LEGISLATIVE COUNCIL

Wednesday, December 1, 1976

The PRESIDENT (Hon. F. J. Potter) took the Chair at 2.15 p.m. and read prayers.

DEATH OF SIR GLEN PEARSON

The Hon. D. H. L. BANFIELD (Minister of Health): I move:

That the Legislative Council express its deep regret at the death of the Hon. Sir Glen Gardner Pearson, former Minister of the Crown and former member for Flinders in the House of Assembly, and place on record its appreciation of his meritorious public services, and that, as a mark of respect to the memory of the deceased honourable gentleman, the sitting of the Council be suspended until the ringing of the bells.

Sir Glen Pearson was member for Flinders in the House of Assembly from 1951 to 1970; he was Treasurer and Minister of Housing from 1968 to 1970; Minister of Works and Minister of Marine from 1958 to 1965; Minister for Aboriginal Affairs from 1962 to 1965; and Minister of Agriculture and Forests from 1956 to 1958. He was Deputy Leader of the Opposition from 1965 to 1968 and was holder of executive offices with various sporting clubs on the peninsula, was an active member of the Wheatgrowers Association and a member of the Australian Barley Board from 1948 to 1956. Sir Glen Pearson was Chairman of the Adelaide Permanent Building Society and served with the Royal Australian Air Force from 1942 to 1946 and held the rank of Flight Lieutenant.

Everyone who knew the late Sir Glen acknowledged that he was a gentleman through and through. I doubt whether he had any enemies whatever. He was always most helpful to honourable members from both sides. He will be sadly missed by us all and I express appreciation for the public service he rendered over many years. Sir Glen leaves a widow, Lady Pearson, two sons and one daughter, to each of whom I extend my sincere sympathy in their great loss.

The Hon. R. C. DeGARIS (Leader of the Opposition): I add to the comments of the Minister in expressing deep regret at the death of Sir Glen Gardner Pearson. The Minister has outlined Sir Glen's service in this Parliament and his services to various other organisations. Sir Glen Pearson came from a family, which was much involved in the development of Eyre Peninsula and which took much interest in politics. The Pearson name is a household word in the political scene not only on Eyre Peninsula but also at the South Australian level and the national level.

I had the privilege of serving in a Cabinet with Sir Glen Pearson. He was a sincere person, a man of ability and, during the period I served with him, he was the Treasurer of this State. He had the absolute support, understanding and appreciation of his Cabinet colleagues who served with him. I am certain that all those who had the pleasure of serving in the Cabinet with him will support what I have said. Sir Glen Pearson was a man who served in the Armed Forces during the Second World War and rose to the rank of Flight Lieutenant. On behalf of Liberal members and, indeed, all honourable members, I extend to Lady Pearson, the two sons and one daughter, our sincerest sympathy in their loss.

The PRESIDENT: I should like to add my personal tribute to the late Sir Glen Pearson. I did not have the privilege of serving with him, as did the Hon. Mr. DeGaris and the Hon. Mr. Hill, in the Cabinet of which he was a member, but I remember him as a very courteous and kindly member and as a man who served his State and his country in war and in peace. He had a distinguished Parliamentary career, and we are very sorry to hear of his sudden death. On behalf of all honourable members of the Council, I extend our sympathy to his widow and members of his family. I ask honourable members to carry this motion by standing in their places in silence for a short period.

Motion carried by honourable members standing in their places in silence.

[*Sitting suspended from* 2.21 *to* 2.34 *p.m.*]

ARCHITECTS ACT AMENDMENT BILL

The Hon. D. H. L. BANFIELD (Minister of Health) obtained leave and introduced a Bill for an Act to amend the Architects Act, 1939-1975. Read a first time.

The Hon. D. H. L. BANFIELD: I move:

That this Bill be now read a second time.

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

Leave granted.

EXPLANATION OF BILL

The principal object of this Bill is to amend new section 28 of the Act which was enacted by the 1975 amending Act (not yet in force). Shortly after the passage of the 1975 amending Act it became apparent that section 28 would effectively prevent persons such as building designers, builders and architectural draftsmen from holding themselves out as being qualified or willing to undertake architectural work, and so the Government decided not to bring the 1975 amending Act into operation until the problem had been solved. Numerous conferences have been held with various interested parties. It is now obvious that building designers are in an anomalous position: they are not required to be registered or licensed in any way whatsoever and are not obliged by law to obtain any qualifications, and yet they design and supervise the erection of buildings in much the same manner as an architect. Architects must be registered, and builders must be licensed; so the conclusion must be drawn that building designers ought to be subject to similar requirements. In the meantime, however, it is desirable that the 1975 amending Act, suitably amended, be brought into force.

This Bill therefore provides that certain persons may be exempted by the Minister from the operation of section 28. Such persons will not, during the currency of the exemption, be guilty of an offence merely because they held themselves out as being qualified or willing to undertake architectural work. Such classes of persons as building designers, consulting engineers, architectural draftsmen and architectural technicians who are practising as such on the day this Bill comes into force will be exempted. The Minister may grant an exemption for any period he thinks fit. During the period of exemption some solution will have to be devised as to the problem of whether such persons ought to be separately licensed.

The Bill also makes two further amendments at the request of the Architects' Board. Provision is made for shares in registered architect companies to be held by family companies and by trustees. The Architects' Board is given power to impose a fine not exceeding $2 000 where an architect is guilty of professional misconduct.

Clause 1 is formal. Clause 2 provides that the Act will come into force upon proclamation. Clause 3 amends section 28 by exempting licensed builders and giving the Minister power to exempt any other classes of person for such period as he thinks fit. Clause 4 provides that shares in a company registered as an architect may be held by trustees or family companies, provided that the beneficiaries or shareholders are directors or employees of the firm, or their relatives. Clause 5 gives the Architects' Board power to impose a fine not exceeding $2 000 where an architect is guilty of professional misconduct.

The Hon. D. H. LAIDLAW secured the adjournment of the debate.

LOCAL GOVERNMENT ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 30. Page 2557.)

The Hon. M. B. CAMERON: I want to put my position clearly on this Bill; I support full adult franchise for council elections. I have maintained that position on several other measures relating to what one might call electoral reform in this State, and I have no intention to change that position. I recall the Hon. Mr. Blevins saying that he would watch with interest to see whether certain members on this side of the Chamber would maintain the same attitude towards full adult franchise as they have to other electoral reform measures. I can assure him that he will not be disappointed or pleased, because I intend to continue in exactly the same fashion as I have in the past.

The Hon. F. T. Blevins: Hear, hear!

The Hon. M. B. CAMERON: Local government is another arm of Government in this State. Ratepayers were at one time the only and principal contributors to revenue used by councils. However, that position is changing more and more and, in many circumstances, councils are now receiving more money from Government sources than from their rate revenue. If taxpayers' funds are used for this purpose it is only fair and proper that they should have some say in who represents them at this level of government. That aside, it is also only right and proper that every citizen in this State should have an opportunity at every level of Government to have a say in who should represent him. I support the Bill.

The Hon. F. T. BLEVINS: To some extent I can only repeat what the Hon. Mr. Cameron has said. I support the Bill. I said in my maiden speech that it would give me much pleasure to support a measure such as this. Having this morning read the Hon. Mr. Hill's speech, I am impressed with the argument that the method of funding local government has, to some extent, changed. Local government no longer relies entirely on ratepayers' finance. Of course, much taxpayers' money is involved in the financing of council projects. Untied grants amounting to hundreds of thousands of dollars are given. Whyalla, my home city, has done well in the past from untied grants. The Whyalla council is grateful for the grants which it has received and which have been of great assistance to its ratepayers.

However, that is not the argument that has persuaded me to support the Bill. If we were to follow the old argument through to its logical conclusion, as I am sure some honourable members opposite will try to do (although they will be illogical in doing so, saying that the ratepayers still provide the bulk of the money for local government and that, therefore, they alone should vote at council elections), we would disfranchise some people who vote at State and Federal elections, as many people in the community do not pay taxes and, therefore, contribute no money to State and Federal Governments.

So, if the argument is to stand that ratepayers only should vote, surely it would be equally valid for one to argue that taxpayers only should vote in Federal and State elections. Although the argument that taxpayers contribute a considerable sum of money to local government has some merit, it is not an argument that persuades me to support the Bill. The case is absolutely unanswerable: every person, irrespective of whether he pays rates and taxes, or anything else, is entitled to vote.

The Hon. Mr. Hill made the point that in this day and age it is foolish to suggest that everyone should not have this right. I congratulate the Hon. Mr. Hill and respect him for saying that he has changed his mind on this matter. The honourable member said that times have changed. Certainly, they have changed, although they have changed only marginally regarding this matter. I think it is the Hon. Mr. Hill who has changed.

The Hon. M. B. Cameron: No. It's compulsory voting that has disappeared.

The Hon. F. T. BLEVINS: The Hon. Mr. Hill was not discussing compulsory voting. He said that he had changed his mind. Apparently he has done so because compulsory voting for council elections has not been introduced. Certainly, I give the Hon. Mr. Hill credit for going further than that, as I believe he did, and saying that he had over the years come to believe in the principle of adult franchise. The honourable member has obviously changed his mind. It is important, when one takes stands on matters, as I do on certain issues, that—

The Hon. M. B. Cameron: Like Friday night shopping.

The Hon. F. T. BLEVINS: Let us not go into that matter again. The position is very clear in this day and age that no-one should be barred from voting at any election, and I appeal to honourable members opposite who I assume will speak against this Bill not to be afraid of people being allowed to vote. It will not be the downfall of local government because sections of the public who are deprived at the moment of voting will have that right when the Bill goes through. I do not think there will be any marked change (and I regret this) in the composition of councils in the future as a result of this Bill.

The Hon. M. B. Cameron: They are doing a good job now.

The Hon. F. T. BLEVINS: I would disagree with that. I think that local government sells itself short. From my very limited experience of it I do not think they have sufficiently qualified councillors.

The Hon. M. B. Cameron: That is a bad reflection.

The Hon. F. T. BLEVINS: It is a straight-out statement of fact. I think some councillors leave much to be desired. You have that frightful person who was endorsed by the Liberal Party for the Adelaide City Council. He was a chemist. He made some atrocious statements. He said that if you give everyone a vote you would get terrible people like the workers and the riff-raff having a vote and being elected to councils. To my mind, a gentleman of that nature should not be in an election at all.

The Hon. M. B. Cameron: It is a bit hard to reflect on local government because of one person.

The Hon. F. T. BLEVINS: From the correspondence we have received from various councils the attitude is that

many of them do not want everyone to have a vote. They oppose full adult franchise. Many councils have written to us on those lines and to some extent it is understandable because those people were elected under a restricted franchise. I suppose they see the dangers, as did that particular gentleman who was endorsed by the Liberal Party, and are frightened of workers and the alleged riff-raff getting on the council. That is an appalling statement to make.

I think they are men of very limited and narrow vision. They are primarily concerned about keeping what they think to be some status in the community. The tragedy is that those people will still be returned because of the apathy of the population at large. With those few words I am delighted to support this Bill and am very proud that the Labor Party, with the assistance of some democrats opposite (the Hon. Mr. Hill and the Hon. Mr. Cameron who have already indicated support), will get this Bill through and that the councils in this State will be elected democratically.

The Hon. M. B. DAWKINS: The first thing I note about the Bill is the point made by the Minister when he said that there are two salient differences between the present Bill and the previous Bill. One of the main differences is that the Bill does not contain a provision for compulsory voting and, secondly, the ratepayers (which include bodies corporate and partnerships) are given the right to vote in each area or ward in which they hold ratable property. I am pleased to see that those conditions are included in the present Bill.

However, whilst the Bill intends in its main clause (clause 16) to provide for the election of members to the council from the electors of the House of Assembly rolls, and also the people I have just mentioned, it does take some voting rights away. I refer to the corporate bodies which previously have had three votes and now apparently are going to have one vote. It may be said that it is one organisation and therefore should have only one vote. I am reminded of the instance where four or five people are living in the one house which might attract rates of $100 or $200 in certain areas, and there are four or five votes in that instance. On the other hand, there is a company that perhaps has to pay rates of about $100 000. Under this Bill, it will receive only one vote instead of three. I cannot support a proposition like that.

I have noticed that the present Local Government Act is continually being amended, although 11 years ago, I think it was, there was set up a Local Government Act Revision Committee, which did a lot of work under the Hon. Stan Bevan. I think it was appointed in his time and then later it was under the Ministerial direction of the Hon. Murray Hill. It did valuable work in bringing forward a report, but unfortunately no action has been taken on that. The time is very much overdue for a new Local Government Act. I am sorry to see that we are continually (I think this is the third such Bill in this session) amending the present legislation, which badly needs consolidation and review.

I sincerely suggest to the Minister that he seriously consider implementing the findings of the Local Government Act Revision Committee, no doubt with some of the amendments that have been found, since then, to be worth while. I cannot support the findings of the Select Committee in another place with regard to complete open franchise if it is intended also to take away some voting rights. I support the Bill at its second reading stage because it may be possible to make some amendments in Committee that will produce what I would consider to be a more equitable situation, having regard to the contributions of ratepayers, polls and loans. There is still a case for ratepayers to have a considerable say with regard to loans.

I regret that apparently under the Bill the ratepayers, who will have to provide a very considerable portion of the revenue, appear not to have any more say in regard to loans than does a ratepayer who may be here today and gone in a very short time.

This is largely a Committee Bill. There is only one other point I wish to make. It has been stated that the justification for this Bill (and there is some validity in the statement) is that most of the money today comes from Government grants, both Federal and State, and that the ratepayers cannot be said to provide large amounts of money for the operation of councils. In my view, that is only partly true because, as I have indicated in this Chamber before, there are considerable amounts of money that come back to local government in the form of grants which, in other places in this world and even in another State in this country, are collected, and rightly so, by local government.

It may be more efficient to collect this money at a central point and hand it back to local government, but I do not think it is correct to say that that money does not belong to local government, that it has been handed out by the Government and, therefore, local government has no right to do any more than put its hand out and hope to get a grant. I refer to the registration of motor vehicles and to similar matters. In Great Britain many such powers are probably wisely left in the hands of local government. Therefore, the argument that there is not a large proportion of funds going directly from ratepayers falls down in that respect. Funds are collected centrally by the Government, because of its supposed efficiency, and are handed back.

When one examines the position it can be seen that much of the money thus collected rightfully belongs to local government in any case. I will support the second reading of the Bill in the hope that the provisions relating to loans and corporate voting will be improved in the Committee stage.

The Hon. C. J. SUMNER: In supporting the Bill, I congratulate the Government on introducing this measure, which is enormously important in the process of achieving full democracy in our State. This Government has been noted for its commitment to electoral reform over the years. With the reform of the House of Assembly voting system and the reform of the voting system in this Chamber, I am glad to see the reform of the voting system applying to local government providing for full adult franchise.

Apart from the general democratic principles suggesting that this position should apply, local government, as the so-called third tier, is playing an increasingly important role in the Government system of Australia. At the time of Federation, local government had little, if any, significance in our system, and it is significant that local government was not referred to in the Federal Constitution. There seems to have been little discussion of the role of local government at the time of Federation and in the preceding discussions. True, local government did not play the same important role in the affairs of the nation as it does now.

The Hon. R. C. DeGaris: It is just as important.

The Hon. C. J. SUMNER: The role of local government and its importance have increased in the last 75 years. Obviously, with an increase in population and

in the extent of services that have to be provided in local communities, as well as an increase in the sorts of function that local government performs, it is fatuous for the Hon. Mr. DeGaris to say that local government at the time of Federation played a more important role or just as important a role in the community's affairs compared to the role it plays today.

I doubt whether even the Hon. Mr. Hill would agree with his leader on that, although they disagree on many matters, and I believe that this is one of them. I am sure I am correct in saying that the general scope of local government activity has expanded in the last 75 years and that its role within the system has become more significant. Two factors highlight the increasing significance of local government, and these were considered by the Federal Whitlam Government. The first factor was Mr. Whitlam's instance that local government be represented at the Constitution Convention and given an opportunity to advance the view of the third tier of government, especially on the recognition of the role of local government in our government system.

It was really at Mr. Whitlam's insistence that local government be represented that it was able to attend the convention. I am sure that the local government organisations appreciated that opportunity, although it was opposed strenuously by the Liberal and National Country Party representatives in Canberra and by the representatives of those Parties in the States. That symbolic gesture was an important recognition of local government's role in our system. The second important factor dealt with by the Whitlam Government was giving local government direct access to Federal funds as a result of amendments in 1973 to the Grants Commission Act. That situation has now been abolished and State Governments have established State Grants Commissions, the fixed percentage of Federal funds going to local government now being administered through those commissions. However, the initial impetus for local government's direct access to Federal funds came from the Whitlam Government's action. This was an important recognition of the role of local government in our system.

The Hon. C. M. Hill: That was when Whitlam tried to downgrade the State Parliaments.

The Hon. C. J. SUMNER: I do not think he was trying to downgrade State Parliaments; he was merely trying to recognise the important and expanding role of local government in our community. Apart from its increasing functions, local government is the tier of government that ought in practice to be (theoretically it is) the tier of government closest to the people. This position has been somewhat nullified in the past because of the nature of the franchise and the sort of representation that has obtained in local government, that is, representation based essentially on a property and wealth franchise.

As the tier closest to the people, local government has started to expand its functions in welfare areas beyond the simple roads and rubbish concept that tended to exist some years ago. At the local level, local government ought to be the dynamic in creating a true community feeling but, without the provision of adult franchise, it is impossible for local government to fulfil its role in these expanding functions and to act as a catalyst in creating a community feeling.

Creating a community feeling does not necessarily mean that local government must adopt a parochial approach to problems. Obviously, we must look increasingly toward a national view of our society as a prelude to adopting an international view of it in the future. The creation of a community feeling gives people some sense of identity with an area, but it need not extend to a petty parochialism, which occurs to some extent in some State Governments and some local government bodies. The existence of a local community feeling is not inconsistent with an overall national view of our community and the national solution to the increasingly complex problems which are arising and which will occur as a result of both increasing technology and the imperatives of national economic management. I believe that this recognition of adult franchise will provide a legitimacy to local government to perform this expanding and dynamic role in the creation of a community. In connection with giving the vote, there is, of course, the general democratic principle from which we should not resile: that votes ought to be based on individuals, not on the amount of wealth or the amount of service that they put into the community. All citizens are entitled to vote: this argument was applied when adult franchise was adopted for our Legislatures, and it ought to be applied to local government, too.

It is true that all citizens contribute to the community: it is not true that ratepayers, property owners and wealthy people are the only people who contribute to the community. Tenants pay rent to landlords, and consumers contribute by providing wealth for shopkeepers, garage proprietors, and other retailers in the area. So, this cannot be seen as a simple situation where those who end up with the wealth or the property are the sole contributors to the community. Obviously, all the other people contribute, too. So, the matter cannot be considered purely in terms of a financial commitment. The individual, whatever his means, his station in life, and his race, ought to have an equal opportunity to vote and participate in the functioning of government at all levels.

I would hope that at some stage the Government will consider introducing an amendment to provide for the right of migrants to vote in council elections, as a means initially of involving them in our community. It would appear, from what honourable members opposite have said so far, that this Bill will pass. It appears that the Hon. Mr. Hill substantially supports it, as does the Hon. Mr. Cameron. The Hon. Mr. Dawkins has said that he will vote for the second reading of the Bill, although he will support some amendments in the Committee stage. In the amendments that he foreshadowed, one can see the old ideas again coming to the fore; for example, the old idea that wealth determines who should vote. This harks back to the property franchise which existed for this Council until a few years ago and, indeed, for Lower Houses last century and which has traditionally existed in local government. I do not believe that, simply because a person or company contributes more in terms of wealth, that person or company has a right to a greater say in the running of the community than has anyone else. I shall oppose any amendment that reasserts what I believe is an outdated and undemocratic principle which ought to be well and truly buried by this Bill. I support the Bill.

The Hon. C. W. CREEDON: I support this Bill. I believe that adult franchise is a necessary part of all democracies. We all know the difficulties associated with implementing adult franchise for this Council, and I hope the Government is not going to be placed in difficulties again, now that it is seeking to give to people in local government areas what should have always been their right. Of course, it is not the first try. The Hon. Mr. Hill made the point yesterday that in the last few years an adult franchise Bill was introduced but was defeated because

compulsory voting was coupled with it. Adult franchise is not something new in councils within Australia. New South Wales has a voluntary voting adult franchise system somewhat similar, even if not specifically the same, as that proposed by this Bill. In Queensland, full adult franchise was first introduced in 1920. It was revoked in 1929 and reintroduced in 1932. It is compulsory and the simple method of using the State electoral roll is used for the council's purpose. Other States operate on the property franchise, but Victoria has an added refinement: voting in Victoria, depending on the council, is either voluntary or compulsory. Government regulations permit a council to institute compulsory voting, and this applies in 84 out of 212 councils. I trust the day will arrive when we see this opportunity given to the councils of South Australia.

The Hon. C. M. Hill: Would you favour giving them the option?

The Hon. C. W. CREEDON: I believe in compulsory voting. If the only way to get compulsory voting was to give councils the option, I would go along with that. Since local government was established in South Australia, its decisions have affected every person through the administration of its by-laws, through the works and services it carried out, and through the administration of its powers under the Local Government Act and other Acts. This is not something that has arisen in recent years, but has existed for well over 100 years. It could be said, therefore, that everybody should be involved in the right to vote and to be members.

At its inception, local government was given wide powers (certainly not as wide as today, but still wide). These powers did not relate solely to works and services and to properties but to other activities of a general nature. The source of revenue it was given (the valuation and rating system) was given to local government so that it could finance the councils in giving effect to the powers which had been vested in it—not so that it could carry out works solely related to properties. Local government was given this source simply as a source of revenue and because it was the most practical and simple one available and because it had applied for centuries in England (and still does in a local government system far related from only works for properties). The system is still the most practical one available and it has defied numerous studies to evolve a better one.

The Hon. C. M. Hill: It is voluntary voting in England for local government.

The Hon. C. W. CREEDON: I am not talking about voting in England: I am talking about the property rating system as related to local government here. The generally held concept is that the system should finance only property works and services. This is a misconception that has arisen over the years. It could be said, for instance, that Federal revenues like petrol tax should be used only on roads (as perhaps it should), that excise revenues be used in relation only to the industry concerned, and so on. Whatever the argument for and against this sort of thing, generally these various sources of revenue are just that—sources which go to financing a country's requirements. The same applies to the source of council revenue. One has only to study the reasons for creating the annual value system to ascertain that its original purpose was as much related to property services as chalk is to cheese. The system was created by Henry VIII to relieve the plight of the unemployed, a situation created, it was said, by the landowner who should pay for the system. The land value system relates to more modern times—the Lloyd George era, and was based on the theory that all wealth comes from land but that the reason for it (a source of revenue) is the same.

The Hon. R. C. DeGaris: What is the difference between the two systems?

The Hon. C. W. CREEDON: One involves rating only on land that a person owns and the other is related to the property and property improvements.

The Hon. R. C. DeGaris: What is meant by annual value?

The Hon. C. W. CREEDON: The same thing.

The Hon. R. C. DeGaris: What?

The Hon. C. W. CREEDON: The buildings on the property and the improvements thereto. In the years since the creation of local government, from 1840 onwards (in fact, essentially until the Second World War) local government, as a beginner in the field, was faced with certain urgencies, which were often referred to as the "three R's"—rates, roads and rubbish, all of which relate to property. Councils turned their efforts to the three R's not because the revenue source was properly related but because "roads and rubbish" were what the people wanted. People did not really want to pay rates, a situation that has not changed much since. Only in recent years have councils been able to turn their attention to other fields—not because the needs for roads have been satisfied, but because of a demand by people for other activities. Therefore, councils are increasingly turning their attention to activities such as recreation, services to aged and infirm people, planning, traffic, and to matters affecting the environment.

It is this increased involvement that has caused many people and councils to question the spending of property-related revenue on services more related to people holding that this was never intended whereas actually it was never not intended. On the other hand, the increased involvement of people has tended to make the non-property person say that he should be involved and that he should have a say in the composition of councils. Although councils have other sources of revenue, that revenue in most councils is minor. Although that revenue source could be upgraded to provide more revenue, essentially, the sole source of revenue has been property tax. Additional funds are available from State and Federal Governments in the form of specific purpose grants, and for the past three years they have been available by way of untied grants from the Federal Government. It is this source of assistance that really helps councils. It is recognised by both the other forms of Government that councils have a right to this revenue. Finance from both State and Federal Governments forms a considerable portion of the total funds available to councils, and this supports the contention that the non-direct council ratepayer is nonetheless involved in the spending of money by councils.

I wish to refer to a few examples that were not referred to by the Hon. Mr. Hill last evening, when he dealt with estimated figures for 1975-76. The figures to which I will refer are actual figures for 1974-75. Some of them are remarkable figures; in fact, some of the funds given to councils far exceed their rate revenue. I shall choose some examples at random. For instance, the percentage of Government funds received by Balaklava District Council in 1974-75 was 58 per cent over and above its rate revenue, which was about $102 000. It received Highways and Commonwealth funds totalling about $60 000.

The Hon. C. M. Hill: Does that include unemployment relief money?

The Hon. C. W. CREEDON: The figure relates to total Government funds—Highways and Commonwealth funds

and, relating specifically to Commonwealth funds, it is not broken up into untied grants or other amounts. Rate revenue for Beachport District Council was about $195 000, and it received grants totalling about $110 000, which represents 56·9 per cent of the council's total funds. Rate revenue for Brown's Well District Council was about $26 000, and the council received grants totalling $41 000, a 155·6 per cent increase over rate revenue. Rate revenue for Dudley District Council was about $29 000, and it received almost $50 000 in grants, a 163 per cent increase over rate revenue. Rate revenue for East Murray District Council was about $40 000, and grants to that council totalled about $64 000, a 162 per cent increase. Some councils received smaller increases, and Gawler council is an example. Its rate revenue was about $325 000, and it received grants totalling about $27 000. Its revenue from Government sources was only 8·6 per cent. Overall, these figures indicate that Government grants for all councils in the State amounted to an average of 50·4 per cent of total revenue. For cities, revenue from Government sources averaged 14·9 per cent, for towns it averaged 25 per cent, and for district councils it averaged 50 per cent.

Property tax is paid by one of two people, the owner or the occupier, generally the former. In the case of a business house where a person may own several shops, often a rent is paid in addition to rates and taxes. Generally, however, it is the owner who is the ratepayer, and it is his name that is included automatically in the assessment book. Other people who occupy houses would include tenants, and their rent would not be so high if it were not for the landlord's need to recognise his commitment for rates. A landlord or the property owner can claim the rates he pays as a tax concession, but a tenant cannot make such a claim. A boarder in a boarding house is in a similar position to that of a tenant: a set part of his board would relate to rates paid by the landlord. The tariff of a hotel guest is increased proportionately by the hotel's rate bill. The inclusion in the assessment book of an occupier is somewhat more difficult. Essentially, the occupier of a property is required to nominate with council for his name to be included in the assessment book to show that he is the occupier of a property.

The young adult at home contributes to the family's income, and it is that income that is used to pay rates. A block of flats is usually assessed at a certain value. Often a developer erects three or four flats on a block of land but, because of the assessment value of the property, only a limited number of flat dwellers obtain a council vote in accordance with the value of the property. People who are not eligible to be enrolled as occupiers are generally people who occupy Commonwealth Government houses or are wives of occupiers of State Government houses. Generally, as those people pay little or no rent and therefore make little or no contribution to councils, they are not given a vote. It cannot be denied, however, that the direct payer of rates is the most heavily hit.

It will undoubtedly be said that, with the non-ratepayer being involved as a taxpayer in the total money spent by a council, the owner is still the hardest hit because he is a taxpayer, too. What benefit, therefore, does the direct ratepayer get that the non-ratepayer does not get? The answer is, of course, the enhanced value of his property. It is not only the three R's as direct property services that enhance the value: it is also the other activities such as libraries, recreation areas and other facilities which are not direct property services but which enhance the value of properties that are served by such facilities.

I have tried to show how everyone is affected by council activities. The direct ratepayer receives benefits in enhanced values and in using the services provided by councils. The non-ratepayer or indirect ratepayer has no property to be enhanced in value, but he uses the services. All these people are affected by council decisions, and are involved in providing finance.

A more up-to-date set of figures (estimated, of course, because most final figures are not yet available) shows where this reaches the extreme. Those figures were inserted in *Hansard* during the Hon. Mr. Hill's speech yesterday. Carrieton, a council in the North of the State, receives three times more from Grants Commission and highways grants than it does from rates. On an overall average, most district councils receive 60 per cent of the amount collected in rates by way of grants. It is worth recording that, generally, the smaller the economic scale of a council the greater is its reliance on Government grants. However, I am referring only to highways and Grants Commission money. I have not yet been able to identify all revenue sources available to local government (I am referring to the present position and not to that obtaining 12 months or more ago) through Government grants.

The Adelaide City Council received $770 000 in 1975-76 from direct Government support, and this year it has received a guarantee of $500 000 general revenue as well as another $70 000 for other purposes. We must remember the Morphett Street bridge and the Festival Theatre. Over the last couple of years the State Government has suspended the commitment of the Adelaide City Council of $120 000 for each of those projects for about 20 years. So, that amounts to $240 000 a year on which the Adelaide City Council will miss out for 20 years. The sum of $9 000 000 will be distributed through the unemployment relief scheme, mostly to suburban councils. A wide range of other grants is available. I refer, for instance, to tourism and recreation, public parks, and even social security for welfare purposes, as well as senior citizens' clubs.

Local government is government of the community by the community. This is an important belief in local government and a belief that must be practised. Adult franchise can involve everyone in the affairs of the community. Considering all the factors involved, the principles behind the present source of revenue for councils, the financial assistance provided by State and Federal Governments, in which all people are involved, works and services, and administration of laws by councils, and the effect of this on all people, I maintain that the desirability of adult franchise is indicated. Involvement of the people in council affairs (and I believe that this is tremendously important) demands that we promote this Bill relating to adult franchise.

The Hon. J. A. CARNIE: I have a simplistic view on this matter. I believe that all people should have the right to cast a vote at all levels of government, and I therefore support the Bill. Local government is government of the community by the community, and it is the level of government in which everyone is involved. Yet it is at this level, and only this level, that restrictive franchise applies.

So, as a matter of principle, and in the spirit of true liberalism, I cannot support any action that denies a person the right to vote. In this respect, I am supported by the Local Government Association in its submission to the House of Assembly Select Committee earlier this year, when it said:

The social justice of adult franchise, as enunciated in this Bill, is recognised and supported in broad principle.

In its submission to the same Select Committee, the Adelaide City Council said:

The council does not therefore disagree with the proposed extension of the franchise in this context, particularly as the council's complete reliance on rates has been alleviated by the State through taxation funds.

At the time that that Select Committee was sitting, there were only five objections to the principle of adult franchise, and an additional three, although supporting the principle of adult franchise, suggested some modifications. Certainly, since then many councils have had second thoughts. All honourable members would have received many letters from councils throughout the State asking that this Bill be not passed. I can only say that they all had an opportunity earlier to express those views. They knew that this Bill was before Parliament.

The Local Government Association wrote to its members advising them that the Bill was before Parliament, but I believe that only about 17 councils out of 130 councils bothered to reply. I should have been much more impressed if the present opposition came from the people who vote at council elections and not from the elected council members. One rather tends to suspect their motives.

Two main arguments are advanced against the adoption of adult franchise. The first and most commonly used argument is that non-ratepayers do not contribute to council funds and, therefore, they should have no say in the running of councils. This is no longer true. In the 1975-76 financial year, local government in South Australia received about $33 000 000 from State and Commonwealth funds. That does not include the sums obtained under the Regional Employment Development scheme. It relates simply to direct grants, either tied or untied, made to local government. This amounts to $25 a head for every man, woman and child in South Australia. Put in another way, the average household is contributing $100 a year to local government by way of taxes. The Hon. Mr. Hill made the same point yesterday. He had inserted in *Hansard* a table showing the percentage of Government funds received by local government.

The Hon. C. J. Sumner: Do you agree with the Hon. Mr. Dawkins that that money really comes from local government in the first place?

The Hon. J. A. CARNIE: No, I regret that I cannot agree with that. The Hon. Mr. Hill's table showed this amount as a percentage in relation to the rates received. The figures that I had taken out were done in a slightly different way. Although I have represented them as a percentage of total revenue, the point is the same: local government receives a significant amount of its revenue from State and Federal Government sources. Again, as pointed out by the Hon. Murray Hill, the tables are interesting, in that they seem to show that the farther one gets from the city the greater the amount of assistance that is given to local government. Looking at the table, one sees that in cities, most of which are in the metropolitan area, the average amount of Government funds to total revenue received is about 13 per cent. The provincial cities' figures are significantly higher than that. For example, Mount Gambier received 15·3 per cent, Port Augusta 47·4 per cent, Port Lincoln 17·6 per cent, Port Pirie 34 per cent, and Whyalla 33 per cent.

The next category given in the table is that of towns, most of which of course are in the country. Their amounts are somewhat higher at 20 per cent of Government funds to total revenue. When one comes to the district councils the table shows that a very large amount of Government money goes to local government. The average for district councils is 33·6 per cent. Some of them of course are much higher than that. I do not intend to go through them all because, as I say, honourable members can refer to the table incorporated in *Hansard* by the Hon. Mr. Hill. One council receives 74·2 per cent of its total revenue from State and Federal Governments. I am speaking of the ratio of Government funds to total revenue.

The Hon. F. T. Blevins: There seems to be a correlation between the amount of money that a council receives and its attitude to full adult franchise.

