of the bells.

The proposition that has been agreed to by all members here—

The Hon. R.I. Lucas: Except me. I wanted to probe the Government and question it.

The Hon. C.J. SUMNER: I would be happy to have Question Time.

The Hon. M.B. Cameron: Our favourite man is away.

The Hon. C.J. SUMNER: The Hon. Dr Cornwall is in Alice Springs tomorrow, it is true. The proposal is that we resume at 10 a.m.

Motion carried.

[*Sitting suspended from 1.14 to 10 a.m.*]

STANDARD TIME BILL

Adjourned debate on second reading.

(Continued from 20 November, Page 2149.)

The Hon. M.B. CAMERON (Leader of the Opposition): The Eastern Standard Time debate must be the greatest non-issue of this year. But in a campaign by the Government, the media and the Chamber of Commerce it was intended that the public would begin to believe that Eastern Standard Time was of great importance. The public, however, are not that stupid. People are well aware that the proposal to change South Australia to Eastern Standard Time and, in the process, divide the State into two, is quite ludicrous. I cannot understand the Attorney-General—a man normally with a reasonable degree of commonsense—supporting the issue.

It would be nice indeed if it was the only thing we had to worry about in this State: we would really be looking good. Of course, there are more serious issues in the State and it is a pity that the Government is taking so long to realise it. Eastern Standard Time is an absolutely nonsensical issue. It is called beating an issue to make the Government look good.

I have lived in an area of the State called the South-East, very close to the Victorian border, all of my life, and I have never yet heard anyone in that area mention the half hour time difference as a problem. Now, suddenly, the Mount Gambier City Council has written to me and said, 'We want Eastern Standard Time.' The Millicent District Council has written and said, 'We don't want it.' The Penola District Council does not want it. The District Council of Mount Gambier does not want it—that is how silly this thing is. The city council wants it but the district council does not want it.

The Government has decided that it is a matter of great importance, but the people have not been fooled. I would say it is only a very small minority of people who feel strongly that we should change our timetable. Some of them are in business, and it must be an irritant to them to have a half hour time difference. However, I think in some cases, when leaving Adelaide for interstate, it just gives us a bit more time to get there, and it is probably a very good thing. If business people in this town think that Eastern Standard Time is a panacea for the problems that face the business community they are mistaken. I can assure them that they have more important things to worry about than setting their clocks in line with Eastern Standard Time.

What is important about this issue is that putting South Australia's time forward half an hour will have a very detrimental effect on people in the western area of the State, and that is what concerns me and what should concern members on the other side. The fact is that country people—

The Hon. Diana Laidlaw interjecting:

The Hon. M. B. CAMERON: That is right, but somehow the Government seems to be determined to cut off an area and say, 'You can do the best you can with the new situation.' We will have two types of people in South Australia; one will be on Central Standard Time and the rest on Victorian time. Why on earth the Government wants to turn us into Victorians, I have no idea.

The Hon. G. L. Bruce: It's not Victorian time; it's Eastern Standard Time.

The Hon. M. B. CAMERON: It is Victorian time as far as we are concerned. The fact is that country people have been at a disadvantage since the turn of the century, that is South Australia has had half an hour's permanent daylight saving since that time. There is quite an interesting story behind that. For the State's time to be in kilter with the sun, our meridian would be 135 degrees east, running through Elliston, and almost equally dividing the State in two. It was, in fact, 135 degrees east from 1894 to 1899, so South Australia was an hour behind Melbourne and an hour ahead of Perth. I think that is part of the problem. Because it is only half an hour, it becomes an irritant, as I said, to people in the business community. It might be a good idea if we considered going the hour and taking the irritant away.

At noon, the sun was directly above the meridian as it should be, but just before the turn of the century Adelaide merchants decided that they were at a disadvantage compared with the eastern colonies because they were receiving cablegrams from London an hour later. The Chamber of Commerce at the time moved to have the meridian shifted 7½ degrees east so that the difference in time would be only half an hour. So, South Australia unilaterally changed its Central Standard Time meridian, giving the State half an hour of enforced daylight saving and a meridian which did not even pass through its land, it goes from Warrnambool, in fact, if anyone knows anything about Victoria—as the Hon. Mr Bruce does, because he lived there for some time.

I am not saying at this stage that we should go back to the original meridian, but I do say that if there is to be any change it should be the correct way, not putting us even further out of kilter with what should be our true time. The sun is already half an hour late arriving in South Australia. Under this proposal it will be an hour late, and we will have the ridiculous situation during Central Summer Time of having our meridian running through New Zealand. The sun will be overhead in New Zealand when it is midday here. I suppose one could say that the Government is trying to turn us into New Zealanders as well!

It is bad enough now during daylight saving, with our meridian way out in the ocean, off the eastern coast. The further east the meridian goes the further disadvantages to people on the West Coast, because the sun will rise and set later. They, unfortunately, cannot work by clocks: they are guided by the sun, and this presents a number of problems to families.

It will present problems in Adelaide, too, because children will be arriving at school at 7.45 in the morning in the dark, with the sun just coming up. What a ludicrous situation that would be! Because of the difference in longitude, the sun rises 40 minutes later and sets 40 minutes later on the West Coast than in Adelaide, so children will be travelling to school in that area in the dark and coming home in buses during the hottest part of the day. In some isolated areas children can spend up to an hour travelling between school and home. They then stay up later at night because, as any parent knows, it is very difficult to get children to bed when the sun is shining, and I remember quite clearly during the war, when we had daylight saving, and the end result is an over-tired, grumpy child and a frustrated parent.

The Hon. T. G. Roberts interjecting:

The Hon. M. B. CAMERON: Farmers will be forced to start later, and therefore finish later. They will miss all their normal television programs, which might not seem important to the Hon. Mr Roberts but is to people in isolated communities on the West Coast. For some more examples of the effect Eastern Standard Time would have on rural people, let me quote from a letter from David Humphris, the State President of South Australian Rural Youth, which says:

> Another disadvantage to country people, particularly farmers, is at shearing time when shearers start work at 7.30 a.m. Even now it is often dark in winter, and at either end of the daylight saving period. Many pastoral shearing sheds have no facilities for lighting, therefore reducing efficient productivity through lost time.
>
> Shearers work by standards set by the Australian Workers Union—

as the Hon. Mr Roberts would know—

> and work by the clock, not by the sun.

Try to persuade people in the work force to work by the sun and just see how you get on. I have tried it sometimes and it just does not seem to go down all that well.

The Hon. J.C. Irwin: What does 'Nifty Nev' have to say about that?

The Hon. M.B. CAMERON: He would not approve. I can assure you because he is a very strong-minded man and the organiser for our area. He would certainly take action against us. The letter continues:

> Neither do they work overtime to make up for time lost in delaying starting time. Due to grain moisture content controls, the start of harvesting each day is controlled by the sun and weather, not the clock. If moisture levels are too high, common in the early morning—

as any member who has any knowledge of the land at all would know, and as the Hon. Mr Roberts would know, because he has lived in the rural community—

> the grain is unacceptable to the South Australian Co-operative Bulk Handling Ltd. With 8 000 farming families involved in the harvesting of South Australia's most important cereal crop, wheat, a further offsetting of delivery time of grain to silos would result in the need for temporary paddock storage of 48 000 tonnes of grain every night, throughout the State. With the proposed time changes the silos will in effect be open for a shorter period during the ideal time of day for harvesting. This once again reduces optimum productivity of a very important industry.
>
> The West Coast of South Australia relies on GTS BKN 4 television in Port Pirie, and in parts ABC television for news services. If the proposed change to daylight saving was to take place, viewers west of the 137° longitude line will receive the 6.30 p.m. news at 5.30 p.m., which is much earlier than farmers and business people can be home. Also GTS BKN 4 would be able to play a commercial for alcohol legally at 8.30 p.m. in Port Pirie, and at the same time illegally at 7.30 p.m. west of 137°

longitude. A similar problem arises with telecasting Adults Only rated programs from stations east of the new time zone, when it is prime children television viewing time in the western zone.

Country people are also concerned and annoyed that this proposal, with its questionable benefits and advantages for only a minority, has not been adequately debated. There has been no mandate from the public. I quote from a letter from the District Council of Streaky Bay:

Council is of the opinion that moving to Eastern Standard Time and/or the creation of two time zones, does not have the support of the majority of people in South Australia. Any move to effectively lose our identity and individuality, in this the Jubilee 150 year of South Australia, is an insult to the people who make this State 'great'.

The existing Central Standard Time, because of man's tampering with nature, gives the people of South Australia 30 minutes of permanent daylight saving for the whole year. There seems to be no justifiable or rational reason for imposing an additional 60 minutes of daylight on the people of South Australia. If there are good and sound reasons for Eastern Standard Time/daylight saving/two time zones, then it would seem appropriate to have the issue properly debated and put before all South Australians—not just a selected few.

Further proof of the public's dissatisfaction with this move is in the form of a petition which was presented at a public meeting covered by the Port Lincoln City Council on 16 October. The signatures were collected in Port Lincoln and adjoining areas in two weeks and numbered an impressive 10 568.

It is clear that country people will suffer enormous inconveniences if this Bill passes. Whether Eastern Standard Time is or is not introduced means a lot to them. On the other hand, what will city people get out of it? They will have a little more daylight when they get home from work. Businesses will be on the same time as their Eastern State counterparts. I cannot think of any more advantages and it seems clear that they are far outweighed by the disadvantages. For city people, the issue is about nothing more than convenience—and I believe a lot of people do not care either way. But for country people, the potential ramifications of this Bill are far greater.

The proposed split of the State into two time zones is totally unacceptable. People on the West Coast are isolated enough without feeling totally apart from the rest of the State. Splitting the State would create a division which surely no-one in South Australia would want. We cannot just cut off a huge slab of the State for the convenience of a few people on the eastern side. If there are problems with business dealings across the border then slicing the State into two time zones would surely create business and administrative problems here. City people, as well as country people, are against the introduction of EST. I am sure members have received correspondence concerning this. One person who has written to me stated:

I wish to draw to your attention our strong opposition to the proposed legislation which would alter the time standards in South Australia.

The letter goes on to give the reason:

It is a fact that if the changes are introduced, then from 12 June to 19 July, sunrise will not occur until after 7.50 a.m. each morning.

This person belongs to the Astronomical Society, so he knows a little about the issues of astronomy and the times of sunrise, etc. He further stated:

This means, of course, that virtually all of the community would be forced to rise before dawn in the middle of winter for no good reason than to satisy the whim of a very small minority who may see some vague and as you explained commercial benefit in the proposed time change.

Furthermore, in summer, as from 1987-88, the sun will set after 9 p.m. for the period 23 December to 22 January. Twilight will of course last considerably longer than this. From the particular point of view of members of the Astronomical Society, this will mean that during this period, astronomical twilight will not end until about 10.45 p.m. when it will become dark enough to commence serious astronomical observations.

This is an important matter for people who are interested in that field.

I must say that I am surprised to see the media for once becoming involved in this issue. In fact there have been some interesting advertisements, by a very good friend of mine, on this particular matter. It is a shame that they have gone to such an extent for something of so little importance and something that will cause a very sharp division in this State. If they spent as much time on a campaign to ensure that random breath testing is increased, they would be providing the community with a real service. I think it is a pity that the money spent on this issue, trying to influence the Opposition on behalf of the Government, has been spent in this way and not on something that is positive and of benefit to the whole community. I have expressed that view to that friend of mine who has done some very good, in his view, television advertisements on this matter.

I would challenge the *Advertiser* and its media network to begin a campaign of advertising for random breath testing, if it has a surplus of funds, because that would provide the community with something worthwhile. I am very cross about the way in which that organisation has decided to try to influence people like me on this issue because, as I have said, there are much more important issues for the media, and in particular the *Advertiser*, to get involved in, if that is what they want to do. I have already mentioned random breath testing. If they want to spend some money on that, I would be delighted because the Government does not seem to be prepared to do it.

Yesterday we were offered what was called a compromise—a brand new proposal by the Attorney-General. He obviously dreamt it up on the spur of the moment because he gave a ministerial statement in the House. It was clearly handwritten. I did not receive a copy, which is the normal courtesy. I think the Government decided, 'It's a good idea. We'd better find something to take something else off the headlines.'

