LEGISLATIVE COUNCIL

Thursday, October 14, 1971

The PRESIDENT (Hon. Sir Lyell McEwin) took the Chair at 2.15 p.m. and read prayers.

ASSENT TO BILLS

His Excellency the Lieutenant-Governor, by message, intimated his assent to the following Bills:

Appropriation (No. 2),
Corporal Punishment Abolition,
Dentists Act Amendment,
Presbyterian Trusts,
Statutes Amendment (Public Salaries).

QUESTIONS

GUM TREES

The Hon. H. K. KEMP: Has the Minister of Agriculture a reply to the question I asked on October 5 regarding damage caused to gum trees in the South-East?

The Hon. T. M. CASEY: The Director of Agriculture has informed me that, although cattle will rub against trees, stumps, fence posts and other objects to relieve the irritation caused by lice, this is a minor cause of damage to trees. The major cause is, as stated earlier, biting and licking of the bark of trees by the cattle.

DARTMOUTH DAM

The Hon. C. R. STORY: Has the Minister of Agriculture received from the Minister of Works a reply to the question I asked on October 7 regarding the Dartmouth dam?

The Hon. T. M. CASEY: The Minister of Works reports that the River Murray Commission asked the Snowy Mountains Hydro-Electric Commission to report on hydro-electric development at Dartmouth in 1969, and it was concluded that a station of 100 megawatt capacity could be incorporated, although on occasions there would be insufficient releases of water for power generation, as these would be dictated by irrigation requirements.

Although there have been discussions with the State Electricity Commission of Victoria on the proposal, it would be necessary for the Government of Victoria to make a formal request to incorporate a hydro station at Dartmouth, and any arrangements as may be finally agreed on the question of cost allocation and method of operation of the station would have to be with the concurrence of all parties to the River Murray Waters Agreement.

TRANSPORT CONTROL BOARD

The Hon. C. M. HILL: Has the Minister of Lands, representing the Minister of Roads and Transport, a reply to my recent question concerning the Government's plans for the future of the Transport Control Board?

The Hon. A. F. KNEEBONE: My colleague has informed me that the whole matter of the future of the Transport Control Board is under consideration at present. No decision has been reached, and it would be premature to project what may happen when the present term of the board expires in December, 1971.

SKELETON WEED

The Hon. C. R. STORY: Has the Minister of Agriculture a reply to the question I asked on October 10 regarding skeleton weed?

The Hon. T. M. CASEY: The Director of Agriculture has informed me that weed control officers in his department, working in conjunction with research officers in the Entomology Division of C.S.I.R.O. and officers from the Waite Agricultural Research Institute, released at two sites during September a fungus for the biological control of skeleton weed. One site was near Karoonda and the other was near Parilla. The releases at this stage are purely experimental. Tests will show the best method of release, how fast the fungus can complete its life cycle in South Australia, and whether it can survive over summer. Next year the effect on the skeleton weed itself will be measured.

Recent examinations of the sites showed that the establishment techniques have proved successful and the fungus has completed one life cycle in the field. Four trial sites using exactly the same techniques have been established in Victoria and several in New South Wales. At the end of the season, results from all of the sites will be compared and then the release programme for 1972 will be planned. It is not expected that this fungus will eradicate this serious weed, but it may help to make other control measures, such as the use of improved pasture species for competition, more effective.

FLINDERS RANGES

The Hon. R. A. GEDDES: I seek leave to make a short statement prior to asking a question of the Minister of Agriculture.

Leave granted.

The Hon. R. A. GEDDES: Because of the ruggedness of the Flinders Ranges and the inadequate fire services in that area, property owners are becoming extremely concerned lest a fire should start there. As the Minister is

well aware, the Flinders Ranges has experienced a wonderful season, and the ground cover will provide wonderful fuel if a fire starts. I understand that members of the Bushfire Research Committee visited this area a short time ago. Will the Minister inquire from that committee what recommendations it will make regarding educating the public (particularly in view of the fantastic tourist potential that this country has) or arranging for the preparation of breaks to control any fires should they get out of control in bad weather in that country?

The Hon. T. M. CASEY: I have already requested a report from the committee. I take it that the honourable member was referring to an article in this morning's newspaper in which someone got some cheap publicity. In a season like the present one, landholders in the area referred to are always concerned about the danger of bush fires. All the landholders are members of the Emergency Fire Services organization, which is established in the area. Only today I signed a docket authorizing the granting of a subsidy on purchases of equipment for which people in the area had been asking. I assure the honourable member that the landholders are satisfied that they can cope with the situation, within reason, because of the E.F.S. organization there. Of course, they appreciate any help we can give in connection with equipment.

The Hon. R. A. Geddes: Are they getting help in the form of radios?

The Hon. T. M. CASEY: Yes; that matter was dealt with in the docket I referred to.

SIREX WASP

The Hon. C. R. STORY: I seek leave to make a short statement before asking a question of the Minister of Forests.

Leave granted.

The Hon. C. R. STORY: For about the last 10 years, during which this State has been contributing annually to the Australian Sirex Wood Wasp Fund, our contribution has been very high, because we have had such valuable forests in the South-East. I believe that some very useful work has been done in connection with the Sirex wasp in Tasmania, and in Adelaide at the Waite Agricultural Institute, and by the Commonwealth Scientific and Industrial Research Organization, particularly in Canberra. The work of the C.S.I.R.O. was led by Dr. Jacobs, who recently retired. Can the Minister say whether the Sirex wasp situation has been arrested in Victoria and whether the wasp is still spreading westward? At one stage it was thought that it would become a serious problem. Further, will the Minister report on the experiments conducted and on whether the wasp has been isolated in an area in Victoria so that it will not endanger our forests? Will South Australia's contribution to the Sirex wasp fund be reduced, now that Victoria and New South Wales have much greater areas of softwood forests?

The Hon. T. M. CASEY: I will obtain a report for the honourable member and bring it back as soon as possible.

MOTOR VEHICLES DEPARTMENT

The Hon. C. M. HILL: I seek leave to make a short statement before asking a question of the Minister of Lands, representing the Minister of Roads and Transport.

Leave granted.

The Hon. C. M. HILL: For some years many motorists have found the location of the Motor Vehicles Department very inconvenient, mainly because of the parking congestion that occurs there, particularly at the end of each month, when the volume of business transacted by the department is very great. Also, the South Australian Railways Department, because it has had to vacate some accommodation as a result of the festival hall complex, may be short of some of its required space. During the term of the previous Government some preliminary work was carried out to see whether an alternative site or alternative accommodation could be found for the Registrar of Motor Vehicles and his department. Can I be told whether any plans at all are in train to shift the Motor Vehicles Department to, or resite it in, a position that will provide it with better accommodation, that will be more convenient to the public, and that will provide more satisfactory car parking space for those members of the public who deal from time to time with that department?

The Hon. A. F. KNEEBONE: I know that some consideration has been given to this matter but it would be presumptuous of me to go further into it now. However, I will convey the honourable member's question to my colleague and bring back a reply as soon as possible.

POLICE

The Hon. R. A. GEDDES: Has the Chief Secretary a reply to my recent question about the number of police in the northern areas of the State, in relation to the robbery that occurred at Peterborough?

The Hon. A. J. SHARD: The staffing of police stations is based upon their respective work loads, which are assessed regularly as part of a continuing work study programme, with the information gained enabling personnel to be deployed to best advantage. In some cases, reductions become necessary whilst in other circumstances increases in strength are indicated and required. In regard to both Peterborough and Orroroo, however, police strength at these stations has not been varied and there is no intention of making any reductions in these areas. The programme has indicated in the case of many one-man stations in the country that the amount of work required of a resident constable has not been sufficient to justify maintaining the facility. However, the need to maintain such stations, even though the work load is low, is balanced by consideration of the degree of isolation involved and the availability of alternative police coverage. In the case of Wilmington, the work load was found to have been at a certain low level for some years. This, coupled with the fact that the station residence and cells, built in 1879, had reached a condition where necessary replacement would have been at a cost of about $40,000, did not justify maintaining the resident constable, and alternative policing has been arranged.

BEDFORD PARK ACQUISITIONS

The Hon. D. H. L. BANFIELD: Recently, both in the press and on television, there have been criticisms by residents at Bedford Park about the valuations given by the Land Board on the properties that are to be acquired for the teaching hospital at Bedford Park. Can the Minister of Lands give this Council any information about the acquisition of these properties?

The Hon. A. F. KNEEBONE: I have a reply to the honourable member's question because he did me the courtesy of telling me yesterday that he would ask this question about an article that appeared in the *Advertiser* of September 30. In that article, a statement was made that "the treatment residents had received from the Land Board and its valuator (Mr. J. N. L. Fournie) had in most cases been unreasonable". The article goes on to state that private and Government valuations on properties varied by as much as 15 per cent to 20 per cent. This type of unfounded criticism reflects upon the integrity of the board, and Mr. Fournie and I would like to clarify the matter.

Mr. Fournie is a member of the Land Board and as such is well qualified to carry out valuation work. The board's valuations are based on evidence derived from comparable sales and where an owner has disputed such a valuation he has been advised to have his property valued by a qualified valuer. The final compensation is assessed in accordance with the Land Acquisition Act, 1969, and in accordance with firmly established court precedents. An owner is not obligated to sell his property at Land Board valuation but has the right to have his compensation assessed by the courts.

