HOUSE OF ASSEMBLY

Wednesday, August 25, 1971

The SPEAKER (Hon. R. E. Hurst) took the Chair at 2 p.m. and read prayers.

QUESTIONS

UNION BALLOTS

Mr. HALL: Can the Minister of Labour and Industry say whether this session he will introduce amendments either to the Industrial Code or to the Trade Union Act to establish secret ballots in respect of strike action that might be taken by unions? Reports from other States indicate that the Commonwealth Government and several State Governments are introducing legislation to establish secret ballots with regard to strike action. The fact is well established that, for all electoral choices, the Australian community demands secret ballots. As the effect of strikes can be extremely widespread, it can injure to a greater extent than is possibly desired at the beginning of the strike not only people outside the union but also members of the union. Therefore, in the interests of workers in industry, I ask the Minister whether he will make the changes I have requested.

The Hon. D. H. McKEE: I have noticed that this legislation has been introduced in New South Wales. However, I support the remarks of the State Secretary of the United Trades and Labor Council. I believe that such legislation could have an effect the opposite of what is expected to be achieved by it. Such legislation should be treated cautiously. I believe that the New South Wales Government will realize that it has done the wrong thing. The answer to the Leader's question about the Government's contemplating introducing such legislation is "No".

Mr. MILLHOUSE: Will the Minister say what are his objections to secret ballots concerning decisions on strikes? In his reply to the Leader about the Government's intentions in this matter, the Minister said the Government did not intend to move and that in his view such legislation would be dangerous, but he did not give his reasons for saying this. As this is a matter of great public moment on which all members of the community should be informed, I should be pleased if he would give me those reasons.

The Hon. D. H. McKEE: In the first place, I do not think it is the Government's affair or that it has the authority or responsibility to interfere in union affairs. I think the honourable member will agree that South Australia has a very good industrial record which is far better than that in the Eastern States and, in view of the industrial relationship that exists here, it is obvious that the union officials are handling their affairs very efficiently. Therefore, we do not contemplate taking any such action.

PORT ADELAIDE OFFICES

Mr. RYAN: Has the Minister of Works a reply to my recent question about the Government's intention to build a new office block at Port Adelaide?

The Hon. J. D. CORCORAN: Sketch plans are virtually complete for the erection of new Government offices at Port Adelaide and, subject to the approval of the client departments, the proposal will be referred to Cabinet for a decision regarding a reference to the Public Works Committee for consideration. Subject to approval, it is planned that the building will be erected on the site now occupied by the Port Adelaide police station and courthouse.

GOODWOOD ROAD

Mr. PAYNE: Has the Minister of Roads and Transport a reply to my question of August 19 regarding a section of Goodwood Road south of Daws Road?

The Hon. G. T. VIRGO: As I indicated to the honourable member on August 19, 1971, that I would do, I have now examined the matter raised by him. The Road Traffic Board has thoroughly investigated the suggestion that a median opening be provided in Goodwood Road, together with a "no right turn" sign opposite Boothby Street. The board considers that this solution is not a practical one and felt that it was necessary to construct a physical barrier to prevent the right-turning movement. The movement of traffic out of Boothby Street towards the north was also relatively high and, prior to the construction of the solid median, was affected by stored vehicles at the traffic signals. This resulted in vehicles trying to force their way into the queues and on many occasions such vehicles were left exposed to south-bound traffic. It is agreed that a business located near this intersection could be affected, but this will always be so when businesses are located near a complex intersection that has been designed with controls to promote the safe and expeditious movement of traffic.

PROPERTY INSURANCE

Mr. COUMBE: Is the Minister of Roads and Transport aware of suggestions that have been made, following a recent Ministerial conference, that the Government may introduce legislation providing for third-party property insurance for vehicles? Also, will he say whether it is Government policy to introduce such legislation and, if it is, when that legislation is likely to be introduced?

The Hon. G. T. VIRGO: The Attorney-General and I are considering the matter at present, and an announcement will be made in due course.

TRAFFIC LIGHTS

Mr. LANGLEY: Has the Minister of Roads and Transport a reply to my question regarding the installation of traffic lights at the intersection of Greenhill Road and Glen Osmond Road, Parkside?

The Hon. G. T. VIRGO: Provision is being made in the new traffic signal installation at this intersection for the addition of a third phase to facilitate right-turn movements from Greenhill Road to Glen Osmond Road. The right-turn phase will not be operated initially, as a two-phase system has sufficient capacity for present traffic volumes and a third phase at this time would cause unnecessary delays to motorists.

STRUAN RESEARCH CENTRE

Mr. RODDA: Will the Minister of Works expedite the carrying out of certain important works listed to be undertaken by the Public Buildings Department and the Electricity Trust at the Struan Research Centre? I understand that one staff house is at present occupied by a young married couple who are making-do with a wood stove that is not built in. The installation of the electric range and hot water service in that house is urgently required, and two or three of the other houses are awaiting the installation of hot water systems. The electricity connections to the shearing shed, to the irrigation pumps and to the meat laboratory are not performing as they should. I should be pleased if the Minister would discuss this matter with his officers and have the work done soon.

The Hon. J. D. CORCORAN: I will do that. However, if there are other matters that require attention I should appreciate it if the honourable member would mention them to officers of the department or to me, and I should be happy to try to expedite the work.

WHYALLA WATER SUPPLY

Mr. BROWN: Has the Minister of Works a reply to my question of August 18 about installing an additional water pumping service for the Herbert Street residential area at Whyalla?

The Hon. J. D. CORCORAN: Drawings and specifications are being prepared for the elevated tank, and it is expected that tenders will be called in about six weeks' time. It is unlikely that the tanks can be in operation before early 1972. However, pump duties are known, and pumping equipment has been requisitioned. It is planned to install pumps as soon as these are available, and even without the tanks they will materially improve supply pressures in the Herbert Street area.

PORT LINCOLN HOSPITAL

Mr. CARNIE: The Attorney-General has indicated that at last he has a reply from the Chief Secretary to the question I asked on August 3 about the Port Lincoln Hospital. Will he give that reply?

The Hon. L. J. KING: My colleague states: While generally, as advised previously, the thinking of the department for the future development of the Port Lincoln Hospital is along the same lines as was suggested in the inquiry last year, the accommodation situation at the hospital is not yet considered to be such that detailed planning should be commenced. The only problem at present being encountered is one of allocation of available beds. There are 71 available beds at the hospital, and over the past five years the peak admission rate has been 66 patients. However, at times this has been down as low as 32. The average daily inpatient rate over the last five years has been about 50, comprising 42 general patients (including 10 long-stay geriatrics) and eight maternity patients. The figures for the financial year just ended were 40 general and seven maternity. There are 53 general beds and 18 maternity beds in the hospital, and while it is sometimes necessary to accommodate some selected general patients in certain maternity beds, particularly in private rooms if available, the overall bed position is by no means yet considered to be acute. Another aspect is that a pilot study is at present being carried out in the Port Lincoln area for a home care service based at the hospital but aimed at keeping old people out of hospital by caring for them in their own homes. When this scheme is fully operative, it is expected that the need for beds for geriatric patients in Port Lincoln will be reduced significantly.

HOLDEN HILL SEWERAGE

Mrs. BYRNE: Will the Minister of Works consider requesting the Engineering and Water Supply Department to send letters again to

the owners of eight houses situated on allotments 84 to 91 Waninga Drive, Holden Hill, to ascertain whether support now exists for the connection of sewerage to these properties? The Minister will be aware that I asked a question on this matter on August 3, to which he replied on August 10 to the effect that, about 12 months ago, the department examined such a scheme and sent letters to the owners but that no action was taken because of insufficient support at that time. A constituent of mine who resides in one of these houses and who wants sewerage connected has written to me, and that is why I request that this matter be reopened.

The Hon. J. D. CORCORAN: I shall be happy to comply with the honourable member's request.

MAIN ROAD 155

Mr. VENNING: Has the Minister of Roads and Transport a reply to the question asked on August 17 about costs associated with work on Main Road No. 155?

The Hon. G. T. VIRGO: The original estimate of $220,000 for the construction of the Murraytown to Booleroo Centre section of Main Road No. 155 was prepared in 1965-66, that is, prior to final designs being available and before the full extent of the works at the Magnus Hill cutting were known. This cutting involved extensive earthworks and expensive consolidation of the rock-face. Slipping, which resulted in a number of rock-falls, required repeated treatment to this rock-face before a satisfactory solution was found. Escalating construction costs since the original estimate was prepared is another factor in the final expenditure of $331,701 on this work.

APPRENTICESHIP

Mr. WRIGHT: In reply to a question that I asked last week, the Minister of Labour and Industry informed me that he had taken certain action to assist in the training of apprentices in the building industry. Will the Minister say whether he has considered similarly assisting apprentices in other industries?

The Hon. D. H. McKEE: In answering a question last Thursday regarding apprenticeship training, I referred only to the action taken to train more people in the building trades. The Government has taken action on a much wider basis. The discussions initiated last year by the Minister of Environment and Conservation, when he was Minister of Labour and Industry, have continued this year under my chairmanship and, as a result, agreement has been reached by representatives of employer organizations, trade unions, officers of the Education Department and the Department of Labour and Industry on a number of important issues associated with the training of apprentices. It has been agreed that the term of apprenticeship should be no longer than that necessary to produce a tradesman with the basic knowledge required for the practice of his or her trade. It therefore follows that the period of apprenticeship and the number of hours of training at technical college need not be the same in all trades. I have asked the Chairman of the Apprenticeship Commission to arrange for each advisory trade committee to make recommendations on the necessary length of term of indenture in their respective trades in the light of this principle. In accordance with the Apprentices Act, the maximum term of any indenture is four years.

It has also been agreed that apprentices capable of undertaking advanced training at technical college should be permitted to do so during normal working hours. So that some training can be given in the first three years of an indenture in the times when an apprentice is required by the Apprentices Act to attend the technical college, consideration is to be given either to reducing some of the early parts of the technical college course for those who have undertaken appropriate studies at secondary school or introducing modular courses to permit the more able apprentices to take the basic technical college course at a faster rate. This recognizes that individuals are able to work at different speeds commensurate with their abilities. Action will also be taken to meet the need for industry and trade unions, on the one hand, and technical colleges, on the other, to have a closer relationship.

Efforts will be made to ensure that apprentices are given proper training in the establishments of their employers. Assistance can be given to employers to plan and to supervise suitable training in their establishments by the advisory trade instructors attached to the Apprenticeship Commission and by the apprentice supervisors of the commission. The use of log books, in which apprentices will enter details of the practical work covered during their training and in which the instructors in technical colleges also record details of instruction, will be encouraged. The recording in this manner of trade and technical college training given to each apprentice will help

ensure that balanced and integrated training is given. Following the success of the experiment of block-release training for some apprentices at Whyalla this year, the Education Department is investigating the possibility of introducing block-release training for some apprentices in some trades on an experimental basis in the metropolitan area in 1972. The Government is anxious to do all that is possible to improve the training available for young people who enter the work force and to ensure that those who decide to train to become skilled tradesmen will be given the best training to achieve their objective in the shortest possible time.

MANNUM HIGH SCHOOL

Mr. WARDLE: Has the Minister of Education a reply to my recent question about the Mannum High School?

The Hon. HUGH HUDSON: Tenders were called on August 19 for the erection of a solid construction sports store at Mannum High School. The tenders will close on September 3, 1971.

CHRISTIE DOWNS INTERSECTION

Mr. HOPGOOD: Has the Minister of Roads and Transport a reply to my question of August 3 about an intersection at Christie Downs?

The Hon. G. T. VIRGO: The Road Traffic Board received a request from the District Council of Noarlunga in February, 1971, to investigate the intersection of Flaxmill Road and Brodie Road and it was found that the intersection had a low accident record. A recommendation was made to the council to upgrade the existing warning signs and to relocate them in conjunction with the installation of centre lining to improve delineation of the intersection. It was also suggested that trees be trimmed to improve sight distance and that a short section of Flaxmill Road be sealed to prevent vehicles from skidding on the loose surface. The responsibility for undertaking the improvements is vested in the District Council of Noarlunga.

NORTH ADELAIDE POLICE STATION

Mr. COUMBE: Has the Minister of Works a reply to my recent question about the old North Adelaide police station?

The Hon. J. D. CORCORAN: Approval has been given for expenditure to upgrade the North Adelaide police station. A consultant architect has been approached to prepare contract documents. As the type of work involved in the restoration of old buildings is somewhat of a specialist nature, it is intended to seek private tenders from contractors specializing in this type of work. It is expected that documentation will be completed for the seeking of tenders in October, 1971. It is not possible to estimate a completion date at this time, as the work will have to be carried out in stages to enable continuous occupation by police personnel. Added to this, the extent of repairs necessary often becomes apparent only after work has commenced on restoration.

CAR TRIALS

Dr. EASTICK: Has the Minister of Roads and Transport or his department considered introducing legislation to effectively control damage caused to country roads by the passage of trial cars? In country areas during the winter months many car trials are conducted. The organizers of many of these trials do not contact the councils through whose areas the trials will pass and, even when they do contact the local councils, it is difficult to hold the car drivers responsible for any damage caused. As most roads chosen by the trial organizers are unmade roads or roads with an element of risk associated with mud or water, the damage left after a trial held in the winter is considerable and many district councils have difficulty in finding the money to remedy the situation with which they are left.

The Hon. G. T. VIRGO: I should like to have the matter examined. Up to the present the matter has not been considered, my understanding being that it is already adequately covered in the existing legislation, which requires approval to be given. However, as the honourable member has raised the matter, I will have it examined and bring down a report.

FIRE QUEEN

Mr. RYAN: Has the Attorney-General a reply to my recent question about the sale of the *Fire Queen?*

The Hon. L. J. KING: The Chief Secretary states that semi-government instrumentalities may dispose of assets in the manner prescribed by the Act of Parliament setting up that particular instrumentality. In respect of the Fire Brigades Board, section 25 (3) of the Fire Brigades Act, 1936-1958, provides:

Any sale by the board of real or personal property may be by public auction or private contract, and either for cash or on credit, or partly for cash and partly on credit, and generally upon such terms and conditions as the board determines.

RAILWAY TRUCKS

Mr. CARNIE: Has the Minister of Roads and Transport a reply to my recent question about railway trucks in use at Port Lincoln?

The Hon. G. T. VIRGO: At present, 159 vehicles on the Port Lincoln Division are fitted with better quality draft gear associated with cast steel hook-type couplers. It is planned to use the heavier draft gear and automatic couplers released from 395 narrow gauge waggons now redundant on the Peterborough Division, and work will start in 1972-73.

SOUTHERN ROAD

Mr. HOPGOOD: Will the Minister of Roads and Transport ascertain when the projected arterial road from the top of Ocean Boulevard south to the Lonsdale industrial area is likely to be commenced?

The Hon. G. T. VIRGO: Yes.

ROAD TRAFFIC ACT AMENDMENT BILL (SEAT BELTS)

In Committee.

(Continued from August 18. Page 900.)

Clause 3—"Wearing of seat belts compulsory"—to which the Hon. G. T. Virgo had moved the following amendment:

In new section 162ab (2) (*b*) after "person" first occurring to strike out "whom the Commissioner of Police has certified to be a person to whom it is impracticable, undesirable or inexpedient that the provisions of that subsection should apply." and insert "who is carrying a certificate signed within the preceding ninety days by a legally qualified medical practitioner certifying that, because of physical disability or for any other medical reason, it is impracticable, unsafe or undesirable that he should wear a seat belt;".

The Hon. G. T. VIRGO (Minister of Roads and Transport): As a result of our previous discussions on this matter, I have had a new amendment prepared. The amendment now before the Chair provides for a person to be exempted from wearing a seat belt if he has a medical certificate signed by a doctor within the preceding 90 days. It has been pointed out that a person with a continuing disability would have to go back to the doctor every 90 days to renew this certificate. I think that in the new amendment we have covered the position of such a person. There will be a provision that a medical practitioner may issue a certificate indicating a period of time during which the certificate has validity. If the certificate does not have a time factor associated with it, it will be presumed to have a life of 90 days. We expect that in many cases 90 days will meet the situation. In order to move the new amendment, I must first seek leave to withdraw my earlier amendment.

Leave granted; amendment withdrawn.

The Hon. G. T. VIRGO moved:

In new section 162ab (2) to strike out "or" and paragraph (*b*) and to insert the following:

(*b*) a person who is carrying a valid certificate signed by a legally qualified medical practitioner certifying that because of physical disability or for any other medical reason, he should not be required to wear a seat belt;

or

(*c*) a person who is carrying a valid certificate issued by the board under the hand of the chairman or secretary certifying that, in the board's opinion, he should not be required to wear a seat belt.

(3) A certificate under this section shall be valid for such period as may be specified in the certificate, or, in the absence of any such specification, for a period of ninety days from the day on which it was granted.

The Hon. D. N. BROOKMAN: I seek your guidance, Mr. Chairman, on a procedural matter. If the Minister's amendment is accepted, acceptance of my amendment would involve amending the provisions inserted by the Minister.

The CHAIRMAN: The amendment to be moved by the member for Alexandra comes after paragraph (*c*) in the Minister's amendment. It comes between parts of the Minister's amendment, so the member for Alexandra can move an amendment to the Minister's amendment and a vote will be taken on the amendment moved by the member for Alexandra before a vote is taken on the complete amendment moved by the Minister. Therefore, it will be necessary for the Minister to move his amendment and for the member for Alexandra to move his amendment to that amendment.

Mr. MILLHOUSE: I respectfully suggest that if we do that we will be having two debates in one and it will be difficult to know which amendment we are debating. I suggest for your consideration that we take the Minister's amendment in two parts, taking down to the end of paragraph (*c*) and voting on that, and then taking the amendment to be moved by the member for Alexandra, which would be paragraph (*d*), and then the Minister could move the amendment relating to new subsection (3) as a separate amendment.

The CHAIRMAN: The only way the matter can be dealt with is for the Minister to move

an amendment and for the member for Alexandra to move an amendment to that amendment, because the amendment to be moved by the member for Alexandra comes between two parts of the Minister's amendment.

The Hon. G. T. VIRGO: Paragraph (*c*) provides that, in addition to an exemption from the wearing of seat belts for persons by virtue of a certificate from a legally qualified medical practitioner, there should also be provision for the Road Traffic Board to give exemptions in other instances. Again, no time factor is associated with this matter. Consequent on the acceptance of this proposal by Parliament, I will discuss with the board so that the minimum of inconvenience will be caused to the people concerned. The final point is contained in new subsection (3), which provides that, where no time factor is prescribed on the certificate, it will be presumed to be a 90-day qualification. I commend the amendment to the Committee.

Mr. MILLHOUSE: I support the substance of the amendment; it will mean that there will be two classes of medical certificate: one for an indefinite period, and the other for 90 days.

The Hon. G. T. Virgo: It may be for six months.

Mr. MILLHOUSE: Anyway, for a period longer than 90 days. That is a reasonable provision. As I understand it, the word "valid" in paragraphs (*b*) and (*c*) refers to validity in new subsection (3), but I wonder whether it is necessary to insert "valid". If "valid" remains in paragraphs (*b*) and (*c*), it will mean that someone who examines the certificate must decide whether it is valid for all purposes, whereas "valid" should refer only to the time factor. If "valid" were omitted it would not leave a latent ambiguity or a judgment to be made every time a certificate was examined.

The Hon. G. T. VIRGO: I do not think the honourable member's point is valid. The carrying of a certificate is insufficient; it must be a valid one in point of time. A person examining the certificate should not be expected to test the validity of whether the holder has undergone some form of surgery or whether a woman is pregnant. The carrying of an out-of-date certificate must be catered for, and that is the reason for the amendment.

Mr. MILLHOUSE: That would be catered for without introducing what I think is a difficulty that we could omit. Perhaps this matter could be put right in another place if the Bill gets that far.

Mr. MATHWIN: Is it correct that, if a person has a permanent illness, he will not have a permanent certificate but must renew it every so often?

The Hon. G. T. VIRGO: Under either paragraph (*b*) or (*c*) a person may hold a certificate, under (*b*) issued by a doctor, and under (*c*) issued by the Road Traffic Board, and no limitation would be placed on the period of validity of the certificate. In the case of a permanent disability, if a doctor is willing to certify that a person is permanently disabled, and is likely to be so disabled for the next 50 years, the doctor would be entitled to sign a certificate, but I do not think any doctor would give such a certificate. If there is no time limit, other than in respect of paragraph (*c*), in which no time factor is set, it will be assumed that the certificate is valid for 90 days.

The Hon. D. N. BROOKMAN: I move to amend the Hon. G. T. Virgo's amendment as follows:

By inserting the following paragraph (*d*):
or (*d*) a person travelling in a motor vehicle at a speed not exceeding 20 miles per hour.

You have said, Mr. Chairman, that this is the only way in which to deal with my amendment. The compulsory wearing of seat belts, which is a far-reaching law, is not one with which we are familiar in South Australia. I know of only one country in the world where the wearing of seat belts is compulsory. The wearing of seat belts has reduced the number of injuries resulting from accidents. Laws that are trivial and difficult to police have a doubtful effect on the public. I believe that the compulsory wearing of seat belts will meet with widespread neglect, and it is up to the police to reduce disrespect for the law and to see that it is properly obeyed. It is an unreasonable restriction to ask people to wear seat belts every time their vehicle is in forward motion for however short a journey. It is particularly difficult to imagine this measure applying in country areas without there being some reasonable exception. I think that 20 miles an hour is a reasonable speed at which people can drive a vehicle conveniently for a few hundred yards without exceeding that speed. Introducing a law that has never applied previously in any form, we must tread warily and ensure that the people of this State are not troubled absurdly by any new measures such as this.

Although the Bill will apply, say, to people driving a vehicle just down to the corner shop,

not moving from the side of the road, it will apply much more seriously in country areas where there are dozens of situations in which people can hardly be expected to fit seat belts every time they are sitting in a vehicle that is moving forward. Nearly every farm in this State has public roads running alongside it or through its centre. How can a farmer be expected to observe the law when he is crossing a road from one gate to another? He would have to close the gate and fasten his seat belt in order to move the vehicle, say, 10yds. The gate of the next paddock may be 100yds. down the road, and it is an absurd imposition on him if he has to wear a seat belt when driving between these gates. I ask the Committee to ensure that we introduce a reasonable law.

Mr. HALL (Leader of the Opposition): I support the honourable member's amendment to limit the application of this law to those who travel in a motor vehicle at a speed exceeding 20 m.p.h. Fears have already been expressed to me by individuals in the community who carry out specialist activities that they may be greatly inconvenienced. Indeed, there are many instances in which people are constantly getting into and out of motor vehicles; for example, those who have to cross roads to get from one part of their property to another, or those in the metropolitan area who deliver articles from house to house. Statistically, these people would be responsible for very few of the fatal accidents that occur on the roads. We can consider these people effectively by supporting this amendment, because it will exempt many people who would otherwise be greatly inconvenienced. Assuming this amendment is carried, I will move an amendment concerning an additional category of people who I believe are not included here.

The CHAIRMAN: Order! The Leader cannot refer to another amendment at this stage.

