

Legislative Assembly

Thursday, 4 June 1987

THE SPEAKER (Mr Barnett) took the Chair at 10.45 am, and read prayers.

STAMP AMENDMENT BILL

Standing Orders Suspension

MR PEARCE (Armadale—Leader of the House) [10.46 am]: I move without notice—

That so much of the Standing Orders be suspended as is necessary to enable the Stamp Amendment Bill to be introduced without notice and taken to the stage that the motion is moved "That the Bill be now read a second time" on the same day.

Question put.

The **SPEAKER**: To be carried, this motion requires an absolute majority. I have counted the House; and, there being no dissentient voice, I declare the question carried.

Question thus passed.

Introduction and First Reading

Bill introduced, on motion by Mr Pearce (Leader of the House), and read a first time.

METROPOLITAN MARKET AMENDMENT BILL

Second Reading

MR PEARCE (Armadale—Leader of the House) [10.55 am]: On behalf of the Minister for Agriculture, I move—

That the Bill be now read a second time.

The Metropolitan Markets in Wellington Street, Perth are controlled by the Metropolitan Market Trust, a body established under the provisions of the Metropolitan Market Act 1926. The trust consists of five members, one representing producers, one consumers, and one the Perth City Council, and two appointed by the Governor. One of the members is appointed by the Governor as chairman.

Representation has been made by bodies to broaden this composition. On 12 January 1987, Cabinet agreed to such a broadening and to make additional alterations necessary for the planned change of venue and for an administrative update.

The amendments include—

representation on the Metropolitan Market Trust to be increased to seven, with representation from buyers, agents, producers, and consumers, together with three ministerial appointees;

a member other than those representing producers, agents, buyers, or consumers to be appointed as chairman;

the representation of the Perth City Council to cease;

appointments previously made by the Governor to be made by the Minister;

remuneration for salaries or fees to be by recommendation of the Public Service Board;

the number of members needed to make a quorum to be increased to four;

present members to continue as members until the expiry of their terms under the present Act, when they could then be considered for re-appointment as appropriate under the amended Act;

the secretary of the trust to be called manager; and

the involved municipality to be changed from the Perth City Council to the council of the appropriate municipality.

The inclusion of representatives of the buyers and agents as members of the trust is important to those groups, but the changes are not regarded as controversial.

I commend the Bill to the House.

Debate adjourned, on motion by Mr Williams.

LOCAL COURTS AMENDMENT BILL

Second Reading

Debate resumed from 21 May.

MR MENSAROS (Floreat) [10.58 am]: This is a legal procedural Bill which does not arouse a lot of interest, excitement, or controversy.

The Bill deals with four main provisions. Firstly, a pre-trial conference system is introduced, and considering that this has already been done at the District Court level—and from what one hears from legal practitioners, clerks, and even judges, it has been fairly successful—it appears to me that this was a good move. There is every indication it will be successful at the Local Court level as well. It will save time and it will save money, not only

for the litigants, the people who come before the court, but also for the court, which is a good thing.

The second group of provisions deals with increasing the monetary limit of jurisdictions of the court. I will come back to this later. The general limit has been increased from \$6 000 to \$10 000; the recovery and possession of land limit has been increased from \$10 000 to \$15 000; and the small debt limit has been increased from \$2 000 to \$3 000.

The SPEAKER: Order! There are far too many audible conversations going on.

Mr MENSAROS: Some members might remember that the latter amount was increased from \$1 000 to \$2 000 only a year or two ago.

The third group of provisions widens the scope of where the trial can be held. At present all proceedings can only take place at the location of the court where the trial commenced. Under this legislation, it will be possible to conduct proceedings wherever it is most convenient. That means if the defendant has moved from the metropolitan area where proceedings started, for example, to the country, and the plaintiff is satisfied a proper hearing can be held there to everyone's advantage, he can ask the court to have the hearing conducted there the next time the court visits the area on circuit.

The only comment I make is that the Bill provides that this change of venue can be done when convenient, but it does not say convenient to whom or define the word "convenient". It stands to reason in most cases, but not always, that what is convenient for one party may not be convenient for the other party. Therefore, it would be better if the Bill defined how the court should adjudge the convenience. Will it have to be a consensus between the parties, or will it be the overwhelming convenience of one party or the other? The Minister may wish to reply to that point, or bring it to the attention of the Attorney General.

The fourth set of provisions provide that a defence can be struck out if the defendant fails to comply with a court order to supply details of the defence within a given time. That is a fairly commendable provision because some discipline must be brought into these court proceedings, and if something is requested with a view to greater efficiency it should be adhered to or there could be serious consequences. That has not been the case so far. Generally speak-

ing, the Bill enables quicker and more efficient proceedings in the Local Courts, and therefore it will be supported by the Opposition.

I make one comment in connection with the raising of the financial limits of the court's jurisdiction.

I would appreciate it if the Minister in charge of the Bill would lend his ear to the debate. The Deputy Premier surely will not mind continuing his conversation with him later.

We spend a lot of time in Parliament adjusting monetary limits, whether in the jurisdiction of a court, or penalties, or certain limits applying to applications to various authorities. If one were to study the situation one would see that almost every third Bill deals with the raising of monetary values. That is a disadvantage in that the time of Parliament is being used unnecessarily and it keeps the various comparable monetary limits at different levels. The Attorney should seriously consider introducing a system of general values—a sort of indexation—under which the penalties and monetary limits would be given an index number. Prospective legislation would then say that the criminal offence carried a maximum penalty of index No. 4 or index No. 5, or whatever.

The Government could be empowered to make regulations so that every six months the monetary value of the penalties would change according to the inflation rate to maintain the real monetary value. The Government would just say that the index had been raised. The system has been suggested in the past, but I have never had any satisfactory explanation as to why it should not be done. It would be a one-off exercise whereby this index would be prepared, and after that it would be the easiest thing to adjust the penalties or jurisdiction limits on a six-monthly basis. If there was some other consideration in changing the values, legislation could be introduced in the same way as it is now. However, it would save the House dealing with these matters all the time or leaving certain penalties unchanged for 20 or 25 years before discovering that to be the case, as the Minister for Environment pointed out yesterday in relation to jetty fees which had not been raised for 25 years.

We do not oppose the Bill.

MR HOUSE (Katanning-Roe) [11.06 am]: The National Party supports this Bill. There is nothing more important than the law and its administration with regard to the average person, and the way the law treats people as they go about their everyday business. Any Act or

amendment to an Act which speeds up the system or makes it fairer is supported by the National Party. This Bill does exactly that. It tries to build into the legislation a fairer system and also to speed up the action by which people get a result from the courts.

This Bill has a particular advantage for country people in that in some instances when a court hearing has to be held in a town people can be prejudiced by what they know of the history of the people involved in that particular case. The provision to allow the case to be heard in other towns is of great advantage to people in those circumstances. It is fairly well known that when a city person takes action against someone who lives in the country it is the general practice of courts to hold the hearing in the city. The fact that under this Bill the hearing will be able to be held in the country is an advantage to those people.

I suggest to the Minister another provision which could be looked at is a split hearing of a particular case. In other words, where somebody in the country is taking action against a person in the city there could perhaps be a court hearing in the country town which would take the evidence presented for one side, and the court could be reconvened in the city to allow the other party to put its point of view. That would save a lot of cost in terms of travel, time, and inconvenience to people who may have to travel a long way to have their claim heard by the court.

I was particularly interested to hear the Liberal Party's spokesman mention the general penalties that apply and suggest there should be some form of indexation. I cannot agree with that and the reason is that I believe it is Parliament's function to not only re-debate penalties from time to time—

Mr Peter Dowding: Did the member for Floreat say penalties or jurisdictions?

Mr Mensaros: Both.

Mr HOUSE: He referred to both.

It is my opinion that one of the functions of this Parliament should be to re-debate issues from time to time. If a Bill comes before the House to update penalties included in the parent Act, the Government and the Opposition should be given the opportunity to re-debate the whole legislation.

Finally, the Government should give some attention to the position of justices of the peace and country magistrates. For some time there has been debate in the community about the role of justices of the peace and their power to

sentence people to terms of imprisonment. The general feeling is that that power should be taken from them. The only way that can occur is for more magistrates to be appointed to country areas. I believe that eventually justices of the peace will not be involved in imprisoning people. In fact, I think most justices of the peace would be pleased to see that power taken from them, because most of them find it a great burden. It is not easy for someone in their position to have to decide whether to incarcerate someone.

As I said, if this power is taken from justices of the peace, more magistrates will have to be appointed so that cases can be dealt with more quickly and the courts do not become bogged down with outstanding actions. Everyone is entitled to have his case heard as quickly as possible.

The National Party supports this Bill. I hope that the Government takes account of the matters raised by the National Party.

MR PETER DOWDING (Maylands—Minister for Works and Services) [11.14 am]: The Government thanks the Opposition for its support for this legislation. The matters raised will be drawn to the attention of the Attorney General because they were not really relevant to the legislation before the House.

Question put and passed.

Bill read a second time.

In Committee, etc.

Bill passed through Committee without debate, reported without amendment, and the report adopted.

Third Reading

Leave granted to proceed forthwith to the third reading

Bill read a third time, on motion by Mr Peter Dowding (Minister for Works and Services), and passed.

IRON ORE (HAMERSLEY RANGE) AGREEMENT AMENDMENT BILL

Second Reading

MR PARKER (Fremantle—Minister for Minerals and Energy) [11.15 am]: I move—

That the Bill be now read a second time.

The purpose of this Bill is to ratify an amendment agreement dated 28 May 1987 between the State and Hamersley Iron Pty Ltd. The amendment agreement amends the iron ore processing obligations of Hamersley Iron under

the principal agreement and the supplemental or Paraburdoo agreement. The purpose of the amendments is to broaden the scope of investments which may be undertaken by the company in satisfaction of its iron ore processing obligations.

By way of background, I should explain that when Hamersley Iron and the State first entered into the Iron Ore (Hamersley Range) Agreement in 1963, there was an expectation by both parties that the Mt Tom Price project would develop in stages from iron ore export through secondary processing and ultimately to iron and steel production. Specific further processing obligations were therefore written into the State agreement, some of which—the iron and steel making, for example—did not become due until 20 years after the agreement commenced.

With the amendments to the Hamersley Range agreement which saw the Paraburdoo iron ore mine open up, and later with the negotiation of the Iron Ore (Mt Bruce) Agreement in 1972, additional further processing obligations arose, including the production of metallised agglomerates, perhaps better known as direct-reduced iron or DRI. As a result, the present Hamersley Range agreement and the Mt Bruce agreement contain a complicated web of cross-referenced obligations, some of which can be triggered only by completion of earlier obligations, and others which become due on fixed dates.

The situation has become further complicated over the years by the deferrals of due dates for proposals which have been granted to Hamersley in recognition of the dramatic change in world steel consumption patterns which occurred in the 1970s, and the far-reaching structural reorganisation of the world steel industry which has occurred since then and is continuing today. However, some of the iron ore processing obligations have been fulfilled. A pellet plant was commissioned at Dampier in 1968 and operated until 1980 when changes in oil prices and blast furnace technology combined to make the production of pellets no longer economic.

A concentrator was commissioned at Mt Tom Price in 1979 with a capacity of 6.5 million tonnes per year. Such a capacity was in excess of Hamersley's obligation under the agreements, and this was recognised in a 1976 amendment to the company's obligations which saw the tonnage of metallised agglomerate required to be produced under the

Paraburdoo agreement reduced from three million tonnes per year to two million tonnes per year.

However, despite vigorous effort and numerous studies over the years, Hamersley has not been able to fulfil all of its outstanding obligations within the confined scope of their current definition. Consequently, the Government has for some years been pressing Hamersley to enter into negotiations to restructure its further processing obligations in a manner that will allow the company to carry out a wider scope of investments which, either alone or in aggregate, would result in economic benefit to Western Australia approximately equivalent to that envisaged by the original obligations.

The amendment agreement currently before the House has been negotiated with the company with the clear expectation that, in addition to enabling the company to continue to pursue its iron ore processing initiatives, it will enable Hamersley to come forward to the State in due course with economically feasible projects in the event that the iron ore processing obligations are not feasible within the time frame specified in the amendment.

Essentially the provisions of the amendment agreement are—

The existing unfulfilled iron ore processing obligations for the production of metallised agglomerates are restated in unambiguous terms providing for submission of proposals by specific dates. If alternative investments are carried out instead, these obligations will provide a benchmark against which the magnitude of the alternative investment may be judged.

If the company demonstrates that it cannot establish the iron ore processing operations because they are not feasible, the company instead becomes obligated to come forward with a programme of investments which the Minister may approve as investments alternative to the processing obligations.

In such event the company is under an ongoing obligation to identify and investigate potential alternative investments until it is agreed between the company and the State that alternative investments representing economic development within Western Australia, approximately equivalent to the iron ore processing obligations, have become the subject of approved proposals.

The company is required to investigate potential alternative investments formally referred to it by the Minister.

This last point provides the State with the opportunity to require this major Australian company to investigate potential projects of significant benefit to Western Australia.

The House will appreciate that this provision was not won easily and the company has rightly sought the inclusion of provisions which require that—

investments which the State wishes to have the company investigate should be formally referred to the company by the Minister at the time of administering the agreement;

the potential projects should be related to the activities of the CRA group of companies; and

the projects should be *prima facie* feasible.

I turn now to the specific provisions of the amendment agreement scheduled to the Bill before the House.

Clause 4(2) provides for the deletion from the principal agreement of clauses 13 to 17 relating to further processing obligations. Instead the obligations are contained in the Paraburdoo-related amendment agreement Act of 1968 which requires that the company undertake metallised agglomerate production of two million tonnes per year, and in the Iron Ore (Mount Bruce) Agreement which requires that Mount Bruce Mining Pty Limited undertake one million tonnes per year steel production.

Clauses 4(3), 4(4), and 4(5) are consequential changes providing for the deletion of references to metallised agglomerates, pig iron, and foundry iron or steel.

Clause 4(6) serves to update the principal agreement by deleting reference to the Arbitration Act 1895 and substituting the Commercial Arbitration Act 1985.

Clause 5(1) amends the Paraburdoo agreement to provide a definition for "alternative investments" which may be undertaken by the company in substitution of its metallised agglomerates obligations which are reflected in clause 5(3) of the amendment agreement.

Under clause 5(3), the existing clauses 9 and 10 of the Paraburdoo agreement are substituted with new clauses. Under the new clause 9 the company is required on or before 1 October 1988 to submit to the Minister detailed proposals for the establishment of a plant for the

production of metallised agglomerates containing provision that such plant will have the capacity to produce not less than one million tonnes of metallised agglomerates annually. The clause further provides that on or before 1 October 1991 the company will submit detailed proposals for the expansion of the productive capacity of the plant to be not less than two million tonnes annually by 1 October 1993.

The submission of such proposals will not be affected by the provisions of clause 23—the delays clause—of the principal agreement. The reason for this is to ensure that either proposals for iron ore processing are submitted or else such processing is declared non-feasible and the obligation for alternative investments then becomes activated.

Under clause 9(5) the company may on or before the time for submission of proposals for metallised agglomerates apply to the Minister for approval that the carrying out of alternative investments be accepted in lieu of all or some part of its obligations with respect to metallised agglomerates. Where the Minister approves the company's request the company shall implement the investments in accordance with the approval and upon completion, or earlier with the agreement of the Minister, the obligation to submit detailed proposals for a plant for the production of metallised agglomerates, or that part of those provisions which are to be satisfied by those investments, will cease to apply.

New clause 10 of the Paraburdoo agreement provides that if the company at any time considers the establishment of plant for the production of metallised agglomerates or the expansion of the productive capacity of such plant is, for any technical, economic, or other reason not feasible, whether in whole or in part, then it may submit to the Minister detailed reasons why it considers the metallising operation is not feasible together with supporting data and such other relevant information as the Minister may require.

If the Minister upon consideration of the company's submission does not agree, the company may submit the question of feasibility to arbitration.

If the Minister agrees with the company's submission or should it be found on arbitration that the production of metallised agglomerates is not feasible, then the company is absolved of its obligation for metallised agglomerates.

The company is thenceforth obligated to identify and to investigate potential alternative investments which would represent, either alone or in aggregate with other alternative investments, economic development equivalent to the metallised agglomerates obligation.

Clause 10(5) provides that the Minister may submit potential investments to the company, and the company is obliged to take account of and investigate the feasibility of implementing such potential investments.

Under clause 10(6) the company is required to submit to the Minister within two months of notice of non-feasibility of metallised agglomerates a programme for the identification and investigation of potential alternative investments. The Minister under clause 10(7) is required to advise the company within two months which potential investments he may accept as alternative investments and agree with the company upon a programme for feasibility studies.

The company is required to investigate the feasibility of any potential alternative investment and, in accordance with the programme agreed, report to the Minister.

Where a potential alternative investment is accepted by the Minister and agreed by the company and the Minister, or found on arbitration, to be feasible, the Minister and the company shall agree on a date by which detailed proposals will be submitted for that alternative investment.

The company is also required under clause 10(7) to report to the Minister on its progress in carrying out feasibility studies or preparing detailed proposals.

Clause 10(8) addresses the submission and implementation of detailed proposals as finally approved by the Minister.

Clause 10(9) provides that the company will continue to identify and investigate potential alternative investments until the parties agree or an arbitrator determines that alternative investments, the subject of proposals approved or determined, are approximately equivalent to the metallising operation or relevant part thereof originally required under the agreement.

Clause 5(4) of the amendment agreement serves to provide amongst other things that arbitration will be according to the provisions of

the Commercial Arbitration Act 1985. Members will appreciate that where the dispute concerns—

the feasibility or otherwise of an investment;

the Minister withholding approval of an investment as an alternative investment; or

whether the economic benefit equivalent to metallised agglomerates has been achieved—

then the impact on the State or the company of the arbitration decision is potentially very significant. Therefore the amendment agreement specifies the composition of the arbitration panel by providing that if the parties cannot agree on a specific single arbitrator the Minister will appoint a tribunal of three, two having appropriate technical or economic qualifications and the third a judge, commissioner, or Queen's Counsel.

In the event of arbitration over feasibility, the arbitrators are required to have regard to certain specific factors including the rate of return on capital invested and the weighted average cost of capital to the company.

The amendments not specifically mentioned in this speech are of a minor consequential nature to the mentioned amendments.

The amendment agreement, I believe, deserves the support of the Parliament, and I commend the Bill to the House.

Debate adjourned, on motion by Mr MacKinnon (Leader of the Opposition).

IRON ORE (MOUNT BRUCE) AGREEMENT AMENDMENT BILL

Second Reading

MR PARKER (Fremantle—Minister for Minerals and Energy) [11.28 am]: I move—

That the Bill be now read a second time.

The purpose of this Bill is to ratify an amendment agreement dated 28 May 1987 between the State and Mount Bruce Mining Pty Limited. This amendment agreement in the main reflects the provisions outlined in the Iron Ore (Hamersley Range) Agreement Amendment Bill. The House will be aware of the background which was provided a few minutes ago when I presented that Bill, and hence it will not be repeated.

The significant difference between this amendment agreement and the Hamersley Range amendment agreement is that the iron

ore processing obligation under Mount Bruce, new clause 41A, is for proposals to be submitted to the Minister by 31 December 1991 for a plant which by December 1994 will have capacity for production of 0.5 million tonnes of steel and by December 1999 will have increased capacity for one million tonnes of steel.

Members will be aware that CRA Limited is the parent company of Hamersley Holdings Limited, of which Mount Bruce Mining Pty Limited is a wholly-owned subsidiary. Since 1983 CRA has been actively engaged in the development of new steel making technology in joint venture with Kloeckner Werke in Germany. This technology has the potential for making steel production not only environmentally cleaner, but also less capital-intensive. The potential for a greenfields steel production facility is thereby significantly enhanced.

I visited the pilot plant facility in Maxhutte last year and I was impressed with the scale of the operation and the enthusiasm of the researchers. As with all emerging technology, however, much remains to be done before it is developed to a commercial scale; and there is no guarantee that it will ultimately be commercially viable. However, CRA's efforts and major expenditure in this regard are evidence of the bona fides of Mount Bruce Mining in committing to steel production in Western Australia.

The date for steel making proposals specified in the amendment takes into account CRA's steel making research programme. Nonetheless, in view of the uncertainties not only in the development of steel making technology, but also in predicting future world markets for steel, the amendment agreement makes sensible provision for the company to come forward with alternative investments in substitution for the steel making obligation.

I turn now to the significant provisions of the amendment agreement.

Clause 4(5) of the amendment agreement deletes clauses 31 to 41 inclusive of the principal agreement. The existing clause 31 allows the company to choose between a commitment to produce three million tonnes per year of metallised agglomerate or a commitment to a one million tonne per year integrated iron and steel plant. The company must elect within 12 months of the date of production of metallised agglomerates as currently required under the Paraburdoo agreement obligation.

Clause 4(6) of the amendment agreement provides for a new clause 41A which substitutes a straight obligation for a plant with a capacity of one million tonnes a year steel production with proposals due before 31 December 1991. This may act as a benchmark in the case of alternative investments undertaken in lieu of steel.

The existing clauses 32 and 33 covered the metallised agglomerates option and are therefore irrelevant. Clause 34 covered the steel option which has been superseded by new clause 41A.

Existing clauses 35 to 39 of the principal agreement consist of a complicated set of provisions covering a scenario under which the Minister could require the company to propose steel even if the company had elected for the metallised agglomerate option. Such provisions are quite inappropriate in the world circumstances as we know them today.

The pragmatic approach which has been adopted in clause 4(6) of the amendment agreement requires the company to do one of three things. The company may—

- submit proposals for steel by the new due date of 31 December 1991; or

- apply to the Minister before that date that the carrying out of certain specified alternative investments may substitute for the steel obligation; or

- submit on or before that date that steel production is not feasible, in which case—if it is agreed or decided that steel is in fact not feasible—the company has an ongoing obligation to identify equivalent alternative investments.

Failure to do at least one of these three things will constitute a breach of the agreement.

Clause 4(7) amends clause 51 of the principal agreement to provide as valid grounds for declaring force majeure the "inability to profitably sell steel or the product of any production facility required to be established pursuant to this agreement" in substitution for "inability to profitably sell metallised agglomerates".

However, as in the case of the Iron Ore (Hamersley Range) Amendment Agreement, force majeure will not be applicable to the submission of proposals. The amendment agreement also amends the arbitration clause of the principal agreement so that arbitration will be conducted under the provisions of the Commercial Arbitration Act 1985. It further provides that, in the absence of agreement between

the parties as to the appointment of a specific single arbitrator, the arbitration will be referred to and settled by a tribunal of three arbitrators, one to be appointed by each of the parties and the third to be appointed by those two arbitrators.

Other amendments not specifically referred to in this speech are of a minor or consequential nature.

I commend the Bill to the House.

Debate adjourned, on motion by Mr MacKinnon (Leader of the Opposition).

DOG AMENDMENT BILL

Recommittal

Bill recommitted, on motion by Mr Carr (Minister for Local Government), for the further consideration of clauses 11, 19, 26, 27, and 35 and the proposed substitution of clauses 32 and 34.

In Committee

The Chairman of Committees (Mr Burkett) in the Chair; Mr Carr (Minister for Local Government) in charge of the Bill.

Clause 11: Section 12A inserted—

Mr CARR: For the benefit of any member who was not in the Chamber when the Bill was dealt with in Committee, I advise that as we proceeded through the Committee stage we identified some areas of concern, and I indicated on behalf of the Government that we would be prepared to consider amendments. We did not report progress but decided to proceed through the Committee stage because of the limited amount of work to be dealt with on the Notice Paper.

The amendments referred to have now been drafted and the Bill is recommitted to consider the issues addressed in the amendments. Some of the amendments were simple to draft and in some areas we were surprised to find that amendments we expected to be fairly simple required extensive change. That applied particularly to the matter raised by the member for Katanning-Roe concerning the holding of a dog pending a court hearing. However, we will deal with that in a later clause.

I move an amendment—

Page 6, lines 29 and 30—To delete “at all reasonable hours, without a warrant” and substitute the following—

with the consent of the occupier,

This deals with the situation which caused some concern during the earlier debate whereby the Bill was giving an authorised officer power to enter the premises, but not the house, of a person, without consent and without a warrant, for the purposes of examining whether the premises were capable of confining a dog and to check whether an unlicensed dog was on the premises. The Government has considered this matter and is prepared to remove that power for an authorised officer to enter the premises without warrant or consent. We propose that the power be available with the consent of the occupier.

I point out that with regard to checking premises for the purpose of ascertaining whether they are capable of confining a dog, we would probably write the consent into the application for a dog licence. Also, this amendment does not in any way impact on the provision in the Bill which gives an officer the power to obtain a warrant and gain access with that warrant.

Mr CASH: On behalf of the Opposition, I support the amendment moved by the Minister which relates to the discussions held during the second reading debate and the Committee stage of this Bill.

With regard to the right of entry, it was made very clear by the Opposition that a number of groups in the metropolitan area and the country had expressed some concern that inspectors or authorised officers would be able to enter property without obtaining a warrant. The amendment will change that situation to require an authorised officer to gain the consent of an owner or occupier before entering a property or premises attached to that property. However, it does not apply if an authorised officer is in hot pursuit of a dog which he believes has committed an offence under the provisions of this Bill. The Opposition accepts the need for officers at times to pursue dogs into a property, if it is believed the dogs have committed an offence; it would be unreasonable to expect the officer to chase the dog down the street, reach the fence of a property, and then retreat to gain a warrant to enter the premises to interview either the occupier or owner, or to seize the dog.

A number of organisations have spoken to me since the Minister gave his commitment during the earlier Committee stage; they understand this amendment and, although as organisations they have some concern about the hot

pursuit clause, the Opposition, after giving the matter fair consideration, recognises the need for it.

I take the opportunity to thank the organisations which have been in touch with the Opposition. I refer particularly to the Kalamunda Dog Obedience Club.

Only a week ago a group of more than 130 people met in Forrestfield to consider the impact of this Bill, and they made certain recommendations which I understand were forwarded to the Minister. One touches on the right of entry, and the Minister has in part addressed their concerns.

During the second reading debate the member for Moore made a comment regarding authorised officers entering premises while carrying weapons. There is provision for authorised officers to carry weapons. The member for Moore was concerned that there did not appear to be any provision in the Bill or the Act to require an authorised officer to be a person of good repute. We may find undesirable people being appointed.

An example referred to me was that someone who had been convicted of a criminal offence could be appointed an authorised officer. He would be entitled to enter someone's premises with a warrant. I hope the member for Moore will raise this issue again. I understand he has written to the Minister. I have a copy of that letter. It outlines some of the real problems of authorised officers carrying weapons, and refers to the calibre and capacity of those weapons.

It was suggested that the Firearms Act would be the Act dealing with the repute of people entitled to carry weapons. I have checked that Act. While the commissioner appears to have a discretion as to who can and who cannot hold a firearms licence, the person who can be issued with that licence is not described. We can deal with that at some other time. I understand the Minister for Police and Emergency Services has a copy of the comments made by the member for Moore.

In respect of the right of entry amendment we are dealing with now, the Opposition supports the proposition moved by the Minister.

Mr CRANE: I did write to both the Minister for Local Government and the Minister for Police and Emergency Services on this matter last week before going to Sydney. I thought this matter would come up while I was away and I would not have an opportunity to speak on it.

I am extremely concerned about the calibre and power of firearms which can be used by local authorities, and which need to be used for a specific purpose. As the Minister said, that area could be better handled under the Firearms Act. For this reason I wrote to the Minister for Police and Emergency Services and I know he has the letter.

I am also concerned greatly—and this concerns many people—with the character of the person who can be authorised by the local authority to use these firearms. Even if firearms are not involved, this officer can parade around someone's backyard. One local authority has employed a dog catcher or person with this responsibility who has a conviction for rape.

It is extremely important that local authorities should show some responsibility in this regard. They should check the credentials of persons to whom they give this authority and make sure that their records are impeccable. Surely the citizens of Western Australia need to be protected at every opportunity from having people possibly of unsavoury character wandering around their backyards, either inspecting the accommodation for dogs or endeavouring to apprehend a dog.

This is a very important point which may cause problems in the future. If I do not raise it in this Chamber now, it may be on the conscience of this Parliament that this matter was before it and it did not take the necessary steps to correct it. Those who have contacted me are very concerned about this matter. People who carry firearms must be of undoubted character, because this authority will give them an excuse to wander around people's backyards and on private property. The public are entitled to protection from this.

Whether we deal with this matter here or in another place, I would like to see something written into this Bill whereby shire councils are required to take every precaution and make every inquiry about the character of persons to whom they intend to give this authority. The police have these records.

There is a well-known saying that there is none so pure as he who has been purified. I accept that, provided he has been purified. There is another saying that a leopard never changes his spots. I do not wish to do anyone any harm, but I have a greater responsibility to

guard and protect the innocent rather than to protect those who have erred through their own stupidity on some previous occasion.

The Ministers to whom I wrote would not have had an opportunity to reply to my letters yet because they must make inquiries through their departments. I do not intend to forget about this matter I have raised. As members know, I am a little like the elephant—I never forget. I shall follow this matter up until something is done about it.

Did the Minister understand the points I raised regarding the power of firearms? I go back a long way in the use of firearms. I have shot kangaroos from galloping horses on many occasions. I grew up with firearms and I understand them. I am very concerned about their indiscriminate use.

Several members interjected.

Mr CRANE: Every now and then I hit one. As a matter of fact, on one occasion I galloped down two emus in one afternoon, and that is not an easy job.

Mr Gordon Hill: May I say that your correspondence is receiving considerable in-depth examination.

Mr CRANE: Thank you. It is important. I have raised this matter now. I do not know whether we are able to do anything about it. We cannot do anything about the Firearms Act at this stage, but this legislation is the place where we could insert a clause or make some alteration to ensure that it is the responsibility of local government to see that the person to whom this authority is given is of unquestioned character.

Mr Gordon Hill: That is covered within the Firearms Act.

Mr CRANE: What about the bloke wandering around without a firearm? Is he covered? A person of unsavoury character could be wandering around our backyard. He would not want to go into mine because I still have the old Winchester.

Mr Watt: Do you still have the horse?

Mr CRANE: I do not have the horse; I lost my horse.

This is a very serious point. We do not want people of that sort wandering around private backyards on any pretext. Now is the time to do something about it. It will be too late after this Bill goes through and becomes an Act. Now is the time to do it. Either members do not agree with me and do not give a damn about these people, or they do not understand

what I am trying to say, in which case they are dumb. If neither of those applies, let us do something about it. I hope I have made my position very clear.

Mr CARR: I thank the two members who have contributed to the debate. The issues raised were basically those raised the other night, and therefore I will respond only briefly. With regard to the character of people using firearms, that really is the responsibility of the police through the Firearms Act, and I know the Minister for Police and Emergency Services is looking at that matter, as indicated by the member for Moore.

Regarding the responsibility of a local government to ensure that the people it authorises to act on its behalf are appropriate people, the member for Moore referred to a particular case where clearly a mistake was made. I am not going to say that mistakes do not occur. However, I agree with the view that local governments do accept that responsibility and I am confident that by and large they would ensure that that would not happen.

Amendment put and passed.

Mr CARR: I move an amendment—

Page 7, lines 10 and 11—To delete subsection (2) of the proposed section 12A.

This is purely a consequential amendment.

Amendment put and passed.

Mr CARR: I move an amendment—

Page 7, line 17—To delete "(3)" and substitute "(2)".

Amendment put and passed.

Clause, as amended, put and passed.

Clause 19: Section 20 amended—

Mr CARR: I move an amendment—

Page 12, after line 29—To insert the following paragraph to stand as paragraph (b)—

(b) by deleting subsection (1)(c)(i);

This relates to the point raised by one of the Opposition members—I think it was the member for East Melville—relating to the question of the level of fine for an expired licence. This was also raised by the member for Karrinyup in private discussions with me. The Government has acceded to that request, and this amendment effectively removes that offence from the category which has the \$500 penalty.

Mr CASH: On behalf of the member for East Melville who did see these amendments, I thank the Minister for considering the proposition put to him, and the Opposition supports the proposal.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 26: Section 29 amended—

Mr CARR: I move an amendment—

Page 15, line 1—To delete paragraph (c) and insert the following paragraphs to stand as paragraphs (c), (d), (e) and (f)—

- (c) in subsection (4)—
 - (i) by deleting “this section” and substituting the following—
“Subsection (3)” and
 - (ii) by deleting “, any modified penalty”;
- (d) by inserting after subsection (5) the following subsections—
 - (5a) If he is satisfied that a dog has or may have bitten a person without provocation or reasonable cause, a Justice of the Peace may issue a warrant authorizing any authorized person to seize the dog and detain it pending the determination of an application for an order for the destruction of the dog.
 - (5b) Where a warrant under subsection (5a) is issued in respect of a dog an authorized person—
 - (a) may seize and detain the dog; and
 - (b) may enter any premises if he has reasonable grounds to believe that it is necessary to do so for the purpose of seizing the dog.
- (e) in subsection (8) by deleting “this section” and substituting the following—
subsection (3);
- (f) by inserting after subsection (8) the following subsections—
 - (8a) Where a dog is detained under subsection (5b) and, at the expiration of 7 days after the de-

tention commenced no application has been made for an order for the destruction of the dog—

- (a) if the dog is wearing a registration tag or the owner is otherwise readily identifiable, an authorized person shall cause notice to be given to the owner in the prescribed manner and form as soon as is practicable after the expiration of that period of 7 days;
 - (b) the dog shall be kept and maintained for a period of at least 72 hours next following—
 - (i) where notice is given under paragraph (a), the giving of that notice; or
 - (ii) where no such notice is required to be given, the expiration of that period of 7 days.
 but, subject to this section, shall be delivered up to a person who produces satisfactory evidence of ownership or of his authority to take delivery of it; and
 - (c) the owner of the dog shall be liable to pay the reasonable cost of maintaining the dog during any period after the expiration of the period of 72 hours mentioned in paragraph (b) but otherwise the owner shall not be liable for any cost or charge in relation to the seizure, impounding, maintaining or return of the dog.
- (8b) Notwithstanding section 40 (1) (ea) where a dog is detained under subsection (5b) and, upon the determination of an application for an order for the destruction of the dog, the court does not make an order under section 40 (1), subsection (8a) (a), (b) and (c) apply in relation to the dog as if the determination of the application were the expiration of the period of 7 days referred to in subsection (8a).

(8c) Subsection (5) applies in relation to any moneys that the owner of a dog is liable to pay under subsection (8a) (c), or under subsection (8a) (c) as applied by subsection (8b).

This amendment relates to the matter raised by the member for Katanning-Roe regarding the need to have a mechanism to ensure the holding of a dog pending a hearing of the court which may order the destruction of that dog. Members will recall that it was made clear during the debate on the Bill that the Government was providing the power for a court to order destruction of a dog which had bitten somebody. However, the member raised concern as to whether a dog could be held pending that court hearing. The member also outlined a case in his electorate where a dog that had committed an offence of biting had then bitten somebody else prior to the court being convened to hear the case.

I said at the time I thought there was sufficient power in the Act to enable a dog to be held, and that is true if the dog were committing an offence of, in the terminology of the old Act, "wandering at large", or in the terminology of the new Act, "in a street and not on a lead". If the offence were committed under those circumstances, the dog could be held pending a court hearing. However, as I indicated during that debate and as has been shown to be the case on closer examination, if it were a dog on a lead that bit somebody or if it were a dog that bit somebody while on the owner's private property, there is not a mechanism to enable the dog to be held pending the court hearing.

So the Government agreed to draft an amendment to enable that to happen. However, when the parliamentary draftsman started to examine this question, he came up with difficulties associated with the question of who would pay for holding the dog if in fact the court ultimately ruled that there was no offence and that the dog need not be destroyed.

When the Government sought to address that issue in the drafting, it realised that in the existing provisions of the Act which provide for a dog to be held, there similarly was no provision to cover this question of who should pay for the cost of keeping the dog. Therefore, this long amendment has been drafted, which provides a fairly complicated mechanism for ensuring that a fair and reasonable balance is struck in that particular case.

In effect, when the animal is held pending a court case, the costs for the first seven days are paid by the authority that apprehends the dog and not by the owner of the dog. After that week has expired or once the court case has actually taken place, notice is given to the owner to collect the dog, and there are another 72 hours prior to which the cost is not debited against the owner in circumstances where the dog has not committed an offence. I therefore commend this amendment.

Mr HOUSE: I am pleased that this amendment has been accepted by the Government. What I am interested in is that my original amendment, which took five lines in *Hansard*, has now transposed itself into two pages on the Notice Paper. It is amazing that such a small amendment would require so much attention. Perhaps the parliamentary draftsman is trying to justify his own position; I am not sure. I am pleased the Government has accepted the amendment and thank the Minister for giving it his attention.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 27: Sections 30, 31, 32 and 33 repealed and sections 30, 31, 32, 33, 33A, 33B, 33C, and 33D substituted—

Mr CARR: This amendment relates to the issue raised by the member for Murray-Wellington about the provision in the amendment Bill whereby a dog would be exempted from being required to be on a leash in public if it were attending or involved in training classes run by an organisation under the auspices of the Canine Association of Western Australia (Inc). The member indicated he was aware of at least one organisation in his electorate that was a training organisation but was not affiliated with the Canine Association, and raised the possibility that there could well be a significant number of other such organisations.

The member for Murray-Wellington actually proposed an amendment at the time we debated the matter previously, suggesting that there be an authority for me, as Minister, to provide for this exemption to extend to other groups. On consideration within the department, involving me, we have decided that a more appropriate approach would be for the local government authority to be the body to grant an exemption of this nature. We did that on the basis that the local government authority will be the agency enforcing the Act and therefore, as it will enforce the provision, it is

probably appropriate that it decide which organisations within its area should be given an exemption.

I move an amendment—

Page 16, line 25—To insert after “(Inc.)” the following—

or a body approved by the council of the municipality in whose district the obedience trial or classes are conducted

Mr HOUSE: The National Party supports this amendment, but again I draw to the Minister's attention a matter I raised in the previous debate on this Bill concerning the licensing of dogs by councils. This matter does not appear to have been addressed, and I think this is the appropriate clause under which to raise it.

I refer to the fact that there does not seem to be a system in place within our local authorities to ensure that people who license their dogs receive a renewal notice on a regular basis. I still believe that that is the greatest problem, and the solution would be to introduce such a system so that people get into the habit of relicensing their dogs. Until we do that, amendments to the Act such as this one really do not have the relevance that they should because the local government authority is not aware of which dogs are licensed and which are not. I reiterate that the Minister will have to resolve this problem with local government bodies so that dog owners are forced to renew their dog licences.

Mr CASH: The member for Murray-Wellington has seen the amendments proposed by the Minister, and while he appreciates that the Minister has used his best efforts to address the problems raised by him during the earlier Committee debate, and that the amendment addresses some of the issues raised by him, he feels it certainly will not address the overall issue; namely, that people who are members of dog obedience organisations will not necessarily be protected by this clause.

If a person is a member of such an organisation but wants to take his or her dog down to the local park, that person will be in breach of the Act even if this amendment is carried. The amendment talks only about obedience trials or classes that are conducted by an association or organisation. It certainly will not cover all situations, including that where people who are not members of obedience organisations but wish to take their dogs into a local park—apart from a dog exercise area—and teach them to behave in an appropriate manner.

Therefore, while we are appreciative of this move, I point out on behalf of the member for Murray-Wellington, and on behalf of certain other dog organisations throughout the State, that we do not believe this amendment goes far enough.

Mr CARR: I am disappointed that the Opposition does not believe this amendment goes far enough. I accept the point the member for Mt Lawley has made that the exemption will not apply to persons who are members of dog clubs but who are acting in an independent capacity and want to exercise their dogs in parks apart from those set aside as dog exercise areas. I might say that this is a very difficult matter for enforcement, as it is hard for the ranger to know just who is and who is not a member of a dog club simply by driving past the park and observing people walking their dogs.

In a moment the Committee will be considering an amendment which will extend the likelihood—or the certainty—of councils' providing dog exercise areas. We are proposing an amendment which will require dog exercise areas to be provided in each local authority area.

Mr Thompson: Have local government bodies accepted that proposition?

Mr CARR: It has not specifically been discussed with them since the debate that took place here last week; but, given the nature of that debate—when it was made very clear by members that it was considered appropriate for there to be a requirement for suitable areas to be provided—the Government has seen fit to respond to members' wishes by proposing a further amendment.

With regard to the point raised by the member for Katanning-Roe concerning the sending of renewal notices to dog owners, my understanding is that most local authorities already do that, and certainly there is nothing to stop a local authority from having its own follow-up system. Certainly, if it is able to gain a certain amount of revenue by issuing a certain number of licences, it is in the interests of the local government body to send out its own renewal notices to try to minimise the number of licences that lapse through oversight. It is true that we do not have any requirement that they do that, or so I understand, but it is in the local authorities' best interests and I encourage them to do so.

Mr THOMPSON: The thing that worries me about the passing of a law like this is that it will impact on the ordinary, decent citizen; the

people who have no regard for the law will simply carry on doing the things they are doing now.

Members should compare what we are proposing to do with respect to the treatment of dogs in this State and what happens in other parts of the world. For instance, I was in London recently and walked for hours in the parks there to try to get some exercise to stop putting on weight while I was waiting for the things that would happen later in the day. From six o'clock in the morning, hundreds of people would come to Hyde Park with their dogs on leashes, let the dogs off, and allow them to go for a run. I cannot see that there is anything wrong with that.

If we have a strict interpretation of the law that we are in the process of passing, people who simply want to do something which appears to me to be perfectly natural and healthy would be denied the right to do it. People who do not care a damn for the law will go to the parks, or anywhere else for that matter, and let their dogs go; whereas ordinary, decent people—and the majority of people in our community are ordinary, decent people—will become aware that the new law says they are not allowed to let their dogs off the leash, and they will wander around the parks with their dogs virtually dragging them along trying to get off the leash.

I am concerned about that and I would like the Minister to tell me what circumstances have prevailed in the past that have made it necessary to take this "big stick" approach to the problem.

Mr CARR: The member for Kalamunda quoted an interesting truism when he said a particular piece of legislation is likely to impose restrictions on normal law-abiding people and perhaps will have some difficulty in being enforced with regard to the worst offenders. That is true of just about every piece of legislation passed by this and other Parliaments. We must try to find a balance whereby we minimise the inconvenience to law-abiding people and maximise the enforcement of matters relating to people who do cause a particular problem.

I was interested to hear the member for Kalamunda's example from London, because what is proposed in this legislation is consistent with that example. He referred to people walking their dogs on a leash to the park. We believe dogs should be kept on a leash in streets and public places. We propose to have dog exercise

parks where people can let their dogs off the leash to run. The only difference between his position and my own is that he would like that to happen at every park. This proposal specifically says there will be a requirement that there be some parks for that purpose, but the council will equally have the right to say such and such a park is a "no dog" park. That is a distinction of degree rather than a major conflict.