In these acquisitions all owners have been advised of their rights as dispossessed owners and invited to discuss their valuations and the basis on which it has been made as opposed to private valuation on a "without prejudice" basis. I believe every effort has been made to deal reasonably with these people and that this type of criticism is unwarranted.

QUARANTINE STATION

The Hon. C. R. STORY: I seek leave to make a short statement with a view to asking a question of the Minister of Agriculture.

Leave granted.

The Hon. C. R. STORY: For some considerable time the matter of a close security quarantine station has been under discussion at State and Commonwealth levels. I believe this country is missing out by being unable to import certain types of African animals which it would be extremely difficult to get in through the present set-up, even with our arrangement with the United Kingdom and New Zealand. When I visited the Edinburgh research station I saw certain types of pigs (American Hampshire, for instance), which would be ideal for breeding in this country. At the moment we seem to have reached a blank wall. Can the Minister say whether this matter is still on the agenda of the Agricultural Council and whether it still receives the same brush-off treatment by one or two rather high-ranking veterinary officers of the Commonwealth Department?

The Hon. T. M. CASEY: This matter has been under discussion with the standing committee for a number of years. To my knowledge it has never actually come before the Agricultural Council for discussion and for a vote to be taken. I know it has been bogged down. On the question of costs, I believe that when the original scheme was costed by the Department of Works in Canberra it had gone to all sorts of extremes, with

the result that the costs put up to the Commonwealth Government were out of all proportion. I think this is one reason why it has been extremely slow in making progress up to date. I agree with the honourable member that it is high time a quarantine station of this nature was built; the sooner the better, because we do require oversea breeding stock to improve our own stock, particularly in these days when we must look for oversea markets. For this reason I sincerely hope that the Commonwealth people take a more realistic attitude. I do not think it is completely stymied at this juncture; I believe that perhaps in the foreseeable future we may make further progress. I sincerely hope so, anyway.

SCHOOL OF ART

The Hon. C. M. HILL: Has the Minister of Agriculture a reply to the question I asked on October 5 regarding the future use of the School of Art building in North Adelaide?

The Hon. T. M. CASEY: The Minister of Education reports that the present building of the South Australian School of Art has facilities that are specially designed for instruction in a wide field of studies of a drawing, design, advertising art and fine art nature. It is, therefore, admirably suited for the development of middle level or technician courses, where the emphasis is on these aspects both from an industrial and aesthetic viewpoint. The Education Department is involved in the takeover of existing technician courses from the South Australian Institute of Technology, but is severely handicapped in this operation through lack of accommodation. It is intended that the School of Art building be used to provide sub-professional level training in a wide variety of art and design courses as well as other courses such as Management and Business Studies.

YORKE PENINSULA HOSPITALS

The Hon. R. C. DeGARIS: I seek leave to make a short statement prior to asking a question of the Chief Secretary.

Leave granted.

The Hon. R. C. DeGARIS: About two years ago the Government appointed a committee to inquire into and report upon the future plans for hospital facilities in the Wallaroo-Kadina-Moonta area, with particular reference to the proposed rebuilding of the Government hospital at Wallaroo. Will the Chief Secretary say what progress has been made in this regard?

The Hon. A. J. SHARD: The Government has received the committee's report and has submitted its recommendations to Cabinet. However, whatever decision is taken on this matter will not be implemented for some time. The Government has not yet reached a decision on this matter, and I do not think it will do so until it knows that its decision can be implemented.

SAFETY OFFICER

The Hon. C. R. STORY: I seek leave to make a statement prior to asking a question of the Minister of Agriculture.

Leave granted.

The Hon. C. R. STORY: About two years ago, the Public Service Board created in the Agriculture Department the office of safety officer. It was visualized that the officer who filled that position would serve a certain amount of his training period with the Labour and Industry Department and that, having gained experience in that department, he would be transferred to the Agriculture Department. Will the Minister of Agriculture say whether that officer has been appointed and, if he has, what are his duties and whether he is being employed by the Agriculture Department in disseminating safety information to farmers in this State?

The Hon. T. M. CASEY: I will obtain a report and let the honourable member have a reply as soon as possible.

TELL-TALE LIGHTS

The Hon. C. M. HILL: Has the Minister of Lands received from the Minister of Roads and Transport a reply to the question I asked on October 5 regarding the possibility of the Australian Transport Advisory Council's laying down, in the interests of road safety, a new design rule in relation to proposed vehicle brake tell-tale lights?

The Hon. A. F. KNEEBONE: The Minister of Roads and Transport reports that he is pleased the honourable member has raised this matter, for during his recent trip overseas it was noticeable to him that many vehicles had been electrically wired to enable all turn indicators to operate simultaneously. In considering that this feature may well contribute to greater safety on our roads, my colleague raised the matter during the June meeting of the Australian Transport Advisory Council in Perth. The Ministers present considered that there was some merit in this suggestion and referred the matter to the Advisory Committee on Road User Performance and Traffic Codes, which will no doubt present its firm recommendations to the council in due course.

I do not know whether that is exactly the reply to the question the honourable member asked. If it is not, I will refer the question back to my colleague, who has apparently misunderstood the question, referring as he has to a tell-tale light for an immobilized vehicle on a road, where flashing indicators can be switched on so that they flash simultaneously to indicate that the vehicle is so immobilized. I will seek further information from my colleague.

PLASTIC SHEETING

The Hon. C. R. STORY: I seek leave to make a statement prior to asking a question of the Minister of Agriculture.

Leave granted.

The Hon. C. R. STORY: Before asking my question, I should like the Minister to understand that I do not normally snoop into the activities of a Minister's department without his knowledge. I have been asked by persons who are interested in the matter I am about to raise whether anyone in the Agriculture Department is trained in the use of sheet plastic and in the mechanical laying of that plastic and the hoops that support it above the ground, with the object of assisting in the production of melons, strawberries and crops of that type. I saw this method being used extensively in Israel and California. It seems to be an economical way, with the mechanical handling means now available, of bringing in crops earlier than normal. As we in South Australia are struggling every inch of the way to find new crops to plant and new ways to employ our primary producers, I think particularly of Singapore and places like it in respect of which the saving of a week or two in the production of some of these crops would make a big difference. Will the Minister ascertain how much research South Australia has carried out into this matter and how much literature is available to persons interested in this type of venture?

The Hon. T. M. CASEY: I shall be pleased to obtain the information that the honourable member requires. I point out, however, that plastic is used extensively in South Australia at present.

The Hon. C. R. Story: Not in this sort of way.

The Hon. T. M. CASEY: Perhaps not in this particular way. I do not know whether this information can be obtained from commercial firms operating in South Australia or whether they are supplying this type of equipment at present. It would not be much good having an officer with this expertise if the people of South Australia could not purchase this type of material. Nevertheless, I will put the matter in hand and bring back a reply for the honourable member.

CITRUS INDUSTRY ORGANIZATION ACT AMENDMENT BILL

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

AGED CITIZENS CLUBS (SUBSIDIES) ACT AMENDMENT BILL

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

INDUSTRIES DEVELOPMENT ACT AMENDMENT BILL

Read a third time and passed.

HOUSING IMPROVEMENT ACT AMENDMENT BILL

Read a third time and passed.

SOUTH AUSTRALIAN HOUSING TRUST ACT AMENDMENT BILL

Read a third time and passed.

DOOR TO DOOR SALES BILL

Second reading.

The Hon. A. J. SHARD (Chief Secretary): I move:

That this Bill be now read a second time.

It is one of a series of measures intended to extend a degree of protection to the consumer. In terms it is intended to control and regulate the practice of certain aspects of door-to-door or "direct" selling. I draw honourable members' attention to the report on the Law Relating to Consumer Credit and Moneylending, of the Law School of the University of Adelaide, commonly called the Rogerson report. Pages 59 to 62 of that report form a useful background to a consideration of this matter.

The sales that seem to give rise to most problems in this area are those that possess at, least two common elements: (*a*) they take place in the home or place of employment; and (*b*) they are not initiated by the consumer. The element of place is important since when a consumer is approached at his home or place of employment his ability to withdraw from the negotiations is somewhat impaired. True, he can shut his door in the salesman's face or

appeal to his employer, but much of the salesman's not inconsiderable powers of persuasion are directed to enjoining him not to take such a course. The element of "non-initiation" is important since this non-initiation imparts a degree of surprise in that the consumer is not prepared for the salesman's approach and is hence somewhat off his guard. It is where these two elements co-exist that there seems a need for legislative intervention.

A typical situation possessing these elements arises when the housewife, busy with her domestic duties, goes to her front door to find an uninvited salesman on her doorstep. In the nature of things he is likely to be highly skilled in the arts of persuasion and in some cases, but by no means all, he may be not above concealing his intentions to effect a sale until a comparatively late stage of the proceedings. The product the salesman is selling may range from a good and useful one to almost worthless rubbish.

The effective result of the operation is that the housewife may well find herself having contracted for something she does not really want at a price she cannot really afford. Her obligation may be substantial and, too often, insult is added to injury when she finds too late that she would have been able to buy the same or a similar product elsewhere at a lower price.

It follows, however, from this summary that by no means all contracts that are in whole or in part negotiated at the home or place of employment will be affected by this measure. For instance, sales resulting from a visit to the home or place of employment by a salesman at the unsolicited request of the proposed purchaser will be untouched. Shortly, only such sales arising from unsolicited calls by a salesman will be affected.