Mr. HALL: I see, Sir, thank you. At any rate, I did not say what the detail would be. I congratulate the member for Alexandra on finding this simple solution to what is a complex problem, a solution that will remove the concern expressed by many thousands of people in the community about the restrictive application of this legislation to specialist groups.

Mr. MILLHOUSE: I have a tremendous respect for the views of the member for Alexandra, and it is only with the greatest diffidence that I ever differ from him. That diffidence is multiplied many times when he is supported by my Leader, and I therefore find myself at present in a difficult situation. However, I must take my courage in both hands and say that I cannot agree with the reasons that have been advanced by either of them in support of the member for Alexandra's amendment. I sense, furthermore, that certain members on this side are, at this stage anyway, inclined to support those reasons. They are normally the most reasonable members of this Chamber and I hope they will listen to my argument in opposition to the amendment. I base my opposition on two grounds: the first is the ground of proof and the other is the practical ground. If we say that a person travelling in a motor car at a speed not exceeding 20 m.p.h. will be exempt, it will be exceedingly difficult to rebut a defence by a person charged with not wearing a seat belt that he was travelling at less than 20 m.p.h. The only circumstance in which it is likely that this defence can be rebutted is if he has been timed. Otherwise, who is to gainsay him when he asserts that he was travelling at less than 20 m.p.h.? In some circumstances the court would probably reject such a defence, but in many cases the offence would be impossible to prove. In other words, if we put in an amendment such as this (and it does not matter what the speed is), we make the whole provision nugatory. We might not—

Mr. Venning: What about the speed limits in many areas?

Mr. MILLHOUSE: I do not see that that has any bearing on it. In 99 cases out of 100, the amendment would mean that the defence could not be rebutted.

The Hon. D. N. Brookman: Rubbish!

Mr. MILLHOUSE: It is not rubbish. If my colleagues want to prevent the compulsory use of seat belts, this amendment is the way to do it. We are told that a person who is driving at 20 m.p.h. or less need not have a seat belt done up. The member for Alexandra conceded that, at speeds much less than 20 m.p.h., if one is involved in a collision, even with a stationary vehicle, grave injury can be done and death can result. In the 1963 debate I said that people could be killed when driving in a vehicle which hit a stationary object at 10 m.p.h., but that completely ignores any other vehicle which may collide with the vehicle concerned and which may be travelling up to 70 m.p.h., in which case the speed of the vehicle in which the person without the seat belt done up

is travelling is irrelevant, as the damage will be just as great.

The Hon. G. T. Virgo: What about two vehicles travelling at 19.5 m.p.h. each?

Mr. MILLHOUSE: That is a perfectly proper, if unlikely, example. They are then travelling at the combined speed of 39 m.p.h. This is the difficulty with any lower speed limit which one might fix. The member for Alexandra, because of his background and special interests in the disrict he represents, is concerned in relation to primary producers, and other members on this side have a similar preoccupation. I respect that preoccupation, but I point out that the amendment is a blanket amendment which will apply to everybody in the metropolitan area as well as in country areas. The number of times that a farmer opens a gate on one side of a road and immediately goes across to the other side and into his paddock is very small compared to the total number of times on which this amendment would operate. Even if it is merely a journey at right angles across the road, there is always the chance of another vehicle coming along the road at the vital moment. For the two reasons I have given, I cannot accept the amendment.

Dr. TONKIN: I, too, cannot support this amendment. I regret this, but I believe our duty is to consider the wellbeing of the public. I concur in the remarks about injuries that can occur at speeds less than 20 miles an hour. The mere fact that a vehicle is on a public road places the occupants at a hazard. Even when a vehicle is just crossing a road from one paddock to another, the driver is still at risk. The scope of argument that could be used on this matter is almost limitless. The Minister or the member for Alexandra talked about the benefits that might accrue to medical officers, but the benefits that might accrue to lawyers if this amendment is carried will be far in excess of any benefits to medical practitioners.

The whole object of this Bill is to get people to wear seat belts. The member for Alexandra has said that when a farmer drives his car out of the paddock he has to stop the car, get out, open the gate, drive the car through, stop the car again, go and shut the gate, get back into the car and drive across the road, and that he must repeat the process when he gets to the other paddock. Of course he does, but automatically before he gets out of the car he puts his foot on the brake, puts the drive into neutral, and he might put the handbrake on; he then has to open the door and get out. When he gets back in again, he has to close the door, take off the handbrake, and engage the gear. All of these things he does automatically because he has learned to drive. The whole object of this exercise is to persuade people to put on their seat belts as soon as they get into the driving seat. The member for Alexandra says that this will waste time. I am surprised that the Leader spoke about inconvenience, because it is inconvenient being in hospital with road accident injuries. Nevertheless, it is not inconvenient if people get into the habit of putting on seat belts, because if the seat belt is in regular use it takes only a second to do up. It is the seat belt which is sat upon and which gets tangled up behind the seat which takes time to put on. This is the source of time lost and inconvenience. I oppose the amendment.

Mr. GOLDSWORTHY: I support the amendment, the whole point of which is to soften the blow of the Bill. I believe that people should be free to choose whether or not to wear seat belts. I do not believe that we should compel everyone to wear seat belts, including those doctors who have spoken against them. The compulsory fitting of seat belts to motor cars is another matter. I have been approached by a farmer who, for the reasons advanced by the member for Alexandra, opposes the compulsory wearing of seat belts. I was also approached by a person who operates two delicatessens in Nuriootpa and who would find it inconvenient to wear seat belts, as he travels often between his two shops. I believe that the amendment improves the Bill.

Mr. EVANS: I, too, support the amendment. The member for Bragg said that the object of the Bill was to persuade people to wear seat belts, but its object is not to persuade them: it is to compel them. If two vehicles each travelling at 19½ miles an hour collided head on, there would be a big smash and the passengers could still be injured whether or not they were wearing seat belts.

Mr. Millhouse: The chance is less.

Mr. EVANS: Yes, but if members believe that people are educated enough to understand that there is an advantage in wearing seat belts they should believe that people will wear them. There will be great difficulty in compelling country people, who are travelling at slow speeds close to their homes or across roads in country areas, to wear seat belts. The member for Mitcham has said that under this amendment it would be hard to prove breaches. However, the police now charge people who

drive past schools at higher speeds than 15 m.p.h.

Mr. Millhouse: Normally that is admitted.

Mr. EVANS: The honourable member is implying that people who commit an offence of driving past a school at more than 15 m.p.h. are more honest than would be people who were charged under this provision. Honourable members are not being very practical about this matter. I congratulate the member for Alexandra on moving such a sensible amendment.

Mr. VENNING: The amendment will improve the Bill, which I am not very keen about. Since a certain time, vehicle manufacturers have had to fit seat belts to vehicles, but it should be up to the individual whether he wears a belt. Members who oppose the amendment have not understood the practical effect on people in country areas of having to wear a belt. Let members imagine how I would be affected as I tried to drive my sheep along the road, having to get out of my car every now and again to pick up a ewe that had fallen over. Many problems that would arise with regard to farmers crossing country roads could be solved by the passing of this amendment.

The Hon. G. T. VIRGO: Although I have not had much experience in rural areas, I cannot imagine that the honourable member would drive a flock of sheep along at 20 m.p.h. I wish that members who are opposing the compulsory wearing of seat belts would either read the Bill or be honest about what they are doing. It is significant that those who have supported the amendments were the ones who opposed the second reading.

The CHAIRMAN: Order! The Minister cannot refer to the second reading debate at this stage.

The Hon. G. T. VIRGO: Provision is made to exempt by regulation a class of person, and the Government has said that it will exempt the class of person engaged in delivery work such as the Leader has referred to, provided such persons do not travel at more than 15 m.p.h. We must exempt the class of person as well as make provision about the speed. I do not think the member for Alexandra supports the Bill, and I respect his view, but I ask him not to try to destroy a measure that has been shown to be for the benefit of most people. In Victoria and New South Wales the exemption relates to a speed of 15 m.p.h. and, if we accepted the amendment, motorists coming here from other States would be driving under different conditions from those in their own States. I thought we wanted a uniform traffic code throughout Australia.

The Hon. D. N. Brookman: Those exemptions apply only to the class of person.

The Hon. G. T. VIRGO: The amendment does not apply to any class of person; it refers to any person travelling in a motor vehicle at a speed not exceeding 20 m.p.h. No class of person is mentioned. At present we provide a speed limit of 15 m.p.h. in various circumstances, such as where roadworks are in progress and speed limit signs are displayed, between school signs and playground signs when children are proceeding to or from the school or playground, while a motorist is approaching within 100ft. of a school crossing when the lights are flashing, past a stationary school bus (most of which are in country areas), and when a motorcyclist is not riding with a helmet.

It is significant that a speed limit of 20 m.p.h. is not provided for, and most of the provisions that I have referred to regarding the speed limit of 15 m.p.h. were made by Governments of which the member for Alexandra was a member. Speed limits and restrictions upon road users must be kept to the minimum, so that motorists will not be confused about the speed limit in a particular circumstance. I assure the Committee that, when the Bill is passed, regulations will provide for a speed limit of 15 m.p.h. in connection with the exemptions. When the member for Alexandra said that it was difficult to drive at less than 20 m.p.h., this destroyed his argument because it suggested that the average person would not be able to keep under the speed that he seeks to provide.

The member for Kavel supports the amendment because it will soften the blow of the Bill. *Hansard,* at page 898, shows why he wants to do that: he does not support the Bill. I ask him to be realistic and consider the opinions of experts. I, as a layman, have not had a view of support for the wearing of seat belts, but the facts stand out clearly when we consider the opinions of professional people who are best qualified in the field. The statement by the member for Fisher that wearing seat belts will not reduce the chances of injury occurring is most foolish, because eminent and expert opinion, as well as statistics, prove the reverse to be the case. It would be better to defeat the Bill than destroy it in such a surreptitious manner as suggested in the amendment.

Mr. MATHWIN: I support the amendment, but not for the reasons that the Minister stated about members opposing the second reading of the Bill.

The CHAIRMAN: Order! The vote on the second reading cannot be mentioned in Committee.

Mr. MATHWIN: Although the member for Bragg has said that the purpose of the Bill is to get people to wear seat belts by persuading or encouraging them to do so, this is not so. The purpose is to compel people to wear seat belts. I suppose that, as the member for Mitcham has said, people can be killed when travelling at 5 m.p.h., but people can also be killed while knitting or playing snakes and ladders. The amendment goes a long way towards suiting the convenience of the delivery man who constantly delivers goods to places three or four miles apart. As I believe that country people should also be considered, I support the amendment.

Mr. GUNN: I, too, support the amendment, which may have serious implications for people who lead practical lives.

The Hon. Hugh Hudson: Do you drive ewes at 20 m.p.h.?

Mr. GUNN: The Minister's knowledge of driving stock is not very great. The legislation will affect people in country areas in ways other than the driving of sheep along a road.

The Hon. D. N. BROOKMAN: I am staggered at some of the things the Minister has said. He hinted that the Government would introduce regulations to exempt certain classes of people, but he did not say whether the exemption would cover other than those delivering milk, bread, and so on, as applies in Victoria. No Government member has supported my amendment; yet some of them must know that the legislation will be harsh in its application. I ask members to consider the effect of the Bill on country areas. This legislation would be ridiculous when applied in the Chaffey District, yet the member for Chaffey has not said a word about it. He knows that irrigation blocks are small in acreage and that the area is greatly intersected by public roads. Will he accept his responsibility when challenged by his irritated constituents? Will the Minister of Works tell the people in the South-East, "This is the Bill that Millhouse introduced. It is not my fault," or will he admit that he did not support my amendment? Surely the member for Stuart realizes the effects the legislation could have. Even the member for Florey will not lead a comfortable life.

The CHAIRMAN: Order! The honourable member must not refer to other members in this manner. He must deal with the amendment.

The Hon. D. N. BROOKMAN: In this case, the Minister might say, "Look at the split in the Liberal Party."

The CHAIRMAN: Order! The debate cannot continue along those lines. The Committee is dealing with an amendment, to which the honourable member must confine his remarks.

The Hon. D. N. BROOKMAN: I am facing a solid phalanx, not of thought and reason but of something else (it may be bone). This will be ridiculous legislation unless my amendment is carried. I hope that, when honourable members opposite who do not support my amendment are faced with angry people who are suffering as a result of the legislation, they will be fair enough to say, "This is the Millhouse law," and say that they failed to support my amendment.

The Committee divided on the Hon. D. N. Brookman's amendment:

Ayes (14)—Messrs. Becker, Brookman (teller), Carnie, Eastick, Evans, Ferguson, Goldsworthy, Gunn, Hall, Mathwin, Nankivell, Rodda, Venning, and Wardle.

Noes (27)—Messrs. Broomhill, Brown, and Burdon, Mrs. Byrne, Messrs. Clark, Corcoran, Coumbe, Crimes, Curren, Dunstan, Groth, Harrison, Hopgood, Hudson, Jennings, Keneally, King, Langley, McKee, Millhouse (teller), Payne, Simmons, Slater, Tonkin, Virgo, Wells, and Wright.

Majority of 13 for the Noes.

Amendment thus negatived.

Mr. HALL: I move to amend the Hon. G. T. Virgo's amendment as follows:

After paragraph (*b*) to strike out "or" and after paragraph (*c*) to insert:

or

(*d*) a person who drives a delivery van, taxi or tractor.

I hope that Parliament will in some way indicate to those groups in the community that are extremely worried about the application of this Bill that it intends to protect them from inconvenience and from having disturbed the way in which they earn their livelihood. Therefore, I should like to test the Committee's attitude to people in these categories. I am moving this amendment to exempt from the provisions of this measure those who drive delivery vans, taxis and tractors. The regulation concerning the installation of seat belts provides:

Seat belts and seat belt anchorages shall be fitted for all seating positions in all vehicles except motor cycles, omnibuses and specially constructed vehicles and vehicles exceeding 10,000 pounds gross vehicle weight . . .

That includes tractors, as any farm tractor weighs less than 10,000 lb.

The Hon. G. T. Virgo: It doesn't. You haven't studied the thing.

Mr. HALL: If I have made a mistake interpreting it, I shall be happy to be corrected, but the Minister had better accept the fact that I have read and studied the measure. When a previous Liberal Government decided that all motor vehicles should be equipped with four-wheel brakes, this would have placed an impracticable imposition on the many thousands of tractor owners in this State, and I exempted those people from the provision by moving an amendment. Therefore, by previous definition at least, a tractor is included in the present provision. I believe the exemption should apply. If the Minister can refer me to my mistake in some technical reference I will seek leave to delete from my amendment the reference to tractors.

The Hon. G. T. VIRGO: The requirement of wearing a seat belt applies only to those vehicles which are required to have them fitted in accordance with the terms of the Act. If the Leader of the Opposition looks at the regulations under the Road Traffic Act assented to on January 15, 1970, he will find that motor vehicles are defined, that the fitting of seat belts is defined, and that tractors are not involved in this category.

Mr. HALL: I was under the impression that further regulations, brought in earlier this year, covered the matter to which I have referred.

The Hon. G. T. VIRGO: Regulations were approved in 1970, but operated, in part, from January 1, 1971.

Mr. HALL: The Minister has been extremely vague in this House on the responsibilities of his administration and I should like to check the regulations before I accept that the Minister is correct, because he has given many interpretations of what he means about various aspects of his administration. I was approached recently by a taxi-driver who expressed extreme concern at the inconvenience that would be caused him in moving from his seat innumerable times each day in pursuance of making his livelihood. He has to inspect his vehicle, but more importantly he has to give attention to the comfort of his passengers.

Mr. Jennings: How many taxi-drivers are interested in the comfort of their passengers?

Mr. HALL: It is astonishing that the member for Ross Smith should reflect on the courtesy of taxi-drivers.

Mr. Jennings: I withdraw my remark.

Mr. HALL: I have always found them willing to assist with luggage in and out of the boot and they are often only too willing to open the door for female passengers and to offer the courtesies expected of them. There can be no argument against the statement that they are expected to vacate their seat many times during a day's work and there can be little contention that they cause an infinitesimal number of accidents in South Australia. The statistics will easily support the removal of taxi-drivers from the rather stringent control of the Bill. The regulations, which were gazetted on January 28, 1971, provide:

The Road Traffic Act Regulations, 1962, made on the 30th day of August, 1962, and published in the *Government Gazette* on the same day, at page 509, as varied from time to time, are hereinafter called "the principal regulations".

1. Regulation 7.10 of the principal regulations is varied by—

(1) inserting immediately after the letters and numerals "ASE 35-1965," where they appear in paragraph (2) (*b*) thereof the following words and numerals "and ASE 35 part II, 1970."

(2) striking out paragraph (3) and inserting in lieu thereof the following:

"(3) Seat belts and seat belt anchorages shall be fitted for all seating positions in all vehicles except motor cycles, omnibuses and specially constructed vehicles and vehicles exceeding 10,000 pounds gross vehicle weight in accordance with the following rules:

The regulations go on to talk of the requirements of the seat belts themselves. Unless the Minister can point to these specific exclusions I can only take it that (*a*), which refers to the installation of seat belts in all vehicles not excluded, must include the ones I have referred to, including tractors. I invite the Minister otherwise to show me what the exclusion is because tractors are not excluded here. At present I intend to leave in my amendment the words "tractor drivers" in any case. It can do no harm to include them because it will reassure these people who the Minister says are excluded but who are not excluded by the regulation as yet. I want them excluded, and the Minister wants them excluded, so there is really no contention between the Minister and me.

The other two references I have are to taxi-drivers and to people driving delivery vans. If members are to help and not to hinder they will carry this amendment because there would be hundreds, possibly thousands, of such people involved who have an extremely

low accident record. By supporting this amendment I believe we can show our flexibility as a Committee and our ability to administer a law sympathetically without being totally restrictive.

The Hon. G. T. VIRGO: I indicated earlier that regulations would be made under the Act to provide for exemptions similar to those currently operating in respect of similar legislation in the other States, and it is the Government's intention to pursue that course. I think the further we go with the suggestion of the Leader, the greater the mess with which we will finish up. These matters can be properly dealt with by regulation, as is the case in respect of other legislation. If we provide for delivery vans in the Bill, we must also specify whether we are referring to the drivers or the passengers, and we must specify the type of delivery van to which we are referring. Would it be so inconvenient for a taxi-driver to wear a seat belt? I repeat that I have looked at the matter of tractors, and I have been informed that they are exempt, but I will check again. If they are not exempt, under new subsection (2) we can provide that they be exempted.

I point out that we do not know how many classes of people should be exempt. In Victoria, park rangers who travel around parks at 15 miles an hour or less are exempt. If we include some categories in the Bill, I wonder whether we can deal with others by regulation. What the Leader is attempting to achieve, the Government will do; all that we are discussing is the way that this will be brought about, and I believe it can best be dealt with by regulations which, after all, can be debated and disallowed, if necessary, by Parliament.

Mr. MILLHOUSE: On balance, I prefer the scheme of the Bill as I introduced it, with exemptions by way of regulation. It is unusual for me to differ with my Leader and I do so with great diffidence. I admit that there is a disadvantage in having exemption by regulation because we must rely on the Government to initiate the regulations. Although we can disallow a regulation, we cannot oblige the Government to exempt any category, and to that extent it would be more desirable to include these exemptions in the Bill. However, I will accept that disadvantage for the advantages of tidiness and flexibility.

Regarding the cases referred to by the Leader, I understand that tractors are now included in the exemptions. My experience in taxis has been that drivers never wear seat belts and that passengers wear them only rarely. However, taxi-drivers and passengers in taxis are not exempt from accident and consequential injury, as I have seen from my professional experience of serious accidents involving taxis. Perhaps taxi-drivers could be exempt, and not passengers. I prefer these exemptions to be by regulation.

Mr. HALL: My concern is compounded by the fact that the Minister has said that we must rely on him to initiate regulations to protect these categories. If we rely on the Minister, we can expect a shoddy job indeed of protecting these people. Because of his failure in other matters, I do not consider that the Minister will honour his obligation under the Bill. I ask him to support my amendment, because it makes a flexible provision in a restrictive Bill. The provision concerns many people, including primary producers and those associated with them, the taxi-cab industry, and many persons engaged in delivering goods.

The Committee divided on Mr. Hall's amendment:

Ayes (16)—Messrs. Becker, Brookman, Carnie, Coumbe, Eastick, Evans, Ferguson, Goldsworthy, Gunn, Hall (teller), Mathwin, Nankivell, Rodda, Tonkin, Venning, and Wardle.

Noes (25)—Messrs. Broomhill, Brown, and Burdon, Mrs. Byrne, Messrs. Clark, Corcoran, Crimes, Curren, Dunstan, Groth, Harrison, Hopgood, Hudson, Jennings, Keneally, King, Langley, McKee, Millhouse (teller), Payne, Simmons, Slater, Virgo, Wells, and Wright.

Majority of 9 for the Noes.

Amendment thus negatived.

The Hon. G. T. Virgo's amendment carried; clause as amended passed.

Title passed.

Mr. MILLHOUSE (Mitcham) moved:

That this Bill be now read a third time.

Mr. EVANS (Fisher): Now that the Bill is in its final stages, I wish to express again my objections to it. My main objection is that people will be compelled to wear seat belts. I do not believe that we have ever tried to educate the public to wear seat belts or, by means of insurance concessions, encouraged people to wear them. As compulsion has been hammered throughout the debate, I can add nothing more on that aspect. On a subject such as the wearing of seat belts, I believe that there are possibly three opinions: those of people who have the opposite view to mine; my own view; and the correct one.

As I do not believe that the House has found the right solution to this problem, I oppose the third reading.

Mr. HALL (Leader of the Opposition): I support the principle that at least a trial period for the wearing of seat belts should be a compulsory requirement for most drivers in the community. I also believe that in implementing this law the House should show flexibility and sensibility to those who will be badly affected by the compulsory wearing of seat belts. I am sorry that the House has been so unsympathetic to the exemptions in the two amendments that have been moved. I am concerned that members, following on the amendment of the Minister, have refused to listen to the matters of inconvenience that were fully put. It is the Labor Party, evidenced by the last vote, that has voted *en bloc* to impose this inconvenience on people. I resent the Minister's implication that he does not care whether or not people suffer this inconvenience. Apparently, he is unwilling to examine the statistical record of the people covered by the Leader's amendment as to whether or not they represent a risk of great proportion, or of even equal proportion to general road users. For those reasons, I must do something at the third reading that I did not want to do, namely, to oppose it. However, this does not indicate my general opposition to the wearing of seat belts.

The Hon. J. D. Corcoran: Two bob each way!

Mr. HALL: It is not two bob each way. That is an expression of which the Minister is a well known exponent. It ill behoves him to oppose what he has practised with much expertise during his political life. I have plainly said that we should consider minority groups. However, the Labor Party has refused to consider them and has at least made it necessary for me to oppose the legislation until the House shows a more considerate attitude.

Dr. TONKIN (Bragg): I support the third reading, and I do so with some reluctance because of the principle involved. I think the member for Fisher summed up the situation well when he said that we have not found the right answer in the Bill. However, for the want of anything better, I think that this legislation must be tried. I am sure that this would be the attitude of the Australian Medical Association and the Royal Australian College of Surgeons, which have had expert committees working on the problem of the wearing of seat belts. I feel sure that they have come to the conclusion that the wearing of seat belts should be made compulsory, but with a similar degree of reluctance because of the principles involved. I am sure that the Royal Automobile Association has come to the same conclusion the same way, too. However, I agree with the Leader that exemptions should be made.