The Hon. J. A. CARNIE: I concede that point of the Hon. Mr. Blevins. I do not intend reading all the tables, but of the district councils in the State 22 per cent received more than 50 per cent of their revenue from Government; 46 per cent received more than 40 per cent of their funds from local government; and 67 per cent received more than 33 per cent of their funds from State and Commonwealth Governments.

The point that the Hon. Mr. Blevins just made is correct, because it is rather interesting that the majority of letters we have received opposing this measure, and the ones in the strongest terms, come mainly from district council areas. The country appears to be loudest in its opposition. The fact remains that it is something that cannot be argued that a very large amount of revenue, and a significant amount of local government revenue, comes from the general taxpayer.

The second argument which has been put forward is that if this Bill is passed it will be possible for non-ratepayers to take over control of councils and therefore control the spending of money to which they have not contributed. I have already pointed out that I believe all people contribute to local government by way of general tax contributions, but they are using the argument that they are not ratepayers and could take over the control of councils. I do not expect this would happen. I admit it is possible, but to me it would be a mere possibility. To check that out I contacted the States that have had full adult franchise.

New South Wales has had it since the late 1940's on a voluntary voting basis, and Queensland since the 1920's, and in Queensland they have compulsory voting. I contacted the secretary of the local government associations in each State on this matter of whether or not non-ratepayers have taken over the control of any of the councils. The answer is that it has never occurred. I was assured of this in the strongest possible terms by both gentlemen concerned that non-ratepayers had never taken control in New South Wales and Queensland. I am well aware it is theoretically possible for this to happen but I do not believe it would happen. Even so, if non-ratepayers did try to get on councils and in fact succeeded, surely this shows involvement in local affairs, and there can be nothing wrong with that. Local government means involvement of the people and full franchise would mean a greater involvement of the people.

In conclusion I would like to make two or three short points. Currently there is spasmodically going on a convention to discuss the Australian Constitution. Local government, I understand, has a representative on this convention. I also understand that local government is not mentioned in the present Constitution of Australia, but presumably because of its representation on the convention it wishes to receive a mention and be named in the Constitution. I cannot see how this could ever take place, it could ever receive a place in the Constitution, unless local government is elected on full democratic franchise.

The present franchise is related to owners and occupiers. Over the years this franchise has been extended to cover

other categories of people, for example, spouses. So today we have many people who can vote and stand for election to councils who do not pay rates. If anyone says that only ratepayers should vote then logically the franchise should be further restricted to cut it back to ratepayers because at the moment there are many people who are not ratepayers who can vote. I think it would be ridiculous to suggest the franchise be further restricted. I believe the time has come to open the franchise completely. I would not, and I make this point strongly, have supported this measure if it had involved compulsory voting. Because of the fact that it does not I am prepared to support it. I am pleased to say as a Liberal that I can express a view which may be different from the majority of my colleagues.

The Hon. F. T. Blevins: We don't know that yet.

The Hon. J. A. CARNIE: This does show that we are not directed how to vote but that we can vote according to our conscience.

The Hon. F. T. Blevins: They may all be with you.

The Hon. J. A. CARNIE: They may be.

The Hon. F. T. Blevins: It may be unanimous.

The Hon. C. M. Hill: At least one member has spoken against it already.

The Hon. J. A. CARNIE: The point I am making is that we can vote according to our conscience in this matter and I have much pleasure in supporting the Bill.

The Hon. ANNE LEVY: I, too, support this Bill. A number of points have been canvassed by the speakers who have already taken part in this debate. I would point out that those who are disfranchised in local government at the moment are mainly women and young people. Young adults still living with their parents are not able to enrol for local government voting. While it is true that if the owner of a house is a man his wife can get on the voters' roll as occupier of the house, where the house is rented only one person in the family can be on the roll for council elections as an occupier, and this is almost invariably the man. As a result there are many women in our community who are disfranchised from council elections.

The benefits of giving adult franchise for local government will overwhelmingly flow to the lower income group women of our community. Several people have raised the argument, which has been put to us in many letters from district councils that, despite the fact that much of the money for local government now comes from Government grants, only ratepayers should have the right to vote because they are the only people who are contributing to the income of the councils. This has been dealt with by several speakers but it seems to me that the people putting this argument have not carried it through to its logical conclusion.

If only the people who pay rates should be enrolled to vote in local government they should surely say that only people who pay taxes should have a vote for the Federal Government. If the provision of money for Government purposes is so crucial in determining who shall take part in choosing that Government this should surely be extended to Federal elections likewise and one would expect such people to be saying that all housewives, pensioners, students, and so on, who do not earn money, and who pay no taxes at all, should not, therefore, have a vote at Federal elections. I am sure that no-one is seriously suggesting such a thing, that the right to vote without property or income qualifications should be denied a person. The right to vote was surely settled nearly 150 years ago with the great Reform Bill of 1832. It is not a valid argument in this day and age, and we should not be subjected to it. I support the Bill.

The Hon. R. C. DeGARIS (Leader of the Opposition): I support the second reading. The Bill contains a number of matters on which I am sure all honourable members will agree without argument. I do not wish to go through the whole Bill but should like to make some points that are at variance with the few points put forward by other honourable members. I support the view of the Hon. Mr. Dawkins on this matter. The reason given for changing the franchise has largely revolved around the fact that more and more taxpayers' money is being spent on local government.

I point out to the Council that, if we analyse the amount of revenue actually raised by local government and spent purely on local government, we shall find that about 95 per cent of the expenditure of local government is from rate revenue. Indeed, the taxpayer is not paying any great degree of money into local government. Both State and Federal Governments use local government as a spending authority for their particular purposes, and the money that comes to local government in that way cannot be viewed as revenue to local government. There are certain Government grants that are pure Government grants to local government, including grants-in-aid, but local government collects no rates from Government property. There are many local government areas where the Government has big holdings, and the people of the State who own that property pay no rates or taxes to the local government authority. That must be taken into account.

Secondly, the Government imposes upon the ratepayers a compulsory contribution for hospitalisation—3 per cent, or $1 000 000 a year. Also, the Government imposes by Statute on local government contributions to fire brigades, and there are other areas where the Government imposes upon the rate-paying public. Yet the only arguments that have been advanced so far have been along the lines that the general taxpayer is increasingly financing local government.

The Hon. F. T. Blevins: That is not the only argument.

The Hon. R. C. DeGARIS: That cannot be substantiated. Whether or not it is the only argument is not the point. The point I am making is that so far in this debate only one side of the coin has been placed before the Council; there is another side. I state again, for the benefit of the Hon. Mr. Blevins, the matter of hospital rating, where the Government says, "Thou shalt pay to the State Treasury a sum of money." Secondly, there are local government contributions to fire brigades and, thirdly, there is the fact that Government property in local government areas pays no rates; and yet there has been put before us some argument about the massive inflow of taxpayers' money to local government. That is a point that cannot be substantiated, and I stress that. Would the Hon. Mr. Blevins agree to Government property being rated by local government; should it pay rates and taxes? Let him answer that question and move an amendment to the Bill.

The Hon. F. T. BLEVINS: I will stand up and answer the question if the Leader will give way.

The Hon. R. C. DeGARIS: Yes.

The Hon. F. T. BLEVINS: This has absolutely nothing whatever to do with a person's right to vote; it is a different matter altogether.

The Hon. R. C. DeGARIS: May I reiterate my point of view, which differs from the argument put forward that there has been a massive inflow of money into local government funds. That point cannot be substantiated.

The Hon. F. T. Blevins: What proof have you of that?

The Hon. R. C. DeGARIS: All I am saying is that that argument put forward cannot be substantiated. There are other arguments put against those which are just as valid. I do not oppose adult franchise for local government but I see no reason why the existing voting system should not be retained with the addition (because of the peculiarities of local government by reason of its peculiar responsibilities) to those features of the Local Government Act of adult franchise for those who do not at present have the right to vote. That is a reasonable position if one examines the whole range of local government activities and responsibilities. In this argument we have put forward such things as the Regional Employment Development scheme, but that is not revenue to local government.

The Hon. F. T. Blevins: What?

The Hon. R. C. DeGARIS: It is not revenue to local government; it is purely a means of Governments using the agency of local government as a means of Government expenditure; it is not revenue to local government as such. The argument has been put forward that, the further we move from the city area, the greater is the Government's contribution to local government.

Even that cannot be substantiated if we look at where those grants are going. It is perfectly reasonable in areas of very small population, where large expanses of road have to be constructed, not for the use of the ratepayers but for the use of the general public, that the grants to those councils would be higher than they would be to an urban council. It is exactly the same argument with regard to Commonwealth-State finance as has been put forward in regard to this matter. As I say, I do not object to adult franchise but I do object to the changes made in the existing provisions of the Act. They should be retained and the additions should be made that people who wish to go on the local government roll should have the right to do so.

As regards loans raised by local government, there is, to my mind, no reason why there should not be multiple voting in regard to the amount that a certain ratepayer is underwriting in a loan. In local government, where a loan is raised, the ratepayers have the right to demand a poll. The point here is that the ratepayer is really acting as the guarantor; his property or the rates to be derived from his property in the future are used as the guarantee to that loan raising. I find no objection to a person who happens to be a very big ratepayer or to a company that happens to be a very big ratepayer having a vote on whether or not that loan should be approved, with the present position in the Local Government Act, and having a gradation of the number of votes cast; that is a perfectly logical system.

It is really in local government that that property is underwriting that loan. I shall be opposing clauses 45 and 72, which will not prevent any person from voting but give the person who is underwriting that loan to a greater degree than anybody else more votes as to whether or not the loan should be approved. That is a perfectly reasonable position in regard to loan-raising by local government—not that many local government loans are tested by a poll being demanded; but, where a poll is demanded and people act as underwriters to that loan that local government may be seeking, it should be a question of the amount of guarantees being given by that particular ratepayer, whether it be a company, a partnership or an individual. I support the second reading.

The Hon. N. K. FOSTER: I commend the Government for having brought this measure again before the State Houses of Parliament. This matter has been the subject of much debate over the years, and much feeling has been expressed both by Government and by other honourable members about what reforms should be undertaken legislatively in the local government area. Strong feeling has been expressed by honourable members and the present Minister of Local Government has embarked on a programme to allow for a wider and greater representation on councils and to provide for wider and greater rights of people to vote for whomever they choose in local government elections.

The Hon. C. M. Hill: What has the Minister done about rewriting the Local Government Act?

The Hon. N. K. FOSTER: The honourable member has what he considers to be a distinction in this place; he has been a member of the Adelaide City Council, a council representative of the establishment, in every shape and form. The Minister has been most progressive in a most difficult portfolio, especially in the terms of the number of people with whom he has to deal and in the terms of the wide changes and differences in local government areas. I refer to the problems confronting inner city areas and the different problems confronting coastal areas and those confronting developing urban areas. For example, no honourable member would suggest that the local government authority at Meadows has fewer problems than the well-established Burnside council. These different aspects highlight the difficulties involved in the handling of the local government portfolio. Notwithstanding that recognition, the Local Government Association has not always spoken for all local government organisations in South Australia, and that has proved to be another difficulty with which the Minister has been confronted.

The Minister has been willing to be provocative when necessary, as well as being willing to provide departmental assistance, for example, in the case of local squabbles and disputes within the meaning of the Act and beyond it. Did not the Minister provide an officer to handle the dispute over Alberton Oval? Although the local government portfolio has not been publicised in the press as being as difficult a portfolio as the labour and industry portfolio, the Hon. Mr. Virgo has shown much understanding in being provocative when necessary while at the same time sending out feelers to determine the need for change.

The Hon. C. M. Hill: It's one of the easiest portfolios in Cabinet. What progress has been made?

The Hon. N. K. FOSTER: I suggest the honourable member examines the reports *Incentives for City Living* and *Principles and Development Control within the City of Adelaide*. Is this not a measure about which the honourable member has indicated he has changed his mind? He will support this Bill because it contains change that the Minister has seen fit to make beyond that contained in the Bill introduced some years ago. Am I not right in saying that?

The Hon. C. M. Hill: It was not the same Bill. The Bill previously included compulsory voting.

The Hon. N. K. FOSTER: That is the point I am making, and I paused to allow the honourable member to interpose, because I knew that was all he could say. The Minister has not been hard headed, because he has introduced a Bill that he knew would be passed by this Chamber. He has not taken a hard line whatever. I cannot agree with the previous speaker, who said that the Regional Employment Development scheme and similar schemes

cannot be considered strictly in terms of revenue. I hold a different view. Local government bodies were invited at the time of the scheme's introduction to present projects to be developed in their areas. That responsibility was accepted, as it should have been and as it should be now and as it should be in the future, but the present Federal Government will not accept its responsibilities about unemployment.

I suggest to all honourable members that they read the articles on unemployment published in the Melbourne *Age* beginning on Saturday and finishing this morning. True, those articles will not be recommended on the library reading list, but they are worth reading. If the RED scheme is not considered as a revenue earner, how do we consider the provision of the Wallaroo caravan park, which was constructed under such a scheme? The local council of that industrially and rurally depressed area had wanted for a long time to provide such a facility, but it could not extract the rates from its ratepayers. Sensibly and properly it presented that project for consideration, and its development has been a credit to all concerned. If such schemes are measured in terms of services provided to local government, one must come down on the side that such schemes have revenue value, and should not be valued as the Hon. Mr. DeGaris suggests.

The same position should apply in respect of all loan schemes. I draw the attention of the Hon. Mr. Hill to another local government matter dealt with yesterday. The Minister's power to give approval under the Act is widened so that swimming pools can be built in State schools, and we have a new position obtaining in this State where the Education Department will no longer lock up its facilities on Friday afternoon, because these facilities will be open for use by the public.

I believe it unfair in South Australia that, because of the petty attitudes espoused by local papers (usually the throw-away papers), which have carried stories about local councils' ability to spend hundreds of thousands of dollars or millions of dollars, they did not indicate that this expenditure resulted from the provision of Federal Government funds to local councils. As a result, many ratepayers would be saved a considerable sum. If, for example, the Enfield council had to provide all the funds for the swimming pool that is proposed, there would be steep increases in rates. There is still a great need to ensure that there is proper representation in local government. In commending the Hon. Mr. Hill for changing his mind on this matter, I draw his attention to the following passage from *Local Government in the Australian States,* published by the Department of Environment, Housing and Community Development:

If "one vote, one value" is used as a measure of democratic representation, local government in all States shows up badly. In rural local government authorities (e.g. in Queensland) an elector's vote may be on average worth as much as 130 times that of an elector in a city and considerably more than this if the extremes are compared, and this over-simple comparison takes no account of malapportionment between wards within a single local government authority which may compound the inequalities.

The publication provides the following table:

Comparison of Representation by Farmers and Housewives in Rural Local Councils and their Relative Proportion in Total Adult Population

Occupation	N.S.W. %	Vic. %	Qld. %	S.A. %	W.A. %	Tas. %	% of
Farmers, etc.	72	80·9	67	85·7	80	61·5	Council
		28·8	34·8	31	37·8	23·8	Adult population
Housewives	1·3	—	2·4	—	1·1	—	Council
		38·8	38·7	41·7	37·2	41·5	Adult population

This table shows a cruel neglect in some council areas. Yesterday, the Hon. Mr. Hill correctly stated that the principle of adequate representation should be applied. Some honourable members opposite may be prone to accept representations from some councils that we ought to oppose the Bill. Some councils have said that, if this Bill is passed, people who do not pay rates will be able to vote. However, I point out that, wherever people may reside, someone is paying rates for that property. It is reasonable that those people ought to be accorded the right to vote. I am sure the Hon. Mr. Geddes would agree with me that the sons of a farmer should accept some responsibility for the property on which they live and work, and they should have some say in the election of the council. I support the Bill.

The Hon. A. M. WHYTE: I oppose the Bill. Much has been said about the need for adult franchise. Perhaps adult franchise has something to commend it and, in principle, I do not oppose it. However, if adult franchise is not associated with proportional representation, it is a farce. If adult franchise was conducted in association with a proportional representation system in council areas, it would have some value and I would vote for it.

The Hon. Mr. Foster was right when he said that, in every council area, someone pays the rates. If a person is disfranchised because he is not paying rates, that does not mean that he is not represented by a ratepayer. In most instances he exercises his right to express his feelings through a ratepayer. Local government has played such a major role in the development of the State that it should be kept as effective as possible. If it is to be effective, we should heed what local government itself has to say. The threat of this Bill is not new, because it has been discussed for a long time. As a result, councils have made an intensive survey of the situation. The following is an extract from a council's letter on this matter:

Sixty-four councils in South Australia opposed adult franchise, 11 favoured adult franchise with reservations, nine councils made no decision on the matter and 17 councils favoured adult franchise.

So, out of 101 councils, only 17 were willing to accept adult franchise. This Council should heed those requests, because local government spent much time on the matter and released officers from other work to analyse fully the effect that this Bill would have on the welfare of communities. Adult franchise is a catchcry, and it is part of the present Government's policy. I do not blame the Government for seeking to promote its policy, but I have always argued that adult franchise without proportional representation is a farce.

After making a full assessment of the position, many councils have written asking me to oppose the Bill. Some points of the Bill are good, and I imagine that some good will come of the Bill, too. I am sure that my opposing the Bill will not block its passage. This measure will open up the franchise to all and sundry, regardless of whether they have a stake in the community or whether they intend to reside in the community for any length of time. Councils could easily become dominated by factions that have no real stake in an area.

Local government has played a major role in the handling of local affairs, and I do not believe that that role needs to be altered much. True, councils need support; they may even need greater statutory powers in their role as the third tier of government. I accept that. Granting full adult franchise really achieves nothing: it is merely the cry of the Labor Party that adult franchise should apply at all times. Unless the Labor Party can suggest a better means of achieving that end, I will oppose full adult franchise at every turn. I have received letters from almost every council in South Australia. One of those letters states, in part:

To give other people a direct say in this kind of organisation is to make a mockery of any organisation of people with a common interest. One might just as well say that because a worker's union has an effect on one's way of life—even though one does not have a direct financial or other interest in it—one must be entitled to have a direct say in the running of that organisation.

If one wished to take that to its extreme, I guess that one could say that that is exactly what the Bill provides. Unless the Bill is amended in a major way in Committee, I intend to oppose it.

Bill read a second time.

In Committee.

Clauses 1 to 20 passed.

Clause 21—"Repeal of ss.88 to 93 (inclusive) of principal Act and enactment of sections in their place—"

The Hon. R. C. DeGARIS (Leader of the Opposition): I oppose the clause and, in doing so, I am obliged to fulfil the view that I expressed during the second reading stage. If clause 21 is defeated, part of the clause will have to be redrafted and, rather than do that now, I intend to test the Chamber on this clause. I do not oppose the idea of extending adult franchise to everyone living in the district and giving them a vote in council elections. I see no reason, however, why the existing provisions should not prevail. The franchise is extended to cater for every person with the right to vote. That point has been argued before. The Hon. Mr. Sumner said something about local government expanding its role in the community. If one examines that statement one ascertains that exactly the reverse is true. Compared with the powers, authorities and the work done by State and Federal Governments, the role of councils is diminishing. For the purpose of my argument I refer to the early days of the State when the first city was formed in Australia. I refer, of course, to the powers of the City of Adelaide and also to when the whole of the drainage system in the South-East was controlled by councils, which it still is, although strong attempts have been made by the central Government to take over those responsibilities. I do not see how, compared to the powers of State and Federal Governments, local government has improved its position at all over the years.

The points made by the Hon. Mr. Dawkins and the Hon. Mr. Whyte are valid. The Hon. Mr. Whyte completely opposes the Bill without its providing proportional representation, which would now be extremely difficult to achieve. Councils should be able to determine the type of voting system that they want in their area. Why should we not determine the method of voting for councils in this case? I cannot see how the Hon. Mr. Whyte's idea can be achieved now; nevertheless, I make the point strongly that if we want adult franchise for every person so that he has the right to vote in council elections, let us do it by extending the franchise to include people who do not now have the right to vote. That can be done only by defeating clause 21 and inserting a new clause, incorporating parts of existing clause 21, to allow for the enrolment of all people on the council roll in the area concerned.

The Hon. M. B. DAWKINS: I oppose the clause for reasons similar to those given by the Hon. Mr. DeGaris. If the clause is defeated, sections 88 to 93 of the principal Act will remain, and amendments would be necessary to provide for the enrolment of electors as is required by the provisions of clause 16 of the Bill. I am concerned not only that we are extending the franchise, which I am not opposing, but that we are also removing some voting powers, because the provisions of this clause provide that the nominated agent of a body corporate shall have only one vote. I indicated in my second reading speech that it would not be uncommon for a dwellinghouse to be occupied by several voters and attract only a small rate, whereas a company, attracting a large rate, would have been entitled to only one vote. If we are to extend the franchise, as we are doing in this Bill, we should not remove the voting strength of a body corporate or of an estate. I therefore support the Hon. Mr. DeGaris in seeking to defeat clause 21.

The Hon. T. M. CASEY (Minister of Lands): Honourable members would be aware that, as the Leader pointed out, clause 21 is the heart of the Bill. It gives effect to the Government's intentions in this matter. Several amendments to the Bill were made by the Select Committee that was set up to consider the original Bill. If this clause is defeated we will return to a nightmare system. The Government treats the challenge issued by the Leader as a test case. I indicate to honourable members what the Select Committee recommended and what came out of discussions about this matter. Up to line 49 on page 6, the clause relates to the proposed new section 88, which was referred to by the Hon. Mr. Dawkins. New section 88 sets out the qualifications for enrolment as an elector in a local government area. In the original Bill, new section 88 provided that a natural person may be enrolled if he himself is a ratepayer or if he is the nominated agent of a body corporate that is a ratepayer.

It was pointed out to the Select Committee that, where members of a partnership hold property, all members of the partnership would be entitled to vote under this provision. The committee considered that it was anomalous that a partnership should command this extensive voting power while a body corporate was limited to just one vote. It thought that there was no valid reason for distinguishing between the voting rights of a partnership, on the one hand, and a body corporate, on the other. Accordingly, the sole purpose of the amendments to new section 88 is to assimilate the position of a partnership to that of a body corporate. Therefore, when two or more non-resident ratepayers hold property jointly, they will have to nominate a single representative to vote on their behalf in the same way as a body corporate.

The Hon. Mr. Carnie made the point yesterday that in New South Wales and Queensland, where they have this right to vote in council elections, no anomalies have occurred. I cannot see why the Leader wants to deny the people of this State the same opportunity to vote as has existed for many years in New South Wales and Queensland. For those reasons, I oppose the deletion of this clause.

The Hon. R. C. DeGARIS: Once again, I have difficulty understanding the Minister's argument. He has said that, if the Committee defeated clause 21, we would return to a nightmare situation. I point out that this situation has been existing satisfactorily for 120 years.

The Hon. J. C. Burdett: It is not a nightmare.

The Hon. R. C. DeGARIS: Of course it is not. I have merely said that, with the defeat of clause 21, the existing position will be maintained. Then, I will move to extend the franchise to those people residing in a council area who are unable at this stage to vote because of the provisions of the Act.

The Hon. C. M. HILL: I find it difficult to support the Hon. Mr. DeGaris on this matter. Honourable members want fully to understand the significance of the proposal to delete this clause, which is, of course, the key clause in the Bill. If the Committee rejects this clause, the Bill as it stands will lose all of its adult franchise provisions. The Hon. Mr. DeGaris said that this clause should be deleted at this stage, and that a further move will be made to reintroduce certain provisions that will bring all people back to be enrolled as electors. What is the difference between putting into the legislation this adult franchise proposal and including a scheme that will bring people back as electors, if we are still to cover all the electors concerned? What is the real purpose of the machinery proposed to delete this clause and to reintroduce a new provision?

The Hon. R. C. DeGARIS: The deletion of sections 88 to 93 removes existing voting rights, which should not be removed. We should be extending the franchise to all electors once those provisions are maintained in the Act. I oppose the removal of the existing voting rights.

The Hon. T. M. Casey: That is, the multiple voting rights.

The Hon. R. C. DeGARIS: I do not accept that they are multiple voting rights, because in bodies corporate there is a whole range of shareholders. Perhaps we are reducing the effect. Those rights exist, and they should be maintained. We are merely extending the franchise to those people who at present have no voting rights under the Act.

The CHAIRMAN: I take it that, in order to do this, the Leader will foreshadow that he will move that the Bill be recommitted?

The Hon. R. C. DeGARIS: I think that would be the correct thing to do. I have spoken to the Parliamentary Counsel, who has suggested to me this line of approach, which I think is correct. Clause 21 could be redrafted, extending the franchise to those who are not at present on a council roll. The Parliamentary Counsel thought that the feeling of the Committee should be tested in this way. This may save him some work.

The CHAIRMAN: The Committee is being asked to express its view on whether it wants a new clause or whether it wants the existing scheme with some additional amendments which the Hon. Mr. DeGaris will move and which will include all people.

The Hon. R. C. DeGaris: That is so.

The Hon. C. M. HILL: That opens up a great new area for debate. I hope all honourable members understand the position. We are now moving into an area of multiple voting for corporations, compared to having a single vote for a single owner. We must ask ourselves whether or not we want the old system to continue. If there are in a council area two properties of equal value, one of which is owned by an individual person and the other by a company, the latter could have three votes and the former only one vote at a council election. The company ownership might be spread over many shareholders, and perhaps their interests might warrant three votes. If a corporation's voting power is reduced to one vote, the company owning, say, the biggest retail premises in Rundle Street would have only one vote, as would its caretaker on the top floor. At least at present that company would have three votes at a council election.

We then move on to the question of voting power for approval or disapproval of loans. I would think the Hon. Mr. DeGaris wanted that further investigated, too. I suppose that will dealt with when we reach a later clause. I take it that notice has been given that an alternative clause 21 will be submitted to the Committee for consideration.

The CHAIRMAN: If the clause is defeated we know the ingredients of the alternative clause, even though we do not have the precise words.

The Hon. C. M. HILL: Does that mean that, if the foreshadowed clause is not acceptable to the Committee, we will have to foreshadow the reintroduction of this one?

The CHAIRMAN: We will have to recommit again.

The Hon. C. M. HILL: In that case, to be fair to the Hon. Mr. DeGaris, we should see what proposal in detail he has in mind, and this means that it is going to take considerable time and preparation. There is not an amendment on file now.

The CHAIRMAN: Members are voting to remove a clause, which substantially is supported, merely to have a look at an alternative proposition. That is an unusual situation.

The Hon. R. C. DeGARIS: I think the reason for this is the fact that we are coming near the end of the session. We are all under tremendous pressure, including the Parliamentary Counsel. We also have the Minister going overseas on Ministerial duties next week and consideration of the Bill is somewhat urgent because of that. Rather than hold up the Committee for another couple of hours in order to draft amendments, the details of which I think every member understands, I will explain the position again. The existing provisions of the Act will remain. Then, if clause 21 is taken out, which will reinstate sections 88 to 93 in the principal Act, I will draw a new clause 21 which will extend the franchise to those people who are not enfranchised under sections 88 to 93.

The CHAIRMAN: I appreciate what the Hon. Mr. DeGaris has said. He is really asking the Committee to vote on the principal matter here and now, and not waste the time of Parliamentary Counsel in preparing amendments.

The Hon. T. M. CASEY: I can say categorically now that the Government would not accept the amendment, anyway. This Bill was designed to give an equal opportunity for everyone to vote in local government elections.

The Hon. R. C. DeGaris: What do you mean by equal opportunity?

The Hon. T. M. CASEY: It gives everyone the opportunity to have an equal vote.

The Hon. R. C. DeGaris: So does my amendment.

The Hon. T. M. CASEY: No, the Leader is giving companies and others more than one vote. We are actually doing more in this Bill than what occurs in New South Wales and Queensland where, if one has a property in several wards, one can have only one vote. Here, we are giving people the right to vote in each ward in which they have property. What the Hon. Mr. Hill has said is right and I hope he sticks to his guns. If we are going to mess around with this, as the Leader wants to do, we could be here until Doomsday. The Leader may think that I want this Bill through urgently tonight, but it can go through tomorrow, as far as I am concerned. There is no mad rush. It has been on the Notice Paper for

some time, and it was in another place for some time. But why not vote on clause 21 now?

The Hon. J. A. CARNIE: As the Minister just said, this clause is the heart of the Bill. I appreciate what the Hon. Mr. DeGaris is trying to prove in using this as a test case and saving the time of the Committee, rather than reporting progress and debating the matter in another way. He has also given a clear indication of what his proposed amendment will be. However, I could not support that amendment. Taking a simplistic view, I believe that all people should have the right to have a vote in council elections. What the Hon. Mr. DeGaris is proposing will bring in all members of the House of Assembly roll but it will retain a measure with which I do not agree, and that is multiplicity of voting.

The Hon. R. C. DeGaris: You have multiplicity now.

The Hon. J. A. CARNIE: To a certain extent, but the Bill has taken some multiplicity out of it. I support the provision that allows ratepayers with property in various wards to cast a vote in those wards. That provision has been retained.

The CHAIRMAN: It is a different kind of multiplicity.

The Hon. J. A. CARNIE: I agree. If the Hon. Mr. DeGaris is looking on this as a test case, I must indicate that I will support the retention of the present clause 21.

Clause passed.

Clauses 22 to 44 passed.

Clause 45—"Repeal of section 236 of principal Act."

The Hon. R. C. DeGARIS: I express my disappointment at the Committee's viewpoint on the last matter, but I regard this matter even more strongly than I did the last one. Clauses 45 and 72 once again tackle multiple voting, but in a different way. In the last clause, there was much talk about multiple voting, but it exists now under clause 21. Indeed, a person can have three, four or five votes in the one ward; there is nothing to stop that. So the argument about multiple voting cannot be sustained. The Minister may ask, "How can a person get more than one vote in a ward?" It can easily happen.

This matter concerns the right of a person with a property who is the guarantor of a loan having a vote commensurate with that property from the point of view of its value or the rates it returns to the council. On this I am adamant that the ratepayer or the body corporate, which could be a ratepayer, that is underwriting much more than someone else is should have more than one vote, on a gradation of votes, under the present Act, up to six. I see no case to reduce it to every person having one vote when really it is the ratepayer acting as the guarantor for his property in respect of the loan who should have the voting power in this instance. It is perfectly logical and reasonable. I oppose clause 45.

The Hon. M. B. CAMERON: Again, I understand what the Hon. Mr. DeGaris is attempting to do and his reasoning. However, I do not agree with the separation of local government voting rights in this way to the point where some people or firms would be given an advantage at this level. I have even some doubts about the multiplicity of votes in various wards, but that is not the present argument. I do not agree with any further extension of the old system. I believe in full adult franchise and voting being based on people, not on property.

The Hon. M. B. DAWKINS: I must support the Hon. Mr. DeGaris in his opposition to this clause. The Hon. Mr. Cameron says he does not believe that any more votes should be given. We are not giving anything—we are taking something away by this clause. Section 236 of the principal Act already sets out the conditions under which ratepayers are entitled to vote with regard to a loan. The loan must be underwritten by the ratepayers, the people who own property in that area. Under the Bill, which seeks to repeal section 236, it is possible for people who are here today and gone in a year or so's time to vote in such a way that the remaining residents can be left with a heavy burden to carry for a long time. It is not sensible to repeal section 236. Therefore, I must oppose this clause.

The Hon. C. W. CREEDON: The Hon. Mr. DeGaris seems to think that the entire population of a place will move out overnight.

The Hon. R. C. DeGaris: In one town I know, 80 per cent of the population went in two years.

The Hon. C. W. CREEDON: Most towns and communities are stable. Of course, there are people who move about, itinerants, but generally speaking that never happens. The type of person we are talking about would probably not bother to vote, anyway.

The Hon. R. C. DeGaris: They would under compulsory voting.

The Hon. C. W. CREEDON: They would not go out and vote even under compulsory voting, let alone voluntary voting. We still retain a significant amount of multiple voting in the Bill, but I object to multiple voting in this case, on the ground that what the Hon. Mr. DeGaris says will happen will not happen.

The Hon. R. C. DeGARIS: The Hon. Mr. Dawkins raised a valid point, and I ask the Committee to consider it. We are asking for the right of one vote for each property in relation to the raising of a loan by a council, which is underwritten on guarantee by the properties in that district. What the Hon. Mr. Dawkins has said is true: there will be circumstances in which a person can vote in an election for a loan with the same power as the person who is underwriting a great part of that loan, bearing in mind that the former may be someone who is moving from the district in two or three years time. I can cite an example of one town in the South-East where the turnover of population, I am informed, is 80 per cent every two years.

The Hon. T. M. Casey: Which town is that?

The Hon. R. C. DeGARIS: Mount Burr, which contains two-thirds of the population of Beachport. Why should a person who can, of his own accord, leave a debt behind in a local government area and bear no responsibility for its repayment have equal voting power with owners of property in that district who carry that debt? The existing position is rational and reasonable in that, because those properties bear that guarantee for the loan—

The Hon. T. M. Casey: Who pays the rates now in Mount Burr?

The Hon. R. C. DeGARIS: As far as I know, the whole of the forest area pays no rates, and there are thousands of hectares of it.

The Hon. T. M. Casey: Who pays the rates in Mount Burr now?

The Hon. R. C. DeGARIS: The rates paid are paid by the Government, but that is only one small portion of that area. Do not let us talk about the Government paying rates in that area, because its rates are minimal. Thousands of hectares are owned by the Government, and no rates are paid on that land. This proposal is reasonable in that a property used as a guarantee for a loan should attract a gradation of votes.

The Hon. C. M. HILL: If a council overstretches itself in regard to its borrowing commitments, the trend today is that the council does not turn back to the property owners or the ratepayers as much as it turns to the State Government. It obtains help from the State Government, which help comes from the people at large, all of whom will have the opportunity to vote under this Bill.