I will now deal with the Bill in some detail. Clauses 1 to 3 are formal. Clause 4 provides that the operation of the Book Purchasers Protection Act will remain unaffected by this Bill. Honourable members are no doubt aware that this measure, which has been on the Statute Book for a number of years, has proved most effective in controlling the undesirable aspects of door-to-door booksellers. As a consequence of the retention of this measure, contracts or agreements to which that Act applies will not be subject to the provisions of this Act.

Clause 5 sets out the definitions necessary for the purposes of the measure. Perhaps the most significant of these definitions is that of "dealer". This definition is the first of a number of provisions that recognize that in many credit transactions there are three parties: the purchaser, the financier who actually owns the goods and is in this Bill the vendor, and a third party, "the dealer", who sets in train the transaction for the purchase of the goods. The dealer in this sense is not even the agent of the vendor/financier even though many purchasers may think that he actually is the vendor. Accordingly, the provisions assimilate the position of financier and dealer where necessary, particularly in the exemption provisions; for instance, an unsolicited request made to a dealer will have the same exempting effect as if it were made to the financier/vendor. I draw honourable members' attention to subclause (2) of this clause which provides for one of the two exempting provisions in the Bill in that it provides for the release of certain classes of goods from the controls provided for in the measure.

Clause 6 sets out in some detail the sort of contracts or agreements that will be subject to the measure. In summary, it provides that any contract or agreement, having a consideration exceeding $20 (or such other amount as may be provided) and which arises from negotiations carried on wholly or partly at the home or place of employment of a prospective purchaser where those negotiations do not follow from an unsolicited request by the purchaser, will be subject to the measure. In short, contracts or agreements which combine the elements of—(*a*) home or place of employment and (*b*) non-initiation by the purchaser will be caught by the Act. Contracts or agreements possessing neither or only one of these elements will, of course, not be caught. Paragraph (*a*) to (*g*) merely reinforce the principle I have set out above or in some cases provide for certain exemptions for certain classes of contracts or agreements (see paragraphs (*a*), (*b*), (*c*), (*e*), (*f*) and (*g*)). Paragraph (*h*) is the second general exempting provision and is intended to give a degree of flexibility in the administration of the measure so as to ensure that unobjectionable arrangements may be permitted to continue without opening the door for abuses.

Clause 7 sets out the incidents of a contract or agreement to which the measure applies, and in general it is self-explanatory. However, I draw honourable members' attention to subclause (3), which prohibits the vendor or dealer from accepting any consideration from the purchaser until the purchaser's right to terminate the agreement no longer exists. It seems to the Government that such a provision

is essential in legislation of this nature if the legislation is effectively to achieve its object.

Subclause (4) prohibits, amongst other things, the insertion of a provision in the contract that the "law of the contract" will be the law of a place other than this State. I hasten to point out that such a provision enacted here cannot, of itself, affect the ordinary rule of private international law which in this case may be summarized as being "that the law of a contract is the law agreed upon between the parties to the contract". However, it is hoped that such a provision will at least discourage the practice. This question of choice of law clauses is quite a difficult one in the general area of "consumer protection". No-one would deny to businessmen, dealing at arm's length and properly advised, the right to select and agree upon the law for and, indeed, the method of resolving their differences. However, the position is somewhat different when the housewife buys, say, some household item at the door and when a dispute arises in relation to a purchase she finds, to her cost, that the dispute is to be determined at a place remote from this State. At subclause (5) an appropriate defence is provided for an inadvertent breach of subclause (4) on the part of the purchaser. Subclause (6) entitles the purchaser to recover any deposit or other consideration paid in the circumstances outlined.

Clause 8 sets out the manner in which the purchaser may terminate a contract or agreement to which the measure applies; here I draw honourable members' attention to the position of goods in the purchaser's hands on termination. I make it quite clear that the vendor or dealer is under absolutely no obligation to deliver goods before the cooling-off period expires but, if he chooses to deliver the goods, they are entirely at his risk. This implied right to deliver has, incidentally, been inserted at the express request of direct-selling organizations.

Clause 9 is intended to go some way towards prohibiting what appears to be a most undesirable practice—that is, the practice of salesmen deliberately concealing the true purpose of their visit until a comparatively late stage in the proceedings. While this practice is not followed by representatives of many wellknown and reputable direct-selling organizations it is sufficiently common to merit some attention by Parliament. Clause 10 preserves the position of the strictures contained in the Companies Act against the hawking of shares door to door.

Clause 11 is intended to deal with a situation that is becoming rather too common. The threat to bring legal proceedings against a person or to impinge on a person's credit often results in the person's settling a matter where in fact no liability exists. If such persons had the benefit of proper legal advise, these threats would, of course, be quite ineffective. The existence of a provision of this nature may cause vendors to pause for reflection before making clearly unfounded threats. Again, an appropriate defence has been provided where the vendor had reasonable cause to believe that the contract or agreement in question was not a contract or agreement to which this measure applies.

Clause 12 is a fairly standard provision and imposes a liability on persons concerned in the management of bodies corporate for actions which, at law, are attributable to the body. Clause 13 is intended to ensure that purchasers may not, by fraud, secure an improper advantage from the operation of this Bill. Clause 14 is intended to ensure that it will not be possible for a person to waive his rights under the Bill whether by contracting out or otherwise. It is thought that, unless such a provision is included, many standard forms of contract or agreement to which it is proposed the Bill will apply would soon contain a clause excluding the operation of all or part of the Bill. Clause 15 provides for the summary disposition of offences under the Bill. The schedule is, I believe, quite self-explanatory and is that referred to in clause 7 (1).

It cannot have escaped the notice of honourable members that this measure was extensively amended in another place. In almost every case these amendments sprang from representations made by those involved in either direct selling or consumer credit activities. The Government makes no apology whatsoever for this course, since in measures of this nature which bear on what might be called commercial activity it is ever ready to consider practical steps that may be taken to give full effect to the principles set out in this measure which may be summarized as being to protect the unprotected from sharp practices but at the same time ensuring that proper and legitimate business activity is impeded as little as possible.

The Hon. R. C. DeGARIS secured the adjournment of the debate.

FILM CLASSIFICATION BILL

Second reading.

The Hon. T. M. CASEY (Minister of Agriculture): I move:

That this Bill be now read a second time.

As its title suggests, it provides for the classification of films. In questions of censorship widely divergent, and patently irreconcilable, opinions are held throughout the community. A resolution of the resulting censorship debate is not likely. No scientific method exists to determine behavioural response to depravity in literature and the exhibition of depravity on the stage and in films. Even if a completely objective approach to the ascertainment of such matters could be arrived at, it would almost certainly not produce any unequivocal conclusion, for human response is conditioned upon the conscience and individuality of each human personality. There are, however, certain generally accepted propositions amongst the prevailing uncertainty. One of these is that a distinction should be drawn between the standards of censorship appropriate to adulthood and maturity, and those appropriate to the immature and impressionable personality. The present Bill, by providing for the R certificate film, enables effect to be given to this distinction and thus goes some distance toward providing for a more enlightened approach to the problems of censorship.

The Bill operates by providing that a film shall not be publicly exhibited in this State unless it bears a classification assigned in pursuance of a corresponding law, or by the Minister. A corresponding law is defined as the law of any other State or Territory of the Commonwealth declared by regulation to be a corresponding law for the purposes of this Bill. An agreement was made between the Commonwealth and some States whereby the States would confer their powers of censorship on the Commonwealth film censor. The Government of this State was not prepared to abrogate its responsibilities in this manner and is hence not a party to the agreement. However, it is thought that generally, in the interests of uniformity, the classifications adopted for the purposes of corresponding State law should be adopted in this State. That is accordingly the effect of the legislation, although it is conceivable that in exceptional circumstances the declaration could be revoked and the Minister could assign his own classification.

If a film is assigned a restricted classification, it is an offence for the exhibitor of the film to admit a child under the age of 18 years to the exhibition of the film. The child himself is guilty of a correlative offence. The provisions of the Bill are as follows: clause 1 is formal, and clause 2 provides for the Bill to commence on a day to be fixed by proclamation. Clause 3 contains a number of definitions necessary for the purpose of the Bill. Clause 4 provides that a film shall not be exhibited in a theatre unless a classification has been assigned to the film under a corresponding law, or by the Minister. Clause 5 prohibits the unauthorized alteration of a film after it has been classified.

Clause 6 makes it an offence for an exhibitor to admit a child between the ages of six years and 18 years to the exhibition of a film bearing a restricted classification. It is, however, a defence to a prosecution if the defendant proves that he took reasonable precautions to prevent the admission of immature children contrary to the provisions of the Bill and he, or a person to whom he entrusted the duty of admitting persons to the theatre, believed on reasonable grounds that the child in question was under six years of age or over 18 years of age. The clause also provides that it is an offence for the child to obtain admission to the exhibition of the film. Clause 7 provides that exemption from the provisions of the Bill may be granted in respect of a film or class of film. Clause 8 provides that advertising matter used to publicize a film must bear a statement of, or a symbol denoting, the classification.

Clause 9 makes it an offence for a person to advertise a film to which no classification has been assigned. Clause 10 is an evidentiary provision. Clause 11 provides that a member of the Police Force or an authorized person may enter a theatre to determine whether the provisions of the Bill are being complied with. Clause 12 provides for the summary disposal of proceedings for offences under the Bill. Clause 13 provides that, where a body corporate is guilty of an offence under the Bill, any member of the governing body of the body corporate who knowingly authorizes or permits the commission of the offence shall be guilty of an offence and liable to the penalty prescribed for the principal offence. Clause 14 provides for the making of regulations.