I should have liked to see the exemptions in the Bill, and I am disappointed that they are not in it. For the want of anything better now, we should pass the Bill. We must not be carried away over the next few months by any statements that statistics prove that the compulsory wearing of seat belts has saved so many lives. We must give this measure every opportunity of demonstrating that it can save lives over a long period. If it can be shown that this measure is not doing what it is hoped it will do, we should have the courage of our convictions and repeal it. That is something on which I disagree with the member for Fisher. If the legislation must be repealed because it is not working and because it is unnecessary, I have no doubt that it will be repealed.

Mr. MATHWIN (Glenelg): I oppose the third reading. Some people are alive today because they wore a seat belt, whereas others are alive because they did not wear a seat belt. This is another Bill of compulsion, which is strictly against my way of thinking. All that should be made compulsory is the fitting of seat belts to cars.

The Hon. G. T. Virgo: Why?

Mr. MATHWIN: It would give everyone the opportunity to wear them if they were fitted by compulsion. I think the responsibility of who is to wear them should be on the person in the car and on the individual. How far must we go to protect people? Eventually, will we get to the stage where we must lead people across the road to protect them from cars and shackle them to other people by a "walk" belt in order to get them safely across the road? The compulsory wearing of seat belts is entirely wrong in principle, and their wearing should be left to the individual to decide.

Dr. EASTICK (Light): I would be less than consistent if I did not oppose the third reading. The person who says, "My brakes are all right and will not fail," is a fool. The person who says, "I am wearing a seat belt; I will be all right," is also a fool. I prefer to give the individual the right to decide and not persuade him by compulsion.

Mr. VENNING (Rocky River): I, too, oppose the third reading. It is in order that vehicles manufactured after a certain date should have seat belts fitted to them, but the wearing of them by the individual should be left to the individual. True, seat belts will, to a degree, lessen the severity of an accident, but they will not prevent accidents. Many young people today who wear seat belts think they can travel faster and take greater risks than people who do not wear them. I am concerned about the effects this legislation will have in rural areas and that some aspects of the legislation will be affected by regulation. I should have liked to see these regulations spelt out in the Act itself. I am concerned that the Government is supporting the measure.

The Hon. G. T. VIRGO (Minister of Roads and Transport): I do not intend to canvass many of the matters that have been raised by various members because these matters were covered during the second reading debate. If members were not convinced then, I am sure that nothing I say now will convince them. However, I have risen for two reasons: first, to deny flatly the statement made by the member for Fisher that we have not really tried to educate the people to wear seat belts. That is the gravest reflection on the Road Safety Council that I have ever heard, and I bitterly resent it. The Road Safety Council has done a tremendous job in an endeavour to inform the people of the necessity to wear seat belts, so to cast a reflection on that council as the member for Fisher did is a disgrace to him and to those on his side of the House, and I completely dissociate myself from his statement.

Mr. Hall: Why do you support the Bill, then?

The Hon. G. T. VIRGO: I am speaking now because I will not sit in this place and listen to innuendoes being made against the Road Safety Council, which has done more for road safety than have all the members here put together.

Mr. Hall: Why haven't those efforts been successful?

The Hon. G. T. VIRGO: In fact, the Road Safety Council has extended itself tremendously but has not been able to get the message over, because, according to statistics, although the wearing of seat belts has remained relatively level at 9 per cent, the fitting of seat belts has risen steadily to 46 per cent. The Leader has again seen fit to twist, for his own political advantage, what has occurred in this House, and he has twisted what I have said. He said that I had refused to listen to the reasonable exemptions suggested, and that is a complete falsehood.

Mr. Hall: You didn't vote for them.

The Hon. G. T. VIRGO: The Leader knows full well that I said that the matters with which he was dealing did not meet the full requirements of the Bill but that they could be dealt with by regulation, yet he has the audacity to say that we would not listen. That is an untruth, and he knows it.

Mr. Hall: You didn't say you would exempt taxi drivers.

The Hon. G. T. VIRGO: Of course we won't; why should we?

Mr. Hall: Then you're talking a lot of rubbish.

The Hon. G. T. VIRGO: That was one category to which the Leader referred. He wanted exemptions right, left and centre. I said that the matter of exemption would be dealt with by regulation, as was provided for in this Bill.

Mr. Hall: Except for taxi drivers.

The Hon. G. T. VIRGO: I think I would have been willing to exempt the Leader himself when he was driving.

Mr. Mathwin: Would it be permanent?

The Hon. G. T. VIRGO: If he wished.

Mr. Hall: Big Brother!

The Hon. G. T. VIRGO: To say that Government members are not concerned whether people suffer inconvenience is a further distortion of the truth in which the Leader engages. Although it is obnoxious to the Leader that he sees the Government doing so well, he will have to suffer it for a long time, because he himself predicted that he would be in Opposition for a minimum of 12 years. I think he was conservative: it would not surprise me if it were now to be 30 years. The trouble with so many Opposition members is that they are obsessed with the word "compulsion"; whenever someone whispers the word, they run for their lives, not stopping to ascertain whether the compulsion is desirable or necessary to preserve mankind. No-one has demonstrated this better than has the member for Glenelg, who asked how far we had to go to protect people. I am willing to go to any lengths to protect people who will not protect themselves. If it means making the wearing of seat belts compulsory, I will go along with that, because whenever someone is injured and has to occupy a hospital bed, or whenever someone is killed and leaves behind a widow and young children, I am one of the members of society who must meet the bill. On that basis, I have a right to require people to look after themselves, and

that is the very purpose of this Bill. There is nothing more obnoxious about compulsion in this case than there is about compulsion to stop at a red light—

The Hon. Hugh Hudson: Or to keep below 15 m.p.h. when travelling past a school.

The Hon. G. T. VIRGO: Yes; or to stop when a train is going over a crossing, or to keep to the left-hand side of the road. All of these are compulsory matters associated with driving a vehicle. A person does not have to wear a seat belt. We are not making anyone wear a seat belt; indeed, if a person uses public transport, he will not have to wear a seat belt.

Mr. MILLHOUSE (Mitcham): I regret the opposition to this Bill that has arisen in my own Party. I say advisedly that it is a matter of distress to me that I have been able to persuade so few of my colleagues of the virtues of and necessity for this Bill. However, that is the decision that each member on this side must make, but I regret the decision that has been made by a majority of members on this side.

Mr. Coumbe: We're free to make it.

Mr. MILLHOUSE: Quite so. I particularly regret the opposition of the Leader at this stage and his intention to vote against the third reading. I opposed his amendment, because I believed that the scheme of the Bill, which is modelled on that of the Victorian Act, was satisfactory and that, more tidily and with greater flexibility, exemptions could be provided by regulation than in the legislation itself. I think it would be inconvenient to have some exemptions in the Act and others in the regulations. Whichever way we do it, however, it does not affect the principle of the compulsory wearing of seat belts.

When I gave the second reading explanation of this Bill I freely admitted that this measure was contrary to the principles which I espouse of freedom of choice for the individual, but I believe that we are justified in making an exception in this case, as we have done in many other cases. I call to mind compulsory X-rays, and many people regard the fluoridation of the water supply as compulsory medication, but we have justified these measures in the interests of the community and of individuals, and I believe we can justify this measure on precisely the same grounds.

Members who oppose this measure must surely overlook, in their anxiety to support a principle, the scourge of the roads, one of the greatest killers in our community today. This is something we must do something effective about; we cannot allow this carnage to continue. I do not suggest for one moment that this measure is the complete answer to what is happening on the roads. Of course it will not prevent accidents, and we need to do many other things in an effort to reduce the carnage on the roads, but that does not mean to say that we cannot also take this step, which experience in many places, research and investigation have shown reduces the seriousness of the effects of road accidents.

I conclude by referring again to the Pak Poy report, which declares that if there were 100 per cent usage of belts (of course, we cannot get that even by this measure, but we will get much more than the 9 per cent to which the Minister referred) we would save annually in this State 60 lives and 1,600 injuries. If we achieve only half of that, or even a quarter, I believe that we will be justified in breaching the principle which is being upheld by members on this side and which as a rule I uphold. I ask all members, and particularly members on this side, to have regard to these matters before they vote on the third reading. If they do, I believe that they will agree that this measure is, in the interests of individuals and the community as a whole, amply justified.

The House divided on the third reading:

Ayes (31)—Messrs. Brookman, Broomhill, Brown, and Burdon, Mrs. Byrne, Messrs. Clark, Corcoran, Coumbe, Crimes, Curren, Dunstan, Ferguson, Groth, Harrison, Hopgood, Hudson, Jennings, Keneally, King, Langley, McAnaney, Millhouse (teller), Payne, Ryan, Simmons, Slater, Tonkin, Virgo, Wardle, Wells, and Wright.

Noes (11)—Messrs. Becker, Carnie, Eastick, Evans (teller), Goldsworthy, Gunn, Hall, Mathwin, Nankivell, Rodda, and Venning.

Majority of 20 for the Ayes.

Third reading thus carried.

Bill passed.

PRISON INQUIRY

Adjourned debate on the motion of Mr. Carnie:

(For wording of motion, see page 886.)

(Continued from August 18. Page 889.)

The Hon. L. J. KING (Attorney-General): I support the motion. As the honourable member for Flinders is aware, and as he acknowledged in his speech, the Government has said that it intends to establish just such a committee as that suggested in the motion. As has been explained, the Government intends to

establish a committee that will deal not only with the matters referred to in the motion but also with a general revision of the criminal law and of our penal and reformative methods and procedures. The Government takes the view that it is desirable that the committee that deals with penal methods should also deal with the law under which people are sentenced to be dealt with in penal institutions.

In view of some of the matters raised by the honourable member, I thought it might be of interest to the House to know something of the efforts which have been made and which are being made in South Australia to improve our penal and reformative methods, because, although I believe that much more needs to be done, it is fair to those who have been concerned with penal methods and procedures in South Australia to acknowledge the considerable work that has been done over some time to improve the methods of dealing with persons who are being punished by sentence of the court, especially the efforts made to improve the measures taken to rehabilitate those who have run foul of the law.

The Prisons Department is a foundation member of the Australian Council for Crime Prevention, Corrections and After Care Services, and attends all conferences of this body. There is a growing awareness in the community that many measures will have to be taken regarding alternatives to imprisonment and the treatment of offenders both in the community and in institutions. Correspondence, reports and advice from all over the world are received regarding these matters. Progress has been made in that in South Australia we now have only the one maximum security prison, from which inmates can be moved as their work skills and education increases and as their attitude can be more clearly established. The ultimate is the Cadell Training Centre, which is a completely open prison farm that pursues ideals of resocialization, and has football and cricket teams playing in local associations in competition with other teams.

In addition, there are many bodies such as the Returned Services League, Jaycees and debating teams as well as independent people who visit the prisons to take part in sporting, debating and other competitions, and who introduce community activities to the inmates. Additionally, the department has arrangements with all institutions of tertiary education, including both universities, the South Australian Institute of Technology and teachers colleges, whereby students in the faculties of psychology, criminology, social sciences and social studies are shown through the prisons and undertake projects for which information and assistance and interview facilities are provided.

One of the advantages of the South Australian Prisons Department is that it already has the type of organization which is interesting to similar departments in other States and countries and which is being advocated by many prominent writers on criminology. This refers to the fact that the department is an integrated unit of probation, parole and institutions that enables a continuity of treatment both within the community and in the institutions. In fact, it enables the department to keep people in the community, whereas in other circumstances they might well be retained in institutions. True, the probation and parole staff are carrying case loads beyond that recommended by the United Nations Social Defence Organization. Additional staff has been approved by the Government and is being recruited as suitable people become available. However, there are insufficient trained and suitable people available for the social service vacancies existing both in the Prisons Department and in other departments.

Since April, 1970, the Parole Board has been in existence, and the first annual report is to be submitted shortly. This will illustrate that many more people are now being released to the community than was evidenced under the old arrangements, and the success rate of people released under the parole system remains consistently high. Regarding probation figures, it must be said that the success rate has dropped to some extent, but it could well be that the courts are rightly trying to keep people in the community rather than imprison them, and there are some individuals who do not appreciate the opportunity thus given to them. In other words, if one adopts a policy, as courts undoubtedly do to a greater and greater extent, of avoiding imprisoning wherever possible, it inevitably follows that those who go to prison are likely to be those having a higher recidivist tendency and, consequently, those more likely to breach the parole system when parole is extended to them.

In regard to industry, there seems to be some misapprehension about the types of work undertaken. The South Australian prisons have not undertaken industrial mat making for almost 20 years, and toy making is confined almost exclusively to prisoners volunteering for this work in their own time. In March, 1967, the Government appointed a Prison Industries Committee consisting of representatives of both the Government and private enterprise, which

has examined and advised on prison manufacture. The result is that much modern machinery has been installed, much better training techniques are being used, and all production and training is under the supervision of tradesmen prison industry officers.

An indication of the success of the present organization is that in manufactured articles alone production at Yatala Labour Prison has risen from $104,912 in 1967-68 to $144,739 for the year 1969-70, and this excludes uniforms, clothes, vegetables, milk, eggs and other articles produced by the prison for its own use. These activities are being duplicated in other institutions. The annual reports amply illustrate these matters.

In regard to the future, the Government has approved a five-year building plan for the upgrading and building of institutions. As well as the almost completed Port August prison, the plan includes stages 2 and 3 of Port Lincoln prison, the building of a new criminal mental defective hospital, and the continuous upgrading of existing prisons, including the sewering of individual cells in the entire security division at Yatala Labour Prison. The Government has also approved in principle the building of a pre-release hostel in the metropolitan area. This will also include some weekend prison facilities, and the Chief Secretary and the Comptroller of Prisons are soon to visit New Zealand to examine the legislation and practices regarding conduct of this type of institution.

In regard to research, there is currently a research project on education and extra-mural activities for maximum security prisons being conducted at Yatala Labour Prison. Assistance for this project has been given by the Education Department and outside individuals. As previously mentioned, a number of students undertake projects with assistance from the department, and the departmental statistical methods are being redesigned to give maximum effect to the requirements of the new Commonwealth Crime Prevention Bureau, which will shortly be established in Canberra. Apart from this, some internal research is being conducted into such matters as the incidence of epilepsy and the validation of various type of personality tests.

The prisons in South Australia have been visited in recent years by many people other than the groups previously mentioned. These visitors include oversea institutional authorities, criminologists, judges of the South Australian Supreme Court, judges of the Central District Criminal Court, and magistrates. The three most consistent statements made concern the cleanliness of the institutions, the staff-prisoner relationship, and the fact that the prisoners all seem to do useful work.

I mention all these matters to emphasize that, whilst much remains to be done, those who are responsible for penal and reformative methods in this State have not been idle, and the Government, although intending to establish a committee to investigate the penal procedures and reforms for the future, has not been content simply to sit back and say that nothing could be done until it got that report.

Having said all that, however, I emphasize my belief that corrective and reformative methods have not kept pace generally, in any part of the civilized world, with the psychological insights which men are gaining (the insights into human psychology), and I consider there is room for a radical redirection of activities in this area.

It is with that in mind that the Government is intent on establishing the committee that has been mentioned. We hope that, as a result of its investigations, the committee will be able to make recommendations that will give a new direction towards corrective and reformative methods in this State. As I have said previously, the Government intends to establish a committee that will deal with the revision of the criminal law and also with the reform of the penal, corrective and reformative methods in this State. An announcement was made, as the member for Flinders has said, in the present Premier's policy speech before the last State election. The Government, when it came to office, formed tentative plans regarding the establishment of this committee. Difficulties arose about the availability of a certain individual who was regarded by the Government as being ideally suited to take part in this work, and this resulted in some delay in the establishment of the committee.

However, I assure the honourable member that at present I am busily engaged in getting the committee established, and I believe I shall be able to make an announcement regarding its composition and commencement of work reasonably soon. The matter is very much in the Government's mind and will be pressed ahead at the earliest possible moment. I welcome the support that the honourable member's motion gives to the Government's intention, and I shall be pleased to see the House express the opinion that the motion seeks to have it express.

Dr. TONKIN (Bragg): I, too, support the motion moved by the member for Flinders,

and I congratulate him on the work he has put into presenting his case. I am very much relieved and reassured, as I am sure all other members are, by the Attorney's statement that the committee of inquiry into these matters will be set up. Although I agree with him that the Prisons Department and other bodies have done remarkable things considering the facilities that they have, I think there is much room for improvement. The whole principle of imprisonment, I think, needs careful consideration. The Attorney has said that the Prisons Department is a member of the Australian Crime Prevention, Correction and After-Care Council. At a conference in August earlier this month, a paper, which was in fact a report from a subcommittee comprising Mr. Justice M. B. Hoare, Mr. C. R. Bevan, and Superintendent W. D. Simpson, was presented. That report contains the following paragraph:

At the fourth national conference of the Australian Crime Prevention, Correction and After-Care Council in Canberra, a prison Comptroller-General of long experience and almost on the eve of retirement was heard by all present to observe, as a member of a discussion panel following a paper on prison administration, that, in his view, imprisonization—

that is an interesting word—

and the whole concept of imprisonment had largely failed in their aims and purposes.

This statement caused no reaction in the audience, because the audience comprised prison officials and other people associated with the penal system who were well aware of this fact. The report continues:

In truth much more has been expected of the concept of imprisonment than it is able to contribute. . . . The social sciences are growing apace, but it is still starkly true that peace and order among men depend largely on respect for law and the certainty of its enforcement.

I emphasize that it is the expectation that peace and order depend largely on respect for the law and the certainty of its enforcement that supports the system. The whole subject, which is being reviewed and re-examined, is a popular one. It has been written up in the press on many occasions over the last two or three years. I suspect that society's conscience is troubling it a little. The subject must be re-examined, and the assumptions, whether previous ones or present ones, on which our present penal system is based must be looked at critically.

I now refer to another of the conferences held by the Australian Crime Prevention, Correction and After-Care Council, this one held in Perth, and to a paper given by Professor Drinkwater, of the University of Hull. I commend to members the article headed "Alternatives to Imprisonment", as it makes good reading. The professor raises the following very pertinent points: What are the objectives of imprisonment? How effective is it in achieving these objectives? What are its costs? He points out that "costs" applies here, because different kinds of costs are involved. These questions are answered as follows: the objectives in practice are to punish individuals for their offences against the law, to express public disapproval of these offences, to discourage their repetition by the offenders or others and to protect society against those believed to be a continuing threat to its safety. Obviously, if we aim to protect society, some measure of the effectiveness of imprisonment will be gained from an indication of whether there has been a drop in the number of offences committed; I do not think this has been really borne out by the figures. The discouraging or deterrent effect is very inconclusive. There is certainly a widespread doubt about whether or not the validity of punishment as an end in itself is really justifiable.

I am not sure that public disapproval really does much good, either. I refer to the sentences that have been imposed in certain juvenile courts where, because a child is charged with a prevalent offence, the magistrate has made an example of that child. The offence committed has been no different from that committed by many other children charged before the court; yet suddenly an example is made of a certain child. I do not think this serves any purpose other than to confirm the tendency to alienation the child exhibited when he committed the offence.

Regarding costs, it has been estimated that the weekly average per capita cost of keeping an offender in prison in Australia is about $30, to which must be added all the hidden costs. Professor Drinkwater points out, rightly, that there is a hidden but unknown sum for the support of any dependents of the offender and an incalculable sum for the loss of the productive effort of the prisoner, who, if at large, would cost less to the economy than the contribution he would make to it.

There are then the social costs with the abrogation of the normal standards of society, the complete alienation and the tendency to reappear in court; basically, the changing standards and attitudes that can result from the

man's incarceration and the dehumanization of the offender. There is no doubt that the maintenance of the offender under constraint away from his normal environment and occupation, separated from whatever familial relationships he may have, is not the way to get that offender back into society and playing a useful part in it.

The modern concept of prison is changing slowly, and it is unfortunate that it is a slow change. But this change from being a punitive institution to one of a treatment and diagnostic centre is absolutely essential. One of the things we have lacked more than anything else (and the Attorney-General mentioned this in his speech) is facilities for investigation and diagnosis, not necessarily for imprisonment, because assessment, diagnosis and treatment do not necessarily require long periods of imprisonment. However, they require long periods of supervision and treatment. Although it is said that rehabilitation begins at the prison gate, very often rehabilitation should begin far sooner than that; at the prison gate on the way in, not on the way out.

I am reminded of the classic work *Utopia,* in which, if an inhabitant felt ill, he was put into prison as if he had committed a crime, but if he had committed a crime he was put in hospital for treatment. This is a reversal of current attitudes; at the time, it was a satire. However, we are coming around to the point of view of regarding behavioural problems as illnesses, in much the same way as we do organic disease. The direct and indirect costs in the net cost of keeping the prisoner in prison have been mentioned, as also has the indirect cost to the community. I think that more than ever before it is necessary for us to consider whether we are getting our money's worth—there is not much of it going about. On many occasions, the Minister of Education has bemoaned the fact that there is insufficient money in the kitty to do everything that he would like to do. I do not agree with him in the way in which he places the blame. We must do everything we can to save any imposition on the community.

The question of the different kinds of prisoner must be considered carefully. On the one hand, there is the prisoner who is in great need of help—the prisoner who may have committed his second or third offence. There is also the long-term recidivist, the habitual criminal, who needs help badly in an institution; he needs help as part of his prison sentence. On the other hand, there is the group of whom we must seriously question whether or not there is any need for or value in imprisonment. Concerning the three major categories of prisoners appearing in the statistics of prison receptions (and whether or not they should be there) there are (1) unconvicted prisoners or convicted prisoners on remand not subsequently sentenced to imprisonment (there is obviously no point for these people to be imprisoned); (2) prisoners committed for the non-payment of fines or other monetary orders (I think this is open to doubt, too, because, although it seems that some people will pay their debts only on threat of imprisonment, I am sure that there must be some other more satisfactory way of persuading them to face their responsibilities); and (3) short sentence prisoners.

I think that Professor Drinkwater in his paper said that in one State in 1968 about 41 per cent of all prisoners received were unconvicted persons and that 35 per cent were received for default of fines or other payments: in other words, for a substantial proportion of all the people involved, imprisonment as a sentence was, in the first instance, considered to be either unnecessary or undesirable. The figures concerning another State showed that over 700 people (44 per cent) represented as unconvicted receptions were subsequently unconvicted or imprisonment was not deemed necessary on conviction. He points out that sentences of imprisonment for drunkenness range from 1½ per cent to 36 per cent, the general level being 20 per cent to 30 per cent.

This raises another valid point: should the alcoholic arrested for drunkenness be imprisoned? What is the use of this? Would he not be better off receiving treatment? Should he not be offered probation as an alternative to imprisonment, so that, if he wishes to rehabilitate himself (as with so many other things, it is the wish to rehabilitate that is important), should he not be offered this opportunity, and should these facilities not be available to him? Professor Drinkwater points out that the shorter the period of imprisonment, the more rapid the turnover; the more rapid the turnover, the greater the demand on the time of prison officials, and the less easy it is to make the experience of imprisonment a meaningful one.