This Bill brings about a change in the total scene. Are we placing property owners at risk, because they may not by their numbers in future be able to gain a majority and object to a loan by their council? The council could then proceed and borrow, and financial problems could arise with the ratepayers being at risk as a result. There is great variation in the size and involvements of local government in South Australia. Where a local government body gets into financial difficulties it does not necessarily turn back to the ratepayers to resolve its problem but it turns to the State Government for aid. Local government can now call on Grants Commission allocations, and the risk of financial difficulty is reduced.

As the whole scene is changing, the seriousness of the point raised by the Hon. Mr. DeGaris that was a past difficulty is no longer perhaps as serious as he suggests. I have never known of ratepayers being called upon and, of the 130 local government bodies in South Australia, only a few objections are made to the total loan borrowings.

The Hon. T. M. Casey: They are limited, and that is the key.

The Hon. C. M. HILL: True, they are limited, but we have to consider the situation of the right of ratepayers to object for the reasons stated by the Hon. Mr. DeGaris. I do not want to see any ratepayer caught in the net and have to foot the bill as a result of a poll objecting to a loan. Overall, I do not believe the fears that have been expressed would ever come to fruition. In unforeseen circumstances, local government can now turn to the State Government for aid.

The Hon. M. B. DAWKINS: The Hon. Mr. Hill referred to the vast difference between the City of Adelaide and other local government areas. I know of one council that faced financial difficulty, and I do not know that it obtained any direct aid from the State. True, it may have obtained an extension of time in which to repay a loan, but I query the Hon. Mr. Hill's view that the State Government is a sort of bottomless pit to which any local government body in difficulty can apply for assistance. The position is not as simple as that, although the State will do its best to assist, but the Auditor-General would not favour the Government handing out large sums to resolve local government problems. As a more business like approach is required, the honourable member is over simplifying the situation. To suggest that ratepayers would have no further responsibility because of the benevolence of the State Government is oversimplifying the matter, and I oppose the clause, which repeals section 236.

The Hon. J. C. BURDETT: Where there is a loan on the security of the general rate, the rate revenue is what is mortgaged. It is only common sense that it is the people contributing to the mortgage who should have the say about whether the rate should be mortgaged or not. The Hon. Mr. Hill has overlooked the fact that section 236 mainly refers to a loan, whether there should be a loan and whether the general rate shall be mortgaged.

The Hon. J. A. CARNIE: When local government seeks support for a loan or gets into financial difficulties or other difficulty it is because it has lost the support of its ratepayers. The Hon. Mr. Dawkins referred to a council in difficulty, but the situation would be no different if all the people in the district were involved. Reference has been made to transients, and the Hon. Mr. DeGaris referred to an 8 per cent turnover, but I have lived for 18 years in a town with a large transient population, but generally these people were responsible people who, on arrival, took a responsible interest in community activities and affairs. I refer to bank officials, stock firm employees, and members of the Police Force. I support the comments of the Hon. Mr. Creedon. Irresponsible transients are not likely to vote in council elections anyway and people who vote are usually responsible citizens. Although I have sympathy for the views of the Hon. Mr. Dawkins and the Hon. Mr. DeGaris, I agree with the Hon. Mr. Hill that difficulties are unlikely to obtain under present local government management. Either we have full adult franchise or not. We cannot apply conditions to full adult franchise. I should like to see this clause remain.

The Hon. R. C. DeGARIS: This has nothing to do with adult franchise; it has to do with property being the guarantor for a loan. Adult franchise has nothing to do with this question. To confuse the two questions is to take a wrong view.

The Hon. T. M. CASEY: The Leader is saying that the property is the guarantor, but I thought it was the rates of the council that were the guarantor. I cannot agree with the Leader's argument.

The Hon. M. B. CAMERON: I see some difficulty with the argument being advanced in that, if we put this in at this level of government, there is every reason for thinking that it may be brought in at another level of government—the State Government level. We can get the same thing in an indirect way at another level of government. There should not be any separation of local government voting rights.

The Committee divided on the clause:

Ayes (13)—The Hons. D. H. L. Banfield, F. T. Blevins, M. B. Cameron, J. A. Carnie, T. M. Casey (teller), B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, C. M. Hill, Anne Levy, and C. J. Sumner.

Noes (7)—The Hons. J. C. Burdett, Jessie Cooper, M. B. Dawkins, R. C. DeGaris (teller), R. A. Geddes, D. H. Laidlaw, and A. M. Whyte.

Majority of 6 for the Ayes.

Clause thus passed.

Remaining clauses (46 to 98) and title passed.

Bill read a third time and passed.

ELECTORAL ACT AMENDMENT BILL (No. 4)

The House of Assembly intimated that it had agreed to the Legislative Council's amendments Nos. 3, 4 and 5, but had disagreed to the Legislative Council's amendments Nos. 1 and 2.

WORKMEN'S COMPENSATION ACT AMENDMENT BILL (No. 2)

In Committee.

(Continued from November 30. Page 2571.)

Clause 2 passed.

Clause 3—"Interpretation."

The Hon. D. H. LAIDLAW: I have two amendments on file relating to this clause. If the amendment I have on file regarding clause 7 is accepted, my first amendment to

clause 3 will be consequential. Additionally, the second amendment to clause 3 is consequential on my amendments to clause 20 being accepted.

Consideration of clause 3 deferred.

Clauses 4 to 6 passed.

New clause 6a—"Copies of medical reports to be exchanged for purposes of proceedings."

The Hon. D. H. LAIDLAW: I move:

Page 3, after line 35—Insert new clause as follows:

6a. The following section is enacted and inserted in the principal Act after section 32 thereof:

32a. In any proceedings under this Act, evidence shall not be adduced from a medical practitioner concerning the medical condition of a workman, unless at least seven days before the day on which it is proposed to adduce that evidence (or on the Court being satisfied that reasonable cause exists within such lesser period as is fixed by the Court) the party proposing to adduce that evidence furnishes to each other party to the proceedings a copy of every medical report given by that medical practitioner to the firstmentioned party in relation to that workman.

Under the provisions of the principal Act an employer is bound to disclose on request relevant medical reports to a workman when the workman is required to submit himself to a medical examination. This new clause provides a corresponding obligation on a workman, within seven days but not before court proceedings are instituted, to do likewise if requested to do so. The procedure in the principal Act is biased against the employer, and the new clause would even things out.

The Hon. D. H. L. BANFIELD (Minister of Health): I do not agree that the new clause would even things out. A medical certificate in such circumstances would only be to the detriment of the workman. He would have to report to his doctor for a medical certificate. The doctor would not give him the full medical history, which could be misleading when the workman entered the witness box and was asked about the doctor's certificate, but not about the medical history that should have been provided. I oppose the amendment.

The Committee divided on the new clause:

Ayes (10)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, C. M. Hill, D. H. Laidlaw (teller), and A. M. Whyte.

Noes (10)—The Hons. D. H. L. Banfield (teller), F. T. Blevins, T. M. Casey, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, Anne Levy, and C. J. Sumner.

The CHAIRMAN: There are 10 Ayes and 10 Noes. To enable the amendment to be considered by the House of Assembly I give my casting vote to the Ayes.

New clause thus inserted.

Clause 7—"Repeal of s.51 of principal Act and enactment of sections in its place."

The Hon. D. H. LAIDLAW: I move:

To strike out clause 7 and insert the following new clause:

7. Section 51 of the principal Act is repealed and the following sections are enacted and inserted in its place:

51. (1) Where total or partial incapacity for work results from the injury, the amount of compensation payable during the incapacity shall, subject to this Act, be—

(*a*) in the case of total incapacity, a weekly payment equal to the weekly earnings of the workman;

(*b*) in the case of partial incapacity, a weekly payment equal to the difference between the weekly earnings of the workman and the weekly amount which he is earning or is able to earn from time to time in some suitable employment or business during the incapacity;

or

(*c*) where the incapacity is for less than a week, a weekly payment equal to the difference between the weekly earnings of the workman and the amount he was entitled to be paid for his work during the part of the week he actually worked;

(2) For the purposes of this section "weekly earnings" means—

(*a*) in the case of a workman other than a workman referred to in paragraph (*b*) of this definition—

(i) the total wages, salary, or other remuneration last payable to the workman before the incapacity for the number of ordinary hours which constitute a week's work in the employment in which the injury occurred exclusive of any incentive (not being an over-award payment);

or

(ii) where by reason of the shortness or the nature or the terms of the employment in which the injury occurred, it is impracticable to compute a sum in accordance with subparagraph (i) of this paragraph, the total wages, salary or other remuneration for the number of ordinary hours which constitute a week's work earned by a person in the same or a similar employment in the same or a similar district exclusive of any incentive (not being an over-award payment);

and, in either case, includes—

(iii) in the case of a workman whose total wages, salary or other remuneration last payable to him before the incapacity for a week's work in the employment in which the injury occurred included an incentive (not being an over-award payment), an additional amount representing ten per cent of the sum computed in accordance with subparagraph (i) or (ii) of this paragraph as the case may be.

and

(iv) any amount which is in respect of the number of ordinary hours which constitute a week's work in the employment in which the injury occurred payable by way of over-award payment, leading hand allowance, first aid allowance, tool allowance, service payment or qualification allowance;

but, in either case, excludes—

(v) overtime, being any payment for the hours in excess of the number of ordinary hours which constitute a week's work in the employment in which the injury occurred;

and

(vi) any bonus, shift allowance, industry allowance, disability allowance, weekend or public holiday penalty allowance, district allowance, travelling allowance, living allowance, clothing allowance, meal allowance, or other allowance.

or

(*b*) in the case of a workman whose employment in which the injury occurred was part-time employment, and the aggregate of the number of hours worked by him per week in any employment (including employment other than that employment) is less than the number of ordinary hours which constitute a week's work in the employment in which the injury occurred, the weekly earnings computed in accordance with paragraph (*a*) of this definition reduced proportionately to the extent that that aggregate is less than the number of ordinary hours which constitute a week's work in the employment in which the injury occurred.

(3) Where a workman was, in the employment in which the injury occurred, an indentured apprentice, or, by reason of his age, in receipt of a wage less than the adult wage, and his incapacity whether total or partial is permanent, his weekly earnings for the purposes of this section shall be computed as if he had completed his apprenticeship, or had attained the age entitling him to the adult wage, as the case may be, and for the purposes of paragraph (*b*) of subsection (1) of this section the weekly amount which he is earning or is able to earn in some suitable employment or business during the incapacity shall be deemed to be the amount which the workman would probably have been able to earn from time to time if the period of his apprenticeship had expired, or he had attained that age, as the case may be.

(4) Where, in the case of partial incapacity for work, a workman gives to the employer a notice in the prescribed form that he is fit for some work, then thereafter for the purposes of determining the amount of the weekly payments, such incapacity shall be regarded as total incapacity for work except during any period in respect of which the employer proves—

(*a*) that he made available to the workman work for which the workman was fit;

or

(*b*) that—

(i) it was not reasonably practicable for him to make available to the workman work for which the workman was fit;

and

(ii) such work was reasonably available to the workman elsewhere.

(5) Weekly payments to which a workman is entitled under this section shall be reduced by any payment, benefit or allowance (including any payment in respect of a public holiday) which the employer is required by any law of this State, the Commonwealth or any other State or Territory of the Commonwealth, or by any agreement with the workman, to pay to, or confer upon, the workman during the period of his incapacity, other than any payment, benefit or allowance—

(*a*) required to be paid to, or conferred upon, the workman by the employer pursuant to any provision of this Act;

(*b*) in respect of annual leave or long service leave;

or

(*c*) in respect of any pension to which the workman is entitled on retirement from the employment.

(6) The weekly payments to which a workman is entitled in respect of—

(*a*) a period of incapacity occurring before the commencement of the Workmen's Compensation Act Amendment Act (No. 2), 1976, shall be calculated in accordance with the provisions of this Act as in force before that commencement;

or

(*b*) a period of incapacity occurring after the commencement of the Workmen's Compensation Act Amendment Act (No. 2), 1976, whether resulting from an injury occurring before or after that commencement) shall be calculated in accordance with the provisions of this Act as in force after that commencement.

(7) The total liability of an employer to make weekly payments to a workman shall not exceed—

(*a*) where the workman is totally and permanently incapacitated for work—twenty-five thousand dollars or such greater amount as is fixed by the Court having regard to the circumstances of the case;

or

(*b*) in any other case—eighteen thousand dollars, but this subsection shall not apply so as to affect the total liability of the employer under this Act as in force immediately before the commencement of the Workmen's Compensation Act Amendment Act, 1973.

51a. (1) Any weekly payment may be reviewed at the request either of the employer or of the workman, and on such review which, in default of agreement, shall be by way of proceedings under this Act, may be ended, diminished or increased as from such date as the parties or the Court may fix.

(2) On any such review regard shall be had—

(*a*) to the past or present condition of the workman; and

(*b*) to any variation in the weekly earnings of the workman computed in accordance with subsection (2) of section 51 of this Act which would have applied to the workman if he had continued in the employment in which the injury occurred.

51b. (1) Where death or incapacity results from injuries arising out of or in the course of the employment of two or more employers, any employer liable to a workman for that death or incapacity may recover contribution from any other employer so liable.

(2) For the purposes of subsection (1) of this section—

(*a*) an employer who is a party to proceedings brought by or against a workman may join as an additional party any other employer;

(*b*) in determining the amount of contribution in respect of each of the injuries in the employment of the employers who are parties to the proceedings the Court shall have regard—

(i) to the extent to which such injury was responsible for the death or incapacity;

and

(ii) to the total liability in force at the time of that injury of the employer in the employment in which the injury occurred;

and

(*c*) an employer who has already discharged his liability to the workman shall be exempted from any liability to contribute.

(3) Where death or incapacity results from two or more injuries arising out of or in the course of the employment of the one employer, upon the request of the employer in any proceedings to determine his liability for that death or incapacity, the Court shall apportion that liability between those injuries having regard to the extent to which each injury was responsible for the death or incapacity and to the total liability of the employer in force at the time of each injury.

(4) This section shall not apply to an injury to which section 90 of this Act refers.

(5) This section shall not affect any right to contribute which may exist independently of this Act.

(6) This section shall apply to or in relation to death or incapacity occurring after the commencement of the Workmen's Compensation Act Amendment Act (No. 2), 1976.

Section 51 of the principal Act deals with the basis of compensation for total or partial incapacity and other ancillary matters. Under this amendment, section 51(1)(*a*) will provide that a totally incapacitated workman will receive a weekly payment equal to his weekly earnings.

Subsection (1)(*b*) will provide that a partially incapacitated workman will receive the difference between his weekly earnings and the weekly amount that he has been earning or is able to earn in suitable employment during his incapacity.

Subsection (1)(*c*) provides that where the incapacity is for less than an ordinary week the workman will receive a proportion of his weekly earnings.

Subsection (2)(*a*) provides that a workman will receive compensation equal to his weekly earnings for a full-time job when he works in at least one full-time job or one full-time job and one part-time job. This is the subsection that fixes the basis on which a man should receive compensation if he has two or more jobs.

Suppose the workman works full time at Chryslers during the day and part time as a barman for two evenings a week. If he becomes incapacitated whilst working at Chryslers he would receive the weekly earnings (as they are defined

in my amendment), which he earns at Chryslers. If he became incapacitated whilst working two evenings a week as a barman he would receive compensation equivalent to weekly earnings as if he were a full-time barman. I am referring to the case of a man who works at least a full ordinary week at one job but becomes incapacitated at his part-time or full-time job.

In other words, a man with at least one full-time job would receive compensation only for one full-time job. I do not object to a man having more than one job, even though it may be undesirable at a time, which I hope is only temporary, of high unemployment when other people without jobs would be willing and able to do that type of work. However, I do not think that a man should receive compensation for more than one job. Under the Act, an employer who provides a full-time job is rarely told of a part-time job until the workman is incapacitated. Because of this, the employer becomes liable to pay more than the expected amount of workmen's compensation.

New section 51 (2) (*a*) (ii) applies where it is impractical to compute weekly earnings. I refer, for example, to the subcontract bricklayer in the building industry who is classified as a workman under the Act. He is normally paid at a certain rate for each 1 000 bricks that he lays. Under my amendment, such a person will be compensated with an amount that a person in the same or similar employment in the same or similar district is able to earn.

New section 51 (2) (*a*) (iii) covers the workman who was, at the time of his incapacity, receiving an incentive payment in addition to his award wage, and possibly an over-award payment. This applies in many cases in the white goods industry in South Australia. Under my amendment, such a person, while incapacitated, will receive in lieu of incentives a sum equal to 10 per cent of his award and over-award payments. I have chosen 10 per cent, because the Federal Metal Trades Award, under which many of these people are covered in the metropolitan area, decrees that, if an employer introduces an incentive scheme, an average workman should be able to earn at least 10 per cent above his award wage under such a scheme.

I refer also to new section 51 (2) (*a*) (iv), which defines weekly earnings. My amendment will include all over-award payments, leading-hand, first-aid, tool, service payment or qualification allowances.

New section 51 (2) (*a*) (v) and (vi) relate to the exclusions. Whereas in the Government's Bill special payments are excluded, I have defined these more specifically than has the Government. Certain payments are excluded from weekly payments, namely, overtime or any bonuses, shift, industry, disability, weekend or holiday penalty, district, travelling, living, clothing, meal or other allowance.

New section 51 (2) (*b*) covers the case of the incapacitated person who works, in total, for less than an ordinary week. I have dealt before with the incapacitated person who has a full-time job and perhaps a part-time job as well. This covers the two cases. I refer, for instance, to a cleaning woman who works part-time two days a week for the same person. It could also involve a casual gardener, who works, say, four days a week for four different house owners. They would receive as compensation the proportion or the aggregate hours that they worked compared to the hours worked in an ordinary week. Strangely, cases such as the latter have not been defined in the Act, although this sort of case must have arisen thousands of times.

New section 51 (3) covers the case of the permanently incapacitated apprentice or junior, whether his incapacity is total or partial. Such a person will be compensated (and my amendment is similar to the one contained in the Government's Bill) as though he had completed his apprenticeship or was entitled to an adult wage. With a partial incapacity, such a person will receive the difference between the adult wage or the tradesman's wage and that which an adult would have received had he been doing the partial work that that junior or apprentice was doing while partially incapacitated.

New section 51 (4) also deals with partial incapacity. It covers the instance in which a workman has a certificate of partial incapacity. It is obligatory for an employer to provide suitable employment to a partially incapacitated workman. This will not arise until the workman has advised his employer that he is fit for light work. Having been so advised the employer must either provide such work, or prove that it was not possible to do so, or that such work was not available elsewhere. Otherwise, the workman will be entitled to receive compensation for total incapacity. The Government Bill places no onus on the workman to advise his employer, and I regard this as an anomaly.

New section 51 (5) eliminates the situation that applies at present under the Act, where a workman on compensation receives double pay on public holidays. The Government Bill also abolishes double pay on public holidays, but my amendment goes further than this and covers also the case where an employer makes a gratuitous payment of wages to an injured workman, under an agreement that, if the workman subsequently claims and is paid compensation, the employer has the right to deduct the amount paid gratuitously during the incapacity.

There are, of course, other examples. My amendment specifically provides that a workman may continue to accrue annual leave and long service leave, and to receive pensions in addition to the compensation he receives while he is on workmen's compensation.

New section 51 (6) stipulates that, where an incapacity occurred before the commencement of this amending Bill, compensation will be calculated in accordance with entitlements applying before its commencement. Incapacity occurring after the commencement will be compensated in accordance with the provisions of the new Act irrespective of whether the injury occurred before or after the commencement of the new Act.

Section 51 (7) stipulates that the total liability of an employer shall not exceed $25 000 for total and permanent incapacity unless a greater amount is fixed by the court or $18 000 for any other case, but this applies to incapacity occurring after the commencement of the amending Act. The total liability for incapacity prior to the commencement is not altered.

New section 51 (*a*) deals with adjustments to weekly earnings during incapacity and enables the workman on workmen's compensation to have his compensation varied either by agreement with his employer or by the court to take account of indexation and other variations that may occur during his compensation.

Section 51 (*b*) covers the case which the Hon. Mr. Sumner discussed yesterday when death or incapacity occurs whilst working for two or more employers. I stated earlier this session that I thought this is a socially desirable amendment because I think it helps the workman who has a known defect to obtain a job. At the moment it is difficult for a man who is known to have incurred high blood pressure or a coronary or the like while with a previous employer, to get another job.

What this amendment provides is that under the principal Act the last employer is likely to be held liable for the total injury. I have provided with this amendment that an employer who is sued may have joined in the proceedings of any other employer as well, and the court is then given the power to apportion liability.

Section 51 (*b*) (3) enables the court to apportion liability between two or more insurance companies who provided cover for a workman who suffered two or more injuries whilst working for the same employer. Under the principal Act the employer is liable to compensate the injured employee but the insurance companies covering this employee, who has had a number of injuries, may well dispute liability, and the employer in practice very often has to wait many months before being recompensed.

The Hon. D. H. L. BANFIELD: The Hon. Mr. Laidlaw proposes to insert a new clause 7 to amend section 51 to provide that the amount of compensation payable is linked to the "weekly earnings" of the workman. From this are excluded overtime payments, bonuses, and shift allowances. Three objects are given by him in proposing these amendments. They are as follows:

> First, to remove overtime to take the speculative element from compensation. However, the deletion of overtime from compensation payments will be prejudicial to the workman and is not in accordance with Government policy, as stated earlier. In addition, the Government's amendments base payments for overtime on the four weeks preceding the incapacity and make special provision for the review of overtime payments in order to limit a rate of payment based on excessive fluctuations in overtime levels.
>
> Secondly, to achieve a degree of uniformity between the States. While the concept of uniformity may sound attractive, it is not a sufficient reason in itself to change the level of compensation payments from the policy to which the Government is committed. Tasmania uses our system. The trend in other States has been to compensate more fully. The actual differences are overstated.
>
> Thirdly, to minimise the costs of administration. If this was the concern of the Opposition, then it should support the total average weekly earnings concept in the present Act which is the easiest of all to administer. In fact, the problems will not be great. Review procedures in the current Act will be simplified, which will aid the overall administration.

The two-job situation in the proposed section 51 (2) (*b*) is eliminated by basing the amount of compensation on the wages payable to the workman prior to his incapacity "for the number of ordinary hours which constitute a week's work in the employment in which the injury occurred". It should be noted that this proposed subsection refers to "injury" not "incapacity" which may arise much later under a different employer, and that the amount of compensation payable under this proposed calculation may not represent the workman's substantive earnings. Taking the earnings in some much lower paid "second" job may cause great hardship to the injured worker.

During his second reading speech the Hon. Mr. Laidlaw said that the figure of 4·2 per cent of the work force with two jobs does not represent the true position in South Australia. That is pure supposition which he should take up with the Australian Bureau of Statistics, which produces the figures. It collects its information with a protection of confidentiality of its respondents. He said that even though a similar provision had been included in South Australian legislation since 1911, the right to aggregate the wages was seldom used. The fact remains that it is a very old provision coming into our Act originally from the British Act of the last century.

He stipulates that a partially incapacitated workman is to give his employer notice in the prescribed form that he is fit for some suitable employment before the obligation arises on the employer to provide such work or pay compensation as if the incapacity were total. This amendment was moved in another place. The Government did not accept that then and has no intention of accepting it now. While such a proposal would appear to be a positive inducement to rehabilitation, sufficient safeguards must be written into the Act, in particular, that questions as to the suitability of the work offered must be determined in the summary list. The Hon. Mr. Laidlaw's amendment does not cover this point at all.

Concerning section 51a the new section proposed by the Government slightly expands the existing section 71 to include a review of those overtime payments which the injured workman may have received had he been able to continue at work and any special benefits as defined in respect of the incapacity. This gives effect to the Government's policy that a workman should be in the same position as he would be if he had not been incapacitated for work. The Hon. Mr. Laidlaw's amendment proposes the re-enactment of section 71 as section 51a; that is, it does not include a review of overtime payments and as such is not acceptable to the Government.

Concerning section 51b the amendment proposed by the Hon. D. H. Laidlaw seeks to introduce a concept of apportionment of liability between employers where the workman has been injured in the course of the employment of more than one employer. It is supposed to encourage rehabilitation but this is most unlikely. The effect of such a section will be to make insurers (and employers) eager for final settlement, possibly to the detriment of the workman's rehabilitation. The pressure on the workman to disclose his previous work injuries or compensation claims may in fact work against his re-employment.

There is no time limit on how far back the contribution can be taken. Cases may arise where the original injury occurred many years before, and the proposed section would allow recovery in such cases. The section does not ensure that there is immediate protection for the employee, namely, that where more than one employer is liable to pay compensation for the death or incapacity of the workman, the last employer should be liable to the full amount of the compensation. Reference may be made to the establishment by the Minister of Labour and Industry of the working party on the rehabilitation and employment of disabled persons, and the proposals which may arise from it, which will actively promote rehabilitation.

Honourable members opposite, during their second reading speeches, said there was nothing in the Bill about rehabilitation. The Minister of Labour and Industry has expressed his view on this matter on more than one occasion. We cannot accept the principles in the clause, and I ask honourable members opposite to vote against it.

The Hon. C. J. SUMNER: This is a matter that concerns me and should be considered by the Minister of Labour and Industry's working party on the rehabilitation and employment of disabled persons, mentioned by the Minister; but at this stage I cannot vote for the proposal although it merits some further investigation. I repeat what I said in my second reading speech on this matter, that I am not convinced that this would materially affect the rehabilitation prospects of the workman, although I see that

the Hon. Mr. Laidlaw holds a contrary view, but it may well mean a confusion or reduction in the workman's rights. I do not wish to go into that in more detail than I did in my second reading speech.

The Hon. D. H. Laidlaw: That is not the intention.

The Hon. C. J. SUMNER: It may not be the intention but it is the effect of it. I should like to see some *quid pro quo* from the employers and insurers in exchange for a provision such as this going into the legislation, and that is best sorted out by the working party set up by the Minister. I hope it will contain some important innovations in regard to the rehabilitation of workmen in this State. This provision will be one aspect that can be fitted in with the other proposals that may perhaps contain the provision that requires an employer to employ a certain number of injured workmen. Some employers at present do that, but it is not common throughout industry.

A matter I did not mention in my second reading speech that is important (the Hon. Mr. Laidlaw put it forward in support of the proposition) is that he says that this would enable workmen to be paid earlier and allow the insurers and employers to determine the contributions later.

[*Sitting suspended from* 5.50 *to* 7.45 *p.m.*]

The Hon. C. J. SUMNER: It is sometimes argued that the proposed amendment is advantageous to a workman in enabling him to be paid earlier than he would otherwise be paid, as payment to him would be made despite the contest in court. Liability to the workman would be admitted, and the contest in respect of apportionment would be fought only between the employers and the insurers. It is sometimes argued that this system results in earlier payment and settlement to the workman, but my experience with the adversary system operating in workmen's compensation claims is that if insurers and employees have an argument concerning apportionment of liability, they tend as a matter of tactics to deny liability as against the workman and fight the whole matter when it comes to court.

They believe that as costs will be incurred in a court battle anyway, it will not add much to deny the workmen's claim, too. Therefore, this argument has not the weight to convince me to change my attitude about the amendments. The other argument has been advanced that an employer knowing he will obtain a contribution from previous employers if he were to employ a disabled or injured workman would be more inclined to employ such a person. This has some *prima facie* plausibility, but there would still be a charge to the insurance industry generally, because most employers are insured and do not carry their own insurance. If this provision were adopted a final employer may benefit in some cases, but there would be no benefit in other cases because claims would be made for earlier injuries. In respect of the insurance industry, there is really no incentive for it to apply pressure on employers to employ disabled workmen, although this argument does not apply to employers who carry their own insurance and who have obtained an exemption under the Act, but such employers who are exempt comprise only a minority of employers. The general charge against the insurance industry offers no great incentive to employ or re-employ disabled workers. Therefore, I cannot support the amendments.

The Hon. D. H. LAIDLAW: These amendments are to help with the rehabilitation of workers, which the Minister of Labour and Industry is keen to implement constructively as soon as possible. Therefore, I do not intend to further debate the matter with the honourable member.

The CHAIRMAN: The first question will be that the clause as printed stands part of the Bill. If that motion is defeated, it will give an opportunity for the new clause to be voted on.

The Committee divided on the clause:

Ayes (10)—The Hons. D. H. L. Banfield (teller), F. T. Blevins, T. M. Casey, B. H. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, Anne Levy, and C. J. Sumner.

Noes (10)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, C. M. Hill, D. H. Laidlaw (teller), and A. M. Whyte.

The CHAIRMAN: There are 10 Ayes and 10 Noes. To enable the proposed new clause to be considered I give my casting vote for the Noes.

Clause thus negatived.

The CHAIRMAN: The question now is that new clause 7 be inserted.

New clause inserted.

Clauses 8 and 9 passed.

Clause 10—"Annual and long service leave."

The Hon. D. H. LAIDLAW: I oppose this clause. The Government's intention is to stop double pay on public holidays for people on workmen's compensation. New clause 10, which I shall move to be inserted, goes somewhat further than that. It repeals the whole of section 54 of the principal Act, instead of striking out one word.

Clause negatived.

New clause 10—"Repeal of s.54 of principal Act."

The Hon. D. H. LAIDLAW moved to insert the following new clause:

10. Section 54 of the principal Act is repealed."

New clause inserted.

New clause 10a—"Repeal of section 60 of principal Act."

The Hon. D. H. LAIDLAW: I move to insert the following new clause:

10a. Section 60 of the principal Act is repealed.

This new clause is consequential on my earlier amendment.

New clause inserted.

Clause 11 passed.

Clause 12—"Absences from employment not to affect certain leave."

The Hon. D. H. LAIDLAW: I move:

Page 7—
Line 33—After "amended" insert "—(*a*)".
After line 34—Insert—
"and
(*b*) by inserting after the last word in that section the passage "and any rights arising in respect of such service relating to such leave shall be suspended until the return of the workman to his employment, the cessation of his employment, or his death, whichever first occurs'."

This amendment deals with the accrual of annual leave and sick leave while on compensation of employees engaged under State awards. My amendment provides that a workman's rights shall be suspended until his return to his employment. A workman may be on compensation indefinitely.

The Hon. D. H. L. BANFIELD: I oppose the amendment. When leave is earned, the employee should be entitled to it.

Amendment carried; clause as amended passed.

Clause 13—"Additional compensation payable to certain workmen."

The Hon. D. H. LAIDLAW: I move:

Page 8, lines 6 to 9—Leave out all words in these lines and insert "regarded as service and that amount shall be payable upon the return of the workman to his employment, the cessation of his employment or his death, whichever first occurs".

This amendment deals with employees under Commonwealth awards.

Amendment carried; clause as amended passed.

Clauses 14 to 17 passed.

Clause 18—"Enactment of sections 122a and 122b of principal Act."

The Hon. D. H. LAIDLAW: I move:

Page 8, lines 24 and 25—Leave out all words in these lines.

After line 43—Insert new subclause as follows:

(6a) The Minister shall not unreasonably or capriciously refuse an application under this section.

There are a number of applications that an approved insurer can make. It seems more appropriate that the provision now designated new section 122a (2) should be at the end of new section 122a.

The Hon. D. H. L. BANFIELD: I accept the amendment.

Amendment carried.

The Hon. D. H. LAIDLAW: I move:

Page 9, lines 10 to 25—Leave out all words in these lines.

New section 122b (1) gives power to the Minister to extract information. My amendment provides that the same powers would be given to the Workmen's Compensation Insurance Advisory Committee.

The Hon. D. H. L. BANFIELD: In no way can the Government accept the amendment. It is desirable that this power be vested in the Minister, and that information when obtained be passed on in respect of specific classifications (for example, undesirable risks) to the appropriate body if considered necessary. The Minister should be able to obtain information at the request of such a body to assist in day-to-day administration. In addition, this power should be vested in the Minister and not the committee, as his jurisdiction also includes the responsibility of ensuring safety in the workplace and the collection of statistics on industrial safety matters. Rehabilitation of the injured workman is another aspect to which attention is being given. The data collected could well indicate the need for action to be taken in this area, which would be the responsibility of the Minister. Giving the advisory committee this responsibility is unwarranted.

Amendment carried; clause as amended passed.

Clause 19 passed.

Clause 20—"Appointment of nominal insurer."

The Hon. D. H. LAIDLAW: I move:

Page 9, lines 43 and 44—Leave out all words in these lines.

Pages 10 and 11—Leave out all words on these pages.

Page 12, lines 1 and 2—Leave out all words in these lines.

This amendment covers new sections 123a to 123d inclusive, and deals with the role of the nominal insurer who takes over the obligations of an insurance company or exempted insurer, or an uninsured employer who is unable to meet his commitments for workmen's compensation. Under the Bill, the Minister would appoint and control the activities of the nominal insurer. However, under my amendment the Chairman of the Workmen's Compensation Insurance Advisory Committee will be the nominal insurer, and the committee will control his activities. The deletions are consequential on the acceptance of my later amendments.

The Hon. D. H. L. BANFIELD: The Government opposes the amendments. The functions of the advisory committee and the nominal insurer are separate and distinct from one another. The former operates, in the terms of the amendments, as an underwriting body with expertise in the rating of risks classed as undesirable. The nominal insurer's function would be in the area of claims. In the unfortunate and, it is hoped, unlikely event of the provisions of the Act being invoked, the volume of work generated by the day-to-day handling of the claims connected with the failure or bankruptcy would make it impossible for the committee to function competently.