So, we suddenly had this thing bursting forth. However, we are not fooled by that. It simply meant that Eastern Standard Time was introduced to South Australia. There is no compromise associated with it. Anybody with any sense would know that all it was designed to do—

The Hon. C.J. Sumner interjecting:

The Hon. M.B. CAMERON: The Attorney knows what it was meant to do. It was meant to bring Eastern Standard Time into South Australia on the basis of a split State. Why on earth the Government wants to divide the South Australian community is quite beyond me. That area needs to be looked at closely by the Government, which does not seem to take account of the people in this State who will be very seriously affected by this measure. We are one State and one country, and long may we remain so. To sum up, I have heard no valid argument to support this legislation. However, it will cause a massive inconvenience to a substantial number of people in the State, and the Opposition opposes the amendment.

The Hon. R.J. RITSON: I oppose the second reading of the Bill. In so doing I do not wish to canvass all the advantages and disadvantages of the proposed change but want to refer to the value of the principle of conservatism in certain circumstances.

An honourable member: I thought you would have been supporting it in all circumstances.

The Hon. R.J. RITSON: Politics is a mixture of principle and pragmatism. This is a situation in which it is not

possible to please everyone. The interests are so many and varied. Nobody likes to live in a community through, or close to, which a time meridian passes.

Therefore, one would naturally expect that the people in the South-East would welcome this proposal and would be happy to propose a meridian that would divide the West Coast, but that would certainly not please the West Coast. Similarly, people in the city naturally enjoy daylight saving as it is, for the purposes of recreation after work, but they are divided—and quite vehemently divided if one can gauge by radio talkback reaction—on the question of an additional half hour of daylight saving because of the very long day that makes and because of the difficulties of getting children settled down at night when the sun is still high.

So, the proposal is one about which very few people can be pleased. I understand the arguments from the viewpoint of business, but the real principle is that, if a situation that cannot please everyone remains in force for sufficient time, people adapt. Television was introduced into this State in the 1950s, and for 30 years the television industry grew and prospered—if Mr Murdoch's career is any indication—in spite of this handicap. Indeed, business in general tends to wax and wane in its profitability in accordance with macro economic changes in the western capitalist economy rather than in accordance with time zone changes. Since there is no ideal solution, the ideal is to leave it alone once people have come to an albeit imperfect compromise with a situation and settled down to their domestic and business practices and recreational habits.

It was Edward Gough Whitlam who commented after his defeat in 1975 that his Government had tried to do too much too quickly. The social disruption of rapid changes to law at a rate greater than people can adapt to is very disturbing to the community. The too much too quickly reforms are, I would think, causing a certain amount of pain and suffering as the present Federal Government contemplates the onset of an election year. So, there are strong obligations on any Government to consider very carefully its duty to allow the community substantial time without change, unless the change is urgent and necessary. On this issue there is no clear, unequivocal, urgent and necessary indication for change. The community is divided, and we will upset as many people as we please. It was said of Robert Menzies that his long period of office was due to his understanding of the innate conservatism and resistance to change that is entrenched in the thinking of the average Australian.

The Liberal Party's policy of masterful inactivity on this matter is the correct policy. The people of South Australia, whatever their fundamental attitudes to time zoning, have learnt to adapt and live with the present system over the last decade or so and are entitled to be left alone. For those reasons I oppose the proposition.

The Hon. DIANA LAIDLAW: I rise to oppose this Bill, which seeks to adopt Eastern Standard Time and to divide the State by an hour through a provision that all areas east of 135 degrees adopt daylight saving and areas west of that longtitude remain on Eastern Standard Time. As the Leader of the Opposition in this place (Hon. Martin Cameron) identified, concerns about anomalies with the time that South Australians should adopt has been a matter of long and heated debate since colonisation.

When South Australia was first colonised, all colonies adopted the mean solar time based on their capital city. It was realised some years later that that was an inadequate system that led to considerable confusion, particularly in service delivery. In 1893 at a postal and telegraph conference held in Brisbane it was resolved that a one hour zone system be adopted in a modified form so that there should be one time throughout Australia based on the 135th meridian or nine hours east of Greenwich. That 135th meridian passes through Spencer Gulf. If the resolution of that year had been adopted South Australia certainly would have reinforced its position and the argument that we like to peddle many times that we are the heart of Australia. However, that was not pursued because, true to form, all States and areas of the State seemed to like to go their own ways.

In 1894 certainly that was the case with all States adopting different meridians: South Australia adopting 135; the Eastern States adopting 150; and Western Australia adopting 120. That did not satisfy many people in business and commerce and four years later in this Parliament in response to pressures from business and commerce, South Australian time was moved half an hour forward to 142.5 degrees longitude, and it remains at that position today. That 142.5 degrees longitude ensures that at midday in Adelaide the sun is directly over Broken Hill in New South Wales or Warrnambool in Victoria.

In 1971 the then Dunstan Government canvassed this question and rejected pressure for South Australia to adopt Eastern Standard Time. I regret that the current Bannon Government has not shown the same fortitude and resolve and would move South Australia half an hour forward to 150 degrees so that, when it was midday in South Australia, the sun would be overhead in Honiara, Norfolk Island, Lord Howe Island and New Zealand—all well off Australia's eastern coast.

If South Australia had been on Eastern Standard Time this year the sun would not have risen in Adelaide before 7.45 a.m. on 58 consecutive days during winter; that would have been during all of June and for 27 days of July. For 156 days between 3 April and 5 September the sun would not have risen before 7 a.m., and for five months of the year virtually all of the South Australian community would have had to rise in the dark.

It is my firm belief that these adjustments would have a profound impact on the lifestyles of thousands of individuals and households in South Australia. It is also a fact that if Adelaide had been on Eastern Standard Time in the past year the sun would not have set before 8.45 p.m. on 72 days during December, January and February, and the latest sunset would have been at 9.04 p.m. on nine consecutive days during January.

Of course, twilight lasts for much longer and would have continued until almost 11 p.m. during this period. As members will be aware, with daylight saving, the hottest part of the day is between 3.30 p.m. and 4.30 p.m. If we adopted Eastern Standard Time we would not only be extending our period of daylight well into the evening but we would also be extending the hottest part of the day to a time when children were leaving school and when people were leaving the workplace. However, I doubt that many members would be aware that during summer, and in particular at the hottest part of the day (after 5 p.m.) and between 5 p.m. and 1 a.m. the community services in this State which provide emergency and crisis services experience their greatest demand.

I believe that this point should be strongly emphasised. Later, I would like members to look at tables prepared by the Department for Community Welfare contained in its annual reports from 1980-81 to the last financial year of 1985-86. I seek leave to have inserted in *Hansard* without my reading them statistical tables showing crisis care services hours of contact during those years.

Leave granted.

Tables from DCW annual reports 1980-81 to 1985-86 *re* time and source of referrals to crisis care which are followed up with personal visits:

TABLE 29: CRISIS CARE—HOURS OF CONTACT 1980-81

	1 a.m.-9 a.m.	9 a.m.-5 p.m.	5 p.m.-1 a.m.	Total
The Source of referral:				
DCW	4	55	31	90
Police	98	173	295	566
Hospital	14	22	37	73
Other agency	14	65	61	140
Self	134	338	491	963
Relative, friend or neighbour	18	64	107	189
Other	5	40	39	89
Total	287	757	1 061	2 105

TABLE 28: CRISIS CARE—TIME AND SOURCE OF REFERRALS 1981-82

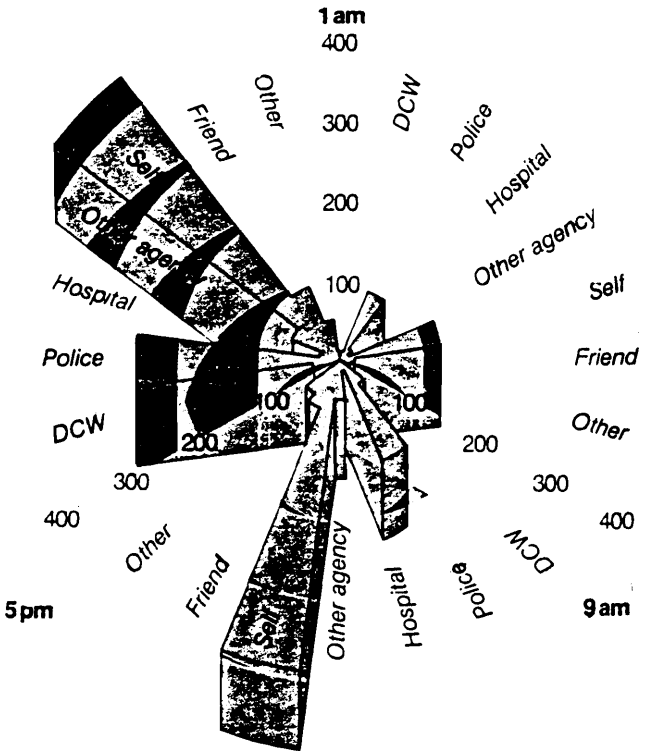

TABLE 27: CRISIS CARE—TIME AND SOURCE OF REFERRAL 1982-83

Source	9 a.m.-5 p.m.	5 p.m.-1 a.m.	1 a.m.-9 a.m.	Total
Police	195	284	74	553
Client	471	428	106	1 005
DCW	76	31	4	111
Lifeline	5	7	1	13
Other agency	90	66	6	162
Hospital	31	38	9	78
Transport authority	3	3	—	6
Neighbour	18	18	1	37
Relative, friend	95	110	13	218
Follow-up	41	8	10	59
Other	31	27	6	64
Unknown	7	14	—	21
Total	1 063	1 034	230	2 327

TABLE 27: CRISIS CARE SERVICE—TIME AND SOURCE OF REFERRAL 1983-84

Source	9 a.m.-5 p.m.	5 p.m.-1 a.m.	1 a.m.-9 a.m.	Total
Police	123	256	104	483
Client	316	438	102	856
Department for Community Welfare	60	48	11	119
Lifeline	5	5	1	11
Other agency	56	70	11	137
Hospital	23	28	16	67
Transport authority	1	5	1	7
Neighbour	11	13	0	24
Relative/friend	79	87	29	195
Follow-up	43	10	11	64
Other	18	28	8	54
Unknown	35	49	14	98
Total	770	1 037	308	2 115

TABLE 27: CRISIS CARE SERVICE—TIME AND SOURCE OF REFERRAL 1984-85

Source	9 a.m.-5 p.m.	5 p.m.-1 a.m.	1 a.m.-9 a.m.
Police	164	259	83
Client	359	368	83
DCW	86	36	15
Neighbour/Relative	97	88	16
Other Agency	74	57	14
Hospital	24	22	9
Other	83	117	41
Total	887	947	261

TABLE 6: CRISIS CARE SERVICE—TIME AND SOURCE OF REFERRAL 1985-86

Source	9 a.m.-5 p.m.	5 p.m.-1 a.m.	1 a.m.-9 a.m.	Total
Police	144	333	105	582
Client	324	484	97	905
DCW	32	95	10	137
Neighbour/Relation	69	140	22	231
Other agency	47	70	21	138
Hospital	30	31	10	71
Other	84	72	12	168
Total	730	1 225	277	2 232

The Hon. DIANA LAIDLAW: When one looks at those tables it is clear that, in the majority of years—about half, and in most years over half—Crisis Care found that for a third of the day (5 p.m. to 1 a.m.) they received their greatest demand. In 1980-81 there were 1 061 contacts between 5 p.m. and 1 a.m. representing 50.4 per cent of personal visits. This continued to increase for each financial year, and in the last year (1985-86) 1 225 personal contacts were made by Crisis Care between 5 p.m. and 1 a.m., representing 54.88 per cent of personal visit services; and that 54.88 per cent is, as I emphasised before, during just one-third of a 24-hour day.

In addition, there has been a very active increase in the number of telephone contacts to Crisis Care over the period 1980-81 to 1985-86, to the degree that this financial year the services amounted to 50 500—an increase from 36 000 at the beginning of the decade. These calls by people in the community for crisis help and emergency assistance, particularly during the summer months, is disturbing in itself. I would argue very strongly that by extending some of daylight time and the hottest part of the day to when people have left work we will exacerbate the problems that Crisis Care and DCW have experienced.