Whether it is in terms of the old concepts of deterrence or protecting the public, or whether it is in terms of the concept of training, rehabilitating or treating, one suspects that a fair proportion of those imprisoned turn out, as they

do elsewhere, to be weak and inadequate persons who are as much a danger to themselves as they are to others and for whom imprisonment is at least a temporary respite from the pressures of the world outside. I think this is significant; I think that many people turn to crime because of personality defects, regardless of whether it is for personal gain, or whether it is to show or exert some aspect of their personality. If imprisonment is to be a temporary respite, I believe that much more use should be made of this time. I think that the personality problems of the people who are sentenced to imprisonment should be investigated.

I refer here to the technique of group therapy, individual counselling and to psychological assessment generally as a basis for continuing therapy, both direct and supportive therapy, by a probation officer, social workers, and the voluntary associations and organizations, to which the Attorney-General has already referred, outside the walls of the prison. The whole aim is to provide some place in society where the ex-prisoner can play some meaningful part and take a pride in his job and, once again, fit into society, and not be tempted to be at war with society. In fact, some of these ex-prisoners enter probation, reform and social work and find their fulfilment in this sphere.

I am reminded of a man whom I met in San Francisco (Manuel Rodriguez), whose name I may have mentioned to the Attorney-General previously, and whose qualification for street social work was 15 years in San Quentin as an inmate. This man, who was convicted of such unpleasant things as robbery with violence, assault with a deadly weapon, and drug trafficking charges, was taken from his position as one of the peer group leaders of San Quentin, and was counselled and helped with group therapy in company with four other inmates. He was helped to recognize his own deficiencies and his own personality problems, and he went back into the gaol and among the inmates and did so much good work there that he was released on parole and is now working as a social worker in the streets of San Francisco and surrounding areas. I admit that this is probably an exception, but this man is most impressive: I spent an interesting afternoon with him.

The Hon. L. J. King: He has apparently lasted longer than Darcy Dugan.

Dr. TONKIN: Yes: it is a great shame that that did not work. I think Mr. Rodriguez says that he has found his niche in life; he has found something that he can do, and is giving tremendous service. It is impossible for anyone to go to him and say, "What are you talking about; you don't know what it's all about," because he does know what it is all about, and he probably knows far better than do some young people he is trying to help. When he speaks, people listen, and, when he guides, they generally follow.

I join with the Attorney-General in paying a tribute to the present officers of the Prisons Department and the probation service for their work. These people are doing a tremendous job and are working under great difficulties. I can only say that I am amazed that they do not show more signs of frustration than they show now.

I have already touched on alcoholism. I think all honourable members will recall that when the Dangerous Drugs Act Amendment Bill was being considered last session an amendment was moved to allow for treatment as an alternative to a penalty for those people who were drug dependants and who needed treatment. I think that we must help alcoholics to receive treatment, and I believe that probation should be offered to these people, provided they want treatment and want to be rehabilitated. This raises the entire question whether or not these people should be admitted to smaller and other specialized institutions. Perhaps I am not fully aware of the need for extra prisons at Port Lincoln. However, I know the town (and what a wonderful town it is), and I congratulate the member for Flinders on representing such a wonderful country community. Again, knowing the town, I am surprised that additional prison facilities there are deemed necessary.

I wonder whether or not money required for this project could not be better spent on building a smaller institution nearer the metropolitan area; or perhaps people convicted of alcoholic offences, if I can use that rather broad term (I am sure it will not meet with the Attorney-General's approval, but I am sure that he will take my meaning), could be taken over to Port Lincoln from the metropolitan area, rehabilitated, and gradually introduced back into society. Along the lines of separate institutions, we already have a block for psychopaths. A new block is being built, and I believe this is necessary, because the people concerned are not in the best possible place at present. Little can be done for these most unfortunate people, and it is rather depressing for a doctor; it is rather like coming

across the case of an illness where one knows that one can do nothing to help.

It is depressing to see these psychopaths incarcerated, but there is nothing we can do for them. As I agree that they should not be with other prisoners, I welcome the news that this block is to be built for them. However, once again, I think we should extend this further. I believe that the care of people sentenced to prison for the first time is of tremendous importance, just as is the treatment of first offenders at present in the Juvenile Court or, in future, outside the Juvenile Court by means of juvenile aid panels. These matters are of great importance in preventing recidivism. I believe that it is tremendously important to segregate persons who are serving their first term of imprisonment. I know that this is probably done to some extent, but I believe a great case can be made out for complete segregation of these people. The following article appears in the University of New England publication *Prison Rehabilitation*, which is a report of a seminar held at Grafton in 1963:

When a man enters a penal institution as a prisoner, he becomes a member of a community of captives. He enters a society that has its own jargon, its own ways of doing things, and values peculiar to itself. He experiences the formidable pressures that are brought to bear on any prisoner who endeavours to remain aloof from the prison community. In this unfamiliar situation, a new prisoner feels crushed and hopeless and lost. Even the hardened criminal feels very keenly the weight of social ostracism that has descended upon him. It is small wonder then that prisoners very quickly develop an affinity for the prison community, for here they feel secure and accepted.

The article states that fundamentally it is difficult for the prisoner, having identified himself with the prison society and having been exposed, when he comes out, to ordinary society, and to its prejudices against an ex-prisoner, not to go back to crime and find himself in prison again. It becomes a vicious circle. As I have said, I believe first offenders should receive probation, bail, supervision and treatment, as I believe this is tremendously important. The habitual criminals, the recidivists, have the most deep-seated problem, and the present system will not touch them. Indeed, unfortunately it is possible that even the most intensive psychotherapy over long periods may not touch them; this again becomes rather depressing. There are people who are very sick mentally who cannot be helped, as their illness is of such long standing. It would take years to bring them around to the right frame of mind by accepted methods of treatment. And yet, when I hear of these cases, I remember the case of Manuel Rodriguez in San Francisco, who spent 15 years before proving to be such a success in the fields of group therapy and individual counselling.

In relation to the security of prison life, I am reminded of an old gentleman with whom I came in contact when I was house surgeon in the Wellington Hospital, New Zealand. On three occasions he tried to get himself admitted to the hospital. As I was casualty officer on each occasion, unfortunately for him I managed to find him out fairly soon. On the first occasion, he was admitted in an ambulance, having collapsed in the street. He had been shaking and shuddering and having some sort of fit. Having looked at him and been made a little suspicious by the story, I pretended I would give him an injection with a large needle. He sat up, recovering most dramatically, and said, "You aren't going to stick that into me." He was promptly sent away. On the second occasion, he said he had broken his arm. However, he had forgotten about X-rays, and we were quickly able to make sure that his arm was not broken. On the third occasion, he thought I was off duty. He said that he had an abdominal pain. Unfortunately for him, the other casualty officer had not come in and I was on duty. Once again he was turned away.

I heard his story later. He was an old army pensioner who received a small pension with which he managed to make do most of the time. Every now and again, about every three months, he would spend a little more than he should have spent at the public house and, in an inebriated condition, decide that he was not sure what to do for shelter and food for the next fortnight. Policemen in New Zealand at that time still wore helmets, and he would creep up behind a policeman whose helmet he would tip off and jump on. Having done that, he would be brought before the magistrate, sentenced and fined, with imprisonment in lieu of the fine. I cannot remember how many convictions he had, but it was well over 100, and he had gone through a great many police helmets. This may sound a funny story, but the man concerned was completely dependent on the support he got from prison life. He was unable to make his own life, and had no friends or family; the only other thing he could find was prison.

It had happened that he had broken his leg and been admitted to hospital. Suddenly a whole new world was opened to him. He was

not expected to do hard labour; he was waited on hand and foot; he had a warm bed; he was fed three times a day; and he had female company, too, to pat his fevered brow. I suppose that was why, after he had been discharged, he kept trying to get back into hospital. I heard afterwards that, when I had proved to be his stumbling block for the third time, he went straight away and tipped off another policeman's helmet.

This is a sad case, for this man had to depend on prison, of all places, as the only home and refuge he knew. That is a fairly miserable commentary on society. If imprisonment is considered necessary for recidivists and habitual criminals, provision should be made for prolonged investigation of each individual, for group work and individual counselling. In other words, we must do everything we can to get the individual back into society. It is the individual that matters; he must be given every chance of finding a proper life into which he can fit again. He must be able to form some attachment and have some responsibility.

I do not pretend to have all the answers, and I do not think anyone has them. However, I should like to make the following suggestions by way of summing up: I have dealt with specialized institutions. Instead of lumping all prisoners together, I believe we would do better to have smaller specialized institutions for people who are going to prison for the first time, as well as for alcoholics and drug offenders (we provide for them now), debtors, and psychopaths (again, we now have provision for psychopaths). Moreover, I believe that the facilities must be up-dated.

I will read from an article by Eric Price entitled "The Correction of Adult Offenders with Special Reference to South Australia". Sub-titled *A Uniquely Depressing Physical Environment*, it states:

South Australian prisons, like other prisons of their era, provide a uniquely depressing physical environment. The architects eschewed any considerations of the effect of the buildings on the morale of the persons to be served, and built establishments of stone and concrete, with small steel-barred windows, solely to hold and to punish. The surrounding country is shut out by the high stone walls and inside the prison one sees nothing but paved compounds, stone walls, and grey buildings set with barred, or double-barred, windows. On the upper floors provision against seeing anything outside the prison is made by the setting of the windows above the level of vision (as on the ground floor), and making it a punishable offence to look out. The purpose of these establishments is not only to remove the offender from the community, but also to control and restrict his movements within the prison, so each division has its locked grille, and each section within a division has its locked grille, and each room or cell has its locked door, with guards continuously on duty controlling ingress and egress. The entire place is thus a succession of larger or smaller cages.

Later, Mr. Price deals with the degrading hygienic conditions and I agree with what he says. He states:

No change of clothing is provided after work. Working clothes are changed once weekly only. Ventilation is inadequate (the cells smell foully when they are opened in the morning), and a bucket is used for toilet purposes.

I think it is not generally known or realized that many of the cells do not have toilet facilities and that the inmates depend on a lavatory bucket for anything from 12 to 15 hours of the day, when they are locked in. I agree that this is a degrading environment and the sooner it is rectified the sooner we will get our offenders back in society as useful members.

I refer now to services, and I do not think that at present anyone can argue that there are sufficient psychiatric and psychological facilities available. A clinic should be attached to the prison. Perhaps the prison could well be attached to the psychiatric clinic, but it does not matter, because there should be a two-way communication. There should be greater facilities for group counselling, education, and individual counselling of each prisoner.

We must encourage the work of the Parole Board and those other examples of alternatives to imprisonment, such as release to work and the week-end detention centre, which I believe has an important part to play in future. Such a centre could meet the need, which we have, to find what to do with the hooligans and uncontrolled young lads. Pre-release hostels are also tremendously important, and I was extremely pleased to hear the Attorney say that a pre-release hostel would be built.

We must make greater use of the supportive services that are offered and, in many cases, provided by chaplains, the Prisoners Aid Association, and other visitors of whom the Attorney has told us. As far as work is concerned, I am told that the term "hard labour" is farcical. Men should be able to work eight hours a day, as in civil life. They will be doing that when they get out of prison and they should be willing to do it while they are in prison. They should do meaningful jobs that will be of use to them in

future life, or the work should be related to the jobs with which they are familiar in their normal life.

As I have said, I do not pretend to have all the answers but I have no doubt that a committee of inquiry is absolutely essential, and I am pleased to support the motion. I am also pleased that the Attorney has announced that this committee will be established. I think that not only is it for the good of those who have been described as society's misfits but it is also more important to society itself. More than ever before, we must get value for our money and build up a good, stable, well balanced, and settled community. I consider that this inquiry will help us do that.

Dr. EASTICK secured the adjournment of the debate.

SCHOOL TRANSPORT

Adjourned debate on the motion of Mr. Goldsworthy:

(For wording of motion, see page 893.)

(Continued from August 18. Page 894.)

The Hon. HUGH HUDSON (Minister of Education): The first point I wish to make is that, although I have no doubt that the Psychology Branch of the Education Department would welcome the change proposed in the motion, that branch has not made any specific recommendation to me, as far as I am aware, on this matter. I think that everyone concerned with special education in this State is very much aware of the problem of finding sufficient funds for all the developments required in this area. The member for Kavel points out that the current cost of transporting handicapped children who are attending some type of special school is about $120,000 a year, of which the Government at present meets two-thirds and the parents the remainder, so the department's current expenditure under this heading is about $80,000 a year. I should point out that private charities help in this area and that social workers who encounter cases where individual parents have difficulty in meeting their one-third share of the cost do approach organizations such as the Adelaide Benevolent and Strangers Friends Society to provide additional assistance so that the child is not affected adversely because of the parents' inability to pay. Admittedly, the limited funds available to these private charities restrict the extent of the work that they can do in this area. The Government accepts the principle involved in the recommendation of the Karmel committee that the full cost of the transportation of handicapped children to and from school should be met by the Education Department. The questions at issue are the financial provisions involved and the question of priorities. For the foregoing reasons, I move:

After "handicapped children" to strike out "recommended by the Psychology Branch of the Education Department, to schools with special classes when these children are unable to use public transport because of their disability" and insert "to and from school when the necessary finance can be made available".

If the amendment were carried, the motion would then read:

In the opinion of this House the Government should bear the full cost of transporting handicapped children to and from school when the necessary finance can be made available.

I have no doubt the member for Kavel is well aware that this is not an isolated recommendation of the Karmel committee, but one of a number of recommendations made by the committee in the field of special education. I draw attention to other recommendations regarding the training of teachers of handicapped children, promotional prospects for teachers involved in special education, the recommendation in paragraph 13.29 that teacher aides should be appointed to special schools and classes on a scale providing one aide for every two special teachers, and a recommendation that section 47 of the Education Act should be amended so that the provisions of the Act regarding compulsory attendance apply to handicapped children as they now do to all other children, with proper powers of exemption. There is a recommendation in paragraph 13.34 that the cost of conveying between home and school handicapped children who are approved by the Psychology Branch as being unable to use public transport should be met in full by the Education Department.

These are the main recommendations of the committee in the field of special education. However, the information provided by the Karmel committee, which was obtained directly from the Education Department, makes it clear that the department provides, in its special schools, in special classes, in opportunity classes, or through schools for which the Education Department has taken direct responsibility, such as the Woodville Spastic Centre, the Somerton home, the Social Welfare Department schools, and so on, and in the deaf and hard-of-hearing centres and Townsend House, for 2,895 children classed as being handicapped

in some way or another. In 1970, the enrolment of handicapped children in non-Government institutions totalled 252 children of school age, so the Education Department is providing for well over 90 per cent of children provided for in some special way in South Australia.

This record compares more than favourably on average with the record in other States and more than favourably with the record in most other States in Australia. It involves, however, a considerable expenditure of funds by the Education Department. At page 341 of its report the Karmel committee points out that in December, 1968, 658 children for whom no place could be found had been approved for admission to the Education Department's special education facilities. The number had grown to 958 one year later (an increase of 45 per cent) and the position at present is slightly better than it was then. The need, therefore, for considerable expenditure in the provision of more special schools, in the staffing of those special schools, in the provision of additional teacher-training facilities, of additional equipment and of teacher aides and the like is a very urgent one indeed.

The aim of the member for Kavel to provide for the full cost of transporting handicapped children to and from school has to be seen in the light of these other urgent demands. Furthermore, the South Australian Education Department is very badly placed with respect to the number of guidance officers who can provide services to schools. The ratio of guidance officers to school population is poorer in South Australia than in nearly all the other States, and we are well below the Australian average in this respect.

When I became the Minister of Education we had 17 guidance officers available for work in schools. Last financial year we provided funds for an increase of eight in the number of guidance officers, and this financial year we are providing funds for a further increase of eight. Of course, it takes time before decisions in relation to guidance officers are fully reflected in the services actually provided in schools. If we recruit someone who has had the necessary specialist training but has not had teaching experience, the Psychology Branch first seconds the prospective guidance officer as a teacher in a school for a few months prior to his working as a guidance officer. Consequently, although decisions have been made over two years that will double the number of guidance officers available for work in schools, in some cases there is a delay before those officers are available full time for guidance work. Even when we double the number of officers able to provide services for South Australian schools, we will still be badly placed relative to the other States. So, although we accept the principle involved in the Karmel committee's recommendation, there are other very urgent needs in the field of special education that we cannot properly provide for at present. That has to be borne in mind when consideration is given to the timing of the Government's taking full responsibility in this matter. I seek leave to continue my remarks.

Leave granted; debate adjourned.

[*Sitting suspended from* 6 *to* 7.30 *p.m.*]

RIVER MURRAY WATERS ACT AMENDMENT BILL (No. 2)

Returned from the Legislative Council without amendment.

COMPANIES ACT AMENDMENT BILL

The Hon. L. J. KING (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Companies Act, 1962-1971. Read a first time.

The Hon. L. J. KING: I move:

That this Bill be now read a second time.

When the Companies Act, 1962, was enacted, it was expected that within four or five years a comprehensive revision Bill would be introduced in all States to incorporate the improvements and modifications that experience of the operation of the legislation would show to be necessary. Subsequently, it became necessary to bring in a major amendment to the Act in advance of the proposed general revision, because of the collapse of a number of companies that had borrowed extensively from the public and, in addition, it was found necessary to amend the Act in respect of several other smaller matters. The Companies Act has been kept under constant review since 1962 and during the intervening period many suggestions for amendments to the Act have been received and considered by the Standing Committee of State and Commonwealth Attorneys-General. Many of those suggestions had been reduced to draft legislation form by June, 1967, and at that stage the standing committee thought it desirable to have the advice of outside experts on the proposed amendments.

Accordingly, in August of that year, it appointed the Company Law Advisory Committee under the chairmanship of Mr. Justice Eggleston, with Mr. J. M. Rodd (a Melbourne solicitor) and Mr. P. C. E. Cox (a Sydney chartered accountant) as members. The

advisory committee was requested to inquire into and report on the extent of the protection afforded the investing public by the existing provisions of the Uniform Companies Acts and to recommend what additional provisions (if any) were necessary to increase that protection. The advisory committee has made six interim reports to the standing committee and, except in the case of the fifth and sixth reports, which were received only recently, the recommendations contained in the reports are, with only a few exceptions, reflected in the Bill. In addition, the drafting of the Bill has proceeded in consultation with the advisory committee to ensure that the intentions of that committee were accurately implemented.

The first interim report dealt with the accounts and audit requirements of the Act and, arising out of the recommendations made by the advisory committee in that report, the existing provisions relating to accounts and audit are proposed to be repealed and re-enacted in a modified form in clause 25 of the Bill. The second interim report was concerned with the disclosure of substantial shareholdings and the regulation of take-over offers. The proposed provisions relating to the disclosure of substantial shareholdings are new and are set out in clause 12 of the Bill. The existing take-over provisions are to be repealed and re-enacted in a vastly different form. The new provisions are set out in the new Part VIB, in clause 27 of the Bill.

The third interim report reviewed the provisions of the Act relating to investigations. Those provisions of the Act have been redrafted and are contained in the new Part VIA, in clause 27 of the Bill. The fourth interim report dealt with the subject of the misuse of confidential information by officers of companies, and the advisory committee's recommendations are reflected in amendments contained in clause 19 of the Bill. The fifth interim report dealt with the control of fund-raising, and the sixth interim report is concerned with share-hawking; but the reports were received too late to enable the committee's recommendations to be implemented at this point of time.

In addition to the amendments arising out of the recommendations made by the advisory committee, the Bill contains a further lengthy amendment in clause 30 by which Part IX of the Act, which relates to official management of companies, is to be repealed and re-enacted in a modified form. That amendment was enacted in other States several years ago and has been included in the Bill to regain uniformity with the Companies Acts of the other States.

Clause 44 of the Bill introduces new provisions relating to defaulting officers, and is in line with amendments which are already enacted in three States and are included in Bills already introduced, or about to be introduced, in the remaining States. The Bill also contains several miscellaneous amendments which are relevant to other amendments set out in the Bill and which have been agreed to by the standing committee. The foregoing sets out, in general terms, the contents of the Bill and the source of the proposed amendments. The Bill will now be explained in greater detail.

Clause 1 sets out the short titles. Clause 2 relates to the commencement of the amending Act. Clause 3 alters the arrangement of the Parts and Divisions of the principal Act. Clause 4 repeals subsections (5) and (6) of section 4 of the principal Act. These were transitional provisions that have now ceased to have effect. Clause 5 amends certain existing definitions contained in section 5, and inserts others that are necessary for the purposes of new provisions contained throughout the Bill.

Clause 6 enacts a new section 6a, which defines the expression "interest in a share" for the purposes of the provisions relating to the disclosure of substantial shareholdings, take-overs and the register of directors' shareholdings. Generally speaking, the section defines the expression "interest in a share" in the widest possible terms to insure against evasion of those provisions by persons having the beneficial interest in shares in a company. The section extends the general meaning of an "interest in a share" to the extent that an interest in trust property that includes a share is an interest in a share; that a person who controls 15 per cent of the voting power of a company that has an interest in a share has an interest in that share (in determining whether a person controls 15 per cent of the voting power of such a company, the voting power of an associate of that person, as defined in subsection (5) of section 6a, must be taken into account); that an interest in a share includes a right under a contract to purchase a share, any other right to have a share transferred, and an option or any right to control a right attached to a share; that the fact that an interest is held jointly or cannot be related to a particular share is irrelevant, as is also any question of remoteness of the interest or

the fact that the exercise of a right conferred by the interest is subject to restraint or restriction; and that some interests are excluded: for example, the interest of a bare trustee, the interest of the holder of a unit in a unit trust in shares comprised in the trust portfolio, the interest of a moneylender who holds a share as security, and other interests as may be prescribed by regulation, including those arising from the holding of certain statutory offices.

Clause 7 repeals certain subsections of section 9, which relates to the qualifications of company auditors. These provisions have been re-enacted in the audit provisions in section 165 for the purpose of effecting a better arrangement of the Act. Clause 8 contains one of the miscellaneous amendments, and is unrelated to other amendments in the Bill. Its purpose is to enable certain types of partnership to consist of up to 50 persons. The amendment was enacted in other States several years ago, and has facilitated the formation of large partnerships of practising accountants on an Australia-wide and international basis.

Clause 9 repeals and re-enacts section 25 of the Act, which provides for the conversion of a company from one class to another. The existing section is defective, and makes no provision for the conversion of a limited company to unlimited status. The existing provision, whereby an exempt proprietary company need not appoint an auditor, is proposed to be amended to the extent that only an exempt proprietary company that is an unlimited company will be entitled to enjoy that concession. It therefore became necessary to enable existing proprietary limited companies to convert to unlimited status. A notable feature of the amendment is that a limited company may convert to an unlimited company only if all members of the company have consented in writing to the conversion, thus ensuring that no member of a company can be forced to accept unlimited liability for the debts of the company.

Clause 10 repeals section 26a of the Act, which was enacted by the Companies Act Amendment Act, 1970, for the purpose of enabling a no-liability company to convert to a limited company. The proposed new section 25 now provides the necessary machinery for such a conversion, with the result that section 26a is no longer required. Clause 11 contains two other miscellaneous amendments that have already been enacted in all other States. The purpose of the first amendment is to require a debenture prospectus issued by a subsidiary company to state whether the holding company has guaranteed the repayment of the debenture moneys, while the second amendment empowers the Registrar of Companies to refuse to register a prospectus if, in his opinion, any portion of its contents contains misleading information.