The Hon. C. R. STORY secured the adjournment of the debate.

STAMP DUTIES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from October 13. Page 2170.)

The Hon. H. K. KEMP (Southern): I shall speak only briefly on this Bill, which is a sorry one; but there are some portions of it that are more than sorry: they are tremendously damaging. The Stamp Duties Act is being

turned into another form of capital taxation. Recently, we had presented to us in this Chamber a report on just how damaging is this form of taxation. That this matter should come up and be reinforced so quickly after the presentation of that report of the Select Committee warrants deep consideration, not only by Parliament but also by the people of the State.

No matter what, we cannot possibly permit taxation at the rate proposed to be superimposed upon succession duties and gift duty, and others, which are already so damaging. I am sure there will soon be on honourable members' files suggested amendments seeking the exemption of all property upon which probate and gift duty have been paid (when there is any need for them to be paid). I do not think the Government can possibly make a case for adding any taxation to the already severe imposts made at present.

Where property has been subject to succession duty, that exemption should be not for a short time but for at least a 10-year period. Equally, there is no possible excuse for adding a charge of this nature on to farm land and equipment where transfers are being made under the consolidation and assistance schemes designed to try to get agriculture on its feet again. These transfers, at least, must be free from taxation.

There is a very good case (and I hope I can get the support of honourable members in this Chamber) for asking for exemption of all farm land where it is being transferred with the intention of farming being carried on. A report has been presented showing that, under present capital taxation, there is very little prospect of the private farmer or the private businessman remaining an effective production unit in our community. What possible excuse is there for increasing the burden that that struggling industry is carrying? I endorse in general the remarks of preceding speakers on this Bill. I hope that further consideration of the points I have raised will be made by honourable members in the next few days. I cannot say that I support the Bill but I will certainly support the second reading in the hope that the obvious injustices can be remedied in some way.

The Hon. E. K. RUSSACK secured the adjournment of the debate.

ROAD TRAFFIC ACT AMENDMENT BILL (SEAT BELTS)

Adjourned debate on second reading.

(Continued from October 13. Page 2158.)

The Hon. F. J. POTTER (Central No. 2): This Bill was introduced into the Council when I was absent overseas. I have had an opportunity to read some of the remarks made by honourable members in the earlier stages of the debate, and I have also heard one or two speeches on the Bill since returning from overseas. Therefore, I enter the debate at a somewhat late stage. I have decided I will support the second reading, although I appreciate there are some difficulties about this whole matter that have already been raised by honourable members.

There is a fundamental problem that is worrying people about this Bill: I have heard it expressed by honourable members as a problem of the infringement of personal freedom. This arises from the fact that most of the laws on our Statute Book and most of the matters we deal with in this place are in the form of a command not to do a certain thing. I suppose 98 per cent of our law says, "Thou shalt not do something or other." This measure is in that rare category of law (and almost every item in this category is connected with the use of motor vehicles) that says, "Thou shalt do something": in other words, you shall do a positive act, such as fastening and adjusting a seat belt. There are a few similar Acts of a positive kind in our law, all of which, I think, are connected with the use of motor vehicles. There are such requirements as, "You shall put your lights on at a certain time." It is something a person actually has to do. There is also a provision that, "You shall sound the horn on your motor car and give a warning." I do not think it can be claimed that this legislation is unique, but it is in that somewhat rare category that requires and enforces the doing of a positive act.

It is for that reason that honourable members are a little worried about infringement of personal freedom in this matter. I think the same argument would apply to other provisions of our existing traffic legislation. I also agree with what has been said, that this is not a matter directed in any way to the prevention of accidents. Every honourable member will agree that the compulsory wearing of seat belts will not prevent accidents. Someone said it might even cause accidents, but I do not agree with that. I cannot see how the wearing of a seat belt would in any way enable a person to feel that he was in some way safely held and so encourage more reckless behaviour. I think this is an overstatement and an exaggeration of what may occur. I have the impression that some of the arguments I have read, and one

or two I have heard, have been in the category of overstatement.

The Hon. C. M. Hill: That is an understatement.

The Hon. F. J. POTTER: That may be so. I have seat belts in my car, but I must confess that I do not always wear a belt when driving around the city, although I have always made a practice of doing so when taking a trip of any length, particularly in the country. I have asked myself whether the belt is uncomfortable, whether it encourages me to do anything unusual, and quite frankly I find that once I get into the car and adjust the belt I forget all about it. One is not really conscious of the belt being there, and some of the statements about belts being uncomfortable, causing psychological difficulties, and about people finding difficulty in getting out of them, and so on, are really a little overstating the case.

The Hon. T. M. Casey: They do not seem to have much trouble in Victoria.

The Hon. Jessie Cooper: They don't wear belts there.

The Hon. T. M. Casey: If you get into a car in Victoria, if there is a seat belt in it and you do not use it you are told very politely to do so.

The Hon. Jessie Cooper: I have seen them not being used.

The Hon. T. M. Casey: It has happened to me in Victoria.

The Hon. F. J. POTTER: I understand the wearing of seat belts is compulsory in Victoria and that the Bill before us is modelled exactly on the Victorian legislation.

The Hon. R. C. DeGaris: The figures show that 50 per cent are wearing belts in Victoria.

The Hon. F. J. POTTER: I have not checked. I have not been to Victoria recently. I acknowledge that there will be great difficulties in the enforcement of this legislation. In many ways I fear that probably it will not be very rigidly enforced at all. In some ways one would be justified in saying it is a statutory injunction with a penalty in order to get people to adopt good habits. That is really about the extent of the legislation. People who are fundamentally opposed to the wearing of seat belts are probably of my own generation or even older, people who have not acquired the habit and who are now faced with being required to use something they have never used during their motoring lives, and who have been driving for perhaps 25 or 30 years without any serious accidents, driving without seat belts, and they are somewhat incensed at the requirement to wear them. There will be difficulties in enforcement because there will be difficulties in the nature of things in knowing whether or not a person is wearing a seat belt anyway.

We have now reached the only logical conclusion to the process we started some years ago. We first started with a compulsory inclusion in newly manufactured motor vehicles of seat belt anchorages. We then proceeded by way of legislation to say that it was compulsory on newly manufactured vehicles to install the belts, and we are now being driven to the logical conclusion that we must, in the interests of preventing very serious injuries as a result of accidents, insist that these belts be worn, otherwise we have embarked on a somewhat futile exercise.

I recognize the justification of a great deal that has been said in the debate about road safety and how much better it would be for the Government to expend considerable sums of money on the introduction of road safety devices of one kind or the other, or to institute campaigns to prevent road accidents caused through the incidence of alcoholism in drivers, and all the matters mentioned in the report of the committee on road safety set up by the Government. I am conscious that that committee did not positively recommend that the wearing of seat belts should be made compulsory by legislation. These are all valid matters which I think the Government will have to consider in due course. Undoubtedly their implementation would cost considerable sums of money.

This Bill concerns a simple thing which does not cost anyone anything; it merely compels people to use a belt where one is installed. Many vehicles do not have belts, and do not have to have belts at present. Over the years this position will change and an increasing incidence of motor vehicles with belts compulsorily installed will be evident. Probably within five to 10 years the percentage will be very high indeed, and within 15 years probably every motor vehicle in the State will have belts compulsorily installed.

I hope that in the Committee stage we may have some amendments introduced, because there are many situations where the wearing of seat belts ought not to be made compulsory or ought not be the subject of any penalty. Whether or not we can actually do this remains to be seen. I foresee great difficulties in providing a series of exemptions. We have only a very limited

exemption provided in the Bill itself. I would be interested to hear what has been done by members in this respect, and certainly I will give my closest attention to these amendments, which are quite justified. Many instances have been mentioned in the debate where circumstances suggest that the non-wearing of seat belts should not be the subject of penalty.

I do not want to speak at length. Everything has been said in this debate that can be said, and the sooner we get into the Committee stage the better so that we may consider some of the very difficult questions arising.

The Hon. C. M. HILL (Central No. 2): I thank honourable members for the attention they have given to this measure. The debate has been somewhat lengthy, many honourable members having made a contribution to it. History has proved that legislation which ultimately passes this Council is always in its best form when proper and lengthy deliberation is given to it. A House of Review should not allow Bills to be adversely affected by hasty consideration of them.

Honourable members have conducted considerable research into all aspects of this proposed change, and I have tried to obtain replies to some of the points which have been raised by honourable members and which I think should be answered. First, some specific points were raised regarding the history of fitting seat belts in this State. Seat belt anchorages were required to be fitted in motor vehicles of the type known as motor cars, station sedans, car-type utilities, car panel vans (now called passenger cars and passenger car derivatives) from June 30, 1964, for the driver and one passenger alongside of him.

Seat belts for these anchorages were required on the same vehicles and seating positions which were registered after January 1, 1967. After January 1, 1970, seat belts and anchorages were required to be fitted to all front seat positions in passenger cars and passenger car derivatives. The legislation was then extended to include all vehicles under 10,000 lb. gross vehicle weight manufactured after February 1, 1971. Thereafter, anchorages and seat belts had to be fitted to the front and rear seating positions of such vehicles. Buses, specially constructed vehicles such as tractors, and so on, and motor cycles were exempted.