It is not Crisis Care and DCW alone that would confirm the trends and demands on their services after working hours and in the hottest part of the day. I have been able to confirm that Lifeline at Adelaide Central Mission has the same experience, as do women's shelters, youth shelters, the Women's Information Switchboard, and Crisis Care services in the country. All have experienced the greatest

demand for their services during summer months. I repeat the argument, that this will be exacerbated if we extend the hottest part of the day into the later part of the day and extend summer and daylight hours even longer. To reinforce this point—

The Hon. C.J. Sumner: Where did you get all this from?

The Hon. DIANA LAIDLAW: From DCW annual reports. The Attorney can speak to Crisis Care and welfare as I have done. They have voluntarily given me this information about the demands that they have received.

The Hon. C.J. Sumner interjecting:

The Hon. DIANA LAIDLAW: No, I am just going to come to that. For instance, women's shelters would clearly state that during those summer months they have their greatest demand because of the heat and daylight hours, with more drinking. It encourages more drinking. They were very pleased that last summer with the much cooler weather they did not experience nearly the demand. At one time the Minister rushes off to get more and more money for crisis care services and accommodation, yet he is merely exacerbating the problem. It is as simple as that. It seems that the Minister of Community Welfare is seeking to address one problem which the Attorney does not seek to understand or appreciate.

The Hon. C.J. Sumner interjecting:

The Hon. DIANA LAIDLAW: You are looking at licensing laws next week, I understand. I indicate those points strongly. The trends that I have highlighted have been based on information from community services and crisis care services. They recognise that during the summer months other factors such as people being on holidays, having holiday pay and the like, affect the situation, but there is no doubt that the heat of the day when one leaves work is seen by all as the principal factor.

I will not go into other matters in terms of the attitude of people in the rural areas, as I know that they will be well canvassed by my colleagues the Hons. Peter Dunn and Jamie Irwin. I oppose this Bill, as I believe that it has many inherent weaknesses. I certainly have a dislike for the component of the Bill which would see the State divided. I am particularly surprised that members of the Legislative Council who have responsibility to represent the whole State (that is our electorate) would not endeavour to keep this State together, rather than divide it as intensely as is being done by this measure. Perhaps if some members opposite occasionally got out into the country, away from this place and the metropolitan area, they would witness the intensity of feeling about this matter, which is just about the last straw, coming on top of the rural crisis, and the like, which is affecting many areas in the country. Country people realise that Labor Governments have no sensitivity or understanding, or even wish to understand their situation. I think that situation is an extremely disappointing one to witness in a place such as the Legislative Council, where we should be trying to work for the best interests of the State as a whole. I oppose the second reading.

The Hon. M.J. ELLIOTT: In rising to speak to the second reading, I must start by saying that when I first heard Dr Hopgood come up with this suggestion I thought that he was joking. There had been a lot of lobbying at that time about daylight saving, and I think he thought, 'I'll fix those guys on the West Coast. I'll really put the wind up them by coming up with this Eastern Standard Time idea.' Very understandably, he certainly did put the wind up those people over there, although he got a bit of a surprise when he was lobbied by various groups, particularly the Green Triangle Association and a few of the business interests in Adelaide. Then I think he saw the prospect of a bit of mischief, because he saw the Liberal Party, supported by big business and the rural sector, being pulled in two directions, which also perhaps made for a bit of fun. When one really looks at this issue there is no substance whatsoever in the case put forward for shifting to Eastern Standard Time.

The Hon. J.C. Burdett interjecting:

The Hon. M.J. ELLIOTT: The second reading explanation has used a degree of paper but it is very thin on substance, the first three pages of the explanation referring to the division of the State into two time zones. It is correct to say that back in February I suggested that possibly some parts of the State could be excluded by regulation. I think it is worth reading what I said at that time, namely:

> I do not pretend that I know the views of the majority of the people in the far west. I only know the extent of the lobbying that I have received.

On that occasion I further said:

> I believe we have two options. The Government could be guided by local government, the third tier of government in Australia, or alternatively we could operate a referendum.

I suggested that that was the mechanism by which we could decide whether or not part of the State could be peeled off. I did not say that it should be: only that it could be. However, I said that we should certainly consult about this matter. When speaking to the amendment itself, I said:

> It would be a good thing if members of the community themselves could decide what happens in regard to daylight saving, rather than having it inflicted from above.

Having said all that, I think it is also worth noting that I suggested that the only area of the State that I thought would be interested would be parts of the far west of the State.

The Hon. C.J. Sumner interjecting:

The Hon. M.J. ELLIOTT: I read direct from *Hansard.* I talked about consultation; Dr Hopgood did not consult one iota. I recall that one member of the backbench came to me and said, 'Good Lord, what's happening over in Port Lincoln?' Word was coming from the Port Lincoln Branch of the Labor Party that they did not want it.

The Hon. C.J. Sumner interjecting:

The Hon. M.J. ELLIOTT: That's right, a deputation came to see Dr Hopgood, which included in it the President of the Labor Party Branch in Port Lincoln. That is how much they want it over there. Dr Hopgood did not talk to anyone. It was a hairbrain idea that he came up with, and there was no consultation. So much for the first three pages of the second reading explanation.

The Hon. C.J. Sumner interjecting:

The Hon. M.J. ELLIOTT: The Attorney did not listen before: I said that we should talk to the people and find out what they want, but Dr Hopgood did not talk to a soul, and he is still not talking or listening. It is absolutely disgraceful. So, I have dealt with one half of the Minister's second reading explanation already, referring to the split, which quite frankly the people do not want. They have said so: a petition relating to this matter has been signed by 11 000 people.

The Hon. L.H. Davis interjecting:

The Hon. M.J. ELLIOTT: The split of the State into two parts is certainly not accepted by people over there, and they should have the right to determine that, as indeed I have suggested. The Government does not believe in consultation; it does not know the meaning of the word. That is evident in not just this issue but just about every issue that comes before Parliament.

The next argument is that the majority of the nation's population lives in the eastern time zone region. It is some-

what less than 80 per cent, and, with Queensland not using daylight saving, another 9 per cent of those are not in the eastern time zone all the time, anyway. It is a rather fudgy figure: it is less, and at certain times of the year it is even less again. This thinking fails to recognise that in Canada, for example, there are five time zones and in continental USA, four time zones. One would think that, if being in the same time zone as the big business centres was of such significance, places like the central region of the United States would try to get into the same time zone as, say, New York.

Although I am not a great admirer of either Alan Bond or Holmes a Court, it is worth recognising that in Western Australia, which is hours behind the eastern seaboard, they manage to pull quite a few strings around Australia, and it does not seem to be any disadvantage to them whatsoever. So, as to this argument about helping business, I think that is extremely doubtful.

In fact, what I suspect could happen is that we could lose head offices from Adelaide, or at least the offices that we have in Adelaide could be downgraded, because with a total meshing of times it would be much easier for businesses to run things from the Eastern States. That is most likely to happen in the television industry. In fact, the television industry has virtually said that it wants to run things from the Eastern States and now, with the new proposals before the Federal Government, where the same persons can own TV stations in the Eastern States and here, and with the same time zone operating, I think we would find that the television services in Adelaide would be downgraded. So, I think we would lose something there. I believe that the Government has a rather thin case on economics there. The Government maintained that if this covers 80 per cent of the population it must be good for it. That was some case!

In relation to benefits to recreation, first, I point out that in the country areas it will be positively harmful for recreation. For instance, I have been a keen basketballer for many years, and during the summer months, in particular, clubs could never get teams to turn up for about the first two or three games on a night, because so many people are involved on farms, and they work by the sun. Further extension of Eastern Standard Time will harm night-time sport, and it will also affect other things such as the holding of meetings in the evening. The Democrats branch in the Riverland, where I came from, virtually stopped holding meetings during the summer months, because no-one would arrive until sunset or in fact some time afterwards. The same problem is experienced by clubs such as Apex, Lions and other groups. So, I am suggesting that many sports and group meetings held during the evening will suffer from this measure. Although I am only an occasional jogger, I must say that during the summer months I far prefer to jog in the morning, when it is cooler, than at night, and we are pushing that time factor forward.

When I was letterboxing I found a surprising number of people indulging in leisure activities in the early morning light. There were a number of people out watering their gardens (which for many people is a leisure activity and not a chore) in the early morning. As many people take leisure time during the morning, the so-called benefits in relation to recreation are rather doubtful, I suggest.

I now refer to one area that will certainly cost the State millions of dollars. When this proposal first came forward the Hon. Dr Hopgood suggested that we could save $500 000 in electricity. He did not say from where he obtained that figure, and I note that he has gone quiet about it. From information put to me recently, it may cost us several million dollars a year. In particular, I refer to the plan for us to join into the eastern power grid, which will cost us $102 million. That was recommended by the Committee of Inquiry into Electricity Generation—The Sharing of Power Resources in South-East Australia, as follows:

> Exchanges of energy on an opportunity basis permit advantage to be taken of differences in system demands due to time zone and seasonal variations.

That means that, because we operate on a different time zone, the peak demand occurs at a different time. If the two peaks coincide, we do not have the opportunity to purchase power from interstate, and that forces us to install greater generating capacity, which in fact I believe costs about $1 million a megawatt. So the State could be up for tens of millions of dollars to provide extra generating capacity that it may not have needed otherwise because it could have purchased power from interstate.

There would have been other savings in that at peak time: rather than switching on some of our gas turbines, which are on for a relatively short time, we might have been able to buy base power from Victoria. That would be another way of saving money. I cannot put an exact figure on it: in fact, it would take a statistician of some ability to do that. However, a conservative estimate is that it would cost the State several million dollars a year. That is an unintended consequence; and unintended consequences often come from Labor Party legislation. It seems that the Labor Party did not think this through—it is a half baked idea. That consequence was brought to my attention in the past couple of days.

The drive-in industry also is rather worried. The extra half an hour could be the straw that breaks the back of the drive-in industry, resulting in the loss of a few hundred jobs. I do not know how many unintended consequences will result if this Bill passes. This Bill makes a change which will have a dramatic effect, and it should not be carried just to see what happens. I believe that the majority of South Australians really do not care whether or not we go to Eastern Standard Time. If the people of South Australia were asked to vote 'Yes' or 'No', the majority might say 'Yes'. However, I do not think it is an issue that is uppermost in their minds. For most South Australians this is a trivial issue.

If we have a 12 month trial period, I believe that at the end of that time the majority of South Australians will still not care one way or another. However, if we then had a referendum (and the Government may be thinking about this), I am sure that it would be carried by a majority of people who do not really care, anyway. Those people have no feeling whatsoever for the minority—a significant minority—who will be adversely affected. I ask the question: how much can a majority tyrannise a minority? We already operate between 20 minutes and 30 minutes in advance because of the location of the meridian that we now use. During daylight saving that would be increased by an hour. I must admit that for most people that will be an advantage. However, there is a small but significant group who will suffer. Should that group be forced to suffer from a time change involving this extra 30 minutes? I do not believe so. I believe that we should cater for everyone within the State as far as that is possible. I oppose the second reading.

The Hon. PETER DUNN: This Bill really is nothing more than a leisure measure: it can only be described in those terms. Leisure measures, on most occasions, affect some group within the community. I think the Hon. Diana Laidlaw really highlighted where the problem lies. I have spoken to many people in the business community, many of whom have said, 'It doesn't worry me either way until I get home and ask Mum—she and the children really do

object.' I am not sure whether members opposite have found the same reaction. I note that the Hon. Carolyn Pickles has a quizzical expression. She has a Bill before the Council to decriminalise prostitution. I have been lobbied by prostitutes who have told me that they do not want daylight saving because it cuts into their profit earning ability.

The Hon. C.J. Sumner: That's a good idea.

