HOUSE OF ASSEMBLY

Wednesday, August 2, 1972

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

ADDRESS IN REPLY

At 2.2 p.m. the Speaker and members proceeded to Government House. They returned at 2.17 p.m.

The SPEAKER: I have to inform the House that, accompanied by the mover and seconder of the motion for the adoption of the Address in Reply to the Governor's Opening Speech and other honourable members, I proceeded to Government House and there presented to His Excellency the Address adopted by this House on August 1, to which His Excellency was pleased to make the following reply:

I thank you for your Address in Reply to the Speech with which I opened the third session of the Fortieth Parliament. I am confident that you will give your best attention to all matters placed before you. I pray for God's blessing upon your deliberations.

PETITIONS: ABORTION LEGISLATION

The Hon. L. J. KING presented a petition signed by 277 persons who, as members and supporters of the Right to Life Association (South Australia Division), sought to promote its policy on abortion. The petitioners prayed that the present abortion laws be repealed and that legislation be introduced by which the right to life of the unborn child and of the mother would be safeguarded.

Mr. HALL presented a similar petition signed by 44 persons.

Petitions received.

QUESTIONS

PETROL SHORTAGE

Dr. EASTICK: In the absence of the Premier, can the Deputy Premier say whether thought is being given to the way in which limited supplies of petrol, beyond the supplies needed for essential services, will be made available to the public as and when they become available? I believe all South Australians will be pleased to note the latest news, that is, that the strike is almost over and that there will be a return to normality. However, the information available to us would indicate that it could be three weeks before full supplies are available.

In the meantime, any supplies held in the public sector may have been exhausted, and it is conceivable that, as supplies beyond those needed for essential services become available, unless there is some form of rationing or unless at an early stage some method is clearly outlined by the Government, many people may take all the supplies available, leaving others, who do not have immediate access to a source of supply, without any at all. On this basis, I ask whether the Government has given any direction in or thought to this matter. The question is supplementary to the question I asked yesterday, because I believe that an informed public is one that is better able to adjust to the situation.

The Hon. J. D. CORCORAN: I do not disagree with the latter part of the Leader's statement; indeed, I think that what he says is perfectly correct. Had he not asked this question today, I intended to make a Ministerial statement on the situation, the information that I intended to give being as follows:

At a meeting with oil company representatives this morning, it was learned that, provided no production problems are met, the oil refinery expects production to commence on Saturday of 350,000gall. of industrial diesel fuel and 350,000gall. of automotive diesel fuel a day. This amount will probably prove sufficient to keep South Australian needs of distillate supplied, if production continues on that basis. A decision can be made on Monday whether distillate can be removed from the controlled list. It appears that the first petrol will be produced on Sunday morning, when 350,000 gall. is expected, and this will be premium grade, as the refinery cannot produce two types at once. There could be a quality problem, because of the small quantity now held. Once the refinery is producing at full capacity, it can produce about 65 per cent of South Australia's normal requirements, and this should be sufficient to keep industry going with some to spare, as private motorists normally use 70 per cent of the total requirements for the State. This means that the permit system will need to be continued until motor spirit can be received from other States and distributed. However, much of this would have to go to country terminals.

On August 12, 450,000gall. of jet fuel, and on August 31, 650,000gall. of jet fuel, will be produced. The aviation industry uses 65,000 gall. of jet fuel each day. It is expected that light heating oil can be produced as follows: 350,000gall. on August 12; 600,000gall. on August 15; but no more until 1,000,000gall. is produced on September 3. South Australia needs about 1,000,000gall. of heating oil a month at this time of the year and the companies will continue to eke out stocks. At this

stage there appears no need for Government control of heating oil, as all distribution is direct from the oil companies. Kerosene will become available from the refinery on Monday. There has been no problem with kerosene, and none is expected. In addition, 10,000gall. a day of propane will be produced from August 5 onwards, and this should be sufficient for bottled gas purposes, etc. There is no problem with industrial fuel. A second tanker of crude is on the way, and this means there is no problem in regard to crude oil. The industry and the Government have settled a list of essential industries and these companies are being supplied, without reference to the Government, in regard to individual bulk orders. It is hoped that less essential industries will be able to be supplied with requirements from Monday onwards. Wherever possible, authorization of bulk deliveries to non-essential industries will be done in cases where extensive lay-offs of men would otherwise occur, but no general authorization can be given as yet.

The situation in country areas was also reviewed and greater discretion given to the oil industry to enable country industry to continue to operate, the aim being to avoid, as far as practicable, any lay-offs in small companies not operating with bulk supplies, for example, conveyors of stock to markets, country butchers from abattoirs to distribution point, and grain distributors, etc. Some teething troubles have occurred because of the distance in communication, but most of these problems were solved at today's conference with the oil industry, and the Commissioner of Police is issuing instructions to all police stations. Visitors from other States stranded in South Australia—and the member for Eyre yesterday referred to this particular problem—and South Australians returning by road from other States posed an initial problem, but an instruction has now been issued to enable limited motor spirit to be provided so that the people concerned can at least get home. I have a copy of the instructions if the honourable member desires to see it. Also I have a copy of the industries listed as essential users that can obtain bulk supplies without approval, and I shall be pleased to make that list available to honourable members.

Mr. Coumbe: Why not table it?

The Hon. J. D. CORCORAN: I can do that: there would be no problem in that regard. Generally speaking, the situation is well in hand, and only a limited number of people have so far become unemployed. Subject to the refinery operating satisfactorily and distribution lines being operative, there should be sufficient fuel to avoid stand-downs in industry. It is expected that members of the general public will not be able to purchase fuel for their own use without a permit for at least 10 days. I make that statement because many people will have a supply of fuel and can probably work out how best to use it in that period. It may be 12 days before they can expect relief, but if the situation develops whereby we can reduce that period we shall be pleased to do so. On present indications, if the employees return to work over the whole of the nation tomorrow, from the best information I have it will be at least 10 days before the permit system can be discontinued.

Several rumours are circulating throughout the State about what is being done and what is not being done. My advice to people who hear such reports is to check with the proper authorities and obtain information from them, because many of the statements being made are false. In such a situation this kind of thing is inevitable, but I appeal to members, if they hear alarming reports, to communicate with an authority who can give them factual information.

Mr. WELLS: Can the Deputy Premier say whether, during the period of petrol restriction, any State chauffeur-driven cars are being used? For a few minutes last evening I viewed a television programme. I do not know the name of the programme, but Mr. Tornquist was conducting it. He said he had received reports that nine Government chauffeur-driven cars had been seen travelling in the metropolitan area.

The Hon. J. D. CORCORAN: No, to my knowledge they have not been used since last Saturday and, in many cases, since Friday of last week. No Minister, including the Premier, has used his Ministerial car since that time. The Leader of the Opposition in this Chamber, the President of and the Leader of the Opposition in the Legislative Council, and the Speaker have not desired the use of their vehicles. They were not instructed by the Government not to use the vehicles: they did this of their own volition and to set an example (this was certainly so in my case and in the case of other Ministers) to the people of the State that every effort should be made to conserve fuel. The statement made, on the programme to which the honourable member has referred, as far as State Government cars are concerned, is entirely and utterly false.

Mr. GOLDSWORTHY: Can the Deputy Premier say whether, under the terms of the Act passed by this House last Monday, police officers have been given specific instructions in relation to asking motorists about the source of supply of their petrol? I have been contacted by the father of a lad who was driving his car from Angaston, where he lives, to the city to attend trade school. He was stopped at Pooraka by persons driving a blue Valiant that had a radio aerial. Everything indicated to him that these people were police officers. When they asked him where he had got his petrol, he explained that he had had it before the law was passed. They told him to turn around and go home, which he did. This greatly concerned his father and his employer, who had intended to send a truck to Adelaide this morning to get supplies but who did not deem it wise to send the truck if it might be turned back. Acting on advice given in reply to earlier questions, I took the trouble to contact the relevant department, and the people to whom I spoke had no knowledge of this instruction having been given. Therefore, I think it is pertinent to ask whether police officers were given an instruction regarding the implementation of the law, because unfortunate situations such as the one I have described seem to be arising.

The Hon. J. D. CORCORAN: No instructions have been given by the Government to the Police Force about how officers should administer the Act passed on Monday. As the honourable member has said, not only in the case he has cited but in other cases as well reports have been made to police officers and to members of the House about certain incidents that have occurred, and this has caused the Chief Secretary and the Government some concern. So that we can get to the bottom of this matter quickly, investigations are currently taking place into several incidents of a nature similar to the incident outlined by the honourable member. Certainly every action that can be taken is being taken to inform the whole Police Force about how to approach this matter. I have been given to understand by their superiors that officers of the force have been told that they are to be as courteous as possible. They are simply to ask where the petrol being used in the car was obtained. They are to use every discretion possible. In those circumstances, the instructions given in the case cited by the honourable member did not conform to any instruction given by senior officers in the force. Police officers would have had no right or authority to speak as outlined in the case referred to. The honourable member having drawn attention to this case, I will certainly see that the details are passed on to the Chief Secretary so that the matter can be investigated.