Another important query dealt with the onus to fit seat belts. In this regard, I point out that the responsibility for complying with the Act and regulations is two-fold. It is an offence under the Act to drive a vehicle that does not comply with its provisions or with the specifications of the Road Traffic Board.

It is mandatory on the manufacturer to provide anchorages and seat belts to the vehicles he manufactures after the prescribed date. This is policed now through the Certification Board and the Registrar of Motor Vehicles, who may refuse registration if a vehicle is not in accordance with the provisions of the Road Traffic Act and regulations, or he can do so on advice from the Road Traffic Board.

It is also an offence for one to sell, or offer for sale, a seat belt that does not comply with the standards set. It is also an offence to sell a seat belt that has been removed from a vehicle where the belt has been involved in a crash. In driving any vehicle, the onus for the offence is always on the driver. Whether a vehicle complies with the requirements can be checked with the Road Traffic Board and the Police Department. If the owner is in doubt, he can also check with the Registrar of Motor Vehicles. A compliance plate is fitted to motor vehicles. The chances of a vehicle being equipped with non-approved seat belts is now remote.

Having read most of the speeches that have been made, I saw that a general emphasis was placed on the need for further education in the field of road safety. Indeed, some honourable members stressed that more emphasis should be placed on this aspect than on a proposal such as the one at present before the Council.

In making these comments, I make it clear that I am not in any way criticizing the Road Safety Council, those involved in road safety or, indeed, those honourable members who strongly supported this view. However, I point out that sufficient evidence has been presented to the public by the Road Safety Council, the press and other media to convince the public of the need to wear seat belts to protect them from crippling injuries in the inevitable collisions that are bound to occur, where so many variables and events can occur over which the human being has little or no control.

Propaganda to encourage the use of belts has been clearly shown in South Australia to have little or no effect on the public. Otherwise, the usage of seat belts in this State would have increased by a more significant figure than has been shown from research. It is now recognized that a person's existing beliefs and attitudes built up by word of mouth and

experience play an important part in convincing a person for or against the use of seat belts.

This creates a problem in any attempt to educate the public, particularly if the education comes from a Government source or, for that matter, from a semi-government source. A certain resentment emanates, and there is a tendency to resist education in road safety, the value of which they are unable to appreciate; they do not realize the effect, magnitude and side effects of the casualty-producing accident. Disfigurement, incapacity, loss of earning, dependability on others, and the pain and anguish to themselves and others within their family, seldom crosses the mind of the average motorist for more than a fleeting moment.

The studies conducted in New South Wales have shown a slight propaganda effect in the middle-aged group, with little or no effect on the under-30 group. Many in the latter group were convinced of the safety value of seat belts, but the propaganda was unable to measure the level of awareness in this group. Propaganda can be effective in communicating information, but is unlikely to change attitudes developed over years of conditioning from factors unrelated to safety, that is, the likelihood of being trapped in a vehicle if it caught fire, the nuisance of fastening the seat belt, or someone saying, "I drive carefully and have never been involved in an accident" or "If he had been thrown clear he would be alive today". All these statements are used commonly as a counter to this propaganda. Education has failed to such an extent that the community can no longer afford the crippling costs associated with road accidents.

In Australia, these costs were assessed by the Senate Select Committee on Road Safety at $300,000,000 a year. In South Australia, using the same basis of assessment, the figure is more than $20,000,000. In the recent analysis of costs associated with intersection accidents in the metropolitan area, the figure is about $5,000,000. The assumption by the public that one has accidents only at speed on country roads is a fallacy. Most accidents occur within 10 miles of a driver's house. Because the journey is short, there is some reluctance to wear a belt.

I fully realize that this Bill deals with the matter of road accidents. In that realm of road accidents comes the important area of road fatalities, and within that area comes the item with which the Council is concerned: the matter of occupant deaths. Research in New South Wales indicates that 46 per cent of road fatalities are occupant deaths. By that I am speaking of drivers and passengers within the car. If propaganda and education fail, it becomes necessary for the public to be protected against themselves. I shall not try to rebut the submissions made on the general question of restriction of freedom. I put my point of view when I opened the debate. However, I make the simple point that complete freedom negates itself, and there has to be a point at which at the same time and for the same cause this principle of the public being protected against itself must be made to apply.

I was told by the second officer in charge of the New South Wales Road Research Scientific Unit only yesterday that, in group interviews that have been carried out by the unit on a scientific and proper basis, it was found that 85 per cent of drivers were convinced that they should wear seat belts but that only 35 per cent of those same drivers actually wore them. Here we have the problem that cannot be bridged, unfortunately, by education.

The other main issue that ran through the debate as I heard it was the general aspect of safety features within vehicles which honourable members thought should be upgraded and improved before a measure of this kind was introduced. The whole subject of introducing safety features within motor vehicles both by manufacturers in this State and throughout Australia (and indeed throughout the world, as uniformity is now being achieved on a world plane, because of the need to export and import motor vehicles that comply with current laws everywhere) is a vast subject.

I emphasize that it is a subject that today is not being overlooked, and it involves a huge organization of Commonwealth and State Government resources of expert labour and money. About 10 years ago a solicitor named Ralph Nader brought to the attention of the American public the faults in certain motor vehicles that he claimed had contributed to accidents. This forced the Federal Government to prescribe certain safety standards for motor vehicles in the U.S.A., and it also had a pronounced effect on Governments throughout the world.

In Australia in 1947 the Australian Transport Advisory Council, which is constituted by the respective Ministers of Transport in each State, set up a committee known as the Australian Motor Vehicle Standards Committee whose function was to prescribe draft regulations for

adoption by each State defining vehicle construction, equipment and performance standards for road vehicles.

In 1969, the committees of ATAC were reconstituted and a new committee, the Advisory Committee for Safety in Vehicle Design, was specifically set up with experts from the motor industry, the fields of human factors, mechanical engineers and traffic engineers. The Executive Engineer of the Road Traffic Board represents the field of traffic engineering on this committee.

This committee's function is to advise on safety standards for motor vehicles. It recommends to ATAC design rules, which set out a detailed vehicular specification for each safety feature together with their date of operation. These design rules are performance standards to which the motor vehicle manufacturer must comply. The design rules are embodied in each State's legislation to ensure this compliance.

The following design rules have been promulgated, and a further 15 are to be introduced within the next two years. About nine are currently being researched at the present moment and will be introduced progressively. Matters dealt with are: door latches and hinges, seat anchorages for motor vehicles, seat belts, seat belt anchorage points, hydraulic brake hoses, safety glass, standard controls for automatic transmissions, steering columns, internal sun visors, rear vision mirrors, demisting of windscreens, locating and visibility of instruments, safety rims, instrument panels, head restraints, anti-theft locks, reversing signal lamps, direction turn signal lamps, and windscreen wipers and washers.

It can now be said that the motor vehicles of today have greater safety provisions than the motor vehicles of the past, and the future holds an even safer vehicle with greater chances of survival for the occupants if seat belts are worn. The Registrar of Motor Vehicles in this State may refuse registration if the vehicle presented for registration does not have affixed to it a compliance plate approved by the certification board for the design rules now contained in the legislation. The Australian Motor Vehicle Certification Board has resources that enable it to inspect all these vehicles during manufacture. It has laboratory tests taken of these safety features to which I have referred and, ultimately, because of the Commonwealth and State machinery that has been set up, it has guaranteed that all these design features are to be built into the vehicles before they are registered. It can be seen that much is being done in the realm of road safety.

When honourable members say that the question of using seat belts should be put to one side and more attention paid to other safety features, I point out that much is being done and more will be done in future. In all areas of road safety, progress and improvement must be made. One cannot concentrate on one particular aspect, whether it be the driver and his education and attitude, the vehicle with its safety features, or the road environment and improvement in that sector. These matters cannot be considered in isolation. There has to be improvements in all these aspects at the same time, if we are to attain our ultimate goal, which is lessening the injuries and road deaths that have been occurring at what I am sure everyone would agree is an alarming rate. I now comment on the specific points made by members in their speeches during this debate. The Hon. Mr. Kemp said:

I realize that the most serious thing we are up against in the matter of accidental death is the road toll, but I am quite sure the compulsory wearing of seat belts is not the answer.

Many collisions occur as a result of errors in judgment or by impairment of the physical and psychological attributes of the motorist that could be said to be accidents in the true sense. Some of the accidents occur because of the complexity of the situations confronting motorists. The reason for wearing a seat belt is to protect the occupants from injury if involved in such an accident.

The Hon. R. C. DeGaris: It is a question of compulsion: we are not talking about seat belts.

The Hon. C. M. HILL: That matter will be covered later.

The Hon. T. M. Casey: Is there a division of opinion on the other side?

The Hon. C. M. HILL: Later, the Hon. Mr. Kemp said:

Also, it will be intensively restrictive. If a man's wife takes the family car out to go up the street to do some shopping, is preoccupied with the order she is to hand in at the shops and drives 50 yards up the street without wearing a seat belt, she will be committing an offence.

The man's wife should not be preoccupied when driving a vehicle If she is so preoccupied as to forget to fit her seat belt, she may forget to look in her rear vision mirror or to give way to another vehicle. Later, the Hon. Mr. Kemp said:

I am quite sure that the people who have investigated this matter and have said that everyone who enters a car must wear a seat belt regardless have not studied the problem enough.