The Hon. PETER DUNN: It appears that the Attorney does not support the Hon. Carolyn Pickles' Bill. I am the only member of the Council who lives north-west of this city, so I am the only one who can speak with authority for the people in that area and describe their problems. I will go back into history, as other members have done. However, I will go back even further, to Captain Cook, when he was sent to Tahiti to observe the transit of Venus in order to gather information on the speed of light and on the distance of the sun from Venus. That information improved accuracy in this area. As we all know, Cook went on from Tahiti to find the Great Southland (or *Terra Australis*) and discovered the east coast of Australia.

Standard time in Australia, as has been said by other members, began in February 1895 when South Australia adopted its time of nine hours ahead of Greenwich Mean Time. About four years later another 30 minutes was added and our time was 9½ hours ahead of GMT. It is also of interest that in the Second World War the whole of Australia adopted daylight saving. I note that the Minister of Agriculture is leaving the precincts of the Chamber: I hope that he supports our stand against this Bill, especially if he wants to help those people who are adversely affected by it. I am sure that he will object strongly to the Bill.

During the Second World War Germany adopted Eastern Standard Time, as did the Americans. England already had Eastern Standard Time and then adopted double (as it were) standard time to keep in line with the Germans. Australia came into line with the Americans and the English, and that is how we came to have summer time during the Second World War. Australia had daylight saving (or summer time) only from January to March. The Playford Government reverted to normal time in South Australia in 1945. It was not until 1972 that the idea came back into favour. In fact, a Liberal politician in Tasmania decided that perhaps summer time would be an advantage to Tasmania. I can understand that, because there is not a lot of daylight in the low southern or high northern latitudes. There is a lot of twilight or half light and, to make full use of the light, it makes sense to have daylight saving.

It is not sensible, though, once you get above latitude 35. It really is not very sensible to have daylight saving above that latitude. That is demonstrated by the fact that Queensland does not adopt daylight saving. Anyone who has lived in that area would realise that the sun sets at a very rapid rate, and there is no point in having daylight saving. That is the strongest argument that can be put. If there was an advantage for business or anybody else, Queensland would use it, but they do not, and they do not adopt daylight saving. For that reason, I do not believe that South Australia will be advantaged in a business sense because of that.

The Hon. C.J. Sumner: You'd better talk to the business community about that.

The Hon. PETER DUNN: The Attorney-General says I had better talk to the business community. Let me talk to the Attorney for a couple of seconds. I rang some business communities. The Small Business Corporation said there is no advantage now because of the advances in communications—telex, facsimile and telephone. Nobody can tell me that you cannot ring up. We have flexitime to overcome the half hour in the mornings and at lunchtime. There is no reason whatsoever why people cannot come along half an hour earlier—it is a matter of programming. South Australia has flexitime, which is a bit of a rort anyway. There are plenty of methods of rapid communication today. If we go back in history to the point when time was critical in Australia and when we adopted our present time zones, we realise that that was when the telephone line from Darwin to Adelaide was established. That was the critical factor—we could communicate north and south and with other countries. That was the turning point, when Australia adopted its time zones. I asked somebody to contact the Trades and Labor Council, and they were told that it was highly confidential and they must contact the Government first. I still have not heard their viewpoint.

Members interjecting:

The Hon. PETER DUNN: That is what they told me—it was highly confidential. They could not make up their minds. They were not emphatic. They were really waffling and jumping around the place; they really did not know.

The Hon. C.J. Sumner interjecting:

The ACTING PRESIDENT (Hon. G.L. Bruce): Order!

The Hon. PETER DUNN: I rang somebody in the Adelaide City Council who said, 'Yes, we will support Eastern Standard Time.' However, they had not considered canvassing the western part of the State. They were quite honest and said they were looking at it only as a personal and quite insular thing. They had not canvassed those other areas, but they came out and said that they should consider that. They were magnanimous enough to say that, so their minds were not emphatic that we go to Eastern Standard Time.

I thought perhaps I had better ask small business in New South Wales and Victoria. When I rang them, they were not interested. They said, 'There is no problem. We deal with Queensland the same way and there is no problem.' That was their official position. From there I went to the Stock Exchange, because everybody holds up the Stock Exchange. I rang the past President of the Stock Exchange of South Australia, whose opening comment was, 'We'll worry about it when it comes.' Then he went on to say, 'But it doesn't really matter. We have facsimile and we can transfer money electronically.' He finished up by saying, 'So what? The Stock Exchange in the Eastern States only opens at 10 o'clock anyway, and we have been here half an hour by then.'

The Hon. C.J. Sumner: They were just trying to please you.

The Hon. PETER DUNN: They did not know who I was. I am demonstrating that those people do not find any impediment. The past President of the Stock Exchange went on to say that Western Australia has a great advantage over the Eastern States because when offices close in the Eastern States—and we could do it if we were to go back in our time a little—Western Australia then deals with Singapore, Hong Kong and Tokyo, and they have been very successful in those communications. Surely they are a great deal further away than just communicating with the Eastern States, but some Eastern States stockbrokers have even put offices into Western Australia for that very reason.

The Hon. C.J. Sumner: That is a ridiculous argument. Do you want us to go to Western Australian time?

The Hon. PETER DUNN: I am demonstrating that, by going to Eastern Standard Time, we will not be advantaged.

The Hon. C.J. Sumner: What does the business community say about that?

The Hon. PETER DUNN: You can have a chance in your second reading contribution.

The ACTING PRESIDENT: Order!

The Hon. C.J. Sumner interjecting:

The ACTING PRESIDENT: Order!

The Hon. PETER DUNN: Mr Acting President, thank you for your help. The Attorney-General seems to have run riot here. His argument is slipping away from him at such a rapid rate that he has to interject to keep going.

Members interjecting:

The ACTING PRESIDENT: Order! There is too much audible conversation. The Hon. Mr Dunn.

The Hon. PETER DUNN: Thank you for your protection. I get back to the fact that this is nothing more than a leisure measure. All of those business factors that have been thrown up by the Government have been knocked into a cocked hat.

The Hon. C.J. Sumner interjecting:

The Hon. PETER DUNN: How many letters has the Government received from businesses saying that they want it? How many letters has it received from people saying that they do not want it?

The Hon. C.J. Sumner: It is on the agenda at every meeting that I go to.

The Hon. PETER DUNN: It is on the agenda and then it falls off. I have hundreds of letters—I have not kept a record of them—from people opposing this proposal. They are not all country people; a lot of them are city-based people who do not want Eastern Standard Time. Dividing this State is the problem, not the adoption of Eastern Standard Time. It really is dividing the State into two parts. This Government is always saying that it looks after the people, that it is very progressive and always endeavours to help the little man, but the people who are really under pressure are those who do not live in this great metropolis, this amorphous mass that can spend $100 million supporting the State Transport Authority and $1.4 million on a yacht, and can spend money on a three-day event and other things which really are of little benefit to those who produce the export income that really raises our standard of living.

Very little export income is generated in this city. In fact, business has been fairly weak, from my observations. At one time we had the white goods industry stitched up and we lost that. We had the car industry stitched up, but we have lost that to the Eastern States. It appears now that we want to chase it over there. It is unfortunate, and very sad. We are left now with the rural community producing more and more of our export income. It is a sad sight because, as soon as we get a drought and tough times, the State is subject to terrific variations in its income. I do not think that is at all healthy. Industry ought to get going in this State again and endeavour to diversify some of our forms of income. We tend to be chasing the Eastern States, not standing on our own two feet. We will never do it if we adopt Eastern Standard Time and then split the State into two following that.

Mention has been made of television. Let me make one point about that. A very strong submission was put in by GTS4 in the northern part of this State. That station is responsible for televising into the western areas. The strongest point to me was the fact that, by law, it is not permitted to transmit programs for adult only viewing before, I think, 7 o'clock. If we split the State into two time zones, who will determine when it transmits those television programs recommended for adult viewing?

I think that is very important. How do they coordinate the children's program? How do they coordinate programs set up for children not going to school? There are excellent programs on television to prepare children prior to their going to school, but the channels will not be able to present them. I think their case is extremely strong, and the Attorney-General should take notice of their submission, because he must have received one.

The Hon. R.I. Lucas: Tell us about the School of the Air.

The Hon. PETER DUNN: Let me start by asking why the Broken Hill School of the Air transmits into South Australia and not into New South Wales? Why does Broken Hill adopt South Australian time when it is in New South Wales? What will happen to Port Augusta School of the Air when it starts transmitting, when half of the area will be one hour behind the other? That will be splendid! I can imagine what will happen to those people. The Attorney-General is about to say, 'Why can't they get up an hour earlier?' Well, I am suggesting that business can do that in this State, and in this city, because they have transport to get to work.

The Hon. R.I. Lucas: What about the disadvantaged children in isolated areas?

The Hon. PETER DUNN: The Government has decided to split up the Correspondence School. The Government does not appear to be interested in geographically isolated people anyway. The School of the Air has written to me, and that is a real problem. Mr Steve Adams, the Principal of the School of the Air in Port Augusta, has written to me and said—

Members interjecting:

The ACTING PRESIDENT: Order!

The Hon. PETER DUNN: The School of the Air will be most severely disadvantaged. They do not know how they will go about putting on their programs.

The Hon. R.I. Lucas: What does Lloyd O'Neil think about it?

The Hon. PETER DUNN: We will come later to what the Labor member for Gray had to say. What about the Correspondence School? When a child has a problem they ring the Correspondence School in Adelaide and get tuition and help from the teachers who have produced the curriculum and courses. What will happen now? They will ring from that area at 4 o'clock and everyone will have knocked off. They ring at the end of the day, because they go through their lessons and then with one phone call they get them corrected and get advice. What happens if at 3 o'clock they ring from Tarcoola, Kingoonya or Coober Pedy and everyone here has gone home—not gone home, gone to the beach to have a bit of leisure and pleasure? It will create problems.

What happens when we have a Diverse Use of Communication Technology, a DUCT program, into the Penong or Streaky Bay school? I was at Streaky Bay school when a former Minister of Education, who has now been shifted sideways, started the first DUCT lesson, which was on German. How will we get on when those people are trying to run that program at 11 o'clock and they are having lunch in Adelaide? I do not think that it has been well though out.

The Hon. R.I. Lucas: What are the employment prospects of young children in the outback if their education is affected by the Government?

The Hon. C.J. Sumner: Come on! Honourable members opposite should stand up and be counted.

The Hon. PETER DUNN: Can I have your protection from the Attorney-General, Mr Acting President? The Hon. Lloyd O'Neil, whose name was mentioned a moment ago, the member for Gray—

The Hon. M.B. Cameron: He's from over your way.

The Hon. PETER DUNN: No, he comes from Whyalla. He will be in the eastern part of the State and will adopt Eastern Standard Time. Did he not write to the Attorney-General and this Government saying that he had never heard of anything so ridiculous? Last Friday, while opening

a hostel at Tumby Bay, the member for Gray, asked, 'When is the daylight saving, Eastern Standard Time debate coming on in the House?' I said that I expected it to be coming on at the end of this week. He said, 'If they pass that they are in cloud cuckoo land'. Lloyd O'Neil has written to the Government and said that if it adopts that, it is in cloud cuckoo land. You do not want to help this country at all.

The Hon. C.J. Sumner: He comes from Whyalla.

The Hon. PETER DUNN: Of course, he is the Labor Party member for Gray.

Members interjecting:

The ACTING PRESIDENT: Order!

The Hon. PETER DUNN: He told me that he would wear out his watch, going from one side to the other. He would be living so close to the line that he would wear out his watch changing times. Goodness gracious me—what an argument!

Members interjecting:

The ACTING PRESIDENT: Order! The Hon. Mr Dunn is making it virtually impossible for *Hansard* to take a recording of the proceedings. He is enjoying himself, but nobody is getting any benefit from this. If the honourable member wants his speech in *Hansard*, it is definitely not going in now, because I can hardly hear what is being said here. If anyone wants to enter the debate they can do so at the appropriate time. I suggest that the Hon. Mr Dunn address the Chair and not other honourable members.

The Hon. R.I. Lucas: The honourable member will have a watch on one hand and one on the other.

The ACTING PRESIDENT: Order! The honourable member will have his chance to speak later.

Members interjecting:

The ACTING PRESIDENT: Order!