Mr HASSELL: I thank the Minister for responding to the point about the need to impose some obligation on local government to provide some dog exercise areas. As I said in my speech during the second reading debate, the Government is taking away completely, through this legislation, the right of people to exercise their dogs off the leash. The member for Kalamunda has just highlighted that point. At the same time, the Bill provides that there may be dog exercise areas, but the Minister did not provide any obligation on local authorities to declare or gazette a dog exercise area.

The Minister has responded to that point with his amendment which says that a council must specify under section 51(bb) such dog exercise areas that, in the opinion of the Council, are sufficient in number and suitable for the exercise of dogs in the district. While I appreciate the Minister's response to our concern, I believe the amendment he has drafted will bring forth difficulties for local authorities.

I wish to contrast the amendment he has drafted with that which I propose. I did try to explain at the time that it would be difficult for some councils to provide sufficient exercise areas. It would be difficult for some authorities to have those areas in places that are convenient to everyone in the district or the municipality. My amendment proposes that the council should provide at least one dog exercise area, and even then the Minister could, upon application, exempt the council from complying with that requirement.

The Minister in his amendment has provided no let out. He has imposed what is really quite a high obligation on councils by saying they have to provide sufficient exercise areas. I could imagine problems down the track with local authorities. If there were to be a conservative organised dog lobby, that lobby could put a lot of pressure on the council through the Ombudsman, or even through the legal process, by establishing that what the council has provided is not sufficient, even though it may be inconvenient or impractical to provide such

areas. My amendment deliberately did not use one of those qualitative words. I think the Minister has been unwise in going as far as he has.

I do not want the Minister to withdraw his amendment unless he withdraws it in favour of my own, but it is absolutely necessary to do what we are seeking. The Minister may generate some problems in going the way he is. It will not be easy for some councils to provide sufficient areas.

I raise the question of dog litter and the problem it causes in dog exercise areas. Having a dog exercise area does not make dog litter any more of a problem than it already is, because dogs which are on a lead make just as much litter as dogs which are running free. There will be dog litter either way. There ought to be some areas where dogs can run free. It is important to do something about this problem, because some people will completely duck their responsibilities because they find it too hard or inconvenient if some local authorities provide such areas for their ratepayers and others do not.

Mr THOMPSON: Following the member for Cottesloe's point, I draw to the Minister's attention the use of trail bikes. Past legislation has put a responsibility on local authorities to provide areas in their municipalities where people may ride trail bikes. How many local authorities have provided areas where trail bikes can be ridden? There is a direct parallel between the situation the member for Cottesloe spoke of and my point.

We can pass legislation until we are blue in the face to require local authorities to do such things as provide areas where people may ride trail bikes and exercise their dogs, but if there is not a will on the part of local authorities, it will not happen. The points made by the member for Cottesloe were very pertinent. Some local authorities would find it extremely difficult to nominate an area to be designated as a dog exercise area. What may happen is that some ratepayers will be asked to accept the burden that ought to be borne by another set of ratepayers.

Mr CASH: As the Chamber is dealing with exercise areas for dogs at this stage, it is important for me to make the point that, earlier in the second reading debate, I made it clear that if this legislation were to rest on the fact that the Government from here on in required all dogs in public places to be either kept on a leash or securely tethered—unless they were in a dog exercise area or were subject to other

exemptions—it would have tremendous implications for people in the community, especially dog owners.

I made this point in respect of elderly people who may have big dogs which need to be exercised. If there are insufficient exercise areas or the exercise areas are located in such a place that elderly owners of dogs cannot get to them with great ease, this will firstly be discrimination against the dog and secondly against the dog owner. It is not a fair situation, and that point was highlighted on a number of occasions by Opposition members during the second reading stage. In fact so concerned were the Liberal Party and National Party members that an amendment was moved along the lines that the dog should be accompanied by a person capable of controlling it.

That was an important amendment because section 25(3) of the present Dog Act, which deals with the control, duty and care of the owner, reads—

A dog may be found to be under effective control although not physically restrained.

That applied as long as the dog was within a reasonable distance of the owner or the person who had control of it at any time in a public place. As long as the people could demonstrate that they had effective control, they did not commit an offence. As soon as that section is removed from the Act and the provisions of this Bill substituted, a dog will not be allowed to be in a public place unless it is held by a person who is capable of controlling it or is securely tethered for a temporary period.

Admittedly there are some exemptions but basically these apply to dogs when they are in vehicles or boats, or when they are participating in obedience trials. The Minister has now extended those exemptions to include hunting dogs if they are used for retrieving, duck hunting, or other sporting purposes. However, there are only a limited number of exemptions. I hope that the Government realises what impact this Bill will have on the community. If it was designed to rid the metropolitan and country areas of dogs, it will go a long way to achieving that particular objective. I hope that is not the situation.

I think it is fair to predict that many people in the community will complain to their local members if this legislation is enacted or if it is enforced in an unreasonable way by local authorities. I accept the comments the Minister made during the second reading stage of the

legislation, that this legislation will be enforced at the discretion of a given local authority. Members will have to work out for themselves whether their local authority is believed to be heavy-handed in the enforcement of the Dog Act generally, or whether they think that, irrespective of the written law, their various constituents will be able to get away with things as they are when it comes to exercising and keeping their dogs in a reasonable way.

However, the Liberal Party and the National Party supported an amendment which would have allowed dogs to be in a public place, not necessarily on a lead, so long as an owner or a person in control of a dog could show that the dog was accompanied by a person who was capable of controlling the dog. I thought that was a commonsense amendment and many people will be very upset that the Government was not prepared to accept it.

As to the exercise areas, obviously under this proposed amendment, for which I thank the Minister, local authorities will now be required to set aside specific areas where people can exercise their dogs. I take the point of the member for Cottesloe that not every local authority in Western Australia has sufficient land to set aside for that purpose, and it will present some difficulties to various dog owners. It seems to me that this requirement will impose an unfair burden on other local authorities which may have an amount of land because they will have to accept and cope with the exercising of dogs from neighbouring municipalities.

Many people will be disadvantaged by the Government's failure to accept the amendment moved during the Committee stage of this Bill. It should be made clear that the amendment was supported by the Liberal Party and the National Party but was not supported by the Labor Government.

Mr HOUSE: I support those comments, and I remind the Chamber that the National Party proposed that particular amendment, and the National Party leader spoke very strongly about that clause, supported by his deputy.

I also remind the Chamber that when it divided on that issue, as the member for Mt Lawley pointed out, the Government did not accept the amendment. The National Party is not happy with this clause and still seeks to have it amended so that we can have a provision whereby people who train their dogs properly and have taken the trouble to make sure their dogs are under control are not

restricted by having them on a leash when they are exercising them in areas such as parks in towns and cities.

Mr CARR: This debate has ranged rather more widely than the specific amendment with which the Chamber is dealing at the moment. That amendment is to provide exemptions from the provision of needing to have a dog on a leash, apart from those clubs under the auspices of the Canine Association of Western Australia.

However, I would like to respond to the comments made in respect of an amendment which is really further down the Notice Paper and which requires a council to provide sufficient and suitable areas for the exercising of dogs. A couple of Opposition members have suggested that the amendment proposed by the Government is not ideal; I certainly would say that the proposed alternatives are not ideal either.

The Government is satisfied that each council would be able to provide a suitable area for dog exercising. When the Government first considered putting in an amendment such as this, an officer of my department telephoned the Peppermint Grove Shire Council, which, as I understand it, is the only council in the State which does not have a park as such, and the clerk of that council advised that it would be able to provide an appropriate dog exercising area. The Government took that to mean that if that council could provide an area, all the other councils could similarly provide areas.

My main concern about the alternative proposed by the member for Cottesloe is that if one said that each council must provide one dog exercise area, one would be treating every council as being the same. There are some councils, such as the City of Stirling which has 160 000 residents, which would need to allocate more than one area. The Government does not claim that these words are the perfect words for dealing with this question, but it considers them to be the most appropriate in the circumstances.

The members for Mt Lawley and Katanning-Roe referred to the debate the other night about the provision for a dog to be on a leash compared with the present terminology in the Act which is satisfied if a dog is under effective control. This really is the core issue of the legislation. The Government has made an assessment following an extensive review period that the present situation is not adequate and does not address the problems which are arising. We see this provision to require a dog to be on a

leash as the core of the Bill, and really the alternative being proposed by the Opposition is to screw up this Bill and go back to the old situation where "effective control" was whatever that meant.

The problems under that system have been too significant to enable us to go back to that situation, and therefore we will proceed with our amendment that a dog be on a leash when in public.

Amendment put and passed.

Mr CARR: I move the following amendments—

Page 17, line 10—To insert after "(Inc.)" the following—

or a body approved by the council of the municipality in whose district the obedience trial or classes are conducted.

Page 18, after line 15—To insert the following subsection—

(5) A council must specify under section 51(bb) such dog exercise areas as are, in the opinion of the council, sufficient in number, and suitable, for the exercising of dogs in the district.

Amendments put and passed.

Clause, as amended, put and passed.

Clause 32: Section 40 amended—

Mr CARR: This amendment relates to the issue we dealt with earlier concerning the costs of maintaining the dog pending destruction. I move an amendment—

To omit the clause and insert the following clause—

Section 40 amended

32. Section 40 of the principal Act is amended—

(a) by inserting after subsection (1)(e) the following paragraph—

(ea) where the dog has been detained under section 29(5b) or an order is made under paragraph (c), make any order it thinks fit as to the payment of any cost, charge or fee of a kind referred to in section 29(4);

and

(b) in subsection (4) by deleting "registering" and substituting the following—

registration

Amendment put and passed.

Clause, as amended, put and passed.

Clause 34: Section 43 amended—

Mr CARR: This amendment is partly a rewrite of what was already in clause 34, and in addition inserts a further subsection which relates to the offence of failing to produce a document to an authorised officer. This was previously in the Bill as a \$500 penalty, and following discussions between the member for Karrinyup and me it was agreed that this would be reduced to \$200. This amendment seeks to enact that agreement. I move an amendment—

To omit the clause and insert the following clause—

Section 43 amended

34. Section 43 of the principal Act is amended—

(a) by inserting after the section designation "43." the subsection designation "(1)";

(b) in paragraph (b) by deleting "assaults,";

(c) in paragraph (c) by deleting "any certificate or other document issued to him pursuant to this Act, or any dog in his possession or control," and substituting the following—

"any dog in his possession or control";

(d) in the penalty provision at the foot of the section, by deleting "One hundred dollars" and substituting the following—

"\$500"; and

(e) by inserting the following subsection—

"(2) A person who fails without lawful excuse to produce any certificate or other document issued to him pursuant to this Act when required to do so by a person exercising a power under this Act, or fails to allow that person, on his producing the same, to make an examination thereof, commits an offence.

Penalty: \$200."

Amendment put and passed.

Clause, as amended, put and passed.

Clause 35: Section 43A inserted—

Mr CARR: This amendment relates to a representation made to the Government by the Local Government Association which pointed out that the penalty for failure to give one's

name and address to an authorised officer was listed in the Bill at \$100. The LGA pointed out that this was inconsistent with other legislation administered by local government where the same offence carries a penalty of \$200. The association recommended that we amend the Bill in that way, and this amendment seeks to do that. I move an amendment—

Page 23, line 9—To delete “\$100” and substitute—

\$200

Mr CASH: The Opposition recognises the proposal put forward by the Minister and supports it in view of the discussion held during the second reading stage and the earlier Committee stage. As it deals with penalties, I take this opportunity to raise a matter relating to penalties—the problem of noise and dogs. I have received a number of representations, as did the member for Karrinyup when he was preparing for this Bill, about the fact that the existing Act and the provisions in this Bill do not improve the situation in regard to noise caused by the intermittent or incessant barking of dogs, especially in the metropolitan area.

A number of people have said to me that the existing noise abatement legislation is insufficient to launch a prosecution for intermittent barking. Certainly the Noise Abatement Act can be used for incessant barking above a certain number of decibels, but it is very inconvenient for people living in the metropolitan area to have to resort to that legislation.

I do not have any easy solutions to the problem, but I draw it to the Minister's attention and make the point that many people in the community are offended by the continued barking of dogs, especially during daylight hours when owners sometimes leave their dogs tied or running loose in the backyard while they are away from the premises. The dogs bark continually and cause a nuisance to neighbours or people living nearby.

It seems the Police Department is not particularly interested in this problem. I accept that the police have enough to deal with without imposing the burden of barking dogs on them as well, but if a person complains to the police about the noise problem caused by barking dogs he is told it is not a police matter and it should be taken up with the local authority or the owner of the barking dog. Many people are not happy to go to the local authority and start getting two or three signatures from other people suffering the same problem, as required under specific legislation, and then appear in

court to have the dog silenced. We are as keen to solve the problem as the Government, and it is a matter which will have to be addressed.

I referred earlier to penalties for dogs at large, and in a letter written to the Minister by Mr Martin Faulkner of 16 Sunset Terrace, Clifton Hills, a copy of which has been sent to me, he makes the point that certain penalties for dogs being at large are outrageous. He says it is virtually impossible for any dog owner to guarantee that his animal will never escape from his property. The letter continues—

Human error, plus the fact that so many people enter private property in the owners absence, both lawfully ie meter readers, S.E.C. employees, visitors, canvassers, Telecom workers, to name just a few. In addition of course, unlawful entry during an owners absence is virtually impossible to prevent.

The author of the letter is making the point that, if a dog escapes from premises and it is not the fault of the owner, the penalties included in the Bill are outrageous and impose great difficulty on some people. He continues—

The measures are cruel from many aspects though no doubt satisfying to the persistent dog-hating section of the community. The proposed new Act is most harsh and will cause despair and inconvenience to lots of fair, responsible and sensible dog owners, and heart ache to elderly and physically handicapped people, many of whom rely on their dogs for companionship and security.

It is important for the Minister to understand that noisy dogs are a problem for some people, as indicated by the letter that I have just read.

Mr HASSELL: Penalties for dog noise were raised by me in the second reading debate. While the Minister has responded to other queries raised by me in that debate, he has done nothing to improve the situation of dog noise and disruption. Unless people are prepared to take the law into their own hands, they are left without a remedy against thoughtless people who do not exercise restraint over their dogs. I am sorry that the Minister has not been able to improve the legislation.

A constituent approached me last Monday, a public holiday, to say that on Saturday night his family had been woken at 1.15 am and again at 5.27 am by a barking dog. The precision with which the times were recorded indicates the extent to which this family's peace

was disrupted. When that sort of complaint is added to problems with other dogs in the neighbourhood, it is understandable that these matters become all-consuming for some people. It is very easy to write them off and say they have an obsession. However, when the complaint is lodged at the end of a long line of concerns, including attempts through lawful processes to do something about the problem and that process fails, it is not fair to say that people have obsessions. We should be able to say that there is something wrong with the procedures. When a constituent says he has approached the Ombudsman to obtain help in getting the local authority to enforce its regulations, and the Ombudsman advises that the law is deficient, the problems I raised in the second reading debate are underlined.

I am not being critical. I know this legislation is a bit like "Blue Hills"—it goes on and on. The fact is that the Minister has made a valiant attempt to improve many aspects of the legislation. It is extremely difficult for the Minister to attempt to balance the interests of people who want to keep dogs and those who do not want to be subjected to their mess and noise. However, I am disappointed that the Minister has not come up with something better than a technical amendment in the intervening period since the Bill was read a second time.

There are always remedies. If people are repeatedly disturbed in the middle of the night by a barking dog, they have the remedy to ring the owner of the dog and share the disturbance. They also have the remedy of placing their sound-recording equipment in a position overlooking the neighbour's fence and giving him a blast. Those sorts of remedies are not desirable and should not be promoted. They have been promoted, however, by the lack of an effective and efficient solution to the problem.

Local authorities do not want to have to employ rangers on 24-hour call at weekends because the added cost to the community in increased rates would be exorbitant. However, on a Monday morning, or on a Tuesday morning after a long weekend, a person who has been disturbed by a neighbour's dog should have a quick and ready remedy available to him. It should not involve a court process or a petition from neighbours. It should be a simple, straightforward, and effective remedy.

Would the Minister appoint a one-man committee, which is all I think would be necessary, to review this matter? It is a problem and needs to be pursued.

Mr CARR: I thank members who have raised the problem of noisy dogs. I do not deny there are problems, although it is interesting to note that when the Dog Act was reviewed by the committee, the problem of noise was not raised. I accept that some people have considerable problems with neighbours who have noisy dogs.

Provisions in the Act attempt to deal with the problem. I refer specifically to section 38 of the Act which deals with a dog nuisance. The definition of "nuisance" includes excessive noise. The provisions of the Act allow for charges to be laid against people who have excessively noisy dogs.

In fact, the penalty will actually be increased from \$100 to \$200. I will not pretend that it is easy to gain a conviction in that situation, or that it is easy to apprehend a particular dog. I am aware that the problems outlined by the two members opposite are problems that are not easy to overcome. That is borne out by the fact that while they spent some time outlining the nature of the problem, they were not able to come up with a positive suggestion about how the problem could be best addressed.

I am happy to have officers from the department investigate the problem to ascertain if it is possible to come up with a solution. I advise members that I am open to any suggestions that may lead to a practical solution.

It was interesting that the member for Mt Lawley, in his short address a few moments ago, referred to problems which have not been resolved in the Bill and said that some people thought that the Bill was excessively harsh. His comment outlined the type of problem with which we are dealing. On one hand some people in the community are in favour of dogs and, on the other hand, some people are opposed to dogs. It is impossible for any legislation to balance the two opinions and the best the Government can do is to steer a middle course which, while perhaps not satisfying anybody, is as near as possible to a suitable balance.

Amendment put and passed.

Clause, as amended, put and passed.

Title put and passed.

Bill again reported, with amendments.

Sitting suspended from 12.53 to 2.15 pm

OCCUPATIONAL HEALTH, SAFETY AND WELFARE AMENDMENT BILL

In Committee

Resumed from 2 June. The Deputy Chairman of Committees (Dr Lawrence) in the Chair, Mr Peter Dowding (Minister for Labour, Productivity and Employment) in charge of the Bill.

Progress was reported after clause 11 had been agreed to.

Clause 12: Parts III to VIII inserted—

The DEPUTY CHAIRMAN: In view of the large number of amendments to this clause, we shall identify which part of the clause we are referring to by using the proposed new section number.

Mr HASSELL: Proposed new section 19 requires some consideration by the Committee. Even though the Opposition has not moved an amendment to it, at the very least we should record our concerns about it. If the proposed section ended at the word "hazards", it would present no difficulties. However, it goes on to provide a number of specific things an employer must do. Most are understandable, but the way in which they are expressed and the values encompassed should be drawn to the attention of the Chamber.

I take no exception to proposed paragraph (1)(a), but proposed paragraph (1)(b) provides that an employer shall—

provide such information, instruction, and training to, and supervision of, his employees as is necessary to enable them to perform their work in such a manner that they are not exposed to hazards;

That provision does not state what an employer must do; it lays down a standard he must maintain. It is a generalised provision. Perhaps it is a general duty of care but it is not a specific prohibition on some particular conduct or a specific directive as to other conduct.

When one combines that sort of provision with subsection (6), which says that an employer who contravenes subsection (1) commits an offence, the difficulties of this proposed section emerge. That is the point to which I draw the attention of the Minister and the House.

We are making it an offence for an employer not to provide information, instruction, and training at such a level as is necessary to enable employees to perform their work in such a manner that they are not exposed to hazards. That standard is arguable, and can be determined after the event.

No doubt at Bhopal in India, where chemical gas escaped killing thousands of people, before the accident it would have been said that the employer was doing what was necessary to enable the employees to work without being exposed to hazards. However after the event it became obvious that they were exposed to hazards, as were many thousands of people who were not employed there. In effect, the offence is created retrospectively.

Mr Peter Dowding: They were not exposed to hazards as a result of something discovered after the accident. They were exposed to hazards because a duty of care had not been adequately addressed by the employer.

Mr HASSELL: I understand the Minister's argument in that respect. Subsection (1)(c) requires an employer to cooperate with health and safety representatives. It is an offence not to cooperate. I hope the Minister will define what that means. If some of these safety representatives are people like Kevin Reynolds and others from the trade union movement, we will impose an impossible task on employers by demanding that they cooperate with them. Fancy making it an offence not to cooperate with Bill Ethell from the Building Workers Industrial Union! Everyone—the Minister, the Government, and the Premier included—knows that it is not feasible to cooperate with Bill Ethell. That sort of guy may end up as a safety officer or representative. After all, it is intended by this legislation that those people will have a tremendous influence in the appointments.

Mr Peter Dowding: This man is to be a full-time employee of the workplace.

Mr HASSELL: Some of their henchmen are no different. Those people on building and construction sites will end up as safety officers. Some of them have records as shop stewards and so on, and they will end up in these positions. They are intended to.

Leaving that aside, if the Minister will not accept that, if he says we will never have a Bill Ethell type as a safety representative, I come back to the point, which is still valid, that it is not right to legislate to make it an offence not to cooperate with someone. It is ridiculous. Even the Human Rights Commission does not make it an offence not to cooperate. It makes it an offence not to attend its hearings, but it is not an offence not to cooperate with its council.

Dr Watson: There is a statutory duty to cooperate.

Mr HASSELL: I do not think it should be an offence not to cooperate. By its very nature the concept is not a defined obligation. I hope the member for Canning will get to her feet and explain what will and what will not be an offence under this provision, and give some examples. We are imposing obligations on employers the nature of which no-one can determine.

The Bill goes on to impose other indefinite obligations under subsections (d) and (e). Surely the Minister can accept that there is a difference between a provision for an employer to provide and maintain workplaces, plant, and systems of work so that so far as is practicable his employees are not exposed to hazards, and a section which says that an employer shall consult and cooperate with health and safety representatives and other employees at the workplace regarding occupational health, safety, and welfare at the workplace.

The opportunities for abuse of the latter kind of provision are endless. Some of these bloody-minded people who we all know are engaged in some workplaces want to generate trouble. They will manipulate this provision constantly.

Mr Crane: Pommy shop stewards!

Mr HASSELL: Not just pommy shop stewards; some are from other countries, including this one. We have our own home-grown varieties who will cause trouble under these provisions.

I am not opposed to the Minister's saying that we should write into an Act that people must cooperate on safety issues, whether they be employees or employers. What I am opposed to is making it an offence not to cooperate. The Minister has failed to distinguish between the concept of imposing a legal obligation and providing a remedy for a breach of that obligation, which is the sort of legislative structure which has been followed in some of these social engineering types of legislation, like the Equal Opportunities Act, the Sex Discrimination Act, and the Human Rights Act. That legislation very carefully distinguishes between offences and matters for which a remedy is provided.

It is right that there be an obligation to cooperate and consult and that the Government should provide a remedy if there is no cooperation and consultation. However, it is wrong to make it an offence not to do so, because if it is made an offence, the way is opened for a grave injustice to befall both employees and employers. As members will see when we come to

the next proposed section dealing with employees, their obligation is not quite the same and they do not seem to have an obligation to cooperate. So it is wrong to approach the matter in this way, and particularly so when a complementary obligation is not imposed on employees.

I believe the Minister should seriously consider removing the reference to subsection (1) in proposed subsection (6) on page 9. It is right that a breach of proposed subsection (3) should be an offence, but it is not right that a breach of subsection (1) should be an offence, or if it is, it should be confined to the opening words in paragraph (a).

The Minister should seriously consider this matter because I do not raise it lightly. Even when people are in a totally ideal environment, where they are fair-minded and reasonable, and there are not bloody-minded shop stewards, this sort of clause can cause a significant injustice. It is not that I want to see the obligation removed; I want to remove the offence.

Mr COURT: It does create an offence if one does not cooperate. At the beginning of this debate the Opposition mentioned its concern about the breadth of welfare in this legislation, so that it becomes an offence if the employer does not cooperate with the health and safety representative on a welfare issue. I am not a lawyer, but it seems that under proposed subsection (6), if one contravenes subsection (1) an offence is committed. So it becomes an offence for the employer not to cooperate with a safety representative on a so-called welfare matter.

One could get bogged down here on a lot of issues which really should not be handled under this legislation. The way this is written, all sorts of ridiculous situations could occur and the employer would commit an offence if he did not cooperate with the safety representative. I would appreciate an explanation from the Minister whether he believes there is an offence.

Mr PETER DOWDING: It is fundamental to this legislation that instead of a whole series of prescriptive offences attempting to define exactly what can and cannot be done in an industry situation dealing with occupational health and safety, one moves to a general duty of care, enforced by a penalty. If the member for Cottesloe recalls my second reading speech, I made great play of that. In a modern society it is demonstrably impossible to go through and regulate with individual prescriptive clauses

and regulations each turn of the screw or each colour of the wall or each aspect of safety in every single workplace. That is what has brought us to this legislation. It is fundamental to the direction being taken by the Government.

The point at which one overcomes problems of "injustice"—that is, where an employer is doing something that he or she did not realise might be wrong, or it is a marginal case, or it is something as difficult as cooperation—is when one looks at the way in which the thing is set up. The requirement of proposed section 19(1) is for an employer to do certain things so far as is practicable. That is a key expression.

Mr Hassell: That does not limit the subclauses.

Mr PETER DOWDING: Yes, that is in respect of the whole section.

Mr Hassell: No, it is not.

Mr PETER DOWDING: Of course it is.

Mr Hassell: It says, "without limiting the generality of the foregoing, an employer shall", and it gives specific requirements.

Mr PETER DOWDING: Yes, but it says, "so far as is practicable", and it makes reference to that whole section. In any event, I am saying that is how this will be read. The most important aspect of it is the protection for people against injustice, which is provided through the system of the courts. That is precisely why they are there. No amount of prescriptive legislation is going to get away from a situation of potential injustice. In fact, the opposite is likely to be the case: The more prescriptive, the more detailed, the more identified every single element is, the more likely that will cause an injustice because it actually might be quite irrelevant in the overall case to matters of safety.

I recall that one member from the Liberal Party came to me with a problem involving a piece of his own plant, which was in breach of a particular piece of legislation. That member said to me that it might be in breach of the legislation but it was perfectly safe. That is precisely what the Government is getting at with this legislation: To get away from that sort of tight minutia in the creation of offences to the creation of these general clauses. It is fundamental to the Bill, and the Government strongly supports the view that it is in the interests of the community at large that this move should be made.

Mr HASSELL: I do not think the Minister has answered the point at all because the Opposition did not argue about the fact that the Government is creating generalised obligations to provide workplaces of a certain condition and to consult, cooperate, and provide information, training, and so on, all of which are quite heavy obligations. We have not taken exception to that. However, what we are taking exception to is making it an offence not to consult and cooperate with certain people. It is interesting that employees do not have an obligation to consult and cooperate with the safety officers.

It is an unequal provision, but the important thing is that it makes it an offence. As I said before, we would take no exception if proposed section 19(1) to the end of paragraph (a) were made an offence, but we do take exception when such paragraphs as (c) are made an offence.

It should not be an offence not to consult and cooperate with health and safety representatives and other employees at the workplace. I repeat that the Minister has failed to distinguish between a criminal offence and the imposition of an obligation the non-fulfilment of which leads to a remedy being provided.

I move an amendment—

Page 9, line 20—To delete "(1) or".

Proposed subsection (6) would then read, "An employer who contravenes subsection (3) commits an offence." That will remove the objectionable element from the clause. As it stands it is very dangerous and is open to most improper use, and to unfair consequences for people who have acted with total good faith but who are retrospectively made liable because accidents happen.

In most cases it will only be the event of an accident occurring that will lead someone to say that there was a breach of one of these provisions. It will only be after the event that someone says, "That shows you breached that provision," whereas that is not how the law should operate. The law should not work retrospectively, especially when it is criminal law.

It is fair enough that there be an obligation, and that there be a remedy if that obligation is not fulfilled, but it is not fair to make it an offence for someone not to consult and cooperate. Indeed, neither the Minister nor the member for Canning has explained to us what it means not to consult or cooperate—and they could not explain it to us. They could describe

a set of circumstances in which someone would say, "It is clear you are not prepared to consult or cooperate," but there is a whole range of issues in between that are simply indefinable. There might be some other remedy, such as a provision that if someone is unwilling to consult and cooperate action can be taken at his expense to remedy that situation and make sure the work situation is safe, and that people do receive training and information.

All of those things might be done to remedy the problem; but to say that someone commits an offence because he will not cooperate is a very bad principle, and a wrong principle. Just imagine if it became an offence not to have the right attitudes towards racial harmony, or something like that. That is the contrast I am trying to draw. This Minister is imposing a social obligation by legislation—he is making it an offence—but under the Racial Discrimination Act it is not an offence to have a wrong attitude towards racial harmony. However, if someone behaves in a certain way he might be summoned to a conciliation conference, forced to sit at a table, and given the opportunity to conciliate. He might not like it, and if he refuses to go along with it, that constitutes an offence; but it is not an offence to have a wrong attitude. This clause says it is.

Mr PETER DOWDING: The amendment is opposed, and our position is as I described it earlier. I do not want in any way to be thought not to be answering the member's question, but let us go back in history for a moment.

In 1981 the Victorian conservative Government introduced legislation which contained exactly the same form of duty of care as the one we are now debating. In fact, with respect to the 1985 Victorian Statute the notes that I have, dated 1984, say that the Government came under a great deal of criticism by the then conservative Opposition for leaving out the general duty of care, including the duty to consult and cooperate; and there is a penalty attached to it.

Mr Hassell: We are not suggesting you leave out the obligation; we are suggesting you leave out the offence.

Mr PETER DOWDING: But it is just not good enough to say that. The member for Cottesloe is creating an obligation which is sanctionless and therefore meaningless.

Mr Hassell: It is not meaningless. We are not saying the sanction should not be there.

Mr PETER DOWDING: Of course you are. The member has made his point. He says it is not meaningless; I say it is. The member's response is that he does not understand it. Well, I understand it, and charges under this Act are not charges taken by any Tom, Dick, or Harry. They are taken by the commissioner. The central point of this legislation is the cooperative and consultative approach, and where someone has enough evidence that a person has not been prepared to consult or cooperate, where there is enough evidence to stand up in a court of law and the commissioner is of the view that it ought to go to that court, it is essential in a piece of legislation such as this that there be a general duty of care and that there be a sanction.

I oppose the amendment.

Amendment put and a division taken with the following result—

Ayes 17

Mr Blaikie	Mr Mensaros
Mr Cash	Mr Schell
Mr Court	Mr Stephens
Mr Cowan	Mr Thompson
Mr Crane	Mr Trenorden
Mr Grayden	Mr Tubby
Mr Hassell	Mr Wiese
Mr House	Mr Williams
Mr MacKinnon	

(Teller)

Noes 23

Dr Alexander	Mrs Henderson
Mrs Beggs	Mr Gordon Hill
Mr Bertram	Mr Marlborough
Mr Bridge	Mr Parker
Mr Bryce	Mr Pearce
Mr Brian Burke	Mr D. L. Smith
Mr Burkett	Mr Taylor
Mr Carr	Mr Troy
Mr Donovan	Mrs Watkins
Mr Peter Dowding	Dr Watson
Mr Evans	Mrs Buchanan
Dr Gallop	

(Teller)

Pairs

Ayes	Noes
Mr Clarko	Mr Grill
Mr Laurance	Mr Hodge
Mr Lewis	Mr P. J. Smith
Mr Bradshaw	Mr Tom Jones
Mr Spriggs	Mr Thomas
Mr Rushton	Mr Wilson
Mr Watt	Mr Read

Amendment thus negated.

Mr COURT: I refer to proposed section 22. Does that mean people delivering goods coming to and from the workplace? Where does the landlord fit into this proposed section? If he is running a factory, does he control some of the common areas and does he have to make sure that the access to and egress from the workplace is safe? I wish to give an example. I refer to the Enterprise Centre (Inc.) at Osborne

Park. There are 20-odd businesses under the one roof, and they have common areas for coming and going or delivering goods to and from that site. Who is responsible for the safety in those areas?

Mr PETER DOWDING: The duty imposed by this legislation is a duty of the occupier. That does not alter the duty of care. That rests with the landholders. It is a duty created by this Statute in respect of occupiers. It would depend on a whole range of circumstances. Perhaps the member for Cottesloe can remember his tort better than I but it depends on issues of hidden dangers and whether one is an invitee or licensee. This proposed section imposes a separate duty of care on the occupier. It may well be three dimensional where two or three people have different duties in that common area.

Mr CASH: In view of the Minister's comments, how does he intend the occupiers to understand their responsibility? It would be easy to say it is the law and that they are required to know their responsibility. In Osborne Park where there are a number of occupiers of individual units, there may be some confusion as to who is to be responsible and who the person deemed to have committed an offence is, should an accident or some matter arise that is in breach of this proposed section. Is the Minister going to mount a massive advertising campaign to advise people of their new-found responsibilities? He spoke earlier about the general duty of care on owners or landholders, but we seem to be imposing additional obligations on occupiers who have never been in this situation before.

Mr PETER DOWDING: Many of the duties reflected in this legislation are already in place in a variety of regulations. There are a variety of regulations and it is a much more complex issue than understanding general duties of care. This is one of the attractions of this legislation. People in the workplace can understand their responsibilities without having to go through a variety of regulations and keeping up to date. Under the Factories and Shops Act, a similar duty is imposed upon proprietors of businesses of the people who have the management and control in those workplaces.

Mr Cash: Are the penalties the same?

Mr PETER DOWDING: They differ from regulation to regulation. We are upgrading the penalties in some cases. We have already written to everyone who has registered under the Factories and Shops Act and sent them explanatory pamphlets and a copy of the second

reading debate. It is intended that in next year's Budget there will be an opportunity for the department to have a campaign to inform people about the general duty of care. That is very important and we see it as part of the responsibility to have this legislation understood.

In many cases, there is a duty to protect people from being exposed to hazards. Those duties would come under the Factories and Shops Act, the Construction Safety Act, and some of the regulations that deal with particular types of factories, shops, business premises, and any dangerous goods and chemicals Acts and regulations.

Mr COURT: The Minister mentioned the law was quite complicated in this field with respect to who is liable for an accident.

Mr Peter Dowding: It is not a liability. It is a liability for an offence under the Act. It is not a civil liability. That is another issue.

Mr COURT: If a person puts a can of oil outside the door in a common area, and it spills and someone has an accident and damages a person or property—

Mr Peter Dowding: It is unchanged.

Mr COURT: Is the Minister saying that from an insurance point of view, under civil law, it is unchanged and in addition to that, that person could have created an offence under this Act? The person injured has to go through a civil court action to establish who is responsible for the damage done and also face a court action?

Mr Peter Dowding: As is the current law.

Mr COURT: Under the Factories and Shops Act?

Mr Peter Dowding: Yes, or the Construction Safety Act.

Mr HASSELL: I want to ask the Minister a question in relation to proposed sections 22(1)(c) and 22(3). Both of these proposed subsections impose an obligation to provide adequate data and information but there is no provision as to whom it is to be provided. As the clause stands, I think this deficiency in drafting would make it impossible for it to be enforced in favour of anyone who was concerned about those matters. I think this is a gap.

Mr PETER DOWDING: I do not think it is a gap but the penultimate line on page 11 of the Bill provides the answer—it is to be provided

when the plant is supplied. That is when the information should be supplied. It depends on to whom one supplies the plant.

Mr Hassell: By whom and when?

Mr PETER DOWDING: When somebody asks them for information in relation to plant for use at a workplace, they have to supply that information. That is an ongoing liability.

Mr Cowan interjected.

Mr PETER DOWDING: People who want that sort of information on an ongoing basis and who supply plant have to supply this material when requested. Again, it states "so far as is practicable", so obviously there would be a limitation.

Mr Court: What if it's in Russian?

Mr PETER DOWDING: I think that is a very good example. They have to supply information to the people there, but one does not provide information if one supplies a piece of paper with gobbledegook on it, or if one supplies a piece of paper with Russian on it.

I would have thought it necessary that somebody should supply information about the dangers associated with plant. I see no problem with that at all. It is a perfectly adequate requirement on a person who "designs, manufacturers, imports or supplies" plant.

Mr COURT: Proposed section 23 is headed "Duties of manufacturers, etc." However, it deals with "A person who designs, manufactures, imports or supplies". It puts quite a heavy responsibility on those people, and suppliers and manufacturers of chemicals and so on are included in proposed section 23(3).

Often in a manufacturing business, one is supplied with equipment which is one-off and in many cases has been developed for the first time; it is a prototype. This is particularly the case in the rural industry where people develop new plant which may not be perfect. It might have to go through a lot of development before it gets to the stage where one can supply a book of instructions with it, and the equipment works properly.

I have experienced this myself when developing plant for manufacturing purposes; and I think the obligation here, which is to test and examine plant, does not take into account that that particular plant may not yet have a recognised way of being tested or certified.

Mr Peter Dowding: I can't see your objection to that. That is exactly the sort of duty we ought to be imposing on people with new plant. If you have new plant—say, a circular saw

which is a one-off type and which when used for the first time cuts off a kid's head—you cannot say you did not have a way of testing it before you brought it out.

Mr COURT: In the practical world one may not have an ability to come up with a design and simply construct it. In the development of any new machinery one has to go through a stage of testing to try to get the machinery to work properly. A lot of those new inventions simply do not work and never get to the stage of being put into production and becoming a standard, off-the-shelf item of equipment. Many businesses simply design one-off plant.

Mr Peter Dowding: Are you saying you can't test one-off plant to ensure it is safe?

Mr COURT: Some items of equipment, particularly in a small place like Western Australia, where people make equipment themselves rather than import it, never reach the stage where the designers or manufacturers write a manual of instructions for it. I can give the Minister literally hundreds of examples of people making their equipment themselves.

Mr Peter Dowding: But they ought to test it to make sure it is safe; and if it is the employer's obligation—

Mr COURT: It is not the "employer"; it is the designer, manufacturer, importer or supplier of the plant. That is a very broad obligation to inflict on people who are designing, manufacturing, importing or supplying the plant. Of course one tries to make plant safe when one is developing it, but the Government's obligation on these people is virtually to say the equipment must be certified to be safe.

Mr Peter Dowding: It does not say that at all.

Mr COURT: It says to—

"test and examine, or arrange for the testing and examination of, the plant so as to ensure that its design and construction are as mentioned in paragraph (a);

How does one go about testing and examining the plant?

Mr Peter Dowding: It depends on what sort of plant it is. If you design plant, don't tell me you can't test it to make sure it is safe.

Mr COURT: Who tests the plant?

Mr Peter Dowding: You can test it if you built it.

Mr COURT: Of course the individual manufacturer tests the plant; but this section deals with adequate information in respect of developing and specifying plant and the data

obtained on the testing of the plant. That may be all well and good for a large manufacturer but it puts a heavy onus on the small manufacturer, who is often only making his own equipment.

I turn now to proposed subsection 23(3) of the legislation. I mentioned during the second reading debate that many industries are using newly developed types of chemicals. I agree that these industries ought to provide adequate information as to how these chemicals should be handled. I was not joking when I raised the point about instructions being in English because many of these new chemicals might be bought from other countries such as France or Korea, and are often done so on a one-off basis. It is very hard to work out what one is meant to do and not to do.

Mr HASSELL: This clause is inadequately drafted. I do not think the Minister has responded with an adequate explanation which shows how he has considered the matter.

This clause will fail in its objective because it does not provide any person to whom the requisite data must be supplied. Clearly it does not apply to everyone. It is meant to apply to a limited number or class of people who are not defined, and in the absence of any definition it will be impossible to succeed with the enforcement of the provision. To that extent the proposed section will be ineffective.

Mr CASH: Proposed section 24 says that where an issue relating to occupational health, safety or welfare arises at the workplace there shall be some discussion. What happens if there is no discussion at all after a matter arises? Does it mean all the employees and the employer have committed an offence? I notice it also refers to some relevant procedure, and apparently the Minister is going to bring in those procedures by regulation, but where do the employees stand if they do not take action in respect of a safety matter?

Mr PETER DOWDING: Is the member asking what happens if there is no issue? In that case there is no dispute.

Mr Cash: If an issue arises, or someone is injured, and it is later found that neither the employees nor the employer took the action required in this proposed section—

Mr PETER DOWDING: That is not what it says at all. The proposed section says that when an issue arises—when there is a matter in dispute—relating to occupational health and

safety in the workplace, the parties involved have to stick by procedures to which they have agreed. If they do not they commit an offence.

Mr Cash: So an issue has to be identified, does it?

Mr PETER DOWDING: The member mystifies me.

Mr Cash: I asked for clarification. Can you explain what it means?

Mr PETER DOWDING: It means that when there is a blue about safety in the workplace people have to stick to the procedure they have agreed to.

Mr Cash: So something has to be identified?

Mr PETER DOWDING: Yes.

Mr THOMPSON: The Government has made a lot of play about this legislation having been produced as a result of a tripartite process, and in my speech during the second reading debate I commended the Government for the way it had gone about involving employers in the drafting of the legislation. Some members of the Government and the trade union movement are going around the community criticising the Liberal Party's stand on certain sections of this Bill and accusing us of being out on a limb as the only group in the community opposed to the legislation. That simply is not true, and it is demonstrably not true.

The Liberal Party is in favour of the passage of this legislation but has reservations about certain parts of it. We have very severe reservations about proposed section 25(1), and we are joined in our opposition to that part of the legislation by every employer group, including the Confederation of Western Australian Industry, which was part of the tripartite process of setting up the legislation. It mystifies me that the Minister can proceed with this proposed section when there is that sort of reaction to it. Members on this side of the House, and I dare say members opposite, have had people from every quarter of industry complaining about this part of the legislation.

The concern in the community is coloured by the fact that over a long period of time militant sections within the trade union movement have used trumped-up safety issues as a means of pursuing an industrial dispute. There is no question of that; there is example after example.

Mr Cowan: Any sort of dispute. It does not have to be an industrial dispute.

Mr THOMPSON: Precisely. There are many examples of trumped-up safety issues being used to pursue an entirely different end.

It is because of that concern that members of the Opposition have received such widespread reaction to this particular part of the legislation. When one considers that for this legislation to be totally effective there needs to be cooperation by everyone involved in the workplace—worker and management—one can see the reason for employers' concern when one particular section of the industry is given the sort of power that is conferred on a safety representative, which this proposed section confers on him, coupled with the fact that he cannot be held accountable in the event of misuse of the power. I cannot see any likelihood of Opposition hostility to this particular clause abating as this legislation proceeds through the various stages in this Chamber and ultimately through the stages it must pass in the Legislative Council before it becomes law.

The Minister should look for some other way of dealing with this matter. Rather than his proposing to us and the world generally that there be a 12-month trial period with this provision, he should go the other way and have the trial period without it. The evidence will be that the legislation will work, and I suggest it is more likely to work more effectively. It certainly would have a lot more support from industry if there were a trial period with this clause absent from the legislation.

Several people have put the proposition to me, including some from the Trades and Labor Council with whom I have discussed this matter on at least two occasions and probably three, that if this provision does not go into the legislation no-one will be prepared to come forward and act as a safety officer. I do not accept that because I think there is a recognition in most circumstances of the need for greater co-operation if the workplace is to be made safer. I cannot believe that employees with a genuine interest in ensuring a safe working environment would not give the utmost cooperation after the passage of this legislation with proposed section 25(1) removed from it.