Under the Motor Vehicles Act, two separate bodies function independently of each other. I refer to the premiums committee responsible for setting premiums based on statistical data, and the hit-and-run committee set up with the approval of the Minister of Transport to handle claims from persons injured in hit-and-run accidents and from uninsured vehicles. The analogy can be drawn between this arrangement and that proposed in the compensation field. From the point of view of the general public and the legal fraternity, it is desirable that the nominal insurer is not the Chairman of the advisory committee. I ask honourable members to oppose the amendments.

The Committee divided on the amendments:

Ayes (10)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, C. M. Hill, D. H. Laidlaw (teller), and A. M. Whyte.

Noes (10)—The Hons. D. H. L. Banfield (teller), F. T. Blevins, T. M. Casey, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, Anne Levy, and C. J. Sumner.

The CHAIRMAN: There are 10 Ayes and 10 Noes. To enable this matter to be considered by the House of Assembly, I give my casting vote for the Ayes.

Amendments thus carried.

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

Page 12, line 5—After "Act" insert ", except with the consent in writing of that person".

New section 123e provides that an insurance broker cannot collect insurance premiums in any circumstances. It is argued that certain insurance brokers have not played the game in paying insurers for collecting premiums. Although this may be so, many insurance brokers are in good standing with insurers, who are willing to allow them to collect premiums. As this has been working satisfactorily in normal commercial practice, I see no reason why the legislation should prevent this practice.

The Hon. D. H. L. BANFIELD: I never cease to be amazed by honourable members opposite. Although this amendment was moved by the Opposition in another place and accepted by the Government, one finds that the Liberal Party is completely divided on the issue. We have them saying that workmen's compensation is too expensive for the employer, but this amendment will only add to the cost of the premiums by going through the insurance broker. The Government opposes this amendment because every insurance broker would as a matter of form in dealing with the client ensure that consent would in fact be given. The Opposition put forward an amendment in another place and this was accepted by the Government, and we have no intention of shifting from that. We have gone as far as we can in the interests of the employers and, after all, the whole argument in relation to workmen's compensation is that the premiums are too high. For these reasons I oppose the amendment.

The Hon. M. B. CAMERON: I never cease to be amazed by the reasons put forward by the Minister when he attempts to denigrate Opposition amendments. Surely, he will see this as clear evidence (that we are able to move amendments), of the independence of this side of the Chamber. To say, the amendment will add to costs is nonsense, because we are not altering the clause in any way. There is nothing to stop people working within the clause. The amendment gives an option: we are not trying to destroy the clause. Surely, the Minister is not that unreasonable that he cannot see that: he must see that he is unreasonable if a practice is working and the two sides are willing to allow it to work. It is not something that they can opt out of: they have to put it in writing. I ask the Minister to reconsider the amendment, so that he understands it and can give a more reasonable answer and perhaps accept it.

The Hon. D. H. L. BANFIELD: There is no need to understand the matter any further. We know that this will lead to higher premiums. No option exists: it is as simple as that. Pressure will be brought to bear, and costs will increase.

The Hon. M. B. CAMERON: I cannot let that comment pass without comment. There can be no pressure, because the person concerned has to put it in writing. If he decides not to agree, this is the option of the person. I cannot see any pressure at all.

The Hon. R. C. DeGARIS: I think there might be a mistake in the drafting of the amendment. The words "that person" should be "that insurer", and I seek to alter my amendment. Perhaps the Minister will now accept the amendment.

The Hon. D. H. L. BANFIELD: There is no way we will support it. Members opposite do not know what it is about. The Hon. Mr. Cameron said that there was nothing wrong with it, and that I did not know what I was speaking about. I know exactly to what I am referring. We should be looking at members opposite. How can we accept it under those circumstances?

The Hon. R. C. DeGARIS: There is no cost involved! The insurer writes to the broker and tells him he can collect the premiums.

The Hon. D. H. L. BANFIELD: Insurers and brokers go hand and hand to squeeze as much as they can for employers. The Hon. Mr. Laidlaw would not appreciate that amendment. I am surprised the Hon. Mr. Laidlaw is silent on this matter because the whole of his argument concerning his amendments has been in relation to costs. Let us hear from the Hon. Mr. Laidlaw about this.

The Hon. D. H. Laidlaw: I am having a rest.

The Hon. D. H. L. BANFIELD: Why not indicate I am correct, the same as the Hon. Mr. DeGaris did?

The Committee divided on the amendment:

Ayes (10)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, Jessie Cooper, M. B. Dawkins, R. C. DeGaris (teller), R. A. Geddes, C. M. Hill, D. H. Laidlaw, and A. M. Whyte.

Noes (10)—The Hons. D. H. L. Banfield (teller), F. T. Blevins, T. M. Casey, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, Anne Levy, and C. J. Sumner.

The CHAIRMAN: There are 10 Ayes and 10 Noes. To enable the House of Assembly to give its views on this knotty problem, I give my casting vote to the Ayes.

Amendment thus carried.

The Hon. D. H. LAIDLAW: I move:

Page 12, lines 28 to 43—Leave out all words in these lines.

Page 13, lines 1 to 36—Leave out all words in these lines.

These items cover the role of the insurer of last resort who takes over the obligation of employers who either cannot get workmen's compensation cover or whose premiums are unduly high. My latest amendment deals with undesirable risks; it covers the same matter, but in a slightly different form.

The Hon. D. H. L. BANFIELD: Again, I cannot accept the amendment.

The Hon. M. B. Cameron: You are being unreal.

The Hon. D. H. L. BANFIELD: When the Hon. Mr. Cameron talked about this Bill, he clearly showed his ignorance. This amendment is unacceptable as it would entail several insurers, all of whom would have in the first instance refused the risk, subsequently accepting it at the instance of the Advisory Committee. From the point of view of the general public, it is desirable that one insurer of last resort be nominated so that in the event of the provisions of the Act being invoked, that insurer may be approached without further difficulty. Of prime importance and consideration is the necessity for immediate protection to be afforded; this would be achieved by the insurer of last resort system, as such insurer could provide immediate cover pending a decision regarding the rate or rates fixed by the Advisory Committee. I ask honourable members to oppose the amendment.

The Committee divided on the amendments:

Ayes (10)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, C. M. Hill, D. H. Laidlaw (teller), and A. M. Whyte.

Noes (10)—The Hons. D. H. L. Banfield (teller), F. T. Blevins, T. M. Casey, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, Anne Levy, and C. J. Sumner.

The CHAIRMAN: There are 10 Ayes and 10 Noes. To enable the House of Assembly to consider these amendments, I give my casting vote to the Ayes.

Amendments thus carried.

The Hon. D. H. LAIDLAW: I move:

Page 13, lines 44 and 45—Leave out all words in these lines.

Page 14, lines 1 to 5—Leave out all words in these lines and insert paragraphs as follows:

"(*b*) one shall be a person nominated by the Chamber of Commerce and Industry, South Australia Incorporated;

(*c*) two shall be persons nominated by the Insurance Council of Australia;

and

(*d*) one shall be a person who has, in the opinion of the Governor, a particular knowledge of the insurance industry."

Under my amendment the committee should comprise six members. The Minister can appoint the Chairman who shall in the event of a deadlock have a second or casting vote. One member shall be nominated by the Trades and Labor Council, one by the Chamber of Commerce and Industry and two by the Insurance Council of Australia. Of the two other persons appointed by the Governor one should have a special knowledge of insurance.

I am not trying to deprive the Minister of the power to exercise a dominating influence over the committee but I believe it is formed to carry out a specialised function and should consist mainly of members who have knowledge in insurance and labour relations.

The Hon. D. H. L. BANFIELD: How the honourable member can come in here and push the barrow of the Chamber of Commerce and Industry, which has its own insurance company, I do not know. It wants to have a representative on the committee. What about the other insurance companies; what about buildings? How honourable members opposite can so blatantly get up and expect the Government to accept that there should be nominees nominated by the Chamber of Commerce and Industry, which has a vested interest in this matter, I do not know. How could they come down with an unbiased decision when all the time they are looking at their own interests?

There are a number of employer bodies which could claim an interest and similarly insurers who are not involved with the Insurance Council, although naturally that body would be asked to advise the Minister on an appointment. There is insufficient recognition of Government interests and the insurance interests would swamp all others. As the committee is advising the Government on behalf of the whole community and the Government is broadly representative of the public interest it should have at least the two representatives provided. The remainder are two insurer representatives, one employer and one employee—which is a proper balance.

From the way in which the Hon. Mr. Laidlaw speaks, I think he has an axe to grind here. The Government cannot accept this amendment. I hope members opposite will not come in here and so blatantly push the interests of one particular firm by name.

The Hon. D. H. Laidlaw: I point out that the Trades and Labor Council does not represent all workers.

The Hon. M. B. Cameron: Far from it.

Members interjecting:

The Hon. D. H. LAIDLAW: I refer to the position of white collar unions. The T.L.C. does not represent all workers and there are many unions and associations that are not members of the T.L.C. Similarly, the Chamber of Commerce and Industry does not represent all employers and the Insurance Council of Australia does not represent all insurance companies, yet each of these bodies is the largest within their sphere, and for this reason they have been nominated.

Provision has been made for the matters raised by the Minister. There are to be six members, and the Minister has the power to appoint a Chairman who, in the case of a deadlock, has two votes. The other nominees as set out have been chosen carefully because of their specific knowledge of relevant areas. I believe I have answered the Minister's point.

The Hon. D. H. L. BANFIELD: The T.L.C. represents employees in a far greater way than the Chamber of Commerce and Industry represents employers. The honourable member has excluded the Master Builders Association, the South Australian Employers Federation, the Metal Industry Association, of which he is probably a member, the Housing Industry Association, the Master Plumbers Association, and many more. Yet, the nominee from the Chamber of Commerce and Industry is listed.

Why has that body been nominated when it is nowhere near as representative as is the T.L.C.? The honourable member referred to white collar workers and I assure him that there are many more white collar workers affiliated to the T.L.C. than is the insurance industry associated with the chamber.

The Hon. N. K. FOSTER: How many rural organisations are represented encompassing poulterers, wheatgrowers, wine-growers, fruit-growers and others, or are they to be completely and absolutely ignored?

The Hon. R. C. DeGARIS: New subsection 123i (2) details the advisory committee. Why should the Bill refer to one organisation, the T.L.C. representing employees and yet the Government be allowed to appoint the representative in the interests of employers? That is inconsistent. Perhaps the T.L.C. should be dropped and a person nominated who, in the opinion of the Governor, represents the interests of employees; that may not be the T.L.C. The Hon. Mr. Laidlaw has tried to correct the anomalous situation with an organisation—

The Hon. D. H. L. Banfield: With a vested interest in insurance.

The Hon. R. C. DeGARIS: The Minister should not talk to me about vested interest. The Australian Council of Trade Unions has A.C.T.U.-Solo and Bourke's Stores. At present this clause does not do justice to both groups and the Hon. Mr. Laidlaw is seeking to allow the nomination from the major representative group of employers in South Australia.

The Hon. D. H. L. BANFIELD: I refer to those who are excluded specifically by the amendment. The Chamber of Commerce and Industry, which has been nominated, runs its own insurance company. True, all groups have vested interests, but the T.L.C. has not a vested interest in an insurance company as has the Chamber of Commerce and Industry. Such a blatant situation, to the exclusion of other organisations without their own insurance interests, reflects the pressure that has been applied in these circumstances, and we do not want to go further with it.

The Hon. N. K. FOSTER: I am surprised that anyone could make a comparison of the commercial interests of the A.C.T.U., with its two or three commercial interests, and those of insurance companies which, in this city alone, if one referred to *Rydge's* magazine would take some time to go through all the affiliations in this State, yet the Hon. Mr. DeGaris has criticised that situation and the fact that the Bill provides for representation by the T.L.C.

The Hon. D. H. LAIDLAW: I remind the Minister that the representative of the Chamber of Commerce and Industry would be only one of six members. Obviously, the Minister could control this committee because he can appoint the Chairman with a casting vote and the two other unspecified members. Too much emphasis has been given to the nominee from the Chamber of Commerce and Industry.

The Hon. D. H. L. BANFIELD: I am not interested in the influence of the other committee members. I am interested in the chamber, which owns its own insurance company as part of its business interests and which is nominated under the provision. How can the chamber's nominee sit on a committee while forgetting that he is also running an insurance company?

The Committee divided on the amendments:

Ayes (10)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, C. M. Hill, D. H. Laidlaw (teller), and A. M. Whyte.

Noes (10)—The Hons. D. H. L. Banfield (teller), F. T. Blevins, T. M. Casey, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, Anne Levy, and C. J. Sumner.

The CHAIRMAN: There are 10 Ayes and 10 Noes. To enable this matter to be considered by the House of Assembly, I give my casting vote to the Ayes.

Amendments thus carried.

The Hon. D. H. LAIDLAW: I move:

Page 15, lines 43 and 44—Leave out all words in these lines.

New section 123n defines the functions of the Workmen's Compensation Insurance Advisory Committee. My amendment strikes out paragraph (*c*), as follows:

(*c*) such functions as may be assigned to it by the Minister.

Because that paragraph covers a very wide field, it should be struck out.

The Hon D. H. L. BANFIELD: The amendment attempts to limit the committee's functions. I do not know why the honourable member wants to remove from the functions of the advisory committee such functions as may be assigned to it by the Minister. There could be functions other than those enumerated in paragraphs (*a*) and (*b*) that it would be most desirable for the committee to perform. The amendment seeks to destroy the flexibility that the Government wants in new section 123n, and the amendment thereby destroys the long-term value of the provision.

The Committee divided on the amendment:

Ayes (10)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, C. M. Hill, D. H. Laidlaw (teller), and A. M. Whyte.

Noes (10)—The Hons. D. H. L. Banfield (teller), F. T. Blevins, T. M. Casey, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, Anne Levy, and C. J. Sumner.

The CHAIRMAN: There are 10 Ayes and 10 Noes. To enable the matter to be considered by the House of Assembly, I give my casting vote to the Ayes.

Amendment thus carried.

The Hon. D. H. LAIDLAW: I move:

Page 16, after line 20—Insert new sections as follows:

123q. The peson for the time being holding office as the Chairman of the Advisory Committee shall for the purposes of this Part be the nominal insurer and in that capacity may be designated or described (without specification of his actual name) as "The Nominal Insurer" in any legal process or other document.

123r. (1) Where the Minister is satisfied that an approved insurer, an employer who is not insured in accordance with this Act, or an exempted employer, has insufficient assets to meet all its liabilities, the Governor may, on the recommendation of the Minister, by proclamation declare that this section shall apply to that insurer, employer or exempted employer and thereupon this section shall apply to that insurer, employer or exempted employer in accordance with the declaration.

(2) Subsection (1) of this section shall not apply where—

(*a*) the insurer, employer or exempted employer has become a bankrupt or is being wound up pursuant to an order of a court made, or a resolution for its winding up passed, before the commencement of the Workmen's Compensation Act Amendment Act (No. 2), 1976;

or

(*b*) the insurer, employer or exempted employer has entered into a compromise or arrangement with its creditors before the commencement of that Act.

(3) Where this section applies to an insurer, employer or exempted employer, any person having any claim or entitled to bring any action or enforce any judgment against that insurer, employer or exempted employer in relation to liability to pay compensation under this Act may make or bring that claim or action or enforce that judgment against the nominal insurer and if so, no such proceedings shall be commenced or proceeded with by that person against that insurer, employer or exempted employer.

(4) The nominal insurer shall have the same duties and liabilities and shall have and may exercise the same powers and rights in or in relation to any such claim, action or judgment as the insurer, employer or exempted employer.

(5) Notwithstanding any other Act, where the nominal insurer pays or is liable to pay any sum pursuant to subsection (3) of this section and the amount so paid or liable to be paid or any part thereof would, if paid by the insurer, employer or exempted employer, have been recoverable by the insurer, employer or exempted employer from another person under any provision of this Act or a contract or arrangement for insurance or re-insurance, the nominal insurer shall have and may exercise the rights and powers of the insurer, employer or exempted employer under that contract or arrangement so as to enable the nominal insurer to recover that amount from that other person.

(6) The insurer, employer or exempted employer or any officer or agent of the insurer, employer or exempted employer or, where the insurer, employer or exempted employer is a bankrupt or is being wound up, the trustee or liquidator of the insurer, employer or exempted employer shall, upon the request of the nominal insurer forthwith—

(*a*) furnish the nominal insurer with such particulars as he requires relating to claims, actions and judgments referred to in subsection (3) of this section of which the insurer, employer or exempted employer or trustee or liquidator has received notice;

(*b*) make available to the nominal insurer all books and papers of the insurer, employer or exempted employer relating to such claims, actions and judgments;

and

(*c*) give the nominal insurer such assistance as he reasonably requires in relation to any such claim, action or judgment.

(7) All moneys paid out by the nominal insurer under this section in respect of any claim, action or judgment shall be paid from the Nominal Insurer's Fund established pursuant to the scheme under section 123s. of this Act.

(8) The amount of all moneys paid out by the nominal insurer under this section in relation to an insurer, employer or exempted employer may be recovered as a debt due to the nominal insurer by the insurer, employer or exempted employer, and in any bankruptcy or winding up of the insurer, employer or exempted employer or in any compromise or arrangement between the insurer, employer or exempted employer and any of its creditors may be proved as a debt due to the nominal insurer by the insurer, employer or exempted employer.

(9) The nominal insurer shall pay any amounts received by him under this section in relation to the insurer employer or exempted employer into the Nominal Insurer's Fund established pursuant to the scheme under section 123s. of this Act.

123s. (1) The Minister shall, by notice in the *Gazette*, publish a scheme to be administered by the Advisory Committee under which—

(*a*) a fund entitled the "Nominal Insurer's Fund" is established and maintained at a level sufficient to—

(i) satisfy claims made, or judgments pronounced against, the nominal insurer under this Part;

and

(ii) otherwise indemnify the nominal insurer against payments made, and costs incurred, in respect of claims under this Part;

(*b*) the moneys required for the purposes of the Nominal Insurer's Fund comprise—

(i) contributions made by all approved insurers from a levy upon the annual premiums paid by employers for insurance coverage against liability under this Act;

and

(ii) contributions made by all exempted employers of amounts determined in accordance with the terms of the scheme;

and

(c) the moneys from time to time in the Nominal Insurer's Fund may be invested in a manner approved by the Treasurer.

(2) The Minister may, by notice published in the *Gazette*, vary the terms of a scheme published under this section.

(3) The nominal insurer may by action in any court of competent jurisdiction enforce the terms of any scheme published under this section.

123t. (1) The Advisory Committee may, upon application made by any employer in a manner and form approved by the Committee, determine that the liability of that employer to pay compensation under this Act is an undesirable risk, if the Committee is satisfied—

(a) that the employer has sought to obtain a policy of insurance against that liability from not less than three approved insurers each of which has the necessary capacity to issue the policy;

and

(b) that the employer has in each case either been refused the insurance coverage or quoted a premium for the coverage that is unreasonably high in the circumstances.

(2) Where the Advisory Committee determines that the liability of an employer to pay compensation under this Act is an undesirable risk, it may authorise that employer to obtain a policy of insurance in respect of the undesirable risk from an approved insurer nominated by the employer being one of the approved insurers from which he sought the insurance coverage and stipulate a premium or range of premiums or a provisional premium or range of provisional premiums in relation to that policy.

(3) Where an employer is authorised by the Advisory Committee to obtain a policy of insurance in respect of an undesirable risk from an approved insurer, the approved insurer—

(a) shall provide a policy of insurance in respect of the undesirable risk for the premium or provisional premium or a premium or provisional premium within the range of premiums or provisional premiums, stipulated by the Advisory Committee;

and

(b) may place the undesirable risk with the Undesirable Risks Fund established pursuant to the scheme, under section 123u. of this Act and subject to the conditions specified in the scheme, obtain the indemnity provided by the scheme in respect of its liability under the policy.

123u. (1) The Minister shall, by notice in the *Gazette*, publish a scheme to be administered by the Advisory Committee under which—

(a) a fund entitled the "Undesirable Risks Fund" is established for the purpose of indemnifying approved insurers in respect of liabilities incurred by them under policies in respect of undesirable risks placed by them with the Fund;

(b) the moneys required for the purposes of the Undesirable Risks Fund comprise—

(i) contributions made by all approved insurers of amounts determined in accordance with the terms of the scheme;

and

(ii) the premiums paid to approved insurers for the policies of insurance in respect of undesirable risks placed with the Fund less amounts determined in a manner fixed by the Advisory Committee as representing reasonable reimbursement for administering the policies and claims thereunder;

(c) the moneys from time to time in the Undesirable Risks Fund may be invested in a manner approved by the Treasurer;

and

(d) any amount that the Advisory Committee determines is not required for the purposes of the Fund may be distributed to approved insurers in a manner determined by the Advisory Committee.

(2) The Minister may, by notice published in the *Gazette*, vary the terms of a scheme published under this section.

(3) Any approved insurer may by action in any court of competent jurisdiction enforce the terms of any scheme published under this section.

123v. (1) The Advisory Committee may, by notice in writing signed by the Chairman of the Advisory Committee, require an approved insurer to furnish to it, within the period specified in the notice, such information as to—

(a) premiums received for insurance against liability under this Act and information upon which such premiums are calculated:

(b) claims on insurance against liability under this Act;

and

(c) persons insured against liability under this Act, as is specified in the notice and as it reasonably requires for the purpose of performing its functions under section 123s, 123t or section 123u of this Act.

(2) An insurer shall not, without reasonable excuse, fail to comply with a notice given to it under subsection (1) of this section.

Penalty: Five thousand dollars.

(3) An insurer shall not wilfully or negligently furnish to the Advisory Committee any false information relating to matters specified in a notice given to it under sub section (1) of this section.

Penalty: Five thousand dollars.

New section 123q provides that the Chairman of the advisory committee shall be the nominal insurer. New section 123r provides that where an approved insurer, an employer who is not insured, or an exempted employer has insufficient assets to meet his liabilities, a proclamation may be made bringing that person within the scope of this provision. This does not apply where the insurer, employer who is not insured in accordance with the Act, or the exempted employer has become a bankrupt or has entered into an arrangement with his creditors. Where new section 123r applies to an insurer, the employer who is not insured in accordance with the Act, or exempted employer, any person having a claim against him in relation to liability to pay compensation may bring that claim against the nominal insurer and, if he does that, no such proceedings shall be taken against that insurer, employer, or exempted employer.

The nominal insurer will have access to all particulars that he requires relating to claims and also all relevant books and papers. All moneys paid out by the nominal insurer in respect of any claim shall be paid from the Nominal Insurers Fund established under new section 123s. All such moneys may be recovered as a debt due to the nominal insurer by the insurer, employer, or exempted insurer, and the nominal insurer shall pay any moneys received by him in relation to the insurer, employer, or exempted employer into the Nominal Insurer's Fund.

New section 123s provides that the Nominal Insurer's Fund shall be established and maintained at a level sufficient to satisfy claims and judgments in respect of the nominal insurer and to otherwise indemnify the nominal insurer against payments and costs in respect of claims.

The moneys required for the purposes of the Nominal Insurer's Fund will comprise contributions made by all approved insurers from a levy on annual premiums in respect of liability under the Workmen's Compensation Act and contributions by all exempted employers of amounts determined in accordance with the terms of the scheme. Money in the fund shall be invested in a manner approved by the Treasurer.

New section 123t deals with insurance in respect of undesirable risks. The advisory committee may declare that the liability of an employer is an undesirable risk if the employer has sought cover from at least three approved insurers, and the employer has in each case been either refused cover or quoted an unreasonably high premium.

Where the committee decides that an unreasonable risk applies, it may authorise the employer to obtain a policy of insurance in respect of the undesirable risk from one of the approved insurers, and also direct that insurer to contract with the employer at a realistic premium nominated by the committee. The insurer can then place the business with the Undesirable Risks Fund and claim the indemnity from the fund in respect of that business.

New section 123u provides that the Minister shall by notice in the *Gazette* publish details of a scheme to be administered by the advisory committee under which a fund entitled the "Undesirable Risks Fund" is established, for the purpose of indemnifying approved insurers for liability in respect of undesirable risks. The money for this fund shall be provided by all approved insurers according to the proportions laid down by the advisory committee, as well as the premiums paid to approved insurers who are paying for undesirable risks, less any approved overhead charges.

The money in the fund shall be invested in the manner approved by the Treasurer. There are also provisions that, if an undue surplus accrues in the fund from time to time, the advisory committee may decide to distribute the funds to approved insurers.

New section 123v gives the advisory committee power to demand that an approved insurer furnish to it information regarding premiums received for workmen's compensation cover under the Act, or claims on insurance against liabilities under the Act. This may seem, at first sight, to be an intrusion into the privacy of business. However, such information is necessary in order to administer the Nominal Insurers Fund, the Undesirable Risks Fund, and to handle the advisory committee's appeal function.

The Hon. D. H. L. BANFIELD: The Government opposes the amendment. Regarding new section 123s, the Hon. Mr. Laidlaw said that the premium would have to be paid by insurers, although the amendment refers to employers. Does he want to correct that? The honourable member seemed to skip over this aspect, saying that it was not a further charge on employers. Despite that, this is yet another levy to be imposed on employers, about which honourable members opposite have complained ever since workmen's compensation has been in existence.

The Hon. D. H. LAIDLAW: Will the Minister give way?

The Hon. D. H. L. BANFIELD: Certainly.

The Hon. D. H. LAIDLAW: Whether the levy comes from the insurance companies to cover these short-falls, or whether it comes from the employers by a charge that is put on their invoices, in the end it will be paid for by the employers. It really does not matter which way it goes.

The Hon. D. H. L. BANFIELD: Of course it matters, because the honourable member cannot tell me that the insurers will collect this levy from employers without making a charge for doing so. In no way in the world would any insurance company act as a free agent. Insurance companies have been insuring for over 100 years; they have never shown any inclination to do this, and there is no reason to suppose that they will do so in future. This is, therefore, another charge on employers. This is completely contrary to the principle that we should reduce the premiums charged against employers because of the costs they incur under the Workmen's Compensation Act.

The Hon. D. H. LAIDLAW: Will the Minister give way?

The Hon. D. H. L. BANFIELD: Yes, if the honourable member will assure me that the insurers would be willing to do this free of charge.

The Hon. D. H. LAIDLAW: I contemplate that each insurance company will, at the commencement of each year when it sends out its invoices to the public, add a charge for the Nominal Insurers Fund. As long as this information is published, it will be up to people like the Minister and me to ensure that it is stated on the accounts that a certain proportion of the sum being charged is to go into the Nominal Insurers Fund.

The Hon. D. H. L. BANFIELD: The honourable member has answered the question, because this involves another charge on employers that will have to be met 12 months in advance. The employers' money will be tied up by the insurers. Employers will lose interest on that money which may not be used but which will have to be paid 12 months in advance. The insurance companies will benefit from this, because they will be able to use this money.

The Hon. D. H. Laidlaw: No.

The Hon. D. H. L. BANFIELD: Of course they will and the employer will be paralysed because he will not have this money to be able to use it. The use of the words "necessary capacity" in new subsection (1) (*a*) would provide a let-out for insurers, and the provision will be open to abuse. Insurers would try to refuse to consider risks on the grounds that the protection afforded by their treaties restricted them from accepting certain undesirable risks. In addition, the public would be in a quandary to establish the identity of insurers with the "necessary capacity" and could well find themselves approaching numerous insurers before finding three to fill the requirements. Reinsurance treaty contracts invariably carry an exclusion to the effect that, if a "pooling" or "obligatory" arrangement is entered into, no reinsurance facilities exist. As such, the insurer would have to underwrite the risk or that portion of it which comes within the undesirable risks scheme for his own account. Again I want to tell members opposite that, when they come to the Government about reducing the cost of workmen's compensation, they should remember the added charges which they are attempting to impose through this provision.

The Hon. D. H. LAIDLAW: With respect to the Minister I point out that the money that is paid to the insurance companies for this fund would be handed over to the fund. The fund would invest that money as directed by the Treasurer, interest would accrue and, of course, in the ensuing years it may not be necessary to make such large calls. I do not see that this is in any way more expensive than the Government scheme.

The Hon. R. C. DeGARIS: I have always been somewhat puzzled by this nominal insurer provision, anyway. Does the Minister have any knowledge of the scheme operating in Victoria?

The Hon. D. H. L. BANFIELD: I understand that the Victorian scheme involves a surcharge on premiums. I do not think it would be better than or even as good as the scheme we have.

The Hon. R. C. DeGARIS: The amendment of the Hon. Mr. Laidlaw is similar to the Victorian scheme. At the present time the insurance companies are virtually the unpaid tax gatherers.

The Hon. D. H. L. Banfield: My heart bleeds for them.

The Hon. R. C. DeGARIS: Why?

The Hon. D. H. L. Banfield: Because they are unpaid and they are giving valuable services to the employers!

The Hon. R. C. DeGARIS: I believe, having a short acquaintance with the Victorian scheme, that the employers are extremely satisfied with the scheme.

The Hon. D. H. L. Banfield: What happens if an insurance company goes broke?

The Hon. R. C. DeGARIS: I do not know. I am here to question you. Perhaps the Minister can tell me what happens.

The Hon. D. H. L. Banfield: The employer has to pay the claim himself.

The Hon. R. C. DeGARIS: I doubt whether that would be so.

The Hon. D. H. L. Banfield: You asked me. What do they do?

The Hon. R. C. DeGARIS: I do not know.

The Hon. D. H. L. Banfield: Why raise it if you are not going to move an amendment along the lines of the Victorian scheme?

The Hon. R. C. DeGARIS: Can the Minister accept the Victorian scheme?

The Hon. D. H. L. Banfield: No, it is not before me; it is as simple as that. I am not even accepting this amendment, which is at least before me.

The Hon. R. C. DeGARIS: Under the Government scheme you expect the insurance companies to be the unpaid tax gatherers. That appears to me what your amendment does. Looking at the amendment of the honourable Mr. Laidlaw I do not think the employer would be unhappy with that situation.

The Hon. D. H. L. BANFIELD: The premiums are paid to the insurance company to accept the risk, and the premiums are set accordingly. That is how it comes about. It is not a matter of their having to be paid in advance or of any extra charge being placed on the employers 12 months in advance.

The Hon. J. C. BURDETT: I would like to say that I have never known the Minister to be so solicitous for the employers.

The Hon. D. H. L. BANFIELD: Let us have a look at what members opposite have done concerning the employers who have been complaining about the Workmen's Compensation Act ever since it was enacted. They say it hurts the employer because he has to protect his employees. Tonight they forget all about the employer. Tonight members opposite have left the employer for dead and gone to the insurance company. Not only have they done that by various amendments but in fact they have given one particular insurance company the right to have a nominee on the committee. Do not tell me that members opposite are thinking about the employer's interests. They have clearly shown that they no longer care. And let them not come back to the Government and complain on behalf of the employers because of the cost of compensation resulting from the added charges that they have now imposed on employers.

The Committee divided on the amendment:

Ayes (10)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, C. M. Hill, D. H. Laidlaw (teller), and A. M. Whyte.

Noes (10)—The Hons. D. H. L. Banfield (teller), F. T. Blevins, T. M. Casey, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, Anne Levy, and C. J. Sumner.

The CHAIRMAN: There are 10 Ayes and 10 Noes. To enable the amendment to be considered by the House of Assembly, I give my casting vote for the Ayes.

Amendment thus carried; clause as amended passed.

New clause 21—"Amendment of section 126 of principal Act."

The Hon. D. H. LAIDLAW: I move:

Page 16, after line 20—Insert new clause as follows:

21. Section 126 of the principal Act is amended by striking out paragraph (*b*) of subsection (2).

This new clause, which affects the "regulations" section in the Act, takes away from the Governor the power to make regulations "prescribing the amounts or rates of premiums chargeable for policies of insurance against liability to pay insurance under this Act".

In creating this advisory committee, which the Minister would dominate, it is not a good thing for it to prescribe the premium rates. The Government in another place accepted the amendment moved by the member for Davenport taking away the fixed scale of fees for insurance brokers and allowing a situation where rates would find their own level.

Here, too, it is desirable to ensure, in the interests of encouraging employers to use as much time as possible on safety, that we do not get a standard fixed scale of premiums for different industries. Once established, they tend to become the maximum.

The Hon. D. H. L. BANFIELD: I oppose the amendment. After all, the provision is giving a power to make regulations, and that is all it does. Every regulation comes before this Council. The Hon. Mr. Laidlaw implied that, if regulations were made fixing fees, that was it. Of course, that is not so, and he knows very well that every regulation comes before this Council, which has the last say in the matter. It was advisable that, in respect of workmen's compensation, we set up an advisory committee. What happens if this committee comes down and suggests there be regulations to improve the workings of this legislation? If the amendment is carried, there is no way in the world that the Government can implement such regulations. I do not know what the honourable member thinks would be the position of the advisory committee in those circumstances. Why does the Hon. Mr. Laidlaw want to take this clause out?

The Hon. D. H. Laidlaw: Because of my experience in New South Wales.

The Hon. D. H. L. BANFIELD: Don't you trust this Council; don't you trust Parliament, which has to agree to any regulation? Don't you believe we should take any notice of an advisory committee's recommendations if it makes any? Don't you think that the powers should be there or that you, the Hon. Mr. Burdett, the Hon. Mr. DeGaris and other members opposite would have a close scrutiny of what was going on in this area? This is a wise provision that has been in the Act for some time, and I suggest it should remain there.

The Hon. R. C. DeGARIS: I remind the Minister that regulations could be made and be in vogue for up to six months.

The Hon. D. H. L. Banfield: What a remarkable thing! And you are asking for the power to be taken away.

The Hon. R. C. DeGARIS: All I was doing was correcting the impression the Minister gave that this Council had control of the situation. I am pointing out that regulations could be in force, under this part of the Act, for six

months. I am not taking sides one way or the other at this stage, except to point out that what the Minister said was not quite right.