The Hon. PETER DUNN: These people will have to wear two or three watches, as my colleague the Hon. Mr Lucas says—that is true. Every Monday and Friday I will have to change mine when I go home; as I cross the coast at Arno Bay, or halfway down Spencer Gulf, I will have to change it an hour—or two hours—one does not know with this Government because next year it is likely to change it again.

I turn now to the very important matter of the base hospital for Eyre Peninsula, in Whyalla. As the Minister would be aware, old people use that hospital more than young people. The towns close to the hospital are Cleve, Cowell, Kimba and Tumby Bay. People from those towns use that hospital. Wudinna is another town whose residents use that hospital regularly. The hospital has an outpatient service where people can have treatment and go home again. Some of those people are quite old. Can you imagine the confusion this will cause them when they cross a time zone and are an hour out? They will have to leave home at 5 o'clock or 6 o'clock to get to a 9 o'clock appointment in Whyalla, even though it is only an hour trip.

The Government is creating a considerable problem—when one thinks about it. It is fine for Port Lincoln, because it will be in the western area and people who use the Lincoln as a base hospital will not have to worry so much about that but Whyalla creates a problem. What happens when the St John ambulance flies out? What time will it fly out? All aircraft, as the Minister may or may not know, fly on Greenwich Mean Time. When somebody from Streaky Bay rings up and says, 'I have a patient here' what will happen? It is difficult enough at the moment.

Members interjecting:

The Hon. PETER DUNN: Mr Acting President, I seek your protection again. It is difficult enough today to determine what time—

The Hon. C.J. Sumner: These problems apply to the rest of us who want to be part of the rest of the world.

The Hon. PETER DUNN: The Minister has probably hit the nail on the head—any argument you can put for going to Eastern Standard Time counters any argument for splitting the State into two time zones.

The Hon. C.J. Sumner interjecting:

The Hon. PETER DUNN: All the problems that occur in this State, and all the arguments used to go to Eastern Standard Time, apply equally well for not cutting part of the State off—that is a mere fact. More than 30 000 people will be affected by this line, which has been arbitrarily drawn and which gets drawn differently every day, I might say.

They say, 'Yes, we will go around Roxby Downs and we will include a small portion just east of Cowell; we will go around that and we will come down the middle of Spencer Gulf. So that we do not include Wedge Island, we will head off out to sea from there.' If one were on a boat in Spencer Gulf, there would be trouble in determining just what the time was. About 30 000 people ring Adelaide every day and many businesses conduct all their transactions with Adelaide. A few large firms in this city conduct the bulk of their business with the Eastern States.

The Hon. C.J. Sumner: It happens all the time.

The Hon. PETER DUNN: Yes, for a few businesses, it happens all the time. They have the facilities, the size and the knowhow to do it. I suggest that you are making it very difficult—

The Hon. C.J. Sumner: You suggested it.

The Hon. PETER DUNN: The honourable member says that I suggested it. I presented some petitions—

The Hon. C.J. Sumner: Now we have agreed with it and you're going to water.

The Hon. PETER DUNN: I presented two petitions—

Members interjecting:

The Hon. PETER DUNN: One petition stated in the opening paragraph that the signatories to it did not want the State to go to Eastern Standard Time, but the Attorney-General did not read that petition. The signatories said that they did not want daylight saving, but that is another matter.

The Hon. C.J. Sumner: And they were prepared to be split. If it is valid to split the State to get away from daylight saving, why isn't it valid to split the State the other way around?

The Hon. PETER DUNN: As usual, the Attorney-General has the argument by the bottom end. Really, he gets things by the tail every time. The signatories said that they would like to get rid of daylight saving throughout the State; there was nothing in the petition about splitting the State into two zones. The Minister, as usual, has it bottom side up.

A lot has been said about schools and school buses. I will say no more on the topic except that many children catch a school bus at dawn to attend schools at Nundroo, Penong or Coorabie and they have to travel 20 or 30 miles and the sun is not up when they catch those buses. The trucks roar past the various places on the east-west bitumen road at an enormous speed. Even if it is only a few yards, mothers will not send their children out on bikes to wait for the school bus. They drive them to the pickup point, because it is too dangerous to leave the children to catch the school bus in the half light. Much has been said about the school-children going home in the heat of the afternoon, but I do not know that that argument is terribly strong.

At the end of the day it is very difficult to get the children to go to bed. The teachers have said that, at the end of daylight saving in February, the children are absolutely

pooped and, until they have had another fortnight of standard time when they go to bed more easily, they are no good at all. It is easier for the parents to get the children to bed at the end of daylight saving because the sun has gone down.

The Hon. C.J. Sumner: What do you think the kids in Northern Scotland do? They only have two hours sleep.

The Hon. PETER DUNN: The Minister again has it wrong. That problem does not arise, because in northern Scotland they have twilight, which is a half light which is not as strong and fierce as we have in South Australia. Unlike the cities where there is only half light for most of the time, in those areas there is very little pollution. They have a twilight or half light. Furthermore, they live with those conditions for a long period of time. Every year we go into and out of daylight saving.

The Hon. C.J. Sumner: Pull the blinds.

The Hon. PETER DUNN: Try that sometime when you are outside. I do not think that the Minister understands the situation from his little pad in Buxton Street.

The Hon. C.J. Sumner: They'll fade.

The Hon. PETER DUNN: Yes, they'll fade. The problem relating to sporting functions is very significant. If one is playing cricket in Whyalla with the Whyalla League, everybody is on different times and they finish up with half a team. Someone telephoned me to say that they had to abandon a sporting function because, with daylight saving, they got confused about the times. That is typical of what happens. That happened only on the day of the change to daylight saving, but it emphasises the fact that, if we split the time zones, it would happen every weekend.

The Hon. C.J. Sumner: That's a reflection on your constituents.

The Hon. PETER DUNN: It is not a reflection on my constituents; it just means that the constituents on this side of the line would be on a different time. The 10 000 signatures received at Port Lincoln were received spontaneously and they were collected over a very short period. I could spend quite a lot of time talking about that meeting, especially about those Labor Party people who were there when during the meeting the 10 000 signatures were presented to the Mayor of Port Lincoln and then a resolution was put at the meeting to approve Eastern Standard Time and, out of 400 people, only two hands were raised. Those people said that perhaps we could adopt Eastern Standard Time. A resolution was then put asking that the eastern half of the State go to Eastern Standard Time and two different hands were raised. It was then decided to send a delegation to the Hon. Don Hopgood.

The Hon. R.I. Lucas: They all wanted to come.

The Hon. PETER DUNN: No, four or five names were put forward and agreement was about to be reached on those names when the President or the Chairman of the Labor Party sub-branch in Port Lincoln stood up and said, 'I feel so strongly about this that I'd like to be part of that delegation.' He was then included on that delegation and came to Adelaide. They lobbied the Hon. Don Hopgood.

The Hon. R.I. Lucas: The Chairman of the ALP sub-branch?

The Hon. PETER DUNN: The Chairman of the Port Lincoln ALP sub-branch came to Adelaide breathing fire and brimstone about having to split the State into different time zones. He is a schoolteacher.

The Hon. Diana Laidlaw: And they took no notice?

The Hon. PETER DUNN: No, I do not believe that they took any notice, particularly now that a sunset clause has been introduced by the Attorney-General. I do not know that that sunset clause will come to fruition. I believe that, if there were a sunset clause, the Minister would deliberately forget about it in two years time.

The Hon. C.J. Sumner: How can you forget about it if it is a sunset clause: the Bill fails—

The Hon. PETER DUNN: You forget about a lot of other things. The Attorney-General has been noted for that.

The Hon. R.I. Lucas: He forgot Lloyd O'Neil's letter.

The Hon. PETER DUNN: He forgot Lloyd O'Neil's letter. The President of the Port Lincoln Labor Party sub-branch came to Adelaide and lobbied them. There have been many arguments raised as to why we should not split the State into two time zones. If we want to promote the State, we should not split it in two. I agree that one can split State boundaries and I can understand having three time zones in Australia when there are four or five across Canada and America, but there is a very good reason why there should be equal hourly time zones across Australia and there is no argument for that not to happen. If that were to occur, Central Standard Time could run through the 135 degrees meridian, as happens in Western Australia, where the meridian runs slightly east of Perth and in New South Wales it runs west of Sydney. That would be what would happen if we ran it down the 135 degrees meridian. There is no reason why we should not be an hour behind Eastern States and an hour ahead of Western Australia, which increasingly is being used as a commercial centre for Australia. I do not see any reason why we should not have three time zones in this huge land of ours and I think that that step would be a reasonable and sensible one. However, for all those reasons—

The Hon. R.I. Lucas: Aren't there any more?

The Hon. PETER DUNN: There are many reasons.

The Hon. C.J. Sumner: There wouldn't want to be any more.

The Hon. PETER DUNN: I think that I have convinced the Attorney-General at last. I oppose the Bill.

The Hon. J. C. IRWIN: That is a very hard and good act to follow. It introduced, as did the Hon. Ms Laidlaw, some additional arguments on this side of the House and the Democrats have also provided some additional reasons. It shows up the lack of research and thought that was put into the second reading explanation in the Assembly, which I guess is the same as the explanation given here. If anything showed it up, it was the Hon. Diana Laidlaw's contribution on a matter about which I had not thought and about which not many others had thought either. I hope people read what she had to say.

Where are the contributions from Government members? We have had a second reading explanation and we will get a 'wrap up' speech no doubt, but the only contributions from the Government are interjections. That is all they are here for; they just come in behind the Minister and say nothing. Surely Government members have some thoughts to add to the Minister's explanation, which was abysmal. All we are getting are non-constructive comments and interjections. The Council will be pleased to hear that I do not intend to go through all the arguments put in this Council and another place, but I will cover some of them briefly.

It is no secret that the Opposition is against this legislation and the proposal to have a one or two year moratorium with a sunset clause. Obviously, I support the Opposition's view. My Party and I have arrived at this decision after much thought and lengthy consideration, as evidenced by the public. My Leader gave a personal opinion about where he thought the issue should go some time ago, and I stand up for the strength that he has shown in reversing his opinion when all the arguments were made known to him.

The Hon. T.G. Roberts: Who is that?

The Hon. J.C. IRWIN: Mr John Olsen, my Leader.

The Hon. C.J. Sumner: He did not listen to the arguments but to the numbers.

The Hon. J.C. IRWIN: You know about numbers as well as I do. The Attorney calls us rural hicks on this side of the Council. Yet there are three of us here compared with ten—

The Hon. C.J. Sumner: I never said that.

The Hon. J.C. IRWIN: Not on the record, but I put it on record. I cannot remember when this idea was first floated. My records show that my earliest correspondence on this matter was in July or early June, about five months ago. I suppose the matter has been around for longer than that but, having come to this place from a rural area, I seek to represent rural people and I have done that on many issues and I will go on doing it. In common with my colleague the Hon. Mr Dunn in his contribution, I will ensure that the view of rural people is put forward and expressed on all issues—not just this one.

The Hon. Diana Laidlaw: Is that a reflection on your colleagues?

The Hon. J.C. IRWIN: No, it is not a reflection on my colleagues at all. However, that has not been the only consideration in my support of the Opposition's stand on this issue. My perception is that, apart from a pocket of support for EST around Mount Gambier (and the Hon. Mr Cameron mentioned this), the majority of rural people do not want EST or two time zones in South Australia. That majority include the district council areas extending from Naracoorte right up the Victorian border to Broken Hill. The argument gets stronger as we go further north and further west against what would really be permanent daylight saving of one hour if we adopt EST.

In his second reading explanation the Minister claimed that the original idea to move to EST came from the Green Triangle. That is a clever piece of politicking, something we have seen a lot of in recent weeks, and seemingly going hand in hand with the rash of deregulation proposals being put before Parliament. The Government does not know why it wants to deregulate, but it thinks it is a good political gimmick to put these matters forward. The only problem for its argument claiming support of the Green Triangle is, as the Hon. Mr Cameron indicated, that two of the major councils—the District Council of Mount Gambier and the District Council of Millicent—in that area have written to us objecting strongly to the move to EST. I live in the South-East and know about the rural feeling. So much for the cornerstone of the Minister's explanation.