There may be some. I am thinking of the more militant elements of the trade union movement which would not be prepared to co-operate. This legislation is not about trade unions; it is about all employees. Indeed, all workers must cooperate if this legislation is to be successful. I cannot emphasise too strongly that it would be better for this proposed subsection to be removed from the legislation.

That would ensure a greater degree of cooperation from all parties. Certainly, employers do not feel comfortable with the fact that, even after the tripartite process of setting up the legislation, there is a provision in the Bill which does not enjoy their support.

Mr Peter Dowding: There are four proposed sections in the Bill which I identified in my reply to the second reading debate.

Mr THOMPSON: I do not know how they got there. They certainly did not get there as a result of the tripartite process.

Mr Peter Dowding: They got there by decision of the Government when the parties could not agree.

Mr THOMPSON: Would it not have been better, when there was no agreement, for the Government not to show favouritism to one section of that process? I wonder whether the Minister used the same power to insert something in this legislation which was supported by the employers, but not by the unions.

Mr Peter Dowding: Yes. Look at my reply to the second reading debate.

Mr THOMPSON: Was it as important as this proposed subsection? I doubt that it was. For that reason I believe this provision should be deleted. If, after the Bill is proclaimed, it can be demonstrated that it is necessary, it would be appropriate for the Minister to bring the legislation back and ask the House to insert it.

We do not accept that we should pass the legislation with this provision in it because the Minister gave us a commitment that he will bring it back if it does not work. There is ample evidence to prove that that is not very likely to happen. I believe it would be safer for the legislation to proceed without this proposed subsection in it. Legislation such as this works in other parts of the world without such a provision in it. While the Minister is able to say that it works in Sweden with it in, we are able to say that it works in other parts of the world with it out.

Mr HASSELL: Proposed section 25(1)(b) will be the trojan horse for the trade union movement to use the Occupational Health, Safety and Welfare Act for industrial purposes. That is why that provision is in this Bill. Apart from the fact that this Bill is supposed to be about occupational health and safety, it is also about welfare, undefined and unlimited in its scope.

Along with proposed sections 31 and 32 which deal also with the appointment of safety representatives, this proposed section reveals

that it is the Government's intention, on behalf of the trade union movement, to use welfare, under the guise of occupational health and safety provisions, to increase the power of the trade unions. There can be no argument about that.

Dr Alexander: There is plenty of argument about that.

Mr HASSELL: The member may argue about it, but the facts do not bear his argument out. The fact is that had we been debating occupational health and safety legislation only, it would have been passed in a couple of hours when it was first debated and it would now be all over. The Government is using this legislation for extraneous ideological and political purposes. It is trying to slip through extra trade union power in this clause under the guise of the Bill's being only an occupational safety and health Bill. There is absolutely no reason why we cannot have the highest standards of occupational health and safety and the most effective levels of compliance, enforcement, and inspection without this provision. However, the Government persists in fighting to keep this proposed subsection in the Bill.

Why is the Government so keen on the retention of this proposed subsection? Why is the trade union movement so desperately concerned about it? We have been deluged with letters about it. For the first time since I came into this Parliament, the trade unions have written to every member of the Liberal Party about a piece of legislation. All of the letters have been about this proposed subsection and they all say that they will not use it for industrial purposes. The Builders Workers Industrial Union has written that it will not use a provision of this Bill for industrial purposes! That union exists for industrial purposes. Methinks they do protest too much.

I do not believe that this proposed subsection is as innocent as the Government would have us believe. I hope it will be amended in the Legislative Council because it should not be permitted to become law under any circumstance.

Many Government members, pure of heart, have told us how innocent this proposed new subsection is and how it will not be misused. I have given an example of a case decided last month in the Western Australian Industrial Relations Commission. The case involved the Australian Meat Industry Employees Union and Derby Industries Pty Ltd, trading as Globe

Meats in a claim for the payment of wages due over a dispute involving alleged unsafe working conditions in the Bunbury boning room.

It was said that the workers were not offered alternative work. Of course, when it was examined by the Industrial Relations Commission it was found that the whole incident had been completely trumped up. The condition of the floor in the boning room was no different from before and the safety conditions had been dealt with expeditiously and regularly by the company.

Mr Peter Dowding: From where did you get your information that the whole issue was trumped up?

Mr HASSELL: From the judgment. Has the Minister read it?

Mr Peter Dowding: I have a summary of it.

Mr HASSELL: I suggest to the Minister that he read what the commissioner said. The judgment is quite extensive. One item which shows that the issue was trumped up is an entry which was made in a diary which was accepted in evidence. Mr Finlayson's diary was exhibited as item H(1) and it contained the words—

Informed at 3.50 pm that we would be in for disruption relating to 19 day month. They would use a slippery floor and other means.

Does that not tell the Minister that the issue was trumped up?

Mr Peter Dowding: I am not arguing.

Mr HASSELL: I am glad to hear that the Minister is not arguing. There are plenty of examples. Another example refers to an employer telling the representatives of his employees, "Okay, if you reckon this is a safety issue, we will dispute it. If you say that the floor is unsafe we will offer alternative work." The employees were offered alternative work so that they would not have to work in the area where there was a slippery floor. Do members know what the representatives from the union did? They would not tell the employees of their employer's decision. They would not allow the employer to tell the men directly and claimed there was some convention which required the employer to address his employees only through a union representative. The message was not passed on to the employees by the union representatives, but they had the gall to go to the Industrial Relations Commission and ask for an order that wages be paid during the course of the stoppage.

If the Government were to tell the House that this proposed section would not be misused the Opposition simply would not believe it. Of course it will be misused and it is intended by the Government to be available not only for misuse, but also to confer a power benefit on the trade unions.

I refer to the question answered by the Minister for Transport only last night in relation to the Port of Fremantle. He said that there had been 106 stoppages at the Port of Fremantle since 9 July last year. I give credit to the Minister for Transport because he tries to answer questions honestly, unlike many of his colleagues, in particular, the Premier. The Minister's answers classified the different stoppages at the Port of Fremantle. What was the main issue in the long list of stoppages? It was the safety issue.

In a question without notice I asked the Minister for Transport whether the striking workers had been paid during the strike. When this proposed section becomes part of the Act there will never be another industrial dispute at the Port of Fremantle. There will be a heck of a lot of safety issues—they certainly will blossom on 106 days of the 365 days in a year. The workers will be guaranteed payment during strikes and that is the crux of this legislation.

The point that needs to be understood is that this is a Builders Labourers Federation section. It has been included in the Bill by the Government which was substantially financially supported on its road to office by the BLF and the BWIU. The largest donor from the union movement at the last election was the BLF and it wants this section in this Bill. It wants to legitimise a practice that it has been pursuing on building construction sites for a number of years, unhindered by this Government. It is disgraceful, it is monumentally dishonest, and it is monumentally a breach of all the laws and standards of decency to which this community subscribes.

This Minister and his predecessor have presided over it and have excused, pardoned, and apologised for those unions over and over again. The Premier has been party to it. The Government has brought in codes of practice, codes of conduct and codes of anything except a code of decency.

The President of the Australian Labor Party, who is now a member of Parliament, was a special arbitrator.

Mr Peter Dowding: And the builders want him back.

Mr HASSELL: Yes, they do because they have someone worse in that position. Can members imagine that! That is how bad the situation is.

When the Minister's colleague was in that position I spoke with employers and I am aware of what happened to them. They said that there is a certain fixed percentage of cases which go against employers and a certain fixed percentage of cases which go in favour of them. Regardless of that, the point is that the system the Minister introduced was a system which legitimised paid strikes. It is an absolute scandal and a shame that the employers were party to the deal. The Government, which is meant to uphold the standards of integrity and decency in the community, failed in its responsibility.

However, the Government said that it had an arbitration system and, although it knew it was hopeless and had no authority or power to enforce its orders and it was useless in dealing with the scandalous disruption and standover tactics and the intimidation that is occurring on building sites, it appointed a special arbitrator. It gave him the power to award strike pay and now that it is available to employees in the building and construction industry it will be given to everyone. The Government is not game to introduce such an amendment by way of amending the Industrial Relations Act and has slipped an amendment into the Occupational Health, Safety and Welfare Act by way of this Bill. It has legitimised it by calling it a safety issue. That is what this proposed section is fundamentally about.

Members opposite can mutter and giggle, but it is not I who has to justify this record; it is the Minister's record in dealing with the building and construction industry in this State that is at stake.

Mr Peter Dowding: You ask the MBA why they are knocking the door down to get an arbitrator.

Mr HASSELL: It is because the Minister will not uphold the law. There is no law, there is no justice, and there is no enforcement. We have unions which are running riot and have been ever since the Labor Party has been in Government. The Government can say that people are clutching at a life raft or anything else to make the situation better than that with which they are confronted. The Minister says that they are knocking down the door. They are knocking down the door in the absence of a solution. They are knocking down the door because the

Minister has offered them nothing else; they know whose side he is on and whose side the Government is on. The Minister's predecessor stood in the Legislative Council and said that he would not uphold the law.

Mr BRIAN BURKE: It really is sad to see a comparatively young man so bitter and so unreasonable as to try to use the Committee stage of this debate not only to launch personal and unwarranted attacks on the Minister—the member has accused the Minister of breaking the law—but also, with a broad sweep of the brush, to condemn unions and their members, and employer groups and their members, with the allegation that they are party to the same illegality as that which the member for Cottesloe lay at the Minister's feet. It speaks volumes about his personal attitude and about the ways in which he regards his fellow community members, and the strident and irrational way in which he comports himself whenever he contributes to industrial relations debates.

Mr Cash: Holier than thou!

Mr BRIAN BURKE: Certainly in the case of the member for Mt Lawley, absolutely holier than thou; however, in the case of the member for Cottesloe, gently critical of the way in which he stamps himself to be so unreasonable and unfair in trying to express a point of view that is certainly not held by the Government, by the employer groups or employers individually within the community, and obviously not held by the industrial unions or their membership.

The complete failure of the member for Cottesloe to even acknowledge in passing that the absence of a clause like this one has been one of the main reasons for the industrial dispute to which he points with such vigour was a grievous sin of omission at the very least. That absence of any reference at all defines the gulf between this side and the side on which the member for Cottesloe sits. We do attribute some sincerity to both the employer and union sides of the industrial relationship, and we attribute to each of those sides a genuineness about their concern for safety and their recognition of safety and safety issues as one of the determinants or causes of industrial disputes. That has always been the case.

There will be instances—I guess between 10 or 15 per cent of the total number—when industrial disputes are founded on unworthy references to safety issues which do not exist and, I suppose, the same proportion of employers or

conservative politicians will unworthily try to excuse their actions—the member for Cottesloe may well leave the Chamber—by reference to unfair or irrational bases to justify their actions. But it is absolutely not the case that the member for Cottesloe can cling to any strength by reference to his or his Government's past record.

Let us consider the days lost through industrial dispute. Under the stewardship of the present Minister and the present Government's administration far fewer days have been lost than were lost under the previous Government's administration.

The member for Cottesloe says that the present Minister does not enforce the law. What was the member for Cottesloe doing when he was Minister for Police and Prisons? What was the previous Government doing when it was in power and had the law to enforce and when it presided over twice or thrice the number of industrial disputes?

Mr Court: That is absolute nonsense.

Mr BRIAN BURKE: It is not nonsense. When the Liberal Party was in Government the iron ore industry and the Pilbara were in perpetual turmoil, because when in Government the conservative parties had a vested interest in provoking industrial strife from which they could gain politically. That is clear. What about the work practices when the previous Government was in office? Did the work practices suddenly grow up when the present Government was elected? Of course they did not.

Mr MacKinnon: They got much worse.

Mr BRIAN BURKE: The Leader of the Opposition is obviously unaware of the published statistics which show the dramatic increase in productivity following the formation of the Iron Ore Industry Consultative Council and as a result of the way in which the present Government is tackling the problems posed by those work practices.

In any case, the Opposition is on a losing argument, and that losing argument is reflected in a number of facets of this debate. Firstly, where has the Leader of the Opposition been while the member for Cottesloe has been carrying the ball? He is not the spokesman on industrial relations.

Mr MacKinnon: Neither is the Leader of the Opposition.

Mr BRIAN BURKE: That is right—

Mr MacKinnon: Where have you been during the debate?

Mr BRIAN BURKE: I have been sitting allowing the Minister to carve up members opposite.

One of the facets of great interest in this debate, and the way in which the member for Cottesloe is handling it—

Mr MacKinnon: He has done a damned good job.

Mr BRIAN BURKE: Not in respect of the debate because he is not addressing the proposed sections. He has used each of the proposed sections on which he has risen to raise the general attack that he finds profitable, personally and politically, on the topics of industrial relations.

On this proposed section the member for Cottesloe has clearly defined an Opposition attitude or policy that says the Opposition has no truck with the notion of safety as one of the operative or important issues in the workplace.

Mr MacKinnon: That is not what he said.

Mr BRIAN BURKE: The Leader of the Opposition was not in the Chamber when the member spoke.

Mr MacKinnon: I have heard all the debate.

Mr BRIAN BURKE: When the member for Cottesloe last spoke during the Leader of the Opposition's absence, he made it perfectly clear that this proposed section would permit safety to be an issue that would replace the reasons for some strikes—he listed a number of strikes, principally on the waterfront—as the cause of these disputes or stoppages. He made it perfectly clear, as have other members, that he sees no role for safety as an issue to be considered within the general context of industrial relations as one of the causes of time lost, disputation, or conflict and strife. We make it perfectly clear that this question of safety is one of the very important aspects of industrial relationships.

Mr Court interjected.

Mr BRIAN BURKE: It is not about strikes as members opposite try to point out; it is about all those things the Opposition wants to describe in this Bill as union weapons with which to beat employers over the head.

It is part and parcel of the whole question of industrial relationships, the same as industrial democracy and a number of other things which do not touch directly upon disputes. Members opposite are fond of referring to these things. However, it is the total workplace picture which must be considered.

Make no mistake: What members opposite try to do is to transform anything touching upon unions or union members into issues which set employers against employees. They have not yet woken up to the fact that politically they are distancing themselves from their goal, because the employers will not wear it either.

The Opposition is about as relevant in 1987 to industrial relations as it was to Aboriginal affairs when it ordered the Noonkanbah convoy to enforce its Government's policy on defenceless and peace-loving Aboriginal people. Whether the member likes it or not, no matter how the bile builds up because of what has happened to him personally at the hands of his colleagues, he should understand this: His brand of personal morality, ordering people about in the harshest way, disappeared out of the window about 10 years before he was elected.

It is particularly unfortunate that he does not understand this proposed section, and that times have moved so severely past him as to see employers now telling us that they will not have a bar of the Opposition's industrial policies. But the member can still stand up in this place and say the same sorts of things today as he said when I first heard him speak. He still has the same sort of ranting, raving, harsh and calvanistic attitudes towards the community generally. The community does not revolve around the need to be able to order people to do things and somehow or other bend them to this will.

Dr WATSON: As the debate has progressed, it seems to me that members opposite have been unable to see that proposed section 25 is part of the rational and logical progression of the procedures set out to prevent work-related injuries and harmful exposures—

Mr Hassell: That was not recommended.

Several members interjected.

The DEPUTY CHAIRMAN (Mrs Henderson): Order!

Several members interjected.

The DEPUTY CHAIRMAN: Order! Order!

Mr Brian Burke: At least I am not a thief!

Several members interjected.

The DEPUTY CHAIRMAN: Order! The Member for Canning has been on her feet for less than 30 seconds.

Withdrawal of Remark

Mr CASH: I heard the Premier refer to a member on this side—it may have been directed to me—as a thief. I ask that that interjection be withdrawn. I withdraw my interjection accusing him of being a thief.

Mr BRIAN BURKE: I said, "At least I am not a thief." If the member for Mt Lawley takes offence, I withdraw.

Mr CASH: I ask that that be withdrawn in respect of all members of this House, not just myself.

The DEPUTY CHAIRMAN: The member for Mt Lawley took a point of order. The Premier withdrew the words he said. That resolves the point of order.

Mr CASH: As I suggested in my point of order—

The DEPUTY CHAIRMAN: Just a moment. I have ruled on the point of order. The Premier has withdrawn his words. If you have a different point of order, you may make it.

Mr CASH: I have another point of order. I said I would be prepared to withdraw the accusation I made of the Premier that he was a thief, and I do so.

Mr Peter Dowding: What is your point of order? It is not a point of order.

Several members interjected.

The DEPUTY CHAIRMAN: Just a moment. I did not hear the words referred to; no-one drew my attention to them and there was no request for you to withdraw them. There is no point of order.

Mr HASSELL: The withdrawal of an offensive remark is required to be unconditional and unlimited. The Premier chose to withdraw his point of order by saying that if it offended the member for Mt Lawley he would withdraw. Those were substantially the words he used. The words used are unacceptable to the House.

Mr Peter Dowding: What is your point of order?

Several members interjected.

The DEPUTY CHAIRMAN: Is that your point of order?

Mr HASSELL: I shall continue when I am given the chance to do so by the Minister. The words required to be withdrawn are required to be withdrawn because they are offensive to the House. I submit to you, Madam Deputy Chairman, that the Premier has not complied with the Standing Orders of this House by withdrawing in the way he did, and that there-

fore he is still required to withdraw unconditionally what he said, which was clearly intended to be a slur on a member on this side of the House.

Mr BRIAN BURKE: I think it is fairly clear that unfortunately I have got under the member for Cottesloe's skin. I do not want to persist in upsetting him or the member for Mt Lawley or any other members of the House. What I said was, "At least I am not a thief." I withdraw that unreservedly and say to the member for Mt Lawley that life was not meant to be easy.

Mr Cash: You are dead right!

The DEPUTY CHAIRMAN: Order!

Mr Brian Burke: You can dish it out but you cannot cop it; that is your trouble.

The DEPUTY CHAIRMAN: The member for Canning is on her feet. She is the member I want to hear.

Mr BLAICKIE: What is your ruling, Madam Deputy Chairman, on the point of order raised by the member for Cottesloe?

The DEPUTY CHAIRMAN: The point of order raised by the member for Cottesloe about the withdrawal made by the Premier earlier not being unequivocal has been resolved by the Premier rising to his feet and unreservedly withdrawing the words. That takes care of the point of order.

Mr BLAICKIE: With qualification.

The DEPUTY CHAIRMAN: Had the Premier not done that my ruling would have been that in my view the Premier's previous withdrawal was more than adequate to satisfy the requirements of the Standing Order. However, the Premier went beyond that and said that he unreservedly withdrew the words he said before.

Mr BLAICKIE: And he said, "Life was not meant to be easy."

Several members interjected.

The DEPUTY CHAIRMAN: Order! The Standing Orders refer to words which are found to be objectionable to a member. If any member wants to rise in his or her place and object to those words as referring to him or her, that is a separate point of order.

Mr BLAICKIE: I think you are wrong.

The DEPUTY CHAIRMAN: At this stage I have ruled on the point of order and it is past. I call on the member for Canning.

Committee Resumed

Dr WATSON: The point I was starting to make concerned the fundamental difficulties members of the Opposition have with understanding. Had members opposite read proposed section 24, followed by proposed section 25, they would understand more appropriately the procedures which have been set in place to enable somebody—we call him or her the safety representative who works there and who is experienced in that occupation and has training in health and safety—to be able to say to workmates that something is not safe.

They may say, "Our procedures, agreed on and developed at the workplace, or through regulation, have fallen down. We have tried to consult, we have been to the health and safety committee, and there seems to be no option but to ask you people to leave because of an imminent threat to your health."

If proposed section 25 is withdrawn, the logic would be to try to resolve the issues at the workplace through procedures such as talking to the safety committee and putting the onus onto individuals to leave what they consider to be an unsafe working environment.

I refer back to some research I did where I looked at how victims explained how they received their injuries, and this research was taken well away from the construction industry and looked at people who worked in the hospital industry as domestic workers and at metal workers who are either tradesmen or trades assistants. A woman, who had sustained a really bad back injury after trying to prevent a physically disabled child from falling, said that she and her colleagues should have refused to work in that situation, but she needed the job. There was no negotiation in her case.

However, depending on the size of the company or the business, the employer may or may not be known, and generally the boss in larger companies is seen to be the supervisor or foreman.

It is also clear, and this came out in the research, that the hazardous circumstances surrounding particular accidents have often been the subject of workers' negotiations, but it has taken an accident to ensure that a handrail goes on stairs, that guardrails go up, that there is exhaust ventilation, and that machinery guards are put on. Those workers who are injured after trying to negotiate and calculate the risks, after which someone makes a decision to go in and do the job, often sustain injuries that are violent and visible.

I point particularly to the experiences of a man who was an experienced gas-pipe fitter. He was to take a "controller" off an evaporator and refit it as a temporary measure until a thermostatic probe arrived from abroad. He knew there would be gas about because that morning the pipe had been worked on. This situation was made more dangerous by his not knowing any pressures and by the equipment having no isolating cock. The only way to do the job safely was to turn off the other three lights. His request to do this was refused because the plant would come to a stop without the gas. He says—

I was more or less bullied into doing it for the simple reason that eight blokes had been standing in there doing the same thing. If I'd had my way it wouldn't have happened to me—put it that way. But I didn't have my way because the foreman refused to shut down the plant. And he done this for the reason that eight blokes stood in there in the afternoon and done exactly what I was being told to do and got away with it. See?

So against his better judgment, because the foreman would not shut down the plant and because he had been told there were 20 other blokes at the gate who would take his job, he went in there and as a result sustained burns to 35 per cent of his body, including his face.

That example illustrates why one cannot leave the decision to cease work or leave dangerous situations to individuals. If someone is available with training in the tasks pertaining to that workplace, and in occupational health and safety, and that person has been elected because he works there, the individuals who are faced with imminent danger are not going to have to take the responsibility on their shoulders of walking away from a situation, and perhaps walking away from a job.

This Act is aimed at preventing work-related injury, and preventing both the human and financial costs of very serious injuries. Those costs amounted to \$800 million last year, and a time loss of four times greater than occurs as a result of strikes.

I cannot follow the Opposition's logic in wanting to take this out. I can only assume members opposite do not understand it, and I think that is a shame. There are agreements presently in about eight large companies in Western Australia, both Government and private, and never once has it been necessary to use this provision because procedures similar

to those established in proposed section 24 are used—employers and workers do cooperate, in that they do not want to harm anybody. Employers do not want to harm their employees, and employees do not want to harm their workmates. I make a strong plea, therefore, to retain proposed section 25 in its present form, as a preventive measure.

Mr COWAN: It is refreshing to listen to the style of the member for Canning. It is also refreshing to note that the member at least spoke to the proposed section and did not involve the House in a whole lot of subjective matters, which demonstrates very clearly the different philosophical views expressed by both sides of the House. It does not matter whether it is done by the Premier in his fashion or by the member for Canning in her fashion; the fact is that there are divisions between the two sides of the Chamber on this issue. While from the Government's point of view it is important that proposed section 25 remain precisely as it is in order to give some status and powers to the health and safety representative if and when there has been no resolution to the dispute after the provisions of proposed section 24 have been applied—and I accept that is what the Government wants to do—it is not what the National Party, the Liberal Party or some of the employer bodies want to see happen.

The philosophical differences will never be resolved; there is no doubt about that. It is also true that despite those differences, the National Party does want to see this legislation proceed and pass successfully through that other place. However, it does not consider it necessary to be able to give to the health and safety representative the power to direct that work cease. We do see the need for all of those provisions in subsection 24 to be followed through. However, we do not say that where there can be no resolution, the health and safety representative should direct that work cease. Rather, the representative should have the power to summon an inspector, who should be the person who has the power to direct.

Mr Peter Dowding: What happens in the meantime?

Mr COWAN: It follows on that proposed section 26 can apply.

Mr Peter Dowding: That is the point the member for Canning made, and I would like to acknowledge by my own interjection that at least you are addressing the issue, which is not what the member for Cottesloe did. It is vital to understand what the member for Canning

said—that workers as individuals are afraid to take that decision to walk away. That is the whole problem.

Mr COWAN: With the health and safety representative being present and pursuing the course of action that is provided for under proposed section 24, there is not going to be the type of pressure that one might experience now in the workplace because the employer or his representative, in the form of a foreman or whoever, knows that there has been this consultative process and that the health and safety committee has been brought in to examine the situation. I am sure the matter would not just rest with the foreman. An employer representative much higher than that would be brought in.

Mr Peter Dowding: That may not be the case.

Mr COWAN: It may not, but I suggest to the Minister that if I were the foreman in a factory and was advised that the health and safety representative was questioning the safety of the workplace and that the health and safety committee was being asked to meet in accordance with proposed subsection 24, I would not assume that responsibility. If I were the foreman the first thing I would do is make certain that someone above me knew there was likely to be an unresolved dispute at the workplace. If that is done, I do not think there is likely to be the same sort of pressure applied to the employees at the workplace.

In addition, if the Government wishes, it can legislate to do whatever it likes. It can put other provisions in this legislation to protect the employee if he makes a decision under proposed subsection 26. But what I am saying on behalf of the National Party is that it is unnecessary to give a health and safety representative the power to direct that work at the workplace cease. That power should remain with the inspector when he or she is summoned, and with the individuals.

If the Government wishes to build into this legislation some protection for individuals if they take that action, we would be quite happy to see that happen; but we are unconvinced that it is necessary and that the whole fabric of this legislation depends upon a health and safety representative having the power to direct that work at the workplace cease. I do not think this legislation will sink or swim on that provision. The National Party believes the Government should leave that provision out.

The Minister has given an undertaking that there will be a review of the legislation in 12 months' time. If it can then be demonstrated to the National Party that the legislation fell down because this single provision was not in place, we give the Government a commitment that we will re-examine our position. However, at this stage—and I think the Government must accept this whether it likes it or not—we cannot agree to proposed subsection 25 being passed unamended.

One of the grounds employers put forward is that on so many occasions there have been industrial disputes based on the false premise of a safety factor. I understand that the Government is trying to take occupational health and safety away from industrial disputation in the general sense of strike action; nevertheless, notwithstanding all of the provisions that say if a person takes a frivolous action he or she is committing an offence, so many people see the health and safety representative as being yet another extension or arm of the union movement. And the provisions will be used, whether willingly or unwillingly, to allow the union movement to exercise its will in the workplace. That is the fear. If the Minister can overcome that fear, well and good; but he has not.

A number of employer organisations have said they do not want this power given to the health and safety representative. The National Party agrees with them.

Mr HASSELL: I very much agree with the remarks made by the Leader of the National Party, and it is quite apparent from the interjection made by the Minister during the leader's speech that the Minister has not read the amendment proposed by the Opposition, which is on the Notice Paper; or at least he has not understood it.

I have no doubt as to the member for Canning's sincerity, but I think she is overstating the case and has failed to understand the industrial relations implications of this proposed section as it stands, and that as it stands it is capable of abuse in the way that the Leader of the National Party just described by being used for industrial purposes—trumped-up issues for industrial purposes over and over again. The member for Canning has also failed to understand that the Act will be effective without that proposed section as it stands.

We are not suggesting that there should be a continuation of an unsafe situation at work, nor that work should not stop; and it is in this respect that the Premier must receive an appro-

priate reply to his remarks. He entered the debate, for the first and only time in seven or eight hours of debate so far, purely to make an attack on me and to attempt to cause mischief in the ranks of the Opposition. He has failed to understand the position adopted by the Opposition all the way through, which has been one of emphasising over and over again that the Opposition wants to have effective health and safety legislation. It does not want welfare legislation, or trade union legislation, but effective health and safety legislation.

I will deal with the three points made by the Premier—three mischievous points deliberately put forward by him to cast a slur on my position and that of the Opposition's. What he was trying to do was to divide my position from that of the Opposition's, but he will not succeed in that.

Let me say first why I have been dealing with this Bill to a significant extent, because the Premier made out that there was something peculiar in the fact that the Leader of the Opposition was not dealing with it. When the Premier was asked why he was not dealing with the Bill, he said he had left it to the Minister. The fact is that the spokesman for the Opposition was overseas on a Government mission for some weeks, and came back just before the debate on this Bill came on. He was then ill. So the Opposition, to be prepared to deal with the legislation properly, considered how it should be handled. A team of us were asked to deal with it, and I was asked to lead the debate.

As it happened, the Opposition spokesman came back and was able to take a full part in this debate, as he has done. The reason I have been involved in it to the extent I have is that in preparing to do what I was asked to do by the Leader of the Opposition I gained a considerable knowledge of the position and attended many meetings. Therefore I have been in a position to take a part in this debate. That is the simple explanation.

Mr Thompson: I explained that in my second reading speech.

Mr HASSELL: Indeed. Even my notes were prepared in anticipation of my leading the debate, and they are headed "Speech notes of the member for Cottesloe on behalf of the Parliamentary Liberal Party," because of the expectation at the time they were written. So there is nothing sinister about that.

The Premier, in his dishonest and mischievous way, tries to use these things to cause division in the ranks of the Opposition, but he will not succeed. He has been trying that for weeks now, with his snide little remarks about me.

Mr Peter Dowding interjected.

Mr HASSELL: The Minister should not start complaining. His Premier and leader spent the whole of his time, without interruption from the Chair or anywhere else—

Point of Order

Mr PETER DOWDING: Madam Deputy Chairman, the member for Cottesloe made a very long attack on the union movement in speaking about proposed section 25. The Premier responded in an attack on what the member for Cottesloe had said.

We now have a long apologia from the member for Cottesloe. What the member for Cottesloe thinks of the Premier has nothing to do with proposed section 25. He ought to direct his attention to the proposed section before the Committee.

Mr HASSELL: The Premier is an absolute master at attacking people when no-one can reply to him. He used the whole of his time attacking me in the expectation that there would be no reply. It so happens on this occasion there is an opportunity for a reply. It is in the tradition of Parliament and entirely appropriate that as the Premier was permitted to proceed uninterrupted by the Chair for the whole of his speech without referring once to the issues of this proposed section, I should be entitled to respond briefly to the points he made so far as they were directed to me and are relevant to this debate.

The Premier was attacking my attitudes which relate to this proposed section. My remarks are more than relevant to anything he said.

The DEPUTY CHAIRMAN (Dr Lawrence): I was about to reach for the Standing Orders at the time the Minister rose. Although I was not in the Chair, I did hear a lot of what the Premier said. Might I suggest that in order that we complete the business of the Committee before 3 am tomorrow, we stick to Standing Order No. 133 which says that members should not digress from the subject matter of any question under discussion. Given that I appreciate the truth of what has been said by the member for Cottesloe, he can have my tolerance a little longer on this particular speech. After that, I

shall rule very strongly that we stick to the proposed section otherwise we shall never complete this debate.

Committee Resumed

Mr HASSELL: In deference to what the Deputy Chairman has said, which was most fair, I will be very brief in concluding that aspect of my remarks.

The Premier asked what we were doing in Government. I answer that by pointing out that every complaint against the industrial law was upheld in action through the inspectorate, completely unlike the predecessor of the Minister who announced in the upper House that he would not uphold the Industrial Relations Act so far as it provided for voluntary union membership. The Premier suggested I was being harsh.

Let us get right to the heart of this proposed section. I am certainly being harsh in suggesting that this proposed section is open to abuse if that is harshness. I think it is being factual. It is true that this proposed section is open to abuse. It has been demonstrated over and over again on building and construction sites at the port of Fremantle and with export industries. The Premier should not talk to me about being harsh when we hear what happens to small business people under the iron heel of the BLF and the BWIU. The small business people have been driven out of business by the union activities. This proposed section is about the harshness in terms of the waterside unions and their use or abuse of safety issues for industrial purposes.

We are talking about our export industries, and our small business people, and who is going to wield power in the industrial workplace. This proposed section is open to abuse. I know what the member for Canning said about the fear of people who are in the workplace who will not exercise their undoubted rights. We support and uphold the right to withdraw from a situation of danger.

As the Leader of the National Party said, with the safety representatives, and with all the machinery under this Act—the protective provisions, the power of inspectors to order stoppage of work and so on—there is no reason for that fear to subsist any longer.

There are many aspects of this proposed section. The definition of "workplace" in clause 3 is not sufficiently well drafted to restrict a direction to cease work.

Point of Order

Mr PETER DOWDING: That is not the matter under debate. The proposed section under debate is proposed section 25. The member should get on with the Bill and stop grandstanding.

Mr HASSELL: I cannot understand the Minister's point of order at all. I am trying to point out that proposed section 25(1)(b) can be used to bring a stoppage to work in an area larger than that which is alleged to have been endangered. I am relating it to a definition in the Bill. That is so directly involved in proposed section 25 that I cannot imagine that debate could be circumscribed by upholding the point of order.

The DEPUTY CHAIRMAN: I missed the connection the member for Cottesloe was making with clause 3. I have just referred to clause 3 and I cannot see the connection.

Mr HASSELL: The definition of "workplace" contained in the Bill is a broad definition and could encompass a whole factory. The concern that has been expressed to us by the Western Australian Chamber of Commerce and Industry in relation to the subclause—

The DEPUTY CHAIRMAN: I accept that is a reasonable point of view now that I have found the appropriate proposed section. Could the member now wind up his remarks, including that reference if he wishes.

Committee Resumed

Mr HASSELL: The Minister has accepted the point that I was making, which relates to this proposed section. The concern expressed to us by the chamber of commerce is that the definition of "workplace" is so wide that a safety representative exercising the power granted by proposed section 25 could bring work to a stop in a whole factory on the basis of an alleged lack of safety in one part of that factory and would then, in the exercise of that power under proposed section 25, be protected by all the other provisions that relate to the legitimisation of the exercise of that power and the lack of liability for damages for a wrong use of the power, and so on.

If there is genuinely an unsafe situation, the safety representative could call out a whole factory when it was only necessary to stop work in one section. But, because of the way this proposed section is drafted, the action in stopping the whole factory would be legitimised

and there would be no recourse to the employer. That is a genuine concern expressed about this proposed section.

Fundamentally, the proposed section is wrong because the objectives of this Bill can be achieved without this proposed section as it stands. It should be replaced by that which we proposed in our amendment.

Mr CASH: I oppose proposed section 25 in its present form. If one can forget the drivel the Premier gave to this Committee for about 15 minutes in which he did nothing more than launch personal attacks on members of the Opposition rather than talk to the particular proposed section, one could be excused for thinking that the Premier himself was already suffering from industrial brain damage.

Mr D. L. Smith interjected.

Mr CASH: If the member wants to fill out a Lotto form, he should go right ahead.

I oppose proposed section 25 in its present form. The Opposition has indicated very clearly in this debate that it is not against health and safety measures as such, but it is against the Government using health and safety legislation as a vehicle for industrial legislation and potential industrial sabotage. That is the potential of this proposed section.

Perhaps I should qualify that by saying that most union representatives to whom I have spoken have said they do not care either way—that is, whether proposed section 25 in its present form stays or goes. They really do not believe they will get into a situation which will require them to close a business while they await an inspector. The people to whom I have spoken have confirmed that most employers are very reasonable and when a hazard is pointed out to an employer, that employer, realising the liability that rests on him to provide a safe place of work for his employees, is more than happy to do something about correcting the problem.

So it is not a case of there being joy and jubilation for all unions if this clause stays, or great distress if it goes. It is a case of the Government pandering to that handful of militants to whom it owes favours.

Mr D. L. Smith: Next week you will say that about random breath testing.

Mr CASH: I cannot see what random breath testing has to do with this clause but perhaps the member for Mitchell, when he rises to speak, will put the two together. He is very good at putting things together.

The potential exists, with the present form of proposed section 25, for it to be used as an industrial weapon. That is disappointing in so much as it has really soured most of the balance of this legislation, which is directed at health and safety measures. I understand the member for Canning's concern and I recognise some of the matters she has discussed, but there are other ways of dealing with these problems. They can be solved in many different ways and the commission itself, in the consideration of the various submissions that were put before it and in its general discussions, discussed other ways in which this matter could be handled.

In fact, it was not a recommendation, I understand, of the commission to include this section, but members know as well as I do that the big militant unions put the finger on the Minister and the Government and said, "Hey, we are calling up past favours we have given to you—the big donations that we made to the party. We want that section in." The Government buckled and said, "We will put it in; we will give in. Anything for the militants."

As a result of the opposition to this proposed section which has been expressed by my colleagues, the Government has tried to capitalise by saying that Opposition members are opposed to unions generally. What an absolute load of garbage! How easy it is for the Government to misconstrue—

Several members interjected.

Mr CASH: The sniggering of Government members indicates that they would like to be able to spread throughout the community a perception that Opposition members are opposed to unionists and to union representatives. That is totally untrue but what is true is the fact that the Opposition is totally opposed to the way in which militant unions have almost strangled business in Australia. I am pleased to see the member for Mandurah nodding his head in agreement with me because he will recall Mudginberri and Dollar Sweets—

Mr P. J. Smith: I was a member of the Teachers Union and I saw what the Liberal Party tried to do to that union.

Mr CASH: I was a member of the Australian Workers Union; does that make the member for Mandurah and me equal?

Perhaps the member for Mandurah would like to rise in a few minutes and give the Chamber a few bars on just what it was like to be a member of the Teachers Union. Things have changed since he came into this place. In

the last two or three months we have seen a massive campaign by the Teachers Union expressing its utter dissatisfaction and contempt for the way in which this Government has handled education matters.

This proposed section will enable safety representatives to cause work to cease in a workplace if they believe that there is proper cause. That might not be unreasonable if it were not for a further clause in this Bill which absolutely absolves a health and safety representative of any civil liability arising from his performance, or his failure to perform any function of a health and safety representative under the provisions of this Bill. That is an absolute joke. One cannot have it both ways. If one is prepared to say that the health and safety representatives should be entitled to cause work to cease—if that right is to exist—this Parliament should impose an obligation on these people to ensure that their actions are at least responsible and reasonable. Where it can be shown that their actions were malicious and vexatious, they should pay the penalty they would be required to pay if they caused someone to lose money in some other field of endeavour not covered by this legislation.

Why should there be a legal apartheid—that is, on the one hand as long as one is a safety representative, one can maliciously cause work to cease if one so desires but, on the other hand, if one is not a safety representative and one causes work to cease in a factory for malicious reasons, one has to bear the cost of any damages which might be incurred? That is an absolute joke. In Parliament the other day members discussed people's responsibilities, and imposing equal responsibility on both employers and employees, yet what do we have here? We have a one-sided situation where, at the request or the demand of the militant unions, the Government has caved in and is prepared to give health and safety representatives the right to cause work to cease in the workplace. Even if those actions were malicious or vexatious, there would be no civil liability placed on those representatives.

I think that is grossly unreasonable and it is a clear indication of the reasoning behind the Government's introduction of this clause. As yet the Minister for Labour, Productivity and Employment has not denied it; he has refused to answer the propositions put by members of the Opposition, including the member for Cottesloe and the Leader of the National Party, who both put similar propositions in respect of this clause.

Even the Premier when he spoke a few minutes ago—in between the drivel that came out in his 15 minutes of attacking members of the Opposition—said that there could be a malicious and vexatious use of this proposed section in 10 to 15 per cent of cases where work was caused to cease under this provision. I believe that is scandalous. In Victoria, evidence has shown that there were relatively few cases where these provisions were used for malicious or vexatious purposes, but I believe there is no need for the opportunity to exist for anyone to be able to stop work for reasons of their own simply because they have an axe to grind and wish to cause an employer or a business to lose, perhaps, tens of thousands of dollars as a result of such action.

Further on we see that if a health and safety representative causes a place to cease work the employer has an obligation to get in touch with an inspector, so if there is some disagreement the inspector can decide whether the action taken was reasonable or appropriate. That in itself requires the Minister to tell us how many inspectors he intends to have around to service the health and safety representatives who might be calling on them. One only has to consider the size of this State. During the second reading debate reference was made to the Kimberley; how many inspectors will be standing by in the Kimberley or further to the north?

Mr Williams: They will be there within two hours!

Mr CASH: I thought the Minister said they would be there in a couple of hours in the metropolitan area and within 24 hours in the country.

The Minister has to tell the Chamber who will stand the loss if it takes a considerable time for an inspector to arrive at a workplace and if the inspector finds the order to cease work has been made maliciously or vexatiously. Who will suffer the loss—the employer, or the trade union to which the health and safety representative may belong? Will the union kick in for the damage done or will it be put onto the back of the employer? What happens if an employer goes broke because someone decides to use this provision as an industrial weapon? Has the Minister considered that, or is it something he does not want to talk about because in his view it is not going to happen on many occasions?

The member for Kalamunda advanced the proposition that we should take the proposed section out for the time being, and if all hell breaks loose and the Bill cannot work because

proposed section 25 is not there, the Government can come back to Parliament and say to the Opposition, "There are the examples; we call on you to support a proposed section similar to this." That is the way we should be doing business, and it would be seen to be a consensus decision. Talking about consensus, this was one area where the Government was not prepared to cop consensus because the members of the commission who considered this said in their recommendations to the Government that they did not want this proposed section included in the Bill.

Mr Peter Dowding: No, they did not.

Mr CASH: Perhaps the Minister will tell us exactly what members of the commission said.

Mr Peter Dowding: Don't tell fibs.

Mr CASH: Perhaps the Minister will tell me whether the employers agreed to the inclusion of this proposed section.

Mr Peter Dowding: As I said in my second reading speech, no, they did not.

Mr CASH: The Minister shakes his head and says they did not, but on the other hand he talks about consensus. The inclusion of this proposed section will do nothing but sour the balance of this legislation.

Mr THOMPSON: I move an amendment—

Page 13, lines 1 to 22—To delete the lines with a view to substituting other words.

There has been a fairly forthright explanation from this side of the Chamber as to why this part of the Bill should be deleted, and it seems to me a lot of time of this Parliament would be saved if the Minister agreed to take it out. It will be vigorously opposed in this Chamber, and if I read things aright it will be vigorously opposed in the other House. When one considers the strength of opposition to the legislation it is conceivable it will be defeated in the Legislative Council because it is not only the Liberal Party which opposes it, but employers across the board and the National Party also oppose it; and I can see no way in the world that the legislation will pass with this provision in it.

There is a prospect that employers would soften their attitude if some provision were made for a penalty to be imposed on a safety representative who misused his power. The Minister must understand the employers'

position. They are faced with a situation where some militant people within the trade union movement have used safety issues—

Mr Peter Dowding: Those people are not very keen on this legislation, I can assure you of that.

Mr THOMPSON: That may be the case. I have listened to arguments from the Trades and Labor Council, and I have some sympathy for the point of view that it expressed, but it has been demonstrated time and time again that sections within the trade union movement take no notice of anyone, including the Trades and Labor Council and the Government. Because of that there is great concern about giving power under this proposed section to people who may use it to further the arguments they advance and be completely exonerated from any likelihood of reprisal.

I have been involved at the sharp end of what this is all about. I have worked as a tradesman and I can say that the overwhelming majority of working people want to get on with the job and do the right thing to earn a decent living, keep their family, and get on with the business of living. I am convinced that if this amendment were agreed to the legislation would work perfectly well because the great majority of people in the workplace would be prepared to cooperate and work with their employers to ensure a safer and healthier working environment. It can be demonstrated by countless cases that the alternative to that proposal—leaving in this proposed section—would lead to abuse by certain elements within the trade union movement.