Mr. GUNN: Will the Deputy Premier ask the Government to consider allowing the people at Andamooka and other outback country towns not served by a reticulated 240-volt power supply to obtain petrol for their home-lighting plants? I have received the following telegram from a person at Andamooka:

Request you initiate urgent action to include emergency supply permits. All people outside reticulated power supply areas using diesel or petrol lighting plants. Holding two thousand gallons petrol. Cannot supply them under law. People are in the dark cooking by barbecue fires.

The Hon. J. D. CORCORAN: The honourable member will be aware that the Government has set up a committee to study these problems. As time goes by (and it must be appreciated that this is the first time the Government has been involved in this type of situation) there are bound to be anomalies. However, I will certainly place this matter before the committee and obtain a report so that the honourable member can let his constituents have a reply as soon as possible.

Mr. EVANS: Can the Minister of Labour and Industry say whether any other trade union officials have been granted petrol permits to carry out union duties on the same basis as has Mr. B. J. Cavanagh (Secretary of the Federated Miscellaneous Workers Union)?

The Hon. D. H. McKEE: I am unaware of any such permits having been issued to any trade unionists.

Mr. BECKER: Can the Deputy Premier assure members that the Government has not instructed the police or any other persons to seal industrial petrol pumps? Last evening I received several telephone calls from persons who have industrial petrol pumps, claiming that rumours were circulating that some pumps were being sealed. I contacted Mr. Bowes of the Department of Labour and Industry who told me that he, too, had heard this rumour, that he had received several telephone calls, and that he was most concerned about the matter. Can the Deputy Premier assure members that this instruction has not been given?

The Hon. J. D. CORCORAN: Yes, I can give that assurance. This matter was checked out this morning and no such thing has occurred. I think the person who did the

investigation summed it up by using a word which was used by Germaine Greer on one occasion and for which she got into trouble.

Mr. VENNING: Can the Minister of Labour and Industry say whether the contents of the press release of August 1, 1972, regarding petrol permits have been circulated to members of the Police Force? Yesterday I received a telephone call from a paraplegic in my district. As clerk of a district council, an overseer, and a health officer, he must use his private vehicle to do his work. He points out that his council has ample supplies of fuel but, as he is paid on a mileage basis to do his work, it is necessary for him to use his own fuel, and because he is a paraplegic it is necessary for him to use a vehicle, and for this he must obtain a permit. After obtaining the press release from the Minister yesterday, I was able to read it to the person concerned and suggest that he go to the local police officer, from whom I should have expected he would receive a permit to purchase petrol. However, since the House has been sitting this afternoon I have had another telephone call from that person. He has seen the local police officer, who has been in touch with his superior officer at Peterborough. The superior officer states that the police are not permitted to give permits to individuals, only to organizations. Therefore, I ask the Minister about this position. If this man is permitted to get a licence from the local police officer, will the Minister please contact the police officer at Jamestown?

The Hon. D. H. McKEE: If the honourable member gives me the details of the case, I will take up the matter for him.

Mr. LANGLEY: Can the Minister of Works say how many people employed in Government departments have been stood down as a result of the petrol shortage, and under what conditions?

The Hon. J. D. CORCORAN: I have a report stating that the Engineering and Water Supply Department has, up to the present, either stood down or intends to stand down 1,700 people who are on 24 hours recall and who will be paid in the normal way while they are on stand down. In other words, those people are not being sent on leave: they are being paid as they normally would be paid, and their leave entitlement will not be debited. In the Public Buildings Department, there has been no stand-down to date, but the position is being reviewed daily. Similarly, there has been no stand-down as yet in the Marine and Harbors Department, and none is expected. No stand-down has occurred in the Electricity Trust, and none is expected. In the State Supply Department, there has been no stand-down, and none is expected. No employees in the departments under the control of the Chief Secretary and Minister of Health have been stood down, and this applies also to employees in departments under the control of the Minister of Environment and Conservation. In the departments under the control of the Attorney-General, Minister of Lands, the Premier, the Minister of Labour and Industry, and the Minister of Education there has been no stand-down. In relation to the Minister of Agriculture, I point out that four people employed at Roseworthy Agricultural College may have to be stood down and that, in relation to the Minister of Roads and Transport, 17 Ministerial chauffeurs have been stood down but are on call.

Mr. EVANS: Will the Minister obtain details about the number of trade union officials who have received petrol quotas to enable them to perform union duties on a basis similar to the State Secretary of the Federated Miscellaneous Workers Union, and bring down a report?

The Hon. D. H. McKEE: Yes.

CONTRACEPTIVE LITERATURE

Mr. MATHWIN: Will the Minister of Education say whether he has given approval for literature on contraceptives and the instructions for the purchase of same to high schools in the metropolitan area? I have the following letter from a constituent who is most concerned about this matter:

During an interview with Mr. Brian Richardson, of the Flinders University, on *This Day Tonight* on July 24, 1972, it was inferred that the Minister of Education had given verbal approval for the distribution of detailed contraceptive literature and instructions for their purchase to suburban high schools.

The Hon. HUGH HUDSON: The honourable member would believe anything inferred—

Mr. Mathwin: I didn't hear that.

The Hon. HUGH HUDSON: I said that the member for Glenelg would spread a rumour, apparently, that was inferred by anyone.

Mr. MATHWIN: I rise on a point of order, Mr. Speaker.

The SPEAKER: What is the point of order?

Mr. MATHWIN: On a point or order, I am not spreading a rumour. I have quoted a letter that I should be happy to let the Minister read afterwards. It is a letter from one of my constitutents who has written to me and who

is concerned about the matter. I object to the Minister's saying that I am spreading rumours, and I ask him to withdraw that.

The SPEAKER: Order! The honourable member is not able to certify that what he read is a fact. He has asked the Minister a question and he did say that this was stated. He quoted from the letter, and the Minister is not out of order. The honourable Minister of Education.

Mr. BECKER: I refer to Standing Order 153 which provides:

No member shall use offensive or unbecoming words in reference to any member of the House.

I seek your ruling on this and support the member for Glenelg in asking that the Minister withdraw the remark.

The SPEAKER: Order! The honourable member himself said it was rumour and he has read from the letter in the Chamber. The Minister has said, "If he wants to spread rumours . . ." I cannot see that that is unparliamentary and I will not uphold the point of order.

Mr. MATHWIN: On a point of order, I did ask the Minister to withdraw and the letter to me states that it was inferred that the Minister of Education had given verbal approval. I ask that the Minister withdraw the statement that I am spreading rumours.

The SPEAKER: The letter states that it was inferred. An inference is not a fact. The honourable member saw fit to quote from the letter and, if honourable members want to quote in this House, they may do so, but they are responsible for the statements they make. The honourable Minister of Education.

The Hon. D. N. BROOKMAN: I want to take a point of order.

The SPEAKER: What is the point of order?

The Hon. D. N. BROOKMAN: The point of order is that the member for Glenelg asked you to request the Minister to withdraw the imputation that he was spreading rumours. You have not answered the honourable member's request. On every other occasion that I know of when a member has requested that an imputation or a statement be withdrawn, the Speaker thereupon has asked the member who made the statement to withdraw it. I do, on a point of order, request you to accede to what the honourable member has asked and that you ask the Minister of Education to withdraw the imputation that the honourable member was spreading rumours.

The SPEAKER: The question asked of the Minister of Education does not appear to me to be offensive in any way but, in view of the facts, I will ask the Minister whether he is prepared to withdraw. The honourable Minister of Education.

The Hon. HUGH HUDSON: The member for Glenelg would know quite well that the inference in the letter which he quoted was false. In raising the matter in this House in the way he did, and knowing full well that the inference was false, he is spreading a rumour.

Mr. Mathwin: That is not correct.

The Hon. HUGH HUDSON: In those circumstances, I am not prepared to withdraw. The reply to the honourable member's question is—

Mr. BECKER: I rise on a point of order. You requested the Minister of Education to withdraw. Surely he must do that. Is he an honourable gentleman, or is he not?

The SPEAKER: Order! The honourable member for Hanson should make sure of what is said before he stands up accusing in this House. I did not do anything of the sort. The honourable Minister of Education.

The Hon. HUGH HUDSON: The inference that was quoted by the honourable member is false, and demonstrably so. Mr. Richardson's approach to me was acknowledged on July 17, 1972, and the following letter will be sent to Mr. Richardson tomorrow:

I refer to your letter of July 10, 1972, in which you asked for my comments on your proposal to prepare a pamphlet on contraceptives for distribution to secondary students. It is our view that the moral questions necessarily inherent in a pamphlet on contraceptives belong more properly with parents than within the direct educational responsibility of secondary schools. I suggest, therefore, that your proposition should be presented to South Australian Association of State School Organizations and the High and Technical High School Councils Association. Because of the widely varying attitudes within the community on this subject, I could not give approval for the unrestricted distribution of the pamphlet within the schools. To do so would be wholly unfair to those parents who maintain that sex education for their children is solely their own responsibility. You will appreciate that it is departmental policy that secondary schools should have considerable autonomy in relation to their own administration. However, in no circumstances would heads permit their schools to be used as convenient centres for proselytization of their students, and I have little doubt that most schools would feel that the general distribution of pamphlets on contraception, which could be regarded as partly proselytizing, should not be permitted, unless clear parental support were forthcoming. The department is currently preparing a new health education

syllabus for secondary schools. A section of this syllabus will cover questions relating to sex education (with parents who regard this area as falling exclusively within their own responsibility towards their children being able to opt out on their behalf).
That is the basis of the reply that is being sent to Mr. Richardson.