Clause 12 inserts a new Division IIIA in Part IV of the Act, and requires persons who hold an interest in at least 10 per cent of the voting shares of a company whose shares are quoted on a stock exchange to give notice to the company of the extent of his interest in voting shares in the company, and of any change in the extent of his interest. The Company Law Advisory Committee stated in its report that, in the case of companies whose shares are traded on a stock exchange, shareholders are entitled to know whether there are in existence substantial holdings of shares which might enable a single individual or corporation, or a small group, to control the destinies of the company, and, if such a situation does exist, to know who are the persons on whose exercise of voting power the future of the company may depend.

The advisory committee recognized that it is common practice for investors to have their shares registered in the name of nominees, sometimes for the purpose of concealment but in many cases merely for the sake of convenience. In either case, where the holdings of a person are substantial, shareholders should be entitled to ascertain the extent of those holdings. Any provisions requiring disclosure could not be fully effective unless they reached behind the person nominally holding shares to uncover the true beneficial owner. As previously stated, the new section 6a, which is inserted by clause 6 of this Bill, is designed to achieve that purpose, in that it defines in some detail the expression "interest in a share".

Section 69a sets out the kinds of bodies corporate and unincorporate to which the Division applies, and it should be noted that the Division applies only to companies whose shares are capable of being dealt in on a stock exchange. Section 69b requires all persons, whether resident in Australia or not, to comply with the provisions of the Division. Section 69c defines a substantial shareholder as one who holds an interest in 10 per cent of the voting shares in the company. Under section 69d a substantial shareholder is required to disclose full particulars of his interest in shares. Section 69e provides that notice of any change in the extent or nature of his interest must be given to the company within 14 days, and, where a person ceases to be a substantial shareholder, section 69f requires him to give the company notice of that fact.

As the Division applies to persons domiciled overseas, provision is made in section 69h to ensure that, if any person holds shares in which a non-resident has an interest he is required to notify the non-resident of the requirements of the Division, and, if he knows that the non-resident holds his interest for a third party, he is required to direct the non-resident to give a copy of the notice to that third party. Section 69j empowers the Registrar to extend the time within which a substantial shareholder must give notice to the company in respect of his interest in shares. Section 69k requires a company to keep a register of substantial shareholdings, and to make the register available for inspection by any member of the public. Copies of the register must be supplied upon the request of any person.

Section 69l provides a penalty of $1,000 for failure by a substantial shareholder to give notice to the company in respect of his interest in shares. Section 69m deals with defences to a prosecution, and exonerates a defendant who proves that he was not aware of the fact or occurrence the existence of which was necessary to constitute the offence, but that defence will not be available to him if, in the terms set out in subsection (2) of the section, he is presumed to have been aware of the fact or occurrence. As a further aid to ensuring that the requirements of the Division are complied with, particularly by persons outside the jurisdiction who might not be deterred by a threat of prosecution, section 69n enables the Supreme Court, on the application of the Minister, in cases where there has been a failure to comply with the Division, to make a number of orders, including an order restraining the disposal of the shares or the exercise of voting rights attached to the shares, or an order directing the sale of the shares.

Clause 13 contains an amendment to section 74f (5), which is consequential on the amendment to the accounts provisions as contained in the Bill. The effect of section 74f (5) remains unaltered. Clause 14 amends section 76 of the Act, which controls unit trusts and other types of investments that are not shares or debentures. The purpose of the amendment is to enable control to be exercised over persons who sponsor real estate syndication schemes, which are increasing in number in this State. Such schemes have failed badly in Western Australia, resulting in members of the public suffering heavy losses. Clause 15 contains a consequential amendment to section 80 the need for which was overlooked in the drafting of the Companies Act Amendment Bill, 1964. The effect of section 80 remains unaltered.

Clause 16 amends section 81 and is related to the amendment contained in clause 14. Its purpose is to enable members of the public who have invested in existing real estate syndicates to dispose of their investment. Clause 17 amends section 83 and is also designed to enable members of real estate syndicates to dispose of their investment. Clause 18 amends section 122 of the Act, which restrains certain convicted persons from taking part in the management of any company. The effect of the amendment is that the provisions of the section will be extended so that they also apply to a person who has been convicted of an offence involving the issue of a prospectus or a take-over statement that contained an untrue statement or a wilful non-disclosure of material matter.

Clause 19 repeals and re-enacts section 124 of the Act, and inserts a new section 124a. The amendment is designed to implement a recommendation made by the Company Law Advisory Committee in its fourth interim report. Section 124 provides that, if an officer of a company makes use of information acquired by him by virtue of his position as an officer so as to gain an improper advantage for himself, he is guilty of an offence and is liable to the company for the profit made by him. The amendment to section 124 effects an improvement to the drafting of the section, and provides that the officer is also liable if he used the information to gain an improper advantage for some other person. New section 124a extends the principle expounded in section 124, in that an officer who makes use of confidential information in dealing in securities of the company is liable to any person who suffered loss by reason of the purchase by him of such securities at a price in excess of that which would have been reasonable if the information had been generally known.

Clause 20 repeals and re-enacts sections 126 and 127 of the Act. The existing section 126 requires every company to keep a register and to enter therein in respect of each director particulars of all shares and debentures held by, or in trust for, him or of which he is entitled to become the registered holder. The effect of the amendment is that the register must contain particulars of all shares, debentures, interests (as defined in section 76 of the Act) and options in which each director

has an interest within the meaning of the new section 6a, set out in clause 6 of the Bill.

Section 127 requires every director of a company to give to the company particulars of his holdings of shares and debentures to enable the company to maintain an up-to-date register, required to be kept under section 126. Consequential on the amendment to section 126, which requires additional information to be entered in the register, it is necessary to amend section 127 to require directors to disclose to the company additional information to enable the company to comply with section 126. A provision has been inserted in section 127 providing a defence to a prosecution of a director for failure to disclose particulars of his holdings. The defence is identical with that contained in section 69m in relation to the failure of a substantial shareholder to comply with the new Division IIIA of Part IV.

Clause 21 amends section 129, which contains a reference to section 184. Section 184 is repealed by clause 28. Clause 22 amends section 131 of the Act, and is consequential on the amendment to the definition of "emoluments" set out in clause 5. The effect of the section is not materially altered. Clause 23 amends section 136 of the Act in relation to the power of the Registrar to extend the time for the holding of an annual general meeting of a company. The purpose of the amendment is merely to correct anomalies in the existing section, the general effect of which remains unchanged.

Clause 24 inserts a new section 159a in the Act, and provides that a company that is not required to include its financial statements in the annual return lodged with the Registrar shall ensure that the annual return contains a statement signed by the auditor of the company stating whether or not the company has kept proper books of account and whether those accounts have been audited. Experience has shown that, when proprietary companies go into liquidation, many of them have not kept adequate records, and it is difficult for the liquidator to ascertain the true financial position of the company. The new provision will enable the Registrar to ensure that all companies keep proper books of account and that regular audits are carried out.

Clause 25 repeals the accounts and audit provisions contained in Part VI of the Act, and enacts substantially modified provisions relating to those two matters. The new Division I of Part VI provides interpretive provisions for the purposes of that Part. The new Division II contains substantive provisions relating to accounts. Section 161a specifies the basic requirements to keep proper accounting records but makes no substantial alteration to the existing law. Section 161b requires the financial years of all companies in a group to end on the same date, and here again there has been no change in the existing law.

Section 162 relates to the presentation of annual accounts to the shareholders at the annual general meeting, and contains a new provision requiring a holding company of a group of companies to lay group accounts before shareholders at that meeting. The group accounts must be in the form of consolidated accounts unless the directors certify that the preparation of consolidated accounts is impracticable or that it is in the interest of shareholders that the group accounts be prepared in a different form.

The section requires the directors of a company to ascertain what steps have been taken in respect of bad and doubtful debts, current assets and non-current assets, to ensure that all known bad debts have been written off, that adequate provision has been made for doubtful debts, and that current assets are written down to an amount which they are expected to realize. Where non-current assets appear in the accounts at more than their true value, the accounts must contain explanations that will prevent the accounts from being misleading. These are steps that diligent directors would take to satisfy the existing requirements of the Act, but their inclusion in express form will serve to stress the importance of these matters in relation to the preparation of true and fair accounts.

The accounts must be accompanied by a statement signed by the principal accounting officer stating whether or not the accounts give a true and fair view of the matters required to be contained therein. The existing Act requires the secretary of the company to make a statutory declaration that the accounts are true and correct, but, since the secretary of a company is not always concerned with the preparation of the accounts, the Company Law Advisory Committee recommended that the duty to certify the acounts should be imposed upon the principal accounting officer.

Section 162a sets out the matters required to be included in the directors' report, which must be attached to the accounts. The report has been expanded to require a number of additional matters to be included therein, and, in the case of a holding company, requires the report to cover the activities of the group. The

expanded requirements are in accordance with the recommendations of the Company Law Advisory Committee, which, in its first interim report, expressed the view that the directors' report should give the shareholders a description of the year's activities and results, should draw shareholders' attention to specific important matters, and should be the means of bringing shareholders' knowledge up-to-date.

Section 162b contains new provisions relating to the preparation of group accounts and requires the directors of a subsidiary company to supply all necessary information to the holding company to enable group accounts to be prepared. Section 162c is an important new provision, in that it empowers the Registrar to relieve a company of the need to comply with any requirement of the Act relating to the form or content of the accounts or the directors' report if he is satisfied that compliance with the Act would make the accounts misleading or would impose unreasonable burdens on the company. The Registrar must take into account the views held by Registrars in other States, to ensure that a uniform approach is adopted throughout the Commonwealth when dealing with applications for exemption.

Section 163 prescribes penalties for failure to comply with the provisions relating to accounts, and provides an increased penalty if it is established that the failure involved an intent to defraud. The section provides two separate defences to a prosecution. It is a defence to prove that a competent and reliable person was charged with the duty of seeing that the accounts provisions were complied with, and it is a further defence that any omission from the accounts was not intentional and that the information omitted was not material.

Section 164 requires a company to send a copy of its audited accounts to shareholders at least 14 days before the annual meeting, and provides for a copy of accounts to be supplied, on demand, to a debentureholder or to a shareholder who is not entitled to receive notice of meetings of the company. These provisions do not change the existing law.

The new Division III contains provisions relating to auditors and the audit of accounts. Section 165 re-enacts the repealed subsections (1) to (6) of section 9 relating to the qualification of auditors. New provisions have been inserted to provide for the appointment of a firm as auditors of a company, and to empower the Companies Auditors Board to grant approval for the appointment of a person, who is not a registered auditor, to act as auditor of an exempt proprietary company in a case where it is impracticable to obtain the services of a registered auditor, by virtue of the remote locality in which the company carries on business.

Section 165a alters the existing law in relation to the right of an exempt proprietary company to dispense with the appointment of an auditor. In future that right will be available only to exempt proprietary companies that are registered as unlimited companies and whose members are natural persons or other unlimited exempt proprietary companies. The view is widely held that a company whose members enjoy the benefit of limited liability should be required to submit its accounting records for regular audit, and that any defect in the accounts should be made public, as provided by the new section 159a. Provision is made in clause 9 to enable a limited company to convert to an unlimited company, so that an exempt proprietary company that wishes to avoid the appointment of an auditor is provided with the means to achieve that result. Existing exempt proprietary companies that do not convert to unlimited companies will be required to appoint auditors within three months after the commencement of the amending Act.

Section 166 makes an important change in the law relating to an auditor's tenure of office. Under the existing law an auditor ceases to hold office at the annual general meeting in each year, but may offer himself for reappointment at that meeting. The necessity for the annual appointment of auditors has been the subject of much criticism, and it cannot be denied there have been occasions when auditors have succumbed to pressure applied by directors for fear that they will not be reappointed at the next annual meeting. It is considered that the new provision will strengthen the position of the auditor, by making his tenure of office more secure. He would be less likely to compromise a view to please a client and, if his point of view was well founded, it is unlikely that shareholders would remove him from office, nor would another auditor be likely to stand for election against him.

Section 166 (15) makes special provision for the case where a company becomes a subsidiary of another company. It is common practice for all companes in a group of companies to appoint the same person as auditor so that, where a new subsidiary is acquired,

it is necessary to afford the holding company an opportunity to appoint its own auditor as auditor of the subsidiary. Subsection (15) therefore provides that, where a company becomes a subsidiary, the auditor shall retire at the next annual meeting, but is eligible for re-election. Section 166a relates to nomination of auditors prior to appointment, but does not substantially alter the existing law.

Section 166b provides for the resignation and removal of auditors. The procedure for the removal of an auditor remains unchanged, but the provisions relating to the resignation of auditors are new. The principal Act does not authorize an auditor to resign, and doubt exists on whether he has power to do so. Section 166b (5) provides that an auditor may resign his position, but only with the consent of the Companies Auditors Board. The purpose in requiring the consent of the board is twofold. It ensures that an auditor cannot resign merely to avoid reporting adversely upon the company's accounts, and on the other hand it assists the auditor to withstand improper pressure to resign which may be brought to bear by the directors of the company.

Section 166c alters the procedure for the fixing of the remuneration of the auditor. Under the existing law the remuneration must be determined by the shareholders in general meeting, or, in certain circumstances, by the directors, with the result that it is necessary to fix the remuneration before it is possible to determine the amount of work involved. The advisory committee considers that an auditor should be in the same position as that of any other professional person employed on a *quantum meruit* basis, and it is therefore provided in section 166c that the reasonable fees and expenses of the auditor are payable by the company.

Section 167 requires the auditor to report upon the accounts of the company, and, generally, is very similar to the existing section. One important change is that where the company has subsidiaries, the auditor must also report upon the group accounts, and for that purpose is given access to the books of account of the subsidiaries. A further new provision requires the auditor to report to the Registrar if he becomes aware that there has been a breach or non-observance of the Act, which in his opinion cannot be adequately dealt with in his report to the members. The purpose of those provisions is to fortify the auditor in his duty on behalf of the members to ensure that all breaches of the Act are rectified. Section 167a re-enacts the existing provisions relating to the supplying of a copy of the auditor's report to the trustee for debenture holders, in the case where the company is a borrowing or guarantor corporation.

Section 167b implements another recommendation of the advisory committee in relation to the protection of the position of the auditor by providing that he shall not, in the absence of malice, be liable for defamation in respect of any statement made by him as auditor, and similar protection is given to a person who publishes an auditor's report. In the new Division IV, section 167c exempts life assurance companies and banking companies, which are required to prepare obligation to comply with the requirements of the Act, as regards the form and content of their accounts. Similar exemptions are already conferred upon life companies by the existing law and, as a result of representations made by banking companies, it is proposed to extend the exemption to such companies. Clause 26 repeals Divisions III and IV of the principal Act, which relate to inspections and special investigations of companies; and clause 27 re-enacts those provisions in a modified form as Part VIA. The right of a company to conduct a "private" investigation of its affairs by the appointment of an inspector by special resolution is abolished but, in lieu thereof, the company may apply to the Minister for the appointment of an inspector, if the company resolves by special resolution so to do.

An important improvement in the new Part is made in the power given in section 171 to appoint an inspector to investigate only specified aspects of the affairs of a company. This obviates the need to report on the entire history of the company, and will result in an appreciable saving of time and money. Section 174 contains new provisions which are designed to protect persons who are examined by inspectors. Subsection (2) permits legal representation; subsection (4) provides protection against civil action as a result of compliance with a requirement of the inspector; and subsection (5) entitles a person examined to witness expenses. Section 176 stipulates the uses which may be made of notes of an examination, and in particular authorizes the Minister to provide a copy to a legal practitioner who is contemplating legal action in respect of the company's affairs.

Section 178 adopts a new approach in relation to the contents of inspectors' reports, in that it provides that an inspector shall not include in his report any recommendation as that in his opinion a person has committed a

criminal offence. Instead, the inspector is required to state any such opinion in writing to the Minister. The existing Act provides that where the Minister causes a prosecution to be instituted he may require any officer of the company to give all assistance in connection with the prosecution that he is reasonably able to give. It is considered that such a requirement could lead to self-incrimination, and it is therefore proposed that the officer be given the right to object to the supplying of self-incriminating information; and, if the court considers that the objection is *bona fide*, the officer is not bound to comply with the requirement. The existing Act provides that the expenses of an investigation shall, in the first instance, be paid out of moneys provided by Parliament, but that the Governor may order the whole or part of the expenses to be paid by the company whose affairs have been investigated, or by any person who requested the appointment of an inspector. The new section 179 adopts a different approach, in that no person shall be required to contribute to the expenses of an investigation, unless the court so orders. Before making such an order, the court is required to apply the criteria prescribed by the section.

Clause 27 also enacts a new Division VIB, which contains new provisions controlling take-overs. Section 180a sets out a number of definitions, and it will be noted that the definition of the expression "shares in a company to which a person in entitled" is very lengthy and complex. Such shares not only include those in which a person has an interest (as defined in the new section 6a in clause 6 of the Bill) but also extends to those shares in which an "associate" of that person has an interest. The definition of "associate" in section 108a (6) adds to the complexity of the new provisions, but it is felt that the provisions are necessary to ensure against avoidance of the new take-over code by the device of spreading the shares which the offeror controls among several holders.

Section 180b makes a major change in the law, in that natural persons who propose to make take-over offers will be required to comply with the Act. The existing law applies only to offerors who are bodies corporate, but it is considered that there should be no difference in the principles that should be applied where control of a company is sought to be acquired, whether the offeror be a body corporate or a natural person. The section contains a reciprocal enforcement provision that will enable proceedings to be taken against persons resident outside the State who commit a breach of the take-over code. A similar provision is contained in Bills that have been introduced in other States, and it anticipated that the enactment of that provision in all States will facilitate the enforcement of strict compliance with the take-over code by persons who are outside the jurisdiction.

Subsection (1) of section 180c sets out the information that must be included in take-over offers, and it will be noted that offers made by two or more persons jointly are now brought within the meaning of a take-over offer. Such is not the case under the existing law, with the result that offerors have avoided complying with the take-over provisions by using an associated company as a nominal joint offeror. The subsection also requires offerors to supply the offeree company with a statement that complies with Part A of the tenth schedule. The statement must set out information that will enable the directors of the offeree company to assess the merits of the scheme before making a recommendation to the offerees.

Subsection (2) specifies offers that are not take-over offers within the meaning of the Act, namely (1) offers that will not result in the offeror becoming entitled to exercise more than 15 per cent of the voting rights in the company; (2) offers made to not more than three members of the offeree company within a period of four months; (3) offers to acquire non-voting shares, unless the offeror is seeking to acquire the whole of the non-voting shares; (4) offers to acquire shares in a company that has less than 15 members; and (5) offers to acquire shares in a proprietary company if all the members of that company consent in writing to the take-over provisions not applying to those offers.

Subsection (3) of section 180c introduces an important change in the law, in that it controls "first-come-first-served" invitations, which have become common in recent years. The principal objections to those invitations are that (1) they are made by brokers on behalf of clients whose identities are not disclosed; (2) the invitations are expressed to be in respect of a small proportion of the issued capital of the company, with the result that persons to whom the invitations are made are forced to make hasty decisions for fear that they may miss the opportunity to sell their shares; (3) notwithstanding that the invitation is expressed to be for a certain proportion of the shares, it is invariably the

intention of the invitor to acquire as many shares as possible; and (4) "first-come-first-served" invitations do not involve the invitor in compliance with the take-over provisions. The new provisions are designed to ensure that persons who invite shareholders to offer to sell their shares are required to comply with the take-over provisions to the same extent as if the invitor had made offers to acquire those shares.

Section 180d effects a further change in the law. Under the existing Act, offers to acquire shares do not constitute a take-over scheme unless acceptance of the offers would result in the offeror becoming entitled to exercise not less than one-third of the total voting rights in the company. The Company Law Advisory Committee considers that a person holding much less than one-third of the voting rights could virtually control the company, and the committee recommended that an offeror who sought to control 15 per cent of the total voting power should be required to comply with the take-over provisions. Section 180d sets out a formula to be applied in determining whether take-over offers would result in an offeror being in a position to exercise 15 per cent of the voting rights, and the following factors are required to be taken into consideration: (1) Shares already held by the offeror (and by associates of the offeror within the meaning of section 180a) must be taken into account. (2) There shall be added to the number of shares referred to in (1) above the number of shares in respect of which the offeror, or his associates, has dispatched offers or invitations during the past four months (excluding shares that are included in those referred to in (1) above or proposes to dispatch offers or invitations during the next four months. (3) The aggregate of the votes that can be cast in respect of the shares referred to in (1) and (2) above, is then divided by the total number of votes that can be exercised in respect of all the voting shares in the company, in order to arrive at the percentage of votes which will be controlled by the offeror.

Section 180e sets out terms and conditions which apply to offers. Offers must remain open for the period specified in the offers, being a period of not less than one month, unless they are withdrawn. If offers are withdrawn, contracts arising out of earlier acceptances, are voidable at the option of the offerees. Section 180f prescribes the terms and conditions relating to invitations. As in the case of offers, invitations must remain open for a period of at least one month; the invitor shall not indicate that invitations will be accepted on a "first-come-first-served" basis; and no offer from an invitee shall be accepted before the expiration of the period during which the invitations are expressed to be open, or in a manner that is unfair to other invitees.

Section 180g re-enacts a provision contained in the existing Act, whereby the directions of the offeree company, on receipt of the Part A statement referred to in section 180c (1), are required to prepare a statement in accordance with Part B of the tenth schedule, setting out their reaction to the proposed take-over offers. The statement must be forwarded to the offeror for transmission to the offerees, or may be sent direct to each offeree. Section 180h requires an offeror who has dispatched take-over offers to give notice in writing to the offeree and to the Registrar, that the offers have been dispatched.

Section 180j sets out the liability of an offeror for false or misleading matter in, or material omission from, a Part A statement, and prescribes the defences available to the offeror in proceedings taken against him. Under section 180k, if a person other than the offerees has acquired shares to which the offers relate, a corresponding offer is deemed to have been made to that person. Section 180l sets out the extent to which an offeror may vary the terms of the offers by increasing the consideration payable to the offerees. Under the present take-over provisions, if an offeror finds it necessary to increase that consideration in order to counter offers made by a rival bidder, he is required to go through the preliminary procedures afresh, and is therefore at a great disadvantage. The short procedure prescribed by section 180l will eliminate that anomaly. An important feature of the section is that persons who accepted offers prior to the variation, are entitled to receive the increased consideration.

As a corollary to the provisions contained in section 180l, section 180m provides that while a take-over offer remains open, no person may be given any benefit not provided for in the original scheme, other than an increase in consideration made under section 180l. However, that prohibition does not prevent the offeror from buying shares on the Stock Exchange at a price in excess of the offer price. Section 180n relates to conditional offers, that is, offers which (for example) are subject to acceptances being received in respect of a stated minimum percentage of the total number of shares for which offers are made.

The offeror is not permitted to declare the offers to be free from the condition, unless it is specified in the terms of the offer that he may do so not less than seven days before the offer closes.