I appeal to the Minister to accept this amendment. Let the legislation pass without this provision and see whether it works. I can assure him that if the Bill passes with this provision there will be the utmost resistance from employers, because in every section of our community they have vigorously stated their opposition to this part of the legislation. That is notwithstanding the fact that the support from employers for the general thrust of the Bill has been almost as vigorous. It would be a great pity to destroy the rapport that has developed between employers and the trade union movement on 99 per cent of this legislation and have it soured because one bit has been forced on one section of the tripartite process.

I strongly recommend that the Minister accept this amendment and allow the Bill to pass without this proposed section included in it. From my experience, I assure him that the legislation will work satisfactorily.

Mr TRENORDEN: The member for Canning and the Minister for Labour, Productivity and Employment have been trying to convince the Committee of the necessity of this provision to enable employees to stop work if a work situation becomes dangerous. The Leader of the National Party referred earlier to what would happen if an impasse occurred and a situation developed where the safety representative called for a stop work. If a situation reaches the stage where the workplace becomes dangerous and the employer forces his employees to continue working, he is placing himself in a fairly precarious position as far as common law and morality are concerned. The Minister has not convinced us of the Government's intentions. Members of the National Party do not want to debate penalties; we want the Minister to convince us of the Government's intentions with this provision.

We do not think it is necessary for the safety representative to be the person to call for a stop work when a working situation becomes dangerous. If the employer and the safety representative cannot agree on a dangerous work situation, and the employer insists that work go ahead, he is placing himself in a very precarious position. I submit that not many employers would do that.

Mr Peter Dowding: That is the difficulty. This provision deals with extreme cases which do occur—not often, but they do occur.

Mr TRENORDEN: But if an employer insisted that his employees work in that situation, it would not be long before he was declared bankrupt.

Mrs Henderson: What happens in the meantime?

Mr TRENORDEN: There is also argument to support the other end of the spectrum. If a safety representative acted irresponsibly he would get the sack.

The National Party accepts the majority of the provisions of this Bill. We agree with the setting up of a mechanism for employers and employees to get together. However, as I said earlier, we need the Minister to convince us of the intentions of this proposal. The Government's arguments are as bad as it says the Opposition's are. We have to be convinced that our proposal will not work. I believe the

National Party has demonstrated a fair and reasonable attitude to this proposal. We have spoken to all interested parties and have examined the Bill.

Mrs HENDERSON: During this debate this afternoon I have been trying to understand the threads of logic purported to flow through the Opposition's arguments against this provision. However, I have failed to understand those arguments.

In his speech in the second reading debate on this Bill, the member for Kalamunda made the statement that the majority of employers overwhelmingly oppose this provision. However, I read a list of a number of major employers in this State who support this proposal and who have had it embedded in their awards and agreements. Some of those employers include Mt Newman Mining Co Pty Ltd, Hamersley Iron Pty Ltd, Goldsworthy Mining Ltd, the State Energy Commission, the Perth Mint, Telecom Australia, and Woodside Offshore Petroleum Pty Ltd. That has been in place for 15 years on the waterfront.

Despite all of that, the member for Kalamunda again spoke about employers' overwhelming objection to it. If they object to it as much as the member says they do, why have the employers I have just referred to not sought to remove it from their agreements and awards? The number of awards that include that provision is increasing for precisely the reasons we have put forward today. The provision has not been abused where it has been included in awards.

If the member for Kalamunda were honest he would probably admit that he agrees with me. However, he has to present the views of his constituency. I am sure that the information he has gathered has probably convinced him that employers do not overwhelmingly oppose the provision and do not believe that it will be abused.

The member for Kalamunda also said that this provision was not a recommendation from the tripartite committee. He said that the Government would not accept the recommendations of that tripartite committee. This Government is the only Western Australian State Government that has sought to establish any sort of consultative tripartite structure. I do not recollect any structure of that sort being established under the previous Liberal Government. For him now to say that, because this provision is something with which all parties did not agree the Government

should now not implement it, is foolish. This Government has made enormous progress in this field. It is because of the tripartite process that this Bill was introduced.

It does not mean that the Government has to reach a position where if there is any disagreement over any issue at that tripartite level, it would have to abandon that issue.

I was very disappointed to hear members of the National Party talk about abuse. It has been my experience in this place that in many cases the National Party has been more open to logical argument than has the Liberal Party and has demonstrated a greater degree of flexibility from time to time in listening to the case before the Chamber, assessing it and possibly adopting a position in line with the facts of the situation. I was very sorry to hear the members of the National Party talk about the possible misuse of this clause and about the misuse of provisions which they have seen in the workplace recently as being the reason that this provision should not be extended to workers in the workplace.

What the members of the National Party are really doing is throwing the baby out with the bath water. They are saying that perhaps there will be some abuse, perhaps currently there is some abuse and, therefore, no-one should have access to this remedy. Yet around the world and in Australia, especially in Victoria where this provision has been introduced, the result has been precisely the opposite.

The corollary of that is that while there has been much claim made this afternoon of possible union abuse of this provision, what about the current situation? What about the abuse of the duty of care where so many employers find themselves in situations where their employees have been repeatedly injured in the same workplace? That might be just as extreme as the situation Opposition members have been talking about. I would say that it is—if an accident occurs the automatic thing for people to do is to seek to find a cause in an endeavour to remedy it.

This Bill is saying that the State's record in that area is not good enough. It is not good enough to wait until an accident occurs for everyone to say that they knew the hazard had existed for years and finally, because someone lost his arm, leg or life, something should be done about it. It is precisely the same argument as saying that this Bill may be abused by the unions. There have been plenty of documented cases where employers have abused their

position of control over the plant, machinery, and working practices in the workplace which have been hazardous and dangerous.

The member for Kalamunda said that overall, the majority of people wanted to get on with the job. They wanted to do the right thing and to support their families. No-one disagrees with that. However, the overwhelming majority of people in Western Australia want to avoid being injured at work.

It appears to me that members opposite have not grasped the argument because they have said, "Let's take out proposed section 25 because the Bill will operate satisfactorily without it." What they fail to recognise is that the whole Bill is predicated on the idea of consultation and the provision of information. If employees have a safety representative to whom they provide detailed information about the machinery, new chemicals, or whatever is introduced into the workplace and they do not use that person's knowledge, there is absolutely no point in providing it.

Mr Trenorden interjected.

Mrs HENDERSON: I will give an example. This afternoon the member for Cottesloe mentioned a boning factory at Bunbury, but I will refer to a situation which occurred in a boning room in Queensland. Gas was being emitted from a pipe and the workers in the workplace thought that it was dangerous so they stopped work. They were wrong because they got the name of the gas mixed up with another gas. The gas that really was dangerous was not the one being emitted from the pipe. When their case for payment of wages during the period they were off work went to court, they lost the case. Had they had an informed safety representative, who knew about the gas that was in the pipe in the boning factory, when the pipe burst the safety representative would have been able to say, "No, you are not at any risk. This is not a gas that is toxic and it is not even a gas which is remotely dangerous."

Cannot members opposite see the difference between having to provide information to each worker in the workplace and asking him to make up his own mind about what is dangerous?

Mr Trenorden: We are agreeing with you. We agree that he should disseminate the information. All we are saying is that that person should not be able to say, "You are out."

Mrs HENDERSON: He does not have to and he would very rarely do that. If the employer provides the safety representative with the in-

formation, and he has the training, skill and responsibility he must have that ultimate power otherwise his final responsibility for the safety of those people he has taken on is abrogated. When the final crunch comes and the situation is hazardous and the safety representative knows it is hazardous, members opposite are saying that he should not have the power to do anything. He needs that final responsibility because by the time the safety inspector is called and he arrives at the scene, if the gas is toxic there could be three people lying dead on the floor.

Mr Trenorden: That is only if they are working.

Mrs HENDERSON: That is right. Is it not better for a reasonable judgment to be made by someone who is informed, than for a judgment to be made based on the lack of information by the individual workers?

As far as I am concerned, the important thing is that in Western Australia we have a record in this area that is nothing short of appalling. To say, "Let's leave the situation as it is—that people have a common law right to withdraw their labour," means that we are ignoring our record in this area. The Opposition is saying, "Let's try some consultation, but let's leave it up to the individual." In my view what will happen if we do that is that we will have a situation that is not much better than that which prevails at the moment. There is no doubt that in those countries where they have tried the provision contained in this legislation—Sweden was mentioned the other night—there has been a 300 per cent reduction in fatalities. No-one can ignore that. We cannot say, "Let's leave it for 12 months and see how it goes."

Mr Cowan: Don't tell me it was because someone was given power to direct that work cease at the workplace, because that is rubbish and you know it.

Mrs HENDERSON: No-one can measure which aspect of the Swedish Bill produced the dramatic reduction.

Mr Peter Dowding: The countries without that regulation and without that power have a poor safety record.

Mrs HENDERSON: There is no doubt about that. It does not matter whether the provision is included in legislation and is never used. The fact is that it is available and, as such, provides that final resort.

One thing that really disturbed me this afternoon when members were talking about abuse of the provision was the constant remark that, "The person you train might have two years' experience in the industry, a good knowledge of the industry, and been elected by his peers, but he will still abuse this power because there is no penalty if he does." That has been said many times this afternoon. For my part I believe it is a severe penalty to strip someone from a position to which he has aspired—he has taken it upon himself to learn, to attend training and to take on responsibility for his fellow workers. It is a great responsibility. I was disappointed that when I mentioned that the other evening, the member for Kalamunda said, "Oh yes, but they do not lose their paid job, so it does not really matter."

I suggest to members that there are many examples in our society—local government would be a classic—where people do a particular job simply because they want to do it. Whether a candidate loses a local government election or a person loses his paid job, he can still feel very much stripped of the position he held—a position on which he has been judged by his peers as not performing satisfactorily.

In my view, someone who has been elected as a safety representative, has taken on the responsibility and has taken it upon himself to study and understand the hazards in the workplace and to act on behalf of his fellow workers, would be very concerned to find himself disqualified because he misused his power.

If the Opposition is in agreement with the whole consultative process, the process of providing information, I cannot understand why there is this desire to stop short of one measure which might never be used, but which will provide that backup.

I have listened to many members in this Chamber say that this or that should be a non-party issue. Members talked about the Dog Amendment Bill in that way. In the case of that Bill they were saying that we should be concerned about dogs and their owners on a bipartisan basis. This issue is about people's lives. There could not be another issue that should be as non-party as this one; there could not be another issue where members should be able to say, "If this has been shown to work overseas and in Victoria, there is no earthly reason to expect that things would be different in Western Australia."

There is no reason to imagine that unions in Western Australia are somehow less responsible, more chaotic and more likely to abuse power than unions anywhere else.

An Opposition member: They will abuse the power.

Mrs HENDERSON: There is no doubt that this Bill contains a provision that those who abuse their power will be stripped of their position; that is quite a severe penalty for anyone holding that position.

I am disappointed that because the penalty does not provide for a monetary loss, the member for Kalamunda has dismissed it so summarily. It is becoming clear in this debate that because the union movement in Western Australia generally has supported these provisions, the Opposition has immediately decided there must be something wrong with them and the unions must be planning to misuse something. That is a sad reflection on the Opposition's knowledge of the history of safety in the workplace in Western Australia.

Unions above all groups have taken up safety as an issue. That is understandable because their people are most affected; they are usually the ones who suffer accidents, illness and disease as a result of conditions in the workplace. The unions have a vested interest on behalf of their members to make safety a major concern.

I oppose the amendment moved by the Opposition and I hope the Committee will retain proposed section 25 in the Bill.

Mr THOMPSON: The member for Gosnells has debated a number of points I made and I take this opportunity to respond to some of them. It is true that currently some awards contain this provision, but it is not true to say that in all cases those provisions were included with the agreement of employers. In many cases it was put in by industrial commissions, sometimes despite vigorous opposition from employers. It is not reasonable for the member for Gosnells to say that those employers whose industry awards contain this provision are happy with it or that they agreed to it initially.

Mr Peter Dowding: They were negotiated with the employers.

Mr THOMPSON: Some were negotiated and included in the award, but it is not true to say that all employers are happy with it. Even in cases where employees agreed, one should query what issues were at stake at the time the provision was included. What sort of industrial muscle was being flexed to force employers to accept the provision?

At Robe River, for example, if employers were faced with the plant being shut down for a long time, with ships queuing to transport the iron ore; and a proposition were put to them which would not cost very much, and which would resolve the dispute, they would give in. Half the trouble in the Pilbara industrial scene has been brought about because employers have not stood their ground in many cases; they have taken the short-term gain and suffered the long-term loss.

The member for Gosnells also referred to the tripartite process for arriving at decisions. In my speech during the second reading debate I commended the Government for the way it had gone about this and it is not fair for the member to suggest that I have attacked the process. Indeed, I have supported it. The tripartite process has been fine so long as everything went according to the wishes of the Government. When this issue, which was a bone of contention between the two, came up it would have been prudent to leave it out. However the Government used its position to put it in.

What struck me most about the industrial relations systems in Germany and Sweden in particular was the almost non-existent involvement of Government in the tripartite process. In point of fact it was a bipartite process in which employers and employees generally determined what should happen. Government did not come in over the top and give its directions about what should be included. I hope members opposite will accept that I have judged this situation against what I have seen in countries I was privileged to visit—and I thank the Government for the opportunity of visiting those countries. I make my stand based on my practical experience in industry for 20 years before I came to this place. It is totally inappropriate to expect legislation that needs cooperation between employers and employees to work if the Government steps in and decides that certain provisions will be included or certain actions taken.

The member for Gosnells made great play of someone being forced to work in an unsafe working environment. In point of fact, Opposition members have steadfastly said throughout the debate that we recognise the right of the individual employee to cease work if he feels that his life or health is in danger. We do not deny the right of the individual to do that. The member cited an example in Queensland where a gas leak occurred and ultimately the employees were found to have been wrong; they had incorrectly identified the

gas. I do not know all the circumstances, but based on my practical experience in industry, in a normal workplace if employees think there is a gas leak which could be injurious to their health, they go to the boss and tell him that they think it is dangerous. Is it suggested by anyone in this Chamber that the boss would not know whether the gas in the system was dangerous?

Several members interjected.

Mr THOMPSON: We are talking about proposed section 25 (1) which deals with the procedure to be followed when the end of the road has been reached; that is, the workers have drawn the potential hazard to the attention of the safety representative, he has made an assessment, discussed it with the boss, and there is disagreement between the two as to whether a problem exists. This is the point at which the Government and the Opposition part: The Government says that the safety representative should be able to tell the boss that he does not agree with him, he believes it is a dangerous situation and, therefore, he will take the workers off the job. The Opposition believes that in that extreme situation—it will not happen regularly but only when the boss and the safety representative do not agree—the safety inspector should be called in.

Mr Peter Dowding: That happens anyway. It is part of the process.

Mr THOMPSON: I know it does, but the safety inspector should be called in before people are taken off the job.

Mr Peter Dowding: What if they die?

Mr THOMPSON: It is clear that we have reached the stage at which there is no way the Opposition can convince the Government or the Government can convince the Opposition.

I refer to another point raised by the member for Gosnells: The sanction included in the legislation to be applied to an individual who has misused his power. I do not accept that simply removing him from the position of safety representative is any kind of deterrent; it is akin to rapping him over the wrist with a feather. In some cases he would be regarded as a martyr—certainly in the case of militant unions he would be regarded as a martyr—and someone else would come in to take his place. The Opposition is vigorously opposed to that provision in the legislation without their being some meaningful curb on an individual who misuses his power. If the Minister wants the

legislation to contain any provision even remotely resembling this one, he should start looking at some compromises.

Mr WILLIAMS: I support the motion moved by the member for Kalamunda. The Minister must realise that many members on this side of the Chamber support a great deal of what is in the Bill, but proposed section 25 is the stumbling block. I can appreciate the sentiments of the member for Canning and the member of Gosnells, but they are speaking from their hearts. The stark reality in the outside world does not match their thinking.

There are many aspects of this Bill I do not appreciate. For instance, the employer has no right of appeal. The whole workplace can be closed down if only part of it is affected.

Mr Peter Dowding: There is an amendment coming.

Mr WILLIAMS: I will wait until I see the amendment passed. I am also concerned about other aspects. We have been told that inspectors will be there within two hours of a disagreement. How many extra inspectors will the Minister need? How can he say they will be there within two hours?

Under the provisions of the Bill, the employer is the person who will be paying for this. Even if the complaint is frivolous, the whole work force will be stood down waiting for the inspector to arrive. I disagree when the Minister says the inspector will be there within two hours. A multitude of inspectors will be required if what I perceive as the outcome of this Bill eventuates.

This Bill does not provide for an appeal by the employer; the employer cops the lot. This is unreal.

Members on this side of the House, whether from the Liberal Party or the National Party, together with most employers, particularly small employers, have asked the Minister to do away with proposed section 25. The Minister has said that he is prepared to look at the provision in 12 months' time and assess the situation. He says, "This is our stumbling block; this is a big problem. I will concede a point and we will look at proposed section 25 in 12 months' time to see whether it should be included."

The Minister and I both know the reason for this section. That is what the member for Cottesloe was getting at tonight. He was not being critical of fair-minded unions, he was being critical of the left-wing, radical extremists.

Mr Peter Dowding: Who are the fair-minded unions?

Mr Cash: Most of them.

Mr WILLIAMS: If the Minister does not know, how does he expect anybody else to know?

Mr Peter Dowding: The ones that we respect.

Mr WILLIAMS: We hope most unions are reasonable.

Mr Peter Dowding: Which ones do you respect?

Mr WILLIAMS: Most of them are respected. The Minister can say what he wants to say in a minute.

Mr Peter Dowding: Tell us.

Mr WILLIAMS: I will not go through them all for the Minister. I do not trust the BLF for one minute. The Minister has not had the guts to deregister it, as have his colleagues in the other State in Australia. That is the reason the member for Cottesloe stood up today; he knows as well as I do that proposed section 25 will not be needed in 12 months' time because the Government will have achieved what it set out to do, and that is to do away with subcontractors in this State. That is what this Bill is aimed at: Doing away with subcontractors.

We are not going to approve this Bill, either in this place or in another place. So what will be the score? In the other place, in the House of Review, I feel sure that this section will be defeated.

So what will happen? It will come back here for ratification, which will not be applied. The Government will say, "We do not accept it." So what do we do? We go to a management committee of both Houses. As a consequence the whole Bill will become null and void.

I suggest the Minister should wake up and concede that the majority of business people and the majority of workers are opposed to this section in particular. The Minister should wake up before it is too late.

Mr COWAN: I want to make it very clear that the National Party supports the amendment moved by the member for Kalamunda. In doing so I am precluded from moving the amendments on the addendum to the Notice Paper. The amendments are not similar in wording, but they have a similar effect, so we are quite happy to support the amendment moved by the member for Kalamunda in the knowledge that it will preclude us from moving our own amendments.

Amendment put and a division taken with the following result—

Ayes 14

Mr Blaikie	Mr Mensaros
Mr Cash	Mr Schell
Mr Cowan	Mr Thompson
Mr Crane	Mr Trenorden
Mr Grayden	Mr Tubby
Mr Hassell	Mr Wiese
Mr MacKinnon	Mr Williams

Noes 23

Dr Alexander	Dr Lawrence
Mrs Beggs	Mr Marlborough
Mr Bertram	Mr Parker
Mr Bridge	Mr Pearce
Mr Bryce	Mr D. L. Smith
Mr Brian Burke	Mr Taylor
Mr Carr	Mr Troy
Mr Donovan	Mrs Watkins
Mr Peter Dowding	Dr Watson
Mr Evans	Mr Wilson
Dr Gallop	Mrs Buchanan
Mrs Henderson	

(Teller)

(Teller)

Pairs

Noes

Ayes	
Mr Clarko	Mr Grill
Mr Laurance	Mr Hodge
Mr Lewis	Mr P. J. Smith
Mr Bradshaw	Mr Tom Jones
Mr Spriggs	Mr Thomas
Mr Rushton	Mr Read
Mr Watt	Mr Gordon Hill

Amendment thus negatived.

Progress

Progress reported and leave given to sit again at a later stage of the sitting, on motion by Mr Peter Dowding (Minister for Labour, Productivity and Employment).

[Questions taken.]

LEGISLATIVE ASSEMBLY CHAMBER

Television Cameras

THE SPEAKER (Mr Barnett): I advise the House that I have made an arrangement with three television stations to film the Legislative Assembly during question time next Tuesday.

I am also advised that George Hargadon, the attendant on the south door, turned 60 today.

Sitting suspended from 6.05 to 7.15 pm

OCCUPATIONAL HEALTH, SAFETY AND WELFARE AMENDMENT BILL

In Committee

Resumed from an earlier stage of the sitting. The Deputy Chairman of Committees (Dr Lawrence) in the Chair: Mr Peter Dowding (Minister for Labour, Productivity and Employment) in charge of the Bill.

Clause 12: Parts III to VIII inserted—

Progress was reported after the clause had been partly considered.

Mr PETER DOWDING: I move an amendment—

Page 13, line 3—To insert after “work” the following—

at the workplace, or a particular part of the workplace, concerned

The purpose of this amendment is to meet the objections raised by some members during the debate and which were identified as we were bringing the Bill to the Chamber. We intended there should be a limit on the effect of any direction to stop work to the actual point at which the imminent and serious harm to the health of any person occurred. It was always intended that that be the narrow ambit of the clause. We have always adopted a very responsible attitude on this proposal, and that can be seen by our attempt to limit the issue to that narrow area—the point at which the imminent and serious harm occurs.

Mr THOMPSON: The amendment is consistent with the view we expressed in the earlier part of the debate, and we support it.

Amendment put and passed.

Mr PETER DOWDING: I move an amendment—

Page 13, lines 5 and 6—To delete “at the workplace cease” and substitute the following—

cease at the workplace, or part of the workplace, concerned

Amendment put and passed.

Mr PETER DOWDING: There is very real concern on the part of the Government that the Opposition continues to misrepresent the Government's efforts to achieve consensus. I remember when Bob Hawke—

Mr MacKinnon: It was an abject failure.

Mr PETER DOWDING: I recommend to the Leader of the Opposition that he not use such words or people might start applying them to him.

Mr MacKinnon: Your leader does it all the time.

Mr PETER DOWDING: With some justification.

I think the point needs to be made that attempts to achieve consensus are not political buzzwords. They are about a process which is as far away from the member for Cottesloe as

Sweden is from Australia. Consensus is about getting people around a table in an attempt to reach an agreement without having the childish expectation that agreement will always be reached. It is an attempt to reach as much agreement as can be reached by this discussion process. However, in the end, the Government has the responsibility to make the decisions.

In this case we encouraged the tripartite process to the extent that, in a most remarkable way, the employers and the unions sat down together and discussed this legislation. Despite all the of the claptrap from the Opposition, the union movement and the employers' movements have achieved a remarkable degree of agreement with this legislation and it should be commended. It should not be belittled because there was no agreement about proposed section 25 or because the Government determined that there were four issues on which the committee could not reach an agreement and on which it should make a determination. A very substantial and remarkable degree of consensus emerged from the process.

The member for Cottesloe should admit that, under the style of Government that he and the Opposition were part of, that degree of consensus would not have been possible because the former Government did not give employers and unionists the opportunity to sit together with self-respect to discuss issues knowing that the Government would look closely and carefully at their recommendations and give them support to achieve some form of consensus. I was astounded not to hear the member for Clontarf, that mild-mannered dry-cleaner, say a decent word about the union movement. He could not even name a union of which he approved.

The Opposition is not prepared to give credit where it is due. All we have heard from it in this debate is what the building unions will do. If the Opposition wants to debate the building unions, I am happy to do so because few Governments and fewer Ministers have taken as much interest in achieving anything with those unions as I have. I challenge the member for Cottesloe to attend with me a meeting with the Master Builders Association which has been pleading with me to agree to extend the operation of the building arbitration system that was set up by agreement in 1984.

Mr Cowan: Is that invitation extended to anyone on this side of the Chamber?

Mr PETER DOWDING: The Leader of the National Party is welcome.

Mr Hassell interjected.

Mr PETER DOWDING: I now formally invite the member for Cottesloe to that meeting.

As I said, the degree of consensus that this Government has achieved would not be possible under a Liberal Government because it would not be prepared to allow such discussion to take place.

I wish to deal with a matter raised by the National Party. We have heard all sorts of myths about cowboys and indians, in more idealistic times, sitting down and saying good things to each other. Let me tell the Committee about Mr James MacDonald who changed his allegiances to join the Liberal Party and who is now standing for election to the Senate as part of the National team. He is a model employer! He has a list of all his employees and if anything is stolen from his restaurants the bottom employee is sacked instantly and replaced. If anything else is stolen, the next person is sacked, and so on up the list. That is the style of employer supported by the National Party. An "employer thug" is a good description of an employer who uses his economic power in that way.

Let us be frank about it. He is not only an employer, but also he is a member of the National Party. He defected from this mob—he ran away from it. Not only that, but also he has perhaps committed an illegal act by threatening to fine employees and deduct the fine from their wages regardless of whether they are guilty of committing an offence. Such a fine might be for leaving a table outside. If members opposite think that all employers are model employers, they are wrong. Does the Leader of the National Party approve of the system?

Mr Cowan: I approve of the system of employees being responsible for their actions.

Mr PETER DOWDING: The Leader of the National Party agrees.

Proposed section 25 is an integral part of the legislation and it is essential that it should remain in place so that the parties are in an equal position when confronted with imminent and serious harm to the health of any person.

Mr COWAN: I am sure I can speak about employees in the same way as the Minister spoke about employers. I will just remind the Minister about one or two things. Just as employers have a responsibility, so too do employees. The Minister would be the first person in this Chamber who would have to accept that an employee does have a responsibility. One of

those responsibilities is to make sure that he and his workmates do not become an accessory to, or become involved in pilferage or negligence.

Mr Peter Dowding: They were not even responsible. They got the sack.

Mr COWAN: They did not. Nobody in the particular example quoted by the Minister has been dismissed or sacked. It gives me great pleasure to tell the Minister that in regard to the case he quoted the pilferage that had occurred and the negligence that was prevalent have disappeared. Lights are no longer left on and the fridge doors are no longer left open.

I suggest to the Minister that he used a poor example. The Minister is saying that an employer has a responsibility—I accept that; but just as I accept that, the Minister must accept that employees also have a responsibility.

Mr Peter Dowding: I agree with that.

Mr COWAN: Why not accept it?

Mr Peter Dowding: Do you think it is appropriate to sack the whole lot of them—

Mr COWAN: No-one was sacked.

Mr Peter Dowding: —for the ills of one person?

Mr HASSELL: Madam Deputy Chairman—

Mr Cowan: The Minister went on a radio programme and said that we should not get into ideology on this Bill because we will get bogged down. Ever since we have been in Committee he has done nothing but tread along the ideology path.

Mr HASSELL: Not only has the Minister done nothing but raise and pursue his ideology, but also he has followed a deliberate course of misrepresentation and untruth in seeking to rewrite history.

I remind the Minister, when he talks about the Opposition's position when in Government, that it was his friends in the union movement who withdrew from the tripartite consultative machinery that Hon. Gordon Masters, as Minister for Labour and Industry, had established. They withdrew from it and played politics for months on end. They would not send representatives to meetings. The Minister wants to paint a picture which is utterly false. He is trying constantly to attack the Opposition's attitude to unions because it will not accept his legislation.

Dr Alexander: You are constantly attacking the unions.

Mr HASSELL: I am attacking the unions.

Several members interjected.

The DEPUTY CHAIRMAN (Dr Lawrence): Order! I ask that the cross-Chamber interjections cease.

Mr HASSELL: Let us get back to the facts. The last Liberal-National Country Party Government in this State, far from refusing to negotiate with the unions, sought to facilitate the very measures for which this Minister says he is solely responsible—discussions, consultation, and agreement.

The Opposition, when in Government, was not prepared to have the unions take over the running of the Government, unlike this Minister who has been defending the Builders Labourers Federation and its ilk for years and also unlike the Premier who continues to defend the BLF and its ilk, its tactics, and its behaviour. This Minister should not think that he can come into this Chamber and get away with those falsehoods about the Opposition's stance.

There are literally dozens of responsible unions which are prepared to work within the system.

Mr Peter Dowding: Which ones are they?

Mr HASSELL: I will give the Minister the name of one union which not always, but generally was responsible in the way it approached its work—the Australian Workers Union. There are occasions on which the AWU does go in the wrong direction, but in the broad sense it has, over the years, represented its members vigorously and has acted responsibly. However, there are other unions which are not in that position and those are the unions which the Opposition believes the Government has the responsibility to put under the control of the law. That is exactly the responsibility that the Minister and his mates will not fulfil.

When the Opposition takes up the cause of the people who are damaged by the illegal and irresponsible behaviour of the rogue unions, the response of this Government and its supporters is to attempt to paint a picture of the Opposition being anti-unions. It is not true. It is a falsehood.

The Opposition knows very well that the Minister has taken to Cabinet the issue of proposed section 25 knowing full well that it was not a matter on which there was agreement between the parties in any consultative or consensus-like discussions. It was a matter on which there was the very strongest feeling from

the employers' side, and rightly so, that there should not be incorporated a power for the safety representative to call a halt to work.

The Minister, acting at the behest of the irresponsible elements in the trade union movement, secured from Cabinet a decision to include this power. Of course, those irresponsible elements include the Australasian Meat Industry Employees Union—we saw that union in operation at Mudginberri, Albany, Robb Jetty and so on. Of course they want this sort of power.

Dr Alexander interjected.

Mr HASSELL: Clive Brown was secretary of the Prison Officers Union when I was the Minister for Police and Prisons and I have seen him in operation. Clive Brown can talk a lot of sense when he wants to and when he gets away from the pressures imposed on him by irresponsible elements.

Mr Marlborough: You had the same problem when you were Leader of the Opposition; you kept taking advice from your colleague in the upper House. As soon as you got away from him you were not bad on industrial matters, but you kept going back to him. Your document on deregulation was an absolute classic. If you were not the instigator of it, you were certainly the editor of the document. You were the leader at the time. Look at that for evidence of where you stand with regard to the trade union movement. It is an absolute disgrace. You talk about democracy in one section in terms of voting for union shop stewards on the job and your idea of democracy on the job site is that 80 per cent of the people on the site have to agree to have the union—not 50 plus one but 80 per cent. That is in your document and it is evidence of how people think about you.

Mr HASSELL: That was an interesting speech from the member for Cockburn. I want to remind the Committee about consensus and honesty and the nice things the Minister has trotted out, claiming that he has a corner on consensus. He claims the Labor Party is the only one which agrees with consensus and agreement and that everyone else wants to fight. I thought that the Opposition was concerned about getting the country working and not having 106 stoppages at Fremantle in less than 12 months. If we want to prevent the stoppages at Fremantle, we are accused of confrontation. I want to stop people continually disrupting our trade, but according to the Minister, that is confrontation.

Mr Peter Dowding: How many stoppages occurred at Fremantle during the America's Cup?

Mr HASSELL: We know about the deal the Minister did at Fremantle; we know that he bought off the unions. I invite him to stand and deny that a special deal was made with the waterfront unions to employ many extra people in return for keeping things in order during the America's Cup.

Mr Peter Dowding: The answer is that none occurred during that time.

Mr HASSELL: I ask the Minister to have the courage to stand and tell the truth about the deal he made with the Fremantle unions; at taxpayers' expense a whole lot of people were employed who were not needed.

I turn now to the speech made by the member for Cockburn: This is the guy who went through the Pilbara just before the last State election making the most outrageous and dishonest misrepresentations. That really measures his speech.

Mr CASH: I wish to comment on the Minister's summing up of the debate on proposed section 25. The Opposition raised some very important points in the hour or so taken to discuss this proposed section. It took the Minister something like six minutes to sum up and on no occasion did he address this proposed section. Instead he decided to make an outlandish attack on one of the National Party's Senate candidates. Not only did he make an outlandish personal attack—

Mr Cowan: The National Party candidate is not very worried about it and if this Minister wants to join Senator Walsh in the actions he is taking, that is his problem.

Mr CASH: I take the point made by the Leader of the National Party but I want to place on record that the outrageous attack by the Minister on that person, who I know personally and who will make a very good candidate in the Senate, indicated that the Minister was not prepared to utter the truth in respect of comments made in the newspaper. If the Minister wants to update his information on this matter he should read a copy of today's *Daily News* to read what the employees think of this person as an employer. It is clear that they are very happy with him and understand the general comments he was making and the need to run the business efficiently so that they keep their jobs. I understand that to a man and woman, they believe he is a very good employer and is trying to do the right thing by them as employees. This Minister cannot cop a

situation in which an employer can get on with his employees; where employees are prepared to stand up and be counted, say that their employer is not a bad bloke after all and they would like him to stay in business so that they keep their jobs.

The Minister failed to address the very important issues raised by the Opposition and instead relied on a personal attack on a man who is not in this Chamber and is unable to defend himself. There is no question that the Minister would not have the guts to walk outside this building and utter those same words without the protection of this Chamber.

Several members interjected.

Mr CASH: I commented the other night on the lack of trust that members on this side have in this Minister. It is very obvious from the comments he has made that he intends to use his jack boot tactics to ensure that this proposed section remains in the Bill. He is prepared to do that even if it means that the Bill will go to the other place, not be agreed to in its present form, amendments will be put forward, the Bill will be returned to this place and it will be referred to a Conference of Managers. This Minister will go to the point of throwing out the good aspects in respect of health and safety contained in this Bill in an attempt to retain what he wants and what he has obviously promised his militant union mates to pay back certain favours.

Dr Gallop interjected.

Mr CASH: I ask the member for Victoria Park to calm down; I will stop speaking if he will promise not to speak at 110 miles an hour so that I can understand what he is saying.

Dr Gallop: Do you believe we should act in this Chamber on the basis of what the other Chamber will do?

Mr CASH: No, I do not believe we should act in this Chamber because of threats or propositions that might be advanced as to what could happen in another place. If the member for Victoria Park were a realist and adopted the consensus attitude the Minister is proposing, he would have some understanding of what people in the community are saying with regard to this provision. Why should the good aspects be lost?

Dr Gallop: We are in Government.

Mr CASH: Does that mean that the numbers the Government has beat us and that no good proposition can be put up by any other person. Is that what the member is saying? He deceives

himself by the very comments he is making and indicates that his recent trip to Europe to listen and learn about industrial relations did not improve his outlook very much at all. That is pretty regrettable.

While the member for Cockburn tries to make his interjection heard, I remind the House that he is the person we sacked from the City of Stirling. We were not prepared to cop the industrial action that he was causing. We got rid of him years ago. I understand he later bobbed up at Fremantle and worked his way into this place; something the people of Cockburn now regret.

The City of Stirling was not prepared to accept the sort of industrial anarchy that he was persuading others to become involved in. We told him to pack his bags and get out; we did not need people like him. It was perhaps one of the best decisions the City of Stirling has made in recent years.

The Minister has ducked all the issues which the Opposition has raised. He wants to install in this legislation a situation of legal apartheid. That is to say, any health and safety representative will be able to do certain things which could not be done if he were not a health and safety officer protected by the provisions the Minister is trying to ram through this House. That is an absolute disgrace.

Mr Peter Dowding: Your life is a bit disgraceful one way or another.

Mr CASH: I do not know whether it is or not. That is for others to judge. If the Minister wants to talk about disgraceful things, give me an hour and I will let members know about various things he has done in his past; things that I have reminded him of before and things he is obviously ashamed of.

The evidence is clear that this clause will destroy the Bill. If the Minister were dinkum in wanting some consensus, he would agree with the proposition that this clause be not proceeded with at this time. If hell froze over we could perhaps bring the clause back into this Chamber and discuss it at some length. But that is not the way this Minister wants to do business. He must comply with the instructions he receives from others—and we all know who they are. It is not as if it is a secret. We understand the situation, but it does not say much for the Minister as an individual.

The DEPUTY CHAIRMAN (Dr Lawrence): Judging from the pace at which we have been moving through this Committee stage, despite an agreement to deal individually with each

portion of the clauses in which there were amendments, if we continue as we have with proposed section 25, it will be some time into August or September before we finish this Bill.

Might I seek the leave of the Chamber not to have a debate unless there is a specific amendment to be moved, and that will be debated in the normal fashion. At the end of each clause we can have a summing-up debate, as we have had on proposed section 25. We will deal with each clause as it comes up, with no debate unless there is an amendment, and a summing-up only at the end of the clause. Do I have the leave of the Chamber? Is leave granted?

Mr THOMPSON: I am happy with that proposition. Indeed, that was the course being followed until the Minister, after we dealt with the amendment I moved to clause 12, went into a general debate. The original agreement was that after we had made our initial comments on clause 12 generally we would not raise issues other than those tied in with amendments moved.

The DEPUTY CHAIRMAN: There have been other occasions when proposed sections have not been amended but members have spoken to them. I am suggesting that unless there is a particular amendment, members will not deal with a clause. This would prevent members from speaking about every section and subsection.

Mr THOMPSON: I am happy with that.

I would like to respond briefly to the Minister on this point, because, Madam Deputy Chairman, you will recall that I attempted to get the call at the same time as the member for Merredin and the member for Cottesloe.

The DEPUTY CHAIRMAN: I was aware of that.

Several members interjected.

Mr THOMPSON: If I had not been in this place for the best part of 17 years I would have been cut to the quick when the Minister said there was no inclination on the part of the Opposition to talk to the trade union movement on matters of mutual concern. I have spoken to the TLC on as many occasions as I have spoken to the Confederation of WA Industry.

Mr Peter Dowding: You are on your Todd Malone.

Mr THOMPSON: I represent our party in the area of industrial relations. That has been our approach, through me, on this piece of legislation. What the member for Cottesloe said about the relationship between the TLC

and the former Liberal Government is so true. The TLC spat the dummy out. This is really not conducive to achieving a harmonious relationship between a Liberal Government and the trade union movement.

I take offence at the remarks of the Minister. On this occasion I recognise that this tripartite process of getting the Bill up has been adopted. I have been at pains to ensure that we discover the view of the trade union movement.

I take the opportunity to make the point that we want to ensure that in the case of work ceasing in a particular part of an operation, the employees concerned do not go home but are transferred to some other part of the operation so that the employer has value for the wages that he pays.

The concerns expressed by the member for Cottesloe, when he referred earlier to the interpretation of "workplace" as it relates to stoppages resulting from a safety officer determining that work should stop, did not mean that everyone in that workplace should cease work, but only that a specific area where a stoppage occurred should be affected.

Mr COWAN: I move now to part IV, proposed section 29. This section gives an employee who works at the workplace the right to give notice to the employer requiring the election of a health and safety representative for the workplace. The National Party does not have any disagreement with the right of an employee to give that notice. However, we have a series of amendments, and this is the first of that series, which stipulates how the election will be held, which is by secret ballot.

Members of this Chamber may know that the National Party has very strong feelings about the use of the secret ballot, whether it be in industrial matters, occupational health and safety matters, or whatever. The objective of our amendment is to make it clear that any election to be held by employees for the health and safety representative shall be conducted by secret ballot. I move an amendment—

Page 15, line 6—To insert after the word "election" the following—

by secret ballot.

Mr THOMPSON: The Opposition supports the amendment moved by the Leader of the National Party. I am not sure how the Opposition overlooked placing that same amendment on the Notice Paper, because it firmly believes that secret ballots should be employed when dealing with all matters concerning employees and are the most appropriate way of

ensuring a fair result in any election. This is a matter that we will pursue vigorously when we return to Government with respect to a wide range of matters involving industrial relations. We certainly would like to see secret ballots included in this legislation.

Mr TRENORDEN: I have a few words to say about this amendment, which is not a matter of ideology; the fact is that there are plenty of workplaces where this safety representative will need to be elected from numerous unionists and non-unionists, and having worked in the electorate of Kwinana as a storeman, and having gone to a lot of these union meetings, I understand how they are run and how intimidating they can be; so it is important that the elections are run by secret ballot.

Mr PETER DOWDING: The Government does not regard it as appropriate to introduce this requirement into the legislation, bearing in mind the variety of workplaces concerned. What the Government has said in this Bill is that it is open to people who want to have a secret ballot for a safety representative to say that is what they want. For example, the employer could say that in the workplace there ought to be a secret ballot. If the participants in the work force disagree with the employer and do not want to have a secret ballot, then in the event of such disagreement the matter can be resolved by the commissioner, or if it is still not resolved it can go to the Industrial Relations Commission.

I do not rule out the prospect of secret ballots at all, but members have heard about the variety of workplaces, including small workplaces, and the Government considers it inappropriate to say there has to be a particular style of formality for every workplace in the whole of the State. It may well be appropriate to have secret ballots in some cases and not others, but that is a matter for the parties to decide, and if they cannot agree, a mechanism has been set up for that to be resolved. It is not appropriate that Parliament should impose that obligation and that restriction right across the board on the huge variety of people and workplaces involved in the legislation.

Mr Trenorden interjected.

Mr PETER DOWDING: This legislation is all about the broad brush, and if one takes the mechanic's shop up in the member's home town—

Mr Trenorden: Four or five people in a secret ballot—

Mr PETER DOWDING: —they might say they do not need it, that Fred Nurk can be the representative. There might be a work force of 600 people, who decide they do not want to have a secret ballot; Fred Nurk can be the representative.

Several members interjected.

Mr PETER DOWDING: I appeal to the National Party not to get carried away with the ideology of its leader. If an employer wants a secret ballot, he can request it. It is the employer's prerogative to say yes or no. That is open in this situation.

Mr Trenorden: It has to go to the commission if the committee disagrees.

Mr PETER DOWDING: Yes, but one would reasonably expect on what the member has said about this legislation and what the Government believes that the vast majority of workplaces will resolve this issue in a moment and get on with the business of working and making sure they have a safe working environment. In the odd case where that may not be the situation, the employers and employees can sort it out. If they cannot do that, a mechanism is provided.

Mr Cowan: With all due respect to the Industrial Relations Commission, why not just—

Mr PETER DOWDING: Because the Government anticipates that in probably 90 per cent of workplaces the issue will be resolved in the first two minutes of the obligation being—

Mr Hassell interjected.

Mr PETER DOWDING: Do not be so one-eyed. The Opposition supports its opposition to this Bill on the basis of a conspiracy theory. It cannot believe that the Government can have a genuine position on this. One keeps hearing all the time, "The Minister is in the clutch of X of the Trades and Labor Council or Y of this union." Anyone who is an observer of industrial relations in this State knows that I am about as much in the clutch of any individual union as is the member for Cottesloe. Members ought to hear the unions give their view of me.

Mr MacKinnon: Did you ever think you might have a problem?

Mr PETER DOWDING: I do not think so. The issue has been canvassed and I think members will see the Government's point of view, that in 90 per cent—

Mr Trenorden: The argument you are putting now is coming smoothly from you, but earlier when the boot was on the other foot it was not quite so smooth. I tried to argue with you yesterday, or the last time this debate was on, about precisely that point, and you were not so smooth.

Mr PETER DOWDING: On which issue?