Mr. Mathwin: Why didn't you give me that, instead of accusing me?

The Hon. HUGH HUDSON: Because the honourable member knows me personally and knows the kind of attitude that I have. He should have known that the inference was false. He chose to spread rumours to give the matter publicity.

The SPEAKER: Order! The honourable member for Glenelg has asked the Minister of Education a question; the honourable member will not monopolize this Chamber.

Mr. Coumbe: Nor will the Minister, either.

The SPEAKER: The honourable member's conduct is leaving a lot to be desired.

Mr. Mathwin: So is the Minister's.

The SPEAKER: If the honourable member continues to defy the Chair, I shall have to take appropriate action. I am the Speaker in this Chamber and I ask honourable members to co-operate. They will do better by themselves in co-operating and taking advice from the Chair than in carrying on in the way in which they are carrying on.

THEATRE COMPANY

Mr. COUMBE: In the absence of the Premier, will the Deputy Premier obtain for me information about appointments to the South Australian Theatre Company? The Deputy Premier will no doubt recall the Act passed last session providing for certain personnel to be appointed to the board of this company. An article appeared in the press yesterday referring to three persons who have been appointed to the board, the others not yet having been appointed. As this is a matter of concern not only to theatre lovers and those interested in the arts but also to the general public, I ask the Minister whether he will ascertain when the remainder of the board will be appointed by the Government.

The Hon. J. D. CORCORAN: I shall be happy to do that for the honourable member and to let him have the information as soon as possible.

SOUTH-EAST DEVELOPMENT

Mr. RODDA: In the absence of the Premier, can the Deputy Premier say what is the Government's policy regarding expansion generally in the South-East? Some concern about this matter was recently expressed by Chamber of Commerce delegates at a recent conference in Naracoorte. Mr. Peake, one of the delegates, basing his remarks on a Planning Authority survey of the South-East, said that there would be little development in South-Eastern areas in the next 20 years, and other delegates expressed their concern about this matter.

Mr. Peake also said that, if the conclusions of the authority were to be believed, the South-East would be "amongst the slowest-developing regions in Australia during the next 20 years". The authority, in its report, stated that an average annual population increase of only 1.26 per cent is forecast in regard to the whole area and that this must be accepted as a fairly grim outlook for those who believe in decentralization, in all its forms, in this fertile part of the State. I know that the Minister has recently expressed some rather optimistic views about expansion in the South-East but, in view of the remarks of the delegates to whom I have referred, I ask the Minister to outline the Government's policy on decentralization in this part of the State.

The Hon. J. D. CORCORAN: The short answer is that the Government's policy regarding not only the South-East but also every other part of the State is to do all it can within its power to expand facilities within the State as rapidly as possible. I point out to the honourable member that developers drawing up any plan of development base their assumptions on information available at the time. Although the people concerned like to be as factual as possible, they are not to know what the unexpected may be. For instance, if the plan relating to the Murray Bridge area were drawn up, say, only 12 months ago, it may have been indicated at the time that there would not be substantial growth in that area but, of course, soon afterwards, the people concerned would have heard the Government announce that a new city would be created in that area.

I emphasize to the honourable member that the part of the State that he, the member for Mount Gambier and I represent has tremendous assets that reflect a great potential, one of these assets being water. The honourable member will know that the Government is currently doing everything it can not only to assess the quantities of water available in the area but also to protect the source of that water from pollution resulting from practices occurring in the area. The Government is doing and will do everything it can in this

regard. We have great confidence in the future of the area, and I know that the honourable member has confidence in it as well. Although I am not being critical of the person who bases his statements on a plan, I point out that the plan is based on the facts available at the time and that the person concerned cannot do what politicians sometimes do, that is, pull things out of the air. The honourable member can be assured that the Government will do all it can in this regard and that this policy applies not only to the South-East but also to every other part of the State.

PORT LINCOLN HIGH SCHOOL

Mr. CARNIE: Can the Minister of Education say what current stage of planning has been reached regarding the Port Lincoln High School and when he expects tenders to be called? There seems to be a continuing series of delays concerning this project, and these delays give rise to an ever-growing number of comments from cynics who fully expect the project to be shelved again. The tender call was originally scheduled for May last and, in reply to a question I asked the Minister in March, he said that he expected that the tender call would be close to the scheduled date. However, as it is now August and as there is still no sign of a tender call, I ask the Minister whether he can say what is the cause of the delay and when he now expects tenders to be called.

The Hon. HUGH HUDSON: The tender call in relation to the Port Lincoln High School will be within a few weeks. I think it is scheduled for this month, but it is very close, anyway. Regarding most of our planning, the tender call date is usually set a few months in advance of when it should be, in order to achieve the target completion date.

Mr. Carnie: In reply to a question I asked previously, you said the opposite: you said it was set ahead so that you could be sure it would be met.

The Hon. HUGH HUDSON: All right. The original date was May, and that would have allowed 19 or 20 months to complete stage 1 of the reconstruction of the Port Lincoln High School. As the honourable member would appreciate, that would be more than enough. The target date for completion of stage 1 is next year, and that is the date to which we are formally committed. As long as nothing goes wrong in the contract stage of the project, that completion date should be achieved. I will ascertain what are the expected dates for the calling of tenders and letting the contract, but I assure the honourable member that the contract is proceeding, and our request to the architects of the Public Buildings Department has been to proceed with the project with all possible haste for each stage.

Mr. Carnie: It will still open at the beginning of 1974—is that the idea?

The Hon. HUGH HUDSON: Stage 1 will be operating by the beginning of 1974.

Mr. Carnie: Is that programme being adhered to?

The Hon. HUGH HUDSON: Yes. The honourable member would appreciate that the normal erection time for the project is about 60 weeks: that is 14 months, and there would be 17 months or 18 months available before the beginning of the 1974 school year. We are close to the calling of tenders, and I think that the honourable member can be assured that the project will proceed on schedule. However, the actual tender call date is the flexible date, as there is always room to change that date but still achieve the completion date set down in the project.

GAS

Mr. ALLEN: In the absence of the Premier, can the Deputy Premier say whether sufficient gas reserves have been established at the gas field in the North-East of the State to enable the construction of the pipeline to Sydney to commence? Members will recall that a few months ago it was announced that the exploration companies had been given a further three months in order to establish additional gas reserves in this area. Since then, we have been led to believe that several new gas strikes have been made, and only two days ago it was announced that an entirely new gas field had been discovered about 20 miles away from this site.

The Hon. J. D. CORCORAN: I believe that the honourable member and all other members can be extremely confident that there will be sufficient supplies of gas established, but I will ask the Premier to obtain an up-to-date report for the honourable member.

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL

Mr. McRAE (Playford) obtained leave and introduced a Bill for an Act to amend the Criminal Law Consolidation Act, 1935-1971. Read a first time.

Mr. McRAE: I move:

That this Bill be now read a second time.

It is introduced in order that members of this House in particular, and members of the community in general, may have an opportunity to consider whether or not there are desirable amendments to be made to the present laws relating to abortion. These laws, as members will recall, stem from the Criminal Law Consolidation Act Amendment Act, No. 109 of 1969, and are now contained in section 82a of the principal Act. There has been continuing interest in the subject since the passage of the amending Act, and considerable disquiet exists, both in Parliament and in the general community, over the working of section 82a in particular, and in relation to the whole problem of the legal controls over deliberately induced abortion.

The main purpose of this Bill, therefore, is to give members an opportunity of examining existing legislation relating to the medical termination of pregnancies with a view to renewing some of its provisions which are regarded by certain responsible sections of the community as objectionable, as well as some of the loopholes which could lead to undesirable practices by unscrupulous members of the medical profession. At present there are organized bodies not only in favour of the present law (and even in favour of further relaxation of the earlier rules) but also against the present law and in favour of a much stricter approach to the whole matter. Each of these groups will be pressing its points of view in the hope that it can influence both electors and members of Parliament.

I wish to state immediately, as will become even more clear when I examine the aims of the present Bill, that I represent neither of these groups, nor, indeed, any other. Like all other members of this House today, I am free, as were members in 1969, to speak and vote on this measure without reference to Party policies, because there are no Party policies on the matter on either side of the House. In doing so, I hope that members will respect my sincerely held views and my right to speak and vote in accordance with them, as I shall theirs. I will attempt to produce a case in support of the present Bill which is reasoned, which takes account of the developments in 1969 and in the subsequent years, and which does not in any way rely upon emotional or dogmatic utterances and stances, which should be alien to our discussion and determination of issues as vitally important as the ones before us.