I have to acknowledge that the majority of rural people in numerical strength represent a minority of the South Australian population, but some people are so dazzled by the argument of one vote one value solving every problem that they completely forget that there are factors other than purely statistical weight of numbers that have to be and should be considered when making decisions on such matters. In the absence of any sustained and highly persuasive evidence in support of EST, the obvious rural dislike for EST must not be pushed aside. Based on my listening and research it is obvious that the urban majority, which supported daylight saving in 1982, would not now support this move. Daylight saving may well be strongly entrenched, but not another half an hour permanently added to it, as this proposal gives us. There is something amoral about those people who want another half an hour of leisure time at the end of the day, and that is putting it fairly strongly—

The Hon. C.J. Sumner: It's not about leisure time.

The Hon. J.C. IRWIN: I do not care whether or not the Attorney thinks it is about leisure time: it has been put strongly in the paper and strongly put to us that during the half hour at the end of the day, while many of the people who produce the great wealth of this State are still working, others will be enjoying leisure, and that will be the case if this proposal passes.

I do not ignore the business or financial argument about not meshing with EST but I and others on this side of the Council do argue that there could be an easy way around that without necessarily adopting this measure. In my consideration of the proposal I have taken into account a number of factors which I do not believe the Government has considered. Obviously, based on what it has contributed so far, which is almost zilch, it has not considered them. Although I will not repeat all the arguments, I wish to highlight a few facts and some of the thoughts that have struck me on this issue.

I guess all members have made funny asides at meetings throughout the State that at least the Government cannot interfere with the weather. Now I feel I am almost having to eat my words because, since going through this exercise, I will have to reconsider what I say at meetings. Although the proposed move to EST is not influencing the weather, it is an example of a Government working to alter the relationship between nature, nature's sun and man's clock.

I can support the principle of three time zones in Australia. Different time zones do not seem to disrupt business to any detrimental extent in America, which has four time zones. When I examine statistics on this I see that the United Kingdom is out of kilter with the rest of Europe by one hour during summer. The argument does not seem to come through that it is disrupting its economy. Queensland does not claim to be worse off because it is out of step with New South Wales and Victoria during summer. As I have already stated in this Council recently, Queensland is better off than South Australia in every key statistical indicator. I can support a time zone line being established and drawn through Victoria, New South Wales and Queensland at 150 degrees, another line through South Australia and the Northern Territory at about 135 degrees, and another through Western Australia, giving three time zones across Australia. It is absolute nonsense to consider that when it is 12 o'clock in Adelaide the sun is directly overhead in the South Island of New Zealand.

It is absolutely ludicrous and absurd that we are being asked to support this proposition. I certainly cannot support splitting South Australia into two time zones, let alone the crazy proposal for a zigzag line (very well put by the Hon. Mr Dunn!) splitting the State. None of the evidence produced to me from anywhere in the world indicates zigzag lines delineating time zones. I pose the question—'Is this again a first for South Australia?' Every argument put up by the media to support the proposition for EST can be applied to the proposal for two time zones in South Australia.

Different sections of the media have argued for or against EST. In some cases, the same arguments were used. So much for the evidence being presented to us in regard to this legislation! Where is the media campaign on this issue now? It is conspicuous by its absence. That is no reflection on the quality or accuracy of the media campaign but rather a reflection on the lofty nature of the arguments being presented to members—virtually nil. The highlight of this whole saga has been the lack of argument, facts and statistics to support a move to EST. In fact, when answering many letters on the subject of EST, I made the point that there has been an abysmal lack of supporting evidence. I have

read the speeches made by Government members, and I cannot find the supporting evidence. Only generalities are evident, and that is so typical of what is put to us by the Government.

I put to the Council that it is not up to those opposing the legislation to put forward all the arguments against the proposition: it is up to Government members to put the arguments for the move, to persuade people to go with them. I still cannot believe that a Minister, let alone a Premier or a Deputy Premier, could put up this legislative nonsense with nothing shining through to support it. The second reading explanation provides nothing in quantified terms to persuade me to support it. The Deputy Premier, in the second reading explanation said:

> The attitude which I believe is common to all these groups and individuals is that the State should at the very least 'give it a go'.

We gave it a go in the Dunstan era with regard to up front, leading legislation in regard to social and sexually related changes. What do we have now from that give it a go attitude? We have a continuing increase in sexually related crime, and that cannot be disputed. It is about time that giving it a go bears with it a responsibility to review legislation. However, the attitude is, 'once in never to return', no matter what the statistical or social trends are. We then spend hours and hours in this Parliament arguing about how we can bandaid the problems, but never, it seems, going back to the root cause and fixing it up. The on-the-spot fines for drugs will be a classic case to follow over the next few years.

It is about time that business groups and individuals who are urging this Government to give this legislation a go urged the Government to give it a go in relation to the many real things that have to be done in this State and in this country to stop the moral and economic decline that continues. There is very little evidence that a move to EST will help revive the State.

The Hon. Carolyn Pickles: What has it got to do with morals?

The Hon. J.C. IRWIN: If the honourable member had been listening, she would understand. She can read my speech. I led up to that point. Eastern Standard Time has nothing to do with morals. I put it to the honourable member in that sense. But giving it a go is the issue, and I related that to the decline in the State following the trendy legislation introduced during the Dunstan era. I guess that the Attorney would say that he did not refer to us this morning, off the record, as 'country hicks'. I am used to that sort of throwaway line. But does this Government really want us to believe that the rural hicks—all those who are objecting to this measure and who live in rural areas (and some of them even vote Labor)—are now to be given credit for the amendment that the Attorney-General signalled yesterday whereby this measure will be subjected to a one year or two year trial? With inquiries and putting it off, inevitably that trial will turn out to be a three year or four year trial.

The Hon. C.J. Sumner: That seems to be fair to me. It cannot be a three or four year trial if there is a sunset clause. We would have to bring it back.

The Hon. J.C. IRWIN: This Parliament has the ability to move the time forward continually. It is a clever ruse to play for time. In two years there will be another deal with the Democrats to bring them on side, and the issue will be put off.

The Hon. C.J. Sumner interjecting:

The Hon. J.C. IRWIN: I am apprehensive about it. I do not need to make up my mind. I believe that John Olsen was right when he said that the Government wants to introduce this measure—

The Hon. C.J. Sumner interjecting:

The Hon. J.C. IRWIN: He does not now. Mr Olsen said that the Government wants to introduce this measure but to have it lost—to get the best of both worlds.

Members interjecting:

The Hon. J.C. IRWIN: The Government said, 'We introduced this measure and it appeals to just over half the business interests. The minority of rural hicks cannot change the Government anyway'. So it is a pretty easy way out. The measure should be seen for what it is. It is another example of a lurching Government.

The Hon. C.J. Sumner: What do you mean?

The Hon. J.C. IRWIN: The Government intended to move to Eastern Standard Time, then it was lobbied by the West Coast, then it included the zigzag boundaries, and now a sunset clause will be inserted. That is lurching. I could compile quite a list, even given my short time in this place, of issues that indicate that this Government is without direction. I strongly oppose the Bill.

The Hon. T.G. ROBERTS: I had not intended to speak in this debate, but some of the points raised should be answered, in particular the points raised by a member who is in contact with people in country areas. The name of the Liberal Party should be changed to the Avon Party, because all members opposite do is knock, knock. They do not consider the constructive aspects of the exercise.

In keeping in contact—

The Hon. Peter Dunn: What is good about it?

The Hon. T.G. ROBERTS: The Hon. Mr Dunn has given me a perfect opportunity. I refer to the submarine project that we are pursuing. The Hon. Mr Dunn has a quizzical look on his face: I had a quizzical look on my face when he talked about the disadvantages. I want to talk about the advantages. Eglo Engineering, one of the companies in the race for the submarine contract, will do a lot of its business in the Eastern States. I am not saying that all the jobs associated with that major contract swing on whether or not we go to EST, but this measure will make things much easier in terms of organising and coordinating in relation to manufacturing firms in the Eastern States. Members opposite should look at some of the company submissions.

A submission was put forward from Mount Gambier, in the Green Triangle area, and it was based on the fact that half an hour is lost in the morning in terms of communication time, half an hour is lost prior to the lunch break, half an hour is lost after the lunch break, and half an hour is lost at the end of the day.

It is not impossible for communications to be built up. It is not impossible for companies to change their *modus operandi* to stitch in to the Eastern States' operations; we all know that. With a little bit of effort they can do it. South Australia has so many other geographical and physical disadvantages compared to the Eastern States that at least members opposite should have been prepared to look at giving us one advantage—to stitch in so that we could make it easier to organise—

Members interjecting:

The Hon. T.G. ROBERTS: The advantages that the Eastern States have over us now far outweigh the advantages that we had when we started.

Members interjecting:

The PRESIDENT: Order!

The Hon. T.G. ROBERTS: When Thomas Playford put those positions to the car companies in relation to cheap land, cheap rates and other concessions, they were some of the reasons why they set up. All those disadvantages have been whittled away in the form of having centralised pop-

ulation levels of the Eastern States as markets, so that now most companies set up their marketing projects near the high population level.

If one is not in the corridors along the Hume Highway, in Melbourne, Sydney or some of the other high level population areas, one is, unfortunately, placed at a severe disadvantage. South Australia needs to be able to give it some advantage. EST was one of those advantages put forward by many people in industry to try to balance some of the imbalances in terms of communications. If one looks at some of the submissions made by the South-East industrial people, who mainly deal with the Eastern States, particularly in the pulp and paper industries, one sees that 90 per cent of their business would be done in the Eastern States.

Much of the Woods and Forests Department business is done in the Eastern States. It is not impossible to overcome some of the communications problems, but it would give that slight advantage to those companies that operate across the border to enable them at least to be on an equal footing and to give us some arguments as to why we should re-establish industries in those areas.

An honourable member: To give a bit of balance to it.

The Hon. T.G. ROBERTS: That is right. The Riverland has exactly the same problem as the South-East in terms of trade over the border. There is that imaginary line. The Green Triangle, in a lot of its submissions in terms of its planning problems, says that we ought to be looking at eliminating State differences—those problems that cause administrative problems. I thought that the Opposition was in the business of removing red tape. Here we have a huge piece of red tape that causes administrative problems and increases associated costs. If we remove some of those barriers that are not—

The Hon. Peter Dunn: Put Mount Gambier into Victoria, then—that's the easiest.

The Hon. T.G. ROBERTS: The honourable member was talking earlier of not splitting the State. What he is saying now is that we can split the State but let us not split the West Coast. Let us split the South-East away: let us split the Riverland away. He is being very selective in his argument. The honourable member is talking about 30 000 people on the West Coast. I am not saying that they ought to be disadvantaged, either, because the line accommodates their problems to a certain extent, and through discussions and negotiations we can get changes to school starting times and those sorts of things. Many spurious arguments were raised and a lot of politics involved and, when we are talking about divisions in the State, a lot of those could have been eliminated if the Leader of the Opposition had taken a unified approach on behalf of the State rather than looking at the political advantages of creating divisions, then sold the idea to those people and then negotiated with the Government to overcome some of those differences which have existed in terms of administration.

If that had been done, we would have had a unified position to take to the South Australian people. If some significant differences needed to be looked at and some fine tuning needed to be done in terms of those disadvantages, which were outlined in an honest way by the Hon. Mr Dunn, I am sure that the vigour with which those people opposed the matter would not have been as great. All those spurious arguments were put for political reasons—not for the benefit of the State, but for the benefit of a political Party. That is the crime about the whole of the argument.

So, we do not get to a position where we have an advantage from moving to EST. We have a position of a divided State, a divided people, people on the West Coast feeling left out—

Members interjecting:

The Hon. T.G. ROBERTS: It is not to do with the Government's proposal, it is to do with the way in which the Opposition has changed its mind and moved against public opinion. One of the arguments raised by the Hon. Mr Elliott was that California does not have its mean time the same as that of New York.

The California GNP exceeds probably 90 per cent of most of the countries on earth. That has a self-sustaining, self-perpetuating economic viability that does not have reliance on the eastern seaboard. It has a west coast economy which is, as I said, self-perpetuating. Western Australia has a lot of contact with the Eastern States but it also has an enclosed economy that does not present some of the problems that we have. We have a problem associated with most of our markets and a business headquarters being in the Eastern States.