If one offer is declared to be unconditional, all other offers must be so declared, and the declaration must be published in a newspaper, together with a statement as to the proportion of shares to which the offeror has become entitled. Whether or not he has published such a notice, the offeror is required to publish a notice on the day specified in the offers as the last day upon which the declaration may be made, stating whether the declaration has been made and whether or not the condition had been fulfilled. Thus, offerees who may wish to accept the offer only if it appears that they will be left as a small minority if they do not accept, will be informed as to the success of the take-over scheme, and will have the opportunity to accept the offer before the closing date.

Section 180p entitles the directors of an offeree company to have refunded to them the amount of any expenses reasonably incurred by them in connection with the take-over scheme. Section 180q prohibits a person, who does not intend to make a take-over offer, from announcing that he intends to make such an offer, and similar forms of bluffing are also forbidden by the section. In the past, it has been possible for a person to distort the market for shares, and to jeopardize the success of a legitimate take-over scheme, by announcing his intention to make take-over offers at a certain price, when in fact he has no intention of doing so, and has not the means of carrying the take-over scheme into effect.

Section 180r, 180s and 180t vest certain powers in the Supreme Court. Section 180r enables the court to make orders against an offeror who has not complied with the take-over provisions, to ensure that the offeror cannot take advantage of shares acquired by him in breach of the Act, and to protect the rights of persons affected by the take-over scheme. Section 180s, on the other hand, empowers the court to declare an act not to be invalid, notwithstanding that the act constituted a failure to comply with the take-over code, if the court considers that, in all circumstances, the failure should be excused. Section 180t requires the court to satisfy itself, before making an order under section 180r or section 180s, that the order will not unfairly prejudice any person.

Section 180u repeats the provision in the existing Act whereby the requirements set out in the tenth schedule may be varied by regulation, thus providing a ready means of varying those requirements if a weakness therein becomes apparent in practice. Section 180v empowers the Minister to exempt a person, by notice published in the *Government Gazette*, from the requirement to comply with any of the take-over provisions. A similar provision is contained in the existing Act, and is designed to alleviate hardship in particular cases. Section 180w prescribes the penalties for breach of the take-over provisions.

Section 180x is very similar to section 185 of the existing Act in that it enables an offeror, who has become entitled to 90 per cent of the shares in the offeree company, to compulsorily acquire the remainder of the shares. Action to acquire the shares must be commenced within two months after the closing date specified in the original offers. A dissenting offeree may apply to the court to restrain the acquisition of his shares, and is entitled to be supplied with the names of all other dissentients to enable him to seek support to any court action he may wish to take. The existing section 185 will not be repealed but will be retained in a slightly modified form for use in respect of schemes for the acquisition of shares, being schemes which are not take-over schemes within the meaning of the Act.

Section 180y provides for cases where an offeror has become entitled to 90 per cent of the shares in an offeree company, but does not proceed to compulsorily acquire the remaining shares. The section empowers a dissenting offeree, on discovering that the offeror has assumed control of the company, to require the offeror to acquire his shares on the same terms on which the other shares were acquired under the take-over scheme. A similar provision is contained in the existing section 185. Section 180z is transitional and provides that a take-over scheme that was initiated before the commencement of the amnding Act shall be governed by the law in force prior to that commencement. Section 180za is similar to section 180p, except that it applies to expenses incurred by directors of an offeree company in respect of a take-over scheme under the law in force prior to the commencement of the amending Act. Its purpose is to fill a gap in that law.

Clause 28 repeals section 184, which has been replaced by the new take-over provisions

in sections 180a to 180za. Clause 29 amends section 185 which, as already stated, will apply only to the compulsory acquisition of shares, arising out of schemes which are not take-over schemes within the meaning of the new Part VIA. Although the whole of section 185 has been repealed and re-enacted, there has been no substantial alteration to the existing law.

Clause 30 repeals the whole of Part IX of the Act and re-enacts it in a modified form. Part IX relates to the official management of insolvent companies, and was included in the existing Act to provide a means whereby the creditors of an insolvent company could appoint a person to take over the management of the company in the expectation that the company might be saved from total collapse, and to enable creditors to ultimately receive payment of the full amount owing to them, a result that could not be achieved if the company were forced into liquidation. When first enacted, it was recognized that the official management provisions were experimental, and it is not surprising, therefore, that the practical application of those provisions demonstrated that a number of amendments were necessary, if Part IX was to serve the purpose for which it was enacted. Several years ago, a redraft of Part IX was circulated to all interested organizations, and after their comments had been received and acted on Bills were introduced and enacted in the other States and Territories, in terms identical to those contained in clause 30. The more important changes proposed to be effected in the law are as follow:

(1) Section 198 (2) provides that, where a related company is a creditor of the insolvent company, that related company shall not be entitled to vote at the meeting of creditors at which a resolution is proposed to be passed to place the company under official management.

(2) Section 200 requires a director of the company to attend the meeting of creditors for the purpose of disclosing the state of the company's affairs and the circumstances leading up to the proposed official management.

(3) Section 202 (1) requires the creditors to form an opinion whether there is a reasonable probability that official management will result in the company's being able to pay its debts. That provision is designed to overcome the existing objectionable practice whereby companies are placed under official management when in fact there is little likelihood that the company can recover from its hopelessly insolvent position.

(4) A further feature of section 202 (1) is that it fixes the period of two years as the maximum initial period during which a company shall remain under official management. However, section 203c provides that the creditors may from time to time resolve to extend that period for a further period not exceeding 12 months in each case. The creditors are thereby in a position to review the company's position annually. Under the existing Act, any period of time may be fixed as the period for which a company shall be under official management, and no provision is made for an extension of the period originally decided on.

(5) Section 204 (3) provides for the filling of the vacancy caused by the retirement of the official manager. Under the existing law, if the official manager ceases to hold office for any reason, the company ceases to be under official management.

(6) Section 206 (3) provides that, if the official manager forms the opinion that the continuance of official management will not enable the company to pay its debts, he shall call a meeting of the members of the company for the purpose of passing a resolution that the company be wound up. In the past, a number of companies has continued under official management even though it was apparent that losses were still being incurred, and that the company had no hope of reaching a solvent state. The only person who benefited from the continuance of the official management in those circumstances was the official manager himself, who continued to receive his remuneration while funds were available.

Clause 31 amends section 218 of the Act which prescribes the circumstances in which every present and past member of a company shall be liable to contribute to the assets of the company in the event of its being wound up. Clause 9 makes provision (*inter alia*) for the conversion of an unlimited company to a limited company, and it therefore becomes

necessary to determine the extent of the liability of members and past members of the company in the event of its being wound up after conversion to a limited company. It is apparent that the members should not be able to take full advantage of the principle of limited liability, because it would encourage unlimited companes to convert to limited status at the first sign of insolvency, in order to enable members to escape liability for the full amount of the company's debts. It is also necessary to consider whether a past member should escape liability if he ceased to be a member more than a year before the commencement of the winding-up, as would be the case if the company had at all times been a limited company. The amendments to section 218 seek to resolve these problems, and are identical to the corresponding provisions of the Companes Act of the United Kingdom. The liability of the members and past members of a limited company, which was formerly an unlimited company, is therefore expressed as follows:

(1) A past member who was a member at the time of the conversion to a limited company shall, if the winding-up commenced within three years after the conversion, be liable to contribute in respect of debts incurred before the conversion, without limit to his liability.

(2) Notwithstanding that the existing members of the company have contributed to the full extent as required by the Act, a past member who was a member within a period of three years prior to the commencement of the winding-up is required to make contributions without limit as to amount, if no persons who were members at the time of the conversion are members at the commencement of the winding-up.

Clauses 32 and 33 relate to minor consequential amendments arising out of alterations made to section numbers in the new provisions relating to investigations. Clause 34 amends section 292 to the extent that the costs of an official management under the new Part IX, including the remuneration of the official manager and the auditor, and, where the winding-up commences within two months after the termination of an official management, the debts incurred by the official manager during the official management, are to be treated as preferential debts in the winding-up.

Clause 35 amends section 293 which relates to undue preferences in a winding-up. Section 293, in its present form, provides in effect that, in order to determine whether a payment to a creditor is an undue preference, the period between the date of the payment and the date of the commencement of the winding-up is a relevant factor. The effect of the amendment to section 293 is that, where the company was under official management at the time of, or at any time within six months prior to, the commencement of the winding-up, the date on which the company went under official management is substituted for the date of the commencement of the winding-up for the purpose of determining whether a payment amounted to an undue preference.

Clause 36 repeals sections 300 to 305 (inclusive), the provisions of which are re-enacted in sections 367b, 374a, 374b, 374c and 374d in Clause 45. Clauses 37 and 38 amend sections 331 and 332 respectively, and the amendments are related to the amendment to section 25 in Clause 9, which makes provision for the conversion of a no-liability company to a limited company. Section 331 provides that if a no-liability company ceases to carry on business within 12 months after incorporation, shares issued for cash shall rank in a winding-up in priority to shares issued for a consideration other than cash. Section 332 provides that shares in a no-liability company issued to vendors or promoters shall not be entitled to any preference in a winding-up.

The purpose of the amendments to sections 331 and 332 is to ensure that those sections apply to a no-liability company that converts to a limited company, to prevent persons who hold shares in a no-liability company from avoiding the effect of those sections by converting the company to a limited company. Clause 39 contains an amendment to section 341, and is consequential upon the alteration of clause and paragraph numbers in the ninth schedule. The amendment does not effect any alteration to the existing law.

Clause 40 enacts a new subsection in section 350, to the effect that, if a foreign company is placed under official management or goes into liquidation, every invoice, order for goods, etc., which is issued by the foreign company, must include the words "under official management" or "in liquidation" (as the case may be) after the name of the company. The Act already imposes that obligation upon local companies.

Clause 41 enacts a new section 352a, requiring a foreign company that is placed under official management in its State of incorporation, to lodge with the Registrar a notice to that effect. If the official management is

terminated, notice of the termination is also required to be lodged. The purpose of the new section is to inform persons having dealings with such a foreign company that the company is in financial difficulties.

Clause 42 amends section 366, which empowers the court to validate irregularities in proceedings under the Act. Subsection (3) provides (*inter alia*) that the court may make an order to validate the proceedings of a meeting of a company or of its directors at which a quorum was not present or which was otherwise irregularly held. The purpose of the amendment is to empower the court to make such an order in respect of a meeting of creditors or of a joint meeting of creditors and members of the company.

Clause 43 amends section 367, which denies an inspector the right to demand disclosure of privileged communications made by a client to his solicitor. The new section 177 contained in clause 27 authorizes an inspector to delegate his inspectorial powers to another person, and it is therefore necessary to amend section 367 to ensure that privileged communications need not be disclosed to the inspector's delegate.

Clauses 44 and 45 effect important changes to the Act in its application to defaulting officers of companies. Sections 300 to 305 (inclusive), which are repealed by clause 36, contain provisions which enable proceedings to be taken against officers who have committed fraud, misfeasance, and other offences, but those provisions apply only in respect of companies which are in the course of being wound up. There have been many instances where officers of companies have committed offences of a kind referred to in sections 300-305, but proceedings could not be taken against them because the companies were not in liquidation. The position is further aggravated by the fact that, in some cases, the company reaches the position where it has no assets and, in those circumstances, creditors are not prepared to petition the court for a winding-up order, because there is little likelihood that they could recover the costs involved. As a result, officers of the company who by their fraudulent or negligent conduct have been responsible for the company's failure, are not called upon to answer for their sins.

The underlying purpose of clauses 44 and 45 is to extend the provisions of sections 300 to 305 to officers of companies which are in financial difficulties, whether or not the companies are in the course of being wound up. Thus, officers of companies which (*a*) are under official management, (*b*) are under receivership, (*c*) are being investigated by an inspector, or (*d*) are unable to pay their debts or have ceased to carry on business and have no assets, are brought within the provisions of the Act relating to defaulting officers.

Section 367a is new. It enables the Minister or any person authorized by the Minister to apply to the court for an order for the examination of an officer, where it appears to the Minister that the officer has, by his conduct, rendered himself liable to action by the company. If the court makes the order, the applicant and, with the leave of the court, any creditor or member of the company, may take part in the examination, which shall not be held in open court, unless the court otherwise orders. The person examined may be represented by counsel, but is not entitled to refuse to answer any question which the court allows to be put to him but, if the person claims that the answer might incriminate him, the answer shall not be used in criminal proceedings against him. Notes of the examination may be used in evidence in legal proceedings against the person examined, except to the extent already stated. If the court considers that an order for examination was obtained without reasonable cause, the court may order that the costs incurred by the person examined be paid by the applicant.

Section 367b re-enacts the provisions contained in the existing section 305 (which is being repealed) except that the application to the court for the examination of the officer may be made only by the Minister or by a person authorized by him. Section 305 authorizes the liquidator or any member or creditor to make the application. Section 374a is identical with the existing section 300 (which is being repealed) except that it applies to offences committed within the past five years. Section 300 is expressed to apply only to offences committed during the past 12 months. It is considered that the period of 12 months is too restrictive and enables delinquent officers to escape punishment. Section 374b, although drafted in different verbiage, re-enacts subsections (1) and (2) of the existing section 303, which is being repealed.

Section 374c (1) is identical with existing section 303 (3). Section 374c (2) has the same effect as the existing section 304 (4). Section 304 is being repealed. Section 374d re-enacts the existing section 304, except subsection (4) which, as already stated, has been re-enacted as subsection (2) of section 374c. Section 374e is interpretive for the purpose

of sections 374a and 374d. Throughout the existing sections 300 to 305 powers are vested in the liquidator of the company to bring proceedings against defaulting officers. As already pointed out, the new sections 374a to 374d apply to certain categories of companies which may not be in liquidation, with the result that section 374e vests those powers in other appropriate persons; for example, the official manager, the receiver, the Registrar, and a person nominated by the Minister, according to the category appropriate to the company.

Sections 374f and 374g re-enact the provisions contained in the existing sections 301 and 302 respectively. Sections 301 and 302 are being repealed. Section 374h is new. It empowers the Registrar to apply to the court for an order prohibiting a person who during the past seven years has been concerned in the management of two or more companies that have fallen into financial difficulties, from acting as a director or taking part in the management of a company, if the court is satisfied that the failure of the companies was due, in whole or in part, to the manner in which they were managed. The provision is designed to answer constant criticisms of the existing law, which enables a person, who has been a director of companies which have failed, to form another company and continue to incur further debts.

Clause 46 amends section 375 (2) of the Act which prescribes penalties against persons who make false statements in documents prepared for the purposes of the Act. The new subsection provides that it is also an offence to make or to authorize the making of misleading statements in such documents or to omit any information if the omission would render the document misleading in a material respect. Clause 47 enacts a new section 375a, which creates a new offence in relation to the making of false or misleading statements. It has particular significance in relation to the accounts requirements of the Act, but also extends to false or misleading reports made to the Stock Exchange.

Clause 48 amends section 383 of the Act, and the purpose of the amendment is to extend the operation of section 374 to co-operative societies. Section 374 prohibits the hawking of shares, but in its present form the section does not apply to co-operative societies. Promoters have taken advantage of that weakness in the law by registering co-operative companies and employing share salesmen who go from door to door offering shares to the public.

An identical amendment to section 383 was included in the Companies Amendment Bill, 1970, but was withdrawn pending consideration of submissions made by promoters of co-operatives which had already raised large sums of money from the public by the hawking of shares. The submissions contained a number of inaccurate and misleading statements and, in fact, did nothing to justify the suggestion that co-operatives should not be prohibited from hawking shares. Clause 49 amends the second schedule to the Act which prescribes the fees payable under the Act. The first amendment is merely consequential upon the amendment to the accounts provisions, and does not effect any change in the law. The second amendment prescribes the fee payable on lodging an application by a company under the new section 167c for exemption from compliance with any of the new accounts provisions set out in sections 162 and 162a in the Bill. The fee of $25 is $5 in excess of that payable on the lodgement of other applications under the Act, but the excess is justified by the fact that the Registrar is required to consult Registrars in other States before making a decision, since it is most desirable that such applications are dealt with uniformly throughout Australia.

Clause 50 amends the eighth schedule, which prescribes the form and content of annual returns lodged by local companies. The amendments are consequential in nature, and are not of great significance. Clause 51 repeals and re-enacts the ninth schedule, which prescribes the information that must be set out in the profit and loss account and balance-sheet of a company. The new schedule requires the disclosure of detailed information far in excess of that prescribed by the existing schedule, and represents an attempt by the Company Law Advisory Committee to ensure that members of companies and the investing public are able to assess more accurately the trading results and the current financial position of companies in which they hold shares, or in which they contemplate investing money. It is impracticable to discuss every new item appearing in the new schedule, but the following new requirements are considered to be worthy of separate mention:

(1) Income derived from and amounts paid to other related companies in a group of companies must be shown separately from other income and payments.

(2) Profits or losses arising otherwise than in the ordinary course of business must be separated from trading profits or losses.

(3) Bad debts written off and provisions made for doubtful debts must be disclosed in respect of each class of debtors.

(4) Amounts paid to auditors for their services as auditors must be shown separately from amounts paid to them for other services rendered to the company.

(5) Where the amount shown as set aside for payment of income tax differs by more than 15 per cent from the amount of tax that would appear to be payable on the disclosed net profit, the reasons for that difference must be explained in the accounts.

(6) Accumulated losses must be shown as deductions from the amount of paid-up capital and reserves.

(7) Provisions for depreciation and doubtful debts must be shown as deductions from the assets to which they relate.

(8) All secured liabilities must be shown separately from unsecured liabilities, and the extent to which they are secured must be stated.

(9) Current assets and current liabilities must be shown separately from other assets and liabilities.

(10) Where the amount of any asset is shown "at valuation", a statement must be added showing whether the valuation was made by the directors or by an independent person. If the valuation was made by an independent person, the qualifications of that person must be stated.

(11) Where land has been purchased for resale, and development costs and rates and taxes in respect of that land have been capitalized, the accounts must show separately the amounts so capitalized.

(12) Group accounts prepared by a holding company must disclose (*a*) the name and place of incorporation of each subsidiary; (*b*) the amount invested by the holding company in shares in each subsidiary; (*c*) the percentage of each class of shares held by the holding company in each subsidiary; and (*d*) where the financial year of the holding company and any subsidiary does not end on the same date, the date on which the financial year of the subsidiary ends.

(13) Where separate accounts of a subsidiary form part of the group accounts, the subsidiary's accounts must be in the same form as the holding company's accounts, except that, if the subsidiary is incorporated outside the State, it is sufficient if its accounts are prepared in accordance with the law in force in the place of incorporation of the subsidiary.

(14) If group accounts are not in the form of consolidated accounts, they must be accompanied by a certificate signed by the directors that the preparation of consolidated accounts is impracticable for the reasons stated in the certificate.

Clause 52 repeals the existing tenth schedule and enacts a new schedule in its place. Part A of the existing schedule sets out the requirements with which take-over offers must comply. Those requirements now form part of the new section 180c (1). Part B of the existing schedule prescribes the information to be given by the offeror to the offeree company. That information is now prescribed by Part A of the new schedule, and is similar to that contained in the existing Part B. It has been necessary to make certain changes in the verbiage to cater for the circumstance where the offeror is a natural person or where the offers are being made jointly by two or more corporate bodies or natural persons. The existing law does not apply to such offers.

Part C of the existing schedule is replaced by a new Part B setting out the information to be contained in the statement prepared by the directors of the offeree company for the benefit of the offerees. Here again, there is no change in the nature of the information to be supplied, except to the extent to which it is necessary to cater for joint offers and offers made by natural persons.

That concludes the second reading explanation of this long and somewhat complicated measure, but members who have listened with such avid and eager interest to the explanation will be gratified to know that the Government intends to allow this Bill to remain on the Notice Paper for some time, possibly for about a month, to give members the opportunity to consider its provisions and, of course, to enable persons and parties who may be affected by it to consider whether they wish to make representations.

Mr. MILLHOUSE secured the adjournment of the debate.

PAY-ROLL TAX BILL

Adjourned debate on second reading.

(Continued from August 24. Page 999.)

Mr. HALL (Leader of the Opposition): This would be the worst instance in my memory in 12 years of forcing a Bill through this House without giving those people affected by it the chance to study its implications fully. There is no justification for choosing September 1 as the starting date for this taxation measure, which will impose large new taxation increases in this State under conditions that those who will have to pay them will not understand by the time the starting date arrives.

This was brought home to me when I delivered a copy of this Bill into the hands of experts and asked for their advice, because it would be impossible for me, a layman, to begin to understand the full ramifications of this Bill in the 24 hours or so that it has been in my possession. Indeed, it is impossible for the experts who study these things to be in possession of all the facts, as they told me late this afternoon. It is, therefore, a most objectionable procedure for the Government to introduce such an important revenue-increasing measure without any time worth speaking of for members of this House and the people outside to study its full implications.

Having said that, I suppose I must say something about the Bill on the basis of the expert advice that I have been able to get so far. However, before I do that, I refer to the situation in which the Treasurer was involved at the Premiers' Conference and afterwards which led to the imposition of a new taxation on South Australian citizens. It is interesting to find members of the Government continuing to say that they are having a stringent time financially. When we examine the State's accounts and what this Government and other State Governments have been able to get from the Commonwealth Government, we find that the opposite is the case.

I believe the Treasurer would know that the increase in State budgetary expenditure last year was probably about 15 per cent, and he and the citizens of the State would know, too, that that is a rate that cannot be compounded yearly. I have said before in this House that the Government cannot sustain such an increase each year, but the only reply one receives from the Treasurer is that the Leader of the Opposition is opposed to the expenditure of resources on necessities in this State, and that is a puerile answer in respect of a major economic problem. In this case the Commonwealth Government has given to the States a growth tax that will provide about an additional $10,000,000 next year in a full year of operation.

At the same time as providing this State with this growth tax and the flexibility of increasing the rate of tax given to this State, the Commonwealth Government made available to South Australia substantial additional revenues of about $6,500,000 for this financial year, so the three-quarters of the year in which pay-roll tax will be levied by South Australia, coupled with the increased revenue from grants from the Commonwealth Government, will mean that South Australia this year will have about $17,000,000 more than it had last year, above and beyond any of the reimbursements it would have received from the normal application of the formula under the recent renegotiated Commonwealth-State Financial Agreement. How is this achieved? In this instance we are considering the major part of the increase in yield to this State's budgetary position, and we find the increase for the most part is directly gained from South Australians. It is on this aspect that I wish to comment.

I thoroughly approve the return to the States of growth taxation, but, if there is one great sickness today in the Federation that is manifest most in South Australia, it is the constant blaming of someone else for this Government's deficiencies, the cultivation in this community of a cargo cult. Ministers are attempting, as they attempted in Opposition, to lead the people to believe that the only thing that stands in the way of everything being Utopia in South Australia is the Commonwealth Government. One does not remove a marker on a mountain as one does in New Guinea: one removes the Commonwealth Government because it has the funds—those greedy people who will not give them! Here, we have the truth now being promoted in South Australia that what a Government spends it must collect, and there are no magical sources outside the State's boundaries. There are only the people of South Australia, and this measure will impose on them the largest increase in taxation that I believe has ever been placed on the citizenry of South Australia.