Before I explain just what the aims of this Bill are, I should point out explicitly that, were my own views alone to be relevant, I should go much further in suggesting amendments to section 82a than does the present Bill. For my part, I see the deliberate destruction of the foetus or unborn child (call it what you will) as utterly wrong. I could argue towards that conclusion by classifying the foetus as a human being and thus entitled to protection equivalent to that granted to those already born. But our society and our law have by no means ascribed to the foetus or unborn child all the protection which it affords to those already born, and many members would find difficulty in regarding, say, a two weeks foetus as a human being in the full sense. Nonetheless, society and the law, at least until 1969, certainly granted extensive protection indeed to the foetus in affirming its rights to life, save in extreme cases where protection of the mother's life and health was allowed to override the need to protect the unborn from deliberate destruction. Although the law, in our history, has not normally treated deliberate destruction of the foetus as murder, it has, especially in modern times, upheld the right to life of the unborn in most affirmative and clear terms, recognizing that, even in the early stages of pregnancy, the relatively unformed foetus has a capacity for development towards human personality in the ordinary sense.

Until 1969, the law had done so because it was felt, as I still feel, that to draw lines during the stages of development between conception and birth was not only arbitrary but was also a dangerous precedent breaking down that respect for human life which has been one of the greatest contributions ever to be made by western society. However, my views (those based on the foregoing considerations) are not yet shared by a sufficient number in this House to make debate upon them worth while. Consequently, the Bill I have introduced does not mirror exactly my opinions on what the law on abortion should be. Instead, it is an attempt to express a consensus of views, one which will be supported by many members of this House and, I believe, a significant majority of the members of the community. I need hardly add that, although it does not go nearly as far as I would personally desire, it has my wholehearted support in narrowing to some extent the circumstances in which abortion today is legally permissible. I now turn to the law itself.

When the Bill that eventually became our present section 82a was introduced to the House by the then Attorney-General (Mr. Millhouse) on December 3, 1968, he emphasized the gravity of the question in the clearest

terms. The honourable member continued to treat the matter in this way during the whole of the passage of the Bill. I quote from his speech in Committee on February 19, 1969, as follows:

Whenever there is an abortion we are either bringing to an end a human life or at least (and this depends on one's point of view) the potentiality of a human life, and such an action should not, in my view, be taken without the gravest reason.

However, section 82a as finally enacted in fact constitutes a permission to doctors and to their patients to have abortions performed in circumstances that most certainly are not ones of grave reason at all. How did this come about? I think that it is necessary to look with some particularity to the pre-existing law, to the passage of section 82a, and to the opinions expressed by members in 1969, in order to explain it. Before 1969, the law in this State was not completely precise and clear. Abortion was regulated by sections 81 and 82 of the Criminal Law Consolidation Act. Section 81, the central provision, stated:

(*a*) Any woman being with child who, with intent to procure her own miscarriage, unlawfully administers to herself any poison or other noxious thing, or unlawfully uses any instrument or other means whatsoever with the like intent; or

(*b*) any person who, with intent to procure the miscarriage of any woman, whether she be or be not with child, unlawfully administers to her, or causes to be taken by her, any poison or other noxious thing, or unlawfully uses any instrument or other means whatsoever with the like intent,

shall be guilty of felony, and liable to be imprisoned for life.

The crucial word appearing in both subsections was "unlawfully". English law, as laid down in *R.* v. *Bourne* in 1939 (1939 1 K.B. 687), was that abortion was lawful when performed by a medical practitioner in order to save the woman from death or from becoming a physical or mental wreck. This was generally accepted to be the position here, subject to some doubt whether the reasoning in Bourne's case applied here, since the decision was partly based, through analogy, on the existence in England of a special provision permitting abortion of a viable foetus (post 28 weeks) to save the life of the mother. That was the Infant Life Preservation Act, 1929. Similar doubts in Victoria were set at rest by Menhennitt J. in *R.* v. *Davidson* (1969 V.R. 667), although that too was partly based on a provision having some similarities with the 1929 English Act. The law, even in its most liberal statement, however, still prevented wanton destruction of the foetus. Indeed, only in very serious circumstances was it permissible to prefer the woman's health to the life of the foetus.

In 1969 all that was radically changed, and the extent of the change was largely, I believe, due to misunderstanding and misapprehension within and outside Parliament. First, what changes were introduced? The central provision of the 1969 Act, now section 82a, provides that the prohibitions in sections 81 and 82 do not apply if "continuance of the pregnancy would involve greater risk to the life of the pregnant woman or greater risk of injury to the physical or mental health of the pregnant woman than if the pregnancy were terminated". The authorization is dependent upon two medical practitioners' judgment, made in good faith, after personal examination. I have called this the central provision of section 82a quite advisedly. There are other exceptions to the old law made by section 82a, notably the "physical or mental abnormalities" clause, sometimes known as the eugenic clause (section 82a (1) (*a*) (ii)), but it is a demonstrable fact that, both in 1970 and 1971, more than 94 per cent (1970, 94.3 per cent; 1971, 95.4 per cent) of the legal abortions performed in South Australia were performed under the central provision.

I am not (and the Bill I have introduced is not) in any way concerned with the eugenic clause. It is to the central provision, section 82a (1) (*a*) (i), that my main remarks are directed. What that section permits is very easy abortion indeed, particularly when one takes account of the pregnant woman's "actual or reasonably foreseeable environment", as one is permited to do by section 82a (3) of the same Act. Now, there are many who say that the Act provides for abortion on demand or, as some prefer to call it, abortion on request (the difference in wording is quite irrelevant for my purposes). On the other hand, there are others, notably the pro-abortion organization, the Abortion Law Reform Committee, who hold the view that what is presently the law falls far short of abortion on demand or request. I am willing to concede that, at present, there may be social and other pressures on doctors such that abortions are sometimes (possibly, indeed, often) refused by medical practitioners contrary to the wishes of a patient. However, it is already clear, both here and in England (where the substance of our own law was first enacted), that those pressures militating against abortion on demand or request are in fact decreasing.

As the law permits abortion so widely, more come to the view that it is also morally permissible. More women seek abortions, and more doctors are willing to provide the necessary services. This is not a matter of dogmatic and uninformed statement. First, let me refer members to the available figures.

In South Australia, of course, we have figures only for 1970 and 1971. In 1970, legal abortions numbered 1,440. In 1971, they had risen to the staggering total of 2,409. Expressed as a percentage of the live births in South Australia the rate rose from 5.8 per cent to an again staggering 10.4 per cent. These and similar figures led the Sir Leonard Mallen committee to comment, in its second annual report, that "there is both an increasing demand by the public, and, as a result of pressure and familiarity, a liberalization in the assessment of clinical indications by the medical profession". Members are not solely dependent upon South Australian figures, however. In the United Kingdom the trend is similar. The figures for the years 1968 to 1971 are 22,256, 64,158, 83,849, and 126,744 respectively.

The point which I am attempting to make, then, is that, even if the practices immediately consequent upon the 1969 Act do not constitute abortion on demand or request, the slide towards such a situation is inevitable. I say this for two reasons. First, the phrasing of the central provision of section 82a is such that many lawyers and others already conclude that the law permits abortion on demand or request (or something very near to it) even though many medical practitioners do not yet interpret the law in that way, and, secondly, that there is an inevitable development in the direction of more relaxed practices and interpretations while the law remains as it is. I do not intend to rely on the views of anti-abortionists in order to establish this point.

Instead, I refer members to the comments I have already cited from the Mallen committee. Further, I refer members to the recent statements of a pro-abortionist from England, a celebrated lawyer, Professor Hart, who, in delivering the Southey lecture for 1970 at Melbourne University, dealt with this very question. Although he concluded that the legal position, as interpreted by doctors in England, was not yet abortion on demand or request, he admitted that "in practice the Act notwithstanding its careful and much debated wording has produced a situation where few women, able and willing to pay the very high fees sometimes demanded, will have much difficulty in obtaining an abortion in a private clinic licensed under the Act". There is no reason to suppose that the same liberality will not eventually extend to national health hospitals, unless it be the totally extraneous factor of the non-availability of hospital beds! The conclusion which must surely be drawn is that section 82a has already produced, and will continue to produce, a revolution in our treatment of abortion and, in our attitudes to foetal rights, to parenthood and to our respect for human life.

Of course, if Parliament had been aware of all this in 1969 and had, knowing all this, voted as it did, there would be less justification than I maintain for introducing the present Bill. But Parliament most emphatically did not know all this and was not aware of it. It is, of course, not easy to determine the state of all members' minds at the time of voting. However, the facts and fears represented to them form the background against which their votes may be interpreted. It is my belief that members misunderstood the significance, especially the legal significance, of the changes then proposed. It is not relevant to inquire into fault in the matter. The error, as it now appears, was not clearly before our minds then, not even to the Select Committee which reported on the original draft. I think that what members understood to be the legal significance of the Bill was well expressed on several occasions by Mr. Millhouse, the then Attorney-General, who introduced the legislation. On February 12, 1969, the then Attorney stated:

> The present Bill, with the exception of the social clause . . . does in fact broadly translate into statutory form the common law as expounded by Mr. Justice MacNaghten in the charge to the jury in Bourne's case.

The former Attorney recognized that the Bill was not precisely the same as the English common law but claimed it to be only marginally broader. This view was subsequently repeated not only by the Attorney but also by members on both sides of the House (for example, see 1969 *Hansard* pages 2322, 2596, 2772, 2778, 2781). The Select Committee itself agreed. In paragraph 31 of its report, it states:

> Apart from the "social clause" the Bill will be substantially an expression in statutory form (with the addition of procedural requirements) of the common law as expounded in Bourne's case.