I should have thought that the Opposition would take a practical look at the way in which EST could be applied and then, along with the Government, sit down to work out some of those genuine problems that country people on the West Coast have so that their fears could be overcome and so that, for the benefit of the State, we could introduce something that advantaged everyone. Who knows, perhaps some of the benefits that would apply in the industrial centres might have flowed into the West Coast in terms of jobs and some of the other decentralised arguments. However, that will not happen because the knockers have got in. The Avon Party is at it.

The Hon. C.J. Sumner: What about the reasonable compromise offered by the Government? One or two years sunset—try it for a year or two. The legislation then doesn't continue after a period of time and has to be brought back. Surely they would be prepared to give it a go.

The Hon. T.G. ROBERTS: As reasonable, intelligent people I would have thought so.

The Hon. C.J. Sumner: And then assess the attitude of South Australia.

The Hon. T.G. ROBERTS: That's right—for the whole of South Australia. The other point I want to raise is that, as the Opposition's argument has changed, the tone of the letters that I received also changed. When the first position was developed and people on the West Coast thought that the Opposition was going to support it, there was a different tone to the letters. However, once they had won over the Leader of the Opposition, who started to make statements about it, the line was drawn and a compromise set up. Even when the Attorney-General suggested the sunset clause, many of the submissions started to change. If we had allowed the debate to roll, perhaps towards February, the compromise proposition would have been allowed to sink in. It might take a while to sink in over on the West Coast, I do not know. According to the Hon. Mr Dunn—and I am just going by half the cricket side turning up when EST—

The Hon. C.J. Sumner interjecting:

The Hon. T.G. ROBERTS: There is one suggestion: if they win the toss they could bat first until the other half of the side turned up. However, if they lost the toss, they could put all the subfielders from the other side in. But probably the other side would not turn up as well. However, that is merely an aside.

I thought that they would have looked at the compromise that was put up and given it a try and then analysed the benefits and disadvantages. In a unified way, they could have tried to overcome some of those disadvantages to the benefit of the whole State. But no, we are going back to an

isolationist position. South Australia has no geographical advantages. If you look at the Pacific rim strategy as determined, not by Australia but by some of our Pacific neighbours, you will see that South Australia does not play a very significant part in terms of an improved manufacturing base and any advantages that we could give it. The seminar was set up in Western Australia and not Adelaide.

The people who were involved in the western Pacific rim strategy probably looked at South Australia and said, 'South Australia has no distinct advantages. It sees itself as a separate part of the country.' As one member said, 'Our manufacturing base is shrinking, so let us encourage our primary products area and give primary industry all the advantages that we keep talking about in terms of industrial advantages.' However, if you look at the shrinking markets and prices and over production, you will find that the best way to go is to look at at least allowing our industrial base to operate on the same footing as the Eastern States.

I am afraid the 'Avon Party' has taken over again—knock, knock, knock and another initiative put forward by the Government is sunk and South Australia is not given an opportunity to compete.

The Hon. CAROLYN PICKLES secured the adjournment of the debate.

OCCUPATIONAL HEALTH, SAFETY AND WELFARE BILL

Third reading.

(Continued from page 2447.)

The Hon. C.J. SUMNER (Attorney-General): I move:

That this Bill be now read a third time.

The Hon. K.T. GRIFFIN: Because the Committee stages of the Bill were such a long haul and so many amendments were proposed—many of which were successful and others lost—it is appropriate that I take a few minutes to review some of the pluses and minuses of the Bill as it comes out of Committee. There is no guarantee that what has come out of Committee will be the Bill as finally passed by the Parliament, as I imagine there will still be some discussions that the Government may wish to undertake, possibly even up to a conference, on some aspects of the Bill. Certainly the Bill as it has come out of Committee is very much more appropriate to occupational health, safety and welfare than when we commenced Committee consideration of it.

I said at the second reading that the Bill is very much about union power, and the provisions in the Bill as we considered them clearly demonstrated that the emphasis given to the involvement of trade unions in a variety of issues was quite significant and gave them a disproportionate amount of power in the workplace, not only in relation to occupational health and safety matters but also in matters which might be of an industrial or some other nature but be addressed under the guise of occupational health, safety and welfare. Every aspect of the original Bill was oriented towards giving those unions more power in the workplace.

The amendments that we have been able to achieve so far dilute that power and influence. I am not so naive as to believe that unions will not be involved in occupational health and safety issues in the workplace: they have a legitimate role, but they do not have a predominant role, nor do they have a predominant right to negotiate on behalf of employees in the workplace.

This Bill gives greater emphasis to employees acting either with or without support from the unions than when it commenced Committee consideration. Some of the changes in respect of trade unions are significant. The Bill did provide that originally one could not become a safety representative unless one was a member of a union, or if there was no union member in the workplace who sought to be the health and safety representative. That has now been deleted so that membership of the union is no longer, generally speaking, a prerequisite to being a health and safety representative. No longer does the union or a group of unions with members in a particular workplace have the responsibility for the conduct of elections for health and safety representatives.

Quite properly that is the responsibility of the employees in a particular workplace, and if they cannot reach agreement then the disagreement can be resolved by the Industrial Commission. Ballots for a health and safety representative must now be secret ballots, and I think that is appropriate. A lot of influence is exerted on employees in the workplace from all sides—from unions and possibly, on occasions, from employers. Effectively the secret ballot eliminates that peer group and other pressure on employees to elect particular individuals. There can certainly be canvassing for votes, and unions can be involved in that, but when the employee marks the ballot-paper it is secret. Unions can no longer refer disputes over an election to the Industrial Commission. That is now solely within the province of employees. No longer is a union a party which has to agree to the composition of a health and safety committee; nor can the union any longer make the request to establish or vary one.

No longer can a union institute proceedings against an employer for a breach of the occupational health and safety law. I believe that that is a particularly significant amendment and it was interesting that, under the threat of that opportunity being available also to employers (to institute proceedings under the Act against employees and others), the Government readily saw that this was not a contestable position and that it ought to recognise that prosecutions against both employers and employees should be instituted only by the inspectorate, with the approval of the Minister.

Unions may still be involved in the formation of designated work groups, but only in a consultative role. As I have said, there is an area in relation to occupational health and safety matters where unions continue to have a consultative role but not a predominant and a deliberative role, and are not to be parties that can make agreements on the various issues referred to in the Bill.

One of the problems with the original Bill was that it tended, by the use of particular terminology, to perpetuate the mythological class warfare of the worker-boss relationship. Fortunately, we now have the concept of 'worker' and 'boss' eliminated from the Bill, and now have 'employees' and 'employers'. That is an important distinction which has to be made and, I believe, will set this legislation on a much more appropriate footing if it is to achieve real progress on occupational health, safety and welfare in the workplace.

Although the terminology has changed, there are still some disturbing aspects in relation to the scope of the Bill in the sense that contractors and subcontractors may in some respects be deemed to be 'employees'. I regret to say that the Hon. Mr Gilfillan was not prepared to support amendments which I was proposing to remove the extension of the description 'employee' to contractors and subcontractors in those circumstances. Although the change in terminology from 'worker' to 'employee' does change the emphasis of the Bill, in many respects the changes do not have as much substance as I believe they should.

The powers of health and safety representatives remain largely intact. They have the power to inspect the whole workplace and not just that part of the workplace in which their designated work group works, an amendment which I proposed but which the Government and the Australian Democrats were not prepared to support—

The Hon. I. Gilfillan interjecting:

The Hon. K.T. GRIFFIN: The honourable member's amendment does not do that; it allows them to range far and wide throughout the workplace—and that is the problem that I see with the Hon. Mr Gilfillan not supporting the amendment which I proposed. The health and safety representative has the right to accompany an inspector throughout the workplace, and that is not limited to the inspection of the area in which the designated work group works. The health and safety representative still has power to issue default notices and to order that work cease. I sought to make those powers subject to a health and safety committee, on the basis that a health and safety committee would have a broader perspective and, because of the wider range of experience involved in a health and safety committee, would be able more responsibly to exercise those powers.

Default notices can be cancelled now by not only the health and safety representative who issued them but also the health and safety committee in respect of which area where the default notice was placed has authority. In addition, there is a provision which creates an offence if a health and safety representative abuses power. I had that amendment on file, as did the Hon. Mr Gilfillan, but he also had an addition to that provision to act as a deterrent if the health and safety representive sought to abuse the power in the context of an industrial matter.

In addition to that constraint, we have provided for a health and safety inspector from the Department of Labour to inspect premises where a stop-work notice has been placed on premises within one business day in the metropolitan area and within two business days from areas outside the metropolitan area. That is an important change, because we believe that, while the implementation of this Bill generally will require more resources—and the Government has to face that responsibility in its own budgeting—the fact is that with the powers which are being granted in this Bill it is important for a Government agency, such as the Department of Labour, in conjunction with the Occupational Health and Safety Commission, to be able to react quickly to ensure that any problems in the workplace relating to occupational health and safety are resolved quickly, and particularly where work has been stopped by a health and safety representative, and recognising that stopping such work is costly to employers as well as to employees.

Under the Bill as it comes out of Committee, health and safety committees have a limited role, but default notices placed on premises or a particular work area can be cancelled by a health and safety committee. As I have said, I had hoped that health and safety committees could exercise a much higher level of responsibility and be much more actively involved in the actual workplace than they are under this Bill. It is a disappointment that they do not have such wide areas of responsibility as I wanted them to have and which I believe would have been more appropriate in the context of this Bill. Penalties are still high: they remain at a maximum of $100 000, and in some instances the penalty involves imprisonment for up to five years, and I believe that that is inappropriate in the context of this Bill. We are talking not about criminal acts but about occupational health and safety, and we are talking about endeavouring by education and cooperation to develop a mutual respect for occupational health, safety and welfare matters in the workplace between employers and employees. The high profile penalties will not, in my view, assist that cooperative approach which I believe to be more appropriate in dealing with these matters.

There have been significant changes in the liability which is placed on bodies corporate and those who are officers in bodies corporate. The Government's provision was for a reverse onus of proof on directors, executive officers and those involved in the management of a body corporate. Now, the onus of proof is on the Crown to show that the behaviour of a director attributed to the commission of an offence by a body corporate before a director or other person who might be a responsible officer is liable to penal sanctions.

The dispute resolution mechanisms in the Bill are with the Industrial Commission. My preference was for those to be with the Occupational Health and Safety Commission, which has a direct involvement in and experience of occupational health, safety and welfare matters. The commission may still delegate to unions and to health and safety representatives. I find it very disturbing that there is not a limit on the power of the commission to delegate. However, I was not successful in getting my amendment through to limit that power of delegation. In fact, the Government and the Australian Democrats preferred that the commission may, according to the discretion which rests in the commission, delegate to unions and health and safety representatives.

However, the commission is also to provide information on occupational health, safety and welfare matters in languages other than English. That is a good development, as is the other series of amendments which provide for more information to be available to persons in the workplace in languages other than English so that every facility can be made available for those workers who are not native born Australians or whose native language is not English to comprehend the significance of occupational health, safety and welfare in the workplace.

The Occupational Health and Safety Commission does have a function, which was successfully moved by the Hon. Diana Laidlaw, to have regard to and implement equal opportunity policies in the development of codes of practice. It is unfortunate that employers out there in the real world will continue to face a situation of conflict where codes of practice relating to health, safety and welfare matters under this legislation may be in conflict with the Equal Opportunity Act. Notwithstanding some very persuasive arguments put by my colleague the Hon. Diana Laidlaw, I regret to say that the Government and the Australian Democrats did not effectively resolve that dilemma which faces (and will continue to face) employers out in the real world.

However, an employer will no longer have to have regard to the psychological needs of employees. It was a matter of considerable concern to the Opposition that a concept so vague, so subjective and so difficult to establish as the psychological needs of an employee should be the responsibility of an employer.