Mr Trenorden: Earlier on in the debate on the Bill.

Mr PETER DOWDING: I am saying the mechanics of it are that 90 per cent of the time the matter will be resolved, but that is not the case in relation to workplace safety, because in 90 per cent of the workplaces people have to improve their occupational health and safety, so it is really the obverse of the situation. The mechanics of it are not going to matter to anybody. People are not going to get excited about it. There is no sort of hidden plan such as the one the member for Cottesloe perceives. It does not exist.

However, in relation to the necessity to focus people's attention on occupational health and safety, we do have a very different situation.

Mr Trenorden: The situation we were debating at that time was the need for committees in small workplaces, which is not a great deal different from the argument you are putting forward.

Mr PETER DOWDING: But I believe very strongly that we have to change the attitudes that exist in small workplaces so that people focus on the issue of safety.

Mr Trenorden: We have already had that argument and I do not wish to go through it again. You are using the same argument on both sides of the line.

Mr PETER DOWDING: I reject that very strongly, because what I am saying is that 90 per cent of workplaces would resolve these mechanical issues very easily, but that 90 per cent of workplaces must give some attention to the issue of occupational health and safety, which they do not do at the moment. If we impose a special requirement for the election, we impose a formality that is unnecessary for 90 per cent of the time, and for the other 10 per cent of the time—

Mr Wiese: You would do away with the formality of the ballot.

Mr PETER DOWDING: In the vast majority of businesses people will agree on it together, but on the few occasions when they do not and if the employer wants to insist on a secret ballot and the employees do not want that—and some of them obviously will not—we have provided a mechanism to resolve that matter.

Mr HASSELL: If ever there was an issue which shows up the Government, it is this one. The Minister stands up and speaks in modulated tones, professing to be the soul of reason and expressing his concern about occupational health and safety; but when he comes to the question of having a secret ballot, the answer is no.

Mr Peter Dowding: It is not no; the people decide.

Mr HASSELL: And what is his reason for that? "Because that is a formality we would not want to impose." The Minister does not want to have a secret ballot provision in the legislation. There is absolutely nothing involved in having a secret ballot that would by one iota diminish the effectiveness of this legislation in the promotion of occupational health and safety—nothing! What it would do, of course, is underline that the responsibility for occupational health and safety rests with the employees in the workplace, not with the trade unions. But this Minister—this man who is in the clutches of his ideology and who cannot see anything but the trade union point of view—will not contemplate having a secret ballot provision.

I lay it down very simply and clearly that we are totally committed to the view that workplace people individually have rights and responsibilities. One of those rights is that their representative should be elected by an electoral process that is honest; and that is not happening today in the workplaces where the trade unions dominate. Decisions are being made by shop stewards, in effect, and the workers are told what those decisions will be. That is the reality.

This clause is the first step in the total process that the Minister has concocted to make sure that occupational health and safety representatives are in fact union representatives and not employee representatives.

Dr Alexander: Are not union representatives also employee representatives?

Mr HASSELL: Not always. They sometimes come from outside. The member for Perth has only to look at these provisions. The provisions

presented by this Government say that if a workplace has 50 employees and two of those are trade unionists, those two unionists will have total control of the discussions leading up to the appointment of occupational health and safety representatives. Even the Minister has had to back away from that—by his own amendments he has conceded that he has gone too far. Even this Minister—this blinkered ideologist—has had to move back from that position.

Right here in this clause we have the first test of the bona fides of this Government and this Minister, and that test is whether they are really concerned about occupational health and safety or whether they are concerned about union power. Once again the truth comes out; they do not want to have a secret ballot provision because the trade unions do not want to have it. It is as simple as that.

We are committed to the principle of secret ballots for the people in the workplace, in relation to both this sort of issue and industrial action and union elections; and the sooner it is introduced the sooner we will radically improve the industrial relations system in Australia without any governmental interference whatsoever, except the interference required to ensure there is a proper and fair secret ballot.

I support the amendment.

Amendment put and a division called for.

Bells rung and the Committee divided.

Remarks during Division

Mr THOMPSON: Madam Deputy Chairman, I think it is inappropriate for there to be this hubbub going on while you are trying to put the question. Surely when the Deputy Chairman is speaking there ought to be silence.

Mr Pearce interjected.

The DEPUTY CHAIRMAN (Dr Lawrence): Order! I am in the best position to judge whether the other members in the Chamber can hear the amendment being put. I thank you for your helpful advice, but I was not under any duress at that stage.

Result of Division

The division resulted as follows—

Ayes 15

Mr Blaikie	Mr Schell
Mr Cash	Mr Spriggs
Mr Cowan	Mr Thompson
Mr Crane	Mr Trenorden
Mr Grayden	Mr Tubby
Mr Hassell	Mr Wiese
Mr MacKinnon	Mr Williams
Mr Mensaros	

(Teller)

Noes 23

Dr Alexander	Mr Marlborough
Mrs Beggs	Mr Parker
Mr Bertram	Mr Pearce
Mr Bridge	Mr Read
Mr Bryce	Mr D. L. Smith
Mr Burkett	Mr Taylor
Mr Carr	Mr Troy
Mr Donovan	Mrs Watkins
Mr Peter Dowding	Dr Watson
Dr Gallop	Mr Wilson
Mrs Henderson	Mrs Buchanan
Mr Gordon Hill	

(Teller)

Pairs

<i>Ayes</i>	<i>Noes</i>
Mr Clarko	Mr Grill
Mr Laurance	Mr Hodge
Mr Lewis	Mr P. J. Smith
Mr Bradshaw	Mr Tom Jones
Mr Court	Mr Thomas
Mr Rushton	Mr Brian Burke
Mr Watt	Mr Evans

Amendment thus negatived.

Points of Order

Mr THOMPSON: I have an amendment on the Notice Paper in my name, to delete certain words on page 15, lines 9 to 25. I point out that the National Party has an amendment which also deals with the same group of words. However, the amendment to be moved will be simply to delete words with a view to putting others in. To that extent, the two amendments are parallel and unless the Leader of the National Party is about to slash his wrists, I will move it.

Mr COWAN: We want to proceed with our amendment. I notice the Minister has an amendment preceding my own on the addendum to the Notice Paper, which goes straight to line 16, whereas I want to deal with lines 9 to 25. I am aware the member for Kalamunda also wants to deal with lines 9 to 25. If that is lost, I assume I will be given the call before the call is given to the Minister to move his amendment.

Mr PETER DOWDING: The amendment moved by the member for Kalamunda will be to delete certain words. If that fails, there will be a move to substitute the words in the

National Party's proposed amendment because that also requires the same question to be put and that certain words be deleted. If the motion to delete lines 9 to 25 fails, both those amendments will fail.

The DEPUTY CHAIRMAN (Dr Lawrence): Given that there are a series of deletions in the Minister's amendment, we will have to deal with those in sections.

Mr PETER DOWDING: Can I suggest that if that is a difficulty, with the indulgence of the two members, we can deal with my amendments first. If they are successful we can then move to delete certain words; and if they are not deleted then the member's amendments fail.

The DEPUTY CHAIRMAN: I am advised that we cannot go backwards in that way. The way to handle it would be to take proposed section 30(1) first. If we fail to delete that, then we move on to the next one where the Minister will be proposing deletions. Given the complexity of this matter, we should try to deal with the general issues of substance rather than speak to each of those proposed amendments. I will put them as separate questions.

Mr COWAN: If the member for Kalamunda moves to delete those words and gives his reasons for wanting to do so, am I entitled to give my reasons?

The DEPUTY CHAIRMAN: It would be more helpful to do that because the Minister will be seeking to delete other words.

Mr PETER DOWDING: As long as my right is preserved to delete other words.

The DEPUTY CHAIRMAN: Yes, it is.

Committee Resumed

Mr THOMPSON: I am pleased members have come to the point of view that I held at the outset. Whatever the question before us, the same speeches will be made. I move an amendment—

Page 15, lines 9 to 15—To delete those lines.

The Opposition is concerned about the special attention that is paid in this legislation to people who are members of the trade union movement to the detriment of employees who may not be. That is the crux of this and other amendments on the Notice Paper. We believe it is appropriate for any trade unions which have employees in a particular workplace to be duly notified of the requirement to elect a

safety representative. We do not accept that they have any greater privilege in the process than other employees.

There is, as I said repeatedly through the debate, a lot of disquiet among employers that this legislation is a backdoor method of giving some greater advantage to the trade union movement in a way that could advantage it in industrial disputes; and that is central to the amendments we have proposed.

In most cases, particularly with small employers, the role of the trade union movement is a fairly minimal one and some employers are fearful that the provisions contained in this legislation will mean a greater role played by the trade union movement and that there will be more interest shown by the trade union movement in the affairs of its operations.

The tendency in Australia is for there to be a decline in the membership of the trade union movement. I would not do anything to see that happen because I believe implicitly in the trade union movement. I believe it has a very important role in our community. What I will continue to vigorously oppose is the misuse of union power. There have been many examples of that.

The legislation before us is perceived by many employers to create a situation where the trade union movement receives a walk-up start in the process of electing safety representatives. That is not accepted by the bulk of employers.

Mr COWAN: While I am talking about the deletion of the same lines from the Bill, I am doing so for the National Party's own reasons. That is, the National Party sees no reason to give any preference to union members over and above other employees at the workplace.

I recognise that the Minister has some amendments which will change that to some extent, but I think that that amendment does not quite make the changes the National Party wants to see made. My reason for deleting the lines is to insert new words and just the one new subsection rather than the three subsections we were talking about, which really says that where an employer is given notice under proposed section 29, he must then invite the employees to elect, by secret ballot, a delegate or delegates from among their number to represent them.

There is just one recognition given; that is, that they are all the employees at the workplace and there is no specific differentiation between union members, non-union members, or part thereof. They are just employees, and if they

want to have a health and safety representative, the employer within 21 days must say, "Right, you can have one", and he or she can be elected by secret ballot. That is the reason the National Party wants the words deleted.

Again this complements what the National Party sought to do with regard to the previous proposed subsection. We feel strongly about this—just as strongly as we did a few moments ago—and we will seek to delete those words for the purposes of including our own amendment.

Mr CASH: I support the amendment to be moved by the member for Kalamunda.

Quite clearly the legislation, as it is drafted at the moment, gives undue support for and recognition of both unions and union members. It seems to me that if we are really interested in the concept of improving health and safety within the workplace, there is no need to encourage employees to discriminate against each other. I cannot see any value in preferring as a delegate a person who is a member of a union, against somebody who is not a union member.

Mr Peter Dowding: That is not the effect of the amendment.

Mr CASH: No, the amendment is doing exactly the opposite, but it is the effect of what is written in the legislation at the moment.

Mr Peter Dowding interjected.

Mr CASH: We are dealing with the member for Kalamunda's amendment. There was a 15-minute discussion a short time ago; and I am surprised that the Minister did not realise then what we were doing and the methods we were going to use to deal with the legislation. In fact I thought he agreed to it at one stage. The way the legislation is written at the moment gives an unfair advantage to unions. It discriminates against those who are not members of unions and I do not think it is designed to assist the general concept of health and safety in the workplace.

Mr PETER DOWDING: The amendment to delete the words is opposed by the Government. The amendments proposed by both the Liberal Party and the National Party are not satisfactory. I foreshadow changes which I think will meet the objections which have been raised, and when this matter is dealt with, I will address that issue.

Mr HASSELL: The Minister cannot help himself. There has not been one minute of this debate when this Minister has been prepared to meet the arguments put by the other side in a reasonable way.

Mr Peter Dowding: Yes, I have; I have amended the Act at your request.

Mr Pearce: How many amendments did you accept when you were a Minister?

Mr HASSELL: Many amendments.

Mr Parker: Name one.

Mr HASSELL: The Prisons Act.

Mr Parker: Amendments from the Opposition?

Mr HASSELL: Yes. I also accepted amendments from the Opposition in respect of the Misuse of Drugs Act.

Several members interjected.

Mr HASSELL: I direct this comment to the Minister for Minerals and Energy: The Liberal Party when in Government accepted many amendments. If it did not always accept the drafting of the Opposition, at least it accepted the ideas which were put forward. The Minister for Labour, Productivity and Employment accepts none of the ideas put forward. If the Minister said he did not like the drafting of some of these things—

Mr Peter Dowding: I just said I have foreshadowed an amendment which will deal with the position you raised.

Mr HASSELL: What is wrong with those amendments?

Mr Parker: You just said that if we didn't like the drafting we could do it again.

Mr HASSELL: This amendment once again is a crucial test for the Government. Is it that the Government is concerned about occupational health and safety, or is it really concerned about the position of the trade unions in the workplace?

Mr Wiese: Don't you know by now?

Mr HASSELL: It is becoming pretty clear, but we must keep reminding the Government because it has some slow learners in it, and they do not readily acknowledge that this legislation is in truth to give the unions more power. It is about the position of trade unions in the workplace, particularly in the workplace of small business.

Mr Peter Dowding: Don't they have a position in the workplace?

Mr HASSELL: It is particularly designed to assist them to expand their membership base through the influence they will exercise in procedures laid down for occupational health and safety. Once again that is underlined by the attitude of the Minister to these amendments, whether they be Liberal Party amendments or

National Party amendments. All we are seeking to do is to say that when a delegate is to be appointed to talk about the election of a safety representative, that delegate should be elected by the employees. That is what occupational health and safety is about; that is what joint responsibility is. The employees who will carry out the election will include the shop stewards, union members, and all the people who are employed at the workplace, but the Government will not accept that.

As far as the Government is concerned notice has to be given to an outside body. Why does the Government want an employer to give notice to an outside body? It is because the Government wants to get that outside body involved.

Mr Peter Dowding: It already represents those workers.

Mr HASSELL: The Minister has already made his speech; he said very little, yet he wants to now make a speech while I am talking.

I well recall the situation of a client of mine some years ago who owned a sophisticated machinery shop which employed 50 or 60 people. That employer was a very liberal-minded man who dealt with his employees on a fair basis. He left it entirely to them to decide whether they wanted to belong to a union. However, the unions came along and enforced a closed shop on him. They cut off his business supply lines because he was involved in a north west development, and he was forced to allow the union in.

Mr Marlborough: Would you ever agree to a system with a closed shop?

Mr HASSELL: Yes, I think that if one has a system in which people voted for that in a secret ballot, in certain circumstances one could agree to that.

Mr Marlborough: Was that your policy?

Mr HASSELL: It was part of my policy, but it depends on the system one has. One should not have a closed shop situation where employees are organised in the way they are under the system we have now because people should have the right to choose.

Mr Marlborough: But if you have a secret ballot where a majority of 50 plus one voted for a closed shop, would you agree to that enterprise being a closed shop?

Mr HASSELL: I can imagine circumstances where that could be an acceptable system, but one has to recognise that the converse of that is that where one has a situation in which there

are 50 employees, and a majority then votes to have no unions, that also applies. One either has a closed shop or a non-union shop.

Mr Marlborough: Would you agree to a simple majority being able to carry it?

Mr HASSELL: No, not in that situation, because one would be denying the minority their rights altogether. Their right under law as it stands is to choose whether to be in a union or not, and I basically support that proposition. When we were formulating our policy we looked at what the Government calls "industrial realities", and the reality is that in the big iron ore operations, for instance, there is historically an overwhelming union membership. When one individual stands up in those circumstances and says, "I will not belong to the union", it takes more than the law as it now stands to protect his rights. We were trying to cater for that by saying that in a situation where there is an overwhelming preponderance of union membership and a vote is taken, one allows that to be a closed shop and recognises the industrial reality.

Mr Peter Dowding: What sort of percentages do you regard as appropriate for that?

Mr HASSELL: I think we nominated a pretty high percentage—80 per cent. If the Minister were dinkum in asking I would not mind, but I know he is only fooling around.

Mr Peter Dowding: I am not; I am dinkum.

Mr HASSELL: We looked at that high percentage because our policy in that respect was directed at those sorts of sites where the union membership would be 98 per cent, if not 100 per cent. If one were to accept that principle, which involved backing away from our fundamental belief in voluntary unionism—it was a concession we were making to a situation; one is talking about Paraburdoo or Pannawonica—it is not unreasonable to say it should be an 80 per cent majority because the union membership is 99.9 per cent anyway. That is the answer to the Minister's question, and I take it the question was genuine, because he said it was.

Let us come back to the clause. In the case of the people I was talking about where an employer had 50 or 60 workers and only a few were members of the union, it was nothing to do with the employer—he took the view that if they all wanted to join the union they could, and if they all wanted to leave the union they could leave; that was their right. That is a legitimate attitude. However, out of those 50 or 60 employees only half a dozen may belong to a union—it is a common situation in middle-

ranking business in Western Australian and Australian industry generally. The Minister is seeking with his amendments to preserve the situation in which, when it comes to the election of a delegate as the first step to having a safety representative, a union representing three or four people—and there may be three or four unions—will be called in.

Mr Peter Dowding: To do what?

Mr HASSELL: To become involved in the process; to be notified, to be part of it. Let the 50 or 60 workers who are intelligent, capable people—they are working—

Mr Peter Dowding: They might not be.

Mr HASSELL: They are quite capable of making a decision as to who they want to represent them. That little interjection by the Minister really shows up his attitude. He said they might not be capable of deciding who should represent them. What a give-away! The only people capable of deciding who should represent them, the Minister believes, are the unions.

Mr Peter Dowding: I didn't say that at all.

Mr HASSELL: That was a very interesting interjection. The Minister does not trust them because they might not go for the union option. The Minister has really let the cat out of the bag with that interjection. The truth is these provisions represent the essence of the Government's union position—it does not trust the workers to pick someone to do the job; it calls in the union, and the union is able to involve itself. So a workshop in which there is practically no-one who is a union member—there may be one or two—suddenly becomes a place in which the union has an involvement in the vital issue of the management of safety.

Of course in a place like the one I am talking about, a machinery shop, the safety issues are real and large on a daily basis. The particular shop is one of those which has a big sign which is constantly updated, showing the number of days since the last accident and the number of days since the last serious injury. They are very conscious of it and are working on it all the time.

What the Minister is seeking to do through this legislation is to make sure that the unions become directly involved in that machinery shop, not just for safety purposes but so they can extend their influence and power. That is what it is all about, and the Minister's rejection even of consideration of the principles we and the National Party have put forward shows what the Minister is really about. He can make

all the nice speeches in the world, but the truth is that he is not here about occupational health and safety, but in this provision of the legislation—not all the Bill is bad, of course—

Dr Gallop: Do you think unions ought to be involved in occupational health and safety?

Mr HASSELL: As a general proposition, yes. Of course they should.

Dr Gallop: Should they take an active interest in it through their local shop stewards?

Mr HASSELL: I would think so, yes. I would think their local shop stewards are quite capable of consulting their unions in relation to an election that is being held if they want to. Why should the employer be given an obligation to notify the union? Why cannot the shop steward notify the union, or the union members on the site?

Dr Gallop: I think unions ought to be institutionalised in the system.

Mr HASSELL: Yes, I know that is exactly what the member thinks. He thinks every worker should be required to belong to the union and the union should be institutionalised in the system. Again that is a very valuable interjection. Members opposite believe unions should be institutionalised. They do not want unions to have a voluntarily acquired membership working to represent their members in the workplace and negotiations, and so on. They want unions institutionalised in government, in the workplace, and in every other way. The member has really hit the nail on the head, just like the Minister did when he said by way of interjection that one could not rely on the workers being intelligent people capable of electing their safety representative. They are intelligent enough to have a vote in Federal or State elections, but one cannot trust them to elect a colleague to be a delegate to discuss safety issues.

We have had a very valuable few minutes because the attitudes of this Labor Government are being shown up more and more the further we go in the debate. Although it is laborious to have such a long debate, and we find it just as laborious as the Minister does, it establishes the issues and reveals what is going on. The Government is really shown up by its attitude to this proposed section in the Bill.

Amendment put and a division taken with the following result—

Ayes 15

Mr Blaikie
Mr Cash
Mr Cowan
Mr Crane
Mr Grayden
Mr Hassell
Mr MacKinnon
Mr Mensaros

Mr Schell
Mr Spriggs
Mr Thompson
Mr Trenorden
Mr Tubby
Mr Wiese
Mr Williams

(Teller)

Noes 23

Dr Alexander
Mrs Beggs
Mr Bertram
Mr Bridge
Mr Bryce
Mr Carr
Mr Donovan
Mr Peter Dowding
Dr Gallop
Mrs Henderson
Mr Gordon Hill
Dr Lawrence

Mr Marlborough
Mr Parker
Mr Pearce
Mr Read
Mr D. L. Smith
Mr Taylor
Mr Troy
Mrs Watkins
Dr Watson
Mr Wilson
Mrs Buchanan

(Teller)

Pairs

Ayes

Mr Clarko
Mr Laurance
Mr Lewis
Mr Bradshaw
Mr Court
Mr Rushton
Mr Watt

Noes

Mr Grill
Mr Hodge
Mr P. J. Smith
Mr Tom Jones
Mr Thomas
Mr Brian Burke
Mr Evans

Amendment thus negated.

Mr PETER DOWDING: I move an amendment—

Page 15, line 16—To delete “none of the employees who work at a workplace is”.

Amendment put and passed.

Mr PETER DOWDING: I move a further amendment—

Page 15, line 16—To substitute for the words deleted the following—

any of the employees who work at a workplace is not.

Mr HASSELL: I would be grateful if the Minister would explain to the Committee the effect of the two amendments.

Mr PETER DOWDING: I detected a lack of understanding in the member's last comments to the Committee, but I did not think it was that serious.

It was decided that where there is a mixture of union and non-union members in a workplace, the employees who were not trade union members should have the opportunity to elect delegates to represent them.

Mr HASSELL: Is a fair interpretation of the amendments to give all employees a vote in the election of delegates, and to separate employees who are members of unions from employees who are not members of unions? What do the

amendments really achieve? Is the Minister suggesting that all employees will get a vote to elect a delegate or is he saying separate delegates will be elected by employees who are members of unions and employees who are not union members? Is a delegate elected from every union represented in the workplace?

Mr PETER DOWDING: The amendment is clear. Non-union members of a workplace will have the opportunity to appoint a delegate. The unions' position in the tripartite process was that they wanted to run the elections for health and safety representatives. The Government's view was that that should not be allowed to happen and that delegates should be appointed by unionists and non-unionists, to give all employees a voice. The fact is that unions are involved in occupational health and safety and workers who are not members of a union should have the opportunity to elect a delegate whose job would be to participate in the election of a health and safety representative.

Mr Hassell: Suppose there are 50 employees in a workplace with five employees belonging to five different unions. How many delegates would be appointed? I am suggesting that the other 45 employees do not belong to any union.

Mr PETER DOWDING: It would depend on whether each trade union sought to appoint a delegate.

Mr Hassell: I am talking about the maximum.

Mr PETER DOWDING: Each trade union represented in that workplace would have a delegate whose job it would be to participate in negotiations with employers on issues surrounding appointments and the election of health and safety representatives.

Mr Hassell: The other 45 non-union members would have one delegate.

Mr PETER DOWDING: Yes.

Mr Hassell: So the unionists would have five delegates representing five employees and the non-union members would have one representative representing 45 employees?

Mr PETER DOWDING: The member does not understand that they do not vote; they discuss issues.

Mr Wiese: They look for consensus!

Mr PETER DOWDING: Precisely. If they cannot obtain it, the matter is determined elsewhere. People do not have an unfair advantage because they do not vote.

Dr Watson: Sotto voce does work.

Mr PETER DOWDING: Yes, it does. I know it works, and most people know it works. If somebody wanted to take a purely political line, he would laugh at the amendment.

The fact is that employees will get exactly what they want. What is wrong with an input from the union members?

Mr Wiese: There are five inputting in this case.

Mr PETER DOWDING: So what! The one non-unionist delegate could say that whatever was decided was not what he wanted. What happens then? The matter is resolved by the commissioner.

Mr Hassell: The commission that is always so keen to look after the non-unionists!

Mr PETER DOWDING: The commissioner will act as a mediator.

Mr HASSELL: I understand the reason the Minister did not want to explain his amendment, and that is why I had to extract the information from him like a dentist extracts a tooth. I am not talking about a fanciful example. It is not uncommon at a workplace which employs 50 people to have 45 employees who do not belong to a union, one employee who belongs to the transport union, another who is a member of a building union, another who is a member of the Storemen and Packers Union, and the other two each belonging to different unions. Five out of the 50 employees are members of different unions. If the employees elected delegates to represent each group there would be six delegates in all—one representing 45 employees and the other five each representing the union of which they are members.

So much for this Government's belief in one-vote-one-value—it is called, "Let the people decide."

Mr Peter Dowding: They do not vote.

Mr HASSELL: The Minister may rave on as much as he likes, but he cannot tell me that there is no union influence.

Mr Peter Dowding: They do not vote.

Mr HASSELL: So what if they do not vote?

Mr Read: You said, "So much for this Government's belief in one-vote-one-value." Is there a vote?

Several members interjected.

The CHAIRMAN: Order! If we are to be out of this Chamber before breakfast, I will hear only the speaker who is on his feet, and when he invites comment from the Minister handling

the Bill, I will accept the Minister's comment and I will not refer to it as an interjection. If 17 members think they will interject, at least half of them will enjoy 24 hours' holiday before the night is out.

Mr HASSELL: The Minister can report progress at any time he likes. After all, the Government runs the business of this Chamber.

The member for Mandurah obviously has a little difficulty understanding simple propositions. Some people in the workplace situation to whom we are referring do vote.

I have given an example of a workshop which employs 50 persons. Forty-five of the employees vote for one delegate, and the five remaining employees are appointed delegates because they each belong to different unions. Theoretically, that situation would be achievable under this legislation.

I ask the member for Mandurah how that situation squares with the Government's principle of one-vote-one-value? I also ask him how it squares with the principle of justice and fairness?

Members should understand the situation clearly. The Minister has conceded that in a workplace which employs 50 people, 45 of those employees do not belong to a union, but the remaining five each belong to a different union. The employee who handles despatch belongs to the Storemen and Packers Union, the employee who drives the truck belongs to the Transport Workers Union, the employee who carries out the maintenance and repairs belongs to a building union, the employee who works in the kitchen belongs to the caterers union, and so on.

The situation arises where employees are requested to choose delegates to discuss with the employer the establishment of a health and safety representative system. What would be the situation? The five employees who belong to different unions are each entitled to be elected as a delegate. In those situations the election of delegates would not be required by secret ballot. Do those delegates have to be employees of the employer concerned? Perhaps the member for Mandurah can tell members the answer.

Mr Parker: Yes, they do.

Mr HASSELL: Is the Minister for Minerals and Energy sure about that?

Mr Parker: I am quite confident of it.

Mr HASSELL: That is good. I want members to have a clear understanding of the situation. One delegate of the six delegates required would be elected by the 45 employees who are non-union members, and the remaining five employees, who are members of different unions, would also be delegates. That is the situation that would prevail according to the legislation for which we are about to vote.

Mr Read: Are the views of each of those groups represented?

Mr HASSELL: I suppose they are. If a delegate happens to be one of the five employees who belongs to a union, naturally he would have better representation. It is interesting that the member for Mandurah is making that point.

During the years that I have been in this Chamber I have often heard Government members speak about the value of votes in the Murchison-Eyre electorate compared with the value of votes in the Murdoch electorate. It has been said that a vote in Murchison-Eyre is worth 12 times that of a vote in Murdoch. However, when it comes to the question of health and safety in the workplace, in which union people are involved, we could have five delegates representing five people and one delegate representing 45 people. What a revelation about the principles of this Government! The Minister, knowing that the legislation was loaded, introduced this amendment, but it will leave the Bill as undesirable as it was before the amendment.

Mr Crane: It is a Clayton's amendment.

Mr HASSELL: Not only is it a Clayton's amendment, but also it is misleading. I had to extract from the Minister what it meant. He did not want to tell members. It is a disgrace and it just shows what the legislation is about. It is not about effective occupational health and safety; it is about union power and influence in the workplace—it has been all along, it is now and, at the end of the night, it still will be.

The Minister does not want the member for Victoria Park to interject. He had better shut up or he will be in serious trouble with the Caucus.

The member for Canning, who spent five years working on this legislation, is not allowed to say a word. Talk about one-vote-one-value!

Mr Taylor: Who are you talking about?

Mr HASSELL: The member for Canning. The only thing she is able to do is to whisper in the Minister's ear.

This legislation is a very serious matter. This clause, once again, shows what the Government is about. This legislation is, as I said, not about occupational health and safety; it is about union power and influence in the workplace.

Mr CASH: What a classic example of the slippery eel at work. The Minister has moved his amendment and tried to slide it through without allowing the Committee to know what his views are on the effect of this amendment. He did not want to say to the Committee that he had heard the comments made outside that the Opposition thinks this legislation is weighted in favour of the union members and discriminates against non-unionists.

Clearly, the Minister decided that perhaps if he did not do anything, the Opposition would spend a lot of time ramming that down his throat, so he produced an amendment and thought he would be able to convince the Committee, if required, that the amendment will address the concerns of the Opposition. He said nothing hoping that no-one would look at the real effect of this amendment.

Quite clearly, the member for Cottesloe has shown that if 45 non-union members are employed they will have one delegate and if five other employees are members of separate unions, they could be represented by five different delegates. That demonstrates the hypocrisy of the Minister who a few minutes ago talked about consensus. He does not want consensus, he wants to ram this Bill through no matter what. If he can get away with his amendment by not justifying it to the Committee, he will do so. That was clearly shown the other day when section 14 of the principal Act was amended to change the word "shall" to "may". The Minister claimed it would have very little effect but I believe it has a dramatic effect; it is another indication of the way this slippery eel will slip and slide as long as he can get his way.

Mr COWAN: The National Party believes that if it is possible to quantify or qualify discrimination, the amendments moved by the Minister are marginally less discriminatory than the original subsection. We like the proposed subsection in its amended form marginally better than we liked it in its original

form. We would have preferred to have moved our own amendment to this subsection, but we have been denied that opportunity.

Because the amendment gives a greater opportunity for non-union members to have a delegate in the group that becomes involved in the election, we regard it as the lesser of two evils. We are prepared to support the amendment.

Amendment put and passed.

Mr PETER DOWDING: I move an amendment—

Page 15, lines 24 and 25—To delete “employees who work at the workplace to represent the employees” and substitute the following—

its members who work at the workplace to represent them

Amendment put and passed.

Mr PETER DOWDING: I move an amendment—

Page 15, line 33—To delete “where subsection (2) applies” and substitute the following—

where none of the employees who work at a workplace is a member of a trade union

Mr HASSELL: I ask the Minister to explain precisely what he means by this amendment.

Mr PETER DOWDING: This is a continuation of the adjustment made with the agreement of the Confederation of Western Australian Industry and the Trades and Labor Council after the Bill had been printed. It amends proposed subsection (4)(c) by inserting certain words. This applies to proposed subsection (4) which will now read that the matters requiring to be determined under this section in relation to an election are—

where none of the employees who work at a workplace is a member of a trade union, the person by whom and the manner in which the election is to be conducted.

In situations where union delegates are in place the matters are determined other than under this proposed section.

Amendment put and passed.

Mr COWAN: I move an amendment—

Page 16, line 16 to page 17, line 9—To delete those lines with a view to substituting the following—

31(2) An election shall be conducted by secret ballot in accordance with any determination under section 30.

We are now dealing with the election of the health and safety representatives and, once again, because of our preference for secret ballot provisions, we seek to remove these proposed subsections.

The purpose of this amendment is to remove any specific preferential treatment for trade unions, and it merely states that the election of a health and safety representative or representatives shall, in fact, be conducted by all the employees by secret ballot.

Mr THOMPSON: The amendment moved by the Leader of the National Party is in line with our policy on elections conducted in this type of situation. We therefore support the amendment.

Mr HASSELL: The Minister may groan as much as he likes, but we are talking about a very important principle, and that is how one does things among a group of people entitled to have a say. Is there any reason in the world why the workers cannot have a simple, secret ballot election for their safety representative? Why must the election be conducted by the trade union?

There might be 100 employees in a place. One belongs to a union. If that is so, that union is entitled to conduct the election and put forward a delegate. Why is the union put in that position?

Nothing is clearer than that the Government wants to give unions an undue influence in these matters—an influence to which they are not entitled. Let the Minister explain why it is that a trade union has the right to conduct an election where 99 per cent of the employees do not belong to any union at all? What an insult it is to the ordinary decency of the community to impose this sort of organisational matter on people in a workplace!

The Leader of the National Party has moved very simply to delete those words with a view to providing for a secret ballot of the workers to elect their representative. That would cover everyone. Members of unions, shop stewards, and those who are not members of unions will all have a vote. The cleaning lady will have a

vote. All of them will have a vote because they are the employees in that workplace and they will elect their safety representative.

Why is the Minister insisting so determinedly that the unions will have predominance in this situation? If he had said that unions should conduct the election where more than half the employees were members, we would probably still have an argument, but there would be some logic in his stance. There is no logic in his present stance; there is merely a desire on his part to put the trade union movement in a privileged, preferential position, above the employer, above the employees who do not belong to a trade union, and above the generally accepted standards of the community.

Perhaps there is some reason we have not gleaned which the Minister will explain why the unions should be put in a preferential position. Could the Minister please explain his objection to workers in a factory, in a shop, in a legal office, in an accountant's office or anywhere being able to have a secret ballot to determine their safety representative? In what way does it diminish occupational health and safety as he envisages it? What does he find offensive to the propriety of occupational health and safety in what the Leader of the National Party has put up?

Mr Cowan: Show us the democracy you support!

Mr HASSELL: What is wrong with workers in the workplace electing through secret ballot their health and safety representative? That is what the Minister has indicated he will reject.

Will the Minister respond when I sit down? Will he explain what is wrong and what offends him about this important proposal? A basic, democratic proposition has been put forward. In a workplace with 100 people, 95 do not belong to a union, five do, but those people are not permitted to elect a health and safety representative by secret ballot. In what way does this undermine the Minister's belief in occupational health and safety?

Mr CASH: Quite obviously the Minister does not wish to respond to the calls of the member for Cottesloe. I guess this demonstrates the arrogance that he shows towards the very positive comments made by the Opposition on the various amendments put forward.

If and when this Bill reaches another place, if those members decide to continue basically the same issue, and that is the right of employees to conduct a secret ballot among themselves to choose a representative or a delegate, they will

not be able to turn to *Hansard* and understand why this Minister was not prepared to accept such an amendment. Even though he is not prepared at this stage to advise us why a secret ballot is not on his agenda as far as employer-employee relationships go, if that other place amends this legislation it will be this Minister who rises in this place and harangues those members in the other place who have dared to make positive amendments to this Bill.

I put it to the Minister now, that it will not be much good—

Mr Peter Dowding: Why do you say there is no provision for a secret ballot?

Mr CASH: We have almost got the Minister talking!

Mr Peter Dowding: I am asking you a question.

Mr CASH: In a moment, when I finish, the Minister will be able to rise and answer the comment of the member for Cottesloe.

Mr Peter Dowding: Do not worry.

Mr CASH: The Minister should not back off and slink down into his chair. I am trying to be reasonable.

Mr Peter Dowding: I am asking you a question.

Mr CASH: I am inviting the Minister to explain why he opposes this amendment. It is up to the Minister to make some positive contribution. He cannot just sit there like a wooden dog or a stone frog. It is really not good enough. We accept that the Minister is the person putting this legislation through. He must come up with some reasonable explanations.

That is all the Opposition is really asking for: Some indication that the points advanced by the member for Cottesloe were at least reasonable, so that when this legislation goes to the other place or when other people in the community read *Hansard* they will be able to get some understanding of the way the Minister, as the Government's representative handling this Bill, felt about the opportunity for employees to conduct secret ballots.

Mr Blaikie: It would appear to anyone reading this stage of the debate that the Minister has lost all interest in it.

Mr CASH: I accept the comments of the member for Vasse. One has only to look across to the Minister to see him reposed almost in slumber, obviously not really interested in anything the Opposition puts forward, whether it be positive or not. I implore the Minister to

give some consideration to what has been said and place on record why he opposes this amendment in the way he does.

Mr COWAN: The Minister by implication in an interjection to one of the members—I think it was the member for Mt Lawley—indicated this provision was already available. If one goes to proposed section 31(11), which the Opposition is trying to amend by deleting certain words—

Mr Peter Dowding: What I was trying to say was that under proposed section 31(11), any party interested can raise issues, and that is the answer to all of this.

Mr COWAN: I am pleased the Minister interjected because that is what I thought he said the first time, and he has confirmed it. What the National Party is saying—

Mr Hassell: What did he say?

Mr COWAN: The Minister said the provision is there in proposed section 31(11), that where a question arises in relation to the election, it can be referred to the commissioner, who may resolve it, and if he cannot, he then refers it to the Industrial Relations Commission for resolution. The National Party is saying that that need not necessarily arise if the Government were to support our amendment because there is no argument; it is cut and dried.

Mr Peter Dowding: But the same argument applies as applied to the earlier clause, which is that in 90 per cent of the cases the thing is going to be resolved in the crib room, just by agreement. One does not need all this formality.

Mr COWAN: With two or three unions involved?

Mr Peter Dowding: Yes. In rare cases where formality is required—

Mr COWAN: I can see the makings of a few demarcation disputes here, I may be wrong; I really hope I am.

Mr Peter Dowding: I am saying that where that formality is required, it does not have to be imposed on everyone because the opportunity is there.

Mr COWAN: The National Party wants to impose that formality on everybody because it believes in election by secret ballot. It is more important that the election of a health and safety representative be by secret ballot than in the case of the consultative committees. This is far more important than in the other ballot provisions. We are not satisfied that proposed

section 31(11) covers this adequately. We want to put beyond doubt that the health and safety representative will be elected by every employee in the workplace, by secret ballot. I urge the members of the Committee to support the amendment.

Amendment put and a division taken with the following result—

Ayes 15

Mr Blaikie	Mr Mensaros
Mr Cash	Mr Schell
Mr Court	Mr Spriggs
Mr Cowan	Mr Thompson
Mr Crane	Mr Tubby
Mr Grayden	Mr Wiese
Mr Hassell	Mr Williams
Mr MacKinnon	

(Teller)

Noes 23

Dr Alexander	Mr Marlborough
Mrs Beggs	Mr Parker
Mr Bertram	Mr Pearce
Mr Bridge	Mr Read
Mr Bryce	Mr D. L. Smith
Mr Carr	Mr Taylor
Mr Donovan	Mr Troy
Mr Peter Dowding	Mrs Watkins
Dr Gallop	Dr Watson
Mrs Henderson	Mr Wilson
Mr Gordon Hill	Mrs Buchanan
Dr Lawrence	

(Teller)

Pairs

Ayes	Noes
Mr Clarko	Mr Grill
Mr Laurance	Mr Hodge
Mr Lewis	Mr P. J. Smith
Mr Bradshaw	Mr Tom Jones
Mr Lighfoot	Mr Thomas
Mr Rushton	Mr Brian Burke
Mr Watt	Mr Evans

Amendment thus negatived.

Mr COURT: I wish to comment on proposed section 31(8). The question I would like to ask the Minister is to do with the training that is required. Proposed section 30 also relates to the training that is to take place.

What level of training are they referring to when they talk about training? Have plans been made for this training to be carried out at one of the tertiary institutions, or at TAFE institutions? What sort of courses are envisaged for these representatives? Have any of these institutions started preparing to work in this area of training on the assumption that this legislation will go through? Or is it intended that the training be carried out internally, inside the businesses? Will the Minister encourage that?

I do not say that I support one or the other method, but I would appreciate hearing the Minister's comments.

Mr PETER DOWDING: There are a number of existing trade union courses, and they vary in their degrees of depth, and also in who conducts them. Unions conduct some, TUTA conducts some, the Confederation of Western Australian Industry conducts some, some are conducted in tertiary institutions, some in post-secondary institutions, and some by groups such as IFAP. There are a few such courses around, and some private organisations have offered to conduct courses. This is a matter the commission is considering—the commission, not the department or the Government—and it will be the commission's role to develop and identify the areas in which these courses should be held and the extent to which they should be inside or outside the workplace.

Earlier in the debate I outlined my view of an appropriate training process. We hope to see a self-help process in place in various workplaces, but at this stage some training arrangements are in place and some large employers have had them in place for a long time. There are options for smaller employers themselves to run courses for their employees. The unions have been running courses on these issues, as have other organisations.

The short answer to the member for Nedlands' question is that a variety of organisations are interested, and those organisations are currently preparing proposals which will be considered in the tripartite forum.

Mr CASH: I have just noticed in the report on the 1984 Act that it is suggested that a number of organisations could contribute in some way to the education—

Points of Order

Mr PETER DOWDING: Mr Chairman, I thought we had agreed that we were dealing with clause 12; that we would go through the whole of the clause *seriatim* and deal with the amendments; that at the end of the day those members who had not used their right to speak to the clause would have the opportunity for a summing-up procedure; and that members could speak on amendments; but that members could not keep popping up and down needlessly exercising their right to speak. I would have thought, without taking too much notice of how many times the member for Mt Lawley has spoken, that he has probably taken as many as he is allowed under Standing Orders.

Mr CASH: To the same point of order, Mr Chairman, perhaps we should get the rules straight once and for all. It seems to me that we were about to move on to proposed section

31(11), and the Leader of the National Party has indicated that he wants to speak to that section.

Mr Cowan: Unfortunately the Minister is right. It will not preclude us from speaking on that, but we will now have to wait until we get to the final debate on clause 12. We will not be able to take it in that sequence. I do recall the Chair saying that we would speak on the subclauses only where there was an amendment.

Mr CASH: I take the point the Leader of the National Party has made and understand the ruling that was generally agreed upon when the member for Subiaco was in the Chair. However, Mr Chairman, I do question the fact that the Minister has now said that in the summing up we are going to check through and see who has spoken on what. Is that right? In respect of which clauses?

Mr PETER DOWDING: To the same point of order, Mr Chairman, my understanding of the ruling was that we treat clause 12 as a clause—which it is—but that we go through clause 12 and deal with the amendments *seriatim*, and have a summing-up at the end. Those members who want to use their opportunities to speak during the course of the treatment of the whole clause on numerous occasions will of course do so; that is their right. But the pattern would be that on the summing-up, those who had not exhausted their rights would have the opportunity to participate in the summing-up, and that is what the Leader of the National Party has been dealing with. The member for Nedlands, who is a comparative latecomer to the debate, perhaps has a few up his sleeve; I have not counted.

Mr COURT: To the same point of order, Mr Chairman, I thought it was made very clear to us by the member for Subiaco at the time when we were breaking clause 12 into the sections as they are numbered: It was not a matter of whether the sections had amendments against them; they were being broken into the numbers and we were treating each one as a clause for the purpose of the debate.

Mr Peter Dowding: No, that is not right. Otherwise everyone would have the right to speak three times on each of the individual parts of clause 12.

Mr THOMPSON: To the same point of order, Mr Chairman, there always is a problem when we have as large a clause as clause 12 of this Bill; but Standing Orders as I understand them are clear: A member may speak on three

occasions on the clause and then on three occasions on any amendment to the clause. My understanding of the ruling given by the member for Subiaco when she was in the Chair earlier this evening was consistent with my interpretation of the Standing Orders.