There was then a general opinion that the Bill, the social clause apart, was little more than a codification of the prior law.

As the controversial social clause, permitting abortion solely on the grounds of the effect of a continued pregnancy on already born children, was eventually removed from the Bill, the understanding that the Act as passed was nothing more than a substantial enactment of Bourne's case must have been almost universal. There are other indications that this was so. The then Attorney-General, for example, when asked to predict the likely numbers of legal abortions if the Act were to be passed, thought that about 700 a year would be the likely figure (see 1969 *Hansard,* page 2782). In fact, as the figures show, the first year of the Act's operation gave double, and the second year between three and four times, that number. Of course, the reason is that the Act did very much more than codify the existing law. The two offending provisions are the central provision (section 82a (1) (*a*) (i)) read with the qualifying one (section 82a (3)). The central provision is far too lax (again, I emphasize, not deliberately so) partly because it permits abortion whenever the risk to life or health on continuation of pregnancy exceeds that on abortion. While this has not yet led to abortion on demand or request it seems to be an accepted fact that the risk to life in being aborted is minimal, and likely to be less than the risk involved in normal child birth (see C. B. Goodhart, *British Medical Journal,* May 4, 1968, cited in Finnis (1970) 4 *Adelaide Law Review*; and Hart, 8 *Melbourne University Law Review* 393). Section 82a (3) adds to this (again unintended) laxity by permitting account to be taken, in comparing the risks to health, of socio-economic factors similar to those which originally formed part of a separate "social" clause, later removed for good reason from the Act. If one looks to the figures of legal abortions in this State, one finds that the central provision, read with section 82a (3), accounts for over 94 per cent of abortions in South Australia. Of these, 83.9 per cent in 1970 and 88.3 per cent in 1971 were for mental health reasons, or psychiatric disturbance. The Mallen committee also states:

> It seems obvious that the incidence of legal abortion in South Australia is increasing progressively and that the commonest indication for this is psychiatric disturbance allied with, and in some cases not distinct from, purely socio-economic factors.

My conclusion from all this is that this House did not fully appreciate the legal and social significance of what it did in 1969. The real error was in not qualifying the central clause in accordance with Bourne's case and Davidson's case, by requiring that the risk to life be serious and that the apprehended injury be also a serious one, not merely of trifling proportions. It is significant that those very limitations are contained in the model penal code which the Attorney once again described as being significantly similar to the provisions of the Bill which he had introduced (see 1969 *Hansard,* page 2324). Finally, I refer once again to Professor Hart. Commenting on the main clause of the English Act under which nearly three-quarters of legal abortions have been performed, Professor Hart points out that the English Bill, unlike our own, did originally contain a requirement of a serious risk to life or a risk of grave injury to physical or mental health. At page 400, he continues, "It seems plain to many lawyers that, had the main clause been kept as originally drafted with the insertion of the words serious and grave, this would have fairly represented, or at least would have been no more restrictive than, the previous law as interpreted in Bourne's case . . ." I only wish that that had been as plain to members of this House as it is to Professor Hart and to many others, lawyers and not.

I have said sufficient to explain to members the history of section 82a, its background and its operation, to demonstrate that the effective change in the law was not intended by members of this House. A quick survey of *Hansard* at the time seems to demonstrate not only that abortion on demand or request was disapproved by most members of the House but also that most members of the House had no idea that the Bill for which they voted had any substantial effect on the existing law. Indeed, among those who voted in favour of the Bill was one who stated sincerely and emphatically that he favoured no relaxation of the laws. In 1969 we made an error that can, fortunately, be rectified by some reasonably simple amendments.

It is to the Bill and its provisions that I now turn. The main provision of the Bill is directed towards the subsection of the 1969 Act which I have described as central. Whereas the 1969 Act seems to have gone far beyond the contemplation of Mr. Millhouse and those who supported him, owing to the broad terms of the greater risk clause the present Bill attempts to capture much more precisely the undoubted views of many who previously voted in favour of putting the pre-1969 law into statutory form. The Bill seeks to permit abortion if the continuance of the pregnancy would involve a risk to the life of the pregnant woman and if such risk would to a significant

extent be greater than if the pregnancy were terminated. However, where there is no significant threat to the life of the pregnant woman but merely a threat to her mental or physical health, doctors will have to be satisfied that the risk involved in continuance of the pregnancy is considerably greater than the risk involved in its termination. With regard to physical health, under the present Bill abortion will be lawful only if continuance of the pregnancy will involve risk of substantial injury to the health of the woman and that risk exceeds the risk involved in termination of the pregnancy.

For the substantial injury to be taken into account it will have to be such that it will continue at least during the remainder of the pregnancy and the usual period of lactation, 42 days. Obstetricians regard the process of childbirth as ending approximately six weeks after the birth and it would be most unlikely that any physical injury caused by a pregnancy would manifest itself for the first time after this period. As far as mental health is concerned, doctors will have to be satisfied that abortion is necessary to prevent injury to the mental health of the woman, and in addition they will have to believe that continuance of the pregnancy would involve a substantial risk of contributing to the mental illness of the woman to such an extent that she would become dangerous to herself or others or that she would need restraint or regular psychiatric supervision or treatment during the remainder of the pregnancy and 42 days thereafter. It will be apparent that the provisions with regard to mental and physical health seek to prohibit abortion in cases where the risk involved is merely trifling or transient.

I turn now to the ancillary provisions of the Bill. The Bill does not alter the terms of the 1969 Act where there is a substantial risk that the child would suffer physical or mental abnormalities which would lead to serious handicap. The meaning of the eugenic clause was probably clearer from the start than the meaning of the central provision. As I have already observed, the Bill is an attempt to express a consensus of views and I am not aware of strong dissatisfaction with the eugenic clause on the part of many members of this House, or on the part of the majority of the community.

Paragraph (*b*) of clause 2 amends paragraph (*b*) of subsection (1) of section 82a by requiring two medical practitioners, instead of one as at present, to form an opinion, in the case of an emergency termination, that the termination of the pregnancy is immediately necessary to save the life or to prevent grave injury to the physical or mental health of the pregnant woman. It is generally felt in the medical profession that cases cannot be visualized where there would be urgency of such a degree that immediate action by a single practitioner would be necessary, and it is pointed out that to date, in all the cases of medical termination of pregnancy, two medical practitioners always have concurred.

Paragraph (*c*) of clause 2 makes a consequential amendment to subsection (3) of section 82a. It will be recalled that the 1969 Act seeks to protect persons having a conscientious objection to abortion by permitting them to refuse participation in treatment unless it is necessary to save the life, or prevent grave injury to the physical or mental health, of the pregnant woman. There appear to be three major defects in the conscientious objection provision as it now stands. First, it reverses the usual rule with regard to the burden of proof and places it on the party claiming it. This was criticized by the Mallen committeee in its first annual report, on the grounds that the provision gives inadequate protection to a doctor whose moral or religious convictions preclude him from participating in terminations of pregnancy. Secondly, the obligation to participate in treatment is not restricted to emergencies. Thirdly, the extent of the duty of a conscientious objector to advise a pregnant woman seeking an abortion is unclear. The present Bill seeks to rectify these difficulties by removing the onus of proof from the person claiming a conscientious objection and by confining to genuine emergencies the duty to participate in treatment. It also makes clear that, in an emergency situation, a person having a conscientious objection is obliged to give advice which is required by proper medical practice.

The last change which the Bill seeks to make involves the presumption concering the life of a child capable of being born alive. Deliberately causing that child to die before it has an existence independent of its mother is unlawful unless the act was done in good faith to preserve the life of the mother. The Act in its present state creates a presumption that, if the pregnancy has lasted for 28 weeks or more, the child is capable of being born alive.

The Mallen committee, in each of its annual reports, has drawn attention to the anomaly that has been created by the presumption. There is a duty imposed on members of the medical profession to complete a death certificate in respect of a still-birth or neo-natal

death if the pregnancy has lasted for 20 weeks only. The reason is, of course, that after the pregnancy has lasted for that time it is a medical fact that, other things being equal, the child is capable of being born alive and maintaining an existence independent of its mother. The Mallen committee has recommended, therefore, and this Bill seeks to provide that the presumption shall apply in cases in which the pregnancy has existed for 20 weeks or more. As I have said, the purpose of this Bill is to give effect to what I believe to be generally in accordance with the views of a majority of members of this House and to have been the general intention of a majority of members at the time the 1969 Act was passed. Although I have already stated the motives and reasons that have led to the introduction of the Bill, I believe that I should also draw to the attention of members another factor that might lead one to have considerable misgivings over the working of the 1969 Act, which I am seeking to amend.

Professor Hart, in the recent Southey lecture, went to some pains to specify problems that had been encountered in England, and he stressed the need for other countries to take certain precautionary measures to avoid similar difficulties. Although these problems have not convinced Professor Hart (who, as I have already stated, is a pro-abortionist) that the United Kingdom legislation is undesirable in its present form, they are sufficient to convince me that the South Australian legislation should be modified as quickly as possible. Perhaps the greatest problem in England has been the shortage of hospital beds. This has led to the deferment of many abortion operations until after the thirteenth week of pregnancy (when the relatively simple operation is no longer available) and also the deferment of other gynaecological cases considered less important than abortion. The same problem has already arisen in South Australia. I draw to the attention of members the highly significant comment of the Mallen committee in its second report that, owing to the necessity for reaching a decision and operating within a strictly limited time, the increasing number of abortions has imposed a highly undesirable pressure on gynaecological beds in the teaching hospitals.