The Hon. D. H. L. BANFIELD: Members opposite have always insisted that things be done by regulation, because Parliament has an opportunity to discuss the regulation; but now members opposite want to take away the right of the committee to have power to make regulations, which would have to come before this Parliament. It does not matter whether or not we do not sit for six months. The present provision has worked satisfactorily and there is no reason why that power should not remain in the Act. No-one has abused the power.

The Hon. C. J. SUMNER: It would be wrong to remove from the Bill the power to fix premiums by regulation. This provision is very much a reserve power; it is not one that the Government would use at present. Clearly, if the free market between insurers was operating correctly, there would be competition between them, and by flexible premium rates insurers could put pressure on employers to assist in such things as rehabilitation and the re-employment of workmen. I think that operates at present with some of the insurance companies. They adjust premium rates depending on whether or not the employers co-operate in these sorts of things. That seems to be highly desirable. It provides some flexibility. If the market operates correctly and there is competition and no undue monopoly, it is probably true that it will be no good fixing the premium, because the market will find its most competitive level; but, of course, markets do not operate in that theoretically satisfactory manner.

The analogy probably could be a prices and incomes power to deal with the national economy, which would usually be a reserve power not used in every circumstance, but, when there is a malfunction in the economy and inflation is rising, it is a weapon that can be used by the Government for a period to overcome particular problems. However, it does not mean it will be used in a particular way forever. The same situation applies with this power. All it does is give the Government power to promulgate regulations that will come before Parliament, fixing the premium should the competitive market situation not be operating, to provide an appropriate premium level. It could also be used perhaps to fix a maximum premium and to allow the market to operate below that maximum competitively. The Government has no intention at the moment of introducing a premium even of that kind, but it seems to me to be important that the reserve power is there to be used should there be abuses and should it be necesary.

The Hon. A. M. WHYTE: If the market did operate properly, that would suffice, but business organisations are inclined to put their heads together to determine what premiums should apply and what the margin of profit should be. How can one of the State Government Insurance Commission's competitors have its fees set by Parliament in this matter? The Government should have kept out of the insurance field, because then the requirement would have been desirable but, as the Government is in competition with other insurers, it has no right to have fees set by regulation.

The Hon. D. H. LAIDLAW: I agree with the Hon. Mr. Whyte. I point out in reply to the Hon. Mr. Sumner that rates for different industries have been fixed in recent years in New South Wales. There has tended to be a rate fixed for, say, light engineering or for sewing machine makers and the like. Especially amongst small employers, word has got around that there is a ruling rate and, rather than getting quotes from various insurers, these small employers have accepted a higher figure, which has become the standard. I am told that that system has not worked well in New South Wales. I should like to see this power, after the establishment of the advisory committee with its authority, removed.

The Hon. C. J. SUMNER: The honourable member is dealing with whether or not the power ought to be exercised. Perhaps from the experience in New South Wales there are good reasons not to exercise it. True, in some circumstances there are good reasons not to exercise it, but there does not seem to be any problem in the Committee's agreeing to have it there as a reserve power in the same way as it is important in the economy to have a legislative reserve power over prices and incomes. This reserve power is important.

The Hon. R. C. DeGaris: You would be joking.

The Hon. C. J. SUMNER: The Hon. Mr. DeGaris may not agree, but one would expect him to hold that sort of outdated *laissez faire* attitude to economic management. Surely there is no doubt that most Australians (and I believe this now includes Liberal and National Country Party politicians) agree that a reserve prices and incomes power is necessary in a national economy. That situation is analagous. Should there be abuses, involving excessive premiums, etc., and should there be a reduction in competition and agreements between insurers on premiums so that the competitive market is not working, the Government should have the reserve power to introduce and fix premiums at a certain level. That does not necessarily deprive Parliament of any power, because the regulations would come before Parliament and could be disallowed. Opposition to this power, knowing that it is unlikely to be used at the present time, is short-sighted.

The Hon. M. B. Cameron: How do you define "present time"?

The Hon. C. J. SUMNER: If the market is operating and producing competitive premiums there is no need to introduce fixed premiums but, if that does not apply, surely there is no harm in giving the Minister a reserve power to fix the premium, if required. The original provision should be supported.

The Committee divided on the new clause:

Ayes (10)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, C. M. Hill, D. H. Laidlaw (teller), and A. M. Whyte.

Noes (10)—The Hons. D. H. L. Banfield (teller), F. T. Blevins, T. M. Casey, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, Anne Levy, and C. J. Sumner.

The CHAIRMAN: There are 10 Ayes and 10 Noes. To enable the new clause to be considered by the House of Assembly, I give my casting vote for the Ayes.

New clause thus inserted.

Clause 3—"Interpretation"—reconsidered.

The Hon. D. H. LAIDLAW: I move:

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Lines 3 to 27—Leave out all words in these lines.

Lines 33 to 35—Leave out all words in these lines and insert definition as follows:

"the nominal insurer" means the person for the time being holding office as the Chairman of the advisory committee:

These are consequential amendments, the second amendment defining the nominal insurer.

Amendments carried; clause as amended passed.

Title passed.

The Hon. D. H. L. BANFIELD (Minister of Health) moved:

That this Bill be now read a third time.

The Hon. R. C. DeGARIS (Leader of the Opposition): I congratulate the Hon. Mr. Laidlaw on the work he has done on this Bill.

The Hon. C. J. Sumner: What about the work we did?

The Hon. R. C. DeGARIS: I did not notice any amendments from the honourable member on file.

The Hon. N. K. Foster: You are a twicer.

The PRESIDENT: Order!

The Hon. R. C. DeGARIS: Although the Government may not agree with the Hon. Mr. Laidlaw's amendments, I point out that it has been said that there was merit in them. The Premier and the Minister of Labour and Industry have expressed concern about the heavy impost on industry and the increases in the number of workmen's compensation claims since the massive changes made to the principal Act, I think, in 1973. Those comments are on record. We must examine how we can overcome some of the real problems in the legislation without taking away reasonable benefits in respect of people who are genuinely injured and who deserve everything that can be done for them in the way of rehabilitation and compensation. The amendments accepted by this place achieve this basic principle. I support the third reading of the Bill.

The Hon. D. H. L. BANFIELD (Minister of Health): I agree that the Hon. Mr. Laidlaw did much work on the Bill. In reply to the Leader's statement that the Government is concerned about the impost on industry, I point out that we stick by our statement. If this Bill goes through as it has been amended by honourable members opposite, those honourable members will have placed a further impost on industry.

Bill read a third time and passed.

POLICE OFFENCES ACT AMENDMENT BILL (No. 3)

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

The Hon. D. H. L. BANFIELD (Minister of Health): I move:

That this Bill be now read a second time.

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

Leave granted.

EXPLANATION OF BILL

This Bill, together with the Alcohol and Drug Addicts (Treatment) Act Amendment Bill, implements two recommendations made by the Criminal Law and Penal Methods Reform Committee of South Australia (commonly referred to as the Mitchell committee) in its first report, that relating to sentencing and corrections. On page 211 of its report the committee recommended: (*a*) that the offence of public drunkenness be abolished; and (*b*) that detoxification centres be established wherever practicable and that police cells be designated detoxification centres elsewhere.

Before proceeding to deal with the Bills, I wish to record the debt owed by the Government and this State to the Mitchell committee for its work in the area of the criminal law and the treatment of offenders. The committee has already given this State the opportunity to evolve a criminal law which should serve this State well for many years and which will be consistent with social dignity, morality, justice and good order. The Government is looking forward to receiving the committee's fourth report, that on the substantive criminal law, some time next year. At page 208 of its first report the committee states:

The offence of drunkenness in a public place has always been part of the statute law of South Australia. One of its characteristics has been, and continues to be, the legislative specification of short-term imprisonment as an alternative to a fine. Originally the penalty for a first offence was not to exceed £1 or imprisonment for a period not exceeding three days, and for any subsequent offence a penalty not to exceed £5, or imprisonment not exceeding 14 days. The Police Act, 1936, s. 74, increased the fine for any offence to £5 or imprisonment for 14 days. Section 9 of the Police Offences Act, 1953-1972, provides a penalty of $10 or imprisonment for 14 days for a first or second offence, but $20 or imprisonment for three months for a third or subsequent offence.

It seems that the Legislature, in increasing the maximum term of imprisonment for a third offence to three months, had in mind that a cure for alcoholism might be effected if the offender served a substantial term of imprisonment without opportunity to ingest alcohol. The courts today would not sustain a sentence the length of which was determined by the likelihood of the offender's being cured of alcoholism whilst in prison. Apart from the impropriety of such a sentence, the likelihood of cure is slight. We have received a number of submissions that the offence of public drunkenness should be abolished. Those who have made this submission include the Commissioner of Police, several of his senior officers, many prison officers, and Aboriginal welfare organisations. It is apparent that there are certain alcoholics of limited or no means of support who plead guilty to charges of drunkenness with monotonous regularity. The problem of alcoholism may be no greater with them than with more affluent members of the community, but whereas the latter have the means to be cared for when they are drunk, the former do not. Furthermore the drunkenness of the former usually occurs in a public place, perhaps because they have not other places to which to resort for the purpose, whereas the latter can become drunk in their own homes and commit no criminal offence.

There is therefore much to be said for the proposition that this is an offence to which the less affluent are vulnerable. A term of imprisonment appears to have no general or particular deterrent effect. It cannot be seriously suggested that the short term of imprisonment imposed has a rehabilitative effect. It may and often does regenerate the health of the convicted alcoholic. While in prison he has no access to alcohol, is fed regularly and housed. If drunkenness in a public place ceased to be an offence there arises a need for some means of dealing with persons found drunk in public. There are several reasons for this. On humanitarian grounds the drunk should not be left to be run over by passing traffic or assaulted and robbed. The passing motorist should not be required to negotiate a street in which a drunk is lying or weaving his way. The drunk should not be left to die from malnutrition or excess of alcohol. Public order and decorum require that persons who through drunkenness have become an offensive spectacle should be removed from public sight.

I have quoted the committee at length as I consider that the above extract is the most succinct and persuasive justification for the two Bills now before this House. The committee proceeds in its report to make suggestions as to means of dealing with persons found drunk in public. The Bill seeking to amend the Alcohol and Drug Addicts (Treatment) Act, 1961-1971 is based on these suggestions although departing from them in a number of matters of detail. The reasons for such departure will become apparent when I deal with the Bill in detail.

In her Boyer lectures in 1975, Her Honour Justice Mitchell said that she thought "that the criminal law will tend more and more to be recognized as the protector of persons and property from the depredations of others, rather than the vehicle for the enforcement of accepted standards of moral behaviour. The legislators are moving in this direction". She then instanced the offence of public drunkenness, supported its abolition and continued:

Some provision must be made to take (the drunk) to a shelter where he can recover from his excesses, and it is desirable that he be given the opportunity of undertaking treatment for his alcoholism if he is minded so to do. These measures however will be outside the scope of the criminal law.

I am very encouraged by the apparent almost complete lack of opposition to the recommendations of the Mitchell committee that the offence of public drunkenness be abolished. I regard this lack of opposition as a great advance in social morality as it may indicate the increasing awareness and concern for our fellow men. It indicates a departure from the view which has persisted for generations that the insensible drunk has offended against society by becoming drunk and should be put away for so doing. It is unfortunate that such changes in social attitudes may be attributable to a growing awareness that alcoholism recognises no class distinction. Whether or not this is true, alcoholism is now accepted by society as a medical and social problem and not one amenable to solution by the criminal law. Dr. Everingham, Minister for Health in the previous Federal Government has said:

Alcohol abuse can be said to be the direct cause of—
occupancy of one in five hospital beds;
one in five battered children;
one in five drownings and submersion cases;
two in five divorces and judicial separations;
about half the serious crimes in the whole community;
half the deaths from road crashes;
half the deaths from pancreatic disease, and two of three deaths from cirrhosis of the liver (one in forty of all deaths);
reduced resistence to a wide range of illnesses;
a loss of half the working hours of the "alcoholic" group after the age of 45 years.

The implications of these figures are horrific. The South Australian Government has accepted some responsibility for the treatment and care of people affected by excessive alcohol and other drug consumption through the services provided by the Alcohol and Drug Addicts (Treatment) Board established by the Alcohol and Drug Addicts (Treatment) Act, 1961-1971. The Government wishes by the introduction of the Bills to accept further responsibility for such people. Specifically it wishes to remove the public drunk from the purview of the criminal law and the prisons of this State and to attempt to give him shelter, food and medical treatment in an environment which might be conducive to a regeneration of health, a prolonging of life, and hopefully perhaps an extended programme of voluntary treatment. I point out that unfortunately I can put the hopes of the Government expressed in this Bill no stronger than that. Alcoholism and drug dependence is degenerative in its operation and effect. The vast majority of people towards whom the provisions of this Bill will be applied are lonely men who are alcoholics, unemployed, derelict and destitute. For such people the bottle offers some comfort, for insensibility is often preferable to being lonely and destitute. Many such people cannot be treated for alcoholism without also removing its causes. Although the Government recognises this it is attempting by these Bills to alleviate the plight of the insensible drunk.

I have said that alcoholism recognises no class distinction. The present offence of being drunk in a public place is however one to which the less affluent are vulnerable. The more affluent members of the community can become drunk in their homes without the approbation of the criminal law. Arresting, charging and imprisoning persons found drunk in public places serves no purpose other than removing them from the particular public place in which they are found. The Government accepts, and I believe the community accepts, that such a result can and should be achieved outside the scope of the criminal law and that responsibility should be taken for the care and treatment of such persons.

The Government believes that sobering-up units should be established in the metropolitan area and in country centres where significant need exists and notes that Port Augusta, Coober Pedy, Ceduna and Oodnadatta are major problem areas. In country centres the co-operation and assistance of existing hospitals and medical services will be sought. These units will provide a 24-hour service with medical and nursing care always available.

At page 210 of its report the Mitchell committee stated that:

Since the apprehension of drunks will not be based on the commission of a criminal offence, and there will be no obligation to produce them before a court to be charged, questions of civil rights arise.

Recognising this, the Government has attempted in this Bill to balance questions of civil rights against its responsibility for and the social desirability of sobering-up the public drunk and more importantly of attempting to rehabilitate the insensible alcoholic. I believe that the balance suggested by the Bill is an acceptable one. Before dealing with the two Bills in detail, I point out that they are directed solely at the person who is found drunk in a public place. If such a person commits an offence against the criminal law he will be arrested and charged with that offence regardless of whether that offence was attributable to his state of intoxication or whether his state of intoxication was an element of that offence.

Police Offences Act Amendment Bill, 1976: Clause 1 is formal. Clause 2 provides that the Act will come into operation on a day to be fixed by proclamation. It is unlikely that this Act and that amending the Alcohol and Drug Addicts (Treatment) Act will be proclaimed until some time next year. It would be irresponsible of any Government to repeal the offence of being drunk in a public place without providing facilities to which persons who are found drunk in public places could be taken. Neither Act will therefore be proclaimed until suitable arrangements are made for the reception of such people. Clause 3 repeals section 9 of the principal Act under which it is an offence to be drunk in any public place. Clause 4 repeals that part of section 9a of the principal Act under which it is an offence to be found drinking or to have been drinking methylated spirits or any liquid containing methylated spirits. However, that part of this section of the principal Act which relates to the sale of methylated spirits is retained.

Alcohol and Drug Addicts (Treatment) Act Amendment Bill, 1976: Clause 1 is formal. Clause 2 provides that this Act shall come into operation on a day to be fixed by proclamation and I refer to my comments with respect to clause 2 of the Bill seeking to amend the Police Offences Act. Clause 3 inserts the title of a new Part in the principal Act, that relating to the "Apprehension and care of persons under the influence of a drug." Clause 4 (*a*) redefines "committal centre". Clause 4 (*b*) redefines "institution" as one established pursuant to the provisions of the Act. Clause 4 (*c*) defines a "sobering-up centre" as an institution declared under the Act to be a "sobering-up centre". Clause 4 (*d*) redefines "voluntary centre". Clause 5 amends section 5 of the principal Act by providing that the Governor may declare (and revoke or vary such declaration) any institution to be either a committal centre, a voluntary centre or a sobering-up centre. Clause 6 amends section 8 of the principal Act to cover sobering-up centres. Clause 7 should be read with clause 9 of the Bill. Because of the introduction of the concept of

the sobering-up centre in the Act it is thought desirable that the provisions contained in sections 17-22 of the principal Act should now more appropriately be dealt with in that part of the Act dealing with miscellaneous provisions. The person admitted to a sobering-up unit is in a different category to one admitted to either a committal centre or a voluntary centre and although it is hoped that some such people will be encouraged and persuaded to become patients in voluntary centres they will, as they have committed no offence, be free to leave a sobering-up centre after a certain period or periods of time. The provisions of clause 9 of this Bill are substantially identical in effect to those repealed by clause 7.

Clause 8 seeks to enact and insert in the principal Act a new part which deals with the apprehension and care of persons under the influence of a drug. This clause seeks to insert sections 29a-29c in the principal Act. Section 29a authorises police officers and other authorised persons to "apprehend" any person who they believe on reasonable grounds to be under the influence of a drug in a public place and who by reason of that fact is unable to take proper care of himself. For the purpose of such apprehension the police officer or authorised person may use such force as is reasonably necessary and may search the person for the purpose of removing any object that may be a danger to him or to others.

It will be noted that the phrase "other authorised person" has been used in the Bill. The Government intends to remove as far as possible, responsibility for the public drunk from the Police Department as it believes that such responsibility is not properly one for a police force. It is proposed that the Community Welfare Department establish a transport unit, the officers of which will be authorised under this Part of the Act. It is hoped that with the development of this unit in the metropolitan area and country areas police officers will be relieved as much as possible of their role in transporting persons under the influence of a drug. It is not foreseen at this stage however, that it will be possible to so relieve them entirely. Such a role will be necessary in many country areas for some time yet. Section 29a provides that where a police officer or other authorised person has apprehended a public drunk he shall take that person either to a sobering-up centre, to premises approved by the Minister for the purpose of this paragraph or to the aprehended person's own home.

The Government intends to establish under this Act sobering-up centres which will be run and staffed by the Alcohol and Drug Addicts (Treatment) Board. Such centres will have medical and nursing facilities and counselling will be available to persons taken to them with the object in some cases of encouraging further treatment. Further the Government intends to establish overnight houses and shelters under the Community Welfare Act which will have facilities to receive homeless, destitute and exhausted persons and drunks. Such shelters will be complementary to shelters now provided by non-Government and voluntary organisations. I take this opportunity to note the Government's appreciation for and the debt owed by this State to these organisations.

Police officers and particularly those other authorised persons will be instructed to transport homeless persons to a convenient Government or non-Government overnight house; to transport persons apprehended under this Part to a convenient Government or non-Government overnight house or their home; or to transport persons apprehended under this Act to a convenient sobering-up centre where the person is, in their opinion, in need of immediate medical attention, or where he or she is unwilling to accompany them either to his or her home or to an overnight house. These instructions are those envisaged by the Government at this stage. However, they must be considered only guidelines for those persons whose task it will be to carry out the provisions of this Act and will undoubtedly vary according to the facilities available and the particular case involved.

Section 29a further provides that where a person is taken to a sobering-up centre pursuant to this section the superintendent of the centre may detain him, in the first instance, for a period not exceeding 18 hours. After the expiration of that period the section provides that he may be detained for a further period not exceeding 12 hours on the certificate of a medical practitioner. After the expiration of that further period the person must be released unless an order is made by a court of summary jurisdiction, on the application of the superintendent of the centre, for a further period of detention. The section provides that such further period shall not exceed 72 hours. It is in this provision that the Government has attempted to strike a balance between civil rights and the desirability of attempting to rehabilitate the insensible drunk. The Government believes that provisions in this clause strike the right balance. The section further provides that the superintendent of the sobering-up centre may release a person at any time after he has been delivered to the centre and that he shall allow such person reasonable opportunity to comunicate with a solicitor, relative or friend. Section 29b of the Act enables a person detained at a sobering-up centre to apply to a court of summary jurisdiction for a finding that at the time of his detention he was not in fact under the influence of a drug. This section seeks to give such a person a right to protect his interests whether they be under an insurance policy, for example, or under a recognisance to be of good behaviour, a term of which may be abstinence from alcohol. Section 29c defines "authorised person" (which I have dealt with) and "drug". Clause 9 of the Bill has been dealt with under clause 7.

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

ALCOHOL AND DRUG ADDICTS (TREATMENT) ACT AMENDMENT BILL

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

The Hon. D. H. L. BANFIELD (Minister of Health): I move:

That this Bill be now read a second time.

The explanation has been covered in the second reading speech relating to the Police Offences Act Amendment Bill.

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

MOTOR VEHICLES ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

This Bill makes a number of amendments to the principal Act on several different subjects. The most significant of the amendments relate to the tow-truck provisions of the

principal Act. The Government is not at this stage introducing its recently announced comprehensive review of these provisions, but it is felt that a number of urgent amendments are immediately required in order to keep an effective rein on the tow-truck industry. A significant feature of these amendments enables the Minister to appoint inspectors for the purposes of the principal Act and empowers these inspectors to exercise various powers of investigation and inquiry. The right of a person seeking a tow-truck certificate to appeal against a refusal to grant a certificate is removed. It is felt that an appeal is no longer justified in view of the recent introduction of provisions under which the consultive committee must endorse any decision on the part of the Registrar to refuse such an application.

Another important aspect of the amendments relates to registration fees for pensioners. It is proposed that these concessions should in future be prescribed. The Governments policy is to maintain, as far as practicable, existing levels of registration fees for pensioners thus, protecting them from the effects of inflation. These provisions have been made retrospective to the first day of August this year. The Bill also strikes out references to "weight" and substitutes references to "mass". This amendment is in line with amendments to the Road Traffic Act that have recently been considered by this House. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

EXPLANATION OF CLAUSES

Clauses 1 and 2 are formal. Clauses 3 and 4 deal with the substitution of the word "mass" for the word "weight". Clauses 5, 6, 7 and 8 deal with pensioner concessions and provide that the concession is in future to be prescribed by regulation. Clauses 9, 10 and 11 substitute the word "mass" for the word "weight". Clause 12 deals with a problem that has arisen in the administration of provisions enabling the Registrar on the advice of the consultative committee to cancel a licence. At present the Act enables the cancellation of a licence where a driver commits an offence that in the opinion of the consultative committee shows him to be unfit to hold a licence. It sometimes happens that a person commits a series of offences none of which individually would constitute sufficient reason for cancellation of a licence but which cumulatively justify cancellation of a licence. The amendment alters the present provisions to take account of this fact.

Clause 13 enacts the new provisions relating to tow-trucks. New section 98o provides that no person other than the driver of a tow-truck or the owner, driver or person in charge of a vehicle that is being or is to be towed shall ride in or upon a tow-truck while it is being driven to or from the scene of an accident. New section 98p enables the Minister to appoint inspectors. An inspector is to make such investigations and reports as the Registrar may direct. The new section confers on an inspector various powers of investigation and inquiry. It provides that a report made by an inspector at the direction of the Registrar will constitute *prima facie* evidence of matters stated therein in any legal proceedings. Clause 14 removes the right of an applicant for a tow-truck certificate to appeal against a refusal to grant the certificate.

The Hon. C. M. HILL secured the adjournment of the debate.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 4)

Adjourned debate on second reading.

(Continued from November 30. Page 2553.)

The Hon. C. M. HILL: This Bill provides for local government to be able to contribute toward the cost of developments for public facilities, which developments are not solely in the ownership or under the control of the council concerned. The time has come when local government ought to be able to join in partnership with the State, for example, and jointly see to it that facilities such as swimming pools and halls can be built to the mutual benefit of such authorities. Section 435 of the principal Act is amended by this Bill. It gives power to submit schemes relating to a work or undertaking.

The Bill contains a provision enabling a contribution to be made by a council towards the cost of a specified work or undertaking to be executed by some other person or authority. Local government did not previously have the right to join with other authorities in this kind of work, and I see nothing but advantage in it. For that reason, I support the Bill.

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

FISHERIES ACT AMENDMENT BILL

Second reading.

The Hon. B. A. CHATTERTON (Minister of Fisheries): I move:

That this Bill be now read a second time.

This short Bill represents the first stage of amendments to the principal Act, the Fisheries Act, 1971-1975, that will arise from a comprehensive departmental examination of fisheries policy in the State. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

EXPLANATION OF CLAUSES

Clauses 1 and 2 are formal. Clause 3 amends section 5 of the principal Act by inserting in the definition of "waters" a reference to bays and gulfs. This is merely a clarificatory amendment. Clause 4 amends section 11 of the principal Act by making it clear that it is an offence for any inspector "appointed or *ex officio*" to have a proprietary or financial interest in any commercial fishing without the consent of the Minister.

Clause 5 amends section 34 of the Act, and is commended to honourable members' attention. It is intended that subsections (1) and (2) of this section will be struck out and replaced by two new subsections. Essentially, section 34 at the moment provides, as it were, an obligation on the Director to grant a fishing licence to any applicant who satisfies the conditions laid down in the principal Act. It is intended that an obligation will be placed on the Director to ensure that no fishing licence is granted in any case where a relevant fishery may be prejudiced by the granting of a licence. This obligation on the Director is entirely consistent with a proper fisheries management policy. The provisions relating to appeals against refusal of the granting of a licence have of course been retained.

Clause 6 amends section 56 of the Act, and provides for additional regulation-making powers to ensure hygiene and cleanliness of fish dealers' premises. In addition, it extends the power of the Director to request statistics from

persons engaged in the purchasing of fish. Clause 7 amends section 57 of the principal Act and is also commended to honourable members' attention. It proposes an evidentiary provision to the effect that fish in the possession of a person will give rise to a presumption that those fish were taken by that person. The need for such a presumption is clear since it is very difficult to adduce direct evidence as to taking in most circumstances.

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

ROAD TRAFFIC ACT AMENDMENT BILL (No. 3)

Adjourned debate on second reading.

(Continued from November 25. Page 2504.)

The Hon. C. M. HILL: I spoke briefly to this Bill when it was introduced in the Council about two weeks ago, and I then sought leave to conclude my remarks. I do not intend to speak at length on it tonight. Honourable members will, of course, see that this is a long Bill in relation to the number of clauses it contains.

However, this is in the main a Committee Bill and, in Committee, those clauses that are of interest to honourable members will no doubt be discussed by them if they wish to raise certain matters. First, one of the main features of the Bill is the increase in penalties for drink-driving offences.

The Hon. R. C. DeGARIS: Mr. President, I draw your attention to the state of the Council.

A quorum having been formed:

The Hon. C. M. HILL: Secondly, there is an aspect which I think should be raised and which concerns the proposed increase in the size of the Road Traffic Board. Thirdly, stiff penalties are provided for the overloading of trucks and trailers. These penalties are excessive and quite unfair to people, especially people in rural areas involved with trucks and trailers. Fourthly, there are many minor matters in the Bill dealing with the change from weight to mass, and the deletion of certain penalties that run through the parent Act.

The increased penalties for drink-driving offences contained in the Bill have been laid down by the Road Traffic Committee, for which I have much respect. At the same time, I believe that the community must accept sterner measures in regard to offences of this nature. The clauses relating to increased penalties for drink-driving offences come under four main headings, the first of which is the offence of reckless and dangerous driving. The second is the offence of driving under the influence of alcohol or drugs. The third area covered is that of driving whilst having a prescribed concentration of alcohol in one's blood. This covers the old guideline of the ·08 per cent level; also, a severe penalty has been prescribed for cases in which the concentration is over ·15 per cent. The fourth area in which the penalties have been increased relates to compulsory blood tests.

I do not oppose these increases in penalty. They are necessary increases, and I earnestly hope that, if this Bill passes, we will as a result see a reduction in the incidence of road fatalities and injuries that occur as a result of the consumption of alcohol.

I queried previously whether it was wise to increase the size of the Road Traffic Board in the manner proposed by the Government in the Bill. Having had further time to examine that matter, I now withdraw my opposition to it. I do so in the hope that the Government selects to serve on the board two new appointees who are fully qualified within the guidelines laid down in the Bill.

I refer to the worrying aspect of excessive penalties for the overloading of vehicles. This matter relates to section 147 of the Act, regarding an amendment to which there was much debate in 1973. A 20 per cent increase was permitted over the maker's specification and, in some special circumstances, an even greater percentage was to be permitted. Special consideration was to be given to vehicles carrying loads consisting of primary produce. I understand that, as a result of the measure in 1973, in some areas of the State concessions have been made allowing for a weight limit of 40 per cent in excess of the gross combination weight that is normally applicable to the particular motor vehicle.

Clause 97 deals with this particular matter and I believe that the penalties that are set down in that clause are too great an increase and can be unfair. I say they can be unfair because, whilst I recognise that people who come from country areas can talk with better authority than I can, and no doubt they will make their contribution to the debate, it has nevertheless been pointed out to me that some increases are very difficult over the prescribed limits for owners and drivers to estimate because in the carrying of stock and grain there are occasions when people are acting in good faith but nevertheless there is a marginal overload problem that does arise.

To give some idea of the excessiveness of these penalties I point out that in clause 97 (and we are dealing with the question of where a vehicle does not comply with requirements of this section and it is driven on the road, and in these instances, as I mentioned a moment ago, the owner and driver of the vehicle will each be guilty of an offence if this occurs) the penalty will be not less than $2 and not more than $10 for every 50 kilograms of the first tonne of the mass carried in excess of the permitted maximum and not less than $10 and not more than $20 for every 50 kilograms thereafter.

The rates under the existing Bill were 50c where I have just read $2, $2·50 where I have read $10 and for the penalties where the 50 kilograms are measured over the first tonne previously they were $2·50 compared with the new $10 penalty and $10 compared with the new $20 penalty. It does appear to me, and I think it must appear to all those who have an intimate knowledge of what the Government is endeavouring to deal with, that the increases in those penalties are far too high. I think that matter ought to be looked at very closely by the Council before the Bill is passed.

Since the Bill was introduced a very long and important amendment has been placed on our files which is to be moved by the Minister in the Committee stage. When an amendment of this kind is introduced it is a great pity that the Government does not organise its work better because if it did, and if this amendment was included in the Bill as it was introduced, this Council would hear the Minister's explanation concerning this new amendment. Of course, because he has put an amendment on file since he gave his explanation, in the second reading debate we are at a loss to know the reasons why the Government wants to introduce it, and we are at a loss to know the Government's explanation.

The Hon. T. M. Casey: You read tonight's *News* and you might get some idea.

The Hon. C. M. HILL: I have read tonight's *News* and I should not have to turn to the daily newspaper when the Minister himself should have given an explanation

to this Council. In fact, I would have thought the Minister would have wanted to keep very quiet about the report in today's press because if we are going to get to that standard of work in this Council—

The Hon. T. M. Casey: I only suggest that you read it. I was not suggesting that is the whole ambit of it.

The Hon. C. M. HILL: The statement that was given to the press was the same kind of advice that this Council should have had when this Bill was introduced.

The Hon. T. M. Casey: What are you complaining about?

The Hon. C. M. HILL: First, I am complaining about the fact that if you are going to introduce a Bill to amend the Road Traffic Act, and you want to include in that amending Bill a measure to the extent of this amendment put on file, it should have been in the original Bill. That is the first thing I complain about. The second thing that I am complaining about is that your publicity machine, on your instructions, has gone to the media and told them about this amendment before this Council has been told about it. That is much to complain about.

The large amendment to which I refer deals with the question of recurrent offenders and it states, as I read it, that if those people who have already committed an offence, which basically is a driving offence, and within three years commit another offence then it is going to be possible in future for the court to impose a penalty ordering that person to attend an assessment clinic. The assessment clinics will be established under the Alcohol and Drug Addicts Act and I think only in the last few minutes we had a Bill before this Council dealing with an amendment to the Motor Vehicles Act, and in that Bill, which I have just read as it was handed around, some reference was made whereby these clinics are going to be established.

Everything seems to be happening all at once and in not very good order. Then the offences which will be involved are to be prescribed by regulation. The clinics which are to be set up will have the right to advise the court as to whether the clinic believes that the person involved suffers alcoholism or suffers from an addiction to other drugs or to both those conditions. By this new and extensive amendment the court will be able to order the disqualification of the driving licence of that person until further order. As I read the amendment that disqualification can ultimately be revoked, either unconditionally or subject to certain conditions.

I believe in this change, as I understand it by simply reading the amendment. No doubt in the Committee stage the Minister will finally come to light with some explanation. It introduces another means by which the road toll, in my view, can be contained or reduced, and I believe that we have reached the stage when some individuals who are recurrent offenders of drink-driving charges should submit themselves to properly qualified people for assessment as to whether or not it is in the public interest wise for them to suffer disqualification of their licences for considerable periods.

Then there may be a need for these people to have regular medical check-ups at such clinics to see whether it is proper that they should be granted their licences again unconditionally or whether they should be granted their licences again on certain conditions, because such people are a serious cause of road accidents. So, generally, I support the principle that the Government has now introduced. It is a considerable change in the total approach to this matter and I hope that, if proceeded with, it will mean that there will be greater improvements.

There is no denying that, if we consider alcoholism and the drivers of motor vehicles in this State, whether we consider it in regard to the four major offences that this Bill deals with and for which it increases the penalties or whether we consider that matter in regard to this amendment that the Government has just introduced, there is no doubt that it is a serious problem.

I quote some reference from the report of an expert group on road safety to the Australian Minister for Transport, which report was made in 1975. There are many reports that honourable members have no doubt read on this matter but the more we can keep ourselves up to date the more reliable these reports are, because the incidence of this problem is changing all the time, and the recommendations made to try to combat the problems change as more investigations and more scientific approaches are made to the matter.