Legislation to introduce compulsory wearing of seat belts has been studied with the assistance of experience gained from Victoria and New South Wales. The latter State has the advantage of a detailed report compiled by the Traffic Accident Research Unit of the Department of Motor Transport. The Hon. Mr. Kemp also said:

At present only motor vehicles manufactured after a certain date must have seat belts fitted to the front seat; none of them at present has to have seat belts fitted to the back seat.

That is incorrect. All motor vehicles weighing up to 10,0001b. manufactured after February 1, 1971, are required to have rear seat belts. During the debate on this Bill there was an interjection regarding standardizing seat belts. Because there are different types of seat belt, some belts may be safer than others. Seat belts are standard in respect of their strength and fittings, except for the buckle.

Steps are currently being taken to examine the possibility of adopting one type of release mechanism for the buckle. One South Australian manufacturer has led the field with the development of a new type of assembly which provides for a rigid metal stalk with the buckle attached to the stalk so that the left-hand section of the assembly remains in one position against the left hip, at all times. The other part of the assembly, comprising the sash and lap belt, is of the inertia reel type which can be brought down from its position against the door jamb towards the buckle in one action. No adjustment to belt length, etc., is necessary. This makes the usage of seat belts easier and overcomes the objections to making adjustments and losing the buckle down the seat back or under the seat.

The Hon. Mr. Cameron referred to measures that were being taken to promote read safety. He said that if other measures were taken (for example, those recommended in the Pak Poy report) there would not be so many road fatalities. He said that this aspect should be given attention, rather than the compulsory wearing of seat belts. As I said earlier, public education has been carried out by the Road Safety Council since and before seat belt legislation was introduced in South Australia. In this period the rise in voluntary usage of seat belts (as found in the studies conducted by the Road Traffic Board) was from 9 per cent to only 15 per cent. During the period of concentrated seat belt education in 1968, the overall rate of increase in usage actually reduced in intensity from its previous rate of increase.

The Hon. Mr. Cameron asked how police officers would be able to decide whether seat belts were properly adjusted. It is a fallacy that the police could not detect whether a person was actually wearing a belt or not. If a belt was hanging behind the driver or passenger, it would be obvious that it was not being worn. It is unlikely that a person would go to the trouble of arranging a belt about him without fastening it, since it would tend to slip off from time to time. It has been found that people who do this initially, end up wearing the belt properly. Furthermore, if an accident did occur, the extent of the injuries and bruising of the body would determine whether a belt was worn. We have heard much about what has happened in Victoria. However, many honourable members have not given the authority for their statements; according to the Road Traffic Board, the police in Victoria say that there has been no problem with enforcement. Generally, people in that State are law-abiding and are fastening their belts.

The Hon. R. C. DeGaris: I think the figure is 50 per cent.

The Hon. C. M. HILL: What authority is the Leader quoting? I do not mind honourable members bringing forward statements of percentages, but they ought to back them up with the actual authority. The Hon. Mr. Cameron went on to refer to his own seat belt, which he claimed had been damaged as a result of his child putting a 5c coin in the catch. Since that time the honourable member has not worn the belt.

One could never cater for the actions of irresponsible children who would put 5c pieces in a buckle. As one should check one's lights or hand brake, etc., one must check one's belts for possible interference where one has children who may take this sort of action. The Hon. Mr. Cameron said that in some cases serious injuries have been caused because head rests have not been fitted to cars. I point out that head restraints will become mandatory in passenger cars and their derivatives from January 1, 1972.

The Hon. Mr. Whyte said that at present too many cars are high-speed vehicles that disintegrate when involved in accidents. I think the Hon. Mrs. Cooper referred to the same point. The design of motor vehicles is being looked at very closely by the Advisory Committee of Safety in Vehicle Design. To date,

12 design rules, with which manufacturers must comply, have been promulgated. Eight more become effective from January 1. 1972, and another 11 are under consideration. The purpose behind vehicles "disintegrating" on impact is part of the energy absorption characteristics of the design of the modern vehicle.

Impact tests have shown that, if the engine and boot compartments can be designed with energy absorption characteristics and the occupant compartment made of a more rigid assembly, the occupants (provided they are wearing seat belts) will have a far greater chance of survival in a high-speed collision. The collapse of the two compartments fore and aft allows the energy of the impact to be absorbed slowly rather than suddenly. The ease of "crumple" leads many people to believe that the modern car is not made as well as the earlier models on a chassis. The Hon. Mr. Whyte also said:

Exemptions will be granted to children. I should have thought that children ought to be the first group of people to be required to be strapped in.

I agree that children are the ones who need protection in road accidents. The law, however, provides that no child under the age of eight years can be guilty of any offence. Furthermore, there is no seat belt designed so far that will give maximum protection to a child under three years of age.

The Hon. R. C. DeGaris: Are you saying that a child over the age of eight years can commit an offence?

The Hon. C. M. HILL: I said that the law provides that no child under the age of eight years can be guilty of any offence.

The Hon. Jessie Cooper: There is a type of seat belt designed for children under three years of age; it is made and marketed in Victoria.

The Hon. C. M. HILL: Progress has been made in that direction. I think my statement would refer to seat belts approved by the Standards Association of Australia and the road traffic authorities.

The Hon. Jessie Cooper: These belts for children under three years of age are official in Victoria.

The Hon. C. M. HILL: I will not argue the point, if the Hon. Mrs. Cooper claims that that is so. A further point I make is that, under this age, the bone structure of the child has very little resistance to the forces involved in a collision, even at low speed, and the child could be killed by the collapse of the rib cage and pelvic bones. The Hon. Mr. Russack quoted from two letters that had appeared in the press. These letters gave examples of the writers' own experiences. One writer said:

I was once in a car that caught fire, and within 10 seconds the petrol tank blew up. Had I been fastened in with seat belts I would not be here now.

In answer to that, I say that, if he had been seriously injured in the collision, he would have been burnt to death since he would have possibly been unconscious and unable to assist himself. Luck played its part and he was not injured and was. therefore, able to escape. A seat belt in another similar type of accident could have prevented serious injury and the driver would have been able to escape from the vehicle. Relativity of the accident collision forces, etc., all plays a part in what happens in an accident.

Then in the second case the honourable member quoted a letter about a person who fell out of the vehicle and, therefore, said that his life had been saved. The inference is that he fell out because he had not been forced to wear a seat belt. But in this case, too, luck played its part by flinging that person out on to relatively soft ground. It could have flung him into a tree or brick wall, which might have killed him. Who is to say that he would not have survived had he been wearing his seat belt?

I do not want to take up too much time in making these replies. It may be possible in the Committee stage, when specific points are put forward, to reply to some of the questions that have been asked during the debate: but I have taken the trouble to obtain the replies to all the major points made by honourable members. There may be some repetition in the Committee stage. For that reason, I will not proceed point by point, because of the time factor involved.

I sum up by saying that there are some major and highly important aspects that I urge those honourable members who still have serious doubts about this measure to consider. Victoria has been mentioned as an example. I was told by an officer from the Road Research Unit in New South Wales yesterday that, from their assessment of the Victorian figures, it seemed that the occupant deaths decreased by 46 per cent in the first three months of the operation of the law applying in Victoria. That percentage reduction has continued, for the most recent figure of road deaths in Victoria that they had at that research centre in New South Wales

yesterday was a reduction of 126 deaths so far this year in Victoria compared with the previous year. Although the 126 deaths are not occupant deaths, 46 per cent of them are. That amounts to about 58 deaths. If we allow a little variable in this calculation (because I know that every year is not consistently the same in this matter; I have found that out in the past few years in South Australia) it is true to say that, based on that scientific information, 50 people's lives have been saved in Victoria as a result of this legislation—and that is dealing only with deaths: injuries, too, are a highly important matter. Injuries include spinal injuries, which have been reduced in number.

Evidence from Victoria has shown that the propensity of casualty accidents has been reduced appreciably, with spinal injuries exceptionally low. Even in South Australia, 24 persons a year become paraplegics, with 10 to 12 resulting from road accidents. Over the last 10 years, only two people of that group were wearing seat belts at the time. One was a tall person, and the roof pressed down on his head causing the damage. In the second case, the woman was wearing a loose sash belt and she slipped under the belt.

So there is the situation where about 50 lives in Victoria have been saved and where New South Wales has introduced a measure that became law on October 1. Incidentally, in answer to the Hon. Mr. Potter's point about how long it will take for all vehicles to have seat belts fitted and their use made compulsory, New South Wales expects within 12 months to have "retro-fit" by legislation whereby the owners of older vehicles will be required to fit belts; so it is hoped that in 12 months' time there it will be compulsory for all passengers and drivers of all cars to use them.

Mr. Pak Poy's report has been mentioned by several speakers. It is proper to endeavour to answer the major point made by the Hon. Mrs. Cooper, that the Pak Poy committee did not specifically recommend the compulsory wearing of seat belts. I can give only my personal view on the reason why. The first point I make is that the Pak Poy committee did not have the latest statistics available at the time. More importantly (and I have some knowledge of this because I set up the committee, with the Government's approval, and interviewed its senior members before they joined it and before the Government approved of the idea), I do not think I am betraying any confidence when I say that I made the point as clearly as I could to Mr. Pak Poy and other members of the committee that the Government was looking for a realistic report, one upon which it could act and one that would result in the prevention of road injuries, deaths and accidents.