The shortage of hospital beds, with the consequent hardship imposed on those needing gynaecological treatment, by itself justifies serious reconsideration of the 1969 Act. It is no answer, of course, to say that we must have more beds made available in our hospitals: first, because, as we all know, there is a limit to our State finances and consequently a limit on the number of beds which we can make available; and, secondly, the increase in the number of abortions each year, both here and in England, has been at such a staggering rate that I doubt whether in, say, five years time we would be able to make a sufficient number of beds available even with very much greater financial resources than we now possess. In conclusion, I wish again to emphasize in the clearest terms that the new Bill does not seek to deprive women of the right to abortion. The Bill recognizes that such a right exists in any of four sets of circumstances: first, where there is a significant risk to the life of the pregnant woman; secondly, where there is a substantial risk of serious physical injury; thirdly, where there is a substantial risk of serious mental illness; and, finally, where there is a substantial risk of physical or mental abnormality in the child.

I should like to say several things in conclusion. First, I express my extreme gratitude to members on both sides who have shown great courtesy in listening to me with such respect and attention. I assure them that I respect their honestly-held views and will adopt the same attitude to them. I also thank members on both sides who co-operated last evening so that, even at the expense of some members' questions, private members' time would be rather longer than usual to permit a proper debate. Much of what I have said is technical: it is lawyer's law, but the substance, of course, is that I say that in 1969 the House did not really pass what it intended to pass. I close by giving one short example of what the current law means and of the injustice it creates. As members know, if there is a risk to the life of a pregnant woman, provided she is within the statutory period she may attend before a doctor. If she is wealthy or is well-off, she may, on attending before the doctor, be put off and told, "I don't believe there is a risk to your life, and I don't intend to grant you any certificate." If she has some wealth, all she would do is take legal counsel. Legal counsel is unanimous here (members of the profession as different as the Attorney-General, senior lecturers in law at the Adelaide University, academics and practising lawyers do not always agree in these things)—

Mr. Coumbe: That's an understatement.

Mr. McRAE: —but they universally agree that on the state of the present law the medical

evidence is that a properly carried out abortion must have significantly less risk than a properly carried out delivery. In other words, within the statutory time, all things being equal, there is virtually no risk in a properly carried out abortion, whereas there is a minimal risk (but it is there) in the case of a properly carried out delivery. This means that (and I believe this is the figure) there is one chance in 5,000 of complications in a properly carried out delivery that might lead to death. The doctor, therefore, has this situation and a lawyer will say, "There is a risk. It is a minimal risk, but Parliament did not say 'minimal', 'grave' or 'serious'; it merely said 'risk', and if that risk exists you will grant this woman her certificate or you will not be carrying out your duty under the Act."

So, one section of the community that can afford proper advice is gaining an advantage under the Act, whereas other people in the community, with less ability, less educational background, and fewer resources, are suffering. This must be seriously taken into account. The same position arises under the psychiatric clause. The patient goes before the psychiatrist and, in normal circumstances, his attitude would be, "This patient does not need psychiatric treatment of any kind," but the patient, having been properly advised, says, "Look, I don't care what you say or what you think; the fact is that if I don't get permission I'll throw myself out the window." The psychiatrist, again in statistical terms, says, "I don't believe it, but the odds are that one in 5,000 or one in 10,000 might carry out the threat. Parliament is not giving me a standard to work on and, therefore, one human life in 10,000 is jolly significant," and to members of our family one human life in the whole 12,000,000 of this country is jolly significant. So what is happening is that obviously a mockery is being made of the legislation.

I suggest that it would be far more logical to have abortion on request without this present rigmarole or, alternatively, that in a moderate proposal of this kind we should safeguard the right to abortion, which I do not believe exists (that is my personal moral view but, taking the consensus of the community, we should safeguard the right). But let us see what members intended to do in 1969. I ask honourable members to look at what they said then. Although I do not lay the blame at anyone's door, I do not think the law was properly explained on that occasion. I hope all members will give the most serious consideration and, I hope, favourable consideration to the matters I have put before them.

Mr. ALLEN (Frome): I support the Bill. I am not totally opposed to abortion, as I believe that in extreme circumstances, in which the life of the mother is at stake, abortion should be carried out. I shall not go into details, because the member for Playford covered the position extremely well. When the principal Act was introduced in this House in 1969 I opposed the measure, although, as I have said previously, I was not totally opposed to abortion, but I considered that the Act left itself open to an escalating of numbers as time went by, and this is what has happened.

On social Bills such as this, members should consider the number and kind of submissions made to them by their constituents. In this case I have received hundreds of submissions (telephone calls, letters, and petitions) and the overwhelming majority have been in favour of this Bill. One must also consider one's personal views, and in this case mine agreed with the overwhelming majority of submissions made to me. I understand that in Sweden, which is regarded as the leading abortion country in the world, sex education commences at the age of seven years in schools with films on abortion, sex education, etc. The teaching of the frank facts of life begins from the age of seven years, and by the time girls are 15 years old they know the technicalities of abortion and how to obtain one.

The new sex education drive reflects attitudes that have changed dramatically in Swedish society in the past 10 years. Births out of wedlock have increased 60 per cent in 10 years, because young people plan families as if they were married. The number of marriages has fallen drastically from 85,000 two years ago to 43,000 last year, and this trend is certain to continue. The fact that the number of marriages has halved in two years proves that eventually there could be a breakdown in the marriage laws in that country and in the countries that have abortion on demand. Once our marriage laws break down, that is one of the first steps to anarchy. Abortions in Sweden have increased from 14,000 to 17,000 in one year, and that country has had abortion on demand for many years. In conclusion, I quote what a leading writer had to say on this subject:

Once the door is open a little, practical problems will push it wider open.

As I think this Bill is aimed at closing that door just a little, I support the second reading.

Mr. WRIGHT (Adelaide): I oppose the second reading. Honourable members have heard the proposal of the member for Playford, who is asking us to restrict the present abortion law and narrow it but he offers us a complicated way to do this. It is a lawyer's way—a cold, almost a cruel way. The honourable member has told the House that emotion should not enter into the matter. Well, if by "emotion" he means "feeling", I do not agree with him. What is this abortion Bill about? Is it not really about women, family life, sex, and freedom for doctors to respond to distress? These are all quite ordinary things (things we all know about) but things into which ordinary warm human sympathy must enter. "Feeling" as I call it, "emotion" as the member for Playford calls it: something he does not like in Parliament, "emotion", but something which I intend to bring right into it.

Most of us here have sympathetic feelings for women in distress. Members of the House are not all cold lawyers, not yet. I point out to members (because it is important) that not once in his speech did the member for Playford speak warmly of the women for whom our abortion law was passed: not once did he mention one of them. He spoke as though what we are to debate is clauses, law, definitions, and judgments. Who among honourable members would judge a pregnant woman's needs? The honourable member and his "consensus" would. I say pregnancy is a private matter, a medical matter, and I say that what we have to debate here is something sensitive, something personal, something that has to do with human distress. It is the sort of thing from which we just cannot shut out sympathy and emotion, and we should not shut it out. As men, we should not shut out what was once called gallantry. Our business in this Parliament is to see that the law is mild, careful, and forgiving where it deals with distress and with distressed people, whether men or women.

The member for Playford has said that his Bill expresses a consensus of views. He spoke of groups that would have pressed various views, for and against abortion, on honourable members in the hope of influencing them. I would be surprised if any member of this House has been visited on any day by that handful of South Australian women who, each day, sickened and despairing, find they are pregnant and wish desperately they were not so. For these are the people this Bill is about. These are the people who cannot get to see us, to lobby us. These are the people we must consider, and these are the people the member for Playford did not mention in his speech on his new, narrower, abortion law.

Let me say this: a woman or a girl can get pregnant when she does not mean to do so. It can happen in or out of wedlock, in joy or in sorrow, in ecstasy or in misery, in knowledge or in ignorance, in wisdom or in stupidity, and in comfort or in poverty. She can bitterly regret it to the point where her health will give out, and it can all be a private and terrible matter for her, although there is always a man there as well, who does not get pregnant. Any man who considers that such a girl or woman is getting her deserts by having to go through with an unwanted pregnancy (in fact, anyone who considers that unwanted pregnancy is an appropriate punishment for ordinary human sexual behaviour) is being both intrusive and cruel. The sex impulse is one of the most powerful we can experience. It should not surprise us that some men and women give in to it unwisely, even though for the most part most people manage it quite well.

Today, legal abortion is a safe medical procedure. Why then cannot we allow doctors to counsel their pregnant woman patients as they (the doctors) think best, and to perform abortions as they think best? If any honourable member has the lurking thought that pregnancy ought to be one of the sanctions against women giving in to sex, why does he not then restrict the conditions under which he allows doctors to treat venereal disease, and have that as another of God's little allies against lust? Put like that, I am sure honourable members can see how absurd were certain traditional views which cloaked an unworthy attitude towards women, an ungenerous attitude towards women. In the past, too many men were always willing to cast the first stone.

