HOUSE OF ASSEMBLY.

Tuesday, November 8, 1955.

The SPEAKER (Hon. Sir Robert Nicholls) took the Chair at 2 p.m. and read prayers.

QUESTIONS.

IRON ORE DEPOSITS.

Mr. O'HALLORAN—Can the Premier say whether, as a result of the investigations being continued by the Mines Department into the possibility of discovering further supplies of good quality iron ore on Eyre Peninsula, any significant discoveries have been made since he last furnished information on this subject?

The Hon. T. PLAYFORD—I cannot report any significant discoveries, but the exploration is proceeding satisfactorily and we are steadily proving larger reserves of ore in the locality where it was previously reported we had found it. It will take time to determine the total area of the ore-bearing country and the total estimated tonnages therefrom. The boring is proceeding satisfactorily and it appears to be high grade ore.

FIRE EXTINGUISHERS IN INDUSTRY.

Mr. DUNNAGE—My question is prompted by the disastrous fires that occurred over the week-end. I understand the South Australian and Commonwealth Railways are using a special dry chemical fire extinguisher in connection with all diesel electric motors, as it is considered the only effective method of combating fires that arise therein. Can the Premier say whether the Government is aware of the existence of this new type of fire extinguisher which the chief fire officer has described as "The best I have seen"? Is it the Governments's intention to take every opportunity of ensuring that this type is introduced into all industrial plants using highly inflammable substances?

The Hon. T. PLAYFORD— I will obtain a report.

SEMAPHORE X-RAY SURVEY.

Mr. TAPPING—Can the Premier say whether it is the Government's intention to conduct a compulsory X-ray survey in the Semaphore district and, if so, when, and what will be its probable location?

The Hon. T. PLAYFORD—I will get that information. The honourable member is no doubt aware that we have passed legislation providing for compulsory X-ray surveys and that systematically, under the direction of the Health Department, they have been taking place in country and metropolitan districts.

STONYFELL WATER SUPPLY.

Mr. GEOFFREY CLARKE—Is the Minister of Works able to report that an adequate water supply will be available for Stonyfell in the coming summer following on several representations to that end which I have made during the last several months?

The Hon. M. McINTOSH—The position has altered since the last representation made by the honourable member because of increased activities in the area. I therefore caused a report to be made to me by the Engineer-in-Chief and it is as follows:—

Further investigations have been made in regard to the proposal of the petitioners that water be pumped from Wattle Park through the existing main along Penfolds Road. The Engineer for Water Supply made an inspection of the locality and found that because of the continued building activity in the area and the fact that there are now three houses above the level of the temporary tank proposed by the petitioners near the intersection of Victoria Terrace and Penfolds Road, the small scheme suggested by the householders would not be practical. An alternative proposal has been advanced by the Engineer for Water Supply to give those concerned some assistance during the next year or two. This proposal involves the laying of a 4in. main from the Millbrook trunk main in Hallett Road along Victoria Terrace to a 30,000 gallon squatter's tank located at a level higher than the highest existing house and to connect the old 3in. main in Penfolds Road to this tank. The water would have to be pumped to the proposed squatters' tank and this would necessitate a pumping station near the Millbrook trunk main in Victoria Terrace. This arrangement would give a direct supply to all the allotments abutting Victoria Terrace and those abutting the 3in. main in Penfolds Road, as far north as Marble Terrace. The landowners with houses on the allotments which do not abut the two mains could then transfer their present indirect services from the mains in the lower level to the proposed 4in. main and the 3in. main in Penfolds Road. The main in Victoria Terrace would eventually form part of a larger reticulation system in this area and in view thereof and the fact that the Engineer-in-Chief considers that this alternative proposal is the best that can be done for the present, I have approved the expenditure involved to enable the work to be carried out as soon as possible.

As we extend our mains, people sometimes extend their buildings and they then become complainants. I ask the honourable member to advise people applying for water and sewerage in this area to ascertain whether they come within the practical limits of reticulation.

GRAIN DISTILLERY BUILDING.

Mr. McALEES—Last Thursday I asked the Premier a question concerning the stacking of grain in the disused grain distillery at Wallaroo which had been let to Cheeseman Bros. for the purpose of starting an industry there. After inquiries I ascertained that oats—not barley—is being stacked in that building and I estimate that about 6,000 bags are already stacked there and I understand that many thousand more are to come. Can the Premier say whether the lessees of the building have sublet it for grain storing?

The Hon. T. PLAYFORD—The only information I have been able to get is the following report from Mr. Carey, one of my Treasury officers, who normally deals with industrial matters:—

Mr. Fitzgerald, the accountant for Cheeseman's, rang me last Thursday to advise that they had the opportunity to sublet the store premises at Wallaroo Distillery and asked what should be done. I told him to write a letter to the Treasurer seeking his approval, in terms of the lease, to the subletting. He said he would do this. He did not tell me to whom it was proposed to sublet the store, although he did say that it was purely a temporary arrangement.

I will follow up the matter and obtain further information. Under the terms of the lease it would be necessary for the firm to obtain the approval of the Treasurer before subletting. When the proposals are known they will be considered on their merits.

COUNTRY WATER SUPPLIES.

Mr. TEUSNER—On October 25 the Minister of Works said he had received a report from the Director of Mines concerning representations made for a water supply for Mount Pleasant, Springton and Eden Valley areas, but was awaiting a further report from the Engineer-in-Chief. Has he received that report and can any hope be held out for a water supply for the districts mentioned?

The Hon. M. McINTOSH—I am sure the honourable member would like to know the problems involved. I have obtained the following report from the Engineer for Water Supply—

In my report I pointed out that the large scheme to supply Mount Pleasant, Springton, Eden Valley and a large tract of country between Mount Pleasant and Angaston, which was in a comparatively high rainfall area, was a poor one from the financial point of view. I also pointed out that the smaller scheme to supply the township of Mount Pleasant gave promise of a much better return than the large scheme. It was in this report that I recommended that a geological examination of the area be made to determine whether suitable quality underground water was available for development for the individual farms. This geological examination has been completed by the Mines Department Geologists and the Director of Mines has now forwarded the enclosed comprehensive report. The conclusions drawn by the geologists, and given in the report, are as follows:—

"The whole area has been fairly extensively developed by bores and wells, augmented by excavated earth tanks, and is reasonably well supplied with water of a quality suitable for general stock purposes. About a third of the district has ground water suitable for milch cows, while another sixth or so is country in which water for milch cows appears to be unlikely to occur at all. Over the remainder, most of the recorded bores yield water of a salinity varying between 150 to 300 grains per gallon, and it is considered that better quality water would only be obtainable by careful site selection for future drilling. Even then, probably not all properties could obtain water for milking cows. With the exception of waterholes in some of the rivers (notably the Somme) during summer, practically all recorded surface waters are considered suitable for sheep and beef cattle. Rainfall is reasonably reliable, and in some cases the construction of excavated earth tanks appears to be an alternative source of water. In general, the groundwater resources appear capable of considerable further development by drilling for general stock purposes, but there are some properties on which it may not be possible to obtain water for dairy cattle. Springton is the only one of the three townships, the present domestic requirements of which could probably be met from groundwater sources, and such a project cannot unreservedly be recommended. Moreover, future development may result in demand exceeding the supply available. Except in a few isolated instances, groundwater for the irrigation of pastures and crops is not obtainable."

In view of these conclusions I am of the opinion that either of the large schemes, which were estimated to cost: (1) Supply for Mount Pleasant, Springton and Eden Valley, plus some country lands—£125,500; (2) Mount Pleasant, Springton and Eden Valley and country lands towards Angaston—£330,000; can hardly be justified, particularly as a very large annual loss would be involved.

The honourable member knows that the last investigation into the suggestion of a supply of a localized nature for Mount Pleasant was deferred because of the proximity of the Adelaide-Mannum pipeline. I believe the scheme to supply Mount Pleasant township warrants further consideration by the Engineer-in-Chief, and I will ask him to further investigate it.

INSPECTION OF MOTOR VEHICLES.

Mr. JENNINGS—During the debate on the Estimates I asked the Minister of Lands whether the Government Garage issued certificates of roadworthiness to vehicles licensed by

the Transport Control Board for a period of 12 months ahead, and whether he would investigate the advisability of issuing certificates on the basis of mileage. Has he a reply?

The Hon. C. S. HINCKS—I have received the following report from Mr. Baker, Superintendent, Government Motor Vehicles:—

The manager of the Government Motor Garage is charged with the responsibility of inspecting vehicles licensed by the Transport Control Board to carry passengers and he authorizes the use of a vehicle for a specified period not exceeding 12 months. In assessing the period of the licence the manager takes into consideration the condition of the vehicle, the mileage already covered, the route to be followed and the mileage involved per week. While the majority of the vehicles are licensed for a period of 12 months, others are licensed for six months, or three months, or even less, if there is any doubt that with normal usage they cannot safely be licensed for a full year.

HILLS ROAD.

Mr. SHANNON—Following on the decision in the *Hughes and Vale* case, we have had a serious aggravation of a problem which has existed since 1952, when I gave evidence before the State Traffic Committee, then under the chairmanship of the present Minister of Education. Certain recommendations were then being discussed by the committee, and I believe they were supported by the Police Department's own traffic committee, regarding traffic between the Big Tree at Glen Osmond and Crafers Summit —a bottleneck on our main Princes Highway. Will the Minister of Works refer to the Minister of Roads the question of implementing by regulation—which I understand can be done—and not by amending legislation, provision for ameliorating the present unhappy position which applies, especially during the peak periods of the day, on this section of Princes Highway? I refer to the habit of heavy road hauliers following one another through the hills almost mudguard to mudguard. When two of them get together they form a barrier which other traffic finds it almost impossible to pass. I recommended, and I understand the Police Department also recommended, a regulation to enforce a certain distance being observed between such heavy vehicles. I think the police officials suggested 100 yards, but I will not suggest any specific distance. However, some distance should be observed to enable oncoming traffic, wishing to overtake, to pass one vehicle and then the second when the opportunity arises.

The SPEAKER—I think the honourable member is exceeding his latitude.

Mr. SHANNON—I want to make my question clear to the Minister of Roads, who, unfortunately, is not a member of this House. On occasion one may travel from Glen Osmond to the foot of the Eagle-on-the-Hill before an opportunity arises to pass two large vehicles in convoy which are usually travelling at a speed not exceeding 8 or 10 miles an hour, and frequently not exceeding 5 miles an hour when in the hills. The congestion that results slows up traffic and causes much discontent among regular road users. Will the Minister of Works take up with his colleague the possibility of framing a regulation to overcome this feature of road traffic in the hills?

The Hon. M. McINTOSH—My constituency is east of the city and I have often experienced the same difficulty as the honourable member, and I will gladly take up the question to see whether something can be done about it.

SECOND CITY OVAL.

Mr. STOTT—There is considerable controversy about the powers of the Adelaide City Council in respect of establishing a new oval in the parklands and whether this question should be taken up by the Government. I ask the Premier whether Cabinet has considered establishing a new oval and whether the matter will ultimately have to come before Cabinet or Parliament for decision?

The Hon. T. PLAYFORD—The parklands have been vested in the city council for certain purposes, but those purposes, in my opinion, do not include the permanent fencing of an area for an oval. That is borne out by the fact that when the Adelaide oval was established permission from Parliament had to be obtained for the lease that was granted, and when that lease expired the matter had to come again before Parliament for a renewal. Therefore, in my opinion, the city council has not the power to permanently alienate, by a long lease, a portion of the parklands vested in its control purely for recreational purposes of a character that would enable people freely to use them. I have not had any request from the city council for an amendment to the Act, nor has Cabinet considered the matter, but any consideration would undoubtedly be to the effect that this matter would have to be referred to Parliament.

WALKER FLAT AND PURNONG FERRIES.

Mr. WHITE—Because of the River Murray floods the causeways leading to the Walker Flat and Purnong ferries are now partially covered with water sufficient to stop traffic;

consequently, the ferries are out of action. There is now a stretch of about 75 miles without a crossing, and this obviously is creating much inconvenience in the marketing of stock and other farm produce and in the life of the people in those areas. The Marne Council, which has control of the ferries, believes that the causeway leading to one of these ferries should be built up so that in the future there will be a crossing available when the river is high, which seems to occur about every three years. Will the Minister representing the Minister of Roads and Local Government ask his colleague to send an officer to the area during this or next week, when the flood will be at its peak, so that in company with members of the council an inspection can be made and first-hand information obtained about the suggestion?

The Hon. M. McINTOSH—I shall have the *Hansard* pull containing a report of the honourable member's question tomorrow morning and I will immediately refer it to my colleague. I do not know whether it will be possible for him to give a reply by tomorrow, but I hope there will be one forthcoming by Thursday.

HAY-BALING WIRE.

Mr. WILLIAM JENKINS—Has the Minister of Agriculture a further reply to the question I asked recently about the acute shortage of hay-baling wire?

The Hon. A. W. CHRISTIAN—Inquiries have been made into this matter, and they substantiate the claim that baling wire is in very short supply in this State and that hay-baling wire machines cannot be easily or cheaply adapted for the use of bindertwine. My secretary, Mr. Pollnitz, who was formerly Director of Building Materials, still has useful contacts with suppliers, and he made representations to Rylands Limited and informed me that, owing to the co-operation of that company and the Adelaide merchants concerned, 21 tons of standard hay-baling wire is being road transported to Adelaide. The consignment is expected to arrive at the end of this week or early next week. In addition, a few extra tons may be shipped on the *Iron Monarch,* and this cargo should be available in Adelaide in about 16 days. The material being transported by road will be a little dearer than that coming by sea.

CAR PARKING AREAS FOR TRAIN TRAVELLERS.

Mr. O'HALLORAN—According to last Sunday's *Mail* the Victorian Railways Commissioners, in order to encourage suburban people to use the railways, are establishing car parking areas adjacent to suburban railway stations, particularly in the outer suburbs, so that railway passengers who first drive their vehicles to a station may park their cars before journeying to Melbourne. Will the Minister representing the Minister of Railways ask his colleague to ascertain from the Railways Commissioner whether it would be advisable to establish similar parking areas in our outer suburbs?

The Hon. M. McINTOSH—I will gladly do that, but most of our suburbs served by railways are well built upon. I am pleased that many people ride bicycles and leave them at stations before embarking on trains. If that practice can be extended as suggested I am sure the Minister and the Railways Commissioner will be glad to consider it.

PROPERTY PURCHASES BY MIGRANTS.

Mr. TAPPING—A migrant, whether naturalized or not, must first obtain the consent of the Minister of Lands before acquiring any property. In New South Wales and Victoria such applications are unnecessary, whether a migrant is naturalized or not. Will the Minister consider modifying the present procedure in South Australia so that only unnaturalized persons will have to seek consent before purchasing property?

The Hon. C. S. HINCKS—The honourable member indicated earlier that he would ask this question and I therefore had the opportunity to obtain the following report from the Director of Lands:—

Under the provisions of the Law of Property Act 1936-1945 an alien must obtain the consent of the Minister of Lands to purchase property. Immediately a New Australian arrives in Australia he may apply for this consent. On becoming naturalized a New Australian enjoys all the rights of a British subject and therefore need not apply for the consent mentioned above.