Mr Cash: Is that to say we have not even started on the general debate?

Mr THOMPSON: Some members have already spoken sometimes without speaking to an amendment, and strictly speaking will have exhausted their three shots on the clause. If we are to make some progress it seems to me we should confine our remarks to the specific amendments as we come to them.

The CHAIRMAN: I thank the member for Kalamunda for his summation of what took place. Certainly it was quite clear to me, when the member for Subiaco was in the Chair as a Deputy Chairman of Committees, that that ruling was made, and I want it to be strictly adhered to from here on, please.

Committee Resumed

Mr THOMPSON: I move an amendment—

Page 19, line 31—To delete “his performance of, or his” with a view to substituting the following—

the bona fide performance of, or the

This is a very important amendment. The Committee has already decided that proposed section 25 (1) should stand. We see this amendment as being the only way to have a form that is acceptable to the employers and not just the people who have been involved with drafting the legislation. I refer to the confederation and employers generally because nearly all those people who contacted us have said that it is not acceptable to have a safety representative who is not able to be held responsible or accountable for a misuse of the powers conferred in the legislation. I refer to the clause where it says that the health and safety representative incurs no civil liability arising from his performance or his ability to perform any function by a health and safety representative under this Act. What we seek to do is insert the words “the bona fide performance of, or the”.

If it could be demonstrated that the safety representative exercised his power in a bona fide way he should incur no civil liability. But, if he does misuse the power he ought to be subjected to civil action. It is quite conceivable that substantial financial loss could be incurred by an employer if a safety representative misused his power.

The intention of our amendment is not to deny a person the right to halt work but to ensure that he does not misuse that power. It is not a matter of simply saying we want people to accept the role of safety representative because they are not prepared to accept that responsibility. It would not be the employer's decision as to whether he was acting in a bona fide way, and whether he should incur a penalty or be expected to accept some civil liability. That would be a matter for a court, if it reached that point. The amendment would ensure a more responsible approach and certainly make the Bill more acceptable to employers.

Mr COWAN: If, as I suspect, proposed section 25 of clause 12 remains intact, then it does, as the member for Kalamunda has indicated, become a very important change to this subsection. The National Party fully supports the amendment.

Mr COURT: I also wish to support this amendment. If the power is to remain, the safety representative has the power to stop work. The Minister said that if a person does misuse this power, at the end of the day he gets disqualified when the matter goes before the Industrial Relations Commission. However, it is too late by the time it gets to that part of the process because if a union or a group of employees do want to misuse this power they are not going to be put off by that end punishment of being disqualified.

It seems to me that employers are being hit with more and more penalties as they try to carry out a simple operation—or what used to be a simple operation—of running a business. They become more liable for not complying with the huge amount of legislation under which they have to operate. They have to accept those responsibilities. Company directors are having to accept strict rules under which they must operate.

This legislation gives a person the power to potentially cause a lot of damage to a business and to be protected from any civil action as a result of his carrying out his responsibilities. If employers have to accept the responsibilities that go with running a business I think the responsibilities also have to be faced up to by employees if they are to be given these powers.

The member for Cottesloe very adequately covered his concern about proposed section 25 with respect to misuse. Instead of it being a health and safety issue, the representatives can turn an issue into what is blatantly an industrial issue and are not liable for the actions they

take. We all know it is one thing to say, "Trust us, everything will be okay." We can look at the track record of certain—fortunately it is a very small minority—irresponsible unions which have blatantly misused their powers. I am concerned because they are continuing to blatantly misuse that power and in many cases they have already sent businesses broke. They will continue to send businesses broke if they know they do not have any civil liability at the end of the day.

The Government as a whole does not seem to properly recognise just how hard it is for most employers to survive in business today, particularly with all the rules and regulations under which they work. If there is one stoppage of a frivolous nature it could be the straw that breaks the camel's back for a business. I had to laugh when I read the article indicating that Senator Walsh criticised James MacDonald for the way he was trying to run his business. In defence of James MacDonald, I must say that at least he is out there doing the best he can to employ people. He is running a successful business and he knows what it is all about. Before Senator Walsh starts getting critical about James MacDonald, I wish he would take on a business himself because he would have a better understanding of what it is like to employ a number of people in the food and catering industry. I know I may be digressing, but the point I want to make is that there are tremendous pressures on employers in surviving and complying with all the regulations. When a safety representative or an employee is given certain very wide powers he must also take on the responsibilities that go with those powers.

It would be an absurd situation if proposed section 25 remained in place because it would only be a matter of weeks before this power would be misused.

Mr CASH: I also support the amendment moved by the member for Kalamunda.

It is quite obvious that this legislation deals with the rights and responsibilities of both employers and employees. Here we have a situation which provides for legislation which absolves a health and safety representative of any responsibility whatsoever for any damages he might cause an employer by way of a malicious or vexatious action against that employer.

Firstly, I do not think that is reasonable and, secondly, I do not think the inclusion of this clause, in its present form, is a fair Australian act. What is the Government really trying to do? This legislation almost invites irresponsible

people—and I concede that in respect of union members, one would hope the people who end up as health and safety representatives do not include the handful of militant people who decide for reasons of their own to damage the business of an employer—to take malicious or vexatious action. In fact, we would be legislating to absolve such people of any responsibility whatsoever.

It would be quite wrong if proposed section 25 were to pass unamended, and it would be wrong if the Government did not support the amendment moved genuinely by the member for Kalamunda to require health and safety representatives to at least have regard for their actions—not to take action in a malicious way but only to protect employees by taking bona fide action.

I think the amendment is very reasonable, but more than that it is very necessary, because without it we would be legislating to place a class of people above and beyond the normal concept of law and order in this country.

Mr PETER DOWDING: The understanding I have of the clause as it presently reads is that, where a safety representative is performing the functions of a health and safety representative under the Act, no liability attaches.

I do not know, because I do not have a parliamentary draftsman here, what the words "bona fide" add to that, but I am prepared to say that the Government will get some advice about the insertion of those words. Subject to that advice, the Government will not accept any amendments at this stage, but we will look at the insertion of those words in another place.

Mr HASSELL: I am glad the Minister is prepared to look at this. I am sorry he is not in a position to deal with it now, because he does have a string of advisers sitting out in the corridors.

Mr Peter Dowding: I do not have a string of advisers, nor do I have a string of advisers who are parliamentary draftsmen. I did not ask a parliamentary draftsman to be present in what might be described as an elongated debate.

Mr HASSELL: Firstly, as a lawyer himself and, secondly, since he has had these amendments for some time, the Minister ought to have taken the opportunity to look at this matter.

Mr Peter Dowding interjected.

Mr HASSELL: I understand that, but I would like the Minister to say whether he accepts the principle that a health and safety rep-

representative should incur liability if he or she is not acting bona fide for the purpose of the legislation. If the Minister said to the Chamber, "Look, I accept the point you are making and I will do the drafting," that would make this easier.

Mr Peter Dowding: No, I will get advice on what the implications are.

Mr HASSELL: The Minister, by not accepting the point, which is very important, once again illustrates that the Government has failed a test; that is, the test of whether this Government is really dinkum about occupational health and safety legislation or whether this legislation is something else again.

The Liberal Party sat down with the private members' draftsman and said to her, "We don't want to take away the protection that is given to a health and safety representative, provided that representative is acting bona fide." We did not dictate the words used. We asked her to do the drafting and she chose the words "bona fide", but she took that as a simple meaning of what we were aiming for.

There is absolutely no doubt that if a health and safety representative is using this legislation in pursuit of an industry purpose, as the shop stewards were using a safety issue for an industrial purpose in connection with the 38-hour week in the Bunbury meatworks, that representative should be liable. If the Minister says that he will have this looked at, but also that he accepts the principle involved, that would be quite different from saying "Okay, I will get your drafting looked at."

I would like the Minister to say what he thinks about the issue—never mind the drafting or whether he will accept this particular amendment—whether he will accept the principle involved and the fact that there are certain circumstances where a health and safety representative very clearly should be liable for the use of these powers—for instance, when the health and safety representative calls out a whole factory when it would have been more than adequate to call out merely one small part of it. As the member for Nedlands said, there are simply enormous implications for business in this legislation. The Opposition has gone along without demur in respect of health and safety—

Mr Peter Dowding: I said we would not accept the amendment here, and I said we would look at it and its implications in the context of

its being dealt with in another place. I have made it clear that we do not accept the amendment at this stage.

Mr HASSELL: I am asking the Minister to forget about the amendment for a moment and explain his thinking on this point. This is a Committee debate and the Minister who is presenting the Bill to the Chamber is meant to convince members of its worth. If one were to suppose that magically no member here belonged to a political party and we were just a group of people intelligently applying our minds to producing the best possible legislation, what would the Minister say about the issue of liability? What would his attitude be?

Mr Peter Dowding: I have told you what our attitude is. We do not think there should be liability. That is the position of the Government and we do not accept the amendment.

Mr HASSELL: In other words, the Minister has now explained to the Chamber, by way of interjection—and I thank him for doing so—that he is not dinkum. The Minister will have a look at the amendment to see what it means, but he does not accept the principle that there should be liability.

Of course there should be liability if a health and safety representative can call a stoppage of workers for a blatant industrial purpose.

Mr Peter Dowding: You say, "Of course" but then you have an industrial issue which needs to be resolved in an industrial context. He loses his rights to operate as a health and safety representative—that is the potential built into the Bill—and you deal with it on an industrial basis as you would at the moment.

Mr HASSELL: It is all too simple and all too convenient. A bloke can wreck a business and cost a fortune.

Mr Peter Dowding: What happens out there with a dispute at the moment?

Mr HASSELL: We know some of the things that happen—people stop concrete pours.

Mr Peter Dowding: What did you do about it?

Mr HASSELL: Whenever there was an opportunity for action to be taken by inspectors it was taken.

Mr Peter Dowding: That can be done now.

Mr HASSELL: It is not being done now.

Mr Cash: You hardly legislate to invite them to do it.

Mr HASSELL: Exactly. The Government wants to give tremendous powers to these union people but it does not want to impose any responsibility. When we were debating this Bill on Tuesday the Minister was hot and strong about how there had to be joint responsibility for safety. Here we have responsibility in an amendment which uses a couple of words which he as a lawyer knows the meaning of as well as I do. They mean that if one is not dinkum he is liable. That is what bona fide means in the context we are proposing. The Minister plans to rush away and consult Parliamentary Counsel. That is poppycock! He does not accept the principle of liability.

The Minister should be reminded more than once, because he is slow to pick up the point, that he is talking about a fundamental right to own and operate a business without being destroyed by people with evil intent. That evil intent is seen too often. This legislation says to a person who is a safety representative, "You have tremendous powers and you are exempted from all liability in the exercise of those powers." There is no intent on our part to apply liability if a person is dinkum and using the powers according to a proper motive and intention; in other words, if he is bona fide and dinkum. They are simple words which are well understood by everyone, but the best the Minister can do is to say he will look at the amendment. It is not good enough.

I suppose we will be back here in a couple of weeks going through this again because I have no doubt the members of the upper House will not accept this Bill as the Minister insists on it. He would have been much smarter to look at these amendments and genuinely try to accommodate the concerns of the Opposition parties. He should have gone through the amendments and said, "We can see there is real concern over these matters and we will try to find a formula; it will not necessarily meet what they want, but it deals with the issues." The Minister has not dealt with one issue. The way he has approached this debate is a disgrace. His squeaking colleague from Victoria Park told us a little while ago we should not respond to threats of what the Legislative Council might do, and in the next breath the Minister is saying this matter will be fixed in the Council. The debate is here, but he will not get to his feet and tell us what his position is.

Mr THOMPSON: Perhaps it is my gentle nature, but I would like to give the Minister a go because I can say to the Committee that from my discussions with the confederation

and my last discussion with representatives of the TLC it is clear there is no way in the world that this Parliament ultimately will accept proposed section 25(1). However, a fallback position might be reached if this amendment were accepted; the Bill might stagger through the Parliament.

I wonder whether some discussion has already taken place on this matter between the TLC and the Minister. I hope the indication he has given to the Committee is as a result of a process already underway. I am a practical politician. The Government has the numbers in this Chamber, and this Bill will leave this Chamber in the form which the Government wants. What emerges ultimately from Parliament is a different matter.

Mr COURT: As the member for Kalamunda has said, there has been a lot of talk between the different parties on the two main areas of concern in this legislation, and I find it incredible that the Minister is saying he will look at whether this amendment can be accepted when he has had it for some time. I have no doubt he has been talking to the different people concerned with the legislation, yet when we reach the Committee stage we are told an amendment cannot be accepted because the parliamentary draftsman is not available. This is one of the key parts of the legislation. The Minister's response is not acceptable.

I suppose the reason I feel very strongly about this proposed subsection is that if it remains in the Bill it will be so easy to put an employer out of business, and that means a lot of employees will go out of business at the same time. When one sees some of the bloody-minded activities that go on it seems as though some people involved do not give a damn whether a business goes broke. It seems sometimes as though they think they have won when that happens. I am concerned about that.

Mr Bertram: A lot of their competitors take that view too—they want to get rid of them.

Mr COURT: Is the member saying they, too, like to see them go out of business? I do not think that is the case at all.

I am going to use the opportunity to oppose something which is very detrimental to the survival of business in this State. I would have thought that on something of such critical importance we would not have to take the Minister's word that it would be looked at in the other Chamber. I think we know he does not want any liability attached to the safety representative. We have a crazy situation, unless I

am seeing it in too simplistic terms, where the employers seem to have more and more responsibility thrown on them, and they have to abide by those responsibilities and can suffer quite severe damage if they do not, yet someone who is given these tremendous powers does not have to accept the responsibility which goes with them. It is quite amazing that the Minister has not done his homework on the amendment we have moved.

Mr CASH: The Minister is not interested in accepting this amendment or even responding to it. I believe that, because of the wording of this provision, militant unions or union heavies could go to a health and safety representative and tell him or her that they intend to put pressure on the employer for an additional \$50 or \$80 a week. If the employer does not agree, rather than use the usual industrial forum for the resolution of disputes, the union could decide, through the health and safety representative, to call out its members. We all know what happens when an employer is looking down the barrel of 24 hours without any work being done on his site and knowing that the health and safety representative is not liable for any damages because of the work stoppage.

I believe that health and safety representatives could be used by unscrupulous people to mete out penalties against employers—penalties which would never be imposed by an industrial court—to generally get even with non-compliant employers. The employers would end up footing the Bill.

This proposed new section is totally unrealistic and the Minister should reconsider his position so that we will be able to deal with the balance of the Bill with ease knowing that certain things that I have outlined will not then be possible.

Amendment put and a division taken with the following result—

Ayes 15	
Mr Blaikie	Mr Mensaros
Mr Cash	Mr Schell
Mr Court	Mr Spriggs
Mr Cowan	Mr Thompson
Mr Crane	Mr Tubby
Mr Grayden	Mr Wiese
Mr Hassell	Mr Williams
Mr MacKinnon	

(Teller)

Noes 22

Dr Alexander	Mr Marlborough
Mr Bertram	Mr Parker
Mr Bridge	Mr Pearce
Mr Bryce	Mr Read
Mr Burkett	Mr D. L. Smith
Mr Carr	Mr Taylor
Mr Donovan	Mr Troy
Mr Peter Dowding	Mrs Watkins
Dr Gallop	Dr Watson
Mr Gordon Hill	Mr Wilson
Dr Lawrence	Mrs Buchanan

(Teller)

Pairs

Ayes	Noes
Mr Clarko	Mr Grill
Mr Laurance	Mr Hodge
Mr Lewis	Mr P. J. Smith
Mr Bradshaw	Mr Tom Jones
Mr Lightfoot	Mr Thomas
Mr Rushton	Mr Brian Burke
Mr Watt	Mr Evans

Amendment thus negatived.

Mr COWAN: I move an amendment—

Page 20, lines 22 and 23—To delete subclause (b).

Once again this provision relates to special preferences granted to members of trade unions. The Government is trying to give encouragement to the trade union movement to become actively involved in and responsible for occupational health, safety and welfare, but we believe that the employees who elect a health and safety representative, not the trade union, should have the power to disqualify him. The amendment will take the right of disqualifying a health and safety representative from the trade union and place it in the hands of the employees who elected him.

Rather than move to delete the proposed new section, it is our intention by this amendment to allow the workers to make application for disqualification. Under the provision as it stands, the workers would have to approach the trade union. Because earlier provisions allow unionists to become involved in the consultative committee, there has also to be involvement by the non-union members of the work force in the election of representatives to that committee.

The National Party is of the opinion that as far as the employees are concerned, the exclusive right in seeking the disqualification of a health and safety representative should not remain with the trade union movement alone, but some entitlement should be given to the members of the work force at the workplace. By the same token, the National Party does not want to allow a single person who has an argument against the health and safety representa-

tive to put up a frivolous application for disqualification. That is the reason for the inclusion of "25 per cent". The National Party put forward the amendment because of its fervour to ensure that the trade unions do not have any preference at all.

The Minister may want to promote the involvement of the trade union movement, but the National Party would like to see the inclusion of an additional provision whereby the people in the workplace do not necessarily have to go to the union movement to seek to have the safety representative disqualified. I ask the Minister to comment on this and advise the Chamber whether he is prepared to look at the situation. I accept that we could perhaps deal with it in another place.

Mr PETER DOWDING: I reiterate what I have said all along in this debate. I have said continually both inside and outside the Chamber that in the Government's view the trade union movement has a fundamental place in the operation of this legislation. There is no question about that and I do not want to underestimate it.

I would not be happy with the amendment as it stands on the Notice Paper. The Leader of the National Party said that he understood the existing situation. However, the Government does make some recognition of the role of employees in the workplace who are either not represented by a union or who have a low union representation. I will give some consideration to this matter and will have discussions with both the Confederation of Western Australian Industry and the Trades and Labor Council to obtain their views about this sort of change before I agree to it.

We do not want to encourage frivolous applications for disqualification. I think the Leader of the National Party said that he sought to do that by including a certain percentage. Perhaps 25 per cent is not enough and it should be 50 per cent or 75 per cent. We are talking about people who are dissatisfied with the level of representation they are receiving. Fundamentally, the discontent could come from an individual work force which is likely to be a union work force or from an employer who has a contrary view to that of his employees. One would expect that they would be the sorts of cases that would occur.

I give the Leader of the National Party an undertaking that I will consider the matter and discuss it with the TLC and the Confederation of Western Australian Industry and, if necessary, deal with it in another place.

Mr COWAN: I thank the Minister for his preparedness to look at what the National Party has suggested, and for that reason I will not divide the Chamber.

One point I omitted to make is that a reverse procedure could apply if the clause remains as it is. If we take, for example, a shop floor which comprises union and non-union membership and the non-union membership is in the majority and, therefore, has the ability to elect a health and safety representative, and the union, which represents the minority of employees on the shop floor, does not like the result of the election, the union could seek the disqualification of the health and safety representative. I am not saying that it will happen, but it could happen.

The National Party has said all along that it does not want non-union members to have any less say in this issue than union members.

Mr HASSELL: Once again the Government's true intention is shown by the way the clause is drafted. A request for the disqualification of a health and safety representative may be made by his employer, any trade union a member of which works at the workplace concerned, or the commissioner.

Take for example a factory which employs 100 employees, 95 of whom do not belong to a union and five who do.

Dr Alexander: How many are there like that?

Mr HASSELL: There are plenty of factories which have a 95 per cent non-union work force. The member for Perth should visit some of the smaller factories and he will find out.

I have used the figure of 100 because it will give a clear percentage, but if the member for Perth cannot cope with that I will use the figure of 10.

The fact is that in such a case we have a situation where there is a high proportion of employees in the workplace who do not belong to a union. The unions to which the other employees belong are in a privileged position. The employees who do not belong to a union are excluded from making a complaint. The Government's intention is so obvious, it is blatant, and it is not what the Minister said.

The Minister believes that unions should play an important role in health and safety in the workplace. It is a fact that the Minister wants to place the trade union movement in a privileged position and above the law.

What I have said applies not only to proposed section 34, but also to the previous section. During the debate on proposed section 33 the Minister would not accept a simple amendment to require that the safety representative should be dinkum in exercising his authority before obtaining the protection of the law. Yet, section 34 provides no penalty for breaches incurred in proposed subsection (1). It refers only to the possible disqualification of the safety representative. What a stark contrast between this proposed section and proposed section 19 which states that the employer, among other things, is required to consult with the safety representative, and if he does not he commits an offence.

Proposed section 34 refers to the health and safety representative, but no offence is generated. The only sanction is that the health and safety representative might be disqualified. It is so weak that it is pathetic. The only way that one can determine how the representative might be disqualified is that the employees concerned belong to a union. It is the blatant unfairness and injustice of it—it is so obvious.

It represents so totally the philosophy of this Minister and this Government; a union Government presenting a union Bill. It is seeking to put the union people in a special position. As the Leader of the National Party said, if by some miracle the workers who do not belong to a union are able to survive to the point of insisting on a secret ballot and they elect someone who is not a union representative to be a health and safety representative, and he refuses to cooperate with the union in some industrial matter, the union will try to get rid of him.

Mr Peter Dowding: Will they get rid of him on that basis?

Mr HASSELL: Why should they be put in that position?

Mr Peter Dowding: For exactly the same reason you want to put a health and safety representative in the position of having to justify his bona fides in front of the court on every occasion he exercises his powers.

Mr HASSELL: All the Government needs to do under proposed section 34(2) is give the people in the workplace the authority to seek the removal of the health and safety representa-

tive. The issue is about giving authority to the working people or to the union; it is about whether the Government will be fair in terms of the preponderance of non-union membership in many workplaces. As far as this Minister is concerned the answer is that, regardless of the situation in the workplace, the unions will have the power; the unions will have the influence; the unions will dominate the procedures; and they will control what is going on. The Minister can try to score off smart debating tricks as much as he likes; it does not alter the case.

The Government has produced a Bill in which it is an offence for an employer not to cooperate with a health and safety representative and it is not an offence for a health and safety representative to have done deliberate harm to the business, disclosed information, or failed to perform adequately his functions under the provisions of the Bill. That is the difference in standards applied by this Minister and this Government.

This Bill demonstrates in provision after provision that the Government is not dinkum about health and safety; it is concerned about union power, union influence, and union control. No doubt the Government hoped that by dressing up this Bill and presenting it as a health and safety Bill the Opposition would be asleep on the job and would not see what the Government was up to. However, the Government has fallen in a hole; we know very well what it is doing; it is not dinkum; it is downright dishonest; and it is nothing less than disgraceful.

If the Government thought it could get away with it, it would present to this Parliament the same sort of legislation that we see before the Commonwealth Parliament in Canberra—legislation which seeks to put unions above the law. The only reason this Government has not done so is that it knows it would not survive the first reading in the upper House. Government members are absolute frauds; their ranks are filled with ex-union secretaries, ex-union stirrers, ex-shop stewards, and every other kind of person involved in that way in the union movement. The Labor Party members are in Parliament purely to represent unions; they are not here to represent the people, to do what is right by the people of Western Australia, to produce laws which are fair to all in the State; they are in this place to represent unions. Foremost among those representatives is the member for Cockburn. He is not here to represent the public of this State; he is here to represent

the vested interests of union power. It is time the Government faced up to the fact that it is not debating this Bill on the basis of what is right or good but on the basis of what is good for unions.

Point of Order

Dr GALLOP: The member for Cottesloe is casting aspersions on the parliamentary activities and duties of the member for Cockburn, and he should withdraw his remarks immediately.

The CHAIRMAN: From here on in the member for Cottesloe should direct his remarks towards the business before the Committee and only that business. In the rules set down by the Speaker of the House certain comments have been deemed unparliamentary. If I hear a repetition of the comments just made by the member for Cottesloe, I will take steps to rule them as unparliamentary because I believe every member elected to this Parliament is elected to represent the people in his or her district.

Committee Resumed

Mr HASSELL: The point is very simple. The Government has produced this proposed section of the legislation for the purpose of promoting a particular interest—the trade union interest. Certain members of the Government party in particular represent that interest, and those members should think about their obligation to the wider public. All they do is sit and interject every time I am on my feet and they attack me because I am raising the fundamental issue of whether one group of Australians should be in a privileged position because they happen to belong to a trade union. Surely all Australians have a basic right to decide whether or not they belong to a trade union and then they will work within a trade union framework.

Mr Peter Dowding: Get on with the Bill.

Mr HASSELL: I am directly on the Bill, on the Minister's disgraceful legislation, his dishonest legislation which persists with a provision which states that—

A reference under subsection (1) relating to the disqualification of a health and safety representative may be made by—

- (a) his employer;
- (b) any trade union a member of which works at the workplace concerned; or
- (c) the Commissioner.

Ninety-nine employees out of 100 in a workplace might not belong to a trade union, yet the trade union representing only one person at that workplace is able to move to get rid of the health and safety representative and the 99 other employees are excluded. Is that justice? Is that the way to run a cooperative health and safety effort? Is that the way to approach this consensus concept the Minister is so keen on? Of course it is not; it is exactly the opposite. It is the means by which divisions are created and it is intended to create divisions.

This Minister will not understand; that is the very point of what he is doing. I beg your pardon; he understands, but he will not acknowledge it. What he and his colleagues intend is that divisions will be created between union and non-union members. Non-union members will be forced into the trade unions, and that is what the Bill is about. It is about that in this clause and in other clauses.

Clause by clause we have identified what the Government is up to. We have exposed its intention. It is no good the member for Cockburn or the member for Victoria Park trying to explain what the Government is up to. Members opposite represent the vested interests of unions against the interests of the general public, and in particular against the general interests of employees. They ought to think long and hard about how and where they are going, because the Australian people have had a gutful of union power. In public discussion, in Academe, we are moving away from the power concepts of trade unions.

The only people who have not caught up with contemporary thinking are the Labor Governments, such as the Government in Canberra, with its dreadful industrial relations legislation which has been put on the back burner until after the election in the hope it will have a chance to bring it up again, and this Government, with this Bill, designed to put trade unions in a privileged position against other people.

Members must understand, however much they object to it, that for as long as I am in this Chamber I will fight for equality of all people before the law and not for privileges for trade unions. I do not believe in privileges. Trade unions should be subject to the law, like everyone else. I am horrified by the abuse of power conferred on privileged trade unions with the help of the trade union system. It is an abuse of power which has put people out of business, destroyed enterprise, and given people privileges and rights they should not have. People

have been paid when they have gone on strike. All these things are happening, and this Government stands condemned for its action.

Mr WIESE: I would like to think that I am a fair-minded person. I believe in looking after the working man, because that is basically what I have done all my life as an employer. When I come up against a provision like this, I have to make some protest because I believe that the whole concept represents a breakdown of fairness.

As the member for Cottesloe has pointed out, in a work force of 50 people, only one may be a union man, but that one man is to have the power to cause a reference to be made, as outlined in this proposed section we are discussing; the other 49 persons are completely and utterly precluded from making a similar reference. There is no fairness whatsoever in that, and that is what this amendment is about.

We in the National Party are so fair-minded that we will give that facility to both union and non-union members in the work force. We will accept that 25 per cent of the total work force must call for a reference to be made. There is no fairness in the concept that one person is able to make a reference, but not the remainder of the work force. That is why we are trying to amend this part of the proposed section.

I believe it goes even further. The Minister may be able to clear up a point which is worrying me greatly. If I read the Bill correctly, a reference can be made not merely by a member of the work force but by a trade union representative who is not actually in the work force.

Mr Peter Dowding: No. No trade union may make a reference without a member in the work force.

Mr WIESE: That is exactly the point I am making. The Minister is agreeing.

Mr Peter Dowding: No, not any trade union.

Mr WIESE: Any trade union which has a member in the workplace.

Mr Peter Dowding: That is right. A trade union which has a member in the workplace, but not a member of a trade union who is not in the workplace. It is the organisation.

Mr WIESE: So the reference can actually be made by persons outside the work force?

Mr Peter Dowding: That is right.

Mr WIESE: The Minister is making my exact point. He is agreeing with me. That worries me. Non-union members in the work force are not able to make a reference at all. There is no fairness in that at all.

The Minister stated that he believed a trade union has a fundamental role to play in the process. I am inclined to believe that the Minister believes that only the trade union has a fundamental role to play in the process, judging from what I have heard tonight. I go a long way beyond that, because I believe non-union membership—all those persons in the work force or in the workplace—have an equal role to play in the whole process.

We are talking about industrial safety in the workplace. That non-union person probably has a fundamental role to play, because I am starting to believe that when he makes a reference it will be made directly on the ground of safety in the workplace. I wonder whether the reference made by the union member, or by the union on behalf of the union member, will actually be made on the grounds of health and safety, or whether it will be made on other grounds perhaps not pertinent to health and safety.

Mr Peter Dowding: Before you sit down, do you understand the concern of employers if individual employees have the opportunity to apply?

Mr WIESE: I understand that perfectly, and I believe the amendment before us, which says that 25 per cent of the employees may make a reference, addresses this very point.

Mr CASH: I support the amendment. As we delve deeper into this legislation we can see that it really does, and is apparently intended to, discriminate against those members of the work force who are not members of the union. That is grossly unfair. I would have thought that was against all the principles which the Australian Labor Party claims to represent and work towards.

It has not taken long for the member for Narrogin to sum up this Minister. The member for Narrogin was quite right in what he said: As the legislation is presently framed a trade union representative not working within the workplace is in a position to make a reference. We saw the Minister try to put him off by saying, "You are wrong, do not say that, you are saying it is a member of a union", in the normal way this Minister carries on. But let me say to the member for Narrogin, "Good on you." It has not taken him long to work the Minister out. He has his measure well and truly.

Surely safety is for all members in the work force. We do not want a situation where we have safety just for union members, and not for

those people who are not union members. The way we are going, that is the sort of discrimination we will end up with.

The legislation is clearly framed for the unions to be able to move in and say to all those people who are not members of any union, "If you do not join us, then your place will not be a safe place for you; you will all suffer." The unions will use this as a lever to get into small business throughout the State.

I remember some time ago the Minister said, "This legislation is not designed to affect small business. We do not think it will have much effect on them at all." However, the more we go into it the more we can see that that was a throw-away line. He never intended to mean what he said at that stage, and I doubt whether he means much of what he has been saying tonight. The amendment is very fair.

Mr Peter Dowding: Why do you say silly things like that?

Mr CASH: There is nothing silly about it in the way that I see the Minister.

Mr Peter Dowding: You want to personalise everything you touch. That is your real problem.

Mr CASH: If the Minister is upset that people read him for what he really is, that is his problem. If he were to change his ways, we might be able to make this legislation move a bit faster. As I said the other day, any other reasonable member in this place—and I instance the Minister for Water Resources, or even the Minister for Transport—if he were handling this Bill, would be prepared to listen and accept the good advice and information tendered by the Opposition, and we would be a lot further down the track. We have established a situation of trust between the Opposition and some members of the Government, but not in this case. The Opposition does not trust this Minister. It has learned not to trust him. In fact, unless it has it in writing, signed by three independent witnesses, it does not believe anything that the Minister says.

The amendment as it is framed is very fair. It gives the opportunity for all members of the work force to participate, irrespective of whether they are union members. I urge members to support it.

Amendment put and negatived.

Mr COWAN: Turning to proposed section 35(1)(d), the position is that the National Party is seeking to add further words. The section says—

Permit a health and safety representative to take such time off work, with pay, for the purposes of performing his functions under this Act as is provided for by subsection (3)

That deals with the right to be able to take time off, such as to undertake those courses that were talked about at length earlier.

The National Party is seeking to insert later in this Bill some amendments which will make it very clear that there has to be agreement with the employer for meetings that will be conducted during working hours. One of the things about which the National Party expressed doubt in this legislation is that there could be a large number of meetings during working hours. I accept that in the Bill there is a minimum requirement of one meeting every three months. That does not seem to be an extravagant number. However, it does not necessarily mean that is the only meeting that will take place. If someone wants to be fairly officious, there could be a large number of those meetings, which could be very disruptive, particularly in a small business where the ratio of committee members to the total work force could be quite high.

For that reason, the National Party is seeking to limit or have some control over the amount of time that is taken off during work, and ensure that the time taken off is taken subject to the approval of the employer. I move an amendment—

Page 21, line 26—To insert after "(d)" the following—

subject to section 41 (4)

Mr PETER DOWDING: This amendment is not acceptable to the Government because, first, it has been told that in practice in Victoria this is not one of the problems which has been identified, so things work themselves through in the workplace. In the bulk of small workplaces it is not a problem because if something happens, people sit down and talk about things over a crib or over a cup of coffee or before they start work, or whenever it is convenient. Larger workplaces are the sorts of organisations where these procedures are already established. For example, under the iron ore industry agreements there is the situation

where these sorts of committee meetings already operate. So in practice it has not proved to be a problem.

Secondly, in small businesses it is not likely to be a problem. Thirdly, in large industries it is the sort of arrangement that is well established and understood under industrial agreements. Ultimately there is always the sanction against misuse of powers or obduracy. It is the Government's view under proposed section 35 that these activities are part of the working activities and ought to be part of the working day. How long they take, how bureaucratic they are and what is involved in discussing them are all matters that depend on what sort of business organisation one is talking about, and that is too varied for the Government to be laying down any clear guidelines.

The Government's view is that these sorts of things are best left to the parties, and that despite all of the rhetoric there is an amount of goodwill out there. If one has people who are making things difficult, the employer has the right to say, "Hang on; this is not the way it ought to work. I am not satisfied with your performance. I want to ask the commissioner to get rid of you because you are not participating in my workplace in a way that is relevant to it." That would be a justifiable position to take if those events were to occur.

The Government does not agree to the amendment for those reasons.

Mr COURT: I support the amendment. The Bill provides that the regulations may prescribe that the health and safety officer be permitted to take time off work with pay for the purposes of doing certain things. Does that mean the regulations can be changed, perhaps to provide that a safety representative must be allowed to have so much time off work with pay to carry out those duties? My concern is that it might become an established principle in many large businesses for this to take place.

I was reading an article yesterday on the Robe River dispute, which listed some of the work practices that had been established over the years, and one of the concerns was that there seemed to be a lot of people around who were employed by the company but were not working in productive jobs.

We do not want to encourage a situation where the regulations prescribe how much time someone gets off without pay.

I support the National Party's amendment.

Amendment put and a division taken with the following result—

Ayes 15

Mr Blaikie	Mr Mensaros
Mr Cash	Mr Schell
Mr Court	Mr Spriggs
Mr Cowan	Mr Thompson
Mr Crane	Mr Tubby
Mr Grayden	Mr Wiese
Mr Hassell	Mr Williams
Mr MacKinnon	

(Teller)

Noes 22

Dr Alexander	Mr Marlborough
Mr Bertram	Mr Parker
Mr Bridge	Mr Pearce
Mr Bryce	Mr Read
Mr Carr	Mr D. L. Smith
Mr Donovan	Mr Taylor
Mr Peter Dowding	Mr Troy
Dr Gallop	Mrs Watkins
Mrs Henderson	Dr Watson
Mr Gordon Hill	Mr Wilson
Dr Lawrence	Mrs Buchanan

(Teller)

Pairs

Ayes	Noes
Mr Clarko	Mr Grill
Mr Laurance	Mr Hodge
Mr Lewis	Mr P. J. Smith
Mr Bradshaw	Mr Tom Jones
Mr Lightfoot	Mr Thomas
Mr Rushton	Mr Brian Burke
Mr Watt	Mr Evans

Amendment thus negatived.

Mr PETER DOWDING: I move an amendment—

Page 23, after line 32—To insert in the proposed section 37 the following subsection—

(3) An employer may, of his own motion, establish a health and safety committee at any time in accordance with this Act.

Mr THOMPSON: I ask the Minister to give a little more explanation as to what is intended in that respect.

Mr PETER DOWDING: I am sorry. I thought it was fairly self-evident. I remind the member for Kalamunda that under proposed section 37 there is a requirement for an employer to establish a committee in certain cases. What was not clear, and what was discussed with the various parties after the Bill had been drawn up, was the case where an employer wants to set up a health and safety committee himself or herself. This simply gives an employer that option, and he could then set up a health and safety committee for the purposes of the Act. There was some doubt about that.

Amendment put and passed.

Mr COWAN: I move an amendment—

Page 24, lines 20 to 22—To delete subclause (4).

Subsection (4) of proposed section 38 contains the requirement that at least half the members of the health and safety committee are health and safety representatives or persons elected by employees for the purpose of being involved in that committee. In other words, it ensures that employees always have at least half the representation on that committee. We do not see that as being absolutely necessary, particularly in the case of small businesses.

Mr PETER DOWDING: The rationale behind subsection (4) of proposed section 38 is that the committee has an important function and it is important that at least a proportion of those people should be members of the work force who are informed, and they are the health and safety representatives. We see it as an important part of the plan that the committee should reflect, at least to the extent of 50 per cent of its membership, the members of the work force knowledgeable about health and safety issues. We oppose the deletion of that clause.

Amendment put and negatived.

Mr COWAN: I refer to the amendment standing in my name on the Notice Paper relating to proposed section 39 on page 25, lines 2 and 3 of the Bill.

In keeping with what we have said all along, we do not object to the health and safety representatives or a group of workers at the workplace being able to refer a decision made by the commissioners to the Industrial Relations Commission, but once again we do object to the concept of a trade union which has a member at the workplace being able to refer the commissioner's decision to the commission. We do not accept that as being necessary, and members will recall what happened in relation to the previous clause, when we said that if the Government wants to retain that clause in the Bill it can, but it will have to give the group of people who are actually in the workplace the opportunity to make precisely the same decision.

We are being consistent, in that we want to try to give equality to all of the people concerned. If the trade union has the right to request a review of the commissioner's decision, surely those people in the workplace, particularly those who are not members of the union

movement, should have the right to refer a decision of the commissioner to the Industrial Relations Commission.

Mr COWAN: I move an amendment—

Page 25, To delete lines 2 and 3 with a view to substituting the following—

39. An employer or a health and safety representative may refer to the

Mr PETER DOWDING: It appears that the National Party has moved from a position of wanting to avoid bureaucracy and a pyramidal process structure into a situation of inviting a constant bureaucratic review. The trade unions have a role to play at present in the industrial context of representing people in the work force who are members of a union. Where there is an industrial dispute the trade unions have a role to represent those people before the commission. Here we have a situation where the commissioner makes a determination. Who ought to be able to dispute that? Quite frankly, there is an argument that says there ought not to be any appeal. The commissioner is the person who decides.

The employers want to have an appeal process. This amendment is about giving the employer and the safety representative, if appropriate, the opportunity to dispute the commissioner's decision. Of course the trade union has to have standing because if it has members in a particular workplace it can help resolve matters relating to the relationship between the employers and the workers. That is one function of the union in relation to safety. We have said, "Okay, the union has that appeal right as does the employer and the safety representative." If we then add a percentage of the workers we are likely to end up with this process being used by people in the work force to frustrate it. It does not seem we can argue that people in those circumstances ought to continue with the review process beyond the commissioner. Matters can go to the commissioner but once they have been to the commissioner and are involved in a litigation process—which is effectively what it is by way of appeal—that process ought to be limited.

The National Party can consider my explanation particularly if the Chamber does not accept the amendment. That is the reason we have sought to limit it in this way in proposed section 39. We do not accept the amendment presented by the National Party.

Mr HASSELL: The Minister has yet to accept any amendment that seeks to equalise the position of employees who are not members of

unions with employees who are members of a union. He has just given the biggest load of drivel by way of explanation we have heard all night. Firstly, he said that we should not have any appeal and then he said they all got together on the tripartite council and agreed to limit it. The limitation relates to an employer, a health and safety representative or a trade union, or any member who works at the workplace. Any of those three can refer the matter to the Industrial Relations Commission for review. The only person who cannot refer it to the Industrial Relations Commission is the poor old employee who does not belong to a union.

Somewhere along the line the right of ordinary workers and ordinary people in the workplace should be considered. We should look at the example where there are 100 people employed, 95 of whom do not belong to a union and five who do. Those five people who belong to a union have all the rights and privileges, including the right to have an appeal to the Industrial Relations Commission.

It is so obvious what the Minister is doing. He should simply admit that he wants to screw the workers who do not belong to unions into joining. He wants them to join the BLF and all the other standover merchants. At least the BLF goes out and tells people to join the union or they will not have a job. They will go to the extent of blacklisting a site, closing a business down, or abusing someone's wife as long as they pay the fees. Even people who move offices on the weekend in the Forest Centre have to pay eight lots of union dues to the BLF to get onto the site because the union has not finished working. They are straight standover tactics. This Minister wants to write those things into the law. He has not got the guts to bring in an Act that is called the "Trade Unions' Privileges Act" which seeks to give all trade unions privileges as a matter of law. He tries to slip it through under the guise of being concerned for occupational health and safety.

When the Minister is challenged with an amendment from the Leader of the National Party he responds with a load of gobbledegook. What a load of rubbish! At least the Minister could be honest. He could say, "All I want to do is give privileges to the unions" instead of trying to make out that he has an altruistic motive. He does not have any such motive at all. His one motive is to give more privileges to the unions and a preponderance of position so they will be able to enforce union membership. That is what it is all about and that is what it

was always about. We will continue to oppose this provision while it continues not to treat people decently and fairly.

Mr CASH: I support the amendment moved by the Leader of the National Party. Again we see a situation where the person who is allowed to refer a decision of the commissioner is the health and safety representative or a trade union member who works at the workplace. As was pointed out earlier, the fact is that the Minister seems very keen—irrespective of a consensus that might exist between an employer and an employee or an employer and a health and safety representative—to continue to interpose a trade union organisation just because one of its members happens to work at a particular workplace. It is not a fair situation. We are not talking about consensus when one starts imposing an obligation on both the employer and employees of this third party which the Minister continued to represent in this place.

I support the view of the member for Cottesloe. If this is to be the attitude of the Minister we would have been better off calling the Bill the "Trade Unions' Privileges Act" because that is what it is all about. The Minister does not seem to care about the employer, the health and safety representative or anything they might agree between themselves. He is interested only in seeing that the trade union organisation, so long as it has one person working at the plant, is able to stick its beak into the operations of the health and safety regulations.

Dr Alexander: Is it not their business to be concerned?

Mr CASH: Of course it is their business to be concerned and it is the business of the employer and the health and safety representative to represent the employees at that plant. What the Government continues to say by interposing this trade union organisation is that it does not have any trust or faith in the employer or the health and safety representative.

I have heard the member for Perth interject on a number of occasions, but he should stand and tell the Chamber where he stands with this legislation. I know the member for Perth will not do so because he is yet another Government member who has been told, "If you want to go home before breakfast, sit tight and don't interject." We heard the Leader of the House say to members, "Don't interject; these guys will go to 6.00 am."

Mr Peter Dowding interjected.

Mr CASH: The opportunity now arises for the member for Perth to stand in his place and make his opinion on the matter clear.

Dr Alexander: You are speaking now.

Mr CASH: I will soon sit down and the member for Perth will have an opportunity to rise.

Mr Peter Dowding: Just make your point instead of carrying on.

Several members interjected.