Mr. Harrison: What about the Commonwealth Government and its increased excise on wine?

Mr. HALL: The honourable member may interject and try to draw me away from the subject being discussed. This is an example I have been talking about. I have said that this Government always turns to someone else and will never accept responsibility of collecting the money it spends. It would love to belt the Commonwealth Government about the wine tax and then go to the Commonwealth and say, "You are not giving us enough to spend in South Australia." This is the circle of Labor thinking. The plain fact is that the Treasurer is responsible for imposing $10,000,000 more taxation on South Australians and, if this is required to achieve the desired standard of service in the community, I suppose we should say that the tax is necessary. In this way the State's population will

become aware that what the Government spends it must collect.

I hope that over the next few years the Commonwealth Government will be able either to develop new growth taxation for the States or to transfer further growth taxation to the States to the degree that the Commonwealth Government will be involved only in the collection of the taxation on behalf of the States that is required to equalize the standards between them. When we reach that stage we may get some responsibility from this State Government, but until that day there will always be a resistance by the Labor Party here to accepting the responsibility of collecting what it spends.

The Treasurer was not well pleased to be handed a growth tax, because it cut from under his feet one aspect of his criticism of the Commonwealth; and the responsibility for this tax is his, collectively with the other State Premiers. I have referred to the totally undesirable way in which this Bill was introduced. Obviously, it has been prepared in haste. From the point of view of our being able to debate it, it should have been prepared with even more haste. Be that as it may, one or two major questions arise. However, before I deal with those I point out that the South Australian Treasurer, in the remarks he made in other States, did not speak too kindly of the pay-roll tax, and he continued in his public statements (I will not bore the House by repeating those now) to say that the Commonwealth Government had not been generous and that no solution had been found.

I turn now to the implications of the Bill. Because of the previously applied pay-roll tax, the taxation borne by employers in this State has been increasing at a very steep rate. The survey carried out by the Adelaide Chamber of Commerce (I believe the Treasurer has the details of that survey in his possession) indicates that from 1965-66 to 1970-71 employment in this State rose by about 18.2 per cent, whereas the pay-roll tax rose by 42.7 per cent. So there is not a constant figure in absolute terms of increase of taxation in relation to the total amount paid and the number of employees on whose wages it is based. This is definitely a significant growth tax, with the added 1 per cent put on by the Treasurers of Australia, for it has increased by over 42 per cent in five years.

One thing that is causing considerable concern to industrialists is what has happened to the export incentive that was based on the pay-roll tax levied by the Commonwealth Government. No mention is made in the Treasurer's second reading explanation of what is to happen to this important incentive, and there appears to have been no statement about this at Commonwealth level. As a result, exporters who have taken significant advantage of this incentive scheme, greatly to the benefit of Australia (and, in this case, South Australia), are left up in the air about what this change will mean to them.

For those who are not familiar with the scheme relating to exporters' pay-roll tax rebate entitlement, I will read briefly some facts concerning it. The scheme provides for a 10.5c in $1 increase in export rebate in relation to pay-roll tax. The increase in exports of a firm is calculated, if it moves into this area for the first time, on an average over the three years taken from eight years previously to five years previously. Those three years are averaged and a firm's performance on the export market is measured in the increase above that base year. Therefore, for every $1 increase in exports each year, there is a 10.5c rebate in the pay-roll tax collected by the Commonwealth Government.

This has been an effective incentive for export for firms that have not taken full advantage of export markets previously. I am told that some firms in South Australia pay no pay-roll tax, as they have become extremely efficient exporters under this scheme. I have no doubt that some of them would rely almost entirely on the rebate they get for the economic success of their export market. What will happen to the export incentive scheme on September 1? Does it still exist? Will the Commonwealth Government make a cash rebate to exporters? If so, will this have any relationship to a pay-roll tax that has been increased by 40 per cent?

The Bill has been introduced in extreme haste by the Treasurer, who has ignored the necessity for members to get to know the provisions thoroughly. Can the Treasurer say to industry six or seven days before the implementation of the Bill that he will not make any statement concerning export incentives on which South Australia depends? I remind him that, based on figures from other States, South Australia exports 80 per cent of its products; we export about 10 per cent of Australia's total exports overseas, and that is the field to which this incentive applies. Therefore, for a significant number of people this export incentive is important. At present, no-one has given a lead to industry in this most important matter.

I have looked at this Bill in company with people who have some knowledge of these matters, and they have passed on certain points to me. I therefore raise these matters in relation to South Australia's new pay-roll tax. There is the same statutory exemption of $20,800 as the Commonwealth Government allowed. I remind members that this is the same statutory exemption as has existed since 1957. This means that the real value of the exemption has probably halved in that time. At this time, it behoves the States to look carefully at that exemption figure, as they have branched out into a new area of taxation, increasing it by 40 per cent. There are many areas of taxation in Australia today where minima or maxima, wherever they apply, have lost their significance because of the devaluing of money in the inflationary period through which we have passed. It is important to remind members that this measure is not in keeping with the growth in—

Mr. Crimes: Stagflation!

Mr. HALL: —inflation. The honourable member has used a fancy word that has become popular recently. I am pleased to see his interest in these matters; this shows that he deserves early promotion to the front bench. Clause 12 (*d*) (ii) indicates that the exemption for education authorities will also still be the same as it was in the Commonwealth Act, which exempts the Governor of a State, religious or public benevolent institutions, public hospitals, and schools or colleges other than technical schools or technical colleges. Subclause (*d*) (ii) gives an exemption to an institution that provides education at or below, but not above, the secondary level of education.

One query put to me is why our institutes of higher learning are not included in this type of exemption; for instance, why the Institute of Technology and the universities are included in the areas from which tax will be collected, because the collection from those larger institutions, to which the State must make large subventions of funds, will be large.

Clause 13 contains transitional provisions, and it is an extremely large clause, occupying about two and a half pages of the Bill. The legal adviser who spoke to me today told me that it was impossible for his association to obtain a legal opinion on this clause in time to have it available during the passage of this Bill. He said that at least a week would be required to consider all the ramifications affecting other States and the many other factors concerning these transitional provisions. The Treasurer is asking the House to pass these important provisions without anyone here or anyone in South Australian industry and commerce understanding them. I deplore this and I only hope that, during the third reading or at some other appropriate stage of this Bill, the Treasurer will undertake that he will readily introduce, during next session if necessary, amending legislation to correct anything that may be detrimental to the South Australian commercial and industrial scene.

Clause 15 provides what is now applied in the Commonwealth Act, namely, a period of seven days within which to furnish to the Commissioner a return, in triplicate, relating to the respective month, specifying any taxable wages that were paid or payble by him during that month. Those who have been involved with pay-roll tax for some time have told me that this is an extremely difficult period of time to set for furnishing the return, and they have told me that it has caused extreme difficulty for those who have had to comply with it under the Commonwealth Act.

I have also been told that the Commonwealth Government has been somewhat flexible about this seven day period, and one would expect that the State would have got to know the difficulty and at least would have allowed some additional time (I suggest at least a fortnight) for persons involved in this most complicated area to prepare their returns. I cannot see, at least on the surface, anything detrimental to the State or to the amount of money the Government would collect arising from allowing those who must prepare these returns an additional courtesy period of seven days beyond the seven days now provided. Surely the Government should learn from the deficiencies of the Act that this Bill replaces. In the Committee stage I shall ask the Government to consider allowing this additional courtesy time.

Clause 21 imposes a limit on the time during which a repayment may be obtained from the Commissioner of pay-roll tax that has been overpaid. The people who have been assisting me today tell me that the Commonwealth Act has no limit in this respect. Why is it necessary for the State to impose a limit of two years instead of no limit at all? The Commonwealth fixes a period of three years in relation to income tax, and there should be no need for the State Government to be more stringent than that. If this matter is as complicated as I am informed it is, surely a two-year period is too short for work to be

done on estates and other complicated procedures that may be entered into long after the tax was initially collected. Clause 26 (1) provides:

Tax shall be deemed when it becomes due and payable to be a debt due to Her Majesty and payable to the Commissioner.

My expert informants tell me that there is an omission here; the provision does not indicate the manner in which the tax shall be paid and in what place it shall be paid. As a layman, I must admit that that seems irrelevant; however, my informants tell me that their legal adviser believes that it is most important that that information be set out in the Bill. Clause 30 (5) provides:

The amount of any tax payable by the trustees is a charge on all the deceased person's estate in their hands in priority to all other encumbrances.

Again, I am informed that this provision is not workable, in that a claim by the Commonwealth cannot be superseded by it; the Commonwealth would have first claim for its charges on an estate. This clause, which pretends to provide absolute priority for the State, cannot work in relation to a claim of the Commonwealth Government. Clause 31 gives the Commissioner power to obtain payment from the executors of an estate, but it does not give him the power to return any surplus to the estate or to an individual from whom the tax was collected by the seizure and sale of property. Again, this important aspect should be considered. There is no time to look at such a complicated contention this evening. Clause 35 (1) allows 21 days for lodging an objection to the payment of the pay-roll tax levied; it provides:

Any person required to pay tax who is dissatisfied with the assessment of the Commissioner may—

(*a*) within twenty-one days after the service on him of notice of assessment lodge with the Treasurer an objection in writing against the assessment stating fully and in detail the grounds on which he relies;

Here, there is an important variation from the Commonwealth legislation, under which an appeal may be lodged within 42 days. In fact, the Income Tax Assessment Act allows for an appeal to be lodged within 60 days. It is contended that 21 days is altogether too short a period within which to lodge an appeal, bearing in mind that all the information relating to the claims made under the appeal must be lodged with the appeal itself. We find in a subsequent clause that further details cannot be provided by the person concerned after he has lodged the appeal and that the only details that can be submitted in support of an appeal are those submitted within the 21 days. I believe that 21 days is a totally inadequate period within which a person may lodge an appeal effectively and do justice to a complicated case.

The Bill provides that an appeal may be made to the Treasurer or, if he is not satisfied with the Treasurer's decision, to the Supreme Court, although the Commonwealth legislation provides for a taxation board of review to deal with various types of appeal against Commonwealth taxation. In relation to pay-roll tax matters this board consists ideally of a lawyer, a tax consultant, and a former Commissioner of Taxation, when they are available. This is said to have an advantage, over South Australian procedures, of flexibility in regard to hearings: it enables people to appear before the board informally, and the board can, in the appropriate circumstances, investigate an appeal somewhat informally. More importantly, the Commonwealth provision allows for further grounds of appeal to be developed as the appeal proceeds and, because of this informality, appeals have not had to be confined to the first submission, as is the case under this Bill.

Mr. Coumbe: New evidence can be produced.

Mr. HALL: Yes. Those who have assisted me in my investigations into this measure insist that the complexity of the situation will not in all cases allow for a proper and fair appeal to be lodged within the 21 days, especially bearing in mind the factors to which I have referred. Either we need to have a more informal appeal tribunal that can hear further evidence as and when the case in question becomes more complicated, or we need a longer period than 21 days within which to lodge an appeal. I suggest that action taken on both counts would do more justice to the situation.

I should like to see the length of time within which an appeal can be lodged extended to at least a month, and I suggest that the Government could well consider forming a board of review, which could be constituted from a panel of people within this State similar to those people that the Commonwealth uses for its appeals. We can think of many people in South Australia that we could draw upon—the Auditor-General, the Solicitor-General, and retired public servants with a lifetime of experience in these or like matters. I think the informality and the ability to

accept additional information supporting an appeal would only be doing justice to the situation rather than having this rather iron-clad provision included in this Bill.

Further reference was made to the penal provisions. The legal person assisting me today had not time to investigate that, but the general comment was made that the penal provisions are included in clauses 38 to 44 of the present Bill and in the Commonwealth legislation they are included in sections 49 to 63, except for sections 58 and 60. The people before whom I placed this have indicated that there will be a need for some substitute clauses to facilitate an appeal to the Supreme Court. I have not had time to study this or to get expert legal advice to confirm or deny that contention, which has been put to me as the initial concern of those people who have looked quickly at these provisions.

As regards clause 50, concern was expressed at the following proposal:

The production of any document or a copy of a document under the hand or purporting to be under the hand of the Commissioner, or purporting . . . to be a copy of or extract from any document or return furnished to, or of any document issued by, the Commissioner shall for all purposes be sufficient evidence of the matter therein set forth, without producing the original.

Concern was expressed that this went further than most other supporting provisions in other Acts concerning the production of evidence of this kind, and this was thought to be an unnecessarily strong provision that could be unfair in its application.

One final point that was put to me was that there was no provision for the awarding of costs in respect of appeals. Apparently, the Commonwealth Act deals with this in section 63, but I am told that there is no reference, or insufficient reference, to this matter in the Bill: I believe there is none. This was considered to be a significant omission that should be remedied at some stage of the Bill's passage.

I have no doubt that there are many other points that would concern other people who will be involved with the procedures in this Bill. I am sure I have not voiced all of them here this evening: that would be a fatuous claim to make, in view of the limited time we have had available to deal with this measure. I am sorry that the Government has not submitted this matter to experts in the commercial and industrial field. It would seem that, with the Treasurer's "think tank", which has been publicized at great length, and with the tremendously increased staff in his department, he would have enough experts not to have to bring into this House a deficient Bill. What is the State paying these people for if the Treasurer has to introduce a Bill so full of doubts? Why has it not been tested in the commercial and industrial community? After all, it is only imposing on them an increase of $10,000,000 taxation!

I return to my original contention that at least in the passing of this Bill the State will return to the financial facts of life, and the public will understand that what the Government spends it must collect. It is interesting to refer to the Treasurer's words after the conference, that South Australia was still a poor State, it had been hard done by, and it did not have enough money to carry out its essential services. This is the general theme shown in the many newspaper cuttings that I have, one of which states:

"We will still be coming cap in hand to Canberra and we will have trouble finding enough money to buy the cap," he said. Mr. Dunstan said that the States would still have grave deficit problems, especially those like South Australia which had already increased State taxation and charges steeply.

He did not have to remind the public that he had increased State taxation and charges steeply. Since that statement was made he has done a few strange things. Since he indicated that the State was so poor and had been unable to meet the needs of its people concerning essential services, in the last few weeks we have seen announcements of the spending of $5,500,000 around the festival hall, and that was a premature announcement, too. This was made before the hall has been completed and before arrangements have been fully made on what the plan of the building will be or what arrangements will be made with the City Council. We have seen the Treasurer propose to give away $1,000,000 of this State's assets to oversea millionaires to develop an international standard hotel in Victoria Square. Yesterday the purchase of the A.N.Z. Bank building was announced, and no doubt this will amount to about $750,000 (or $600,000, we will not argue).

Mr. Venning: Plus!

Mr. HALL: I have no knowledge of that, but what does all that add up to? It adds up to more than $7,000,000. What a poor State we must have been if the Treasurer has found, since he returned from Canberra, $7,000,000 that had previously been unallocated! Of course, the public must understand that this is the choice it makes and the choice the Government makes. We ask the Minister of

Education how many school buildings are denied him and the children he serves by this diversion of funds. How many thousands of school-children, who work in the second-rate buildings that he so blatantly complained about previously, could be removed from that accommodation into modern buildings in which they can develop their enthusiasm? These are the economic comparisons we make when we consider this new Government taxation. I am pleased that the Government will stand or fall in future on the decisions it makes and that it will not be able to blame the Commonwealth Government.

This is one example of the Treasurer's saying in Canberra a few weeks ago that the State was unable to meet its full responsibilities because the Commonwealth Government would not give it enough money, but then returning home and allocating $7,000,000 of public funds, quite unrelated to the matters he discussed at the Premiers' Conference. He now has to stand up and justify this statement. Perhaps he will justify it. He should accept that challenge, as that is what a Treasurer and Leader of a Government should do. He must justify this to the people who want to know where the money is going.

The high cost of culture is emphasized on pages 18 and 19 of today's *News*, which draws the people's attention to the choice the Government is making. Headings on letters to the editor, such as "Cost Crisis", "Sheer Waste", "Bitter Pill", and "Urgent Items", indicate to the Treasurer that he will have to justify the course he has chosen to take, a course that is so different from what I am sure the Prime Minister thought the Treasurer was seeking money for. That is the Treasurer's challenge, however, and I will assist him by setting the facts before the public. I hope for his sake that he can fully justify his action.

I support the Bill, which represents a move towards providing the State with the responsibility of collecting the money it spends. I commend the Prime Minister for the action he took at the conference by not just giving the States a growth tax allocation, which had grown by 42 per cent in five years without an increase in the rate in South Australia, but by giving them the right to decide what rate the tax shall be. I also commend the Prime Minister, who has been in office for only a relatively short time, for radically increasing the sum available to the States, outside their own means of levying taxation, in the normal relationships that they have with the Commonwealth. I protest once more at the totally inadequate time the Treasurer has allowed members and people outside the House to study the Bill.

Mr. COUMBE (Torrens): As the Leader has dwelt in some detail with certain provisions in the Bill, I do not intend to repeat what he said. I believe that the Treasurer should reply to some of these matters either in his reply on the second reading or in the Committee stage. Whether or not I like this tax, which has been introduced so hurriedly, and the principle of the tax, the fact is that the State is recovering, even though it is in a small way, some of its own taxing powers. I believe that is important. In fact, this is a rather historic occasion. Those of us who have studied taxation over many years know that, especially since the uniform income tax legislation, the main taxing powers have resided in the Commonwealth Government. With the powers that the State has under this Bill, there is equal responsibility by the Government to the people.

The Government has to see that the tax is administered fairly, and it must take responsibility if it ever contemplates in years to come either increasing the rate or the incidence of the tax. That is why in reading the Treasurer's second reading explanation it was evident that, in the negotiations with the Commonwealth, the Commonwealth insisted that the State do its own collecting; the Commonwealth would not be the agent. That is the principle of the Bill. The effects on the costs of production must be considered, too. This is a growth tax, the magnitude of which was outlined by the Leader, and the nature of which any Treasurer would be glad to get his hands on. The simple facts in regard to a pay-roll tax or a wages tax are that, as the State expands and the work force increases, naturally the total collections will increase year by year and, as we have seen so regularly lately, as courts and other tribunals grant increases in rates of wages, similarly the taxable income will also increase. Therefore, we have two factors operating to increase, year by year, the total tax collection available to the State Treasurer. As I say, this is a growth tax that any Treasurer would be extremely pleased to get his hands on.

The odious principle of a wages tax or pay-roll tax is that it is sectional: it applies to and falls upon one class of citizen only. In this case, it falls upon no-one other than the employers of South Australia. The great majority (although not all of them) of taxes in this country fall upon most citizens. There are some small sectional taxes, but pay-roll tax has always been regarded as probably the most odious example of a sectional tax. Most

of the clauses in the Bill are a complete lift-out, according to my understanding of it, from the Commonwealth Act. The Treasurer has said that the Bill has been taken more or less verbatim from the Commonwealth Act, with certain adaptations for State operations.

In effect, now we will have a State instrumentality, instead of a Commonwealth authority, operating in this field, and we will have a State form instead of a Commonwealth form to complete. I have signed hundreds of the old green Commonwealth forms, and I know how they work. Of course, the main difference is the increase in the rate. The rate of 2½ per cent, which has been the ruling rate for as long as I can remember, will increase to 3½ per cent, and we should consider what effect this increase will have on the State.

I studied carefully (and I say this in fairness to him) the Treasurer's second reading explanation in *Hansard* to find out what the effect on the State Budget of the 1 per cent increase would be. I waded through the figures, which indicated that certain negotiations with the Commonwealth Government had gone on and that there was an increased amount that the Commonwealth Government had paid South Australia (which is so often denied or written down by the Australian Labor Party). I have seen the additions and subtractions, the contras and debits, in this statement. The figures here relate mainly to the 2½ per cent; that is, to the present position.

Frankly, I became quite confused trying to work out what effect this would have on the Budget, but fortunately I remembered some time ago I had asked a question in the House on this whole matter of pay-roll tax. I think the Treasurer was overseas at the time, and his Deputy gave me the reply. I had asked what would be the effect of pay-roll tax in South Australia, and I shall quote from *Hansard* of July 20 last, at page 142. I think the reply given to me set the matter out quite clearly. It states:

An estimate made by the Commonwealth Treasury indicates that if South Australia entered pay-roll tax from September next and taxed at the present rate of 2½ per cent over the present field it would receive about $21,000,000 in 1971-72. If it exempted its own departments as may be expected, and local government authorities as the Commonwealth has suggested, it would receive about $17,000,000. However, the Commonwealth would as a consequence reduce its grant to South Australia by about $18,600,000—

that, of course, is explained in the Treasurer's second reading explanation—

and the State would no longer have to pay tax to the Commonwealth of about $3,750,000; there would in this be a benefit to the State of about $2,150,000. The substantial benefit to the State would however arise from its being able from September 1 to raise the rate of tax from 2½ per cent to 3½ per cent; and from this it may receive about $6,750,000 over the remainder of the year and perhaps $9,000,000 in a full year. If, as is possible, the State does not enter payroll tax until October 1, its additional receipts for 1971-72 will be about $6,000,000.

So, we can see that increasing the rate to 3½ per cent (and with this tax reverting to the State and with these additions and subtractions) will result in our receiving about $9,000,000 in a full year. That is as near as I can get to the amount, and I think it is the figure we are talking about at present. The exemptions provided in the Bill are exactly the same as the exemptions that were provided by the Commonwealth. They are $20,800 a year, which is equivalent to $1,733 a month or $433 a week. This amount is deducted from an employer's taxable returns. It would be $20,800 in a full year, but it will be $17,333 for the 10 months remaining in this financial year. So, if it is any consolation to my rural friends, I can say to them, "You need not worry; you will not have to pay pay-roll tax." Even in their heyday many of them would not have had to worry about pay-roll tax. So, the burden of this tax will fall on the secondary and service industries of this State.

The question of export incentive was not referred to in the Treasurer's second reading explanation. As I understand it, the Commonwealth Government will introduce separate legislation to provide the funds for this important incentive, so that the State recoveries resulting from this Bill will not be depleted. This is another example of the way in which the Commonwealth Government assists the State Governments. I hope that the Commonwealth legislation will provide for the extra 1 per cent that is covered in this Bill. I should like the Treasurer to explain this matter later. I am aware of the importance of this tax incentive, which I believe was the brainchild of Sir John McEwen; and I am aware of its importance to many manufacturing industries in Australia which, as a result of this incentive, have raised their exportable production above that of the base year set out in the Commonwealth legislation.

Therefore, Australia today has a much better balance of payments and its export income from manufactured goods, quite apart

from rural production, has certainly risen markedly. I believe that the Leader gave some figures on this just now. Dealing with the 1 per cent, I should like to hear the Treasurer's comment a little later. Referring to the point that the Leader raised concerning the seven days' return, I know that it is always a rush in many companies to lodge returns within this period. Whether it means seven working days, with a week-end intervening, or seven calendar days, I think might be a fine legal point. I freely admit that the Commonwealth Government has never queried a case in which a return has been a day or two late. However, if a person is a few weeks late he gets a terse "please explain" letter.

Mr. Payne: Did you get many?