The latest possible reports available to the Council should be looked at if one wants expert advice. This report was not only presented but was also prepared in 1975. The essential points in it are:

1. Alcohol is the most important single contributing factor in road acidents.
2. Counter-measures should include:
   (*a*) education of the general public; and
   (*b*) more stringent legal sanctions, including enforced therapy for recidivists;

The latest amendment involves enforced therapy for such people. The report continues:

(*c*) increased police action.

Australian studies have consistently found that about half of all drivers killed have blood alcohol levels of 0·05 per cent or greater.

That is a worrying aspect of this whole matter. One can reasonably infer from that claim that drivers affected by alcohol have been responsible for the deaths of other perfectly sober drivers. We must all agree that this sometimes happens and, if we accept that fact, it must follow that alcohol has contributed, in the widest sense, to more than half of the number of driver deaths.

So it is an important social problem, which must be approached seriously. It means at times that some civil liberties may suffer but, taking the matter on balance and looking at it with the responsibility that we should accept in the general interests of the community, very firm measures are needed; therefore, I support the second reading of this Bill. I hope to move an amendment in the Committee stage and, if other honourable members have amendments to move, I will consider them to try to improve the Bill further.

The Hon. J. C. BURDETT: I support the second reading. The Hon. Murray Hill dealt with the Bill comprehensively and I propose to refer to only one clause, clause 97, to which the honourable member referred to a considerable extent. This clause deals with overloading and, among other things, with penalties for overloading. It imposes steep increases in penalties for overloading offences. As we heard from the examples given from the Bill by the Hon. Mr. Hill, there is in some cases an eight-fold increase in penalties. I hasten to add that I have no objection to the steep increase in penalties in such things as drink-driving offences and offences affecting safety, because they are related to a policy of trying to overcome the carnage on the roads and increase the safety on the roads. In most cases, the increase in penalty is not just monetary: it is effecting a particular policy of trying to improve driving and the standard of safety on our roads. Overloading offences do not mainly relate to safety. The overloading offence concerns mainly wear and tear on the roads.

The reason why I am concerned about the steep increase in penalty is that overloading offences are absolute offences. In regard to most offences under the law, there is required *mens rea* or a guilty mind. Such a person has to know that he is doing something unlawful, but the overloading offences are made, by the existing Act, absolute. I am not complaining about that. If a person drives or owns a vehicle that is overloaded, then, with one exception set out in the Act, he is guilty of an offence. So that, although a person makes a mistake of fact, he is still guilty, whereas in most cases when a person makes a mistake of fact he is not guilty of an offence. In law, he is. In regard to overloading offences, he is guilty. This is particularly important in regard to the fact that the owner of a vehicle is also liable.

As an example, an owner may send his driver to Melbourne, giving him strict instructions about the method of loading and what constitutes overloading, telling him also to check his load before he leaves and telling him not to overload. The driver in fact overloads and returns to South Australia; he is apprehended and the owner, too, is guilty. Also, in all sorts of ways, it is possible for a driver to drive a vehicle on the road without knowing that the vehicle is overweight.

I have known of cases where trucks laden with petrol drums have been left standing overnight. They were legally laden, but rain overnight formed in the rims of the drums, making the vehicles considerably overweight. The same applies to trucks laden with wine casks. I am not complaining about these things because of the nature of overloading offences. It is probably reasonable that it is absolute and that the owner and the driver are both absolutely responsible, but for absolute offences the penalty should be reasonable. They can be a considerable burden and, when the driver or the owner is guilty of deliberately overloading, I have no sympathy for them.

However, there are many cases where there is no moral fault or no great fault in overloading and, in such cases, it is necessary that the penalties be not excessive or oppressive. Therefore, to have penalties increased by 800 per cent is out of all reason and is unreasonable. I do not believe that Parliament should give its consent to such an increase in penalties. I hope that in the Committee stage an amendment is made to the Bill in respect of the penalties applying for overloading offences. I support the second reading.

The Hon. A. M. WHYTE: I, too, support the Bill, which is really a Committee Bill. I shall not be surprised if there are many amendments to this legislation in the Committee stage, because the Bill deals with about 90 sections of the principal Act, as well as other aspects. The Hon. Mr. Burdett referred to clause 97, which increases greatly the penalties imposed. Penalties throughout the Bill have been increased savagely and, despite the present inflation rate, I doubt whether they will have the desired effect.

The Hon. Mr. Hill indicated that members have had the Bill for a couple of days, but it would have been better for us in examining it to have received from the Minister a more detailed second reading explanation. Perhaps the Government has gone off half-cocked. It has a fetish for claiming a first in many areas but perhaps it could claim greater credit if sometimes it analysed the positions that would obtain, by the imposition of big penalties and the results of restrictive legislation, before it moved. The Government does not always achieve what it desires through such moves.

I understand that some oversea countries have also applied stiff penalties but have made provision for convicted persons to comply with the law without their business or their families suffering as a result of the misdemeanor. However, there is no suggestion in this Bill that such a provision will apply. In Sweden a gaol term can be served during a person's holidays so that it will not affect his income or jeopardise or penalise his family as a result of the misdemeanor that has been committed.

There has not been any reference, although in the Committee stage the Minister may make reference to it, to the collection of data which has led to this legislation. The Hon. Mr. Burdett rightly referred to the savage increases imposed under clause 97, indicating that a person loading a truck need not necessarily be completely certain of the weight of the load. In fact, that person may have no means of knowing what the weight of the load is until it is taken to a weighbridge. An anomaly applies in this situation inasmuch as a driver can be apprehended and charged before he has any chance of reaching a weighbridge.

I believe provision should be made so that a person would have a right to weigh his load and receive a certificate before proceeding. If a driver fails to do that, the onus is on him. This aspect must be resolved clearly, especially where the onus is placed on the owner or the driver. True, in some instances the onus should be placed on both. However, to increase the penalties by 800 per cent for this offence, and this can apply to fuel drums and hogsheads, is unreasonable. I refer to sheep carrying much wool or full wool caught in a shower of rain. Overloading could result.

The Hon. R. C. DeGaris: A bigger mass would be created.

The Hon. A. M. WHYTE: Yes—what a mess. I hope discretion will apply to the aspects to which I have referred. As the Bill imposes such ferocious penalties, I hope it will be administered with discretion. I have an amendment that I intend to move in the Committee stage, and I will outline its purpose now so that honourable members can consider what it does. First, it inserts a new definition of agricultural machinery and, secondly, it creates new section 93a. An anomaly has arisen in respect of a person moving certain agricultural machinery under the provisions of the Motor Vehicles Act. That person could be apprehended and charged because there are no similar provisions in the Road Traffic Act.

Currently a case is pending of a person prosecuted under the Road Traffic Act for towing an instrument that can be legally towed under the Motor Vehicles Act. My amendment will correct that anomaly. Apart from laying out a definition of mass instead of weight, the significance of which has something to do with the interpretation of metric measurements.

The Hon. C. M. Hill: There is no variable factor with mass as compared with weight.

The Hon. A. M. WHYTE: I thank the honourable member for that interpretation. There will be anomalies. I agree that the principal Act was due to be amended and that there must be higher penalties if we are to do something to save lives. I support the second reading of the Bill.

The Hon. M. B. DAWKINS: I support the second reading of this Bill, which is a long Committee Bill of well over 100 clauses, but there are one or two important matters to which I wish to refer. The Minister said that one of the most important features of the Bill was the increase in penalties for drink driving, which penalties had not been increased since 1967. I raise no

objection to amending the penalties for drink-driving offences, because we are all well aware of the dangers on the road today. One matter was referred to by the Hon. Mr. Whyte, when he said that he intended to move a new clause 93a. I discussed it with him yesterday, and I commend him for bringing this matter forward, because it overcomes an anomaly between the Motor Vehicles Act and the Road Traffic Act. The time is overdue for this anomaly to be cleared up, and the honourable member intends to insert a new subsection (5) in section 141 of the Act, and this is, in my view, most necessary.

The other matter to which I wish to refer has been mentioned in some detail by other honourable members—the Hon. Mr. Hill, the Hon. Mr. Burdett, and the Hon. Mr. Whyte—and that is new subsection (5a) of section 147, in which there is what I consider to be an excessive increase in penalties for overloading. The Hon. Mr. Hill already has an amendment on file, and I shall support it. I underline one or two things that other honourable members have already said about this matter, and especially that it is not always easy for a person, and specifically a person in the country, to judge accurately the load he has put on a vehicle: it is possible for that person inadvertently to exceed the load limit. The penalty for this, having regard to the situation in which he finds himself, is excessive. The Hon. Mr. Burdett said that not only the driver but also the owner is liable, and he instanced the case of an owner, with a driver under his control. The owner has the responsibility not only for his own actions but for any careless or irresponsible act by the driver. New subsection (5a) should be amended at least on the lines suggested by the Hon. Mr. Hill. However, overloading occurs sometimes deliberately in which case the penalties should be severe. Nevertheless, it sometimes occurs inadvertently in cases of "borderline" overloading. As the Hon. Mr. Burdett said, overloading is not so much a matter of road safety but it is more a matter of road maintenance, and that must be watched closely because of the damage to road surfaces by excessive loading. The provisions of this clause are in a vastly different category from the provisions that increase penalties for the irresponsible driving of vehicles. Those penalties were set previously and have not been increased ince 1967. I am not complaining about that, because I believe that these increases are reasonable. What I am saying is very unreasonable is this portion of clause 97. I will support the amendment to be moved by the Hon. Mr. Hill, and I support the second reading.

Bill read a second time.

The Hon. A. M. WHYTE moved:

That it be an instruction to the Committee of the Whole that it have power to consider a new clause to amend section 141 of the principal Act dealing with the width of vehicles.

Motion carried.

The Hon. T. M. CASEY (Minister of Lands) moved:

That it be an instruction to the Committee of the Whole that it have power to consider new clauses dealing with penalties for driving under the influence of alcohol or of drugs.

Motion carried.

In Committee.

Clauses 1 to 23 passed.

New clause 23a—"Recurrent offenders."

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

Page 8, after line 40 insert new clause as follows:

23*a*. The following section is enacted and inserted in the principal Act after section 47i thereof:

47j. (1) Where—

(*a*) a person is convicted of a prescribed offence that was committed within the prescribed area;

and

(*b*) he has previously been convicted of a prescribed offence committed within three years before the date of the later offence,

the court, before which he is convicted of the later offence, shall before imposing any penalty order him to attend an assessment clinic at a time, or over a period, specified by the court for the purpose of submitting to an examination to determine whether he suffers from alcoholism or addiction to other drugs (or both).

(2) The superintendent of the assessment clinic shall, as soon as practicable after an examination of a convicted person has been completed under this section, furnish a report upon the examination to the court by which the examination was ordered, and shall send a copy of the report to the convicted person.

(3) Before the court imposes any sentence on the convicted person it shall allow him a reasonable opportunity to call or give evidence as to any matter contained in the report.

(4) Where—

(*a*) the court is satisfied upon the report of the superintendent of an assessment clinic that a convicted person suffers from alcoholism or addicition to other drugs;

or

(*b*) the convicted person fails to comply with an order under subsection (1) of this section (or to submit to the examination to which the order relates),

the court shall, notwithstanding any other provision of this Act, order that the convicted person be disqualified from holding or obtaining a driver's licence until further order.

(5) A person who is disqualified from holding or obtaining a driver's licence under this section may apply to a court of summary jurisdiction for the revocation of the disqualification.

(6) An application may not be made under subsection (5) of this section before the expiration of the minimum period of disqualification to which the applicant would have been liable if he had been dealt with otherwise than under this section.

(7) Before an application under subsection (5) of this section is heard by the court, the applicant must attend an assessment clinic and submit to such examination as may be directed by the superintendent of the clinic.

(8) The superintendent of an assessment clinic shall furnish a report upon an examination conducted under subsection (7) of this section to the court, and shall send a copy of the report to the applicant.

(9) Where the court is satisfied upon an application under subsection (5) of this section—

(*a*) that the applicant no longer suffers from alcoholism or addiction to other drugs;

or

(*b*) that there is other proper cause for revocation of the disqualification,

it may order that the disqualification be revoked.

(10) Upon revoking a disqualification under subsection (9) of this section, the court may order that a drivers' licence issued to the applicant be subject to such conditions as the court thinks desirable to protect the safety of the public.

(11) In any proceedings to which this section relates, an apparently genuine document purporting to be a report of the superintendent of an assessment clinic shall be admissible in evidence without further proof.

(12) In this section—

"assessment clinic" means an institution—

(*a*) established under the Alcohol and Drug Addicts (Treatment) Act, 1961-1971;

and

(*b*) declared by regulation to be an assessment clinic for the purposes of this section:

"prescribed area" means any part or parts of the State declared by regulation to constitute the prescribed area for the purposes of this section:

"prescribed offence" means an offence under section 47, section 47b, section 47e or section 47i of this Act."

The Alcohol and Drug Addicts Treatment Board supports the implementation of the amendment and will be able to provide the following facilities and staff required for an assessment clinic to operate. Elura Clinic, at 74 High Street, North Adelaide, is now an out-patient unit of the Alcohol and Drug Addicts Treatment Board, and provides assessment and out-patient treatment to persons suffering from alcoholism and drug addiction. This clinic can be used readily as an assessment clinic, and would not need major alteration to operate as such. It is estimated that the clinic could accept up to 50 drinking drivers a week who are charged with a second or subsequent offence of driving under the influence. Sufficient facilities are available in Adelaide for the treatment of those defendants who are found to be alcoholics and in need of treatment, if they wish to avail themselves of them. The board recommends that Elura Clinic be named as the assessment clinic for the purposes of the Road Traffic Act.

The staff establishment for the assessment clinic would consist of: one medical officer; one psychologist; one nurse; and one social worker, all of whom would be trained in the field of addictions by the Alcohol and Drug Addicts Treatment Board. These staff would come from within the existing establishment of the board. The board considers that the assessment clinic could commence operations from March 1, 1977, and recommends that the Act be proclaimed to take effect from that date.

The diagnostic criteria in this work would be those which have resulted from the board's two-year research on the problem of drunken drivers at Elizabeth. These results are going to be presented in the form of a scientific paper at the forthcoming seventh International Conference on Alcohol Drugs and Traffic Safety, to be held in Melbourne in January, 1977.

Every offender referred to the assessment clinic will be subjected to the following assessment: (*a*) psychometric test; (*b*) physical examination; and (*c*) a battery of biochemical and haemotological tests. The final diagnosis whether he is or is not suffering from alcoholism will be based on the evidence produced by these diagnostic proceedings. Normally, the statement whether he is or is not an alcoholic will be sent to the court concerned within 14 days.

The board would like to make the following recommendations: (1) The wording in the Bill "assessment centre" be altered to "assessment clinic". (2) The wording of section 47 (*b*) which provides "is addicted to alcohol or to drugs" be changed to "suffers from alcoholism and/or addiction to drugs". To conclude, the Alcohol and Drug Addicts Treatment Board strongly supports the introduction of this Bill. It and its staff will make every effort to ensure that the above measures contribute successfully to the State Government's campaign to cut the increasing road toll—a campaign which it feels is of vital importance to the people of this State.

The Hon. C. M. HILL: First, I thank the Minister for his detailed explanation of the comprehensive new clause. Secondly, I express my confidence in the Alcohol and Drug Addicts Treatment Board, as I believe it will play a worthy part in this procedure proposed by the Government. I believe the officers-in-charge of clinics should be medical practitioners. Can the Minister assure me that the superintendents of such clinics are medical practitioners?

The Hon. T. M. CASEY: I believe that a medical officer in this instance would be a medical practitioner.

New clause inserted.

Clauses 24 to 93 passed.

New clause 93a—"Width of vehicles."

The Hon. A. M. WHYTE: I move:

Page 15—After clause 93 insert the following new clause:

93a. Section 141 of the principal Act is amended by striking out subsection and inserting in lieu thereof the following subsection:

(5) In the section "agricultural machine" means an implement or machine for ploughing, cultivating, clearing or rolling land, sowing seed, spreading fertiliser, harvesting crops, spraying, chaffcutting, or other similar operations, and includes a trailer bin constructed for attachment to a harvester for the purpose of collecting grain in bulk, a field bin constructed for the purpose of receiving or storing grain in or close to the field in which it is harvested, a grain elevator and a bale elevator.

The reason for the new clause is that there has been an anomalous situation, where such a description of agricultural machine is contained in the exemption provision in the Motor Vehicles Act but is not contained in the Road Traffic Act. There have been prosecutions against people towing a field bin under the Road Traffic Act, whereas they were exempted under the Motor Vehicles Act. Some of the Highways Department officers themselves did not really know what a field bin was. It was ridiculous that a person could tow an implement many times the width of a field bin and be exempt but, because there was no provision for a field bin, he could be prosecuted in that respect under the Road Traffic Act. The new clause has the same wording as the provision in the Motor Vehicles Act.

The Hon. T. M. CASEY: I can sympathise with the honourable member. I have discussed this matter with the Minister of Transport in another place, and he would like to consider the matter further. At this stage the Government cannot accept the new clause. I therefore oppose it now, so that, when this place has passed the Bill, it can go back to the other place, where the Minister will further consider the provision. I would like to support the honourable member but, in the circumstances, I cannot do so.

The CHAIRMAN: In view of what the Minister has said, it may be best to insert the new clause so that the other place can consider it.

The Committee divided on the new clause:

Ayes (10)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, C. M. Hill, D. H. Laidlaw, and A. M. Whyte (teller).

Noes (10)—The Hons. D. H. L. Banfield, F. T. Blevins, T. M. Casey (teller), B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, Anne Levy, and C. J. Sumner.

The CHAIRMAN: There are 10 Ayes and 10 Noes. To enable the House of Assembly to consider the amendment, I give my casting vote to the Ayes.

New clause thus inserted.

Clauses 94 to 96 passed.

Clause 97—"Maximum masses."

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

Page 17—
Line 6—Leave out "two dollars" and insert "one dollar".
Line 6—Leave out "ten" and insert "eight".
Line 11—Leave out "ten" and insert "eight".

My amendments deal with the question of penalties in relation to maximum weights, or maximum mass, because of the change incorporated in the Bill from "weight" to "mass". The increases in penalties in the Bill are harsh and completely unreasonable. Some are increased four-fold, others are doubled, and in one case the penalty is increased from $4 to $10. It is hard to understand why the Minister is prepared to introduce such large increases, particularly, as I think the Hon. Mr. Burdett mentioned in the second reading debate, as this matter of weights is not directly related to road safety, whereas all the other penalties that have been increased by the Bill, and to which this place has now agreed in the earlier clauses, were directly related to road safety and its most important problem, drink-driving offences. Those aspects have little bearing on this matter.

It is pointed out that it is difficult for drivers or owners engaged in country activities to know exactly the position regarding weight when carrying stock or grain. No doubt others know more than I do about this and will make their contributions to this debate. My amendments acknowledge that it is proper that there should be some increase in penalties. I have simply doubled the old penalty rates. There has been no change in these penalties for about nine years, so an exact doubling is reasonable. To increase the penalties fourfold, in one instance, is quite unreasonable. I ask the Committee to consider the amendments and to support them.

The Hon. T. M. CASEY: I am sorry I cannot oblige the honourable member by accepting his amendments. It is a question of what is a fair and reasonable penalty, and I am not at liberty to make a judgment from my own point of view. I think it should be the responsibility of the Minister who introduced the Bill to decide the penalties. Much is involved here, as many vehicles are grossly overloaded and, if people are going to overload their vehicles to such an extent, they should be penalised. The minimum penalty in this respect is $2, and in most cases the court will not impose more than the minimum fine.

The Hon. J. C. Burdett: It will go somewhere between the minimum and maximum in most cases.

The Hon. T. M. CASEY: I agree with that. For those reasons, I cannot accept the amendment.

The Hon. M. B. DAWKINS: The Minister said that this is a case of what is fair and reasonable. This is unfair and unreasonable, for the reasons to which the Hon. Mr. Hill has referred. When moving the amendments, the honourable gentleman said that, because of the nine-year period that has elapsed since the penalties were fixed, a doubling of those penalties is reasonable. However, as the Hon. Mr. Hill said, what the Minister seeks, in going further than that, is unreasonabe. It is difficult in many areas, particularly in the country, for one to be completely accurate regarding the exact weights to be carried by vehicles. I said during the second reading debate that, if people deliberately overloaded, they should be penalised. However, when overloading occurs inadvertently or because of a miscalculation, these penalties would be unfair and unreasonable. For that reason, I strongly support the amendments.

The Hon. J. C. BURDETT: I, too, support the amendments. It is not realistic to have regard to the minimum penalty only. Parliament sets a minimum and a maximum penalty, and the court has regard to both. The penalty that is imposed is usually somewhere between the minimum and maximum penalties. Courts regard the minimum and maximum penalties set by Parliament as the area within which they can operate.

Under the Act, the owner of an offending vehicle is also liable, although he may be completely innocent, having perhaps instructed his driver not to overload. Although the driver might be many miles away, out of the owner's control, the owner would still be liable. That provision has been in the Act for some time. In cases where no danger occurs because of overloading, the penalty should not be excessive. It is excessive to increase that penalty four-fold, but to double the penalty is reasonable.

The Hon. A. M. WHYTE: The penalties are sufficiently fierce for a real offence but not for an offence that is committed inadvertently. A penalty of not less than $2 and not more than $10 for every 50 kilograms of the first tonne of mass carried in excess of the permitted maximum is completely excessive. It is not difficult for a person loading wheat to have one load within the weight limit and, because of a variation in the quality of the wheat, to find the next load weighing in excess of the permitted mass.

The Committee divided on the amendments:

Ayes (10)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, C. M. Hill (teller), D. H. Laidlaw, and A. M. Whyte.

Noes (10)—The Hons. D. H. L. Banfield, F. T. Blevins, T. M. Casey (teller), B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, Anne Levy, and C. J. Sumner.

The CHAIRMAN: There are 10 Ayes and 10 Noes. To enable the amendment to be considered by the House of Assembly, I give my casting vote in favour of the Ayes.

Amendments thus carried; clause as amended passed.

Remaining clauses (98 to 127) and title passed.

Bill read a third time and passed.

VALUATION OF LAND ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 25. Page 2487.)

The Hon. J. C. BURDETT: I support the second reading of the Bill, although I had grave doubts when I first saw it. I have read the case referred to in the Minister's second reading explanation; that was a case where 1 000-year leases, 166 of them, were granted in respect of a parcel of 91 acres (about 37 hectares) of land contained in one certificate of title. The land was on the seafront. On the date of the leases, the relevant planning legislation was the Town Planning Act, which did not prohibit leases without consent; the more recent Planning and Development Act does. The leases were entirely legal and proper in every sense at the time when they were granted. Many such leases were issued prior to the time the Planning and Development Act came into force.

In the case in question, the 166 parcels of land were valued separately. Mr. Justice Wells held that such assessments were not valid. It was common ground that, under the present law, separate titles for the 166 pieces of land could not be issued without consent, and consent was unlikely to be granted. His Honour had regard to this factor of inalienability. At 12 S.A.S.R., 494, he is quoted as saying:

One starts with this, that what is to be valued is not the inanimate, tangible thing, but rights in land.

As separate rights in the 166 pieces could not presently be granted, they could not be valued. The Minister's second reading explanation says that His Honour "placed a rather restrictive interpretation upon section 16 of the principal Act". I cannot agree with this. I would have thought that His Honour's interpretation was the only logical interpretation that could be placed on the section. However, we seem to be being told that, where the situation which I have described applies, it is only fair that the land should be able to be valued in separate pieces.

It could be urged that the land has already, through the leases, been, in a sense, alienated, and it should be able to be separately valued. If the only point is the question of alienability, I agree with the Bill. In cases such as this, where there is a long-term lease giving the lessee, as far as possible, all of the benefits of a fee simple title, it is only fair that when valuing the whole land, the Valuer-General should be able to have regard to the value of the separate portions. The titles are, as far as possible, equivalent to a fee simple title, anyway. But it should, in fairness, be remembered that they are not freehold titles. However, I have some misgivings. In some cases of areas where these leases were issued, restrictions have been imposed on the land use under the Planning and Development Act. In the case of land which was leased for the purpose of residence, the erection of residences has been prohibited.

It would be unfair if the unimproved value of this land could be assessed on the basis that residences could be erected. The object of a valuation is to assess the figure at which land can be sold. I agree that in these cases the question of alienability should be disregarded. But the question of land use should not be disregarded. It would be grossly unjust if the unimproved or any other value of the land could be lawfully assessed on the basis that it could be used for a purpose for which it cannot be used. As I understand it, the Bill would not have this latter effect. However, I would not like the public at large to be disadvantaged simply on the basis of my opinion.

I ask the Minister, when he replies to the second reading debate, to say whether the Government agrees that restrictions imposed by law on land use must be taken into account in assessing unimproved and other values. In particular, does the Government agree that, in making a separate valuation of a portion of land under this Bill, the valuation must be made having regard to any legal restrictions on land use at the time of valuation? The matters raised in the second reading explanation apply only to valuations for land tax (now abolished in regard to rural land), water rates, and district council rating. In the case of death duty, gift duty, and stamp duties, what is valued, in a case such as the case cited, is the reversion, in the case of the interest of the tenant in fee or the leasehold interest in the case of the lessee.

The other point that concerns me is that the Minister's second reading explanation says that it is necessary for the Valuer-General to exercise his power to make a separate valuation of portion of a larger holding (*a*) where the land is under separate occupation and (*b*) in cases, such as those arising in the South-Eastern Drainage Act and, if required, in the Local Government Act, where the Valuer-General may have to make a valuation of a portion of land notwithstanding that it does not form a separate holding.

I refer to the situation where the portion is under separate occupation. Some of the 166 leases in the case cited in the second reading explanation had been disposed of to various persons who purchased the leases and entered into occupation of the land. In that case, it is proper that the Bill should be passed and those pieces should be able to be valued separately. However, some of the 166 leases still belong to the company; the land is not fenced, and there is no separate physical occupation. To make the matter clear, I intend, during the Committee stage, to insert in clause 4 (2) (*b*) the word "physical" after "separate". This will make clear that, simply because the land is under separate legal occupation, that does not mean that a separate valuation can be made. However, if it is under separate physical occupation, it can be separately valued. I hope the Minister will answer the questions I have raised. I support the second reading of the Bill.

The Hon. T. M. CASEY (Minister of Lands): The Hon. Mr. Burdett has gone to much trouble to ascertain exactly how the amendments in the Bill will operate. He has asked whether the Bill alters or changes the requirement that the restrictions imposed by law on the use of land must be taken into account when a valuation of the land is made by the Valuer-General. I assure the honourable member that this Bill does not change the requirement for the Valuer-General to take into account restrictions imposed by law upon the use of land when valuing any land.

The honourable member also asked whether separate leases in the same occupation would be separately assessed. The Act provides for any land to be valued conjointly with other land, and this would usually be the case of leases in the same occupation except where, for example, an owner or occupier requests separate valuations to be made. These requests generally concern some personal or family arrangements or for other reasons separate rating valuations are required.

Also, the Hon. Mr. Burdett has indicated that he intends to move an amendment to clause 4, namely, to insert in new section 16 (2) "physical" after "separate". "Occupation" in its actual sense applies when a person exercises physical control over land and in the law of rating signifies actual use and enjoyment of the land as distinguished from mere possession. "Occupier" as defined in the Local Government Act means any person who, either jointly or alone, has the actual physical possession of any land to the substantial exclusion of all other persons from participating in the enjoyment thereof. Such an amendment would have the effect of emphasising the physical effect of the occupation and, as it does not seem to upset the purpose of the Bill, I would have much pleasure in accepting such an amendment.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—"Valuation may be separate or conjoint."

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

Page 2, line 7—After "separate" insert "physical".

Most of the cases indicate that occupation means physical occupation. However, there are some cases that tend to indicate the contrary. Therefore, out of an excess of caution, I thought it worth while to move this amendment. As the Minister has said, the amendment emphasises the effect of the physical element in occupation.

Amendment carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

INDUSTRIAL SAFETY, HEALTH AND WELFARE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 24. Page 2428.)

The Hon. D. H. LAIDLAW: I support the second reading. My colleagues in another place moved a number of amendments which were defeated. However, I do not intend to persist with those amendments in this place. I should like to comment on two aspects of the Bill, which deals with a variety of provisions intended to correct certain anomalies in the Act, which was promulgated in 1972. The aims of the principal Act are complementary to those of the Workmen's Compensation Act, amendments to which we have been debating harmoniously this evening.

The best way to reduce compensation premiums is, of course, to prevent injuries at work, and that is the purpose of the Act, amendments to which we are now debating. I refer, first, to the redefinition of "worker" in clause 3. The term now includes any person employed for reward in an industry, industrial premises or on a construction site, whether or not there was a master and servant relationship between the employer or occupier and the worker.

I endorse the wider interpretation, which covers, for example, the electrician's apprentice who may be doing some maintenance work at, say, the General Motors-Holden's plant at Woodville. That company will now, under these amendments, have responsibility for its apprentices' safety. In turn, apprentices must conform to the safety rules of the company's factory. This will help to solve many problems that I have seen occur over the years in factories when subcontractors have come in and paid no heed whatsoever to the general safety rules of the factory.

My second comment concerns clause 18, which inserts new section 29a in the Act. That new section provides that every employer with 10 or more workers shall prepare a statement which he must communicate to his workers, or which he must post on the notice board, setting out the arrangements that are in operation to maintain the safety and health of his workers. This seems to be a reasonable provision.

There is no reason why the Employers Federation or the Chamber of Commerce and Industry cannot help small employers to prepare standard statements, which can be circulated or amended, as the case may be, to suit the conditions obtaining in various workshops. This is a good move, which will help with safety. I therefore support the second reading.

The Hon. N. K. FOSTER: I have just had an opportunity to have a quick look at the Bill, the passage of which I commend to honourable members. There is an old saying that familiarity breeds contempt. I suppose that is true, although in this day and age we can safely say that in some cases it breeds absolute indifference. It is that indifference to which I refer and which involves workmen and people associated with an ever-continuing production line method of work that does not change from day to day and that cuts corners, as a result of which injuries are often sustained. However, that is not the reason why I am now speaking. I am doing so because of the ever-increasing incidence of a creeping paralysis that has been inflicted on some members of the community, be they employees or other people who are entrusted with or are forced to use insecticides.

Men in the farming community have for some years gone on using insecticides before feeling any ill effect therefrom. I refer, for instance, to the chemical phostoxine, which was used in the fumigation of grain. A number of people associated with this chemical lost their lives. Its real effects were not known. I remember going to the trouble of procuring at considerable cost a book from America, only to find that, before I received it, the book was completely out of date. Some West German and Dutch chemical factories are turning out all sorts of chemicals which are impossible to keep up with.

It is indeed unfortunate to find council employees and farmers in country areas being affected by, indeed, dying from toxic substances which they are led to believe by proprietary firms and businesses are safe. It is not clear in the labelling of such poisons and insecticides that ill effects can result from continual exposure to them. I know personally of one farmer who eventually died as a result of exposure to phostoxine. I know of one member of this Chamber who is concerned about a relative who has come into contact with the poison 1080.

Therefore, I hope that this very difficult problem can be paid some attention in the course of debating this Bill. Not only do people in rural and secondary industry come into contact with these products but also people involved in their manufacture and transportation. Indeed, even innocent people in the community, including children, can come into contact with these dangerous substances.

Regarding industrial safety, I am a firm believer that trade unions ought to pay close attention to this matter and that, were an accident is avoidable and can happen only where there is gross negligence on the part of the employer, it should be possible under the appropriate award to approach the Industrial Commission or relevant tribunal, if such an accident occurs, and to establish *prime facie* evidence of neglect on the part of the employer concerned. In those circumstances such an award provision should apply.

I will give one brief illustration. If men on a job die as a result of a trench collapsing, there being no shoring up whatever by timber or tubular methods, even though the necessary equipment is left near the site and is not being used, in such cases it ought to be provided in the award in question this is *prime facie* evidence of neglect on the part of the employer. Another example might involve an employee of the Hon. Mr. Laidlaw who climbs on to the asbestos roof of a factory falls through it and is killed; if no adequate warning notices have been erected, it ought to be *prime facie* evidence of neglect by the employer. I commend the Bill to the Council.

The Hon. R. C. DeGARIS (Leader of the Opposition): I rise to take up the point made by the Hon. Mr. Foster. I commend him for raising the question concerning certain insecticides and sprays that are used. I do not know that one can place any blame upon manufacturers in any way whatever, because there is a demand for certain insecticides to be used and, when there is such a demand, someone will develop something for that particular purpose. I believe that not enough is being done by Governments, whether Federal or State, in checking out thoroughly the effects of many of the insecticides being used, nor is enough being done to enforce protection of not only workmen but anyone who uses these particular chemicals for agriculture or any other purpose.

Indeed, I believe that in certain areas of this State there are general practitioners who probably know as much about the problems involved and things that happen in some of our orchard areas as do any of the researchers in medical

science anywhere in Australia. I believe there should be an examination made and a collation of the material so that the problems involved in this area can be understood. I believe there is a very big area that deserves attention by Governments whether State or Federal.

I commend the Hon. Mr. Foster for raising the question. I think it is a very important problem, and I would suggest to this Government, and Governments generally that more work should be done in this field, not only research work but also work on providing adequate warning and protection to people who, because of their occupation, are forced to use the chemicals in question.

The Hon. D. H. L. BANFIELD (Minister of Health): I thank the Hon. Mr. Foster and the Hon. Mr. DeGaris for raising this matter. I can assure them that the Government will consider the points they have raised.

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

PAY-ROLL TAX ACT AMENDMENT BILL (NO. 2)

Adjourned debate on second reading.

(Continued from November 30. Page 2552.)