The CHAIRMAN: Order! As Chairman of Committees, I will make a ruling now: I will not have this chit-chat crossfire across the Chamber. Members will obey the rules of debate. I am familiar with Standing Order No. 995 and the rules of debate as to how members discuss matters before the Chamber.

Mr CASH: I reject the interjection of the member for Perth, who will have an opportunity to speak if he so desires, and to support the amendment moved by the Leader of the National Party.

Amendment put and a division taken with the following result—

Ayes 15

Mr Blaikie	Mr Mensaros
Mr Cash	Mr Schell
Mr Court	Mr Spriggs
Mr Cowan	Mr Thompson
Mr Crane	Mr Tubby
Mr Grayden	Mr Wiese
Mr Hassell	Mr Williams
Mr MacKinnon	

(Teller)

Noes 22

Dr Alexander	Mr Marlborough
Mr Bertram	Mr Parker
Mr Bridge	Mr Pearce
Mr Bryce	Mr Read
Mr Carr	Mr D. L. Smith
Mr Donovan	Mr Taylor
Mr Peter Dowding	Mr Troy
Dr Gallop	Mrs Watkins
Mrs Henderson	Dr Watson
Mr Gordon Hill	Mr Wilson
Dr Lawrence	Mrs Buchanan

(Teller)

Pairs

Ayes	Noes
Mr Clarko	Mr Grill
Mr Laurance	Mr Hodge
Mr Lewis	Mr P. J. Smith
Mr Bradshaw	Mr Tom Jones
Mr Lightfoot	Mr Thomas
Mr Rushton	Mr Brian Burke
Mr Watt	Mr Evans

Amendment thus negatived.

Mr COWAN: I move an amendment—

Page 26—After the word “powers” in line 26 to insert a new clause 43.

43 (1) An inspector may not exercise any of his powers under section 44 of this Act without a warrant signed by the Commissioner or a person delegated by him under section 18(4) of this Act.

(2) A warrant that is issued by the Commissioner shall be limited by a date expiry that, in the opinion of the Commissioner, allows a sufficient and reasonable time for the inspection to be completed.

(3) The Commissioner may, in issuing a warrant, place such limitations on the exercise of the powers under section 44 of this Act as he deems necessary and reasonable.

The purpose of this amendment relates to powers given to inspectors for the purposes of this legislation. On page 26 the Bill reads—

43. (1) An inspector may, for the purposes of this Act—

(a) At all reasonable times of the day or night—

I accept the word “reasonable”—

—enter, inspect and examine any workplace;

(b) Enter any workplace at any other time that the performance of his functions under this Act requires such entry;

This proposed section goes on right down to powers which are conferred on him by regulations or as may be necessary for the performance of his functions under the Act.

The powers are very broad and almost equal to those of a police officer. I assume that this legislation, if it is carried, will mean that the health and safety representative appointed to a workplace will have the capacity to invite inspectors into the workplace. The National Party does not believe that an inspector should voluntarily visit a particular site and be able to exercise these powers. If there is a capacity already written into this legislation for inspectors to be invited into a factory or on to a shop floor to inspect a workplace, the National Party thinks that when an inspector makes the decision, on his own initiative, to enter the workplace and make an inspection, he should be required to do so under a warrant served by the commissioner.

The National Party does not think this is unreasonable, given that these inspectors are now in a position where they can undoubtedly

be invited to the workplace to examine problems which arise in areas where there can be no agreement between the employers and the consultative committee. For that reason, the National Party seeks through this amendment to ensure that where an inspector seeks to enter premises on his own initiative, he can do so only after first obtaining a warrant from the commissioner.

That warrant would purely limit the time in which the inspector could make that visit so that if he said he wanted to visit the ABC food factory the day after tomorrow, he must seek a warrant in order to be able to do that.

Mr PETER DOWDING: The Government does not accept this amendment—

Mr Hassell: That does not surprise me. The Government has wasted all these hours.

Mr PETER DOWDING: Who wasted them? The hour is late and even the member for Cottesloe would know that the Factories and Shops Act, section 16, and the Construction Safety Act, section 11, have exactly these powers in place.

Mr Cowan: But the health and safety representative is not established.

Mr PETER DOWDING: They may not be in the workplace either. If one thing has come to me as Minister it is the difficulty that irresponsible employers create for the inspectors. If we are to have an inspectorate with the role it has under any one of these Acts it must have these powers. We cannot accept that these powers should be impinged upon. They have been in place for a long time, and we do not believe the National Party has advanced a reason for limiting these powers. The performance of the inspectorate in the exercise of these powers is remarkable, given how infrequently there are complaints about the use by the inspectors of the powers. We regard it as most important that the inspectors' powers are not restrained.

Amendment put and negatived.

Mr THOMPSON: I move an amendment—

Page 33, lines 6 to 10—To delete the lines with a view to substituting other words.

The Opposition is opposed to the codes of practice being enshrined in the legislation in this way because in our view it will be an impediment to a satisfactory method of operation. Perhaps the Minister can enlighten me as

to how he perceives the codes of practice working and why he believes it necessary to treat them in this way.

Mr PETER DOWDING: The reason that codes of practice are referred to is that these documents will be set out as guidelines for appropriate conduct or standards, or whatever, in particular workplaces, and they will form the basis of advice and guidance for employers. They will set standards. That is what the inspectors will be able to do with their improvement notices. They will be able to say that these standards have been agreed to by the employers and the unions in the commission and they are the standards which ought to be met. However, paragraph (2)(b) offers people the mechanism for remedying a contravention, not of the code of practice, but of the general duty. They will be able to use the code of practice as a standard and a mechanism to resolve a breach of the general duty. It is not a breach of the code of practice. The code is a guideline which sets the standard, and by reference to that ways will be offered for employers to overcome contraventions of the general duty which is the subject of prohibition or improvement notices.

Mr HASSELL: The reason this amendment has been moved is that we believe proposed section 50 turns codes of practice into enforceable regulations. The purpose of the codes is not to be regulatory, and the Act is structured so that will not occur. However, if we provide for the inspectors to be able to give directions by reference to the codes in effect they become regulatory.

I listened to what the Minister said, and I understand his position, but I ask him to look at the impact of maintaining this provision. In practice, codes will become regulatory.

Mr Peter Dowding: We do not believe that is the case.

Mr HASSELL: If my memory serves me correctly, at an earlier stage of the debate the Minister referred to the codes as being variable and different from place to place in accordance with what might be appropriate in a particular industry or operation. I understand that but when a provision such as proposed section 50(2)(a) is inserted the code and its application is universalised. The Minister is turning it into a regulation.

Amendment put and a division taken with the following result—

Ayes 15

Mr Blaikie	Mr Mensaros
Mr Cash	Mr Schell
Mr Court	Mr Spriggs
Mr Cowan	Mr Thompson
Mr Crane	Mr Tubby
Mr Grayden	Mr Wiese
Mr Hassell	Mr Williams
Mr MacKinnon	

(Teller)

Noes 22

Dr Alexander	Mr Marlborough
Mr Bertram	Mr Parker
Mr Bridge	Mr Pearce
Mr Bryce	Mr Read
Mr Carr	Mr D. L. Smith
Mr Donovan	Mr Taylor
Mr Peter Dowding	Mr Troy
Dr Gallop	Mrs Watkins
Mrs Henderson	Dr Watson
Mr Gordon Hill	Mr Wilson
Dr Lawrence	Mrs Buchanan

(Teller)

Pairs

Ayes

Mr Clarko
Mr Laurance
Mr Lewis
Mr Bradshaw
Mr Lightfoot
Mr Rushon
Mr Watt

Noes

Mr Grill
Mr Hodge
Mr P. J. Smith
Mr Tom Jones
Mr Thomas
Mr Brian Burke
Mr Evans

Amendment thus negatived.

Mr PETER DOWDING: I move an amendment—

Page 34, line 7—To delete “shall” and substitute “may”.

Amendment put and passed.

Mr COWAN: I move an amendment—

Page 34, line 8—To delete the words “from a panel of experts appointed by the Minister”.

The National Party does not see any need to refer matters to an expert chosen from a panel of experts appointed by the Minister. We cannot understand why the Industrial Relations Commission cannot refer a matter to an expert of its own choice. It is unnecessary for the Minister to nominate a panel from whom the Industrial Relations Commission can make a choice of an expert. The commission is competent and has the capacity to find its own experts.

Mr PETER DOWDING: This is not an easy area. I think we have driven into the most satisfactory accommodation of all points of interest. This pattern has been developed in the past in relation to other legislation, including the Construction Safety Act, and it has been understood.

The Confederation of Western Australian Industry wanted appeals to go to the Industrial Relations Commission. However, the difficulty was that the fundamental issues to be dealt with were technical matters, about whether a particular workplace is safe, and about the performance of general duty and care.

This expert group is necessary. We do not want to get to a Lindy Chamberlain situation of inviting either side to contest scientific evidence in an adversarial situation. If the commission were confronted with such an issue it could refer it to an expert. The Minister has the role of providing a list of experts. He can already perform that role.

Mr Hassell: How are you going to appoint enough experts to cover all areas? Your proposition is impractical. It is the view of employers that you will not be able to appoint a sufficiently broad range of experts to cover all the needs that will arise.

Mr PETER DOWDING: If that is the case there may be a good argument for reverting to what we said originally—that is, that appeals will go to the Occupational Health, Safety and Welfare Commissioner for final determination.

Mr Hassell: We put up that idea.

Mr PETER DOWDING: Yes, but employers do not want that. We cannot accommodate everybody. This provision is practical and it will work. If somewhere down the track it were seen as unworkable, we would be prepared to review it. The tripartite commission will be reporting on the operation of the Act in two years' time.

We do not think the National Party's amendment advances the situation. We think the panel is appropriate.

Amendment put and negatived.

Mr THOMPSON: In the absence of the member for East Melville, I move an amendment—

Page 34, line 21—To delete the words “any person authorised in that behalf by”

The reason for the amendment is that the Opposition believes that in the case of a prosecution the proceedings should be initiated by the commissioner and he should not have the power to delegate his responsibility. The Opposition believes it is not likely to detract from the operations of the legislation and it urges the Minister to accept the amendment.

Mr PETER DOWDING: It really is not practical to ask the commissioner not to delegate responsibility within his own department. The Government is of the opinion that the amendment is not justified.

Amendment put and negated.

Mr PETER DOWDING: I move an amendment—

Page 34, after line 25—To insert in the proposed section 52 the following subsection—

(3) Proceedings for a contravention of section 19(3) may be commenced at any time within 2 years after the offence was committed and not afterwards.

This amendment is to provide a time limit within which proceedings under proposed section 19(3) can be instituted in respect of an accident. Quite often inquiries into a serious accident can extend over a considerable period of time and may not be achieved within the six months provided under the Interpretation Act. It is absolutely vital that in the case of an investigation taking a considerable period of time, the time for launching any proceedings as a result of breaches should not be overrun simply because the six month period has passed.

Amendment put and passed.

Mr THOMPSON: I move an amendment—

Page 35, lines 8 and 9—To delete the lines with a view to substituting the following—

is, in the absence of any evidence to the contrary, not required to be proved.

The onus of proof should not be on an individual to prove his innocence, but on the authority concerned to prove his guilt. I cannot understand the reason that the Minister would want the Bill drafted in the way it is.

Mr PETER DOWDING: The reason the Parliamentary Counsel has drafted the Bill in this way is that it substantially reflects what is in the Construction Safety Act. I do not know whether it is covered in the Factories and Shops Act.

Mr Hassell: Do you say that it covers all of those things?

Mr PETER DOWDING: Yes. The wording of the averments in the Construction Safety Act and the Factories and Shops Act are similar to the averments in this legislation.

The point is that those matters stand until the contrary is proved. That is the reason the Bill has been drafted in this way and the Government has accepted that it is appropriate. I reject the amendment.

Mr HASSELL: This is a very important amendment and I am sorry that once again the Minister has rejected the proposal out of hand. All members should understand what is in the Minister's Bill. It states that the prosecutor only has to say to a person any of those things outlined in proposed paragraphs (a) to (g)—perhaps an employee, although the chances of that happening are small—and that person is deemed to be guilty in the absence of proof to the contrary.

The proposed section does not say that evidence is available until an issue is raised. The Bill does not provide for a person who wishes to contest the charge.

It is similar to a situation where a member, driving home tonight, is pulled up for speeding and is given a ticket. The ticket will say that he has 21 days to pay the modified penalty and accept that he is guilty or he will be taken to court. What it is really saying is that if the member does not dispute the charge, then he will be guilty of it. However, if he disputes it the obligation immediately is on the Crown to prove that he was speeding. The provision in this Bill is not like that. If applied to the speeding situation, it states that if a person is caught speeding on the way home and a policeman tells him that he is speeding, the only way to prove one's innocence is for the person concerned to contest it. He is guilty until proven innocent.

I am not sure whether my explanation applies to all the proposed paragraphs but I ask the Minister to look at the particular concerns I have with proposed paragraphs (d) and (e). How does a person being prosecuted prove that a notice had not been given, especially when we refer to a proposed section which we debated at great length and which deemed that a notice has been served if it is left with someone at the door? This provision is very unfair in the way it is drafted. How does one prove whether a notice has been served?

It is one of the principles often argued in relation to criminal and quasi-criminal jurisdiction. We are dealing with quasi-criminal jurisdiction because we are talking about prosecutions. We understand the evidentiary provision and that these things facilitate the proceedings of a court; we are suggesting that instead of reversing the onus of proof, as the

Minister's provision proposes, we simply make it a piece of prima facie evidence and say that if any of these things are alleged, in the absence of any evidence to the contrary, they are not required to be proved. That is, if a person is alleged to have received a notice and says that he has not received it, the onus shifts to the prosecution to prove that notice was given. The prosecution is in a position to know that the notice was given because the department would have given the notice. The department can say that its records show that on a certain date at a certain time a process server or inspector went to these premises, saw Joe Blow and left the notice, and it can produce its records. Imagine trying to prove the opposite—if a person does not get the notice how does he prove that it was not served, especially when it may be served on all sorts of people and is deemed to have been served. It is a double disadvantage and most unfair.

Despite the Minister's brick wall approach to every other amendment moved tonight, I would have thought he would be prepared to consider this in a reasonable way. Perhaps the Minister could undertake to look at this amendment with a view to changing it before it gets to the upper House. Such things are often changed in the course of the passage of legislation through this Chamber; the Liberal Party did so when in Government when questions were raised about legislation. The provisions are unfair and should not be universally applied. They should be applied very sparingly and the departments must always be watched.

Mr Peter Dowding: Here we go.

Mr HASSELL: The Minister does not want to hear. He is saying that he will not accept the amendment and the Opposition can go to blazes even though it may have seriously thought about the amendment before putting it forward.

Mr Peter Dowding: I have no problem taking your suggestion that I look at it again but you want to keep talking about it. You do not want to hear me.

Mr HASSELL: We have heard the Minister's views once; he expressed the view that it should be wiped off.

Mr Peter Dowding: I have no objection to looking at it again.

Mr HASSELL: When I have finished the point I was making, I hope the Minister will stand and give an undertaking about how he will deal with the amendment. Perhaps it is not clearly understood that so often these sorts of

provisions are not put in at the behest of the Minister. In trying to present legislation to Parliament the Minister does not draft all the provisions and, if he is a lawyer, it is wise to avoid getting caught up in the drafting, although there is always a temptation to do so. These things are drafted by Crown Law at the behest of the department and the department always is trying to make its life easier in the future.

It wants to be able to go to court and win all the cases against the people prosecuted. Of course the departments write these things in. When I was a Minister I had to restrain the Police Department, the Prisons Department, and the Welfare Department. Each of those departments wanted to write these provisions in their Statutes when I was Minister—it made their life easier, they did not have to prove their records were accurate, that notices had been served and so on. They could go to court and say that they had done it, although often it had not been done. The poor defendant had to prove that he did not receive the notice at his cost. It is a very serious matter.

I do not blame the Minister for the proposed section being as it is because these provisions are produced by the Crown Law Department to satisfy the desire of departments to have an easy time when prosecuting people. I would be grateful if the Minister would undertake to look at this provision in a serious manner. It does not necessarily include all of the proposed subsections; for example, it would not be reasonable to put the prosecution to the task of proving that a particular person was an inspector. That is different from the situation of giving notice.

Mr PETER DOWDING: I have some problems taking the member seriously on some occasions and I have difficulty taking him too seriously on this occasion. I have said before—and he is not prepared to concede it—that this is a similar provision to that which has existed in the Factories and Shops Act since its inception in 1963. Not only that, I am now advised that a similar provision has been on the Statute book of Western Australia since 1920. Let us be serious about this; if there were an injustice as a result of the provisions in this Bill one would have expected someone to fight about it between 1920 and the present.

The member for Cottesloe may well have been a Minister for two years and 364 days, but he had plenty of opportunity to deal with the issues of averment. I have great concern about the use of averments and said so in relation to the Act the member drafted and so vigorously

supported. Provisions of this sort have been in place in this State for 67 years. I have not heard an uproar of concern about them.

The matter has been raised and I am happy to give the member an undertaking that I will call in the draftsman and the department and go through this averment provision. But for the members who are not familiar with the process, the proof that is required to rebut the averment is proof on the civil standard. One has only to establish on the balance of probability that the case was as presented. It is not as onerous—

Mr Wiese: Why should you have to?

Mr PETER DOWDING: The simple answer is that a whole range of administrative matters are generally speaking regarded as appropriate for averment for the reasons the member mentioned. Sometimes it is simply convenience but other times it is because one wants to get to the nub of the issue and have it dealt with by the court. Otherwise one can become bogged down in endless litigation, and plenty of people in the community are prepared to use every resource to litigate to avoid the real issue coming before the court.

I give an undertaking to the Committee that I will seriously reconsider the nature of the averments in proposed paragraphs (b) and (c).

Amendment put and negatived.

Mr COWAN: It is the intention of the National Party to move an amendment to insert a new section 55. This proposed section identifies the fact that an employee organisation—I am now referring particularly to the trade union movement—imposing some levy or material demand on other employees at the workplace to meet payment of any fines, commits an offence under the provisions of this Bill.

By the same token, where people voluntarily give that money, that is not an offence. It ensures that the recoupment of a fine by a compulsory levy is an offence.

I move an amendment—

Page 35, after line 16—To insert after proposed section 54, the following new section to stand as section 55—

Offences by employees or by employee organisations

55(1) It shall be an offence for an employee or a person or employee organisation acting on behalf of an employee, whether or not with the consent of the employee, to impose a levy or any other material demand on

other employees at the workplace to contribute to the payment of any penalty for an offence under this Act.

(2) It shall not be an offence for an employee, or a person or employee organisation acting on behalf of an employee, to invite other employees to make a voluntary financial or material contribution towards the payment of any penalty for an offence under this Act.

Mr HASSELL: It does not appear that the Minister will rise to indicate in advance of the vote whether he supports the amendment.

Mr Peter Dowding: It is not supported. We do not find the argument convincing.

Mr HASSELL: There is no doubt about it, it goes from beginning to end.

Mr Peter Dowding: As modest as you can get!

Mr HASSELL: It goes from clause to clause and from subclause to subclause: The union benefit Bill! Even a simple provision which says one is not allowed to force people into contributing to pay for offences is not acceptable to this Government. One is allowed to ask for them voluntarily.

What the Government has done tonight, through this long and wearisome debate, is to hammer a lot of nails into its own coffin. All these things will stand on the record. What we have achieved in this debate is to put on the record the attitude of this Government to union power and union privilege. All these things which have been lined up tonight will be on the official record so that when the time comes we will be able to let the public know what they will get if they vote for this mob.

Amendment put and a division taken with the following result—

Ayes 15

Mr Blaikie	Mr Mensaros
Mr Cash	Mr Schell
Mr Court	Mr Spriggs
Mr Cowan	Mr Thompson
Mr Crane	Mr Tubby
Mr Grayden	Mr Wiese
Mr Hassell	Mr Williams
Mr MacKinnon	

(Teller)

Noes 21

Dr Alexander	Mr Marlborough
Mr Bertram	Mr Parker
Mr Bridge	Mr Pearce
Mr Bryce	Mr Read
Mr Carr	Mr D. L. Smith
Mr Donovan	Mr Taylor
Mr Peter Dowding	Mr Troy
Dr Gallop	Mrs Watkins
Mrs Henderson	Mr Wilson
Mr Gordon Hill	Mrs Buchanan
Dr Lawrence	

(Teller)

Pairs

Ayes	Noes
Mr Clarko	Mr Grill
Mr Laurance	Mr Hodge
Mr Lewis	Mr P. J. Smith
Mr Bradshaw	Mr Tom Jones
Mr Lightfoot	Mr Thomas
Mr Rushton	Mr Brian Burke
Mr Watt	Mr Evans

Amendment thus negatived.

Mr COWAN: I move an amendment—

Page 36, after line 19—To insert after paragraph (d), the following new paragraph to stand as paragraph (e)—

(e) makes or has made a financial or material contribution to assist in the payment of a penalty for an offence under this Act,

This relates to discrimination provisions. We want to make it clear that there can be no discrimination against a person who makes or has made a financial contribution to assist in the payment of a penalty for an offence under this Act. The purpose is self-evident.

Mr HASSELL: As a Committee we are entitled to hear from the Minister in relation to this amendment. If the Minister will not even give the Chamber the courtesy of explaining his and his Government's position, it is a very poor show.

The Minister is responsible for the Bill. He has rejected amendment after amendment. He has demonstrated a completely closed mind to any thought other than his own, yet these legitimate issues have been raised by us and by the National Party. We should not allow the amendment to pass without comment just because it is late. After all, it is the choice of the Government that we are sitting here at this hour. There is no need for it.

Mr Peter Dowding: What do you suggest we do? You have elongated the debate endlessly.

Mr HASSELL: I suggest we deal with the Bill properly.

Mr Peter Dowding: We are dealing with it properly. You have had more time on this Bill than you would ever allow us when in Opposition. When you were in Government you

would never allow this sort of time on this sort of Bill. You would have used your numbers hours ago.

Several members interjected.

Mr HASSELL: What the Leader of the National Party has just said is correct. The gag has been applied only twice in my memory, which is in the last few years under this Government.

Several members interjected.

Mr HASSELL: We sat here night after night. The Minister for Local Government talks rubbish. I handled the Bills.

Point of Order

Mr PETER DOWDING: The member is not addressing the matter before the Committee.

Several members interjected.

The CHAIRMAN: I request the member for Cottesloe to relate his comments to the amendment moved by the Leader of the National Party.

Committee Resumed

Mr HASSELL: Certainly. I could relate them for 13 minutes, but I do not intend to do so. All I sought to do was to ask the Minister to state his position and the reason for his opposition to this amendment.

The Minister still has not done so. All he wants to do is interject, make smart comments and take irrelevant points of order. If he is prepared to get up and state his position, I would be happy to hear him.

Mr PETER DOWDING: The Government opposes the amendment, for the same reasons it opposed the previous amendment. The Government does not regard it as an appropriate constraint to put into the legislation, and the reasons advanced for accepting it are not regarded as compelling.

Amendment put and a division taken with the following result—

Ayes 15

Mr Blaikie	Mr Mensaros
Mr Cash	Mr Schell
Mr Court	Mr Spriggs
Mr Cowan	Mr Thompson
Mr Crane	Mr Tubby
Mr Grayden	Mr Wiese
Mr Hassell	Mr Williams
Mr MacKinnon	

(Teller)

Noes 21

Dr Alexander	Mr Marlborough
Mr Bertram	Mr Parker
Mr Bridge	Mr Pearce
Mr Bryce	Mr Read
Mr Carr	Mr D. L. Smith
Mr Donovan	Mr Taylor
Mr Peter Dowding	Mr Troy
Dr Gallop	Mrs Watkins
Mrs Henderson	Mr Wilson
Mr Gordon Hill	Mrs Buchanan
Dr Lawrence	

(Teller)

Amendment put and a division taken with the following result—

Ayes 15

Mr Blaikie	Mr Mensaros
Mr Cash	Mr Schell
Mr Court	Mr Spriggs
Mr Cowan	Mr Thompson
Mr Crane	Mr Tubby
Mr Grayden	Mr Wiese
Mr Hassell	Mr Williams
Mr MacKinnon	

(Teller)

Pairs

Noes

Ayes

Mr Clarko
Mr Laurance
Mr Lewis
Mr Bradshaw
Mr Lightfoot
Mr Rushton
Mr Watt

Mr Grill
Mr Hodge
Mr P. J. Smith
Mr Tom Jones
Mr Thomas
Mr Brian Burke
Mr Evans

Amendment thus negated.

Mr COWAN: I move an amendment—

Page 36, lines 23 and 24—To delete the lines with a view to substituting the following—

(a) performs or has performed any function as a health and safety representative or a member of a health and safety committee; or

(b) exercises his right to decide whether or not to make a financial or material contribution to assist in the payment of a penalty for an offence under this Act,

The employer has the discriminatory provisions for an offence, and this Bill has a provision which ensures that trade unions are treated in the same fashion. The purpose of the amendment is to do exactly the same thing with trade unions as the previous amendment attempted to do with employers or prospective employers—that where a person exercises his right to decide whether to make a financial or material contribution to assist in the payment of a penalty for an offence under this Act, he commits an offence.

Mr PETER DOWDING: This amendment is not acceptable. It really attempts to do what the previous amendment did, which was to deny the right of people to organise and cooperate. In any event, the reasons for the amendment are not accepted by the Government.

Noes 21

Dr Alexander	Mr Parker
Mr Bertram	Mr Pearce
Mr Bridge	Mr Read
Mr Bryce	Mr D. L. Smith
Mr Carr	Mr Taylor
Mr Donovan	Mr Troy
Mr Peter Dowding	Mrs Watkins
Dr Gallop	Dr Watson
Mrs Henderson	Mr Wilson
Mr Gordon Hill	Mrs Buchanan
Mr Marlborough	

(Teller)

Pairs

Noes

Ayes

Mr Clarko
Mr Laurance
Mr Lewis
Mr Bradshaw
Mr Lightfoot
Mr Rushton
Mr Watt

Mr Grill
Mr Hodge
Mr P. J. Smith
Mr Tom Jones
Mr Thomas
Mr Brian Burke
Mr Evans

Amendment thus negated.

Mr THOMPSON: I move an amendment—

Page 37, line 5—To insert after the line the following subsections—

(4a) A code of practice and any revision or revocation of a code of practice shall be laid before each House of Parliament within fourteen sitting days of such House.

(4b) If either House of Parliament passes a resolution disallowing a code of practice or a revision or revocation of a code of practice, of which resolution notice has been given within fourteen sitting days of such House after the code of practice, revision or revocation has been laid before it, or if any code of practice or revision or revocation of a code of practice is not laid before both Houses of Parliament in accordance with subsection (4a), such code of practice, revision or revocation shall thereupon cease to have effect.

The purpose of this amendment is to allow Parliament to scrutinise a code of conduct after any alterations to it are made pursuant to the legislation. Quite deliberately the codes are not to be made a regulation, but the National Party

feels it essential that Parliament have some overview of the codes of conduct, particularly when one considers some of the studies which are going on currently. The national body has recently issued a document—I cannot think of the name—which relates to manual handling. There are certain limits suggested with respect to the weight that a person ought not to lift.

Mr MacKinnon: The 16-kilogram one?

Mr THOMPSON: Electrical contractors have told me that if that were included in a code of practice made under the provisions of this Bill, they would need two electricians to lift one coil of wire which for many years has been lifted by one man. Having had practical experience in that area I find it hard to understand how industry could be expected to work with such a ridiculous provision as that.

I have been bombarded with representations from people from around the State with respect to the limit imposed in that document, so it is essential that Parliament have the overview of the codes of practice. We hope the Minister recognises the validity of the request we make and agrees to this amendment. It is not an unreasonable request. I assume that in the preparation of the code there would be discussion between the employers and employees anyway, but when we look at just how the Government has used its power in relation to this Bill we see that it has gone further with this legislation than the tripartite process was prepared to go, and we are concerned that that may in fact occur with respect to the compilation of a code of practice.

Mr HASSELL: Before the Minister rises to summarily dismiss yet another proposal from the Opposition, I want to say that we have—

Mr Bertram interjected.

Mr HASSELL: It might be, but it is born of experience of the last 18 hours' debate on this Bill, on Tuesday and today, in which not one suggestion or idea put forward by the Opposition has been accepted by the Minister; except, reluctantly, the insertion of the word "reasonable" when he was advised, and said to the Committee, that it would not make any difference. That is the extent to which his mind has been prepared to meet the Opposition's arguments and discussions on this Bill.

We agree with the proposition that the codes of practice should not of themselves be regulatory. In fact we sought in an earlier amendment to protect them from being put in a position of being regulated; so when we instructed the draftsman to prepare this amendment we said

that the draftsman should draft it in such a way that there was no suggestion that the code was a regulatory code. All we wanted was for the codes of practice to be brought to the Parliament and be subject to disallowance or modification. In that way Parliament is able to have an overview. I am sure no rational person could object, but we will wait to hear what the Minister says.

Mr PETER DOWDING: Frankly, I am amazed at the lack of understanding expressed tonight about what codes of practice are and the way in which they are formulated. Let us consider the process by which these codes emerge.

Mr MacKinnon: Do you support the 16-kilogram code?

Mr PETER DOWDING: It is not a code.

Mr MacKinnon: The ACTU has said it is.

Mr PETER DOWDING: It is not a code.

Mr MacKinnon: Do you support it?

Mr PETER DOWDING: It is not a code; the question is irrelevant.

Mr MacKinnon: Do you support it?

Mr PETER DOWDING: Do I support what?

Mr MacKinnon: The 16-kilogram recommendation in the draft code, or whatever it is.

Mr PETER DOWDING: It is not a code.

Mr MacKinnon: Do you support it?

Mr PETER DOWDING: This is a very funny conversation to be having at this late hour. It is not a code of practice.

Mr MacKinnon: It is a draft general code of practice.

Mr PETER DOWDING: Precisely, and that is what I am trying to say to the Leader of the Opposition. That is what it is.

Mr MacKinnon: Do you support it?

Mr PETER DOWDING: It is not for me to indicate my support for a draft code.

Mr MacKinnon: Do you support it or don't you?

Mr PETER DOWDING: The Leader of the Opposition has not contributed much to this debate, but I will tell him that, as a bloke with a bad back, 16 kilograms is about my limit. Given that bad backs are one of the major causes—

Mr MacKinnon: The Minister supports it! That is all I wanted to know. I can write back to the legion of people who have corresponded with me on this matter and say the Government supports it.

Mr PETER DOWDING: The only reason I am taking the time of the Chamber on this issue is that the Leader of the Opposition has raised the matter and obviously does not know what he is talking about. It is not a code of practice.

Mr MacKinnon interjected.

Mr PETER DOWDING: The Leader of the Opposition should shut up, for God's sake. A code of practice emerges after a long process. It first goes out as a draft document.

Mr MacKinnon: You cannot even carry a carton of beer out the door. You are a joke.

Mr PETER DOWDING: Can someone not whack a cork in the Leader of the Opposition's mouth? A code of practice emerges after a long process. First a discussion paper issues, then a draft document which is put out for comment.

Mr Cowan interjected.

Mr PETER DOWDING: Do members want to listen? The Leader of the Opposition does not know, the member for Cottesloe does not want to know, and the Leader of the National Party moved the amendment.

Mr Cowan: No, I did not.

Mr PETER DOWDING: A draft code of practice is not a code of practice. A code of practice is a document which is the result of very extensive consultation and opportunity for input from a wide range of people, careful consideration by a range of experts, and ultimately very careful consideration by the tripartite representatives of either the Federal or the State Occupational Health, Safety and Welfare Commission.

In other words it is not something we expect the member for Cottesloe to front up to after a good afternoon at wherever he has been and say, "I do not like this, I will disallow it." It is much more fundamental than that.

Mr Hassell: It must be all right. If it has gone through the tripartite process it cannot be questioned!

Mr PETER DOWDING: The member for Cottesloe can joke about it, but I see nothing wrong with requiring codes of practice which are approved by the State Occupational Health, Safety and Welfare Commission to be tabled in the Chamber. However, if members opposite are saying that a member, without having gone through that process, could then move for its disallowance, there is a problem, because if a member has enough interest in the issue he can make a submission to the experts who are entrusted with that role under this Act.

I am amazed at the Opposition's attitude because it is hardly a matter which has a one-party-versus-the-other-party view about it. Out there in the community at national and State levels there is an acceptance of the process.

Mr Hassell: If you did not have ideological blinkers on, you could accept the amendment.

Mr PETER DOWDING: That expression is copyright to me. I have been saying that about the member for Cottesloe throughout the debate.

Mr Hassell: You have turned everything tonight into a confrontation between this side of the Chamber and that side.

Mr PETER DOWDING: No, the member for Cottesloe is doing that. I am saying that a code of practice is something more than that.

I have made the position clear and I speak on behalf of the Government. Our view is that we ought to ensure, by all means, that the Parliament is informed about codes, and it is important that members of Parliament who have an interest should take the opportunity to be alerted to the fact that a draft copy is being circulated.

I would have absolutely no problem with a provision where the commission issues a code draft or a discussion paper for a code to be tabled in the Houses of Parliament. That makes sense. I do not see a problem with the Minister of the day tabling draft documents, codes or discussion papers because it is the process by which people are alerted to the fact that discussion is under way and where they can make submissions through employers, unions or Government representatives. It is inappropriate to put that code into the position of a regulation by allowing for disallowance or allowance. I will make sure my officers look at this situation. We would be prepared to include it.

Mr THOMPSON: There is a pile of papers on the Table which are a foot in height. Among those papers are a number of regulations made pursuant to a variety of Acts. Does the Minister suggest that they ought not to be there? There are many members in this Parliament who would not have the knowledge to be able to determine whether those regulations are appropriate.

Mr Peter Dowding: What I am saying is that when the draft document is tabled, members can look at it.

Mr THOMPSON: That is correct. Members can look at it but they cannot do anything about it.

Mr Peter Dowding: Yes they can. They can make representations through the employer organisations or the unions if they are the member for Cottesloe.

Mr THOMPSON: The papers laid on the Table of the House are not those people can deal with as representatives of the community.

Mr Peter Dowding: That is why it has been inappropriate in the past because you have people who do not understand expert issues.

Mr THOMPSON: The papers on the Table have many expert issues in them. They are beyond the competence of many people in this Chamber but we bring them here because this is a safety valve. They impact very significantly on people in the community. They will become a datum point for employers to adhere to. I see absolutely no reason why they ought not to be the subject of disallowance in the same way as other regulations.

Mr CASH: I am very interested in the Minister's comments. Firstly, he claimed that some members of the Opposition were not fully au fait with what the code of practice was all about and clearly the Leader of the Opposition was aware. He produced a copy of a draft code of practice and quoted it to the Minister. I am interested in the Minister's comments in so much as he said that it was unreasonable to make them part of the regulations and therefore subject to comment in this Chamber. He made the point that he would see, if necessary, if it was the request of members, that the commission would be required to circulate the various codes of practice on which it may be seeking comment.

I point out to the Chamber the hypocrisy of the Minister's statement because the other day an amendment was moved by the Minister which changed the word "shall" to "may" in respect of the need for the commission to issue for public review and comment any regulation, codes of practice or guidelines with respect to what it proposed under the legislation and to make any recommendations to the Minister.

The Minister is an absolute joke when he says one thing in this Chamber today and only yesterday moved an amendment to change the requirement and obligation on the commission to issue for public review various documents. He changed that obligation to "may" which is a discretionary situation.

Mr Peter Dowding: Were you not here?

Mr CASH: I was here when he did it and of course I heard why he did it. I am suggesting the Minister has two sets of rules. If it suits him to say one thing one day he will and if it suits him to say something else on another day in respect of the same situation that is exactly what he will do. No scruples whatever! I hope members recall the words of the Minister only a few days ago and now we have the same Minister making a comment in respect of a similar issue he commented on. We can see a huge difference in what it is all about. It is hypocrisy at its best.

Mr HASSELL: The Minister argues that we cannot have a code laid on the Table of the House and be subject to disallowance because it has been through the process of consultation, consensus, conciliation and many discussions. He is suggesting we are not sufficiently expert to deal with such a code that has been through such a process. When did we suddenly have to be experts to make the law? That is not the way it works. There are regulations, as the member for Kalamunda pointed out, filed on the Table of this House that are produced by experts every day of the week. When did a member of this Chamber last move to disallow regulations?

Mr Peter Dowding: I sat for six years in the upper House and heard it for the three years of the Labor Government.

Mr HASSELL: Can anyone remember when it was last done?

Mr Peter Dowding: I can certainly remember when it was done in the upper House. It was done constantly and irresponsibly.

Mr HASSELL: No one can remember when it was last done in this Chamber, yet the Minister is worried someone might touch one of his sacred codes. It is worse than sacred sites. It is so ridiculous. Sacred codes and sacred sites! It has been through the conciliation process, the consultative process, and the tripartite committee, therefore, Parliament cannot comment on it. We cannot do anything about it. What does the Minister think we could do about it? Of course we can comment on it but we are not able to do anything about it.

That is exactly what the Minister wants—he wants the Parliament and everybody else to be excluded from this process, this exclusive club which, I suppose, could be called "the industrial relations club".

The very reason we want these draft codes laid on the Table of the Chamber and to be subject to disallowance in whole or part, is so

that we can deal with propositions such as the absurd proposition contained in the draft Federal code. We want them brought up for disallowance here so that when the little team that produced, through the conciliation process, that sort of proposal reproduces it here, we can deal with it. That is, Parliament can say, "That is not a reasonable, acceptable standard in our community; it is not going to apply." That is what Parliament is meant to do.

The Minister then said, "But this won't be a regulation"; he dropped himself in a hole because he was in effect saying that the Parliament was qualified to disallow a law but not qualified to disallow something that is purely advisory. I suppose we are really putting these things on the record because we have discovered that the Minister cares nothing for the process of Committee debate or the process of consideration of the issue. The Minister came to this Parliament tonight, and on Tuesday as well, ill-prepared for this debate. He has not considered the amendments that have been on the Notice Paper for more than a week.

The Minister has a team of advisers sitting in the gallery, and streams of them sitting in the corridor and in his office. If one walks around the corridors of this place at question time any day of the week, one can barely fight one's way through the numbers of advisers. Despite this, the Minister has not been able to manage to consider the amendments and to be prepared to deal with them. All he has done is come here and say, "I don't like them" and when one really puts him on the spot, he says, "I will have to ask someone else." It just so happens that the adviser he has to ask is not here tonight; some of the other advisers are here—one could not fit them all in; all the Government advisers and all the hangers-on who have jobs under this Government.

Mr Peter Dowding interjected.

Point of Order

Dr ALEXANDER: Under Standing Order No. 132, the member for Cottesloe is addressing matters which personally reflect on a member. His comments have little to do with the matter before the Chair. He has consistently done this all night.

The CHAIRMAN: Standing Order No. 132 deals with imputations of improper motives and personal reflections on members, which are considered to be highly disorderly. I know what the member for Perth is referring to, but it was not a reflection on the Minister for

Labour, Productivity and Employment. Unfortunately it reflected on his staff and they really have no right of redress.

Committee Resumed

Mr HASSELL: I would just like to take up one thing which the Minister whipped in when he thought he had the opportunity. He said in effect that I was reflecting on the departmental officers. I make it clear that I cast no reflection on regular civil servants.

Mr Carr: Yes, you did.

Mr HASSELL: I was talking about the tribe of political advisers—

Several members interjected.

Mr HASSELL: I said, "The advisers in the gallery."

Mr Peter Dowding interjected.

Mr HASSELL: The Minister has advisers in the gallery and he has some more in the corridors. They are all around the place; there are teams of them.

Several members interjected.

Mr HASSELL: The Minister has never heard any comment from this side of the Chamber in relation to public service officers but he has heard plenty of comments—and he will continue to hear them—about his political hangers-on to whom he has given highly-paid jobs.

Point of Order

Mr PETER DOWDING: There is no reference to any of the matters that the member is now addressing in the amendment before the Chair. I ask that the member be drawn back to the Bill we are debating.

The CHAIRMAN: I recognise the Minister's point of order and ask the member for Cottesloe to restrict his remarks to the amendment moved by the member for Kalamunda.

Committee Resumed

Mr HASSELL: I would certainly say that I assume that these political advisers—

The CHAIRMAN: Order! I ask the member for Cottesloe to direct his remarks to the amendments before the Chair. I am very tolerant and I respect the member's judgment and ability as a politician but he should not test my patience.

Mr HASSELL: I am very sorry, but I was trying to make a point about how the Minister comes to be so absolutely inflexible when deal-

ing with amendments that are being brought forward, including the one now before the Chair.

Mr Peter Dowding interjected.

The CHAIRMAN: Order! The member for Cottesloe is the only person I would like to hear speaking. I do not care if we sit until 5.00 am. I possess the ability to remain awake until late, many days of the week. There will not be a rule for one side of the Chamber which does not apply to the other. If anyone cares to try me on, they are welcome to it.

Mr HASSELL: The Chamber has before it an important amendment which relates to the role and functions of this Parliament; namely, to review as it should the activities of the processes established under the legislation the Minister is promoting tonight. The suggestion of the Minister is that the code of conduct which is proposed to be established by the Minister should be open to review in Parliament. The Minister, in his contemptuous way, has ignored this amendment along with all the others. I assume that the reason for his inflexible attitude in this Parliament is related to his own political ideology and in part related to the ideological advice he receives.

Mr CASH: I have already said that I support the amendment and there has been some comment on the draft general code of practice for safety in manual handling. Just so that it is on the record, the question as to what this provision proposes when it talks about various weights that can be lifted by a person, aided or unaided, is found in the section headed, "Action levels under conditions of an ideal lift—".

Points of Order

Mr PETER DOWDING: The matter before the Chair is whether the code of conduct ought to be tabled in this Chamber, and disallowed by the amendment before the Chair. The member is now seeking to debate, in some detail, a document of the National Occupational Health and Safety Commission, which has no relevance to the matter under debate, to the Bill or to anything that may be established under the Bill.

Mr MacKINNON: The member for Mt Lawley is indicating in the quotation that it is exactly the type of code which could come to this State under this legislation. I think it is highly relevant for him to quote something which could well come under the auspices of this legislation some time in the future.

Mr CASH: Clearly, in supporting the amendment it is necessary for me to refer to other draft codes of practice which exist or are proposed in other areas of Australia and indeed of the world.

Mr Hassell: The Minister has been referring to Victoria for days and what they are doing there.

Mr CASH: Quite so.

The CHAIRMAN: I believe we should be considering the Bill before the Chamber and the amendment to clause 12 moved by the member for Kalamunda. I do not believe we should be bringing in other items of business which do not bear any relevance whatever to the Bill or the amendment.

Committee Resumed

Mr CASH: Because it is directly related to both the Bill and the amendment I will now, without the need for interjection by the Minister, quickly record these levels of lifting suggested in this proposed code of practice. It is under the heading "Action levels under the conditions of an ideal lift", and it states—

1. Up to and including 16 kg—no special action required.
2. Above 16-25 kg—No unaided lifting, emphasis on work practices.
3. Above 25-34 kg—No unaided lifting, job redesign preferred.
4. Above 34 kg—Mechanical handling systems must be provided.