NARACOORTE RAILWAY STATION.

Mr. CORCORAN—The Naracoorte railway station building and residence are dilapidated and neither is in keeping with the importance of the town nor adequate to accommodate the staff there. Further, to walk from the train to the refreshment room in times of heavy rain one is often compelled to walk through water.

Can the Minister of Works, representing the Minister of Railways, say whether the Railways Department has in hand plans to erect a new station building and to improve the existing refreshment room?

The Hon. M. McINTOSH—I will take up the matter with my colleague and bring down a report as soon as possible.

FROZEN FISH.

Mr. SHANNON—Has the Minister of Agriculture a reply to my recent question regarding the investigation by the Fisheries Department of the possibility of marketing frozen fish similar to the frozen fish fingers imported from South Africa?

The Hon. A. W. CHRISTIAN—Following on my previous statement on this matter in reply to the honourable member's question, I have received the following information from Mr. Moorhouse (Chief Inspector of Fisheries and Game):—

Twenty fish processing works are operating in South Australia at which fish is quick frozen, usually within hours of being caught. Types of fish thus treated include crayfish, whiting, garfish, snapper, snook, mullet, tommy ruffs, flake and trout. Retail prices for a 12oz. pack range from 3s. 6d. for trout and flake to 7s. 6d. for whiting. In addition, these quick frozen fish fillets are supplied in 5 lb. packs for the catering trade. In order to foster this trade, the South Australian Fishermen's Co-operative Ltd. has supplied approximately 200 deep freeze cabinets to grocers, butchers and fish shops throughout the Adelaide metropolitan area. Country centres throughout the State are also supplied. The Fisheries and Game Department has been aware, for many years, of the benefits of the frozen fish fillet trade and has played a prominent part in the establishment of the 20 works which are now operating.

NEW LOXTON SECONDARY SCHOOL.

Mr. STOTT—In considering the establishment of the proposed new secondary school at Loxton will the Minister of Education establish it as a technical high school, and ensure that, as a guiding principle, courses of instruction be provided to effectively cater for the whole of the secondary educational requirements of the district, and, in addition to comprehensive courses leading to university matriculation, provide commercial courses and an internal certificate course at third and fourth year levels, whose content and standard are similar to those of the area courses taught at the Loxton area school, and cater for the special requirements of students entering upon agricultural and horticultural pursuits?

The Hon. B. PATTINSON—I shall be pleased to do so, but the Loxton high school would not be unique in this respect and I would have to consider similar problems existing at other country high schools.

RIVER MURRAY FLOODS.

Mr. O'HALLORAN—Has the Minister of Lands a report on the building of embankments to protect main roads and valuable areas from the effects of River Murray floods, about which I asked him during the debate on the Estimates recently?

The Hon. C. S. HINCKS—Since July 1, 1952, £47,000 has been spent on the maintenance of embankments in the reclaimed areas, and additional amounts will be provided each year as required. The amount provided this year for labour and material is £10,000.

PRIVATE BUS SERVICES.

Mr. Stephens for Mr. LAWN (on notice)—

1. What is the average number of passengers carried by private buses on the Port Road and Anzac Highway on Sunday mornings?

2. What are the financial results to private bus operators from these services?

3. Does the Tramways Trust subsidize either of these Sunday morning services?

4. Why does not the trust operate these services with its own buses and personnel?

5. Does it intend in the near future to take them over?

The Hon. T. PLAYFORD—The replies are:—

1 and 2. Average per Sunday morning:—

	Passengers.	Gross Revenue.	Mileage.
Port Road	1,475	45 10 0	533
Anzac Highway ..	501	15 16 0	191

3. No.

4. The financial results are such that these services cannot be operated by the trust under penalty rates except at a substantial loss.

5. Vide No. 4.

MILLICENT BROAD GAUGE RAILWAY.

Mr. CORCORAN (on notice)—

1. Is it the intention of the Government to arrange for an official opening of the broad gauge railway to Millicent similar to those at Naracoorte and Mount Gambier?

2. If so, when is it proposed that it will take place?

The Hon. M. McINTOSH—Criticism was expressed by the Opposition to the opening ceremony of the line to Naracoorte on the ground that it was held prior to an election. To avoid a similar complaint at this time consideration is deferred.

GAS ACT AMENDMENT BILL.

Returned from the Legislative Council without amendment.

Y.W.C.A. OF PORT PIRIE INC. (PORT PIRIE PARKLANDS) BILL.

Returned from the Legislative Council without amendment.

WHEAT INDUSTRY STABILIZATION ACT AMENDMENT BILL.

Returned from the Legislative Council without amendment.

NATIONAL PARK ACT AMENDMENT BILL.

The Hon. C. S. HINCKS (Minister of Lands) introduced a Bill for an Act to amend the National Park Act. Read a first time.

PRIVATE MEMBERS' BUSINESS.

The Hon. T. PLAYFORD (Premier and Treasurer)—I move:—

That for the remainder of the session Government business take precedence over all other business except questions.

A number of private members' Bills are on the Notice Paper and tomorrow afternoon an appropriate time will be allowed for their consideration and a vote to be taken.

Motion carried.

TOWN PLANNING ACT AMENDMENT BILL.

Committee's report adopted.

LANDLORD AND TENANT (CONTROL OF RENTS) ACT AMENDMENT BILL.

In Committee.

(Continued from November 3. Page 1396.)

Clause 6—"Recovery of possession of premises in certain cases."—which Mr. Brookman had moved to amend by deleting "six" in paragraph II of subsection (2) of new section 55c, and inserting "three."

Mr. O'HALLORAN—I oppose the amendment. The Opposition is opposed to the clause in its entirety because it extends concessions to landlords to a far greater degree than is warranted by circumstances. We oppose the suggestion that an application may be made to the court, supported by a statutory declaration that the premises are required by the owner for the use of any of a number of relatives categorically described in the clause, and that, provided six months' notice is given to the tenant, the court must award possession of the premises without consideration of any hardship that may be imposed upon a tenant who is rendered homeless, or without any inquiry as to the landlord's need for securing possession. The court is not permitted to inquire whether a landlord has another house with vacant possession which could be used for housing these relatives. All a landlord will have to do is make a statement to the court that he requires the premises for certain relatives and at the end of six months—the period of notice to the tenant—the court must grant the application without considering any other facts. In view of the prevailing housing difficulties this is too wide a concession to grant.

Mr. STEPHENS—I oppose the clause and amendment. I do not think the member for Alexandra can convince anyone that it is reasonable to treat people in the manner his amendment proposes. Recently the parents of an ex-serviceman had their house sold over their heads. The landlord wanted to put them out into the street immediately but the tribunal saw the unfairness of the position and the elderly people were allowed to remain in the house. The honourable member wants people to be thrown out into the street at the end of three months, irrespective of circumstances. This amendment is really a vote of no-confidence in the tribunal I have mentioned. Each day when we recite the Lord's Prayer we say, "Thy will be done on earth as it is in Heaven" but if Mr. Brookman had his way these old people and ex-servicemen would be sent to hell. I feel disgusted at having to mix with people like the honourable member.

The Committee divided on the amendment—

Ayes (4).—Messrs. Brookman (teller), Hawker, Millhouse, and Shannon.

Noes (29).—Messrs. Christian, John Clark, Geoffrey Clarke, Corcoran, Davis, Dunnage, Dunstan, Fletcher, Goldney, Heaslip, Hincks, Hutchens, Sir George Jenkins, Messrs. Jenkins, Jennings, Lawn, Macgillivray, McAlees, McIntosh, Michael, O'Halloran, Pattinson, Pearson, Playford (teller), Riches, Stephens, Stott, Tapping, and White.

Majority of 25 for the Noes.

Amendment thus negatived.

The Committee divided on the clause—

Ayes (21).—Messrs. Brookman, Christian, Geoffrey Clarke, Dunnage, Fletcher, Goldney, Hawker, Heaslip, Hincks, Sir George Jenkins, Messrs. Jenkins, Macgillivray, McIntosh, Michael, Millhouse, Pattinson, Pearson, Playford (teller), Shannon, Stott, and White.

Noes (12).—Messrs. John Clark, Corcoran, Davis, Hutchens, Jennings, Lawn, McAlees, O'Halloran (teller), Riches, Stephens, and Tapping.

Pair.—Aye—Mr. Travers. No—Mr. Frank Walsh.

Majority of 9 for the Ayes.

Clause thus passed.

New clause 6a—"Protection of certain persons in possession of premises."

The Hon. T. PLAYFORD—I move to insert the following new clause—

6a. Section 64 of the principal Act is amended by striking out the words "not being a lodger or boarder" in the second line thereof and by inserting in lieu thereof the words "being the wife, husband, father, mother, son or daughter of the lessee."

Section 64 of the Landlord and Tenant (Control of Rents) Act provides that if the lessee of premises to which the Act applies dies and some person, not being a lodger or boarder, who resided with the lessee immediately prior to his death, continues in possession of the premises after the death, he is to have the same right to remain in possession as the lessee would have had if he had not died. The obvious case to which the section is directed is the case where a tenant of a house dies leaving his widow still living in the house and the section is intended to enable the widow to step into the shoes of her deceased husband. However, the section is not limited in its application except that lodgers and boarders cannot seek the protection of the section.

Consequently, a person, other than a lodger or boarder, who satisfies the requirements of the section can claim the benefit of the section even if he is not a member of the family of the deceased lessee. The extent to which the section can have operation has been pointed out in the debate on the Bill and also by Mr. Justice Mayo in his decision in the case of Noblett v. Manley. The new clause amends section 64 to provide that the only persons who can take the benefit of the section are the wife, husband, mother, father, daughter or son of the deceased lessee. This matter was raised by the member for Stanley (Mr. Quirke) following on certain court decisions. The new clause defines who shall have the protection of section 64, and I do not think it is controversial.

New clause inserted.

Title passed.

Bill read a third time and passed.

METROPOLITAN AND EXPORT ABATTOIRS ACT AMENDMENT BILL.

Mr. PEARSON moved—

That it be an instruction to the Committee of the Whole House that it has power to consider amendments relating to bringing carcasses and meat from the Port Lincoln Branch of the Government Produce Department into the Metropolitan Abattoirs area, and to the sale of such meat and carcasses within that area.

Motion carried.

In Committee.

(Continued from October 26. Page 1262.)

Clause 3—"Permits as to carcasses and meat from country abattoirs."

The Hon. A. W. CHRISTIAN (Minister of Agriculture)—I move—

After "abattoirs" second occurring in proposed new section 78b(1) to strike out "established outside the metropolitan abattoirs area" with a view to inserting "which are situated more than fifty miles from the Abattoirs established under this Act, and at which stock are slaughtered for export. The distance between the abattoirs established under this Act and any other abattoirs shall be measured along the shortest route by roads usually used in travelling."

The purpose is to make it clear that any country abattoirs which are to obtain a quota for the metropolitan area must be situated at least a reasonable distance from the Metropolitan Abattoirs. Any works to be set up must have a territory more or less assigned to it from which it can draw stock. There is a limit to the number of abattoirs that can function economically in any particular area. The companies that have been negotiating with the Government for the establishment of country works have stipulated that they should have reserved to them certain territories in which they should be immune from competition. That is reasonable because abattoirs are in the nature of public utilities. We do not have two post offices or two sets of railways to serve the same town or district, and the Port Lincoln abattoirs, for instance, could not survive if a competitor came into the field because there is only limited business available in that district. The amendment is a modification of an earlier amendment on the files in which the distance of 80 miles from the G.P.O. was stipulated. There is a possibility of a works being established in the South-East within the distance stipulated in the previous amendment. To provide for such an undertaking being eventually established the distance is reduced from 80 to 50 miles.

Mr. O'HALLORAN (Leader of the Opposition)—I accept the amendment and am pleased that the Minister has either seen the light or succumbed to pressure from sources unknown. The amendment is reasonable. I was opposed to the 80 mile limit on two grounds. It would have covered a large portion

of territory in which fat lambs are usually produced, and abattoirs could not have been established in such places as Tailem Bend and Riverton, which are admirably suited to that purpose. In the areas beyond that, abattoirs may not be established within 50 miles of existing abattoirs. I agree that too many services of any particular kind may be provided, and the aim of Parliament should be to ensure, by legislation, adequate but not over-adequate services, because in the final analysis the costs of such works have to be borne by one or both of two classes: producers and consumers.

Mr. BROOKMAN—I do not think much of the amendment. Practically every argument Mr. O'Halloran gave in favour of the 50-mile limit is relevant to the 80-mile limit.

Mr. Macgillivray—His speech was an apology and not an explanation.

Mr. BROOKMAN—Very likely. The report of the Joint Select Committee on the Metropolitan Export Abattoirs Board, printed in August, 1945, contains the following addendum signed by Messrs. E. W. Castine, J. McInnes and K. E. J. Bardolph:—

It must not be forgotten that the Metropolitan Export Abattoirs were established at large expenditure of public money, and they are admirably serving the purpose for which they were established. The capital cost has been added to from time to time as a result of Government action to meet the pressing demand for extra facilities to meet export requirements. This public utility should not now be subjected to competition from the establishment of private treatment works.

I thought that that statement fairly summarized the attitude of the Labor Party, but during the last week or so I do not think Opposition members were quite sure where they were. I cannot understand why Parliament should treat the Metropolitan and Export Abattoirs, vital though it is to the State, as absolutely untouchable. Competition would be worth-while and not disastrous to a big abattoirs as well established as the Gepps Cross abattoirs. I am not a strong critic of the Metropolitan and Export Abattoirs Board (indeed, I believe that under the circumstances it has done a good job), but I feel that more competition should be allowed in the private killing of stock. There are so many lambs in South Australia that we cannot afford to allow a bottleneck in their killing. The report of the committee to which I have referred contains an addendum signed by Sir Wallace Sandford and Messrs. H. D. Michael, and R. W. Pearson, which states:—

The subject of additional abattoirs is one which requires to be reviewed from time to time. Elsewhere in the Commonwealth no legislative obstacles have prevented the establishment of meat treatment works, and industrial enterprise has developed with the expansion of the industry. The committee was informed both in Sydney and Melbourne, that if ordinary trading enterprise were allowed to engage in abattoir activities in South Australia it would probably do so. . . . We find Governments doing all they can to secure, in their respective States, the establishment of as many industries as possible, and there seems to be no logical reason, therefore, why the monopoly conferred upon the Abattoirs Board should persist indefinitely. It should have nothing to fear from competition, and if others are prepared to come into the business their appearance should be welcomed by both producers and consumers.