The Hon. R. C. DeGARIS (Leader of the Opposition): The present annual deduction is, for the purposes of pay-roll tax, $41 600 and this reduces by $2 for every $3 by which a pay-roll liable to taxation exceeds $41 600, and it comes down to a minimum deduction of $20 800. What the Government proposes in this measure is to lift the proposed deduction to $48 000 and then gradually reduce the statutory deduction of $48 000 down to $24 000 in the same way. The Government says that it has introduced this measure because of the inflation rate, the increase in wages, and so on, and according to the second reading explanation, that it will result in a decrease of about $1 000 000 in the collection of pay-roll tax. However, what the second reading explanation should say is that, because of this measure the Government will be collecting $1 000 000 less than it would have collected if the measure had not been introduced.

I would accept that but, in aggregate, the Government will still collect more in pay-roll tax this year than the actual estimate made at the beginning of the year. The legislation is due to come in on January 1, 1977, and therefore it is necessary to introduce an interesting formula, in clause 5. As I understand it, it means that the formula, which takes into account the change of the annual deduction from $41 600 to $48 000, does that in two sections of the financial year—from the end of June to the end of December, and from January 1 to June 30—combines them into one formula, and works out the actual tax paid. I have not done a sum on that but I accept the fact by just looking at these figures that it is a reasonable means of making an assessment. There are one or two other minor amendments (including the fact that cents are now discounted in tax, which is sensible) that one can support. I see no reason to speak further on the Bill except to say that, although it is of some benefit, it still does not go far enough.

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

COMMUNITY WELFARE ACT AMENDMENT BILL

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

The Hon. D. H. L. BANFIELD (Minister of Health): I move:

That this Bill be now read a second time.

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

Leave granted.

EXPLANATION OF BILL

This Bill seeks to amend the Community Welfare Act, 1972-1975, in a number of ways to deal with matters that have arisen since the legislation was enacted. The most significant of the amendments relate to the licensing of baby sitting agencies and children's homes caring for young people up to 18 years of age. The Bill would prohibit the advertising of child-care services unless the prospective carer has been licensed or approved by the Director-General. It contains new and amended provisions for the protection of children. These latter provisions incorporate recommendations made in the report of the advisory committee chaired by Judge Murray which inquired into the problems of non-accidental physical injury to children. The maltreatment of children is recognised as a serious problem in our community, and the recommendations that have been incorporated in the Bill are designed to provide a legislative base for effectively dealing with this problem on a co ordinated basis.

Clause 1 is formal. Clause 2 provides that the Act shall come into operation on a day to be fixed by proclamation. Clause 3 seeks to amend headings set out in section 4 of the principal Act so that they are in accord with the various amendments proposed in the Bill. Clause 4 (*a*) seeks to insert in section 6 of the principal Act a definition of "baby sitting agency".

Clause 4 (*b*) would amend the present definition of "Children's home" so that it means any premises or place in which more than five children under the age of 18 years of age are maintained and cared for apart from their parents and near relatives. Clause 5 seeks to amend section 13 (2) of the Act by removing the restriction on the number of members who may be appointed to a Community Welfare Advisory Committee. Although the present maximum of six members allowed by the principal Act has been satisfactory for most advisory committees, there have been occasions when a better balance would have been achieved by the appointment of an additional member or members. Clause 6 seeks to amend section 40 (6) (*b*) of the Act by clarifying the right of a parent or guardian or the child if he is over the age of 15 years, to apply to the Minister for discharge of the child from temporary care and control.

Clause 7 seeks to amend section 49 (2) of the Act to clarify the right of a parent to apply to the Minister for an order that his child be discharged from the care and control of the Minister or that the child be placed in his care or custody. It also seeks to amend subsection (7) to provide that upon the hearing of an appeal under section 49, the court may, as an alternative to discharging the child from the care and control of the Minister, order that the child be placed in the care or custody of the applicant.

Clause 8 is consequent upon clause 4 (*b*). The effect would be that children's homes caring for more than five children under the age of 18 years, apart from their parents and near relatives, would be subject to licensing

by the Director-General. There has been a fairly rapid increase in the number of homes in the community caring for young people in the 15-18 years age bracket. It is obviously important that these homes should provide acceptable standards of care, and this can be ensured by requiring that they should be licensed. Clause 9 seeks to amend the heading immediately preceding section 66 of the Act so that it applies to approved family day care premises as well as to licensed child-care centres.

Clause 10 seeks to amend section 69 of the principal Act so that the requirement to keep a register containing particulars of children in care shall apply to family day care givers as well as to licensees of child-care centres. Clause 11 seeks to extend the provisions of section 70 of the principal Act giving powers of entry and inspection so that they will apply to approved family day care premises as well as to child-care centres. Clause 12 (*a*) seeks to amend section 71 (1) of the Act to clarify further the circumstances in which the Director-General may approve premises which are not required to be licensed under the Act and in which the applicant proposes to provide care for up to three children in a family environment.

Clause 12 (*b*) seeks to clarify that family day care in approved premises may be provided as part of a programme conducted by the Director-General or by private arrangements made by the parents or guardians of the children. Clause 13 seeks to provide for the licensing of baby sitting agencies. Following a serious incident in another State, considerable concern has been expressed about the care of children left with unsuitable baby sitters. At a meeting held on March 15, 1976, representatives of baby sitting agencies requested that agencies should be licensed by the department. Proposed new section 71a, provides that all agencies that provide baby sitting services for monetary or other consideration must be licensed by the Director-General. The provisions of the Bill would not affect situations where the baby sitting is arranged privately between the parties. Subsections (2) and (3) of the proposed new section 71a, provide for the licensing of baby sitting agencies on an annual basis and subject to such terms and conditions as the Director-General specifies in the licence.

Subsection (4) provides for a penalty not exceeding $200 for contravention of any condition upon which the licence is granted. New section 71b, provides that the Director-General may cancel a licence if he is satisfied that proper cause exists. Subsection (2), (3) and (4) of the section provides certain safeguards to the licensee, principally a right of appeal to the Minister. New section 71c, requires that the licencsed baby sitting agency shall maintain records and produce these for inspection when required by the Director-General or an authorised officer.

Clause 14 seeks to repeal the present subdivision 7 "Protection of Children", including sections 72 and 73 of the principal Act. Clause 15 seeks to insert a new section 75a, which would prohibit the advertising of child care services for children under the age of six years away from their ordinary home, unless the proposed premises have been licensed or approved by the Director-General. Clause 16 seeks to insert a new Division III in Part IV of the principal Act, with the heading "Division III—the Protection of Children". Subdivision 1 of the new division relates to the establishment of regional panels. New section 82a, provides for the Minister to divide the State into regions and to establish a panel for each region. Each panel would consist of five persons: one nominated by the Director-General of Community Welfare, one by the Mothers and Babies Health Association, one by the Commissioner of Police, one to be a legally qualified medical practitioner, and one to be experienced in child psychiatry and nominated by the Director-General of Medical Services. New section 82b, provides that a decision in which the majority of the members concur shall be a decision of the panel. New section 82c, sets out the functions of a regional panel. New section 82d, subdivision 2, "Notification of Maltreatment". deals with notifications of maltreatment of children. Subsection (1) provides for notifications of suspicions of maltreatment to be made to officers of the department.

Subsection (2) extends the classes of person who are obliged to make notifications to include legally qualified medical practitioners, registered dentists, registered or enrolled nurses, registered teachers, members of the Police Force, employees of agencies established to promote child welfare or community welfare, and any other persons of a class declared by regulation to be a class of persons to whom the section applies. Subsection (3) requires the notification to be accompanied by a statement of the observations and opinions on which the suspicion is based. Subsection (4) provides that the officer of the department who has received the notification shall as soon as practicable report the matter to the appropriate regional panel. Subsection (5) provides indemnity to any person who makes a notification in good faith so that he incurs no civil liability in respect of that action.

New section 82e, under a new heading "Subdivision 3—Offences Against Children", makes it an offence to maltreat or neglect a child or to cause the child to be maltreated or neglected in a manner likely to subject the child to unnecessary injury or danger. It provides for a penalty not exceeding $500 or imprisonment up to 12 months. Subsection (2) provides that proceedings for an offence against this section shall not be commenced except upon the written authorisation of a regional panel. New section 82f, under a new heading "Subdivision 4—Temporary Custody of Children", seeks to provide that where a child has been admitted to a hospital or a prescribed institution, and the person in charge suspects that an offence against this Division has been committed in relation to the child, the child may be detained against the will of a parent or guardian in the hospital or institution for up to 96 hours. Clause 17 seeks to insert a new section 90 in the principal Act to provide that the Minister may continue to carry on any business, trade or industry on any Aboriginal reserve or land which previously constituted an Aboriginal reserve, with a view to passing control to Aboriginal people at some later date.

The Hon. J. C. BURDETT secured the adjournment of the debate.

STAMP DUTIES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 30. Page 2552.)

The Hon. R. C. DeGARIS (Leader of the Opposition): In South Australia we have the highest charges in Australia as far as stamp duty on land transfer is concerned. That cannot be denied by looking at the figures. As the Chief Secretary knows, I do not make mistakes in dealing with matters of this nature. The history of the savage increases in stamp duty on land transfer goes back to 1971, when the first Bill was introduced making savage increases in stamp duty on land transfer.

The Hon. N. K. Foster: Give comparative figures for the States.

The Hon. R. C. DeGARIS: I will. How long have you got? I will give you the lot, if you want them. This Council took action in 1971 correctly and demonstrated that the proposed increases in that Bill were much higher than the Government claimed in the second reading explanation, where it claimed that, by the increase in duty, it would achieve an increase in revenue of $4 150 000. On the figures we did on the Bill, it looked as though the Government would raise over $6 000 000 on the increase in stamp duty charges. In those circumstances, even though it was a money Bill, I believe the Council was correct in amending it back to what the Government said it required in terms of money from the increase. The Premier at the time objected strongly that the Council had interfered with a money Bill. At the conference, the Council achieved considerable reductions in many of the charges, including a reduction in stamp duty on land transfer.

However, even after those amendments were accepted, the increase in stamp duty, because of that Bill, was about $6 000 000. So the work done by the Council on the Bill was accurate. If a Bill goes beyond the second reading stage, even though it be a money Bill, the Council has an absolute right and duty to prevent the Bill passing in its original form. Then, in 1973, once again the stamp duty Bill came through, this time increasing the total revenue by $6 150 000, so we can see that over the last four years the Government has had a fairly substantial dip into the stamp duty revenue, and particularly stamp duty on land transfers, most of which take a fair slice out of the pockets of young people establishing new homes.

I will quote one set of figures only. On a land transfer of $60 000, the stamp duty in Victoria is $1 200; in New South Wales it is $1 200; in Western Australia it is $875; in Queensland it is $750; in Tasmania it is $882·50; and in South Australia it is $1 610. So the stamp duty payable in South Australia on land transfer is virtually double that payable in Western Australia, Queensland, and Tasmania, and it is one-third higher than Victoria and New South Wales. The Bill reduces stamp duty from $1·25 for each $100 of the consideration. Between $12 000 and $20 000 the stamp duty will be $120 plus $2 for every $100 above $12 000 whereas, at present, it is $150 plus $2·50 for every $100. The effect of the amendment to the principal Act will mean that the transfer of property worth about $20 000 will involve a saving of only about $80.

This still leaves South Australia higher than any other State in Australia except Victoria. Even under the Bill, if the figure is above $40 000 South Australia again becomes the highest stamp duty State in the Commonwealth. As the Bill makes some reduction in the amount of stamp duty up to about $40 000, it must be supported, but I stress that, during the passage of the 1971 Bill and the 1973 Bill, this Council fought strenuously to prevent this sort of impost in the land tax area between, say, $12 000 and $40 000, especially in respect of the impact on young people buying houses.

While we have been saying this for the last four years, I believe that the Government has been slow in recognising this problem. Although there is a reduction, we are still the highest taxing State in this area in the Commonwealth. There are one or two other matters to which I should like to refer. The first Bill that came in was the Bill from another place, and I intended to move an amendment to it. Subsequently a Council Bill has been introduced and the amendment I intended to move is no longer necessary.

Clause 4 tries to overcome the problem in land transfer where the amount is broken up into a series of small transfers with the idea of avoiding the correct duty. I do not object to that but, when I first read the Bill, I was concerned about whether this provision overcame the problem. I now realise that it overcomes that problem but does it catch other people who may not be trying to avoid the proper duty? I think it does but I ask the Minister to examine this aspect. Clause 4 (*c*) (1a) provides:

> (*a*) land or interests in land is or are conveyed between the same parties by separate conveyances;
>
> and
>
> (*b*) the conveyances have been, or appear to have been, executed within twelve months of each other,
>
> it shall be presumed, unless the Commissioner is satisfied to the contrary, that the conveyances arose out of one transaction, or one series of transactions.;

The Bill introduced in another place was unacceptable because I believe it caught the genuine person who was not seeking to avoid the proper duty, although it also did catch the person who was trying to avoid the duty. This Bill now seems to overcome that problem, but I am not yet completely satisfied. I draw the attention of the Council to this aspect. For example, a person may buy three separate blocks from a family. Where there are three clearly genuine separate transactions, would he be caught under this provision?

The Hon. R. A. Geddes: Is there not some form of appeal to the Commissioner?

The Hon. R. C. DeGARIS: Although there is some form of appeal to the Commissioner, should it not be the other way around? Should not the onus of proof be on the Commissioner?

The Hon. J. C. Burdett: It makes no difference, because it is only a matter of his being satisfied. It does not matter which way it is put, because there is no onus of proof.

The Hon. R. C. DeGARIS: I merely seek assurance on this aspect to ensure that the provision is satisfactory in all respects so that it does not catch the person who is not trying to avoid the proper duty. I seek leave to conclude my remarks.

Leave granted; debate adjourned.

DEFECTIVE PREMISES BILL

Consideration of the House of Assembly's message: that it had disagreed to the following amendments made by the Legislative Council:

No. 8, Page 2, line 13 (clause 4)—Leave out "five" and insert "two".

No. 11, Page 2, line 18 (clause 4)—After "(*a*)" insert "not more than two years".

Amendment No. 8:

The Hon. D. H. L. BANFIELD (Minister of Health): I move:

That the Council do not insist on its amendment No. 8.

The first amendment is in respect of a reduced period from five years to two years. This aspect was debated fully when the Bill was before the Committee. The second amendment concerns the report from the soil consultant.

The Hon. D. H. LAIDLAW: This amendment deals with the period during which subsequent owners can have the right to sue and join the builder and/or the consultant or architect. I am sorry that another place will not accept the amendment. Since that other place has accepted some other amendments, I support the motion.

The Hon. J. C. BURDETT: Regarding the question of reducing the five-year period to a two-year period, I point out that the provisions do not bind the Crown. This Bill

raises the question of civil liability; it does not bind the Crown in respect of this clause. It seems wrong if the South Australian Housing Trust does not give home owners the same protection that is given to them by private builders. Will the Minister responsible for the Housing Trust see that the trust voluntarily gives people who purchase houses from the trust the same protection given through this Bill to people who purchase houses from private builders?

The Hon. D. H. L. BANFIELD: I will refer the point to my colleague.

Motion carried.

Amendment No. 11:

The Hon. D. H. L. BANFIELD moved:

That the Council do not insist on its amendment No. 11.

Motion negatived.

MOBIL LUBRICATING OIL REFINERY (INDENTURE) BILL

Adjourned debate on second reading.

(Continued from November 30. Page 2572.)

The Hon. D. H. LAIDLAW: The objects of this Bill are, first, that concessions on inward and outward wharfage rates granted to Petroleum Refineries of Australia with respect to the oil refinery at Port Stanvac should be extended also to the Mobil lubricating oil refinery, which has been constructed on an adjacent site.

Secondly, $190 000 shall be paid to the City of Noarlunga under this Bill in lieu of rates for 1976-1977, and this annual levy shall be indexed hereafter in accordance with movements in rates in three parts of the council area.

There is one unfortunate aspect of this Bill, and it may well affect industrial development in this State. It is that the owners of this refinery believe that they have been unfairly treated. Honourable members should focus their attention on this problem.

We have spent some time in the past two weeks sharing the concern of the Hon. Anne Levy about the sanctity of my lady's chamber; that is a sensitive area but so, too, is industrial development. I was Deputy Chairman of the State Industrial Development Advisory Council for five years from 1970 to 1975 and, although the Labor Government and the council tried hard to attract new industries, as I recall, the one worthwhile new industry commenced during this period was the Mobil lubricating refinery. With the advantage of a deep-water berth offshore, the Government may be able to persuade Petroleum Refineries of Australia or Mobil to expand again on this excellent site.

Unfortunately, a controversy has existed for years regarding the payment of the annual levy in lieu of rates by Petroleum Refineries of Australia to the City of Noarlunga. The original indenture Act was passed in 1958, and the rate was set at $20 000 a year. It remained unaltered for 14 years until last year, when it was raised to $35 000 a year, and it is now subject to annual adjustment.

This seemingly low amount in lieu of council rates was probably offered by the Playford Government as one of the inducements to attract a refinery to Adelaide. I well recall the persistent efforts of Sir Thomas Playford at that time to gain this industry for South Australia. There is nothing improper in a Government's offering inducements such as low rates to attract a large industry; all other State Governments, of whatever political persuasion, do likewise. However, I object strongly to the habit of Governments in offering reductions in council rates and other rates, and then ordering the council concerned to adhere to this reduced scale.

This factor often leads to friction between local residents and an industry in the area; this friction is the fault of a third party, the Government. In these situations (and there is a similar problem at Apcel at present) the council should be free to charge the standard rates, and the industry should pay these; the Government should then reimburse the industry annually for the difference between the standard rate and the concessional rate. The council need not even know the terms of the concessions granted, although they would presumably be stated in the indenture Act.

With regard to this case, the City of Noarlunga stated in 1974 that, based on the predicted value of $40 000 000 for the lubricating refinery, it should receive an annual levy in lieu of rates of $220 000, using a scale for farmland of 11c.

I submit that, if the proclaimed basis of calculation was correct (and it is high compared to rates charged to other industry in the area) the City of Noarlunga should have been free to charge that fee, and Mobil should have paid. Mobil should then have been free to negotiate with the State Government as part of the agreement to build a lubricating refinery at Port Stanvac, and the Government should have paid the balance to Mobil.

The Hon. M. B. Cameron: This is setting a bad precedent.

The Hon. D. H. LAIDLAW: I certainly agree with that. Instead of this, the Government set a rate of $190 000 a year from Mobil for the lubrication plant, added to which is $35 000 from the P.R.A. Oil Refinery. This means that the council will receive $225 000 in the base year, and this is subject to escalation.

Mobil objects strongly to the basis of calculation set by the Government. It was based on a comparison with rates paid in Victoria. These include P.R.A. Altona $287 280; Shell Corio $553 980; B.P. Hastings $236 600; and Esso Hastings $280 735. In contrast, Amoco's refinery in Brisbane pay only $24 000 and Ampol $8 800. The Victorian calculations were based on land values plus the cost of construction but, as these refineries were constructed up to 20 years ago, the replacement value would be many times the original cost.

As a result, the South Australian Government, in an apparent effort to satisfy the city of Noarlunga, has used an illogical basis of taking values set as long as 20 years ago and applying them to a refinery built at present-day costs. The figure of $190 000 is illogical. I am aware that the Select Committee recommended acceptance of these terms in another place, despite protests from two of the Select Committee's four members. Therefore, I shall not oppose this Bill or try to amend it. I hope, however, that the Government will consider my comments and reconsider the method of granting of concessional rates for new industry, in an effort to avoid frictions that so often occur between local residents and a new industry. I support the second reading.

The Hon. R. C. DeGARIS (Leader of the Opposition): I will be brief, although I should like to take up a point made in the debate by the Hon. Mr. Laidlaw, whom I congratulate for making it. This is a point that I have made previously in the Council. I stress it again because it is a valid point. In many of these industries that the State wishes to protect, Parliament examines the matter. An indenture Act is introduced in which the amount of rates chargeable by a council is fixed.

If the Government wants to attract industry to this State, which is its right (indeed, it should be doing so), it should not be Parliament's responsibility to determine the rates to be paid to councils. The normal processes of the Local Government Act should be allowed to flow. The industry that is established should be assessed by the normal means, and a rate struck in the normal way. The Government, if it wants to keep the rates payable by an industry at a certain level, should say to that industry, "Your payment to the council will be so much, and we will subsidise everything over that sum." Some industries which are assessed under the Local Government Act and which pay a certain amount for rates are not protected. Another industry that should be assessed much more highly is protected by an indenture and, therefore, pays less rates. This is unfair when the council is the authority making the concession.

A totally new policy should be adopted in these matters where the indenture Act does not cut across the normal process of assessment by a council. I do not object to the fact that some industries deserve assistance in their establishment and, perhaps, in their continuing operation. However, I am arguing that the system is wrong. Once again, I urge the Government to examine this position and to come up with a completely new policy in relation to concessional council rates payable by industries that it wishes to sponsor.

The Hon. D. H. Laidlaw: It would save the time of the Select Committee that we have just had.

The Hon. R. C. DeGARIS: That is so, and people would know from the Budget of the sum of money that was to come from the public purse, and not from the ratepayer's purse, to subsidise an industry. I do not want to name industries, but I refer to an industry with a capital value of, probably, $20 000 000, which is paying less rates than farmers in the same area. That is wrong.

The Hon. M. B. Cameron: They have other advantages, too.

The Hon. R. C. DeGARIS: That is so. I also take the point that the Hon. Mr. Laidlaw took. The rates payable by this industry are probably more than they should be. Nevertheless, that is another point, which has been examined by the Select Committee. The recommendation has been made, and I do not intend to move an amendment on that score. However, I stress the point which I have made previously and which the Hon. Mr. Laidlaw has made: that the system now operating is one which I cannot support.

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

RAILWAYS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 25. Page 2496.)

The Hon. M. B. CAMERON: This is a short Bill that has relatively simple aims. The Minister said in his second reading explanation that one of the main purposes of the Bill was to provide a more informative system of accounting by the State Transport Authority. I am sure that all of us will appreciate this because anybody who has attempted to follow the railways accounting system through the Auditor-General's Report or other documents this year would know the difficulties that are faced by honourable members. It has been extremely difficult and, if this Bill does assist in providing better information, it will be very welcome indeed to the Opposition because we have had some difficulty in determining what has been happening to railway deficits and revenue. The Bill is a relatively short one and I can see no problem with it and I support the second reading.

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

REGIONAL CULTURAL CENTRES BILL

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

The Hon. B. A. CHATTERTON (Minister of Agriculture): I move:

That this Bill be now read a second time.

It provides the legislative framework within which regional cultural centres may be established as and when required in this State. Since of their nature the scope and functions of regional cultural centres may vary, this measure can do little more than establish a framework leaving the precise functions of each cultural centre to be filled out by regulations which are of course subject to disallowance in this Council. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading them.

Leave granted.

EXPLANATION OF CLAUSES

Clauses 1 and 2 are formal. Clause 3 sets out the definitions necessary for the purposes of the measure. Clause 4 provides that the Governor may be proclamation designate a place within the State in relation to which a regional cultural centre may be established. Clause 5 provides that upon the designation of the place a trust will be established by the Governor consisting of six trustees of whom two are to be appointed on the nomination of the local authority within whose area the regional cultural centre is to be established. A "right of recall" is provided at proposed subclause (4) for a council in relation to its nominated trustees.

Clause 6 merely deals with the situation where a regional cultural centre is proposed to be established outside the area of any council. Clause 7 provides that each trust will be a body corporate with all the usual incidents of such a body and clause 8 sets out in broad terms the powers of the trust. Subclause (3) of this clause makes clear that accommodation in the centre can be made available to libraries established or subsidised under a law of the State.

Clause 9 provides for meetings of the trust and is in the usual form. Clause 10 provides for the trustees to be remunerated out of the funds of the trust at such rates as are approved by the Governor. Clause 11 is a validating provision in the usual form. Clause 12 enables the trust to employ such people as it thinks necessary. Clause 13 is commended to honourable members' particular attention as it gives power to the trust to borrow against a Treasury guarantee.

Clause 14 grants certain exemptions from stamp duty, succession duty and gift duty on gifts or devises to a trust. Clause 15 provides machinery for the Governor to dissolve a trust in appropriate circumstances. Clause 16 is formal. Clause 17 provides what might appear in the circumstances to be a very wide regulation making power but is proposed because of the variation in the activities that will be stimulated by the various regional cultural centres.

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

RACIAL DISCRIMINATION BILL

Adjourned debate on second reading.

(Continued from November 25. Page 2500.)

The Hon. J. C. BURDETT: I support the second reading of this Bill. I agree that discrimination on the grounds of race is the most obnoxious form of discrimination. The second reading explanation said that the recent enactment of the Sex Discrimination Act argues for the enactment of a new Act that follows rather more closely the form of that Act. This Bill does not in fact follow the form of the Sex Discrimination Act at all. It is basically and fundamentally different. The Sex Discrimination Act makes practically no act of discrimination an offence. In general the remedy is to apply to the Sex Discrimination Board for an order.

The main offence in the Sex Discrimination Act is the breach of the order. This procedure could have been followed in the Race Discrimination Bill, but it is not. The approach of the Racial Discrimination Bill is fundamentally different from the Sex Discrimination Act and it seems ridiculous to say that the Bill follows closely the same form.

I support the intention of the Bill but I consider it to be gravely defective in one important respect. It does uphold the rights of the person discriminated against on the grounds of race, but it tramples underfoot and completely ignores the rights of the person charged with the offence whether guilty or innocent.

I want to emphasise the next point because this is the only quarrel I have with the Bill. Clause 3 defines race in an entirely artificial way which is certainly in conflict with the accepted definition of race. Race of a person is defined to include the nationality, country of origin, colour of skin or ancestry of any other person with whom he resides or associates. Combine this with clause 5 (2), which provides that a person discriminates against another on the grounds of his race where his decision to discriminate is motivated or influenced by a number of factors, one of which is (*a*) the race of the person discriminated against, or (*b*) an actual or imputed racial characteristic appertaining or attributed to that person. So 1 per cent of the motive of the person discriminating could be the question of race, in the very wide sense already mentioned.

Add to this clause 11, which provides that upon *prima facie* proof of the charge a defendant is required to prove himself innocent, and you have an improper and most immoral situation. Which is worse—discrimination against a person on the ground of his race (according to its accepted sense) or discrimination against a person simply because he has been charged or a *prima facie* case made out which could be that 1 per cent of the discrimination was on the ground of race, and he has to prove himself innocent? I do not know. Racial discrimination is something which exists and we should try to prevent its evil effects. But we should not replace it with a grossly artificially introduced discrimination against the person charged which does not at present exist and need not be artificially introduced.

That would be to create a police state at least as bad as the situation in South Africa, referred to in the second reading explanation. I return to clause 5, which provides that a person discriminates on the ground of race if any part of his decision is motivated by race. There are some people who are in constant contact with persons of another race. Sometimes, they find that many members of that race do not behave themselves and they build up some prejudice against those persons. A prejudice is essentially something we cannot help. A person may be 99 per cent motivated to discriminate against another on entirely proper grounds but, because there is a 1 per cent prejudice on the ground of race, the person is guilty. This is quite wrong, in my view, and in the Committee stage I propose to move an amendment to provide, in effect, that the motive for discrimination on the ground of race must be substantial before the discrimination is regarded as racial discrimination. Anything else would be a violence to the English language, apart from anything else.

Clause 11 provides that, where the commission of an offence has been established on the balance of probabilities, the onus shifts to the defendant to establish that he is not guilty of the offence. This is somewhat euphemistically described in the second reading explanation as being "rather novel in the field of criminal liability". That must be the understatement of the year, using the term "criminal" in a broad sense to apply to the more serious class of offence. I think it is entirely novel completely to reverse the onus. There are a number of cases where, upon proof beyond reasonable doubt of the elements of the offence, the defendant must prove a defence on the balance of probabilities—for example, unlawful possession.

Upon proof beyond reasonable doubt of the fact of possession of goods and upon proof that they have in fact been stolen, the defendant must prove, on the balance of probabilities, that the goods were honestly come by. Another example relates to the offence of sodomy, which has been abolished. It was necessary for the Crown to establish every element of the offence beyond all reasonable doubt, but it was a defence for an accused person to prove on the balance of probabilities that an offence took place between consenting adults in private. It should be noted that this provision was not nearly as objectionable as the matter with which we are dealing now. Under this Bill nothing at all has to be proved beyond reasonable doubt. When the offence is proved on the balance of probabilities, the defendant must prove his innocence on the balance of probabilities.

As the second reading explanation somewhat blatantly states (and this is novel to say the least of it), usually this reverse onus is reserved for minor regulatory offences and, even then, generally only for certain elements of the offence. I applaud the object of the Bill, namely, to prevent racial discrimination, but I oppose those parts of the Bill that destroy the traditional theory of justice being the ultimate protection of a free society. To me, it is incredible that in the same Bill the Government rightly supports the great principle of racial equality but, at the same time, strikes a death blow to another great principle, that a man is innocent until proven guilty.

The reason given for casting the onus of proof onto the defendant is that the offence is hard to prove. That applies to many other offences, too, one of which we have considered a good deal recently being rape. However, no-one seriously suggests that, because of the seriousness and prevalence of the offence and the difficulty of proof, the onus should be changed or a serious risk run of convicting a person who is not really guilty of the offence. Another charge difficult to prove is sex discrimination, but that Act takes an entirely different approach and institutes a procedure whereby it would be almost impossible for an innocent person to be convicted. If the complete reversal of the onus of proof is accepted in this Bill, I am quite sure that that principle will soon be extended to other serious offences.

If I were satisfied that the reversal of proof would be confined to the disgusting crime of racial discrimination, I would not be so alarmed, but it will only be a matter

of time before people who become alarmed at the difficulty of proving many other quite unrelated offences will bring pressure to bear to extend the precedent. They will say to the Government, "You did it in the case of racial discrimination, why can't you do it in this case?" I support the second reading but I will, in Committee, introduce an amendment to clause 5, an amendment which I have already indicated, and I will oppose clause 11.

The Hon. C. J. SUMNER: I support the Bill and, in doing so, wish to make one or two comments about the changing nature of Australian society, particularly the change that has occurred in our society since the war. I am referring, of course, to the mass migration that has occurred since that time. The Prohibition of Discrimination Act was passed originally in 1966, and is usually cited in connection with discrimination against Aborigines. The four prosecutions that have occurred under the provisions of that Act were against people who refused Aborigines service in hotels. Not only does the question of discrimination apply to the original Australian (the Aboriginal): it is also important when referring to our migrant population. It is interesting to note some of the facts indicating the changing nature of our society since the Second World War. In 1947 non-British born people comprised 2·6 per cent of the population and they comprised 10·1 per cent of the population in 1966 but, by 1971, they comprised 11·1 per cent. About 26 per cent of the Australian work force was born outside Australia, but that figure includes people from the United Kingdom. Further, 3 100 000 residents of Australia came from 60 different countries. This information evidences the changed situation.

It is interesting to note that Melbourne is the third largest Greek city in the world behind Athens and Salonika. In many big industries there is a majority of non-English-speaking migrants, and in some schools in heavily-populated migrant areas more than 50 per cent of the students are migrant children. This legislation is enormously important, not just from the point of view of Aborigines but also in respect of migrants, especially non-English-speaking migrants, for whom there must be effective laws against discrimination on the grounds of race or country of origin.

The United Nations convention against all forms of racial discrimination was signed more than 10 years ago, but nothing was done in Australia about ratifying that convention by the Liberal and Country Party Government in Canberra. However, when the Whitlam Government was elected in 1972, action was taken to fulfil Australia's international obligations in ratifying this convention. South Australia under a Labor Government did what it could in 1966 by introducing the Prohibition of Discrimination Act. At the Federal level, ratification of the United Nations convention against all forms of racial discrimination took place in 1975 following the enactment of the Racial Discrimination Act which, in its schedule, contains that convention.

That legislation established the Community Relations Commissioner, and honourable members will realise that Mr. Grassby was appointed to that office pursuant to that Act. That legislation contains processes of conciliation to try to resolve complaints of discrimination but, if that cannot be done by conciliation, court action can be taken on the authority of the Commissioner by the person discriminated against. That Act deals with discrimination in respect of access to places and facilities, the purchase of land and housing, accommodation, goods and services, the right to joint trade union, and the right to equal consideration in employment.

Those provisions are similar to the provisions contained in this Bill. I believe that the Federal Racial Discrimination Act has an advantage over this Bill, in that a process is established whereby complaints can be made to the Commissioner. South Australia's legislation could be made more effective if a reference centre was set up to which complaints could be directed and where complaints could be investigated in a similar manner to that applying in respect of the Commissioner for Equal Opportunity under the Sex Discrimination Act.

This Bill deals with aspects of positive discrimination. It is necessary also to provide against discrimination by taking initiatives that do away with the disabilities applying to people of another race or people from other countries. In this respect, there is a need for Government action in connection with interpreter services in courts and hospitals. The State Government has set up a Government interpreter service. Obviously, interpreters are important in hospitals, particularly in the mental health field. The South Australian Government was the first Government to allow driving licence tests to be conducted in the native language of the applicant. Recently, the requirement for practical driving tests for people who hold licences granted by another country was abolished.

Consideration should be given to teaching migrant languages in schools. The South Australian Government has taken important initiatives in this area. Some schools with many migrant children are conducting classes at the primary level in the native language of the children and in English. It is also important to ensure that teachers and others dealing with migrants acquire the necessary expertise to cater for migrants' needs.