Now the general well being of the employee will need to be kept in view by the employer. That is a concept which in fact the Hon. Mr Gilfillan proposed and I think it is more limiting than the provision which was in the Bill before the Committee considered it. Areas such as rights of appeal were limited but have now been extended. Prosecutions now may be instituted only within two years after the offence was committed and not five years. I would have preferred 12 months, but I am much happier with two years than with five years. There are protections for the citizen,

employers and employees against the mandatory requirement to disclose information which might be subject to legal professional privilege or, in some instances, which might tend to incriminate or which might be information obtained by inspectors or the Occupational Health and Safety Commission or health and safety representatives after legal proceedings have been commenced. They are important protections which we should constantly have before us in considering legislation.

The only other major matter to which I shall refer—and there are many other matters to which I could refer——is in the area of codes of practice. Codes of practice are relevant where a prosecution may be launched against an employer. If there has not been compliance with a code of practice, then the onus is placed upon the employer to establish that, notwithstanding non-compliance with the code of practice, the employer has followed a practice of equal or better standard than the code of practice to avoid a prosecution. Importantly, and unfortunately, we have not been able to achieve an objective of having those codes of practice being a standard which, if complied with, would not thereafter result in prosecution. I am disappointed that the codes of practice will not be used in that way. It is very difficult for employers to identify what might be the appropriate standards. If codes of practice are promulgated, employers do have a right to rely on them because they are promulgated after consultation. One could expect that, being promulgated by the Minister on the recommendation of the Occupational Health and Safety Commission, they would in fact reflect contemporary standards, and ordinary people out in the workplace could reasonably expect that they should be the standard with which they should comply.

So, it is a matter of considerable disappointment that that is not to be the case under this Bill as it comes from the Committee. Codes of practice, however, will be subject to consultation and in the educational field, which is an area of special difficulty, there is a specific provision that in developing codes of practice the recommendations of the Director-General of Education, the Independent Schools Board and the South Australian Commission for Catholic Education must be taken into consideration. That is important for the educational sector, where there have been special problems developing over the last 12 to 18 months and where inspectors from the Department of Labour and Industry do not seem to appreciate that there is a distinction between a manufacturing industry or other industrial complex and educational or professional institutions such as schools. So, they are subject to disallowance and that is an important area of review which will become the responsibility of the Joint Standing Committee on Subordinate Legislation and both Houses of State Parliament.

The Opposition is much happier with the Bill as it comes from the Committee stage. As I have said before, I cannot hazard a guess about what the Government might do with it, but I strongly urge it to support the provisions which have come from this Council after the Committee consideration of the Bill, because it is significantly improved. It provides a more balanced approach to occupational health and safety legislation, although I believe that there could have been even greater improvements if the Hon. Mr Gilfillan, in particular, could have been persuaded to support some of what I regard to be reasonable amendments to this Bill.

We are supporting the third reading of the Bill in the context to which I have referred and hope that in the implementation of this Bill—if it is finally passed by both Houses—there is a sensitive and cooperative attitude demonstrated by the authorities particularly in ensuring that there is not a confrontationist attitude displayed but a cooperative attitude towards occupational health and safety in the workplace.

The Hon. I. GILFILLAN: I rise to indicate the Democrats' support for the third reading of the Bill. I also express appreciation for what was a very constructive and even tempered Committee stage. It is encouraging to feel that there really is very close agreement in most of the major intentions and details of the Bill.

I found it reassuring that in the amendments on file—even if they were unsuccessful in the debate—the Hon. Mr Griffin indicated that the Liberals are prepared to accept that under certain circumstances a health and safety representative may direct that work cease until a matter is resolved. In another matter, they recognised that a responsible officer of a body corporate could be guilty of an offence and liable for the same penalty as is prescribed for the principal offence which is, of course, a very substantial one.

I think it is as well to record again that it does reflect the sincerity and genuineness of the Liberals as expressed by Mr Griffin, at least, in their attitude that health and safety is an overriding priority and that those powers granted to the health and safety representative and the responsibility for directors and higher echelon people in bodies corporate are important ingredients of it. I express my appreciation to those of my colleagues who moved in my absence the final few amendments that I had on file—successfully, I am glad to say. The Bill has been improved because of those amendments, in particular the moratorium on the rural area.

Members interjecting:

The Hon. I. GILFILLAN: I was delighted. It was a very effective and much more pleasant way of getting the job done. I believe that the actual end result will be very close to a balance that the Government could and should accept. I would be disappointed if there was any serious difficulty with the Government accepting the Bill as amended coming out of our Committee stage. The Hon. Mr Griffin made the comment that there is no restriction on the area of operation of the safety representative. I remind him of my amendment to clause 32, after line 30, to insert a new subclause, as follows:

> The powers and functions of a health and safety representative under this Act are limited to acting in relation to the designated work group that the health and safety representative represents.

That was successful and means that the health and safety representative can take—and should be able to take—an interest and involvement in the area outside the exact working locality of the work group if it is shown and can reasonably be recognised as influencing the health and safety of that work area. I hope that the Hon. Mr Griffin has recognised that restriction on the area in which health and safety representatives can work.

Finally, I believe that at least at this stage we have passed a Bill which will contribute very significantly towards reducing ill health and accidents in the workplace and that it will, in quite a short time, improve productivity, reduce pain and suffering as a result of accidents and ill health and reduce the cost of compensation for those accidents and conditions that result from unacceptable working environments. The Democrats are pleased to support the third reading of the Bill.

Bill read a third time and passed.

COMMERCIAL TRIBUNAL ACT AMENDMENT BILL

In Committee.

(Continued from 25 November. Page 2247.)

Clauses 2 to 4 passed.

New clause 4a—'Principles on which tribunal is to make decisions.'

The Hon. K.T. GRIFFIN: I move:

Page 2, after line 16—Insert new clause as follows:

4a. Section 13 of the principal Act is amended by striking out subsection (2) and substituting the following subsection:

(2) The Tribunal is bound by the rules of evidence in—

(a) disciplinary proceedings;

and

(b) proceedings related to a contempt of the Tribunal.

Section 13 of the principle Act provides that a tribunal shall be bound by the rules of evidence in disciplinary proceedings but, now that the tribunal is to be given power to deal with contempt of the tribunal, it appears that the tribunal also ought to deal with that contempt only on the basis of the rules of evidence and not on the very broad provision that allows the tribunal to acquaint itself by reference to any matters it thinks fit in any way it thinks fit without being bound by the rules of evidence.

Contempt proceedings are serious and we ought to limit the material upon which the tribunal punishes the contempt to those cases which comply strictly with the rules of evidence. My amendment is designed to retain the provision that the tribunal is bound by the rules of evidence in disciplinary proceedings and to extend it to proceedings relating to a contempt of the tribunal.

The Hon. C.J. SUMNER: The Government is willing to accept the amendment for the reasons outlined by the Hon. Mr Griffin.

New clause inserted.

Clause 5 passed.

New clause 5a—'Appeals.'

The Hon. K.T. GRIFFIN: The Attorney has an amendment to insert new clause 6a. I have had discussions with him and suggested new clause 6a is not quite as wide as my suggested new clause 5a but, in the circumstances in which this Bill comes to us and is being considered, I am willing to defer to the Attorney's amendment on the question of an appeal. Therefore, I indicate that I do not intend to move this amendment because I defer to the Attorney's later amendment.

Clause 6 passed.

New clause 6a.

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

Page 2, after line 24—Insert new clause as follows:

6a. Section 20 of the principal Act is amended—

(a) by striking out subsections (1) and (2) and substituting the following subsections:

(1) A party to proceedings before the Tribunal who is dissatisfied with a decision or order of the Tribunal in those proceedings is, subject to this section, entitled to appeal to the Supreme Court against the division or order.

(2) The appeal lies as of right if it involves a question of law or arises from proceedings related to a contempt of the Tribunal but otherwise lies only by leave of the Tribunal or the Supreme Court;

and

(b) by inserting after subsection (4) the following subsection:

(5) the rights of appeal conferred by this section are subject to any limitations and exclusions contained in the relevant Act.

The Hon. Mr Griffin raised questions about the appeal mechanisms in the Commercial Tribunal Act and indicated that there was to be no appeal on the facts. The honourable member was concerned, first, about the laws of evidence relating to contempt, and that has been fixed by his first amendment. He was also concerned about the rights of appeal on disciplinary decisions and contempt decisions of the tribunal and felt that there ought to be appeal as of right to the Supreme Court against that category of decision. Section 20 of the Commercial Tribunal Act provides for appeals to the Supreme Court in all matters, although, unless they involve questions of law, where the appeal is not of right, it requires the leave of the tribunal or the Supreme Court.

The Hon. Mr Griffin's proposition is that, with respect to contempt matters, that appeal ought to lie to the Supreme Court as of right, even if it does involve questions of fact and law. My amendment gives effect to that, so the end result is that an aggrieved party can appeal to a single judge of the Supreme Court against a decision of the Commercial Tribunal. That appeal lies of right, without the leave of the Supreme Court, if it involves a question of law or if it arises from proceedings related to contempt of the tribunal, and all other maters can be appealed to the Supreme Court if the tribunal or the Supreme Court give leave. There is therefore no barrier to an aggrieved litigant before the Commercial Tribunal going before the Supreme Court. In some circumstances it is as of right, and in others it is with the leave of either the tribunal or the Supreme Court.

I believe that this is a reasonable balance. It would enable the Supreme Court to determine whether on a factual issue the matter was of such importance for leave to be granted. It is similar to the situation that applies with respect to the small claims jurisdiction in the Local Court where, in relation to amounts of less than $1 000, the appeal lies to the Supreme Court with the leave of the Supreme Court. It is slightly different in this case, because the tribunal can give leave. I believe that is a reasonable compromise.

I suspect that at some stage these appeal provisions should be re-examined with a view to rationalising them, and to some extent that is rationalising the Local Court appeal provisions to the Supreme Court with those of the Commercial Tribunal. At present the Commercial Tribunal could be dealing with substantial sums of money but the appeal would lie to the Supreme Court only if leave was granted by either the Commercial Tribunal or the Supreme Court whereas, in relation to Local Court appeals, if the sum is more than $1 000, that is, the limited jursidiction of the Local Court, the appeal to a single judge of the Supreme Court or the full Supreme Court is as of right.

It may be that at some stage we have to try to rationalise those appeal provisions and possibly put in the Commercial Tribunal Act some kind of monetary limits which accord more fully with the Local Court appeal provisions. However, I believe that with the amendment I am moving there is a satisfactory structure. The Local and District Criminal Courts Act in any event is under review at the moment with a view to the establishment of a separate District Courts Act and a separate summary courts or Magistrates Court Act with criminal and civil jurisdiction. I think these questions of consistency in appeals between the various jurisdictions can be examined when that matter is addressed.

The Hon. K.T. GRIFFIN: I indicate that I will support the amendment. What I was really trying to do was draw attention to the fact that the Commercial Tribunal now exercises a wide range of powers and a number of pieces of legislation—some five of which, I think, have been committed to it over the last year. Some of the legislation allows quite large amounts to be dealt with by the tribunal, and I think that the appeal rights need to be reviewed to ensure

that the rights of those who are parties before the tribunal are adequately protected from a miscarriage of justice or abuse.

Would the Attorney indicate if he could arrange for the appeal provisions to be reviewed—not immediately, but in the next few months—and let the Council have some information on it?

The Hon. C.J. SUMNER: I think matters can be examined in the context of the review of the Local Court appeal provisions, which is part of a general review or, really, a rewriting of the Local and District Criminal Courts Act. I think the situation is satisfactory at the present time, subject to that review. No-one now is barred from an appeal to the Supreme Court from the Commercial Tribunal. Everyone has the option—some as of right, if it involves a matter of law or consent proceedings, and others with leave.

I think that is sufficient protection of the rights of litigants before the Commercial Tribunal. What I did say, which I trust is satisfactory to the honourable member, is that we will look at the appeal provisions and the consistency between them when examining the Local Courts Act.

New clause inserted.

Clauses 7 to 13 passed.

Schedule.

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

Leave out the amendment related to section 20 (1).

Amendment carried; schedule as amended passed.

Title passed.

Bill read a third time and passed.

ADJOURNMENT

AT 1 p.m. the Council adjourned until Tuesday 2 December at 2.15 p.m.