That seems to be an indication of the Government's policy, but this amendment restricts the Government's powers. Under the legislation the Minister may grant quotas in certain instances, but this amendment limits his power to an area outside a radius of 50 miles of the established abattoirs. I do not think that is wise, because the only way to encourage private abattoirs is to allow them to spring up naturally, as they will do in places where they can get rid of their meat satisfactorily. The Noarlunga Meat Company has a small abattoirs, but it has a considerable population near it, therefore it has been able to make a good business of selling meat. Such a population would not be available further out in the country, and, figuratively speaking, you cannot make water run up-hill except at great public expense. If abattoirs are to be established in country areas where there is no local market for their meat, the only way they will be maintained is by the Government granting them quotas for the metropolitan area. If the 50-mile radius were eliminated the Minister could still use his discretion in granting quotas, and in time he might think it wise to give quotas to abattoirs within the 50 miles limit. The figure of 50 miles would certainly allow Victor Harbour to have a works, although I know of no reason why one is required there. Tailem Bend would also be permitted a works, but I do not know why 50 miles should be the distance. There should be no radius at all. Mr. Hawker's previous amendment was rejected and I see no reason to prohibit the granting of quotas from anywhere if the Minister thinks they are warranted.

Mr. HAWKER—It is a great pity that the Minister has moved the amendment. The Government and Opposition members are invariably pleased to see industries being established

in the metropolitan area, but when something is done to assist the export of primary products, especially meat, they seem to be a little sticky on it. Labor members have always argued that the works should be at the source of supply, but that is completely fallacious, particularly with regard to export abattoirs, the correct place for which is alongside a wharf. The history of country abattoirs in Australia has not been happy. Victorian interests come into this State, buy in our market, and take live lambs to market for slaughter at a cost of about 7s. a head. This proves that it is cheaper to transport livestock than frozen meat. If we want to export meat, the nearer abattoirs are to the shipping port the better. I agree with the Minister that there can be too many services, but the Minister would have power to limit the number. He said that we do not have two post offices in one town but there are more than two in the city. The same could apply so far as abattoirs are concerned. I cannot see why the Metropolitan Abattoirs should have a monopoly. It seems to me that those who desire abattoirs to be established away from the metropolitan area are, in effect, admitting that the Metropolitan Abattoirs is inefficient and incapable of competing with private enterprise. I do not agree with that. It was established when capital costs were far lower than they would be today and it does not have to pay rates and taxes or show a profit on its operations. I cannot see why it could not operate efficiently in competition with other abattoirs. Australia must export and we should do everything possible to facilitate the export of meat which can be sold overseas.

Mr. WILLIAM JENKINS—I support the amendment because it represents a step in the right direction. Mr. Brookman mentioned that the radius of 50 miles would include Victor Harbour, but I can see no necessity for the establishment of an abattoirs there. The Noarlunga Meat Company is in a fairly well populated area and although it can export lamb while the case is before the Privy Council it enjoys a good outlet for its rejects with butchers at Port Noarlunga, Willunga, Yankalilla, Victor Harbour and other small towns on the coast, and there is no necessity for a quota for the metropolitan area. If an abattoirs were established at Tailem Bend, which is outside the radius of 50 miles, a large quota for the metropolitan area would not be necessary because that meat works could supply Tailem Bend, Murray Bridge and other surrounding towns. The same would apply at Kadina. A meat works there could supply Wallaroo, Moonta and other nearby towns.

Mr. MACGILLIVRAY—In foreshadowing this Bill the Premier said it was intended to permit country abattoirs to supply meat to the metropolitan area. The Minister of Agriculture permitted the debate to take place on that assumption and had the Government carried out its original intention it would have received the blessing of primary producers, metropolitan butchers and city consumers. However, without any reason being advanced, the Government has turned completely about and instead of permitting country abattoirs to be established it has laid down rules which will defeat the main purpose for which the Bill was allegedly introduced and which had Parliament's support. The Minister circumscribed the Bill by saying he would move that no abattoirs could be established within 80 miles of the General Post Office. That suggestion received serious opposition and the Minister's present amendment reduces the radius to 50 miles from any abattoirs that is to be established. We do not know where any other abattoirs will be established. All we know is that there is an abattoirs which enjoys a complete monopoly so far as export lamb is concerned. Under the amendment no-one can start an abattoirs within 50 miles of some other abattoirs that is not named and about which no-one knows anything. The Metropolitan and Export Abattoirs has only received one serious challenge and the Government immediately took steps to defeat that small organization, even to the extent of expending large sums of taxpayers' money overseas to ensure that this abattoirs will not function, although it has the blessing of the Commonwealth Government in its operations.

A radius of 50 miles would probably permit of the establishment of only two other abattoirs in South Australia. One could be established in the South-East, but the South-East is not interested in such a proposal because it receives a wonderful service from Victoria. We can exclude consideration of Eyre Peninsula because, according to the member for Flinders, that is in a different category from the mainland. The only other areas outside a 50-mile radius are in light rainfall country where one could not expect a great number of fat lambs to be produced for export. These unnamed abattoirs will, in theory, be permitted to supply some meat to the metropolitan area. I could see some logic in a provision that abattoirs could be established within a radius

of 50 miles of the metropolitan area. Obviously our railways would not have the facilities to rail fresh meat over longer distances. The Minister was prepared to permit certain things in the Bill as originally introduced, but having mentioned his democratic ideas he was evidently frightened by bureaucracy. He tried to do the right thing when he introduced the Bill. I point out that the Minister does not introduce a Bill without giving it serious consideration and without ensuring that it is in keeping with Government policy. What has caused the Minister to make a complete about-face? This amendment completely alters the original Bill. The Minister has not given a reason for it.

The Department of Public Health controls what meat shall be sold in the metropolitan area. All meat must be inspected. There are only three abattoirs in South Australia with inspectors qualified to judge what meat shall enter the metropolitan area. One is in the hills where meat is killed for hams, bacon and smallgoods. There is another small abattoirs at Mount Gambier with a qualified officer, and I believe there is another at Port Lincoln. There are few abattoirs in the State which would be allowed to sell meat to the metropolitan area at the present time. I do not know whether the new un-named abattoirs are to be excluded from the provisions of the public health legislation. Would the Minister explain the position? In the meantime I oppose the amendment.

Mr. WHITE—I support the amendment. The Gepps Cross abattoirs must have protection because large sums of money have been invested in it, and it kills the meat required in the metropolitan area. All killing is done there because it is the only works in this part of the State and at times its capacity has been overtaxed. Because of the additional lambs coming from increased land development more abattoirs are needed. By fixing a radius of 50 miles we are providing protection for the Gepps Cross abattoirs and an opportunity for additional abattoirs to be established. I supported Mr. Hawker's amendment because country abattoirs would need a guarantee that sufficient stock would be supplied to it. There is a temptation for producers to send their lambs to the metropolitan abattoirs but if they could be induced to take up shares in a co-operative concern their stock would go to it. Mr. Macgillivray referred to the lambs sent to Portland from south-eastern areas but it is natural for lambs produced south of Naracoorte to go there: they are not sent there because producers are fed up with the Government. The honourable member also said not many fat lambs are produced in the lower rainfall areas but one of our biggest producers of fat lambs comes from the area between Bow Hill and Karoonda. During the last 10 years he has consistently produced fat lambs and last year 2,500 came from his 4,000-acre property. The fat lamb industry is becoming important in the mallee areas. Lambs from the eastern side of Naracoorte should come towards Adelaide but lamb breeders should not have to put up with the wasteful haulage through the hills. They should be dealt with at abattoirs at Tailem Bend, for which abattoirs there has been agitation for some time. The acceptance of the amendment would permit of their establishment.

The Hon. A. W. CHRISTIAN—I re-assure Mr. Macgillivray that public health is safeguarded in the principal Act, where the terms "inspection" and "public health" are used.

The Committee divided on the question "That the words 'established outside the Metropolitan Abattoirs area' proposed to be struck out stand part of the clause"—

Ayes (4).—Messrs. Brookman, Fletcher, Hawker, and Macgillivray (teller).

Noes (29).—Messrs. Christian (teller), John Clark, Geoffrey Clarke, Corcoran, Davis, Dunnage, Dunstan, Goldney, Heaslip, Hincks, Sir George Jenkins, Messrs. Jenkins, Jennings, Lawn, McAlees, McIntosh, Michael, Millhouse, O'Halloran, Pattinson, Pearson, Playford, Riches, Shannon, Stephens, Stott, Tapping, Frank Walsh, and White.

Pair.—Aye—Mr. Quirke. No—Mr. Travers.

Majority of 25 for the Noes.

Question thus resolved in the negative.

The Hon. A. W. CHRISTIAN—I move—

To insert "which are situated more than 50 miles from the abattoirs established under this Act and at which stock are slaughtered for export. The distance between the abattoirs established under this Act and any other abattoirs shall be measured along the shortest route by roads usually used in travelling."

Mr. RICHES—Would the Minister explain why the limitation in regard to meat slaughtered for export applies to any abattoirs established under this legislation? Abattoirs were recently established at Port Augusta and abattoirs are to be established at Port Pirie. It is impracticable to expect exports from them for a while. This clause, as amended, would preclude any possibility of a quota being allotted to either of those abattoirs.

The Hon. A. W. CHRISTIAN—The whole purpose of the Bill is to encourage the establishment of country works to slaughter stock for export. However, export slaughtering is only seasonal. If abattoirs were allowed only to slaughter for export they could not keep going economically and they would lose their skilled labour. That is why quotas will be allotted so that they can bring meat into the metropolitan area for home consumption. The Port Pirie and Port Augusta works will handle stock for local consumption only; indeed, they have not the capacity to handle large volumes for export killing. Therefore, those works do not need a quota of meat for metropolitan consumption.

Mr. MACGILLIVRAY—As far as I know, there is only one abattoirs outside the metropolitan area apart from the Port Lincoln works that can supply the Adelaide market; that is, the Noarlunga Meat Company's abattoirs. Apparently this company slaughters to the satisfaction of the Commonwealth Government, which is the licensing authority for Australian exports. This provision will prevent the company from supplying the metropolitan area, but I think it should be allowed to do so when the Metropolitan Abattoirs cannot provide sufficient meat.

Amendment carried.

The Hon. A. W. CHRISTIAN—I move to add the following new section after new section 78b:—

78c. (1) This section shall apply only to carcasses and meat derived from stock which—

(*a*) was slaughtered at a slaughter house or abattoirs situated in the metropolitan abattoirs area and licensed by a council as permitted by section 79 or 109 of this Act; and

(*b*) was slaughtered for meat to be tinned or canned for export, or for curing bacon and hams, or for export otherwise than as fresh meat in a chilled or frozen condition, or in the case of swine, for export as fresh meat in a chilled or frozen condition pursuant to a permit issued under section 50a of this Act; and

(*c*) was after slaughter rejected by an inspector of the Commonwealth as not being suitable for export.

(2) The Minister may in his discretion grant to any person a permit to sell within the metropolitan abattoirs area such amounts of carcasses and meat to which this section applies as are specified in the permit.

(3) Any such permit may contain terms and conditions as to all or any of the following things, namely:—the duration of the permit, the quality, kinds and number or amount of carcasses and meat to be sold thereunder, the inspection and counting or weighing of such carcasses and meat, and any other matters which, in the Minister's opinion, are required for the purpose of ensuring compliance with law or in the interests of the public.

(4) Carcasses and meat may be sold in accordance with the terms of a permit granted under this section notwithstanding the other provisions of this Act.

(5) If a person to whom a permit is granted under this section contravenes or fails to observe any condition of the permit he shall be guilty of an offence.

Penalty: One hundred pounds.

(6) If a person is convicted of an offence under subsection (5) of this section the Minister may revoke the permit granted to such person.

(7) The fact that carcasses or meat sold under a permit granted pursuant to this section are not exported shall not affect any power of a constituent council or board of health to license the slaughterhouse or abattoirs at which the stock from which such carcasses or meat was derived was slaughtered.

The new section will enable permits to be given for the sale of meat rejected for export which has been slaughtered within the metropolitan area. One company slaughters for canning for export, and it is not able to expand its production unless it has an outlet for the meat which has been rejected. The new section provides that meat which has been slaughtered at private export abattoirs within the metropolitan area and has been rejected for export may be sold locally under permits to be granted by the Minister of Agriculture. At present the Abattoirs Act allows the councils in the Adelaide area to license private slaughter houses for the purpose of producing meat to be tinned or canned for export, or for bacon and ham, or for export as fresh pork in a chilled or frozen condition. In the course of slaughter there are a certain number of carcasses which, although sound, do not come up to export standards and the Government has been asked from time to time to introduce legislation to allow these carcasses to be sold locally. The Government considers this request a reasonable one and proposes a new section in the Metropolitan and Export Abattoirs Act to enable it to be granted. The meat will be sold only under permits; every permit will contain conditions necessary to safeguard the health of the public and to prevent abuses of the rights which are granted, and will be revocable if the holder is convicted of a breach of any of its terms or conditions.

New section 78c inserted.

The Hon. A. W. CHRISTIAN—I move—

In the first line of clause 3 to strike out "section is" and insert "sections are".

This is purely a consequential amendment.

Amendment carried; clause as amended passed.

New clause 2a—"Carcasses from Port Lincoln."

Mr. PEARSON—I move to insert the following new clause:—

2a. Section 78 of the principal Act is amended by striking out the word "board" in the second, eighth, and ninth lines and inserting in lieu thereof the word "Minister" in each case.

It seems that section 78 conflicts with the amendments that have been passed. It states:—

Notwithstanding any other provision of this Act the board may permit any person to bring into and sell within the metropolitan abattoirs area any carcasses of or meat derived from, stock slaughtered at the Port Lincoln branch of the Government Produce Department. . . .

The new clause is necessary, otherwise the Metropolitan Abattoirs Board might decide, for instance, to permit a quantity of meat to be brought from Port Lincoln in excess of the amount the Minister prescribed. It may be said that section 78 is now redundant, and if that is so it should be repealed. I did not move in that direction because if the amendments which were on the files failed I would still have been able to save the position so far as Port Lincoln was concerned, and that is why I sought the instruction to the Committee to enable me to move this new clause. It does nothing more than confirm what has already been done in Committee.

The Hon. A. W. CHRISTIAN—I have no objection to the new clause, though I have not had a chance to see whether it is necessary. If it is later found to be unnecessary the matter can be corrected in another place.

New clause inserted.

Title.

The CHAIRMAN—Does the Minister consider the title to be appropriate in view of the insertion of new clause 2a?

The Hon. A. W. CHRISTIAN—I think the title is sufficiently wide because it says:—

An Act to amend the Metropolitan and Export Abattoirs Act, 1936-1954, so as to provide that prescribed quotas of meat from country abattoirs existing at the time of the passing of this Act or thereafter established, may be brought into and sold within the metropolitan abattoirs area. . . .

The CHAIRMAN—I draw the Minister's attention to new section 78c. The matter could be considered and, if necessary, the title amended in another place.

Title passed. Bill read a third time and passed.

ELECTORAL ACT AMENDMENT BILL.

The Hon. M. McIntosh, for the Hon. T. PLAYFORD (Premier and Treasurer), having obtained leave, introduced a Bill for an Act to amend the Electoral Act, 1929-1950. Read a first time.

COAL ACT AMENDMENT BILL.

Second reading.

The Hon. C. S. Hincks, for the Hon. T. PLAYFORD (Premier and Treasurer), I move—

That this Bill be now read a second time.