The Government did not want to receive, as Governments sometimes do receive from academic people, a report that it was impossible from a political point of view (I will be frank about it) to implement. General public opinion on the question of the wearing of seat belts two years ago was different from that of today. At that time public opinion, as assessed by those who keep their ears to the ground on these matters, would not have a bar of it. I must admit that two years ago I favoured it and I think the committee, in trying to do the job it was asked to do, was being practical and realistic and making recommendations which it genuinely believed would reduce the road toll but which at the same time were realistic, practical and able to be introduced within the reasonable bounds of public opinion.

I conclude by referring to the report which the Hon. Mrs. Cooper and other members have stressed. I make two short quotations from it:

> In the United States of America studies indicate a reduction of 30 per cent in serious injuries or fatalities occurring to seat belt wearers in the period when lap belts were most commonly used. In Great Britain where the lap-sash belt is more commonly used similar studies report a 50 per cent reduction in injuries of all degrees of severity for seat belt wearers.

But more important and certainly more penetrating is this sentence:

> With present accident rates, however.—

and this applies to South Australia—

> the potential benefit of a 100 per cent acceptance of the wearing of seat belts in South Australia would be a reduction of about 60 fatalities and 1,600 injuries annually to drivers and front seat passengers.

If it is passed, the measure before us will not mean 100 per cent usage. However, in my view it will lead to it, and ultimately I believe it should. We will be well on the way to a target of saving annually in South Australia 60 lives and 1,600 injuries, and when I hear people talk of the rare possibility of one life being lost because of the wearing of a belt, and I look at that figure and compare it with the figures of 60 lives and 1,600 injuries, surely that is overwhelming evidence of the need for a measure of this kind, and I ask honourable members to support it.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—"Wearing of seat belts to be compulsory."

The Hon. G. J. GILFILLAN: Until this morning many members believed that some amendments would be on file dealing with the problems that have been raised during the debate on this Bill. I understand that the Hon. Mr. Hill, in consultation with others, had some amendments in view which would assist members, and I ask that he seek leave to report progress.

The Hon. C. M. HILL: I am most anxious to bring this matter to finality, because it has been before the Council for some time. I am very pleased it has reached this stage. I agree with the Hon. Mr. Gilfillan that it was hoped that either I or other members would have been able to place on file some further amendments. However, I have not been able to do that. I believe that some honourable members are giving further consideration to the question of amendments and that a few more days in which the situation can be further considered would be of benefit to them as well as to the progress and ultimate success of the measure before us. Accordingly I ask that progress be reported.

Progress reported; Committee to sit again.

CAPITAL PUNISHMENT ABOLITION BILL

Adjourned debate on second reading.

(Continued from October 13. Page 2173.)

The Hon. F. J. POTTER (Central No. 2): I support the second reading of the Bill, as I did when this measure was last before us at a time when it was consolidated with a Bill for the abolition of corporal punishment. I spoke at some length in the previous debate in February last, and at this stage there is no need for me to repeat the arguments I then placed before the Council, because they were given at length, they attempted to analyse all aspects of the problem, and they are still available for members to read if they are so inclined. I said then that I felt this was a difficult question, that honourable members had to make up their own minds about where they stood on it, that probably some had made up their minds many years ago and that nothing I was likely to say would change or affect their established opinions. That is probably very true, and nothing I can say today is likely to change the opinion a member may hold.

In my speech on the previous occasion I did attempt to analyse the philosophical aspect of capital punishment, and I dealt with the three points of the problem, the deterrent aspects, the reformative purpose, and the question of retribution. Listening to the debate on this occasion and on the previous occasion, it seems to me that most people have come to the conclusion that it is necessary to retain this measure on our Statute Book because of its deterrent value. It seems to me this is the final attitude taken by members who are opposing the Bill.

On this occasion I thought I might deal with that and one other aspect of this matter with which I dealt only briefly in my previous speech. I refer first to the matter of deterrence and the value of capital punishment as a deterrent. I wonder whether honourable members who have taken that attitude and who have spoken in this debate have really taken the trouble to read in detail the report of the British Royal Commission on Capital Punishment, which was presented to the United Kingdom Parliament in September, 1953.

It seems to me that if they had read the voluminous report, which dealt with all possible aspects of this matter including the important aspect of the deterrent value, they would be more doubtful about this aspect than they are. It seems to me that we return to the matter of what the statistics do or do not prove. I should like briefly to quote one or two portions of the report dealing with statistics. At paragraph 62 of the report, when dealing with the matter of statistical evidence, the Commission said:

> We must now turn to the statistical evidence. This has for the most part been assembled by those who would abolish the death penalty; their object has been to disprove the deterrent value claimed for that punishment. Supporters of the death penalty usually counter them by arguing that the figures are susceptible of a different interpretation, or that for one reason or another they are too unreliable and misleading to form a basis for valid argument. The question should be judged, they say, not on statistics but on such considerations as we have been examining in the preceding paragraphs. The arguments drawn by the abolitionists from the statistics fall into two categories. The first, and by far the more important, seeks to prove the case by showing that the abolition of capital punishment in other countries—

or, in respect of Australia, in other States—

> has not led to an increase of murder or homicidal crime. This may be attempted either by comparing the homicide statistics of countries where capital punishment has been

abolished with the statistics for the same period of countries where it has been retained, or by comparing the statistics of a single country, in which capital punishment has been abolished, for periods before and after abolition.

That is precisely the method that has been adopted by persons who have tried to use statistics in this debate. I do not think we can rely, as the Royal Commission on Capital Punishment did not rely, entirely on the matter of what the statistics do or do not prove.

The Hon. R. C. DeGaris: I do not think they were used to prove anything.

The Hon. F. J. POTTER: I think the Commission said that they cannot be used to prove anything. The whole difficulty is that one cannot collect statistics on how persons who might or might not be deterred are affected.

The Hon. R. C. DeGaris: New South Wales and Queensland abolished capital punishment, and they have by far the highest incidence of such crimes.

The Hon. F. J. POTTER: The Royal Commission dealt with the Queensland figures both before and after abolition. The figures showed that in Queensland there was no appreciable difference.

The Hon. R. C. DeGaris: But there was an appreciable difference.

The Hon. F. J. POTTER: I have not checked the figures with those quoted by the honourable member. The figures I have go up to the year 1949.

The Hon. R. C. DeGaris: Is that in Barry Jones's Book?

The Hon. F. J. POTTER: No. These are the Queensland figures quoted in the British Royal Commission report. It gives the figures for Queensland, which abolished capital punishment in 1922 after it had been in abeyance since 1911, and those figures are compared with the moving averages in New South Wales and New Zealand. They are all set out in table 15 of an appendix to the Commission's report.

The Hon. R. C. DeGaris: Do they make any comparisons of the situation 10 years after and 10 years before abolition?

The Hon. F. J. POTTER: They go from the year 1900 to the year 1945, making various comparisons. They take the murders known to the police; the five-year moving average; the incidence per 1,000,000 of population; and the convictions for murder and manslaughter, and they compare one column with the other. This is a most interesting set of figures, which I will not repeat now. However, I recommend that honourable members examine them.

The Hon. Sir Arthur Rymill: The *Advertiser* yesterday pointed to different classifying of murders and manslaughters. Did you read that?

The Hon. F. J. POTTER: Yes.

The Hon. Sir Arthur Rymill: Did they apply that here?

The Hon. F. J. POTTER: They used the manslaughter figures in this case as well as the murder figures, making comparisons. If one is purely and simply to rely on statistics alone, one does not want to fall into the trap that the Royal Commission pointed out: one cannot base the question of the effective deterrence of capital punishment on statistics. The other point which I did not amplify very much in my previous speech but which I consider to be important is that the death penalty is the only punishment which, by Statute, can be imposed for the crime of murder, a crime which every honourable member would probably agree varies in degree of culpability from person to person. This is the only sentence that can be pronounced by the court, and it falls to the Executive (in this State, in the form of the Executive Council) to exercise its prerogative of mercy. That is the only method by which the death penalty can be varied in this State.

The Hon. R. A. Geddes: Is that unsatisfactory to you?

The Hon. F. J. POTTER: Yes, and it is one of the major factors that influenced the Commission. I intend to say something about this aspect, because it is important. The Commission said:

> First, it is said that in principle the exercise of the prerogative should be an exceptional measure—

I agree entirely with that—

> interfering with the due process of law only in those rare cases that cannot be foreseen and provided by the law itself. When, as now—

and this is speaking of 1949 when the death penalty was in force—

> one out of every two capital sentences is commuted, the prerogative ceases to be an exceptional measure and the Secretary of State becomes in effect an additional court of appeal sitting in private, judging on the record only, and giving no reasons for his decision.

The Archbishop of Canterbury was asked to deal with this question when giving his evidence, and his statement was quoted by the Commission, as follows:

> It is a very grave thing that the solemn formula of the death sentence should almost as often as not be followed by a reprieve which cancels it ... It is intolerable

that this solemn and deeply significant procedure should be enacted again and again when in almost half the cases the consequence will not follow ... If this solemn act is to remain, it must normally mean what it says and carry the consequences which it imposes. Otherwise it is reduced to a mere formula: and in such a matter a mere empty formula is a degradation of the majesty of the law and dangerous to society.

They were the words of the Archbishop of Canterbury.

The Hon. A. J. Shard: The remarks sounded familiar: I thought they came from somewhere else.

The Hon. F. J. POTTER: No. This is an important matter.

The Hon. C. R. Story: When was this and who was the Archbishop?

The Hon. F. J. POTTER: The Commission's inquiries extended from 1949 to 1953, and the Archbishop was Lord Fisher.