There is also a definition.

Point of Order

Mr PETER DOWDING: In the light of your ruling the member has proceeded to read out the very document which you indicated was not the subject of this piece of legislation. He is in direct defiance of your ruling. He is not only referring to the code but reading it out.

Mr CASH: I hardly think I disobeyed your ruling, Mr Chairman. As you requested of me, I am only commenting on matters relevant to the amendment before the Chamber and the Bill generally. This is a code of practice which has relevance to the Bill. I had three sentences to go before the Minister took the point of order.

The CHAIRMAN: I believe the member is about to wind up his comments, and I certainly hope we are not going to see further debate along these lines. Since it is a health, safety, and welfare Bill we are debating I am prepared to allow the member to wind up his remarks on

that, but I will not permit further debate about the weights which are not mentioned in the Bill.

Committee Resumed

Mr CASH: Thank you, Mr Chairman. I was going to read three lines. It says aided lifting can be defined as—

team lifting (with trained person to direct the lift).

mechanically aided lifting.

trained lifting appropriate to the task.

I support the amendment.

Mr COURT: I would like to make one point clear to the Minister: The Bill says a code of practice may consist of any code, standard, rule, specification or provision relating to occupational health, safety or welfare that is prepared by the commission or any other body and may incorporate by reference, etc. The code we have been referring to tonight is relevant because to my knowledge it is the only code that has been prepared in this country which is currently under discussion. Only yesterday the ACTU gave its blessing to this particular code. I would have thought this code would be the one we were talking about in this legislation tonight. The Minister should not mislead us by saying the code is not relevant; it is a very relevant code.

Amendment put and a division taken with the following result—

Ayes 14

Mr Cash	Mr Mensaros
Mr Court	Mr Schell
Mr Cowan	Mr Spriggs
Mr Crane	Mr Thompson
Mr Grayden	Mr Tubby
Mr Hassell	Mr Wiese
Mr MacKinnon	Mr Williams

(Teller)

Noes 20

Dr Alexander	Mr Marlborough
Mr Bertram	Mr Parker
Mr Bridge	Mr Pearce
Mr Bryce	Mr Read
Mr Carr	Mr D. L. Smith
Mr Donovan	Mr Taylor
Mr Peter Dowding	Mr Troy
Mrs Henderson	Mrs Watkins
Mr Gordon Hill	Mr Wilson
Dr Lawrence	Mrs Buchanan

(Teller)

Pairs

Ayes	Noes
Mr Clarko	Mr Grill
Mr Laurance	Mr Hodge
Mr Lewis	Mr P. J. Smith
Mr Bradshaw	Mr Tom Jones
Mr Lightfoot	Mr Thomas
Mr Rushton	Mr Brian Burke
Mr Watt	Mr Evans

Amendment thus negatived.

Clause, as amended, put and passed.

Clauses 13 to 15 put and passed.

Clause 16: Section 22 renumbered—

Mr COWAN: I move an amendment—

Page 38, lines 13 and 14—To delete all words after “amended”.

Members should refer to the principal Act to understand this amendment. All the amendment seeks to do is to delete the word “fifth” in the principal Act. By this amendment we are seeking an annual review of the legislation on the anniversary of the date of the commencement of the legislation if it is passed, instead of every five years.

Mr PETER DOWDING: I understand the reasons for the amendment. The Leader of the National Party wants to see a more regular review of the process. The first review is due in two years' time. I have given an indication that, subject to the way this Bill is dealt with in the other place, we are prepared to consider a review of at least proposed new section 25 in the first 12 months of operation of the legislation. However, I do not want the review to become an annual event such as an annual report.

A review is an opportunity to see whether the objectives of a major piece of legislation such as this are being achieved. I do not think that will be achieved on a yearly basis. I think we will see only an analysis of what happened over the year rather than a genuine full-scale review of the success or otherwise of the legislation.

I invite the Leader of the National Party not to pursue this amendment or, if he will not accept that invitation, at least to give further thought in his party room to the amendment.

Mr COWAN: We consider that an annual review of this legislation is important. We do not see any great value in having only one review. That would be self-defeating.

Having said that, we are perfectly happy in the time that is available to us to examine this amendment and, if necessary, to revise it. We would welcome any contribution by the Minister or his officers. However, I assure him that the National Party's objective will not change. Undoubtedly there is an ideological conflict between both sides of this Committee on this legislation.

I know the legislation is subject to passage through the other place. However I think it is important enough to warrant passage, certainly in an amended form. When it is passed, I as-

sure the Minister that it will be subject to a satisfactory provision for review of its effect and the direction it is taking.

Amendment put and negatived.

Clause put and passed.

Clause 17: Schedule added—

Mr COWAN: I move an amendment—

Page 39, line 17—To insert after the word “employees” the following—

subject to their consent

The National Party has some interest in paragraphs 18 and 19 of the schedule. This clause deals with the monitoring by employers of the health of employees and relates to their medical examinations. We seek to have a requirement placed in the Bill for the consent of employees to be obtained before this monitoring or subsequent medical examination can be carried out.

Mr PETER DOWDING: The Government does not wish there to be any suggestion that employees might be involuntarily examined. One would expect the basic rights of the employee to be preserved. I have no problem with this amendment in relation to the medical examination, and in respect of the monitoring of the health of employees inasmuch as it relates to the physical inspection of employees.

The Government expects employers to have regulations requiring them to look after the health of their employees without the employees’ consent, but certainly to the extent that there is no question of examinations or the infringement of the rights of people. It would not expect that to be done without the employees’ consent. The Government accepts the amendment.

Amendment put and passed.

Mr COWAN: I move an amendment—

Page 39, line 34—To insert after the word “employees” the following—

subject to their consent

Mr PETER DOWDING: The Government accepts the amendment.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 18 put and passed.

Title—

Mr HASSELL: The title of this Bill is the Occupational Health, Safety and Welfare Bill. It has emerged very clearly from debate on this Bill in the Committee stage that one of the principal objectives of it is to open up a whole new field of welfare benefits outside the scope of the industrial relations system, and under what the Government hoped would be a concealing umbrella of occupational health and safety. However, the Government’s cover has been busted and the Opposition has revealed what is going on in that respect.

The only other comment I will make and, in compliance with the wish of the Minister for Local Government, it will be the only other comment I will make, is that the title of the Bill should not be the Occupational Health, Safety and Welfare Bill. The Bill should be titled the “Union Benefits and Privileges Bill”. That is what the Bill is about from the beginning to the end.

If the Government had introduced a union benefits and privileges Bill we would have dealt, in the legislation before the Chamber, only with those matters on which all parties had common agreement; that is, occupational health and safety. The truth is that had that been the case the debate on this Bill, particularly during the Committee stage, would not have been as long and laborious as it has been. This debate has shown what this Minister is all about. In promoting the legislation in its rigid form, he has insisted that it maintain benefits, privileges and power for trade unions. To that extent it is a bad Bill and is totally misnamed.

Title put and passed.

Bill reported, with amendments.

House adjourned at 1.35 am (Friday)

QUESTIONS ON NOTICE

TRANSPORT: RAILWAYS

Fremantle-Perth: Operating Returns

1123. Mr COURT, to the Minister for Transport:

- (1) Does the Government have accurate monthly figures on the operating profit or loss of the Perth-Fremantle rail service?
- (2) If yes, over the last 12 months, how does this service compare financially with the Perth-Midland and Perth-Armadale services on a monthly comparison?

Mr TROY replied:

- (1) As the metropolitan passenger rail service and its charges are integrated over all of the suburban lines, it does not permit an accurate allocation of figures to an individual line.
- (2) Not applicable.

MOTOR VEHICLE DRIVERS' LICENCES

Credit Card Type

1133. Mr CASH, to the Minister for Police and Emergency Services:

- (1) Further to his answer to question 1052 of 1987 concerning the use in New South Wales of photographic drivers' licences as credit cards, is he considering implementing such a scheme in Western Australia?
- (2) (a) If yes, when;
(b) if no, why?

Mr GORDON HILL replied:

- (1) and (2) The Police Department is seeking more detailed information from New South Wales on the proposal to use photographic drivers' licences as credit cards. After receipt of that advice, the Government will consider its position.

AGRICULTURAL MACHINERY

Overwidth: Road Use

1136. Mr CASH, to the Minister for Police and Emergency Services:

- (1) At what times can overwidth machines be driven on roads?
- (2) At what width is a machine determined to be overwidth?

- (3) Is he or his department currently considering increasing width before machines are classified overwidth?
- (4) Has he or his department been approached by contractors to have the current width at which a machine is determined to be overwidth increased?
- (5) If yes, does he intend to introduce amendments to the Parliament in respect of this matter, and if so will he provide details of the proposed change?

Mr GORDON HILL replied:

- (1) The use of all licensed overwidth vehicles is governed by conditions which are prescribed by the Traffic Board under authority of regulation 9 of the Road Traffic (Licensing) Regulations. Normally, overwidth vehicles are restricted to daylight use only. However, some vehicles are further restricted to prevent their use on busy roads during peak hours periods.
- (2) Exceeding 2.5 metres.
- (3) No.
- (4) Yes.
- (5) As Opposition spokesman, the member should be aware that any amendment of existing policy is not a matter in respect of which legislation is necessarily required.

GAMBLING

Instant Lotteries: Distributions

1138. Mr CASH, to the Minister representing the Minister for Sport and Recreation:

- (1) Is he aware that reduction in the sports Instant Lottery funds, especially in the area of State team travel, has caused concern amongst a number of sporting organisations?
- (2) What action has he taken or proposed to be taken to assist these clubs and sporting organisations?
- (3) Has he been contacted by the Western Australian Pistol Association (Incorporated) to have its team travel and other grants reviewed?
- (4) Is he able to assist this Western Australian sporting group?

Mr WILSON replied:

- (1) Yes.

- (2) A complete review of the guidelines and operation of the sports Instant Lottery fund, is at present being conducted by the Sports Council.
- (3) Yes.
- (4) It is hoped that the new guidelines will retain an equitable distribution to all sports associations within available funds.

TOURISM: TENT CITY

Woodman Point: Clearing

1139. Mr CASH, to the Minister representing the Minister for Sport and Recreation:

- (1) When did his department award the contract for the clearing of vegetation at Woodman Point specifically in the area of the proposed tent city development?
- (2) When was the work associated with the tent city development completed, and what was the estimated cost of the work undertaken?

Mr WILSON replied:

- (1) No contract was awarded for the clearing of vegetation. CEP labour commenced removal of vegetation for the brushing of the fore-dunes and sand-dune restoration on 3 February 1986.
- (2) As the private entrepreneur withdrew from establishing a tent city, specific works related to the city did not proceed. Had the initiative proceeded, the entrepreneur would have provided for any specific requirements.

SPORT AND RECREATION CAMP

Noalimba: Land Sale

1141. Mr MacKINNON, to the Minister representing the Minister for Sport and Recreation:

- (1) Referring to the Minister's media statement of 24 March concerning Noalimba Hostel—
 - (a) how much land upon which the Noalimba hostel is now located will be sold;
 - (b) when will the land be sold;
 - (c) who will handle the sale of the land;
 - (d) for what purposes will the land be sold or redeveloped?

- (2) (a) When will the country sports trust fund of \$100 000, referred to in the Minister's statement, be established;
- (b) who will administer the fund?
- (3) (a) When will the \$180 000 referred to in the statement by the Minister be expended to improve Noalimba;
- (b) on what will it be expended?
- (4) (a) Has a new catering contract been let for Noalimba;
- (b) if so, who was the successful tenderer;
- (c) if not, when will the catering contract be let?
- (5) (a) Has the advisory committee to protect the interests of established user groups yet been formed;
- (b) if so, who are the members of that committee;
- (c) if not, when will the committee be formed?

Mr WILSON replied:

- (1) (a) 5.42 hectares including one hectare for development of Police Department facilities if required;
- (b) no date has been set;
- (c) the matter of the surplus Noalimba land has been referred to the Government Property Unit for rezoning and disposal for residential purposes;
- (d) residential subdivision and Police Department facilities if required.
- (2) (a) It is intended that this fund will be established from the net income raised from the ongoing operation of Noalimba;
- (b) no action has been taken.
- (3) (a) Maintenance work commenced in May, and completion is expected by the end of June 1987;
- (b) sewerage replacement, general repairs of electrical, painting, plumbing reticulation, and replacement of gas storage hot water units.
- (4) (a) No; an arrangement has been made with a catering contractor on an interim basis only;
- (b) on an interim basis only, the caterer is Catering Connections;

- (c) the normal tender process will commence in the near future.
- (5) (a) No;
- (b) not applicable;
- (c) the intention was to form an advisory committee if the facility was operated by a private lessee in order to protect the position of the established groups. No action has been taken. However, the matter will be kept under review.

GOVERNMENT INSTRUMENTALITIES

Advertising Budget

1146. Mr MacKINNON, to the Minister for Lands:

- (1) Will he detail Landbank's advertising budget allocation for the 1986-87 financial year?
- (2) How much of this was spent on—
 - (a) radio;
 - (b) newspapers;
 - (c) television?

Mr WILSON replied:

See reply to question 1147.

TRANSPORT

Westrail: Employees

1153. Mr MacKINNON, to the Minister for Transport:

- (1) How many persons were employed by Westrail at 1 July 1983?
- (2) Of those employees, how many were located in the city and how many in the country?
- (3) How many persons were employed by Westrail at 1 May 1987?
- (4) How many of those employees were employed in the city and the country?

Mr TROY replied:

- (1) 8 391.
- (2) 5 957, metropolitan area; 2 434, country.
- (3) 5 958.
- (4) 4 408, metropolitan area; 1 550, country.

INDUSTRIAL DEVELOPMENT

Space Industry: Western Australian Work

1170. Mr COURT, to the Minister for Industry and Technology:

- (1) Has the Government been negotiating with the Australian Space Board to ensure that Western Australian industry can participate in subcontract and offsets work associated with the space industry?
- (2) If yes, what progress has been made with these negotiations?
- (3) How many Western Australian companies have expressed interest in this field?

Mr BRYCE replied:

- (1) The Department of Industrial Development has been in contact with the board.
- (2) and (3) Few local companies would be capable of achieving prime contractor status for work in this field. Subcontracting offers the greatest potential, and detailed information from AUSSAT Pty Ltd regarding its \$500 million satellite tender has been circulated to Western Australian electronics and software companies to ensure Western Australian industry is aware of possible opportunities.

Information on local company capability, including remote sensing, has been passed to the Commonwealth Government. The Western Australian Government will continue to pursue these opportunities under the Commonwealth offsets policy currently under renegotiation.

DEFENCE

Communications Station: Geraldton

1171. Mr COURT, to the Minister for Defence Liaison:

- (1) When will construction on the new defence communications station at Geraldton commence?
- (2) When will this station be in full operation?

Mr BRYCE replied:

- (1) Work on site is expected to commence in 1988, with construction activity expected to peak in the 1990-1992 time frame.

- (2) It is anticipated that the station will be in full operation in the mid 1990s.

EDUCATION: SCHOOLS

Computers: Purchases

1172. Mr COURT, to the Minister for Education:

- (1) How many new computers did the Government provide to Western Australian schools in—
 - (a) 1986;
 - (b) the first five months of 1987?
- (2) How much has been allocated in the 1986 and 1987 financial years for the development of suitable software?
- (3) Will the schools computing branch be upgraded in 1987-1988?

Mr PEARCE replied:

- (1) Approximately 25 computers were provided in 1986. In the first five months of 1987 approximately 26 computers have been provided.

In addition, special purpose funds and a dollar-for-dollar subsidy have been used to assist more than of 180 primary and secondary schools to acquire approved computing equipment.

A tender has recently been released to enable the purchase of 2 600 computers for primary and secondary schools during the remainder of 1987.

- (2) The Education Department has employed the following personnel to assist in the development of suitable software for school—

four programmers;
two software coordinators;
two software designers;
four officers involved with administrative computing.

In addition to the above, \$11 000 of CRF funds were allocated to contracts for the development of suitable software.

- (3) It is not intended that the schools computing branch be upgraded in 1987-88. However, significant resources will be allocated within the programmes branch to support the installation of the 2 600 computers in schools.

PASTORAL LEASES

Aboriginal Organisations

1182. Mr COURT, to the Minister for Aboriginal Affairs:

- (1) How many pastoral leases in Western Australia are controlled by Aboriginal organisations?
- (2) Are these stations primarily run by the Aboriginal owners themselves or by employed personnel?

Mr BRIDGE replied:

- (1) Twenty-three.
- (2) The stations are operated through incorporated Aboriginal organisations or Church mission bodies which have a range of management arrangements, as with many other non-Aboriginal leases.

MEMBER FOR ROCKINGHAM

Travelling Allowance

1183. Mr MacKINNON, to the Speaker:

- (1) Prior to his becoming the first Deputy Speaker and Chairman of Committees to be provided with a free car, did the member for Rockingham receive travelling allowance pursuant to the scheme introduced by the Salaries and Allowances Tribunal for country members to travel to and from Parliament?
- (2) If he did receive such payment, what was his residential address at the time of making application for the benefit?

The SPEAKER replied:

- (1) Yes.
- (2) (a) Mandurah Road, Baldivis;
(b) Shelton Street, Waikiki.

MEMBER FOR ROCKINGHAM

Taxis: Use

1184. Mr THOMPSON, to the Speaker:

- (1) Is the provision for members of Parliament to engage a taxi to travel home, if Parliament sits later than 11.00 pm, which was introduced many years ago when many members came to the House by public transport, still in force?
- (2) In the past 15 years, how many members of the Legislative Assembly frequently used this entitlement?

- (3) On how many occasions has the member for Rockingham used this facility?

The SPEAKER replied:

- (1) Yes.
- (2) Figures for the period prior to 1979 are not available. Since 1979, approximately 14 Assembly members have made frequent use of this entitlement.
- (3) Five times since 1979.

MINISTER FOR MINERALS AND ENERGY

Mining Unions Association: Communications

1187. Mr HASSELL, to the Minister for Minerals and Energy:

- (1) Further to question 625 of 1987—
- (a) How many facsimile messages were sent by the Mining Unions Association research officer during the Robe River industrial dispute on the Government facimile machine in the Minister's Office;
- (b) what was the cost to the taxpayers;
- (c) who authorised this private use?
- (2) Does the president of the Mining Unions Association, Mr Jack Marks, have access to the facilities of the Minister's office?
- (3) Has the Mining Unions Association reimbursed the Government for the use of the facilities provided by taxpayers?
- (4) Will these same facilities and co-operation be available to other industry groups such as chambers of commerce, Trades and Labor Council, etc?

Mr PARKER replied:

- (1) (a) Not known, but the number would not have been large;
- (b) not known, but negligible;
- (c) it was not private use; see my answer to 625 of 1987.
- (2) and (3) No.
- (4) If required on those occasions when people visiting my office for business purposes need to send or receive urgent messages.

PETRO CHEMICAL INDUSTRIES LTD

Principals

1188. Mr HASSELL, to the Minister for Minerals and Energy:

- (1) Who are the principals of the Petrochemical Industries Ltd presently undertaking a feasibility study into a \$540 million petrochemical unit?
- (2) Does this company have a "mandate" like Wesfarmers and Norsk-Hydro?

Mr PARKER replied:

- (1) Petro Chemical Industries is a joint venture between Dempster Nominees and L. R. Connell and Partners.
- (2) Petro Chemical Industries has been awarded an exclusive position to conduct a feasibility study into a Western Australian petrochemical project entirely at the company's cost. The exclusive position is subject to conditions which ensure that there is no commitment by the State or its agencies to the project.

The exclusive position is for a minimum period of six months, with provision for extension at my discretion.

STATE ENERGY COMMISSION

Budget

1189. Mr HASSELL, to the Minister for Minerals and Energy:

Will the detailed State Energy Commission budget for 1987-88 be tabled in Parliament, as promised by the previous Government and demanded by members of this Government when in Opposition?

Mr PARKER replied:

Yes. This has been the practice of the Government; and I refer to the financial statements tabled with the Budget papers for 1986-87 on Thursday, 16 October 1986, which include the commission's detailed budget for the current fiscal period.

WA EXIM CORPORATION

Board Meetings: Minutes

1190. Mr HASSELL, to the Minister for Economic Development:

Will he in future, when examining the minutes recording the activities of the Exim Corporation board meetings—

- (a) scrutinise these minutes much closer than in the past,
- (b) make comments and give advice to the board, where appropriate?

Mr PARKER replied:

Since taking over ministerial responsibility for the Western Australian Exim Corporation, I have established a sensible and productive working relationship with the Exim Board. We are aware of our individual and joint responsibilities, and of the need to work together in the interests of the people of Western Australia. If the member has any particular concern about the relationship between my office and the board of Exim, I will be happy to look into the matter and provide additional information.

HOSPITAL

Albany Regional: Image Intensifier

1192. Mr BRADSHAW, to the Minister for Health:

- (1) Has an image intensifier been ordered for the Albany Regional Hospital?
- (2) If not, does he intend to obtain an image intensifier for the Albany Regional Hospital?
- (3) If so, when?

Mr TAYLOR replied:

- (1) No.
- (2) Yes.
- (3) 1987-88, dependent on available funds.

EDUCATION: PRE-PRIMARY

Greenwood Intellectually Handicapped School: Placements

1193. Mr BRADSHAW, to the Minister for Health:

Will he authorise the intellectually handicapped Greenwood pre-school to remain open until all the students are placed in other pre-schools?

Mr TAYLOR replied:

There is no commitment to close the Greenwood pre-school. Should this eventuate, alternative services would be provided to all children currently attending.

HEALTH

Nurse Training: Technical and Further Education

1194. Mr BRADSHAW, to the Minister for Health:

- (1) Has he or the Government promised to transfer enrolled nurse training to technical and further education?
- (2) If yes, when will this occur?
- (3) If no to (1), does he intend to transfer enrolled nurse training to technical and further education colleges or any other tertiary institute?

Mr TAYLOR replied:

- (1) No.
- (2) Not applicable.
- (3) Discussions have been held with unions regarding transfer of enrolled nurse training.

HEALTH

Magnetic Resonance Imager: Installation

1195. Mr BRADSHAW, to the Minister for Health:

- (1) Adverting to question 697 of 1987, when will the magnetic resonant imager be installed?
- (2) Who chose the equipment?
- (3) How much extra did the magnetic resonant spectroscope cost?
- (4) Who will operate the imager?
- (5) Have any applications been received by qualified operators to operate the Western Australian based imager?

Mr TAYLOR replied:

- (1) November 1987.
- (2) Sir Charles Gairdner Hospital.
- (3) \$316 300 as at date of tender.
- (4) Hospital staff.
- (5) No formal applications have been received.

AUSTRALIA DAY CELEBRATION

Long Weekend

1196. Mr BRADSHAW, to the Premier:

- (1) On which day will Australia Day be celebrated in 1988?
- (2) Will a long weekend be included, as in the past?

Mr BRIAN BURKE replied:

- (1) and (2) This matter has been referred to a subcommittee of the Western Australian Tripartite Labour Consultative Council. I will ask the Minister to provide a more detailed response in writing when a decision has been reached.

HEALTH

Generic Drugs: Hospital Patients

1197. Mr BRADSHAW, to the Minister for Health:

- (1) Are generic drugs which have been recommended by the Federal Minister for Health not to be prescribed for new patients being used at the public hospitals in Western Australia?
- (2) If yes, are they being given to new patients?

Mr TAYLOR replied:

- (1) Yes.
- (2) Yes, when the hospital has had considerable experience with the drug and is fully satisfied with the efficacy of the product.

To differentiate old and new patients in a hospital setting is not a feasible option; and to switch entirely to other brands means, if there was any difference in efficacy, all existing patients would be affected. No new product which was on the Federal Minister's list has been used in our hospitals since publication of that list. Where variable efficacy is known to be a problem, only the principal brand of that drug is used—eg. Digoxin.

HEALTH: NURSES

Kimberley: Shortage

1198. Mr BRADSHAW, to the Minister for Health:

Adverting to question 694 of 1987, and in view of the "seasonal shortage" of nurses during the wet season, what does he intend doing to overcome the problem?

Mr TAYLOR replied:

Please refer to part (4) of the answer provided to question 694.

HOUSING

Residential Tenancy Legislation: Introduction

1200. Mr MacKINNON, to the Minister for Housing:

- (1) Will the Government introduce its tenancy law legislation during the current session of the Parliament?
- (2) If not, when is it anticipated the legislation will be introduced into the Parliament?

Mr WILSON replied:

This question has been incorrectly addressed. It has been referred to the appropriate Minister, who shall respond in writing in due course.

MEMBERS OF PARLIAMENT

Stationery Allowance: Overdrawing

1202. Mr THOMPSON, to the Speaker:

- (1) In the financial year 1985-86, how many members of the Legislative Assembly exceeded the monetary value of their stationery allowance?
- (2) At the end of April 1987, how many members of the Legislative Assembly had drawn stationery to a value exceeding \$600?
- (3) From what date was a monetary limit placed on the amount of stationery a member of Parliament could draw?
- (4) Was there a particular case which resulted in a limit being placed on stationery which a member of Parliament may draw?
- (5) If so, what were the circumstances of that case?

The SPEAKER replied:

- (1) Fourteen.
- (2) Twenty-two.

(3) 1 July 1981.

(4) No.

(5) Not applicable.

QUESTIONS WITHOUT NOTICE

MR BRUCE RUXTON

Views: Support

168. **Mr THOMPSON**, to the Minister for Multicultural and Ethnic Affairs:

- (1) Is he aware that in a letter to the editor published in the *Daily News* on 25 January 1987, Helen Cattalini, the Commissioner of Multicultural and Ethnic Affairs, stated, when commenting on Mr Ruxton—

It is disturbing, however, to see Mr Jim Hall, the WA RSL President, support his racist views?

- (2) Does he agree with Ms Cattalini's view?
- (3) What is his policy with respect to public servants like Ms Cattalini making public statements of a highly political nature?

Mr GORDON HILL replied:

- (1) to (3) The Government is concerned about the racist views that have been expressed by Mr Ruxton from time to time, and I would be interested to know what the Opposition's view might be on that issue. However, as far as the Multicultural and Ethnic Affairs Commission is concerned, the State Government decided to establish a commission as distinct from a department so that the commission could be in touch with the needs of the ethnic community and advise the Government on policies that are of concern to the ethnic community. Therefore, the commission is to some extent seen as autonomous, and I do not see any problem with the Commissioner of the Multicultural and Ethnic Affairs Commission making such public statements.

TAXES AND CHARGES

Increases: Statement by Leader of the Opposition

169. **Mrs WATKINS**, to the Treasurer:

- (1) Is he aware of the comments made by the Leader of the Opposition on the 7.30 am news today on 6PM that there should be no increase in State Government charges?
- (2) Is the proposal for no increases realistic, and if it was implemented, what would be the consequences?

Mr BRIAN BURKE replied:

- (1) and (2) This latest position put by the Leader of the Opposition is about the fourth different position that he has put during the currency of the debate about the increased charges that were announced today. It is difficult to understand how there is any sense in this latest proposal put by the Leader of the Opposition. Certainly there is no sense when one looks at the record of the Opposition in Government, but the Opposition does not like the Government doing that, so it will not. When one looks at the demands made by the Opposition, which are threaded through all of its rhetoric, about the Government being commercial, efficient, and as far as possible paralleling the private sector in running its operations, there is no justification for the claim either.

For example, the State Energy Commission, under a succession of Governments, has always been meant to be self-financing and not be a drain on the Consolidated Revenue Fund. The Water Authority of Western Australia, however, marrying together as it does the country and the metropolitan water services, requires a grant from the Consolidated Revenue Fund because of the way in which there has been, under a succession of Governments, adherence to the principle of assisting country water users with realistic rates and charges, and in that way relieving them of any excessive burden by virtue of living in the country.

Transperth is always heavily subsidised from the Consolidated Revenue Fund, and of course in that

way is a drain on the revenue raised by taxes or by other forms of Government revenue raising.

So the Leader of the Opposition's proposal really means there should be a greater contribution to the different statutory authorities from the Consolidated Revenue Fund. That means that revenue must be raised by the Government, I presume through taxes, to finance that greater contribution. However, when one looks at the Leader of the Opposition's comments, it becomes quite difficult to know if that is what he means because what he says is—

I just do not believe we should be having really any increases, but I think that what we can expect is what I predicted last week, and that is increases in the order of between probably five per cent and seven per cent.

Then he says—

They should not be any greater than that.

So I really do not know how one satisfies the Leader of the Opposition because he has a different proposition for different days of the week.

For the Government's part, it is very pleased that it has kept the increases to well below the inflation rate in almost every case, or well below the increase in average weekly earnings, which was another of the propositions put by the Leader of the Opposition at one stage. He said the increases should be kept down to the increases in wages because people had not had increases in wages beyond the inflation rate.

So whichever one of the propositions put by the Leader of the Opposition one wants to hold the Government to, it can meet each of them, with the exception of this one here, which is a bit airy-fairy because there are two propositions in one: One is for no increases at all; then in the same paragraph, increases should not be any greater than between five to seven per cent. So the Government even meets half of that task, and the Leader of the Opposition will

probably now accord it some credit for having met three-and-a-half of the four different targets he set it.

RESERVE NO. 1475

Aboriginal Group

170. Mr TUBBY, to the Minister for Lands:

- (1) Why has the Government granted Reserve No. 1475, known as Barrel Well, at Ajana in the Shire of Northampton to Aboriginal people when the local authority and local community totally rejected the proposal on the grounds that the area was surrounded by established farmlands, had no significance to Aboriginal people, and the cost of providing services such as power and water and the provision of buildings would be prohibitive, further to other problems already established?
- (2) Why did the Government reject the local proposal for the Government to purchase existing available developed farmland that was seen as being a more beneficial and practical way of meeting the land request of these people?

Mr WILSON replied:

- (1) and (2) I do not know the member's source of information leading to that question, but I can respond in the following terms.

After protracted discussions between my predecessor as Minister for Lands, the Minister for Aboriginal Affairs, my predecessor's predecessor, I understand, and me, and after meetings between the Minister for Aboriginal Affairs, the shire, and local farmers, in which I think the member himself may have been involved, which meetings were not able to reach a decision that would satisfy all the interests and concerns involved, it was decided that the reserve concerned should be vested in the Aboriginal Lands Trust as opposed to the local Aboriginal community. Perhaps I should not say "as opposed to", but certainly the decision was made to vest the reserve in the Aboriginal Lands Trust.

In addition to that, it was decided that there should be further consultation between the Minister for Aboriginal Affairs, the local shire, and local

farmers with regard to any further plans for the use of that reserve; and that those discussions should include the development of a very firm management proposal which would involve, among other things, an investigation into whether or not there were adequate supplies of potable water available on the reserve, and whether proposals could be funded which would provide adequate housing, adequate fencing, and so on.

Mr Blaikie interjected.

Mr WILSON: If the member for Vasse would not mind, seeing he knows nothing about it—

Mr Blaikie: I have been to the reserve.

Mr WILSON: I am glad that the member has been there. The fact that he has been there obviously has not helped much, but we will take note of the fact that he has been there.

Those consultations have yet to take place, and the shire and any interested local farmers will be fully involved in them.

Apart from the fact that a decision has been made to vest the reserve in the Aboriginal Lands Trust, no further decisions which will affect access by the local community to that reserve have yet been made.

Mr Tubby: Why weren't these inquiries carried out before the vesting decision was made?

Mr WILSON: All of those factors were taken into account when the discussions took place involving my predecessors and the Minister for Aboriginal Affairs, and this decision was the outcome of those discussions.

TAXES AND CHARGES

Increases: Consumer Price Index

171. Dr ALEXANDER, to the Treasurer:

I ask the Treasurer to amplify his response to the previous question asked of him.

- (1) In view of his often stated objective of holding increases in State Government charges to the

same level as increases in the Consumer Price Index, do the increases in the principal charges announced today satisfy this objective?

- (2) How have increases in the principal charges since the present Government took office compared with the Consumer Price Index increases for the same period?

Mr BRIAN BURKE replied:

- (1) The increases in charges announced today have certainly met the target previously stated, which was to ensure that increases were restrained to or below the inflation rate. In fact, all of the increases have been below the inflation rate, which has been estimated to be 7.25 per cent for 1987-88—or, if members want to look backwards to 1986-87, the inflation rate as at the end of this financial year is predicted to be 9.9 per cent. The rise in average weekly earnings was 6.5 per cent and, with one or two exceptions, the increases in charges have fallen short of that 6.5 per cent also. In the light of that, I think we can say that we have managed to comply with that undertaking.

But, better than that, these increases demonstrate quite conclusively that, compared to the Liberal Party in Government, the Labor Party in this State rests very lightly in financial terms upon the budgets of families; and if Opposition members bother at some stage in their careers to look back upon their own records they will be red-faced with embarrassment when they compare those records with the one that we have built up in the past four years.

- (2) Let me demonstrate the truth of the statement I have just made. In all of the areas touched upon by the increases announced today, only in electricity and gas charges have the increases in the period for which we have been the Government exceeded the inflation rate. The increase in the electricity charge in that four-year period has been 46.8 per cent, and in the gas charge 47.7 per cent, while the inflation rate has been 44.9 per cent.

So in both of those cases the excess of the increase over the inflation rate is very marginal. In all of the other cases to which reference has been made today—metropolitan water, whether domestic, fixed charge, consumption, or the average bill; country water, the average bill; sewerage; drainage; motor vehicle licences; Westrail fares and freight; Stateships; Transperth—the increase in charges has been well below the increase in the inflation rate. Members of the Government, while not being pleased with that, can at least say about their own efforts that they have been more meritorious than were the efforts of the Liberal Party when in Government; because, of course, in the period for which the Liberal Party was in Government, not only did it increase taxes and charges well beyond the levels that we have been able to hold them to, but it also ensured that we would not be able to restrain gas and electricity charges, by committing us to buying so much gas for which we could not find a use readily. However, we are solving that problem as well and I am sure that next year I will be able to stand in this Chamber on a day like today and explain that we have now restrained all of the increases to percentages below the inflation rate.

But some of the mistakes made by the Opposition when in Government were very serious and they have taken a number of years to work through the system. While we have applied ourselves very genuinely to the task it has not been easy, because some of the mistakes were gigantic in their impact upon the Budget. Nevertheless, in almost every respect the State is performing well. We have once again kept the charges down, and we will be trying our very best to overcome those one or two remaining problems left to us by the Opposition during the next year or so; so that when next we go to the electors in 1989 we will be returned with a thumping great majority.

Mr Trenorden: I will give you a thumping, too.

Mr BRIAN BURKE: The member should not threaten me physically. He can

threaten me with a thumping if he likes—

Mr Bryce: It certainly is not parliamentary.

Mr BRIAN BURKE: I was going to say that the member would come off second best, but everyone knows that would be untrue.

My brother has now retired. He is a pensioner. The member opposite would be in strife.

After a record like this—

Point of Order

Mr MacKINNON: The Treasurer has now been speaking in excess of six minutes and is not, by any stretch of the imagination, making any attempt to answer the question but merely attempting to waste time. I would ask you, Sir, to ask the Treasurer to draw his question to a close.

The SPEAKER: I will do that and in so doing, will do what I was going to do when he sat down. Over the last few days there have been some fairly good question and answer times. We have got through a number of questions and I think everybody has been particularly happy. That has not been through any particular action on my part but it has made me very happy because it has kept a few people off my back. I would hope the Treasurer takes note of that. Let us see how many questions we can get through in the next 10 minutes.

Questions without Notice Resumed

Mr BRIAN BURKE: I will draw my answer to a conclusion. I agree with you, Sir, that in the last two nights we have got through a lot of questions but they have been boring old question times, have they not, because I have not been asked any questions. We may have got through a number of mediocre questions.

We are quietly confident that in the future we will be able to restrain, even further to the satisfaction of whoever is the Leader of the Opposition at the time, increases in charges.

TRANSPERTH FARES

Increases

172. Mr MacKINNON, to the Minister for Transport:

- (1) Does he consider that MTT fares are one of the principal charges referred to by the Premier in his just concluded answer to a dorothy dix question in this House?
- (2) If so, how does he explain the fact that the cost of travelling from Mundaring to Perth has increased from March 1983 to 1 July 1987 by 78 per cent for adult travellers and for pensioners by 80 per cent, when the Treasurer has indicated that these principal charges have been kept around or below the inflation rate since the Burke Government took office?

Mr TROY replied:

- (1) and (2) I would like to answer the question by referring to Transperth charges and not MTT charges. Perhaps the Leader of the Opposition has not realised that a change has been made.

It is very interesting to see how the Leader of the Opposition can selectively nominate one item out of a package of about nine different zone charges without taking into account the fact that charges in this State are so far below other States that it is something this Government can be particularly proud of. Certainly, from the latest charges announced today, pensioners and children will be more than satisfied, along with the general public.

One can always pick an anomaly like the one the Leader of the Opposition is drawing our attention to, but I suggest he takes into account the increase in patronage of Transperth services in that area and sees if the public are responding to the services now offered in that area. There lies the answer. The Leader of the Opposition would be far better informed if he looked at the patronage from those listed areas and not in the manner of the narrow focus he has put in his question.

HEALTH POLICIES

Federal Opposition

173. Mr DONOVAN, to the Minister for Health:

Could the Minister advise the House as to the impact of the Federal Opposition's health and tax policies on Western Australian families and in particular on our health care system, should by some strange quirk of misfortune they be elected?

Mr TAYLOR replied:

It is rather difficult to track down exactly what the Federal Opposition intends to do from the point of view of any policies whatsoever. One thing that seems to be arising out of the Federal Opposition's so-called policies is that as far as health care is concerned they certainly intend to scrap Medicare. It has been indicated by the Federal Opposition Leader that the so-called \$3 billion he will save by scrapping Medicare will go into giving tax relief to Australian families. That does bear some analysis and is something I should examine from the point of view of this question.

Opposition health policies are remarkable in terms of collapsing. Until the 1984 election, they had three health policies in two years. Since the 1984 election they have had one health policy from Mr Porter—who was their Opposition spokesman on Health—which has gone out the window. Now they have two Opposition spokesmen for health—Mr Porter and Senator Baume. Senator Baume is promising another policy, but both were indicating there will not be any Medicare. In addition, we had the National Farmers Federation's health policy for Australia; and no-one seems to know what the National Party is doing at all.

The consequences for Australian families if Medicare is scrapped would be the requirement to opt for private health insurance. Basic health insurance for Australian families would cost at least \$27 a week. That is a Commonwealth Department of Health figure. In addition, it is important to note that if those families were to go out of the Medicare levy

situation of 1.5 per cent and into private basic health and medical insurance of \$27 a week minimum, they would have to have an income of \$110 000 a year to be better off.

Even if the Federal Government were to take into account that families already have basic private health insurance on top of their Medicare levy, they would have to have an income of \$72 000 a year to be better off. The ordinary family in Australia with average weekly earnings of about \$450 a week is paying the Medicare levy at the moment. Under the Federal Opposition's so-called health policy they would be \$21 a week worse off and therefore about \$1 100 a year worse off. I have seen what the Leader of the Opposition has had to say about those policies. Does he agree he will scrap Medicare and put his savings from Medicare into the tax policy? The Federal Leader of the Opposition said he will put that \$3 billion savings into the pockets of Australians. In fact, the Medicare levy of 1.5 per cent brings in revenue of about \$2 billion a year to the Commonwealth Government. Something like 64 to 70 per cent of Australians will therefore be forced into private health insurance. The Commonwealth would lose its Medicare levy of something like \$1.5 billion because it would already be lost to Commonwealth revenue.

On top of that, its promise to make that payment in relation to private health insurance is tax deductible. That tax deductibility will cost the Commonwealth Government a further \$1.5 billion in revenue forgone from the point of view of tax. Not only has an additional \$3 billion been imposed on Australian families but it has already suggested it will take off the Australian Government a further \$3 billion in terms of revenue. On top of that, it is saying it will give families \$3 billion of tax relief.

No wonder we read in today's *Daily News* that the Leader of the Opposition said he would rely on broad indications of where spending cuts would fall. In addition he said that this was consistent with recent statements that he would not adopt

the balance sheet approach to the funding side of Liberal election promises. No wonder he will not adopt a balance sheet—there is no balance sheet whatsoever. In fact Australians would be at least \$6 billion worse off. As far as our own health care system is concerned, Western Australia receives \$90 million a year from the Commonwealth Government in Medicare-related payments. That \$90 million a year would go out the window because the Liberal Party would not pay it any more. As a result of that our health care costs in this State would have to be put up dramatically—hospital bed charges, for example, would increase by at least 40 per cent to cover the \$90 million we would lose. Under that situation, at least 600 Western Australians a day would be worse off when going into hospital; today they only have to pay the Medicare levy. Not only is the health policy of the Liberal Party an absolute shambles, but when related to its taxation policies, it shows what an absolute farce the Liberal Party's supposed policies are.

TECHNICAL AND FURTHER EDUCATION

Narrogin

174. Mr WIESE, to the Minister for Education:

- (1) Does the Minister still give the provision of a technical school in Narrogin a high priority?
- (2) If so, can the Minister give an assurance that the project will be included in the capital works proposal for 1987-88?
- (3) Has the documentation promised by the end of the year been completed?
- (4) If so, when can we expect work on the project to commence?

Mr PEARCE replied:

- (1) to (4) For the last two years I have given the people of Narrogin a guarantee that the next technical facility to be built in a country area will be built at Narrogin. That is, Narrogin will be the next cab off the rank in that respect.

Between the making of those plans and the present time, things like calls from the Opposition for dramatic cutbacks in borrowings by Government bodies—that is, State and Commonwealth bodies—have intervened. The Liberal Party has said that the vast amount of Government borrowings is forcing interest rates up, squeezing out the private sector, and so on. The Opposition is seeking to take away from the States a tremendous capacity to borrow capital funds. If that happens, desirable facilities such as the Narrogin technical facility will not be built, because the money which goes into schools must go into needs which are desperate—that is, children who do not have classrooms to go to.

The Narrogin people have to do what they have been doing as long as Narrogin has existed—that is, find their education beyond the normal primary-secondary education system outside Narrogin. The member for Narrogin needs to decide where he stands with regard to this. I appreciate his pressing, as all members do, for the needs of his own particular electorate.

If the member for Narrogin has the philosophical commitment to the "Joh" campaign that the Leader of the National Party and his other colleagues have, he would argue that this State cannot afford to build a technical facility at Narrogin. That is not a view the Government itself takes because it is trying to have a balance between economic and social needs. However, I point out to the member for Narrogin that in all the years Narrogin has been there, there have been an awful lot of conservative Governments, including a Minister for Education who came from Narrogin, and nothing was done to assist the people of Narrogin with educational facilities. Since I became the Minister for Education, a large extension has been made to the hostel and a big extension has been added to the high school—both of which I opened in the last year-and-a-half—and the Government has slotted in a technical facility for Narrogin.

When the economy of this country reaches the stage where the Government can afford to give Narrogin people that facility, they will get it.