It extends the Coal Act for a further five years. The Coal Act unless extended will expire on December 31 of this year. The object of the coal legislation is to ensure that when there is not sufficient coal to meet all demands, such coal as is available will be used to the best advantage and essential services will be maintained. The legislation enables the Minister of Industry in times of emergency to allocate coal among essential users, and to control the use of gas and electricity by the general public. Provision is made for the appointment of a committee called "the South Australian Coal Committee" to advise the Minister concerning the exercise of his powers under the legislation. Since the legislation was originally passed in 1947, its operations have been extended from time to time. The last extension was in 1950 when the operation of the Act was extended for five years.

The committee in the past has been of great value in times of emergency and has had the support of all coal users. Allocation of available stocks of coal in times of shortage has enabled industry generally to carry on production to the maximum extent possible in the circumstances. There is now no shortage of coal. But in the event of any interruption in the supply of coal from other States the then existing stocks of coal would soon be seriously depleted and the work of the committee would become essential. The cost of the committee is negligible and it is of value to the State to have the committee and the powers given by the Act always available to deal with an emergency. If the Act lapsed, control might be required at a time when Parliament was not sitting. It is preferable to keep the Act constantly in force with the powers always in reserve ready for use.

Mr. O'HALLORAN secured the adjournment of the debate.

SEWERAGE ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from October 27. Page 1280.)

Mr. JOHN CLARK (Gawler)—I have often advocated the extension of sewerage facilities to country towns and have awaited with eager interest my opportunity to speak in this debate; but I now find myself in an invidious position because the Sewerage Committee, of which I am a member, will tomorrow hold a meeting, which I believe will be its last. Because various matters are to be discussed and decided upon then, I ask leave to continue my remarks.

Leave granted; debate adjourned.

SUCCESSION DUTIES ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from September 27. Page 881.)

Mr. O'HALLORAN (Leader of the Opposition)—The principle that this Bill incorporates in the succession duties law is sound, namely, that some concession should be granted in the case of estates where the beneficiary dies within five years of his receiving a benefit from the distribution of an estate. In fact, it will prevent the value of estates from being seriously diminished as a result of excessive payments of succession duty. As explained by the Minister, this principle has been adopted and found to be sound in practice in the United Kingdom and New Zealand, although the method to be adopted here is somewhat different from that devised in those countries.

At first glance it appears that the major benefit will be conferred on the beneficiaries from large estates, but it must be remembered that large estates are subject not only to State succession duty, but also to a considerable Commonwealth impost. The Commonwealth rates are as follows:—

To £10,000—3 per cent; £10,000 to £20,000—3 per cent plus £3/100 per cent for every £100 in excess of £10,000; £20,000 to £120,000—6 per cent plus £2/100 per cent for every £100 in excess of £20,000; £120,000 to £500,000—£26 per cent plus £1/200 per cent for every £1,000 in excess of £120,000; £500,000 and over—£27 18s. per cent.

The rate increases progressively from 3 per cent to 26 per cent, finally levelling out at £27 18s. per cent, which is in addition to the State duty. There are, of course, exemptions in respect of estates left to relatives in blood, but we need not consider them as they do not materially affect the position. The Bill, however, differs from the law operating in England and New Zealand in the type of estate that qualifies for the remission of duty. I understand that in the United Kingdom it is restricted to land and other types of property, and in New Zealand to land and businesses, whereas the Bill provides that the reduction in duty shall apply to the whole estate of the second beneficiary deceased. Therefore, it seems that it would be possible for a benefit to be derived in the case of that estate on property that was not part of the previous bequest; but we are assured that this method has been devised to simplify administration, and, as the total amount involved as the result of the proposed reductions is estimated at only £8,000, there does not seem to be much to worry about in this regard.

The Bill also relates to the exemption in relation to insurance policies, which amount has been increased to meet the changed circumstances brought about by the change in money values since the original Act was passed. The Bill provides that an insurance company may pay money due on a life policy up to £500 without a succession duty certificate being produced in any case where the value of the estate does not exceed £1,500. The amount previously permitted to be paid under that provision was either £200 or £250. As the first proposal is sound in principle and the second desirable, I support the second reading.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—"Relief from duty on successive deaths."

Mr. MACGILLIVRAY—When legislation of this nature was last before Parliament I pointed out that succession duties and death duties were the most vicious forms of taxation a Government could inflict on a long-suffering community. While alive, a person must pay income tax, import tax, sales tax and a multiplicity of other taxes. When a citizen saves and endeavours to make himself independent of various forms of Government relief and to leave his family in a sound financial position—all laudable objects—it is obnoxious that a Government should intervene and take away as much as possible from the usually meagre amount he is able to leave. When this matter was last debated Independent members drew the attention of the House to what has taken place, but unfortunately our remarks were not heeded. The

Premier then said that no hardship would be inflicted. In that Bill a concession was granted to widows who might not have much and the Premier said that no-one else would be taxed heavily on income left to them. However, by the introduction of this legislation, the Premier is forced to admit that what we suggested on the last occasion was correct.

Clause passed.

Clause 4 and title passed. Bill read a third time and passed.

INTERSTATE DESTITUTE PERSONS RELIEF ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from October 6. Page 1004.)

Mr. DUNSTAN (Norwood)—I have much pleasure in supporting this Bill which, with another on the Notice Paper, is designed to facilitate the enforcement of orders made for the maintenance of destitute persons. They would, in particular, apply to wives and children who have orders against husbands and fathers. Everybody would agree that the proposals made by the interstate committee and the Commonwealth for the amendment of the Interstate Destitute Persons Relief Act and the Maintenance Act should be supported, but I am rather sorry there is no provision for an alteration of the normal procedure under the Maintenance Act. Many wives and children depend on orders made under that Act, but they are difficult to enforce. The ordinary procedure at law is not satisfactory for the enforcement of maintenance provisions. It is a lengthy procedure designed to protect dependants. Most of the persons against whom maintenance orders are made are husbands who leave their wives and children and try to evade paying maintenance and meeting their normal responsibilities as a husband or father. Unfortunately, the law as it stands affords them many opportunities for doing just that.

If an order is made against a man it takes a considerable time to issue another complaint in respect of arrears of maintenance. It may take some time to get an order in the first place because the lists of the maintenance courts are heavy and, unless it is a consent order, one has to prove a matrimonial fault. Moreover, hearings in maintenance courts can be lengthy. There should be some better method of overcoming the many lengthy delays experienced under the Interstate Destitute Persons Relief Act and the Maintenance Act. Many families are dependent on State relief because arrears in maintenance are not being caught up with. Many families go to the Children's Welfare and Public Relief Department for relief because the procedure for the enforcement of maintenance orders is so cumbersome that they are unable to receive maintenance and when they get some arrear money they have to pay the relief money back to the department before they can get any maintenance. That is not a satisfactory method of coping with deserted wives and children. The procedure could be shortened and the person summoned under the Maintenance or Interstate Destitute Persons Relief Acts should be required to immediately disclose his means and his whereabouts and to keep in touch with the Children's Welfare and Public Relief Department. By so doing the department could keep a close watch on him and ensure that he lives up to his obligations. At the moment many husbands are disappearing either into the backblocks of South Australia or to other States and it is extremely difficult to catch up with them and ensure that they meet their obligations. All metropolitan members must have had deserted wives from among their constituents coming to them and saying "What can I do? Here I am absolutely landed. Procedure in the maintenance court takes a long time and I shall be forced to accept relief and, even then, where shall I be?" We must do something about the position. While I support this measure wholeheartedly as being a slight step in the right direction there is much more that needs to be done in the near future.

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

INDUSTRIAL CODE AMENDMENT BILL (PENSIONS).

Adjourned debate on second reading.

(Continued from September 27. Page 883.)

Mr. O'HALLORAN (Leader of the Opposition)—This Bill alters the conditions relating to the superannuation scheme provided under the Industrial Code for the benefit of the President and Deputy Presidents of the Industrial Court. There are two main provisions. One is that if a person who is already a contributor to the Public Service Superannuation Fund is appointed to the Industrial Court bench he may continue to contribute to that fund instead of contributing to the scheme provided under the Industrial Code. The other is the proposed adoption of a new, and apparently very much more generous, pension scheme in lieu of the

present scheme. Instead of contributing at the rate of £60 per annum, that is, 4 per cent of the fixed imputed salary of £1,500 per annum, for a pension of £750 per annum, that is, half the imputed salary, the President is to contribute at a percentage of his actual salary, the percentage to be determined according to age, for a pension half his actual salary, namely, £3,250. That is, the pension is to be £1,625 instead of £750 per annum. For a Deputy President the figures proposed are lower but in the same proportion. His pension would be £1,375, that is half of £2,750. I assume that the President and Deputy President will continue to have the option that is afforded under the existing provisions of contributing for a pension or not, but I cannot imagine anyone electing not to contribute to the proposed scheme.

In explaining the Bill the Premier said that it would not make much difference to the Government whether a member of the Industrial Court bench chose to continue to contribute to the Superannuation Fund, where applicable, or to transfer to the proposed Industrial Code scheme; but I find it difficult to agree with that view. I assume that a person who decided not to continue contributing to the Superannuation Fund would receive back the contributions he had made to that fund, and that might be a considerable amount, according to the length of his service and the number of units of pension for which he had been contributing. Such a person, incidentally, would not have been entitled, as a public servant, to contribute for a pension anywhere near the level of the pension provided under the proposed Industrial Code scheme. If he had been contributing for 26 units, that is, for a pension of £1,183, which is the maximum pension for which any public servant can contribute, he would not be entitled to contribute for any more on appointment to the Industrial Court bench; and if he had been contributing for, say, 20 units, that is, for a pension of £910, and was fifty years of age on appointment to the bench, he would have to increase his annual contribution, whatever it was, by £75 18s. a year in order to qualify for the maximum pension of £1,183. The additional £75 18s. a year would, in other words, entitle him to additional pension of £273.

Instead of that, however, he could get a refund of his previous contributions to the Superannuation Fund and start contributing at the rate of £169 per annum for a pension of £1,625 a year under the Industrial Code scheme. These last-mentioned figures apply to the position of President. If the person instanced were appointed Deputy President he would contribute at the rate of £143 a year for a pension of £1,375 a year. Contributions at £169 a year, with interest at 4 per cent, would amount to about £3,450 in 15 years, and that amount would represent the President's contribution towards the cost of providing his pension of £1,625 a year on his retirement at 65 years of age. That would be the position if he had been appointed at the age of 50 years. According to normal expectation-of-life tables, such pension would be payable for approximately 12 years. But £3,450 is the present value of an annuity of about £367 for that period. Thus, on this basis alone, the scheme proposes that the President's pension shall be subsidized by the Government to the extent of about £1,258 a year, the difference between £1,625 and £367.

If a person were appointed to the Public Service at 50 years of age and was eligible to contribute for 26 units of pension, he would have to pay £329 11s. a year for 15 years for a pension of £1,183 on retirement at 65. In that period his contributions would amount to about £6,650, which, on the same basis as previously taken, is the present value of an annuity of about £710 for 12 years. Thus, in this case the Government would be subsidizing the pension at the rate of £473 a year. Although the foregoing figures are not exact, and, of course, a number of factors usually taken into consideration in determining rates of pension have not been included, they disclose a very considerable discrepancy. It should be remembered that in most other respects, such as rate of pension payable in case of invalidity, rate of pension to widow, refund of contributions in the event of resignation, the two schemes are parallel.

Before leaving this aspect of the question, I will refer to minor issues raised by the Bill. It gives the option to a former public servant of continuing to contribute to the Superannuation Fund or transferring to the proposed scheme; but this to some extent affects the Superannuation Act itself, and perhaps some reference to that Act should be included in the relevant provision in this Bill.

I come now to an aspect of superannuation which is of interest and importance to members, the Parliamentary Superannuation scheme. In the light of what I have said, it is obvious that this scheme operates very unfavourably by comparison with other schemes. A member

has to contribute £72 a year and serve for 12 years and reach the age of 50 years before he becomes eligible to receive a pension in the event of ceasing to be a member. If a member has to retire from Parliament on the ground of invalidity before qualifying for a pension he is only entitled to get back his contributions, and if a member dies before completing his 12 years, even although he may be over fifty years of age, his widow does not become eligible to receive a pension. On the other hand, a member could go on contributing for 30 or 40 years and still be eligible only to receive the maximum pension provided under the Act, namely, £420 a year. I am illustrating that in the matter of superannuation it is proposed to be more generous to the President and Deputy President of the Industrial Court than to Premiers, Ministers and Speakers and other members of Parliament who have given long service.

There is another feature of the Parliamentary superannuation scheme which is not a feature of any other superannuation scheme conducted by the Government, that is members' contributions are subsidized instead of pensions. The Parliamentary scheme seems to be a mixture of two ideas, and there is implied in it some attempt to conduct it on an actuarial basis, which I believe is impossible, because of the small number of members involved and because of the peculiar circumstances relating to membership as contrasted with the tenure of other offices, such as judges of the Supreme Court and the Industrial Court and public servants. We have made special provision for judges of the Supreme Court, and under this Bill we are making special provision for the President and Deputy President of the Industrial Court, but in neither instance have we attempted to place their pensions on an actuarial basis. We have simply determined that in natural justice these high officers of the State are entitled to an adequate pension.

Mr. Lawn—Could their pensions be placed on an actuarial basis?

Mr. O'HALLORAN—Of course not, because these officers are too few, and the Parliamentary superannuation scheme cannot be placed on an actuarial basis for the same reason. The Parliamentary superannuation fund as at July 1, 1954, was £53,273. Members' contributions, plus Government subsidy, during the year 1954-55 amounted to £8,332; and, in addition, the sum of £3,500 was added on the authority of the Public Actuary for the purpose of preserving the soundness of the fund. Interest earned during the year was £2,284, making the total income for the year £14,086. Outgoings during the year amounted to £3,231, made up of £1,500 pensions to former members, £1,671 pensions to widows of former members and £60 administrative expenses. Thus the surplus for the year was £10,855, and the fund as at June 30, 1955, stood at £64,128. Without going into the question more fully at this juncture, I would suggest that some investigation be conducted into the Parliamentary scheme with a view to bringing it more into line with principles expressed in other superannuation schemes, particularly with the principles expressed in the scheme we are now considering. I support the second reading.

The Hon. C. S. HINCKS secured the adjournment of the debate.

BRANDS ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from October 25. Page 1216.)

Mr. O'HALLORAN (Leader of the Opposition)—This Bill proposes three amendments to the Act. The first has relation to the placing of age numerals on cattle and horses. Clauses 3 and 4 exempt race horses that are registered as blood stock from the provisions of the Act relating to other horses. The Act states that the numerals which the owner desires to use must be placed under the brand and must conform to certain standards. I suggest that the next time the Act is reviewed we consider an amendment to the section relating to the positions in which the brand may be placed on stock. I think there are six positions and they must follow in rotation, but if the animal is a clean skin, the person first branding it can use any of the positions provided for by law. It would simplify the whole procedure if we made it mandatory for the first person branding an animal to brand it in the first position and then subsequent brands, if necessary, could follow in rotation according to the schedule of the positions prescribed in the Act. I understand that exempting blood stock from the provisions of the Act will bring South Australian practice into conformity with that in other States, so that the age numeral and the drop numeral need not necessarily follow the brand. The amendment will obviate confusion with blood stock moving from State to State with different types of brands upon them. I agree with this amendment.