Mr. COUMBE: I remember forgetting once. I suggest that the seven days could reasonably be extended; indeed, sales tax returns may be lodged with the Commonwealth within 21 days after the end of the month. I admit that there is a difference here and that wages are actually paid and there is a definite record, whereas one cannot work out sales tax until the invoices are sent out. The exemption lists are pretty well as they are in the original Commonwealth legislation with the addition of certain Government departments and local government bodies. It has always seemed quite incongruous to me that a State Government and its departments should pay pay-roll tax to the Commonwealth Government in respect of officers paid by the State, funds often coming originally from the Commonwealth Government. This applies also to councils, which today are facing peculiar financial difficulties. One of the benefits that councils enjoy is their exemption from paying sales tax in regard to many aspects of their operations, particularly those involving plant. This is valuable to them because as allowance is made for depreciation and there is an exemption from sales tax in many instances, some councils, if they have certain popular models of equipment, can replace them at practically no cost.

As I say, this is extremely valuable to councils and to the ratepayers themselves. The effect of the pay-roll tax exemption will be a further benefit to councils and eventually to the ratepayers. Councils throughout the State are facing severe financial problems at present, and anything that can be done to assist them in this regard I will support. The exemption also applies to hospitals, including religious, public, non-profit-making and, I take it, community hospitals; and it applies also to schools. Frankly, I was not aware that the exemption applied only to the secondary level. I knew that the Institute of Technology, for instance, paid pay-roll tax but I was not aware that private schools were exempt from it. However, we see the exemption here, and I support it. I wish the exemption would go further. This tax will mainly benefit the Revenue Account of the Treasurer because it is from the Revenue Account that, in the main, the pay-roll tax is paid at the moment. Members have only to look up last year's Revenue Account to see its incidence. However, it will in some small measure affect also the Loan Account.

Reference is made to this on some capital works contained in the Treasurer's second reading explanation. What will be the effect on South Australia generally of the impost of this higher tax? We realize that we must have some sort of growth tax, and, apparently, the States have agreed that this tax shall come into operation on September 1. As I understand it, all the States have agreed to the 3½ per cent. What will the effect be on the cost of production in South Australia and South Australia's ability to expand its factories and commercial houses and to provide more and more opportunities for employment? We cannot compare State with State if all States are to increase the tax. It will mean that the cost of production will rise in South Australia, and obviously the cost of goods must rise, too. Unfortunately, this is the case with most taxation items presented to any Parliament. The important thing for the State Budget is that this is a growth tax of some significance, because, whilst it will amount to $9,000,000 in a full year at the new rate, what will it be next year? We have certain wage cases already before the courts. Also, there is a national wage case yet to be determined. and there will be several others. These will all add to the amount that will be attracted by this new tax. Also, every new workman or work woman who comes to this State and is employed in this State adds to the work force, and this will naturally increase the wages, which means that this tax will grow and grow.

Mr. Harrison: And the profits.

Mr. COUMBE: This is not a tax on profits; that is an entirely different thing. If the honourable member did his homework and if he considered a company that was going along nicely at a fairly steady rate of profit which enabled it to keep going and to plough back into its business, as it should with good husbandry, some of its profits (without which profits it would not be in

existence) he would realize that with this extra tax its profits would fall. The honourable member can come back at me and say, "That company will pass it on." I am just anticipating his argument. However, this tax means that our Revenue Budget will be assisted.

The Commonwealth has indicated that it will vacate the field of pay-roll tax at the rate of 2½ per cent; the States will take it up at the rate of 3½ per cent. The Commonwealth will give up the 2½ per cent pay-roll tax and there will be an adjustment in the financial agreement between the States and the Commonwealth, with the "overs" and the "unders" being adjusted. There will also be a special Commonwealth contribution of about $22,500,000 to all States (and I suppose that something over $2,000,000 will be allocated to South Australia) and there will be a supplementary grant for this year only of about $4,000,000 to South Australia. The first one will escalate year by year, and this will be very valuable. These are amounts the Commonwealth Government has given to the States and to South Australia in particular. As there is no alternative, I must support the Bill, in view of the State's financial position. I do not like pay-roll tax, because it is a sectional tax and has to be, and always is, passed on. It is directed to only one type of person. This is the first time, apart from entertainment tax, and I think, land tax, that taxation has reverted to the States. I believe this is an historic occasion. It is up to this Government to administer the tax fairly, because it will be judged on its performance. I only hope that the growth that will come out of this tax will mean that the percentage rate will not have to be increased nor its incidence altered, and that the money raised from it will be sufficient to avoid such changes. The points made by the Leader about the detail of the clauses I have not referred to, because I think they are best considered in Committee. However, I would appreciate hearing the Treasurer's comments on the questions I have raised. I support the measure at this stage.

Mr. BECKER (Hanson): Until recently at Commonwealth level two taxes were encountered directly or indirectly by most members of the community, namely, pay-roll tax and sales tax. In 1941, pay-roll tax was introduced as a measure to finance child endowment. It was a tax equal to 2½ per cent of wages and salaries paid in excess of a specified amount, currently $20,800 a year. Wages and salaries are defined to include allowances for board and quarters, travelling expenses, etc. An organization such as a bank experiences much work in compiling pay-roll tax schedules. One can imagine the work involved in a bank with 100 branches throughout the State, each branch being responsible to collate the amount of salaries, wages, and other expenses and to send the returns to head office by the third day of the month. Several clerks at head office had to collate all the returns. In the case of the bank it would be 100 returns, which would have to be balanced, and then a return forwarded to the Government department responsible. The amount due was then paid. In an organization like this, with offices spread throughout the State, a real problem was created, for it meant staff working under pressure because the return had to be forwarded. This was not the only return that would have to be compiled each month.

Something should be done within this Bill to relieve some employers of the pressure of having to complete returns. This is not a new measure, and it would not be a new type of form that would have to be filled in by the bank. When such measures are being introduced in the State we should consider the legislation in order to bring it up to date and to make it easier for employers to have the returns lodged at the central office within a reasonable time. I believe that the three days country people were given and the week given to the head office was a little unreasonable. Lump sum payments in lieu of annual leave and long service leave, when made at the termination of the period of employment, are excluded and hence not subject to pay-roll tax. Rebates of pay-roll tax are given as part of the policy supporting the export drive. Exporters who are successful in increasing their oversea business (as defined by the Pay-roll Tax Act) are granted a rebate equal to 12½ per cent of the tax payable for each 1 per cent increase in export turnover. The increase in export sales is measured by reference to a specified base year. The exporter may pass the rebate back to his suppliers by issuing export certificates which acknowledge the components supplied by them. The value of these certificates is deducted from the export sales for purposes of the rebate calculation.

It is pleasing to note that the Commonwealth Government will maintain this rebate system. It will continue to operate an export incentive plan so as to give exporters some benefit based on the existing rate of 2½ per cent. Perhaps South Australia, as a centre of exporters, might be prepared at some time to review the rebate system and to make an offer to exporters of

1 per cent which, with the Commonwealth rebate of 2½ per cent, would mean a total rebate of 3½ per cent. In its first year of operation, pay-roll tax yielded $100,000,000. At the 2½ per cent rate expected for the 1971-72 period, the Commonwealth expected to collect about $334,000,000; about $27,300,000 was expected to be raised in South Australia. We all realize that the States have had difficulty in meeting their financial obligations over the years, and I suppose South Australia would be no exception. We have seen how the Government has been able to spend a considerable sum in a short period, placing the finances of the State in jeopardy. The *Advertiser* editorial of June 17 states:

As on various other occasions, initial disagreement by State Leaders with Commonwealth financial proposals led, after protracted discussion at the Premiers' Conference yesterday, to a more acceptable offer by the Prime Minister. The resultant agreement, while not entirely to the Premiers' satisfaction, gives them a growth tax and additional special aid . . . The Prime Minister had acknowledged an obligation to help the States. He did so through the emergency grants made in April and in his promise to the Premiers at that time to study the possibility of giving them a growth tax . . . This development is timely and welcome. There will be understandable anxiety throughout industry, however, over the prospect of pay-roll tax being increased from 2½ per cent to 3½ per cent. Coming on top of other sharply rising costs, that will represent a considerable burden for many enterprises.

When we consider that the 1 per cent increase represents a 40 per cent increase in this area for commercial undertakings, we can expect that this cost will be passed on. However, some companies will find difficulty in doing this. Others will experience difficulty because of the extremely large number of increased costs that they have had to meet in the past 12 months, especially as a result of higher wages. The whole of South Australia will have to be careful. We must do everything we can to protect industry, at the same time trying to encourage industry. Whilst with the other States we increase this tax by 40 per cent, we are not doing anything to encourage new industries to come to South Australia.

I can see that, in future years, this tax could be used as an incentive, but it could be a dangerous means of encouraging industry to South Australia because, if all the States except South Australia decided to increase the tax and this State decided to leave it as it was, we would have to obtain revenue elsewhere, while our action could lead to fierce competition amongst the States. One State could, if it wished, reduce the tax by ¼ per cent or ½ per cent to encourage new industry to come and this could have dangerous repercussions. We see in the hands of the various State Premiers and Treasurers a powerful means of raising income, but at the same time a means of offering incentive.

If a Government so inclined decided to attack private enterprise or large employers to such a degree, it could increase this tax considerably. Regardless of the immediate benefits, in future years such a State could be extremely challenging. I also remind the House of what the Treasurer said about the Premiers' Conference, at which he tried to negotiate increased assistance for South Australia. He described that conference as an expensive junket for counter-productive wrangling. That is a fairly hard-hitting statement by a State that the Commonwealth Government has authorized to collect pay-roll tax in circumstances in which it may increase the tax as much as it likes to assist the Budget.

This is particularly so when we have a Premier who is willing to hop around the other States and around the world, at a cost of over $26,000 in 12 months. It would be good if he could bring industry to South Australia, but little has been achieved in this way so far. A colourful document has been produced to induce international developers to build a hotel of international standard in Victoria Square, but nothing has been achieved yet in that matter.

If South Australia's growth continues as we have been told and if the population of Adelaide reaches 2,250,000 by 1980, this growth tax, or pay-roll tax, will be of immense benefit to the State in future years. Although members opposite have criticized the present Prime Minister (Mr. McMahon), I think he should be complimented on giving the States this means of raising additional revenue. He has said that pay-roll tax is not the complete solution to the financial problems of the States, but I doubt that the States would be satisfied whatever system was used. They can always find ways to spend money, but raising money is a different matter. It is pleasing to note, as the member for Torrens has stated, that local government is to be exempted from this tax. The Treasurer also said in his second reading explanation that Government departments and State instrumentalities would not pay pay-roll tax because, if they did, it would simply mean a contra book entry to pay it

and get it back again within the State's financial system. The Treasurer said that the States, which approached the Commonwealth Government, would administer this tax and that they would receive assistance from the Commonwealth Government in collecting it. So, the States are not doing too badly. Further, they have the authority to increase the tax.

One is a little suspicious about the length of the Bill and the time at which it was introduced. The Government desires to have pay-roll tax operating from September 1 and we have been told that for every month the legislation is delayed it will cost this State $750,000. I am sure that Opposition members like me will co-operate with the Government because we would not want to be the cause of its losing $750,000 a month, but considerable warning should have been given to us that this Bill would be introduced, even though the matter was not finalized by other States until a few days ago. Had there been co-operation between the Government and the Opposition, we could have been of better service to those we represent by looking more carefully and critically at the Bill and suggesting amendments that would assist all sections of the community. We must not lose sight of the fact that the States did not hesitate to increase the rate of pay-roll tax from 2½ per cent to 3½ per cent—a 40 per cent increase. I sincerely hope that that increase is not a sign of what we can expect in the Budget.

The Prime Minister has placed in the hands of State Treasurers a great temptation to use this power to impose on private enterprise charges of an indeterminate level. Regrettably, private enterprise will be forced to pass on this tax, as it has passed it on in the past. Of course, the increase of 40 per cent in the rate of the tax will also be passed on throughout the community. Just how much the community can stand and for how long it can stand increased costs only time will tell. The previous two speakers covered the finer details of the Bill and the best we can do is to consider it critically in Committee. I support the Bill.

Mr. JENNINGS (Ross Smith): Ditto.

The Hon. D. A. DUNSTAN (Premier and Treasurer): I want to reply only very briefly at this stage. The matter of export incentives has already been dealt with by two Opposition speakers. It was raised angrily and vociferously by the Leader of the Opposition, but the answer is already on the Opposition benches this evening.

Mr. Hall: It wasn't in your explanation.

The Hon. D. A. DUNSTAN: If the member for Hanson and the member for Torrens were able to find out what the position was, I should have thought that the Leader could. What the Leader was attempting was a completely empty exercise.

Mr. Hall: It was not.

The Hon. D. A. DUNSTAN: Then I suggest it might be well for the Leader to find out. The position is exactly as was stated by the member for Hanson—

Mr. Jennings: And by me.

The Hon. D. A. DUNSTAN: Yes. The Commonwealth Government will introduce legislation to continue export incentives, and the continuation of export incentives will be on the basis of the previous payment of those incentives, based on a calculation of pay-roll tax at 2½ per cent: that is, the Commonwealth will maintain the existing export amount of incentive. As the Commonwealth is doing this, there is no provision in the State legislation in relation to export incentives since this is not basically a sphere of State responsibility. In relation to the other matters raised by the Leader concerning the transitional provisions, or provisions that are not directly taken over from the Commonwealth legislation, those provisions are based on the gift duty legislation in this State that was introduced by the Leader when he was in office, and they almost exactly mirror the provisions of that legislation introduced by the previous Liberal Government.

Mr. Gunn: And it was good legislation.

The Hon. D. A. DUNSTAN: I do not suggest that it was bad legislation; in fact, I supported it at the time. But it has been the subject of much investigation and study by the legal profession since that time. I should have thought that the relevant members of the legal profession could see the meaning of the provisions, which were clearly taken over from the existing State legislation that they have been studying for some time. Apparently, the gentlemen advising the Leader had a pretty cursory look, because I note that the Leader said, in relation to objections and appeals under clause 35, that there was no provision for costs, whereas clause 35 (7) provides:

> The court or any judge thereof sitting in court or in chambers may hear and determine the matter of such appeal and make such order with regard thereto and the costs thereof as shall be just.

It actually provides for costs.

Mr. Hall: I accept that.

The Hon. D. A. DUNSTAN: I appreciate that there are some arguments in this matter concerning time limits, and in Committee I will consider suggestions from the Opposition. As to the other matters, it is necessary for us to take over the Commonwealth legislation as it stands, without providing new exemptions at this stage. When we come to examine further exemptions, this will have to be a matter of interstate negotiation. We are taking over the Commonwealth legislation at the earliest possible moment in order to ensure that our revenue is covered, and the only arrangements we could arrive at satisfactorily among the States was to take over the existing basis of the Commonwealth impositions in this area and the nature of its existing exemptions. There will be discussions later regarding the attitude of the States towards some alterations in the exemptions, but that will have to come later than now.

There is only one other matter to which I wish to advert in the second reading reply; I will deal with the clauses of the Bill when members refer to them. The Leader in his speech chose to deliver himself of a considerable diatribe, as is his wont, on the expenditure of Loan moneys in this State, which he has related to our Revenue Budget position. At least, he did not do that expressly, but the implication of his remarks was that our expenditure of Loan moneys was related to that situation.

He did this on three matters. When the Leader was Premier of this State, he went to several Commonwealth conferences. The fact that he attended them with staff was considered a normal activity of the Premier's office, but apparently it is not so regarded by the member for Hanson. Having gone to those conferences, the Leader was renowned for having a piece of the Commonwealth there. He pounded the table and was heard to say that the deal he got from the Commonwealth was "lousy"—and so it was; I entirely supported him in that view. I have never been able to get from the Leader support for anything I have said in this area, but I have learnt not to expect it. But he did say some justifiably harsh things about the treatment of this State by the Commonwealth in relation to revenue matters. He was unable to provide more money at that time for schools and certainly nothing like the sum that this Government is providing in that direction. In fact, he has chided us about our increased expenditure on schools. But at that time the Leader found it possible not only to provide $5,000,000 expenditure upon the festival hall but also to commit us to additional expenditure thereafter merely to get people in and out of the place. When we came into office, we discovered that we had to find another $750,000 simply in order to complete that building. If we had left it as it stood, without any of the associated works, we would not have been able to get the patrons of the building in and out of it; nor would we have been able to deliver any of the material, the scenery and props, for the building. So we were then committed to an additional re-siting of the roadworks and the completion of the remainder of the associated works for that building.

The Leader knew this because he sat on the Select Committee that considered the original proposal. He was willing to commit that money at that time, and not a word was heard about that or taking money away from the essential services of this State such as schools, hospitals and roads. The Leader was able to commit this State to the major amount of the cost of the buildings in the area of the Torrens: $5,750,000 for the hall plus $3,000,000 for the re-siting of roadworks and associated works connected with the construction of the plaza. This Government came in and proposes to spend, not in this financial year but over the years between now and 1974, $2,500,000 compared with that $8,750,000, and we are told that we are being spendthrift, that we are taking money away from essential services like schools and hospitals. The Leader is utterly hypocritical, utterly dishonest and completely opportunist—and he knows it.

But he did not stop there; he said a few more things. The next thing was that apparently the Leader would have us sell the site in Victoria Square for commercial purposes in order to raise the money to spend on schools, hospitals and other essential services. He wants us to use that money, because he said we were using State assets and that would be taking away from expenditure for schools, hospitals, and essential services. He did not suggest that we put a school or a hospital on the site. What he wanted us to do was to sell it for commercial purposes and wreck Professor Jensen's plan for the square.

Mr. Coumbe: I don't think that is what he suggested.

The Hon. D. A. DUNSTAN: How else would we get the money? In that case the whole of the contention falls to the ground, because he is saying that I am taking this money from schools and hospitals. How am I? The Leader knows perfectly well that I am not. Then there was another episode:

last week, and for a short time before that, members opposite thought that the Government was not going to do anything about the A.N.Z. Bank building, and so we received, in speech, question, and interjection from the Whip and the Deputy Leader, demands that this Government do something to preserve this building, and the request that we should spend money on it. They both said that, and during that period when the Leader thought that that was a means of attacking the State Government he sat silently while his members made the attacks. However, when it was discovered that the Government was spending money to preserve the bank building, it became a basis for an attack by the Leader that we should not have spent the money, and should not have done what his members had asked us to do. Just how opportunist can one get? Obviously, the only thing that motivates the Leader of the Opposition is that he should make a political point, no matter how inconsistent and how dishonest the basis for his doing so.

Bill read a second time.

In Committee.

Clauses 1 to 14 passed.

Clause 15—"Returns."

Mr. HALL (Leader of the Opposition): I move:

In subclause (1) to strike out "seven" and insert "fourteen".

This clause deals with the time allowed to those who must pay this tax to furnish the Commissioner with a return in triplicate relating to that month in which they shall specify any taxable wages paid or payable by them in that month. It has been put to me that the seven days allowed is an imposition. Although it is what the Commonwealth included in its Act, I have been told that the Commonwealth was flexible in applying that limit. If the State is less flexible, considerable inconvenience could be caused to people who have to prepare these returns. Although I know that the seven-day provision applies in the legislation of the other States, I cannot see why our citizens should be so restricted. If the Treasurer could assure us that the State would be flexible in applying this limit, I suppose we would be satisfied, but I do not see how he could give such an assurance without inviting non-observance of the seven-day limit. For the convenience of our citizens, I believe that we should make the time limit 14 days.

The Hon. D. A. DUNSTAN (Premier and Treasurer): The Commonwealth has always been flexible about this matter and has not insisted that the returns come in strictly within the seven days, although it has used this as a basis to urge—

Mr. Evans: They used this as a big stick.

The Hon. D. A. DUNSTAN: Perhaps it was a little stick, but the Commonwealth indicated that returns should be in within a certain time and that people should not go much over that time. If we extended this to 14 days, one could expect that the State office would be a little more stringent about the 14-day period than was the Commonwealth office in respect of the seven-day period. If that is what the Leader wants, I do not see why we should not do it. I do not think there will be much difference in procedure. I accept the amendment.

Mr. HALL: I appreciate the Treasurer's attitude and thank him for accepting the amendment. This is not a capricious non-expert amendment; it is a recommendation from those who need its provisions.

Mr. COUMBE: I, too, appreciate the Treasurer's attitude to this amendment, the need for which has been pointed out by three speakers on this side.

Mr. BECKER: I also appreciate the Treasurer's agreeing to the amendment, which will be welcomed not only by banks but by private enterprise generally.

Amendment carried; clause as amended passed.

Clauses 16 to 20 passed.

Clause 21—"Refunds."

Mr. HALL: I move:

To strike out "two" and insert "three'.

I have been told that the Commonwealth Act has no limitation on claims made by persons entitled to a refund for overpayment of taxation. I assume that there is good reason for putting some limit on it, in that the Commissioner would be certain that he would not get claims beyond this period and, therefore, would not have to be on guard against them. However, as there is no limit in the Commonwealth legislation and as the Income Tax Assessment Act provides a three-year limit, I should like to make this Bill uniform with the income tax law.

The Hon. D. A. DUNSTAN: I have no objection to the amendment.

Amendment carried; clause as amended passed.

Clauses 22 to 34 passed.

Clause 35—"Objections and appeals."

Mr. HALL: I move:

In subclause (1) (*a*) to strike out "twenty-one" and insert "thirty".

It was in connection with this clause that the strongest representations were made to me. It was stated that the combined effect of the 21-day limit within which an appeal must be made, the different form of review of an appeal, and the insistence that the appeal may not generate further evidence as it is heard, will make far more important the conditions governing the initial appeal than was the case under the Commonwealth Act. Clause 35 (8) provides:

> At the hearing of any appeal or objection under this Act the person making the objection or instituting the appeal shall be limited to the grounds stated in his objection or appeal.

That provision makes the detail contained in the original appeal all-important, as it would appear that that detail cannot be widened later. My advisers state the Commonwealth Taxation Board of Review (which is drawn from a panel that usually has a lawyer, a taxation consultant and, if possible, an ex-Commissioner of Taxation) tends to be fairly informal in its approach and has allowed a development of evidence that is not strictly limited to the initial appeal. It would appear that the terms of the appeal to the Commissioner, Treasurer or Supreme Court will be strictly limited to what is alleged in the appeal, which has to be lodged within 21 days. It will not always be possible to prepare a proper appeal within 21 days, and further time may be needed in some cases to compile a proper appeal case. The increase of nine days provided for in my amendment will be very useful.

The Hon. D. A. DUNSTAN: I am quite happy to accept the amendment.

Amendment carried.

Mr. HALL moved:

In subclause (1) (*b*) to strike out "thirty" and insert "forty"; in subclause (5) to strike out "thirty" and insert "forty"; and in subclause (6) to strike out "thirty" and insert "forty".

Amendments carried; clause as amended passed.

Remaining clauses (36 to 57) and title passed.

The Hon. D. A. DUNSTAN (Premier and Treasurer) moved:

That this Bill be now read a third time.

Mr. HALL (Leader of the Opposition): I support the third reading, and I thank members for supporting the amendments that I moved in Committee. I am sure that on a further study of the Bill other amendments will be required, and I hope that members in another place will be able to give their full attention to the measure.

Bill read a third time and passed.

ADJOURNMENT

At 10.45 p.m. the House adjourned until Thursday, August 26, at 2 p.m.