In one area in the speech by the member for Playford he himself showed emotion. He did say more than once that he was staggered. At least he said several times that the South Australian abortion figures were staggering. It is remarkable that so self-possessed a young lawyer can stagger so easily. What is he staggering about? He is staggering because, in the first two years of our new abortion law, 3,849 women (and their doctors) took open, frank advantage of the law passed by this House in 1969. The ready relief of so much major medical distress in any other area of the public health would be a matter for congratulation, and so it should be here. It

means that many more legal abortions have been performed in South Australia than there were before our new abortion law was passed. However, legal abortion is what the Act was designed to allow, and it is hard to see logic in the complaint that it has succeeded in its purpose.

The member for Playford (between his periods of staggering) has said that this is not what our 1969 Act was designed to allow. I would like to take him up on that. Our 1969 Act was modelled closely on the British Act of two years before it, and in 1969 it was then well known to everyone who could read a newspaper that the British Act had liberalized the legal abortion situation in Britain. When this House took its final vote on the 1969 Act, after many weeks of debate, both the press and every member knew perfectly well that this meant that our abortion law was being liberalized. How many abortions there would be was a matter of how much hidden distress would be revealed. It turned out to be more than the member for Playford liked to see. But this is no argument for driving most abortions back under cover again, where he will not be so disturbed by them, for that is what his Bill will do. It will drive them back, not only under cover but back into the area of criminal behaviour. Imagine it! Most abortions will be driven not just back into the area of amateur, dirty, medically untrained, dangerous performance but back into the area of the criminal, the area of big fees, blackmail, vice squads, and the rest. And, incidentally, they will be driven back into the area where a rich woman will still get a safe abortion, as she can now, and where a poor woman, going to one of our public hospitals, will not get one.

Since the 1969 Act, the extent of the problem is becoming clear. That is all that is happening. If the member for Playford and the consensus he represents (whoever they are) wish to return to a time when prudishness stopped us taking honest looks at real social needs and real social problems, I do not want to go back with them. I do not want to return to the nineteenth century. I am speaking plainly now. Further, I do not believe other members want to go back to the nineteenth century, either; nor does the public. The public seems to me to have welcomed the humane legislation passed by this House in 1969. Everyone welcomed it, except for a particular minority.

The member for Playford said he would not base his argument on what is called "the rights of the foetus". That was sensible of him. However, at the same time he had a fair bit to say about it, and about the difference between his personal views and those of the consensus of opinion he says he represents. I agree we should leave foetal rights out of this, simply because I do not think debating such an abstruse idea leads anywhere. I will say just one thing: I just do not believe that the 3,849 women in South Australia who had abortions in the first two years of our reformed abortion law (and their doctors) thought they were committing murder in any way. The notion is grotesque.

Let us remember that our present abortion law does nothing, absolutely nothing, to pressure anyone (doctor or patient) to perform or have an abortion against their will or against their conscience. In presenting his Bill the member for Playford has said he represents no group, that he has his own views, and that at the same time he offers us a consensus. That sounds to me like a tough brief someone gave him. I thought a "consensus" was an agreed representative opinion, but apparently it is not. So I would like to dissect what such legalistic pirouetting actually means. For the honourable member is offering us not a consensus, but a confusion.

I put it to the House that there are three, and only three, viewpoints upon this abortion question, both inside and outside Parliament: first, there are those who would like to see the law made even more liberal than it is at present; secondly, there are those (like me) who think we are getting along very well with what we have at present; and, thirdly, there are those who are against all abortion, such as the member for Playford. There is simply no-one half way between the last two positions, and it is on this mixed-up no-man's-land, on this slippery slope, that the member for Playford is trying to pitch the tent of his Bill. Let me read members the following part of it:

> Continuance of the pregnancy would involve a substantial risk that it would contribute to the mental illness of the woman to the extent that she would be dangerous to herself or to others or to the extent that she would be in need of restraint or regular psychiatric supervision or treatment for a period exceeding the period comprising the anticipated balance of the duration of the pregnancy . . .

That is 67 words without a comma. I shall repeat the last part:

> . . . a period exceeding the period comprising the anticipated balance of the duration of the pregnancy . . .

The clause finishes:

> . . . the consequent child-birth and 42 days thereafter.

That is the language of a committee somewhere, if ever I heard it (everyone putting in his little bit): a "consensus", as the honourable member calls it. Now, I do not say this sort of thing is not intelligible if one works at it in a place like this House. But what will our doctor friends outside, our general practitioner friends, make of it? Already they say there is difficulty in interpreting some parts of our present, much simpler, legislation. But what on earth will they make of the Bill before us?

I will come back to that extraordinary bit about mental illness and restraint and psychiatric supervision in a minute. For the moment, I am pointing only to the difficulty the member for Playford has in pitching his tent on that consensus, the consensus that does not go as far as he personally would like. For, as he said, he is against all abortion. Let us be frank: it is only those who are against all abortion who really do not like section 82a of our present Act. Otherwise, they would not move against it. Now, how many of them are there? At the most there are about three out of 10 people—a very generous estimate. Several polls and surveys have shown that seven out of 10 Australians, men and women, support the kind of legislation we have here now.

Let us remember another thing: not one of those dissentients, those three out of 10 at the most, is forced by our legislation to have an abortion against will or conscience. As for the rest of the world, do members know that about two-thirds of it has either the sort of legislation we have here, or something rather more liberal? Countries which have kept the old restrictive abortion laws are the Irish Republic, France, Spain, Italy and the South American republics. If we should pass the Bill, we will have abortion legislation of a kind that is neither sympathetic to our political traditions nor part of the broad social philosophy of this forward-looking State.

I turn now to the reports of the Mallen committee which the honourable member has cited several times. The House will know that a committee of medical men under Sir Leonard Mallen was set up by the Government in 1970 to observe the working of our present abortion legislation. All the details of legal abortions performed are reported to Sir Leonard Mallen's committee.

A most important point is that the Mallen committee has not recommended, in either of its two annual reports, any substantial change in our abortion legislation. It is perfectly true that the committee, in its second annual report, mentioned an increase in the number of abortions being performed, but it did this as part of an informed comment on the situation, and not in a critical tone. I will quote the passage, just as the honourable member did. It is as follows:

> There is both an increasing demand by the public, and, as a result of pressure and familiarity, a liberalization in the assessment of clinical indications by the medical profession.

So what? The medical profession and the public which employs it and pays it are getting used to the fact that abortion, which was pushed into the criminal underworld nearly two centuries ago, is at last being dealt with openly, honestly, safely, and rationally. The honourable member has also quoted the Mallen committee's remarks about the number of gynaecological beds now being used for legal abortions in our teaching hospitals. But this is merely the committee's reference to a temporary organizational problem. It does not take much intelligence to see that, if a woman is pregnant, she will occupy either a gynaecological bed for a short time for an abortion or an obstetrical bed for a longer time for a confinement; either way, a bed is occupied, and turning some obstetrical beds into gynaecological beds is all that is required.

Indeed, the situation becomes easier all the while, as our South Australian medical profession becomes more familiar with legal abortion. Already a special clinic at the Queen Elizabeth Hospital has greatly improved the organization of legal abortions there, and reduced the pressure on beds. The introduction to Australian medicine of rapid methods of carrying out abortions in an outpatient setting, or on a day-hospital basis, will make things easier still. It takes our doctors time to evaluate and to accept oversea methods, and to make sure they are entirely safe. Looking further ahead again, I am told it may not be more than two or three years until abortions will be done by medical rather than by surgical means; that is, by the administration of a pill. This will still have to be done under medical supervision, but members will see how such a pill will tend to make legal abortion much less controversial, just as the contraceptive pill made family planning less controversial. As I say, this is only a few years off.

I will now discuss some of the words and clauses in the honourable member's Bill. We must remember that the honourable member

has said that his aim is to "narrow the circumstances" in which abortion will be permissible. If he has his way, he will narrow it to a tiny pinhole. First, the new paragraph (*a*) he proposes for section 82a (1) contains four provisions. His Bill, as printed, does not contain the word "or" before each of those provisions. Consequently the House has no direct information that these are alternative provisions, except for what the honourable member's speech has indicated. So, as the Bill now lies before this House, these provisions are all obligatory, rather than alternative. I submit that this little oversight by a practising lawyer is an indication of the many hands that took part in the draughting.

Allowing for that slip, what are the honourable member's changes with which he will narrow our law? Let us consider the assessment of risk to the woman's life. At present, the doctors can perform an abortion legally if the risk of pregnancy to the woman's life is greater than the risk of the termination of the pregnancy, but in the honourable member's Bill the risk must be not only greater but he has added new words to provide greater "to a significant extent". The sort of thing which would have to run through a doctor's mind would be, "Is this risk greater to a significant extent or only greater, and if it is the former will a judge and jury back my opinion, because if I get it wrong both I and my patient are open to criminal prosecution."