I wholeheartedly agree with the amendment about paint brands used for marking sheep.

The use of branding fluids that were not scourable resulted in a considerable loss in the sale of wool and created considerable doubt in the minds of buyers. I understand that the Commonwealth Scientific and Industrial Research Organization has evolved some types of paint brand that are readily scourable. The most popular colour is black, but there is some doubt whether it is completely scourable, so other colours, such as yellow and brown, have been suggested. The other amendment permits the use of tags made of plastic or other material instead of the metal tag, and I agree with this provision, too. I support the second reading.

Mr. HAWKER (Burra)—I support the Bill, which is necessary because there are some people who do not take enough trouble to make their goods attractive to the buyer. The question of sheep branding has been worrying the woollen industry for many years. Many breeders and woolgrowers have taken the trouble to take out the brand from the fleece. Others have not branded their sheep at all, but have branded the bales or notified, in their wool classer's report, that certain lines of wool are brand-free. However, they do not get a penny more for that.

The Hon. M. McIntosh—Sometimes they lose the brand and the sheep too.

Mr. HAWKER—Yes, but my point is that the producer gets nothing more for that because a tremendous quantity of wool goes through a manufacturer's mill during the year. A few hundred bales of brand-free wool does not make any difference to his costs because he has to have sufficient staff to pick out the wool that has a brand on it. The C.S.I.R.O. has for a long time experimented with various brands that would scour out in the process of scouring, although at the same time remaining legible throughout the year in all weathers. A few years ago those experiments produced L.B.E., which was the first step, and now they have produced Si-Ro-Mark brand, which is supposed to be much better. One of the difficulties in scouring is that in the rush of dealing with the wool in the shed it is possible for a bit of brand to be left, and if a small bit is left the wool manufacturer has to employ staff to check over all the wool. There is also another danger that wool not properly scoured out may mark the rollers as it comes out of the scourer, and the rollers may in turn mark clean wool.

It must be remembered that wool must face intense competition from synthetic fibres, which are delivered to the spinner absolutely consistent in colour and quality. That makes the spinning of a synthetic material cheaper than that of wool and, despite the superior quality of wool, synthetic materials must always constitute a danger because one of the disadvantages of woollen goods is not the cost of growing the wool or its price, but the cost of processing it into the finished article, and anything that can be done to reduce that expense is to the advantage of the wool industry. Consequently, it is up to Australia to try to eliminate any troubles caused by unsatisfactory brands.

The Bill has a few disadvantages. One is that its provisions will be extraordinarily hard to police. The legislation already prohibits the use of tar, yet tar is still used and I know of nobody who has been prosecuted for it. A wool broker told me that a complaint had been received about the use of tar and that the brand and the owner had been traced, but no prosecution was launched. It will be necessary to enact uniform legislation throughout Australia for this matter to be effectively controlled, and I would like the Minister, either in his reply or in Committee, to state whether other States are taking similar action or whether South Australia is acting on its own, and if the latter is true, whether he will take up, through the Agricultural Council, the question of other States introducing similar measures. While some people use bad branding fluids on their sheep manufacturers are obliged to employ extra staff on examining the wool, which increases costs. Further, people using correct brands or no brands at all derive no advantage. I remember when the fibre from the jute bales was a bone of contention with the manufacturers, and some people used blue paper lined wool bags, but they got nothing extra for the wool packed in those bags. That accentuates my argument that this legislation should be on a Commonwealth-wide basis.

The Minister said that 55 per cent of all brands were black, but that they rarely lasted. Blue brands are very much improved; green brands are a little dull and hard to see; red brands are similar in colour to the red dust of Australia; black brands are the most suitable, but they are the easiest to adulterate with a little tar if a man runs out of brand material. That is the reason why the C.S.I.R.O. does not recommend the use of a black brand.

The only two alternative colours to black mentioned were yellow and brown, but they would be hard to see in most of our country. After dipping the sheep the farmer often finds that dust gets onto the brand and he can only tell the colour

of the brand by breaking the brand on the wool with his fingers. The brand is covered in dust, and in such circumstances I think it would be hard to differentiate between red, brown, and yellow. If some way could be found to overcome the present disadvantage of the black brand, it should be implemented in order to solve this dust problem.

I do not know whether the Bill will be effective or whether it can be policed, but the wool industry must do all it can to send the best possible material to market in the face of world competition from other fibres; therefore, I commend the Government for introducing the Bill. I do not think Mr. O'Halloran was correct in saying there was any compulsion in the use of metal tags. Under the existing legislation the owner is allowed to put on a tag in the opposite ear to the one carrying the registered ear mark, and now he is to be allowed to use a tag of plastic or other material, which brings the Act into conformity with the present practice of using plastic ear tags. I think it is a pity that this Bill is necessary and that the wool growers themselves are handicapped by the practices of a small minority who do not wish to help themselves. I support the second reading.

Bill read a second time.

In Committee.

Clauses 1 to 4 passed.

Clause 5—"Requisition of paint brands."

Mr. HAWKER—Can the Minister say whether any move has been made to introduce legislation in other State Parliaments in respect of the special brands recommended by the C.S.I.R.O.?

The Hon. A. W. CHRISTIAN (Minister of Agriculture)—I have no information of similar action in any other State, but I assume that, as this is a development by the C.S.I.R.O., other States would be interested in banning black brands because of their likelihood of being confused with tar brands. If no action is being taken in other States, I shall be pleased to take up the matter at a meeting of the Agricultural Council with a view to securing uniform action.

Clause passed.

Clause 6—"Regulations."

Mr. PEARSON—Can the Minister say whether the present owners of black brands will be able to choose the colour to which they are to change? Pastoralists running sheep on the more dusty country of the north may not like brown brands because they might become indistinct sooner. On the other hand, there are sheep in extremely clean areas on which almost any colour would be satisfactory. A farmer on inside country might disapprove of brown or yellow colours. Will owners of black brands have any right concerning the allocation of colours to them?

The Hon. A. W. CHRISTIAN—I would certainly think so. It would be my intention to ensure them of a choice.

Mr. HAWKER—I have had some experience in this respect. Providing one's brand is available in another colour—for example, blue, green or red—he can get it transferred now. If he cannot, from the information I have received he will have the choice of either yellow or brown in that brand or else he will have to change his brand to something entirely different.

Clause passed.

Clause 7 and title passed.

Bill read a third time and passed.

AGRICULTURAL CHEMICALS BILL.

Adjourned debate on second reading.

(Continued from October 26. Page 1258.)

Mr. HUTCHENS (Hindmarsh)—I support the second reading of this lengthy Bill which contains 37 clauses. Since the Minister's second reading speech I have made inquiries from a number of distributors of agricultural chemicals and fertilizers, local manufacturers and the chairman of the South Australian Fertilizer Distributors Association. All agree that this Bill is desirable and that it will operate in the best interests of the State. It repeals the Pest Destroyers Act and the Fertilizers Act and I have pleasure in supporting it.

Mr. HAWKER (Burra)—From what the Minister said in introducing this Bill it is designed to protect people who purchase various fertilizers and pest destroyers. There are a number of proprietary lines on the market and it is difficult for the average person to know what is good and what is not so good. In effect, "agricultural chemical" is defined, among other things, as meaning a substance for improving the fertility of the soil in any way. About three years ago an article known as Krilium was introduced. It does not improve the fertility of the soil, but is alleged to improve its structure. It is quite possible that some unscrupulous person could get hold of a similar product and suggest that

it was a chemical substance for improving the soil and if it were discovered to be quite useless and he were summonsed under the Act he might escape on a technical point by saying that he did not represent that it would improve the fertility, but only the structure of the soil. In Committee I propose to move to add the words "or structure" to the definition. The regulations are an important part of this legislation. Regulations as to the fixing of a standard for agricultural chemicals and compositions and for prescribing the method of analysis and taking samples are an important feature. Although the Bill appears to be innocuous a careful watch must be kept on the regulations. I support the second reading.

Mr. MACGILLIVRAY secured the adjournment of the debate.

EVIDENCE ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from October 6. Page 1006.)

Mr. DUNSTAN (Norwood)—I support the Bill with great personal pleasure. I have not much to say about the clauses that deal with the right of parties in an action for adultery to refuse to answer any questions relating to their adultery if they have not denied that adultery in evidence in chief, or to the clause providing for notarial acts. Both clauses have been before this House before and have acquired a substantial measure of agreement. It is obvious that the old provisions as to evidence of adultery in the circumstances I have outlined are a complete anachronism and an obstacle to the court's arriving at a proper conclusion of the issues of the case. Obviously also the provision with regard to notarial acts is necessary for the purpose of facilitating notarial acts overseas. The provision generally concerning notaries in Australia is still somewhat strange. For instance, in the Northern Territory which is not governed by our laws, to become a notary one must apply to the Archbishop of Canterbury. That seems to be an extraordinary procedure.

Mr. Macgillivray—How did he come into it?

Mr. DUNSTAN—Because notaries were originally appointed by a Court of the Arches. The portion of the Bill that gives me pleasure is that relating to the rule for corroboration, in certain circumstances, of the evidence of unsworn children of tender years. This amendment arises out of one I moved last session and I am pleased the Government has reconsidered its then attitude and is now substantially accepting my proposal. The case out of which it arose was most unfortunate and I do not think anyone concerned with it, or any member of the legal profession who read the lengthy account in the State's reports of appeal proceedings, could have been happy about the decision. The court drew the attention of the Legislature to the discrepancy between our law and that of the other States and England. I am pleased to see that the Government has taken notice of the action by the court of appeal and acted upon its advice. It will mean that never again can a situation arise where a jury's concern for a small child can cause it to ignore the warning of the bench that it is unsafe to convict in the circumstances, and to ignore the serious discrepancy in the child's uncorroborated story in order to convict a man whose testimony was unshaken and who on oath denied the truth of the child's evidence. If my contingent notice of motion is carried I shall move an amendment in Committee. I do not propose to debate it now but shall have more to say about it in Committee. I am glad that the Government has agreed to my proposal of last session, and to the proposal for amending it as suggested by Mr. Travers, with which I agree. It will be a satisfactory safeguard for the future on this issue.

Bill read a second time.

Mr. DUNSTAN moved—

That it be an instruction to the Committee of the whole House on the Bill that it has power to consider amendments relating to the police questioning of accused persons.

Motion carried.

In Committee.

Clauses 1 to 5 passed.

New clause 4a—"Evidence of confessions of accused persons."

Mr. DUNSTAN—I move to insert the following new clause:—

4a. The following section is enacted and inserted in Part III of the principal Act after section 34d thereof:—

34e. In every prosecution for any offence where evidence is tendered on behalf of the prosecution of any statement by the accused to a police officer the court shall satisfy itself before admitting any such evidence that the provisions of the following rules have been complied with:—

(i) A police officer shall administer a caution in these words "you are not obliged to say anything unless you wish to do so, but whatever you say will be taken down in writing and may be given in evidence" in the following circumstances:—

(*a*) Whenever the police officer has made up his mind to charge a

person, before asking him any questions, or any further questions, as the case may be.

(*b*) Where a person is in custody, before he is questioned, and before he volunteers any statement, provided that where a voluntary statement is made by a person in custody before there is time to administer the caution, the statement shall not be inadmissible if a caution was administered as soon as possible.

(ii) Where a person in custody makes a voluntary statement, he shall not be cross-examined, and no questions shall be put to him about it except for the purpose of removing ambiguity in what he has said.

(iii) Where two or more persons are charged with the same offence and statements are taken separately from the persons charged, the statement of one person charged shall not be read or related to the other person or persons charged for the purpose of obtaining the comments of the latter upon it.

(iv) Whenever a statement has been made in accordance with the foregoing rules it shall be taken down in writing in the presence of the person making it as soon as possible and he shall be invited to make any corrections he may wish and to sign it. A copy of the statement in writing shall be made available to the defendant upon his request.

This relates to the police questioning of accused persons. There have been many cases in the history of English law where questions as to the fairness of police questioning, or of police testimony as to that questioning, have been vital issues. As a result, many years ago in England the bench of judges was asked to lay down a series of rules upon which the police were to act for the questioning of accused persons. Those rules are paraphrased in the new clause. Following on the laying down of those rules they became rules of practice, and courts did not in practice admit evidence that had not been gained in accordance with the rules. They are not absolutely hard and fast but it is a rare case where evidence is admitted that has not been obtained in accordance with the rules, because the police in England are required by their own procedure and practice to comply with the rules of the judges. I will deal with them in a moment, as well as the reasons for them.

In Australia the judges' rules are not in force. In certain circumstances the courts do rely upon the rules to determine whether questioning has been fair or not. For instance, I can remember a case in a South Australian court where a statement was obtained from one accused where two accused were charged jointly. The statement was taken from one man and read to the other, and he was asked to comment on it. Objection was taken to evidence tendered on that basis and Mr. Justice Ligertwood ruled that it was unfair. That is one of the rules provided for here. What is the basis of the law with relation to statements of accused persons? They are tendered as confessions in the courts and it is the absolute rule of English law that a confession must be fairly and voluntarily given. There must be no form of third degree to get a man to incriminate himself. There must not be any cross-examination or inducement in his making a statement, and he should have every opportunity to ensure that it is his statement. In Australia there have been a number of cases where it has been held that police questioning was unfair, but there is no real criterion and it is merely the personal view of the judge at the time. One of the major differences between the English practice and our practice is that it is not required of the police in this State, and so far as I know in any other State, to produce a statement for a person to sign. That sort of thing is subject to abuse. The rules laid down by the judges are set forth in the clause, and I shall refer to them briefly. It is required of a police officer under the judges' rules that he should administer a caution to the person whom he is cautioning in these words: "You are not obliged to say anything unless you wish to do so, but whatever you say will be taken down in writing and may be given in evidence." In fact, that caution is used here, although what is said is not taken down in writing at the time, but afterwards. The judges' rule says it must be given in these circumstances, whenever the police officer has made up his mind to charge a person, before asking him any questions or any further questions. After he has made up his mind to charge a person he ought to make certain that that person knows that he is not in duty bound to answer questions. There may be a charge laid against him, but he need not answer questions unless he wishes to do so.

Many people are unaware of the fact that they do not have to answer questions other than certain specific questions laid down in our laws, such as questions about drivers of motor vehicles, accidents they have observed, names and addresses, or certain things of that kind. Apart from this, people are not required to answer questions put to them by the police. If they are arrested and taken to the police

station many of them feel they are under police jurisdiction and must answer any questions put to them. Many, in the circumstances, are under a severe strain. They are nervous and upset and not in a position to make a voluntary confession. They should be told that they need not make a statement or answer questions unless they wish to do so.

The judges have also said that a person who is in custody when he makes a voluntary statement shall not be cross-examined. A policeman may ask questions to clear up an ambiguity but it must be a voluntary statement. There must be no cross-examination as there is in a court under oath, and there must be no attempt to trick a man into making a statement that he would not otherwise make. At present our police officers have the extraordinary habit of passing an opinion upon a person's conduct. They say, "I do not believe you did so and so. I think you did such and such a thing." They then ask him to comment. To put in those comments as part of the man's questioning is an undesirable procedure. The police are there to make inquiries and they may do so, but the person asked should be able to say whether or not he will answer the questions.