The Hon. C. R. Story: That makes a big difference.

The Hon. F. J. POTTER: I do not care who the Archbishop was: I think he summed up one of the major difficulties that was considered by the Commission when dealing with this problem. It should be exceptional when the Executive interferes in a question of this kind. Normally, it does not interfere in any sentence imposed by a court. It is only when the sentence of death is recorded that the Executive Council is called on to interfere. It does not reduce other sentences, but it is called on to act as a kind of court of appeal when the death sentence is imposed.

Also, we have the spectacle of a death sentence being imposed on a murderer and, at great public expense and often with the aid of legal assistance, appeals are made from the court of first instance to the court of appeal, to the High Court, and then to the Privy Council, on perhaps minor matters of procedure or law that may have been at fault in the original trial. An exhaustive attempt is made to have the conviction quashed, because the death penalty has been imposed. I quote the conclusions of the Commission on this matter. They merit reading, because I have the impression (rightly or wrongly) that honourable members have not read carefully much of this report. Paragraphs 605, 606, and 607 state:

605. The principal question we were required to consider was "whether the liability under the criminal law to suffer capital punishment for murder should be limited or modified". The wider issue whether capital punishment should be retained or abolished was not referred to us. Our inquiry has thus been restricted in effect to trying to find some practicable half-way house between the present scope of the death penalty and its abolition. As we proceeded with this task, we have been compelled to recognize that the range of our quest is very narrow. For although every person found guilty of murder is in law liable to suffer the punishment of death, yet the scope of its actual infliction has been so reduced that in Great Britain, with its largely industrial population of fifty millions, the average annual number of executions during the past half-century has been only about thirteen. It is clear that a stage has been reached where there is little room for further limitation short of abolition.

606. But the method by which this limitation has been effected is not above question. It is almost wholly the result of the exercise of the Royal Prerogative of Mercy. It is true that the scope of the death penalty was narrowed by the Infanticide Acts and the Acts exempting persons under eighteen and pregnant women. But these merely gave statutory force to practices long established by the prerogative. It is true also that the courts are tending to narrow the scope of the penalty by disregarding the M'Naghten Rules when strict application of their obsolete test of insanity would lead to a grossly inequitable decision. But here again the powers of the Executive are in reserve to save the insane from the gallows. In all, during the past fifty years, some forty-five per cent of persons sentenced to death have been reprieved in England and nearly sixty per cent in Scotland. This is the natural consequence of a law which has the basic defect of prescribing a single fixed automatic sentence for a crime that varies widely in character and culpability, and for which the penalty of death is often wholly inappropriate. The rigidity of a law that gives the court no discretion to select the appropriate sentence can be corrected only by the Executive.

607. We cannot regard this as a satisfactory solution of the problem posed by a mandatory death penalty for murder. The prerogative ought to be invoked only as an exceptional measure: it is open to objection that in such a matter so wide a discretion should be habitually exercised by the Executive. This has, moreover, another questionable consequence. It means that the sentence of death must be pronounced in many cases in which it is not carried out, and in some where at the very time it is pronounced everyone knows that it never will be carried out. On the question whether this is a reproach to our system of criminal justice we heard conflicting views, but we ourselves feel no doubt that the existence of so wide a gap between the number of death sentences pronounced and the number carried out is an anomaly that ought not to be accepted with complacency.

The Police Federation in Great Britain is advocating that capital punishment be reintroduced; in this connection an article in yesterday's *Advertiser* states that, regardless of the submissions made, the death penalty would

undoubtedly never be brought back by either political Party.

The Hon. R. C. DeGaris: They still have it.

The Hon. F. J. POTTER: They do not have it for murder.

The Hon. R. C. DeGaris: They still have it for some crimes.

The Hon. F. J. POTTER: They have it for treason, but there have been only two executions for treason in the last century. So, that is hardly relevant to the South Australian situation. I go as far as to say that the death penalty will never again be carried out in South Australia by a Government of any political complexion, because I believe the pressures are now so great politically and otherwise. If a practice is dead or appears to be dead, why do we not say so on the Statute Book?

The Hon. Sir Arthur Rymill: That is an over-simplification, isn't it?

The Hon. F. J. POTTER: No.

The Hon. Sir Arthur Rymill: I think it is.

The Hon. F. J. POTTER: I believe that the death penalty will never again be carried out in this State.

The Hon. Sir Arthur Rymill: That does not mean that everyone else believes it.

The Hon. F. J. POTTER: Respect for the law in all its forms, particularly for its penal provisions, depends in any community largely on the collective will of the people. From time to time we have heard references to what that will may be; it is very difficult to ascertain what it is, but there is such a thing. In respect of capital punishment there has been a great change in the collective will of the people in all western countries.

In last week's *Sunday Mail* there was a report of a survey concerning capital punishment. The report said that two-thirds of the people interviewed agreed that capital punishment should be abolished. They believed that murderers should be rehabilitated through modern psychiatric treatment. Most of those who favoured capital punishment said they had always held that view and had not been influenced by the recent slaying of two policemen in New South Wales. Some of the people interviewed preferred life imprisonment to the death penalty because they thought it was more severe. I do not place any great store by that survey: it is just one of many surveys, but I am satisfied that there is a strong feeling in the community today that capital punishment should be abolished.

The Hon. R. C. DeGaris: How do you classify the two people interviewed who preferred life imprisonment to the death penalty because they thought it was more severe?

The Hon. F. J. POTTER: I believe that life imprisonment is a pretty terrible punishment, anyway. I am not suggesting that the punishment for the terrible crime of murder should be anything less than life imprisonment. In South Australia life imprisonment is the only penalty that will henceforth be imposed on murderers. I think all honourable members will agree that there is every possibility that I am correct.

The Hon. Jessie Cooper: I wonder whether murderers will be allowed home for the week-end.

The Hon. F. J. POTTER: I am satisfied to leave it at imprisonment for life, and I expect the sentence to mean just that—imprisonment for life. The following is portion of the final paragraph of the Royal Commission's report:

We have considered most carefully whether any more radical solution can be found. We have found none that can be regarded as entirely satisfactory. That is not surprising. Many people over many years have sought a solution, and if there had been an entirely satisfactory one it would no doubt have been found and adopted long ago. We have approached the subject in a spirit of realism, not as perfectionists. The present system is open to serious objection, and a remedy must not be dismissed merely because it, too, is open to objection: it may nevertheless be on balance preferable. In particular, we have closely examined four proposals. Three of them we have been obliged to reject decisively; the difficulties and disadvantages inherent in them are too high a price to pay.

The first proposal that the Commission rejected was to divide murder into two degrees; the Commission made an exhaustive examination of that. The second proposal was to enact a statutory definition of murder of narrower scope than the existing definition at common law; that, too, was rejected. The third proposal was to give to the judge a discretion to decide whether the sentence of death or a lesser sentence should be passed; that, too, was rejected. The only proposal that found favour with the Commission if the death penalty was to be retained was as follows:

The proposal to give discretion to the jury to decide in each individual case whether there are such extenuating circumstances as to justify the substitution of a lesser sentence for the sentence of death. We have reached the conclusion that, if capital punishment is to be retained and at the same time the defects of the existing

law are to be eliminated, that is the only practicable way of achieving that object. We recognize that it involves a fundamental change in the traditional functions of the jury in Great Britain and is not without practical difficulties. They also said that its disadvantages might be thought to outweigh its merits. They went on to say that this was the only thing that they felt could be recommended if capital punishment was to be retained in Great Britain.

As I said before, I think that leaving it to the discretion of the Executive is quite wrong, particularly when the circumstances are such that it is unlikely that the Executive wll ever again see that the death penalty is carried out. There have been over recent years several cases of murder committed in this State where it was obvious from the reports that, if the death penalty was to be imposed and exacted, they were suitable and proper cases in which that should happen; yet the Executive still commuted the sentences. In these circumstances, the argument is overwhelming that we should ensure that the statutory penalty for murder is, in fact, brought into line with the true facts of the situation, namely, the person involved in every instance is going to suffer life imprisonment. I mentioned this earlier. Perhaps I could just quote what I said the last time I spoke on this matter. This was my point when I last spoke in this Council:

Nor do I think—and this is a strong personal belief—that we should leave a man's life hanging in the balance for a period of 28 days, or whatever is the statutory period, while we make up our minds. This is one of the worst aspects of the entire system of capital punishment. I will not elaborate on it, but we all know that this continual putting off and keeping in suspense must have a devastating effect not only on the criminal himself but on all persons concerned with the ultimate decision. I personally feel strongly on this issue, as I know many members of my profession do, too. The time has come when in this State we can safely and properly take the step of putting the true facts of the situation on our Statutes, namely, that a murderer is to suffer life imprisonment, and that shall be his only punishment.

The Hon. JESSIE COOPER secured the adjournment of the debate.

JUVENILE COURTS BILL

(Second reading debate adjourned on October 13. Page 2174.)

Bill read a second time.

In Committee.

Clauses 1 to 16 passed.

Clause 17—"Judge of Juvenile Court."

The Hon. A. J. SHARD (Chief Secretary): An amendment to this clause has been distributed to honourable members only this afternoon, so I think this would be a convenient time for me to ask that progress be reported so that honourable members can study the amendment and I myself can get certain instructions.

Progress reported; Committee to sit again.

ADJOURNMENT

At 4.58 p.m. the Council adjourned until Tuesday, October 19, at 2.15 p.m.