[*Midnight*]

Ethnic radio, which has been attacked by the Federal Liberal Government, should be fostered as another means of providing a positive inducement to migrants to feel that they are not discriminated against. There has been a change in our society from the emphasis that existed in the 1950's and the 1960's; then, the emphasis was on the homogeneous nature of Australian society and the implicit assumption of most Australians that migrants ought to adapt to our lifestyles and traditions, forgetting their own lifestyles and traditions and becoming part of the beer and meat-pie culture. That emphasis has now changed, and we are seeing the advantages of a more diverse pluralistic society where the interaction of cultures, languages and lifestyles is producing a more dynamic and creative community. So, we are now moving from the idea of a one-dimensional society to that of a multi-cultural society whereby individual migrant groups can feel free and proud to retain their languages, their traditions, and their cultures.

I turn now to the points raised by the Hon. Mr. Burdett, particularly in relation to clause 5, which provides that the discrimination or refusal of service shall be deemed to be discriminatory if race is one of the factors, and only one of the factors, in that refusal of service. Previously under the Act if it could be shown that, although a person had refused service on the grounds of race, if that was only one factor operating in that refusal no conviction could be obtained. The previous Act said that the refusal had to be solely on the grounds of race. Clause 5 is saying that, if race is one of the factors in the refusal, a conviction can

be sustained. The Hon. Mr. Burdett seeks to amend that, but I believe that, if his amendment is carried, it will lessen considerably the effect of the legislation.

The other matter to which he has drawn attention is clause 11, which he says is a departure from the general principle that operates in the criminal law. It is true that the clause as framed is somewhat unique, but there are examples of similar evidentiary provisions in the criminal law. One could refer particularly to the Lottery and Gaming Act, which provides that a *prima facie* case can be made out if a justice or magistrate hearing a complaint has a reasonable suspicion that the person is guilty of an offence. In the absence of any contrary evidence from the person charged, in the normal course of events the magistrate would convict, having established to his satisfaction a reasonable suspicion that the offence had been committed.

Clause 11 appears to be in a similar although not identical category to clause 105 of the Lottery and Gaming Act and, although unusual, is the sort of clause that may be necessary where proof is difficult without some evidentiary assistance. True, in other legislation evidentiary assistance is provided for. For instance, it is quite common for allegations in complaints to be *prima facie* evidence of the facts contained and to be established as such in the absence of any contrary evidence. That is another example of where evidentiary assistance is provided to the prosecution. This is necessary, especially in these offences where the facts are peculiarly within the knowledge of the accused and, unless there is some evidentiary assistance of this kind, it is impossible to obtain a conviction.

A similar situation obtains in relation to racial discrimination, and it is therefore necessary for there to be some statutory evidentiary assistance, such as clause 11. Because of what the Hon. Mr. Burdett has said, clause 11 may need to be examined more closely to see whether it can be amended perhaps to fit with some of my examples.

I have no doubt that evidentiary assistance of some kind is necessary to establish that offences have occurred under the Act. Whilst it may be necessary in Committee to examine clause 11, I definitely consider that a provision of this nature is warranted. I support the Bill.

The Hon. R. C. DeGARIS (Leader of the Opposition): Once again I shall be brief in my contribution on this Bill. I support the viewpoint expressed by the Hon. Mr. Burdett on the matter of onus of proof. Although I appreciate what the Hon. Mr. Sumner has said, I should have thought that the Hon. Mr. Blevins would complain about the reverse onus of proof and that the Hon. Miss Levy would complain about the discrimination between this Bill and the Sex Discrimination Act. One discriminates against the other. All honourable members, including the Hon. Mr. Blevins, have spoken on the matter of the reverse onus of proof, but I think the Hon. Mr. Burdett's viewpoint regarding this Bill should be followed.

There is no question, as the Hon. Mr. Sumner has said, that a great change has taken place in our society. One must agree that migration has had some effect in this respect. However, I can say that, from my knowledge of my own small community, I have never known of any racial discrimination to occur there. Although there have undoubtedly been examples of racial discrimination in other parts of the State, I can honestly say that, to my knowledge, there has been no discrimination on the question of colour in any way whatsover in my district.

There is a need in this matter (and if I am putting this rather crudely, the Hon. Mr. Sumner can correct me) for some sort of conciliation before a prosecution is launched. It seems to me to be dangerous to prosecute without there being some ability to conciliate on the matter. Other countries have handled this matter differently, having perhaps established a board of some kind that tries to assess all the facts involved before a prosecution is launched. This was virtually the tenor of the Hon. Mr. Sumner's contribution. To some extent, it operates in this way in relation to the Sex Discrimination Act, and I believe that such an approach would bear examination by the Government. With those few remarks, I support the second reading.

The Hon. A. M. WHYTE: I support the comments made by my Leader and, to some extent, the remarks made by the Hon. Mr. Sumner, but I wonder whether we are creating a situation in the legislation that does not really exist at present. If we place in the hands of people weapons that they need not necessarily use, we do not smooth out the situation. When speaking to another Bill earlier today, I quoted instances under the British Race Relations Act. I do not know whether the Hon. Mr. Blevins has seen this legislation operating.

The Hon. F. T. Blevins: What year was it introduced?

The Hon. A. M. WHYTE: It is not an old Act. In its first year of operation, 1 560 complaints were investigated, and no prosecutions launched.

The Hon. B. A. Chatterton: Was it 1970?

The Hon. A. M. WHYTE: No, somewhat earlier than that. My point is that, with a similar system in Australia, I believe that we would achieve more harmony than by having legislation that allows prosecution without some understanding of the case. There are many instances in which, I believe, a commissioner such as this could mediate and solve the problem satisfactorily, without having a prosecution, because, launching a prosecution and having someone summonsed is not the best way to make good friends. If the problem could be solved by an adjudicator outside the court, it would often become a forgotten matter.

The Hon. R. C. DeGaris: The board can recommend prosecutions.

The Hon. A. M. WHYTE: Yes.

The Hon. B. A. Chatterton: There have been some prosecutions in Great Britain since then.

The Hon. A. M. WHYTE: Yes. Those prosecutions the board recommends are always upheld in the court because it has justification for such prosecutions. Without condemning the Bill, apart from the reverse onus of proof provision, I recommend to the Government that such a system would be of great benefit in Australia, especially—

The Hon. R. C. DeGaris: Not with the reverse onus of proof.

The Hon. N. K. Foster: Leave him alone.

The Hon. A. M. WHYTE: Such a board, with commissioners stationed throughout communities in the State, would have a most beneficial effect on what is now going to be straight-out prosecutions. As I said earlier, the right to prosecute is one thing, but the need is another. It could be said that, in many instances, prosecutions and ill feeling would be avoided if we had a conciliator in the community. I support the Bill.

The Hon. J. E. DUNFORD secured the adjournment of the debate.

STATUTES AMENDMENT (CAPITAL PUNISHMENT ABOLITION) BILL

Adjourned debate on second reading.

(Continued from November 24. Page 2438.)

The Hon. F. T. BLEVINS: I support the Bill. My reasons for doing so are not necessarily because the available evidence seems overwhelmingly against its retention but because I cannot associate myself with the murder of a human being who is safely in custody and who is no further threat to anyone. I draw members' attention to the United Nations view on capital punishment, by seeking leave to have incorporated in *Hansard* a United Nations resolution that appears in the United Nations 1971 Year Book, at page 443.

Leave granted.

RESOLUTION

The General Assembly,

Recalling its resolution 2393 (XXIII) of 26 November, 1968, concerning the application of the most careful legal procedures and the greatest possible safeguards for the accused in capital cases as well as the attitude of Member States to possible further restriction of the use of capital punishment or to its total abolition.

Taking note of the section of the report of the Economic and Social Council concerning the consideration by the Council of the report on capital punishment submitted by the Secretary-General in implementation of the aforementioned resolution.

Expressing the desirability of continuing and extending the consideration of the question of capital punishment by the United Nations.

1. Notes with satisfaction the measures already taken by a number of States in order to ensure careful legal procedures and safeguards for the accused in capital cases in countries where the death penalty still exists;

2. Considers that further efforts should be made to ensure such procedures and safeguards in capital cases everywhere;

3. Affirms that, in order fully to guarantee the right to life, provided for in article 3 of the Universal Declaration of Human Rights, the main objective to be pursued is that of progressively restricting the number of offences for which capital punishment may be imposed, with a view to the desirability of abolishing this punishment in all countries;

4. Invites Member States which have not yet done so to inform the Secretary-General of their legal procedures and safeguards as well as of their attitude to possible further restriction of the use of the death penalty or its total abolition, by providing the information requested in paragraphs 1 (*c*) and 2 of General Assembly resolution 2393 (XXIII);

5. Requests the Secretary-General to circulate as soon as possible to Member States all the replies already received from Member States to the queries contained in paragraphs 1 (c) and 2 of resolution 2393 (XXIII) and those to be received after the adoption of the present resolution, and to submit a supplementary report to the Economic and Social Council at its fifty-second session;

6. Further requests the Secretary-General, on the basis of material furnished in accordance with paragraph 4 above by Governments of Member States where capital punishment still exists, to prepare a separate report regarding practices and statutory rules which may govern the right of a person sentenced to capital punishment to petition for pardon, commutation or reprieve, and to submit that report to the General Assembly.

When honourable members read the resolution, they will see what the United Nations *Universal Declaration of Human Rights* refers to in Article 3, the article mainly referred to in the resolution, which reads "Everyone has the right to life . . ." That resolution was in 1971, and by 1973 the last information the library can find on the matter from the United Nations was that the position was not very good from a humanitarian point of view. I seek leave to have inserted in *Hansard* pages 25838-9 of *Keesing's Contemporary Archives*, of April 16-22, 1973, without my reading them.

Leave granted.

KEESING'S CONTEMPORARY ARCHIVES

A. UNITED NATIONS.—Report on Capital Punishment in U.N. Member-States.

The U.N. Secretary-General issued in mid-March, 1973 a 27-page report on the policies and attitudes of the U.N. member-States towards capital punishment. Based on information supplied by 84 countries in response to a U.N. questionnaire, and on outside information regarding countries which did not reply, the report showed *inter alia* that only nine of the 132 U.N. member-nations had abolished capital punishment; that 15 U.N. members, among them the United Kingdom, did not inflict capital punishment save in cases of exceptional gravity, e.g. treason or piracy with violence; that in three countries with a federal form of government, including the United States, capital punishment was legal in some States and territories but not in others; and that in over 100 countries the death penalty could be imposed for ordinary crimes such as murder and rape, and in some cases for theft. Only seven countries, it was pointed out, had abolished capital punishment since the signing of the U.N. Charter in 1945.

Salient passages from the U.N. report—described as "the first report of its kind providing information from such a large majority of member-States"—are given below (cross-headings are those used in the report itself).

Introduction. ". . . Whilst the imposition of the death penalty for reasons of vengeance or revenge finds few, if any, advocates, and the notion of a premeditated judicial killing is generally abhorred, retributive justice and necessity in the public interest are still considerations which hold considerable sway. As new forms of terror and violence emerge in society, the tendency to revert to the death penalty as the main deterrent is conspicuously increased. There are large bodies of people and a wide range of authorities who believe that capital punishment is necessary either as a deterrent or at least as a matter of basic justice.

"Whether or not it really deters, the way in which States still use this penalty in times of emergency shows the persistence of its appeal. For every State Member of the United Nations devoted to the abolition of capital punishment in law or fact there would appear to be three others legally committed to its sanction and use—at least as a very last resort. Moreover, there are examples of some States abolishing the death sentence, but then returning to it . . . either because they see no adequate way of dealing with certain offences or because they feel the need for some final and extreme public denouncement of the particular behaviour for which the sentence is awarded . . ."

The United Nations. It was pointed out that the U.N. had issued earlier reports on this subject in 1962 and 1967, and that the Economic and Social Council and the General Assembly had considered that question of capital punishment on various occasions and passed resolutions on the subject. "However," the report continued, "the main focus in the 1962 and 1967 reports on this subject issued by the U.N. was on the deterrent effect of capital punishment . . . The conclusion of those reports was that no significant differences in the crime rate could be found before or after the abolition of the death penalty in abolitionist countries. They also indicated that, other things being equal, no significant differences could be found in the crime rates of countries with or without the death penalty.

"Since the issuance of these reports, the U.N. has gradually shifted from the position of a neutral observer concerned about, but not committed on the issue of capital punishment, to a position favouring the eventual abolition of the death penalty. From the moral standpoint, the U.N. is following the guidance of its Universal Declaration of Human Rights [see 9378A]. From the practical or utilitarian point of view, it is . . . calling only for the 'eventual' abolition of capital punishment. [A General Assembly resolution to this effect was passed at the 16th session.] Not all member-States favour early abolition of capital punishment. Some are moving towards it. Others regard it as right if not immediately practicable for them, and there are some who feel that capital punishment is an unfortunate but, at this time, unavoidable necessity.

The Concept of Abolition. " . . . In its fullest meaning 'abolition' should indicate that a country has expunged the

death penalty from its laws entirely and that in practice no executions are or can be carried out—not only during normal times but even in times of political crisis when constitutional safeguards for civil rights are suspended and usually harsh special measures are imposed for reasons of State security. Information given by member-States indicates that even countries which are *de jure* abolitionist still usually retain the right to impose capital punishment for a few exceptional crimes, such as those related to the security of the State . . . [in this connexion it was pointed out that England and Wales retained capital punishment for arson in dockyards and arsenals and for piracy with violence, while Peru retained capital punishment for kidnapping followed by homicide.]

"On the other hand, there are countries which have retained the death penalty in law, but which in fact are abolitionist in that the sanction has not been used for a number of years and in fact a tradition . . . has developed that the death penalty will not be used at all . . .

Alternatives to Capital Punishment. "The problem is undoubtedly complicated by the failure of States as yet to find suitable alternatives to capital punishment or to find other penal methods sufficiently drastic yet humanitarian. A consensus is emerging that taking the life of a person in the course of administering justice is an extreme measure justified only by the gravest conjuncture or crime and social crisis. Even groups or Governments which feel capital punishment to be a necessity of last resort would usually be prepared to dispense with it altogether if an appropriate substitute could be devised.

"For various reasons life imprisonment—a 'living death in prison'—is not always considered a suitable alternative to death. It is obviously less final, it demands more resources and is apparently a difficult sentence to maintain in modern society. On the other hand, the factors of mercy and the apparent rehabilitation of the criminal, who may have committed the crime in a fit of passion or outrage, have reduced the full application of life sentences . . . The quality of mercy has been extended in some countries to successive reductions in the interpretation in practice of a sentence of life imprisonment, so that 10 years' imprisonment or less is frequently held to mean a life sentence . . .

The Current Situation. " . . . An important consideration in any truly international appraisal is that most published studies of the death penalty have taken their data and orientation . . . largely from the Western world. The result has been a rather misleading picture which has frequently given an unwarranted universality to values, theories and practices prevalent in the West. In academic circles it has sometimes become unfashionable to support capital punishment: civilization is tolerance and punishment a sign of backwardness and regression, and so liberal thinking and the abolition of the death penalty are expected to coincide. Therefore the writing available on the death penalty leaves the impression that there is a certain inevitability about the movement to more 'civilized standards' and fewer executions. A reader could be excused for concluding that throughout the world there is . . . an irresistible and ineluctable trend towards the abolition of capital punishment . . .

"In fact, the world picture provides no such assurances. If one spreads consideration to include developed countries of both East and West and the . . . developing nations in Asia, Africa, and Latin America, the picture changes appreciably . . . Only seven countries have abolished capital punishment since the signing of the United Nations Charter . . . Violent crimes have led to calls for a reintroduction of the death penalty for some (types of) homicides. Apart from economic crimes and corruption, a few newer types of crimes have begun to qualify in some countries for the death penalty. Hijacking, drug trafficking and currency dealings as well as economic crimes and corruption are some of the offences now punishable by the death sentence in certain countries. Even ordinary theft . . . has in some countries received the extreme sanction . . .

"The death penalty would still appear therefore to be regarded by a considerable number of Governments as an efficient or at least an acceptable way of getting rid of certain types of problems—whatever the experts may have to say about the lack of deterrent effect of this penalty. Moreover, it seems clear that in most cases Governments satisfy public opinion by using this sentence. Whether this popular backing for the death penalty be regarded as desirable, regressive, or a sheer lack of understanding, it is nevertheless a factor. Indeed, there is evidence that even the countries totally abolishing capital punishment have sometimes acted contrary to the majority view of the population.

"Harsher methods of execution have been introduced lately as a supplementary means of frightening potential offenders. For instance, there have been executions preceded by tortures or beating, and even beating itself has been a recent method of execution."

[Commenting on this paragraph in the U.N. report, the *International Herald Tribune* said it was "an obvious reference to publicised executions in the Central African Republic" in 1972. On July 31 of that year General Bokassa, the President of the C.A.R., had ordered soldiers to beat with wooden staves 45 inmates of Bangui prison who were convicted thieves, and had personally supervised the beatings, which were reported by the Bangui correspondents of *The Times* and *Le Monde*. On August 1 the 42 thieves who survived the beatings, which lasted for 10 minutes, were put on public display beside the corpses of three other prisoners who were beaten to death. In a decree on July 31 aimed at curbing theft, President Bokassa ordered the cutting off of a thief's right ear for a first offence, of the left ear for a second offence, of the right hand for a third offence and public execution by firing-squad for a fourth offence.]

"The countries retaining the death penalty in their laws are by far a majority in the world," the U.N. report went on. "There are only nine States Members of the United Nations which . . . are totally abolitionist [see tables below]. This picture is, however, an over-simplification. First, there is no clear-cut division between 'abolitionist' and 'retentionist' States . . . A number of States claiming to be 'abolitionist' actually retain the death penalty for one or more 'exceptional' crimes such as killing a guard or an inmate when the offender is undergoing a life sentence; the murder of the Head of State, or of a representative of the law such as a policeman; or treason; or kidnapping followed by homicide; or perhaps for crimes of a military or political nature. The most common exceptional crimes punishable by death are treason and crimes related to the security of the State . . ."

Conclusion. In its concluding section the U.N. report said: "Opinion polls made in abolitionist countries as well as retentionist countries show a majority of people favouring capital punishment. It is also evident that, on a world scale, Governments are inclined to favour the maintenance of this penalty.

"The death penalty is always used when a particular problem seems to grow out of proportion and frightens public opinion or when a political opposition has to be crushed. It has been used in a number of countries to fight armed robbery or to respond to a crime wave; it is applied in some socialist countries against economic crimes; other countries have had recourse to the death penalty to fight the recent growth in drug trafficking or to punish hijackers of aircraft . . .

"In the industrialised world, the move appears to be more towards a reduction of condemnations and executions than towards the eradication of capital punishment from the penal code. Progress towards abolition, where it appears, is to be found in practice rather than law, that is, in the application of the law rather than in statutory exclusion. Some courts are more and more reluctant to impose the death penalty and even more hesitant about actually carrying out executions. But this must not be taken as a general rule, for even this practical shift toward clemency is not nearly as widespread as might at first appear.

"The impression of a steadily abolitionist evolution is due to the importance given to trends in a few of the larger countries which happen to be in the spotlight of world politics, and which have joined in recent years the abolitionist group. Meanwhile, many countries have made no progress at all towards the abolition of the death penalty. Indeed, in some cases they have been using it more widely and have been using harsher methods to put the condemned to death . . ."

An annex to the report listed the U.N. member-States and their policies on capital punishment, divided as follows: (*a*) countries "abolishinist by law", i.e. where capital punishment does not exist; (*b*) countries "abolitionist by law for ordinary crimes only", i.e. where capital punishment exists for exceptional crimes and/or under exceptional circumstances, but not for ordinary crimes;

(*c*) countries "abolitionist by custom", i.e. countries where the death penalty, although existing for ordinary crimes, has not been applied for at least 40 years; (*d*) "retentionist" countries, i.e. those where capital punishment exists for ordinary crimes such as murder, rape, etc.; (*e*) finally, countries with a federal form of government where the death penalty exists in some States and territories but not in others.

Abolitionist by Law.

The death penalty does not exist in the laws of the following countries:

Austria	Finland
Colombia	Iceland
Costa Rica	Uruguay
Dominican Republic	Venezuela
Ecuador	

Abolitionist by Law for Ordinary Crimes Only.

In the following countries the death penalty exists only for certain exceptional crimes (e.g. treason) but not for ordinary crimes:

Afghanistan	New Zealand
Brazil	Norway
Denmark	Panama
Israel	Peru
Italy	Portugal
Malta	Sweden
Nepal	United Kingdom
Netherlands	

Abolitionist by Custom.

In the following countries the death penalty, though existing in theory for ordinary crimes, has in fact not been applied for at least 40 years:

Belgium	Nicaragua
Luxemburg	

Retentionist.

The following countries retain the death penalty for ordinary crimes:

Albania	Lebanon
Algeria	Lesotho
Argentina*	Liberia
Bahrain	Libya
Barbados	Madagascar
Bhutan	Malawi
Bolivia	Malaysia
Botswana	Maldives
Bulgaria	Mali
Burma	Mauritania
Burundi	Mauritius
Byelorussia	Mongolia
Cameroon	Morocco
Central African Republic	Niger
Chad	Nigeria
Chile	Oman
China	Pakistan
Congo	Paraguay
Cuba	Philippines
Cyprus	Poland
Czechoslovakia	Qatar
Dahomey	Romania
Egypt	Rwanda
El Salvador	Saudi Arabia
Equatorial Guinea	Senegal
Ethiopia	Sierra Leone
Fiji	Singapore
France	Somalia
Gabon	South Africa
Gambia	Soviet Union
Ghana	Spain
Greece	Sri Lanka (Ceylon)
Guatemala	Sudan
Guinea	Swaziland
Guyana	Syria
Haiti	Tanzania
Honduras	Thailand
Hungary	Togo
India	Trinidad and Tobago
Indonesia	Tunisia
Iran	Turkey
Iraq	Uganda
Ireland	Ukraine
Ivory Coast	United Arab Emirates
Jamaica	Upper Volta
Japan	Yemen Arab Republic
Jordan	Yemen (People's
Kenya	Democratic Republic)
Khmer Republic (Cambodia)	Yugoslavia
Kuwait	Zaïre
Laos	Zambia

*Although Argentina was listed in the U.N. report as "retentionist", the abolition of capital punishment in that country was announced by President Lanusse on December 27, 1972—see 25701 A.

Countries divided on Issue.

In the following countries with a federal form of government, capital punishment exists in some States and territoies and not in others:

Australia	United States
Mexico	

In Canada, whose policy was not specifically stated in the U.N. report, capital punishment was temporarily abolished from 1967 to 1972, with few exceptions, for a five-year trial period before the Federal Parliament finally voted on its retention or its definite abolition [see 22504 A]. The matter is again before the Canadian Parliament and another five-year ban is being requested by the Government.

A second annex to the U.N. report showed the year in which the death penalty was abolished—either totally or for ordinary crimes—by the countries concerned, viz.:

1863	Venezuela	1928	Iceland
1867	Portugal	1930	Denmark
1870	Netherlands	1931	Nepal
1882	Costa Rica	1944	Italy
1890	Brazil	1945	Austria
1897	Ecuador	1949	Finland
1903	Panama	1954	Israel
1905	Norway	1961	New Zealand
1907	Uruguay	1969	United Kingdom
1910	Colombia	1971	Malta
1921	Sweden	1971	Peru
1924	Dominican Republic		

In Australia, two States out of six are abolitionist; in Mexico, 29 of the 32 States and territories are abolitionist; while in the United States, 13 States out of 50 are abolitionist.—(U.N. Report on Capital Punishment—U.N. Information Centre, London—New York Times—International Herald Tribune—Times—Guardian—Le Monde).

That report paints a rather depressing and gloomy picture, one that I would hope South Australia would not want to be associated with. Full marks must be given to the United Nations for trying, and I hope it has greater success in the future, not only on this question but also in all its endeavours.

My position is clear. While I am not a committed pacifist who claims it is wrong to take human life at all, I believe that wilful premeditated homicide, whether by the State or not is inexcusable. Capital punishment is a form of punishment which, like torture, offends against human dignity. The fact that a person is convicted of a capital crime is not, of itself, any justification to strip him of his dignity and subject him to this kind of punishment. Brutal punishment (and capital punishment cannot be described as anything other than brutal) accustoms people to brutality and itself tends to increase violence in the community. Violence breeds violence.

In all the material I have read on the topic, one argument caught my eye and is, I think, worth quoting to members of this Council:

From Christians, in a Christian community, one should expect total opposition to capital punishment. It is not Christian to demand "an eye for an eye and a tooth for a tooth". A Christian must be concerned with more than mere retribution: he must concentrate on rehabilitation. If God does not despair of any man, then how can a Christian? Rather, the Christian must hate the sin and love the sinner; that is, a Christian must work to produce social harmony, eliminate poverty, and creat opportunity. Such achievements will change the social conditions that breed disagreement, despair and ultimately crime.

Even I, who do not claim to be a Christian, can find little with which to disagree in that statement. I hope all honourable members will take note of it, act accordingly and vote to remove this barbaric and degrading law from the Statute books of this State.

The Hon. J. E. DUNFORD: Although I intended to say a lot on this matter, my Leader has asked me to be brief. I have no reservations about supporting the Bill. Not only is it the policy of the Party to which I am proud to belong but also I believe, after reading not only the debates in this Council but also books on this matter (much has been said about this matter) and *Hansard* reports of the debate in the other place, that there are people of different shades of politics with different viewpoints. I am impressed by the information I have received. In the United Kingdom, capital punishment has been abolished.

Closer to our boundary is Victoria, and it is interesting to note that, in April, 1975, capital punishment was abolished in that State. The vote in the Legislative Assembly was 36 votes in favour of abolition and 30 against. The vote for abolition in the Legislative Council in Victoria was 20 to 13. Recently, I was speaking to someone in Melbourne and ascertained that the Labor Party had only 10 members in the Legislative Council. I know that the Hon. Mr. Burdett has foreshadowed an amendment providing that the death penalty will apply for certain crimes. The same amendment, to retain capital punishment for murder during the act of kidnapping, hijacking and in cases of exceptional cruelty, was defeated by 47 votes to 19 in the Victorian Legislative Assembly. In July, 1976, the death penalty was abolished in Canada for all civilian crimes, the vote being 131 to 124 in the Lower House. However, the death penalty was retained for certain offences committed under the National Defence Act. It is interesting to note that Home Secretary Jenkins, who opposed the reintroduction of capital punisnment in Britain, is reported to have said:

> . . . terrorists could not expect amnesty (in the event of settlement of the Irish question) or parole for conviction of murder. Some would "serve their sentences for decades and in some cases for the rest of their natural life".

When I say that I have no reservations about supporting the Bill, I wish to make it clear to anyone in the Chamber who has any doubts about my convictions that I abhor the act of murder and believe it should draw the strongest possible penalty. Recently, I visited Yatala Labour Prison and walked through the prison with the Superintendent. About 15 or 16 murderers are serving life sentences in that prison, but they are not serving their sentences in confined areas. These men are not recognised as being violent, and in serving their sentences they sleep in a dormitory. One murderer at that prison (and I will not mention his name) was guilty of a shocking murder. At the time of the murder his case was well discussed and everyone thought that he should have been executed. It seems to me that this sort of debate occurs in society, and we seem to get emotional about it.

I was speaking to a member of this Chamber the other day about the Rupert Max Stuart case. Stuart murdered a girl at Ceduna about 14 years ago. I think that, had a poll been conducted in South Australia at the time of that murder, an overwhelming vote would have advocated capital punishment in that case. Had that sentence been carried out, Stuart would be dead. However, in 1976 the Parole Board has already released him three times, and, whilst on parole, he drove a car without a licence, and got drunk a couple of times and was returned to goal. I am not convinced that, apart from two or three cases where murderers are put in gaol for long periods, they will, after their release, commit murder again. I do not believe anyone who advocates that.

The first murder I recall was back in the late 1940's in Melbourne when John O'Meally shot Constable Howell at Caulfield. At that time people believed police officers should be protected, that O'Meally committed murder and that he should hang. I believe that O'Meally has now served about 28 years in detention and not one gaoler or responsible police officer would now say that O'Meally should be hanged; in fact, they say the reverse, that he should be released on parole and that he is not a threat to society. Had people supported capital punishment in the cases to which I have referred, those men would be dead, and I do not believe that that should happen. My honest belief is that people who have been charged with murder can be rehabilitated. I have heard honourable members on the other side congratulate and eulogise the Hon. A. J. Shard, who was a member of the Council when this matter was debated in 1971. At page 3815 of 1971 *Hansard*, the Hon. Mr. Shard is reported as follows:

> I was in London during the hearing of the Timothy Evans case—

I believe he was hanged for the Christie murders—

> and I was surprised at the number of people who, before the conclusion of the trial, said that they thought this person was innocent. It was a matter of public conversation. We now know that the man was hanged and that when it was proved conclusively to the authorities that he was in fact innocent his body was transferred from, I think, the goal cemetery to the public cemetery.

That did not do him much good, of course! Some years ago I read the book *The Scotborough Boys*. That case was followed with interest by lawyers and people all over the world. Nine negroes travelled on a freight train with white people, including two white females. The police came to the train and the females said that they had been raped by the negroes, who were arrested and charged with rape. All the negroes were sentenced to death, but they were defended by a lawyer, who is now Judge Liberwitz. Five of the negroes were put to death but, before the other four were put to death, one of the women admitted that they had had sexual intercourse on the train that day but that it was with the white men. This indicates what can happen.

I refer also to the case of two bootmakers in America, Sacco and Vansetti. I believe there was a conspiracy against those two men, and it was said that they were executed on trumped-up charges. I was interested to read the debate on this matter in another place. Most honourable members who have spoken on this matter considered the matter responsibly, but there is one speech with which I disagree. I refer to page 2377 of this session's *Hansard*, where the member for Alexandra (Mr. Chapman) is reported to have made the following statement:

> I have had drawn to my attention Barry Jones's publication *The Penalty is Death*. That book presented the case for abolition and the case for retention. I believe that the abolition case presented by Barry Jones was thorough and strong, but concerning the case for retention, whilst on the one hand he gave reasons why the law should be retained, he tended to negate the effectiveness of those provisions. In my opinion that volume by the learned gentleman tends to be biased from cover to cover. A seven point extract with which I have been furnished could well sum up the situation, as follows:
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> 1. God enjoins us to take "an eye for an eye and a tooth for a tooth". Unpleasant though the consequences may be this obligation is a cornerstone of the moral law. It is the only punishment which is just.

I support that opinion concerning the crimes that have been described so far in my remarks. The extract continues:

> 2. Execution is the only penalty by which a murderer can expiate his crime.

Many mistakes have been made by judges if that is the case. The extract continues:

> 3. A reasonable scale of justice demands that crimes should be punished proportionately; that is, that the punishment should fit the crime. Clearly execution is the punishment which best fits the crime of murder. If the extreme penalty is abolished for extreme crime then the notion of proportionate punishment is undermined.
>
> 4. Execution is more humane than committing a man to prison for many years of his life.
>
> 5. Execution is cheaper to the State than the expense of keeping a prisoner in gaol for many years.
>
> 6. Public opinion demands the death penalty—just ask anyone in the street for their opinion of a fitting punishment for the murderer of their family.

Of course, if the relative of the victim of a murder was asked soon after the crime was committed whether he thought the murderer should be hanged by the neck until he was dead, I believe that that relative would say "Yes". However, as the years passed, even that relative might have a different attitude. Of course, that is an extreme case. The member for Alexandra continues:

> 7. The death penalty deters some potential murderers. There is no definitive proof anywhere that the death penalty is not a deterrent.

Whilst there is no real evidence that the death penalty is a deterrent, it is fair to accept that, by its place and its implementation in our statute law, it will act and has acted as a deterrent. It is clear from surveys that have been made and the reports that we have received that the public demand in this State, in this country, and in most countries of the world (most that are members of the United Nations) is that this penalty should be retained.

I have much material by Professor Thorsten Sellin, but I will not deal with that material in detail. Professor Sellin was formerly Professor of Sociology at the University of Pennsylvania and sometime President of the International Society of Criminology. Professor Sellin was also principal consultant to the British Royal Commission on Capital Punishment 1949-53. In his second reading explanation, the Attorney-General said:

> I agree with Professor Sellin, and argue that our social institutions and our sociological and moral principles are such that capital punishment so fundamentally offends against them that its retention cannot be tolerated. It is argued that justice demands that he who takes life must have his life taken from him as this is the only just retribution for murder. If such an argument is valid then our concepts of justice and morality have changed dramatically in the past 200 years. We no longer permit torture. We have abolished corporal punishment. We would regard the burning of an arsonist's house as immoral. Legalised castration of rapists is abhorrent to us, and we do not consider that justice demands that the mother who drowns her child should be immersed in water until she dies.

Do opponents of this Bill believe that the execution of a murderer satisfies the community? Many other aspects must be considered. Some murderers who are in gaol today have large families. They have wives, sisters, and brothers, and these people must be considered.

It was pointed out in another place that, if the Bill was opposed, the situation could arise where, if the death penalty were to be retained, justice could be circumvented. It has been said that seven jurors in the case following which Ryan was hanged in Victoria some years ago have said that, had they known the death penalty would have been carried out, they would not have found him guilty of the murder of the warder at Pentridge Gaol. That aspect must be considered, too.

Few of the people who support hanging would be prepared to carry out the operation of hanging a person. I have had the unpleasant experience (even though I offered to go) of going into the hanging cell at the Adelaide Gaol. I was convinced before then that capital punishment should be abolished, but I was more convinced afterwards; my feelings were reinforced when the hanging process was explained. In the interests of humanity and of law, I believe we can give people sentences appropriate to the crime without hanging them by the neck until they are dead. I support the Bill.

The Hon. J. C. BURDETT secured the adjournment of the debate.

ADJOURNMENT

At 1.13 a.m. the Council adjourned until Thursday, December 2, at 2.15 p.m.