Sitting suspended from 6 to 7.30 p.m.

Mr. DUNSTAN—I am indebted to the member for Torrens (Mr. Travers) for lending me Archbold's *Criminal Pleading, Evidence and Practice*, which is a more recent edition than mine. It sets forth the judges' rules, as follows:—

The following rules have been approved by His Majesty's Judges:—

1. When a police officer is endeavouring to discover the author of a crime, there is no objection to his putting questions in respect thereof to any person or persons, whether suspected or not, from whom he thinks that useful information can be obtained.

2. Whenever a police officer has made up his mind to charge a person with a crime, he should first caution such person before asking him any questions, or any further questions, as the case may be.

3. Persons in custody should not be questioned without the usual caution being first administered.

4. If the prisoner wishes to volunteer any statement, the usual caution should be administered. It is desirable that the last two words of such caution should be omitted and that the caution should end with the words "be given in evidence."

5. The caution to be administered to a prisoner, when he is formally charged, should therefore be in the following words: "Do you wish to say anything in answer to the charge? You are not obliged to say anything unless you wish to do so, but whatever you say will be taken down in writing and may be given in evidence." Care should be taken to avoid any suggestion that his answers can only be used in evidence against him, as this may prevent an innocent person making a statement which might assist to clear him of the charge.

6. A statement made by a prisoner before there is time to caution him is not rendered inadmissible in evidence merely by reason of no caution having been given, but in such a case he should be cautioned as soon as possible.

7. A prisoner making a voluntary statement must not be cross examined, and no questions should be put to him about it except for the purpose of removing ambiguity in what he has actually said. For instance, if he has mentioned an hour without saying whether it was morning or evening, or has given a day of the week and day of the month which do not agree, or has not made it clear to what individual or what place he intended to refer in some part of his statement, he may be questioned sufficiently to clear up the point.

8. When two or more persons are charged with the same offence and statements are taken separately from the persons charged, the police should not read these statements to the other persons charged, but each of such persons should be furnished by the police with a copy of such statements and nothing should be said or done by the police to invite a reply. If the person charged desires to make a statement in reply, the usual caution should be administered.

9. Any statement made in accordance with the above rules should, whenever possible, be taken down in writing and signed by the person making it after it has been read to him and he has been invited to make any corrections he may wish.

It may be pointed out that in England that is a rule of practice and the courts have a discretion whether they will permit a statement or not, the criterion being whether the statement has or has not been fairly obtained. Unfortunately, we have no such rule of practice in South Australia, and that means that statements are at the moment being obtained in contravention of these rules, and I believe unfairly. The only way to cope with that situation is to make a rule of law because our judges have not made a rule of practice. In fact, there is no provision for their making such a rule. Our judges do not follow the practice of the English judges, so what are we to do?

We can only provide by legislation that the police shall comply with these provisions. I would not object to the court having a discretion, but I find it difficult to provide for that by legislative process. Certainly in Australia there are cases where the judges rule out statements on the ground that they are unfair and do not comply with the judges' rules, but in many instances the statements are not ruled out as inadmissible, whereas they would be

ruled out in England. Let us see what my proposed amendment aims at. In regard to the obtaining of a statement without a caution, it is true, as everybody who practises in the Criminal Court knows, that police officers do at present obtain statements without cautions where normally a caution would be administered in England. Sometimes when a police officer knows he will charge a person on a statement he nevertheless obtains that statement from him without a caution and without that person being aware that he does not have to make a statement to the police.

In effect, that means he is not giving a voluntary statement because he believes, as most people do, that he has to answer the questions that the police put to him. Another point that is provided for in the proposed rules is that the police here have a habit of interviewing someone who has been in trouble or about whom there has been some question and saying, "I think you had better come along to the police station while we make inquiries." Of course, that means that that person is in custody, but if the police were challenged they would say that was not so. When a person is taken to the police station he may be questioned in the company of other police officers under the inevitable influence of such a situation. It is certainly a position that is undesirable if a caution is not administered. Under these rules, if evidence were given that a police officer had taken someone to a police station under those circumstances, as police officers all too frequently do, and had asked him questions without giving him a caution, that evidence would be ruled out. It would be demanded that the police officer administer the caution that he was going to take the person concerned to the police station and that he use the words, "I arrest you on such and such a charge." The court would not accept a statement unless those conditions were complied with.

There is no defined rule about this at present, and the police can get away with this position because if a police officer is challenged in court for not having administered the caution it is likely that the judge will raise his eyebrows and say that the policeman was asking some questions and that was that. The same position does not obtain here as in England, that one can make sure that the person making the statement was making a voluntary statement and knew he did not have to answer the questions put to him.

Mr. Riches—Has there ever been a case in which an innocent man suffered as a result of that practice?

Mr. DUNSTAN—It is hard to say because it cannot be proved. It is a matter of opinion, but I should think there is not a solicitor practising in the Criminal Court who would not be able to point to a case in which he believed police action in obtaining the statement had been unfair. I shall pass on to a later provision of the rules, which is the most important of all. That is that the statement should be reduced to writing at the first possible opportunity and be offered to the accused to sign.

Mr. Fred Walsh—Why not provide that the constable who takes the statement should make it available to the defendant?

Mr. DUNSTAN—That is, in effect, what these rules provide.

Mr. Fred Walsh—He may not know anything about the provision, so why not make it necessary for the policeman taking the statement to make it available to the defendant?

Mr. DUNSTAN—I would not object to that, though in most cases where any question arises about a statement there is a solicitor acting for the defendant, and he would immediately call for it. If the defendant did not know he was entitled to the statement he would have to rely on the magistrate's telling him so, but I am prepared to delete the words "upon his request." There are many people who are ignorant of the provisions of the law, and they may not ask for the statement.

Mr. Fletcher—Are they entitled to it?

Mr. DUNSTAN—No, and that is the peculiar feature of our law. When a man is taken to a police station and questioned he may or may not be cautioned at some stage of the proceedings. It is often after the policeman has made up his mind to charge an individual that he says to him, "You are now going to be charged with this crime. Have you anything to say? You do not need to answer questions unless you want to." That is supposed to be the caution, but the policeman has made up his mind long before to charge the person. He has arrested him, yet he did not caution him first and the man did not know he did not have to answer the questions. When the policeman has put his questions and obtained answers and laid the charge the man is taken to the cells. Not a few hours afterwards, but often 12 hours, the policeman makes up a brief about the case and types

down his recollection of what was said to him by the defendant and what he said to the defendant, but the defendant does not see the statement. He is charged and perhaps remanded to another day. When he is taken to court he may plead "Not guilty" and the case may be heard two or three weeks afterwards.

The policeman goes into the witness box and says, "I made notes 12 hours afterwards." He may be asked, "Were the facts fresh in your memory then?" and he answers "Yes." He is then asked, "Can you remember the details without reference to notes?" and he answers, "No; have I permission to refer to notes?" and permision is given. He may be questioned by the defendant's counsel, but very rarely is counsel able to establish to the Bench's satisfaction that the facts were not fresh in the policeman's memory 12 hours later. In most cases the policeman is allowed to refer to his notes, and counsel has little chance of proving that they were not a satisfactory record of what took place.

Mr. Millhouse—On the other hand it is unusual to wait as long as 12 hours.

Mr. DUNSTAN—In many cases it is not, and I can cite three or four I have taken this year in which it has been as long as that. The police officer then produces a long brief representing a conversation of, say, half an hour, and reads it to the court. That is supposed to be a verbatim record of what took place between the police officer and the defendant and it goes in as evidence of a voluntary confession. Under those circumstances the barrister's chances of proving a word wrong here or there are very slim. It has been done, and the uncle of the member for Mitcham (the late Sir Eric Millhouse) perfected a good technique (which I have used on occasions with success) of asking the police constable, after he had referred to his notes, to shut his book and recount verbatim what he had said. In some instances the officer could not do that, and the magistrate or the jury then knew there was something wrong about the whole business.

On the other hand, however, some policemen woke up to that procedure and learned their notes carefully in advance. In one famous case Sir Eric used his technique, and the constable shut his book and recited the record in detail, having carefully learned the whole thing by heart; there was no means of contesting his statement in court, whereas had the statement been written down at the time of the questioning and produced to the defendant who was alleged to have made it, and had he been asked to sign it, he could have said either, "There is something wrong there. I will not sign it," or, "All right. I will sign it."

I have heard the argument used against the judges' rules (and it is the only argument I have heard that has had any substance) that, if a defendant signs what is presented to him by the police officer he has no chance afterwards of contesting the statement, but why should he? After all, he has made the statement; but if the statement is written down, read over to him, and then he will not sign it, there will obviously be in the mind of the court a question if it is presented unsigned, and he has a chance of disputing it. At present however, only rarely has a barrister a real chance of disputing what the policeman said took place at a questioning. How can he? It may be a word here or there that has changed the whole face of the case. What are the influences working on a policeman? He questions the defendant and is out to convict a man for an offence because it is his duty to detect and prevent crime. The defendant makes a statement to him, and is it not natural that in the policeman's view the worst construction should be put on what the defendant actually said to him? The policeman would not be human if he did not in his own mind turn the statement into something much more damaging, and in the majority of cases a word here or there can make the difference between a man's guilt and his innocence.

There is no proper check on this. I have practised under both systems; where the judges' rules were and are enforced today, and in South Australia where they are not. From my experience I say unequivocally that the judges' rules constitute a fairer system of working police questioning of prisoners. A defendant makes a statement to the police, and he is then supposed to have made a voluntary confession. The man's solicitor goes to the police after he is charged and asks for a statement for checking purposes. After all, the defendant should have every right to establish his innocence for he is presumed innocent until he is found guilty, and if he is alleged to have committed an offence, should not the defence solicitor be given the chance of talking it over with the defendant before they hear an unchecked statement in the box from a policeman who has recorded a statement some time after the conversation? Under the present system, however, there is no chance of checking the statement. The defendant may have been on remand for a time and cannot remember exactly what was said. He may be

able to tell his solicitor the gist or tenor of the conversation, but that is a very poor basis on which to put a man into the box to contest a written statement made by a police officer to which he will swear as being a verbatim record of what took place between the two parties.

What harm can possibly come from laying down these rules, which are the same as those the judges in England have laid down as the fair basis for police questioning of prisoners? I cannot see any harm in it at all. The only thing that can possibly be alleged is that this rule of practice leaves some discretion in the courts; but from an examination of the cases in England which are based upon the interpretation of the judges' rules it will be found that rarely do the courts depart from a fairly strict adherence to those rules. If the prosecution has departed from the judges' rules in the matter of the police questioning of prisoners, then the Bench wants to know from the prosecution why this evidence should be received in view of the fact that the police have not complied with the judges' rules; and what can be fairer to both police and prisoner that those rules should be enforced? What could be more unfair than that the prisoner should be in no position either to know at the proper time that he is not compelled to answer questions put to him in a police station, that he does not have to make a confession other than a really voluntary one, or that he is not to be subjected to unfair questioning. That is the sort of thing I instanced before the tea adjournment, where the police questioner puts his own opinion into the statement and gives evidence of that in court, saying, "I do not believe you. I believe it was such and such." Then that goes in as evidence that can prejudice a jury.

Mr. Millhouse—Isn't it a question of weight?

Mr. DUNSTAN—Possibly, but how far will it affect a jury? The police are continually doing this in questioning prisoners: asking them various questions, and when the prisoners do not make a voluntary confession, saying, "I believe you are wrong and that you did such and such." That goes before the jury and must inevitably affect them because it is a most prejudicial statement made in the midst of what the defendant is saying. It is improper questioning and would not be admissible under the rules I propose.

Yet this system is allowed to continue whereby the police questioner does not have to write down the statement or offer it to the accused at the time. Indeed, rarely does a police officer write down a statement in the presence of the prisoner even though he has every facility for doing so. He may write it down piecemeal, in the meantime investigating that and various other cases. Often, he runs about two or three conversations into one statement, yet that is supposed to be a verbatim account of proceedings. The defendant has no proper check on that, and it is most prejudicial to the defence.

The system I propose involves the proper cautioning of the defendant, no examination or unfair questioning, and no separate questioning of two persons charged. Indeed, in this latter respect under the present system a statement is often taken from one person and the other person invited to comment on it. The most grave abuses can arise from that practice, and it is common knowledge in the criminal jurisdiction here that some police officers go to one man, entice him to make a statement which they twist around, and then go to the other and say, "He said so and so. What have you to say about that?" The object of that procedure is to trick the second man into some kind of confession, but that would be ruled out under the proposed procedure. Whenever a statement is made it should at the first possible opportunity be reduced into writing and the accused person asked to sign it. Then there would be some chance to check on its accuracy. That does not seem to be unreasonable, and nobody could suggest that it could not be complied with, because in the overwhelming majority of criminal cases in England and the Commonwealth countries where judges' rules apply, who can say that these rules are too rigid? At present the local rules about admissibility of evidence are so lax that the onus is in effect on the defendant to prove that the questioning is unfair. Anybody who practices continuously in the criminal jurisdiction realizes how heavy a burden it is upon a defendant. I have spoken to many barristers who have had far more extensive experience in the criminal jurisdiction than I and their unanimous opinion seems to be that something must be done. They are not always agreed that this is what should be done but none has any other practicable proposal nor have any of them practised where these rules are in force. I have, and know how valuable they would be in establishing the innocence of individuals whom I believe in several cases have been wrongly convicted before our courts.

Mr. TRAVERS—I oppose this proposal. It is necessary for us to look behind the scenes to some extent to ascertain what these judges' rules were designed for. If one gets that in true perspective the matter becomes easier. The rules were originally laid down in 1912 and were expressed to be for the guidance of the police and not for the control of the police. In other words, their object was to indicate to the police that if they followed this particular procedure, any prisoner's statements made as a result would be in the clear and would not be ruled out, but if they elected not to follow them they would run the risk of their being ruled out because of some element of unfairness. We must examine the importance of these rules, because it is almost half a century since they were promulgated and the general standard of knowledge and education of people has improved considerably in that time and most people nowadays have a much better appreciation of their rights than they had then.

There are, in effect, three methods by which criminal cases can be proved: firstly, by direct evidence of eye witnesses; secondly, by circumstantial evidence and thirdly, by confessional evidence—evidence of admissions. These rules have to do with the mode under which such confessions or admissions are obtained. There is no law against a man pleading guilty to a crime if he wants to. There is no law against a man making an admission out of court or to the police that he is guilty of a crime, nor is there any law or morality to suggest that a man, whose conscience prompts him and whose sanity is intact, should not, when being accused of a crime, admit it. Bearing those things in mind one can look upon confessional evidence as being most important when once proved. It is easy and tempting for people to make statements in their own favour, but not many people are prepared to make untrue statements against their own interests. If we once find it satisfactorily proved that a man did make a statement against his own interest it is an extremely important statement and has considerable probitive value.

We should next ask why, having regard to its obvious probitive value, anyone should have any qualms about this confessional evidence. The history of the matter is plain. It is not because the law has ever felt any very tender regard for an accused person, nor is it because of considerations of fair play. The real basis is because of the risk of its being untrue—the risk of a man, in certain circumstances, admitting something against himself which is contrary to the fact. Normally, that would not happen. It would only happen in somewhat special circumstances. It may happen where a man out of bravado makes an admission against himself. A young buck, who thinks it clever to have taken part in some escapade, may make a false statement against himself. A man who is a little bit silly or a little under the influence of liquor or who wants to protect someone will make such a statement. It has not been unknown that both a husband and wife will falsely confess to a crime which niether has committed but which each thought the other had. It may happen where a man is subject to threats, duress or blackmail or in cases of fear. They are extremely rare cases and in a long and extensive experience of the criminal law I have only encountered one case when I have been told by a man, "Yes, I did make that statement but it was not true." On many occasions I have been told, "No, I did not make the statement. What is being said against me is not true."

Fundamentally, the object of these rules is to ensure against a man being convicted wrongly upon a statement against himself which, for some reason or other, is not true. They are not designed to ensure against his being convicted nor to create a situation of what might be called "fair play all round" because if a man is guilty it is fair that he should be convicted. Crime is an offence against the community. It is because of that that we have jury men who represent the community. We must realize that it is in the interests of the community that no innocent man shall be convicted and therefore we should take no undue risks of him convicting himself on false evidence. We must realize the circumstances in which the evidence might be false or subject to the risk of falsity. Secondly, we must keep our eyes steadily upon the fact that it is in the interests of the community that the police should have a full and unfettered right to investigate crime fairly and properly. I would be one of the first to object to any unfairness. Indeed, I have had occasion to do so and what the member for Norwood has said about some police statements is in no way exaggerated, but that does not seem to me to be quite the point at issue here. At times one cannot help feeling exasperated when a policeman goes into the witness box and, in connection with a matter that occurred a day or two previously, asks the magistrate, as he hauls a sheaf of typewritten statements from his pockets, "I want to refer to my notes. I cannot remember the sequence, details and

course of events.'' If a policeman cannot remember those things in substance in such circumstances, if I were the magistrate I would be inclined to say, ''I am not going to be much impressed with your evidence in any event.'' The remedy rests with the court, but I must subscribe to what the member for Norwood has said that the courts do not face up to the full responsiblity which is upon them in the matter of administering what is undoubtedly the law—and I am not talking about the judges' rules—upon the question of confessional statements. Whether I am right or wrong, the situation is not be remedied in the manner the honourable member has chosen.

These rules have never been the law in England. The situation is set forth in Archbold's *Criminal Law* as follows:—

Inasmuch as judges' rules are not rules of law, but only rules for the guidance of the police, the fact that a prisoner's statement is made by him in reply to a question put to him by a police constable after he had been taken into custody without the usual caution being first administered does not of itself render the statement inadmissible in evidence.

Although it has been called a rule of practice in England for the courts to follow, the judges' rules are far from being a universal rule. In one of the recent volumes of the Court of Criminal Appeal Reports I read of two cases in which the court refused to interfere and said that judges' rules were merely rules for guidance and not to control the police: they were not rules of law in any sense and unless there was any element of unfairness about the matter the court would not interfere.

No one should ask for anything other than fairness in these matters. There should not be any special rules appertaining to one side that do not appertain to the other, providing that the existing rules are applied in full force. In the case of *Rex v. Lynch*, reported in the 1919 South Australian State Reports, the late Chief Justice, Sir George Murray, said:—

After a long period of uncertainty, the law may now, I think, be regarded as settled. There are two rules. The first is that ''no statement by an accused is admissible in evidence against him unless it is shown by the prosecution to have been a voluntary statement in the sense that it has not been obtained from him either by fear of prejudice or hope of advantage exercised or held out by a person in authority.

If a person under fear, by bribery, or pressure is induced to make a statement, obviously that inducement may render it subject to the risk of being false. The judgment continues:—

And the second is that statements made by a prisoner, whether at the time in custody or not, in reply to questions put by such a person in authority as a police constable, provided no fear of prejudice or hope of advantage has been exercised over or held out to him, are legally admissible, but may in the discretion of the judge be excluded at the trial if he thinks they were unguarded answers made under circumstances that rendered them unreliable or unfair, for some reason, to be allowed in evidence against the prisoner.

That seems to me to cover fully and adequately the whole of the necessary field of law on this subject. As I said, there is no law against a man making an admission against himself—in logic against his doing it or in morality against his doing it. Indeed, many a man, if he feels he would like to get it off his conscience, prefers to do it. There is no reason why, in such a circumstance, a statement should not be admitted. Anything in the way of pressure, inducement, threat or fear renders it impossible to accept a statement. That would be legally out. If a judge thinks it unfair for any reason, he may exercise his discretion and say, ''No, I will not take it.'' One instance which comes to mind is of a man working in a big business and getting mixed up in an alleged fraud. The managing director said to him, ''How is your wife going to get on about all this business?'' and the man became sentimental and made a statement. The late Judge Gordon ruled that as being unfair, and on the re-trial Judge Poole considered it unfair. There is adequate protection. It seems to me that the fact that none of the Australian States, nor the Mother Country herself, having ever made the judges' rules have the effect of rules of law, we would be embarking upon a rather startling innovation if nearly half a century afterwards we were to give them the effect of law. I would be strongly opposed to that. I feel that if that were done the hands of the police would be tied too much altogether.

Let us have a look at new clause 4a, which includes:—

Whenever a statement has been made in accordance with the foregoing rules it shall be taken down in writing in the presence of the person making it as soon as possible and he shall be invited to make any corrections he may wish and to sign it. A copy of the statement in writing shall be made available to the defendant upon his request.

The initial part says that if a statement is not taken in accordance with all these provisions, it is not to be received in evidence. Let us have a look at the possible result. The police arrest a man who makes a genuine, *bona fide*, honest, open statement of guilt and tells the whole circumstances of the story.

He is taken to the police station and the police set about writing it down, and meanwhile the man starts to think of the possible consequences. By the time the written statement is read he says, "I will not sign that." Let us take it a step further. If this were a rule of law the same man could say to the policeman, "I will not sign that, but what I have said is perfectly true and I stand by every word of it." That could not be admitted in evidence. New clause 4a also provides:—

In every prosecution for any offence where evidence is tendered on behalf of the prosecution of any statement by the accused to a police officer the court shall satisfy itself before admitting any such evidence that the provisions of the following rules have been complied with . . .

That would have complied with all the rules in that particular case. All I am saying is that if a man wants to make a statement and there is no unfairness about it, why stop him from doing it? The system has grown up from the time when there was in the British system of law approximately 200 offences punishable by death, and that not unnaturally led to a system of considerable tenderness on the part of judges towards a confessional statement. Indeed, they were carried so far that in one case where the policemen said to the man, "It would be better if you told the truth," it was considered that that was sufficient inducement to render the statement inadmissible. In these days of enlightenment when practically all citizens know their rights in a general way, to say that a man who makes a genuine statement of guilt is to escape the consequence of it merely because the policeman said, "You had better tell the truth" is reducing it to something in the nature of a farce. What we want is a rule of law which says, "Let it be apparent that it is unfair for any reason that a confessional statement should come in and the judge should throw it out." It seems to me that if it be a fact—and I am bound to say that I partially agree with the member for Norwood—that in this State there is not the same readiness on the part of the courts to administer that branch of the law as strictly as elsewhere, then the remedy is not to alter the law, but to hope that the courts will administer the law as it is found. I want to distinguish clearly in this discussion the type of case where a man is disputing the evidence of a policeman on the one hand, and on the other hand the type of case where judges may consider the evidence in some way as being unreliable. This matter was dealt with in the High Court of Australia in 1950 in *King v. Lee*, and reported in volume 82, *Commonwealth Law Reports*. Five judges sat and unanimously upheld a statement in the judgment of the Chief Justice of New South Wales, part of which reads:—

The obligation resting upon police officers is to put all questions fairly and to refrain from anything in the nature of a threat, or any attempt to extort an admission. But it is in the interests of the community that all crimes should be fully investigated with the object of bringing malefactors to justice, and such an investigation must not be unduly hampered. Their object is to clear the innocent, as well as establish the guilt of the offender.

Whether that be their conscious object or not that is their object, because they detect and bring to justice the real offender and in the process of doing so they clear of suspicion people who may otherwise remain suspect for the rest of their lives.

When I say that I partially agree that this second rule is not administered in this State with the same strictness as elsewhere. Possibly my view is tainted because it is that of the advocate. In this State I see it only from the advocate's point of view, and not from that of the judge or the magistrate. They have to look at it from both points of view, which is materially different from that of the advocate. It seems to me that we will do ourselves an injustice if we tinker with the law. When we are dealing with the rules for the police in their interrogation, we should not assume that they are going to approach the interrogation with a dishonest purpose; and we should not assue that they are trying to frame a man. We should not assume that they are doing other than what the Chief Justice of New South Wales said, "Endeavouring to arrive at the real truth," and anything which will enable them to arrive at the real truth should be encouraged. Anything which would encourage them to produce false evidence to the court should be discouraged, and any rule which is going to enable a guilty man who wants to admit his guilt to escape punishment should be no part of our law.

Mr. MILLHOUSE (Mitcham)—It is with some diffidence that I rise to speak following the two gentlemen who have already spoken, because both have had more experience of criminal law than I have. I oppose the amendment for one reason above all others, namely, that it is not the law in England. I consider that as regards the law we should draw on the fund of experience of those in

Great Britain. If it is found after some experience in the law that it is working well in Great Britain, it is a strong case for our adopting it. That principle has been followed more or less for a long time in this State. The Judges Rules were laid down in 1912 and they are rules of practice for the guidance of the police, legal practitioners and those administering the law. We would be making a great mistake if we went beyond that and made them rules of law here. Much has been said about statements obtained by the police when questioning accused persons. My experience has been that the police always act fairly in this matter, but neither the police force nor any other body is perfect and mistakes are made. On the whole we have no reason to complain about the way the police carry out their duties. If any remedy were needed, and on the whole I do not think one is needed, the effective way to deal with the matter would be to improve the administration of the police force. Mr. Dunstan said much about the circumstances under which statements are obtained. I have every sympathy for the person questioned by the police, and 99 persons out of 100 will say things they do not mean to say. They become what is commonly called "rattled." Mr. Dunstan did not say that a man may make a statement when questioned by police, have it put in writing whilst he is in an upset state of mind and then have the statement presented to him for signature. In other words, the whole thing is done whilst the man really does not know what he is doing. For that reason, the new clause would not be the cure.

It is desirable that the man himself or defending counsel should be able to get a copy of the statement that is made, but this Bill is not the place in which to make such a provision. That is an administrative matter. The Government should consider requesting the police to allow such statements to be made available. It is desirable that people should be able to get statements they have made. With great respect to Mr. Dunstan, I say that in several particulars the new clause does not accurately represent the judges' rules. One could almost say that it is a garbled version Paragraph (iii) of the new section contains a departure from the rules laid down. It says:—

Where two or more persons are charged with the same offence and statements are taken separately from the persons charged the statement of one person charged shall not be read or related to the other person or persons charged for the purpose of obtaining the comments of the latter upon it.

That is mandatory. The judges' rule No. 8 uses "should" and not "shall." It says:—

When two or more persons are charged with the same offence and statements are taken separately from the persons charged the police should not read those statements to the other persons charged . . .

There is a subtle but real difference. The new section, because of the way it is drafted, does not embody the judges' rule. Paragraph (iv) states:—

Whenever a statement has been made in accordance with the foregoing rules, it shall be taken down in writing in the presence of the person making it as soon as possible . . .

The judges' rule does not put it that way. Rule No. 9 says:—

Any statement made in accordance with the above rules should, whenever possible, . . .

Paragraph (iv) says, "Whenever a statement has been made."

Mr. Dunstan—It says "as soon as possible." What is the difference?

Mr. MILLHOUSE—I can see a big difference between "as soon as possible" and "whenever possible." The latter implies that there are times when it will never be possible. At the end of paragraph (iv) there appear these words:—

A copy of the statement in writing shall be made available to the defendant upon his request.

That does not appear in the rules of the judges. I agree that it is desirable that statements should be available, but it is not a provision to be included in this Bill. Primarily, this is a rule of practice in Great Britain and we should follow it whenever possible, but I do not believe it should become a rule of law in this State. In any case the new clause as framed is undesirable.

Mr. STOTT—Members are confused as to the right thing to do in this new clause. They seem to agree that it is desirable that evidence should be reduced to writing as quickly as possible, but there is a difference of opinion how it should be done. Mr. Dunstan wants the matter included in legislation: Mr. Travers and Mr. Millhouse doubt whether it should be included, but they do not question its desirability in practice. I agree that it is desirable to reduce evidence to writing. Mr. Travers said that unfortunately it is not the practice of magistrates in this State to do what is done in other States in this matter. If that is so, we should improve our law. If the Government will do something so that

the judges will lay down rules of practice in accordance with Archbold's *Rules of Practice*, that would satisfy me as a layman, although I am hesitant to have this as a rule of law because it might impede the police in the execution of their duties.

The Hon. B. PATTINSON (Minister of Education)—I wish at the earliest opportunity to congratulate the honourable member for Norwood on the able manner in which he argued his amendment from purely a debating point of view. His argument really amounted to a criticism of the administration of the law by some of our courts rather than of the inadequacy of the law. I am reinforced by the argument of the honourable member for Torrens (Mr. Travers) who has had a long, extensive and highly successful career in the criminal court under the law as it exists today. He does not seem to be labouring under any sense of injustice because of the law. Although he agrees that there may be some reasonable criticism of the conduct of some courts, he opposes the amendment, and I shall ask this Committee to do likewise.

The Attorney-General is of the opinion that the amendment is wholly wrong and should be strenuously opposed. He supplied me with an opinion given by the Crown Solicitor, who I think has had perhaps the longest and most direct experience of anyone in this State in the criminal court on these particular rules. He is no longer Crown Prosecutor, so I do not think he could be charged with having any bias from a purely personal point of view. His opinion is as follows:—

In my opinion this amendment should be strongly opposed. Apparently the intention in the mind of the draftsman is to require the prosecution to prove strict compliance with portions of what are known in England as the "Judges' Rules" plus some original departures thereform designed to hinder the investigation of crimes and the successful prosecution of criminals. I refer to my memorandum of October 25, 1954, in respect to the new clause 5 then brought forward by Mr. Dunstan, in which I dealt with similar suggestions from the same source, and a copy of the relevant portion of which is attached.

I shall read that in detail if the Committee so desires. The report continues:—

I desire again to bring to notice the opinions therein expressed and to reiterate that (*a*) even in England the "Rules" are in no sense part of the law of the land and (*b*) the South Australian Supreme Court judges have never found it necessary to insist upon the strict observance of these "Rules" or "to make a general practice of rejecting or discountenancing evidence of answers obtained by the interrogation of persons in custody." The Privy Council has stated that a statement of the accused to a police constable without threat or inducements is admissible. "There is no rule of law excluding statements made in such circumstances." The High Court, when invited in 1948, declined to lay it down that the "practice now obtaining in England must be followed and in particular that the "Judges' Rules" must be accepted as a standard of propriety, and stated "no rule of law has yet been established" either here or in England imposing either upon the judge at a criminal trial or upon the Court of Criminal Appeal the duty of rejecting confessional statements if they have been obtained in breach of the "Judges Rules" or if they have been obtained by questioning the accused after he has been taken into custody or while he is "held" though held unlawfully. The protection afforded an accused person always rests upon the very secure foundation of the discretion exercised by the judges to exclude any evidence which they think might operate unfairly against an accused either from its intrinsic nature or from the circumstances under which it was obtained. The proposed clause is designed to substitute for this careful discretion an arbitrary and artificial obstruction to the administration of justice, not by way of a guide, but by way of direct legislative enactment. Such legislation, apart from its reversal of the law of evidence as it is known and accepted in both England and Australia, would set up, in South Australia alone, a legal procedure which, designedly or otherwise, would seriously obstruct the proper functions of the police in their investigation of crimes and detection of their authors.

I have already congratulated the honourable member for Norwood on the manner in which he explained and argued his amendment from a debating point of view, but I set against that the very carefully considered legal opinion submitted by the Crown Solicitor who speaks from a wealth of experience, not only over long years of practice in the courts, but as undoubtedly the outstanding specialist in the criminal field over those years. As earnestly and as strongly as I am able, I ask the Committee to reject the amendment.

Mr. Shannon—Would it be possible for the advocate to seek the court's direction as to whether an alleged statement was secured by means other than those directed by the rules laid down by common practice?

Mr. Dunstan—He cannot raise the judges' rules as a standard, but he can question the propriety of taking a statement.

Mr. Shannon—What if he had some doubt as to the surrounding circumstances?

The Hon. B. PATTINSON—He could ask for the jury to go from the court, which would be a protection.

Mr. DUNSTAN—I am indebted to members for the considerable interest they have shown in this matter and for the manner in which my honourable friends of the legal profession have debated it. The points made this evening have done nothing except to confirm me in the opinion that I held when I brought this amendment before the Committee. I propose to deal *seriatim* with the arguments put forward, which I feel strengthen my arguments. The honourable member for Torrens (Mr. Travers) said that of course it is a right and a good thing in our criminal law that a man who wants to make a confession should be able to do so, and evidence can be given of that confession that may convict him. That is quite true, but no more cogent evidence can be given of that confession and the desire to make it and the fact that it is made as is provided under this amendment. If the confession is reduced into writing and the man has signed it, what more cogent evidence could be put before the court? Is there any impediment to the man's making a confession and evidencing it by his own signature? None at all. There is nothing to stop a confession being made under those circumstances, nor is there any impediment to the detection of crime or its authors such as was mentioned by the Minister of Education when reading the Crown Solicitor's opinion. Indeed, the very high proportion of convictions obtained in the countries that use these rules is evidence of this fact. They have no lower proportion of convictions than we have, but anyone who goes to the courts there may know that the convictions obtained by confessional evidence have been obtained fairly. It is quite true that in certain cases the whole statement itself is disputed by the accused, and there is a direct contradiction between the police and the accused. Far more frequent is the case where the accused admits the general tenor of the remarks as evidenced by the police officer, but those remarks have been coloured by the way in which the police have chosen to put them. The police may have no improper motive, but their point of view of what the defendant said may be coloured because they are trying to catch the criminal. If the remarks had been taken down exactly as stated by the defendant they would mean something different. A word or two here or there may make all the difference. All members who have spoken, except the Minister, have agreed that it is desirable that the statement should be reduced to writing and that it should be offered to the accused.

Mr. Travers said that the police should have the unfettered right to investigate a crime fairly and properly, and I agree with that, but I cannot see any impediment in these rules. What is to stop the proper investigation of a crime if a policeman has to administer a caution to a person? That is always done in England. What is unfair in having the statement reduced to writing and offered to the defendant for him to sign? That is a perfectly unfettered and proper method of investigating crime, and it was on that basis that the judges laid down the rules. The rules are there for the guidance of police officers in investigating a crime. Mr. Travers said there was nothing wrong with our present law as laid down in Lynch's case, which gives the two bases of police questioning, provided those rules are observed, but in the next breath he said, and later Mr. Millhouse agreed, that the rules are not always followed. Whenever a barrister tries to question the police on these rules the judges say, "We have no judges' rules here; what is the point of your questions?" I have had that said to me many times, and I have no doubt Mr. Travers has had the same experience. If one asks the policeman why he didn't take down the statement at the time of questioning the judge will again say, "What is the point in this question; isn't it fair for him to write down the statement later?"

With great respect to the judges of the Supreme Court, I say that very few of them have been leaders at the criminal bar, though most of them have been prominent in civil cases. Few of them are acquainted with the position which I have outlined, and which Mr. Travers has confirmed. They are unaware of the position in which the defendant's advocate finds himself. As against the position of the defendant's advocate the Minister has quoted the opinion of the Crown Solicitor. Mr. Chamberlain has been practising almost exclusively, until his recent appointment as Crown Solicitor, in the criminal court on the prosecution side. He has given ample evidence to this House on his attitude towards the prosecution, for last year an amendment relating to the unsworn and uncorroborated evidence of a child of tender years came before the Committee. The Crown Solicitor contended that although the court had drawn the attention of the Legislature to the discrepancy between our law and that of other States and other British countries, nevertheless the judges have never made any recommendation in this matter and we should not do

anything about it. He strenuously opposed the view that the Government and the Committee accepted, and his attitude was that, although the judges drew the attention of the House to that discrepancy and expressed uneasiness about the conviction, the person had been properly convicted and there should be every facility for the prosecution to convict other men in the same way.

The Committee disagreed with Mr. Chamberlain's opinion, and I will always disagree with it, as I do with his opinion on this issue. Mr. Chamberlain is undoubtedly a leader of our criminal bar, but his opinion is surely coloured by the fact that for many years his duty has been to prosecute criminals. He sees so many criminals before him that he naturally takes the view that the law for the prosecution should be maintained in its full rigour and force, and additional safeguards for defendants ought not to be written into the law; but I cannot agree with that opinion because I believe (as the member for Torrens apparently believes) that cases of injustice can occur through the present practice.

The honourable member said that no risk should be taken of impinging on the law in Lynch's case. I agree, but how does this amendment impinge on the law in that case? Only in that it lays down definitely the basis on which the judges shall decide instead of leaving it to them to decide what is fair and unfair without any particular rules to go by. The honourable member agrees that the judges are not in fact enforcing the rules in Lynch's case at present. He then instanced a case on which he tried to argue against the proposed rules, and said that if a man made a voluntary confession to the police and, on his being taken to the police station and the confession reduced to writing as soon as possible, he refused to sign it when presented with it, he could say to the police, "I believe every word of it, but I will not sign it." The member for Torrens said that statement would be inadmissible, but he cannot have read the amendment correctly because it only requires that the police shall comply with these rules.

If the accused person does not sign but merely makes his statement, that statement will still be admissible and the question will then be between the accused and the police on whether he made the statement as alleged. The court will then have to decide on the evidence of the police and the accused, which is no more than it does today. The only difference would be that the court would have before it the fact that the defendant had refused to sign a written statement and that might give rise to a doubt in their minds whether he had actually made that statement; but if even one policeman gave evidence on the statement and he could not be shaken in cross-examination, the jury would be in the same position as it is today in having its right to believe or disbelieve that officer's evidence.

The member for Torrens said that enacting the proposed rules was not the proper way to go about altering the position, although he admitted the position was unsatisfactory. He says the proper way is to hope that the courts will alter their administration of the rule in Lynch's case, but it is because I have lost that hope that I moved this amendment. Lynch's case was heard many years ago and before that judges in many Australian cases laid down similar principles, but they are not enforced today, and what hope have we of their enforcement? None. This House has no means of ensuring that the judges will lay down rules of practice on which they will act in future. They are independent of this House in their administration of the law, and the only thing that would bind judges is an enactment such as I propose.

I have come to this course not because I desire to fetter the discretion of the judges, but merely because I desire that this discretion be exercised in the same way as the member for Torrens said it is exercised in other States and as the cases amply demonstrate it is exercised on this rule of practice in England. It is not exercised here, and this is the only way we may ensure that it will be. The member for Mitcham (Mr. Millhouse) said he opposed this amendment mainly on the ground that it was not a rule of law in England, but simply a rule of practice and guidance. I cannot, however, see any effective difference. Mr. Travers said that in Great Britain—

> Inasmuch as judges' rules are not rules of law but only rules for the guidance of the police, the fact that a prisoner's statement is made by him in reply to questions put to him by a police constable after he had been taken into custody without the usual caution being first administered, does not of itself render the statement inadmissible in evidence.

That is true but the honourable member did not read the statement that followed: "The practice has, however, been strongly condemned." There are just as many cases quoted on that basis from the Court of Criminal Appeal. "It is always within the discretion of the judge to exclude a statement obtained in such circumstances and not to allow it to go to the jury." There then follow many

instances quoted in Archbold in which there has been a contravention of judges' rules, and it is obvious from the decisions in those cases that the judges' rules are strictly adhered to in England.

Very rarely is that rule of practice not followed to the letter there, because if a policeman in England has not followed the rules laid down for him in the police questioning of prisoners, he must show why not; whereas here the onus is upon the defendant to show that the statement was unfairly taken. By interjection the member for Onkaparinga (Mr. Shannon) said that when a statement is prepared by the police, before it is offered in evidence the defence counsel may cross-examine the police officer to see if what is alleged to have been said is true or not.

Mr. Shannon—And also the circumstances in which the statement was made.

Mr. DUNSTAN—Yes. I have had statements excluded on that basis both under the system here and in the other country in which I practised under the judge's rules. But the onus is on the defendant. Once the court has been given *prima facie* evidence on the taking of the statement and how the man was questioned by the police officer who made the notes some time later, the onus is on the defence to show that the statement was unfairly taken. It is not in practice on the prosecution to show that the statement was fairly taken. At the moment it is extraordinarily difficult for the defence, in many instances, because the statement is not reduced to writing to prove that that statement was not verbatim and not, in effect, the real gist of the conversation.

The member for Mitcham instanced the case of a man who was asked to sign while he was rattled, and who did sign. He said that would be held against him. I cannot see that his signing while rattled would be held against him any more than his giving a statement now while he is rattled. The fact is that it can now be put to the jury whether he has signed it or whether he has not signed it. Evidence is given that he was distressed and under a strain and did not know what he was saying. That evidence is just as effective when he signs his statement as when he has not signed it. The member saw fit to point out that there were some differences between my amendment and the judges' rules. The Minister also read out from the Crown Solicitor's statement that there were differences. There are differences. The basic difference comes down to two particular points. Paragraph (iii) of my amendment states:—

Where two or more persons are charged with the same offence and statements are taken separately from the persons charged, the statement of one person charged shall not be read or related to the other person or persons charged for the purpose of obtaining the comments of the latter upon it.

The judges' rule use the word "should" and not "shall," but if we are going to lay down rules for admissibility we cannot talk in terms of what "should" be done, but what "must" be done otherwise there will be no basis for deciding whether a statement is admissible or not.

Mr. Millhouse—And that is the real difficulty of making a rule of practice into a rule of law.

Mr. DUNSTAN—I agree there is a difficulty, but I can see no other means of achieving it. Members opposite have admitted an undesirable feature of our present administration, but have not suggested how to obviate it. I have put forward a practical proposal and I do not see that there is any grave objection to it because the word "shall" appears instead of "should." The difference between what I propose and the judges' rules is not a difference which represents an obstacle to the police. The judges' rules give an additional protection to the defendant because they afford him the right to receive another defendant's statement without having to make any comment upon it or without being invited to comment on it. I do not propose that such a statement should be made available to him.

The other difference I propose is an invariable rule of practice in the courts which rely on the judges' rules, namely, that the statement of the defendant should be made available. Members who have opposed my amendment agree that this is an eminently desirable practice and I cannot see any reason why they should object to it. No alternative to my proposal has been put forward and the objection is that my proposal hinders the discretion of the judges. The judges in England, because they have relied on the rules strictly, do not find them any great fetter. The police in the countries that rely on the judges' rules do not find them any great fetter on their proper and fair investigations. When we have this as the basis upon which police are to conduct their investigations and ask questions and tender evidence we will know that it will be fair and just and that the accused person—who is presumed innocent until proved guilty—will have every right accorded to him, which is not accorded to him

as admitted by honourable members, under the present-day practice in South Australia.

Mr. SHANNON—It appears to me that paragraph (ii) of the proposed new clause has not been thoroughly debated. I was hoping the member for Norwood would explain why a police officer apprehending a person he suspects of having committed a crime, should not have the right to cross-examine that person upon any statement he volunteers. Police do not arrest a person merely on suspicion. As a rule they have sufficient evidence to lead them to believe the person to be guilty of the crime they are investigating. If the statement given to them is known by them to be false, it could defeat the purposes of justice if they are not allowed to cross-examine upon it. It may be that two or three persons are concerned in a robbery, but that only one has been apprehended. If that person makes an obviously untrue statement and the officers are prevented from cross-examining him it might prevent them from eliciting information as to the identity of his partners in the crime. If cross-examination were denied in this instance it would be a bar to the police in the prosecution of persons breaking the law. I would like to know why police officers are not to be allowed to make an examination of the person apprehended on the substance of the statement made, except in the case of ambiguity.

Mr. DUNSTAN—The purpose is to prevent the badgering of a person in custody or to prevent his being asked questions which are in the form of suggested statements based on the opinions of the persons asking the questions.

Mr. Shannon—If two men were concerned in breaking the law and one escaped in a motor car and the other was caught before he got away, the one caught could deny that there was another person.

Mr. DUNSTAN—If he denied that he could not be badgered. The police would have other ways of proving there was someone else and that the statement to them was false. The person caught must not be badgered with questions so as to make statements based on the opinions of others. It is necessary to read paragraphs (i) and (ii) together. The judges' rule deals more fully with this matter. Questions may be put to clear up things obviously implied in the statement or if something in the statement is not clear. There must be no badgering to make the person change his statement. We should be sure beyond all reasonable doubt that a confessional statement is purely voluntary and not brought about by fear or duress of any kind.

The Committee divided on the new clause—

Ayes (14)—Messrs. John Clark, Corcoran, Davis, Dunstan (teller), Fletcher, Jennings, Lawn, Macgillivray, McAlees, O'Halloran, Riches, Stephens, Tapping, and Fred Walsh.

Noes (17).—Messrs. Christian, Geoffrey Clarke, Dunnage, Goldney, Hawker, Heaslip, Hincks, Jenkins, McIntosh, Michael, Millhouse, Pattinson (teller), Pearson, Playford, Shannon, Travers, and White.

Pairs.—Ayes—Messrs. Frank Walsh and Hutchens. Noes—The Hon. Sir George Jenkins and Mr. Brookman.

Majority of 3 for the Noes.

New clause thus negatived.

Title passed and Bill read a third time and passed.

ADJOURNMENT.

At 9.45 p.m. the House adjourned until Wednesday, November 9, at 2 p.m.