There is a limit to the legal decisions we can ask a doctor to make in the course of his work. To the member for Playford every abortion is an abortion, something he does not like. To a doctor, a woman patient is a unique and variable creature not to be forced into one category or definition. Is it not obvious that the doctor needs all the latitude for judgment we can give him? Now look at the next provisions, two of which have this extraordinary phrase, which I have already read out but which I will read again. Were this matter not so serious, we could get some wry pleasure from the honourable member's use of words. This is the phrase:

. . . the injury . . . would persist for a period exceeding the period comprising the anticipated balance of the duration of the pregnancy, the consequent childbirth and forty-two days thereafter.

Dr. Tonkin: He needs a crystal ball.

Mr. WRIGHT: I do, and so do the doctors. What labyrinthine estimates they will have to make! What is that 42 days? Is it a lucky number or something from the prayer book? The honourable member was reported in the press as saying it was the usual period of breast-feeding. Evidently communication between him and his advisers is not good.

Mr. McRae: I've never said that.

Mr. WRIGHT: I will tell the honourable member what his 42 days is. It is the traditional time of the puerperium: about six weeks. This is the time in which a woman recovers from childbirth and during which she is still looked after by her obstetrician. It is the time in which breast-feeding of her baby becomes satisfactorily established if she is a happily married or otherwise socially secure woman with time to look after her child. It is not the "usual period of lactation", which is what the honourable member called it.

There is nothing magic about that period of six weeks, more or less, after the baby is born, but in the honourable member's mind it has become a legally precise 42 days. Let us do a little sum. Let us say that a doctor sees a woman who is eight weeks pregnant. According to this Bill he must decide that she runs a risk which must persist for more than the balance of the pregnancy. At eight weeks there are 224 days of that left. Now, if we add the 42 days that gives a total of 266 days: What silly legal "precision"! If the risk to the woman is to last only 265 days, she cannot have an abortion. If it lasts 266 days she can be aborted legally. Honourable members will get small thanks from the medical profession if they load it with such stuff and nonsense.

There is worse to come. Let us look at the provision dealing with injury to the mental health of the woman. This starts off reasonably enough, but in paragraph (*b*) "mental health" has now become "mental illness", and the poor woman has to be "dangerous to herself or to others or to the extent that she would be in need of restraint or regular psychiatric supervision". I can tell the honourable member that it is many years since mental illness was treated by the straitjacket, and that there is much acute mental distress which does not go on for 266 days but which is no less acute for that. Psychiatry is no longer a profession that restrains madness in lunatic asylums, or puts straitjackets on pregnant women. It is that part of medicine where expert medical counsellors deal calmly with acute anxiety and distress in the individual, an area where modern medicine is particularly successful. One wonders what might happen to women who reside in the country and who

require attention. To the best of my knowledge, the only psychiatrist stationed in the country is at Whyalla.

The member for Playford should not be surprised that distressed pregnant women are referred to psychiatrists. What is surprising is that he should be afraid that too many abortions are recommended by them. Having discussed this very question with medical people, I can assure him that we may expect in future that more and more obstetricians, gynaecologists, and general practitioners will become familiar with the psychiatry of sex and pregnancy. In future we will see fewer and fewer specialist psychiatrists signing abortion certificates. Ordinary doctors will do it. This is another medical area where the present legislation is settling down, because daylight was let in 2½ years ago. We are now able to study the psychiatric aspect openly, and with increasing confidence among the doctors.

I have now spent some time dealing with the honourable member's arguments and with the details of his Bill. Let me briefly sum up what is good about our present law, which the honourable member wishes, as he says, to make narrower. Our present abortion law is serving a demonstrable need in our community. In two years it has solved a serious health problem for 3,849 women, even though it offers something far less liberal than abortion on request. The evidence from our public hospitals is that one case in two does not satisfy the grounds laid down in the present Act. There have been no deaths from legal abortion since the present Act became law, and I believe that is most important. It is an important piece of social legislation in which South Australia leads the other States, for in Victoria and New South Wales, in spite of two court decisions, doctors do not really know where they stand. In fact, they are in the doubtful situation back into which the honourable member's Bill would push our South Australian doctors.

The present Act leaves every freedom for the member for Playford's personal views, and for the personal views of all the women and men of this State who think as he does. So when he asks us to respect his views we can reply that we already do so. This State forces no-one to have an abortion unwillingly. However, the member for Playford would deny us the practice of our personal views, we who think differently. Under this Bill we would, in spite of what he says, be denying a large section of reasonable people the right to consider legal abortion as part of medical treatment. That is what the honourable member is seeking, and that is what the consensus he represents is seeking. He is asking that we stop the 1970's and go back to the 1960's. Why stop there? Why not offer us the whole nineteenth century, lock, stock, and barrel? I oppose the second reading.

Mr. GOLDSWORTHY (Kavel): I support the second reading. The member for Adelaide has successfully tried to introduce emotion into the argument; he has done so deliberately and effectively. For some years I have listened to all the arguments advanced for legalizing abortion and making it easily obtainable. I have listened to the emotional arguments and to what I could call the coldly reasoned arguments from the universities and a cross-section of the community. I have listened to the views of the average citizen in the street. In weighing up one's attitude to this and many other legislative matters, the view to which one can give the greatest credence is not necessarily the one that is enunciated most articulately but the one held by the average man in the street.

The member for Adelaide centred his whole argument on the welfare of the pregnant woman. He referred only to that and to her rights, as he called them. His speech seemed to me to be a plea, although not even in veiled disguise, for abortion on demand. It seemed to me that he was saying that the woman has a right to decide whether she will carry the child. In other words, he made a plea for abortion on demand.

I consider it necessary to look more deeply at fundamental questions involved in the present legislation. The member for Adelaide said he would leave entirely to the discretion of the doctor the decision whether a woman should have an abortion. I do not think that would help to overcome the dilemma in the present situation, because there is much confusion in the medical profession about the operation of the current legislation. Various members of that profession hold different views. In fact, I consider the difference of opinion to be more marked in that profession than in the general community. The former President of the Australian Medical Association said in a public discussion that the profession was looking for greater definition, and this Bill seeks to give that. We must consider two main matters.

No-one denies that we must consider the woman, but a fundamental question is involved regarding the unborn child. I do not intend to centre my whole argument on the unborn

child (or the foetus, as it is referred to), but that is a consideration. This abortion legislation has aroused much comment in the community, and much of that comment has been emotional. Probably, the emotion has been as high as that applicable to any other measure. Strongly held views have been stated on the Vietnam conflict, and strong views have also been expressed on this legislation. I have considered the arguments advanced by both sides, and I hold my view quite firmly.

I consider that the fundamental matters to decide are at what point life can be considered to have begun, when the child can be considered individual in character, and what protection should be afforded to it. I am not denying that the welfare of the pregnant woman should also be of paramount concern, but we cannot turn our backs completely on the unborn child. There is much scientific evidence to substantiate the view that life begins at conception. Even if one does not accept that view, there is much evidence that the child is capable of life after 28 weeks of pregnancy, but it is difficult for the layman to decide at what point life begins.

In my view, life begins not precisely at the point of birth, but there is ample evidence that life has begun before the child is born, certainly in the later months of pregnancy. So far as this Bill is concerned, the later weeks and months of pregnancy are significant. The significant period in this Bill is the period after 20 weeks of pregnancy, whereas the present legislation provides for a period of 28 weeks. There is ample evidence that individual life has begun and is well into the stage of development after 20 weeks of pregnancy.

Questions are asked whether we are talking about an unborn child, whether it is a child, whether it has individual characteristics, and whether the life is worth preserving or is of no worth and should be at the discretion and whim of the woman who carries it. We should not adopt those attitudes: even an unborn child deserves the protection of the law. As I have said, this Bill reduces the period in which an abortion can be obtained from 28 weeks of pregnancy to 20 weeks. There is ample evidence that, if there is no interference with the process, at 20 weeks a child has every opportunity to be born alive. We recognize that the unborn child is totally dependent on the mother. An argument about dependency has been raised, but I submit that, immediately after birth, a child is totally dependent, not necessarily on the mother.

The law must be concerned with protecting human life. If we view the matter in any moral sense and consider that the life of the child has commenced before it is born, we have an obligation to extend protection to that unborn child. Today we would consider monstrous the behaviour of the Spartans in exposing their weak infants and allowing them to die because they were considered to be an inconvenience to that society.

Mr. Mathwin: And it was monstrous.

Mr. GOLDSWORTHY: It was. If we adopt this attitude in relation to the unborn child, the argument about convenience of the pregnant woman becomes likewise untenable. In Australia we do not hesitate to prosecute a person who destroys a child immediately after its birth. But, here we are, if we accept the argument of the member for Adelaide, to make this distinction; it would simply be that a short time before birth and after birth is when the immediate change in one's attitude to the unborn child takes place. The member for Adelaide would concede that the child is not deserving of any protection before birth, whereas after birth it is given the utmost protection.

Similarly, that argument could be applied to the other grounds used in the abortion argument, namely, poverty and the woman's social position. The law in those circumstances does not condone the taking of a child's life, even if it is neglected and in difficult conditions or even if the child's home life is particularly deprived. So I believe that this argument should also apply to the child before birth. I have even heard the argument advanced that abortion will help control the population explosion. But if one adopts that attitude, it is equally relevant to advocate events such as earthquakes and warfare, which take human life and which control the population explosion. If one places any value on the life of an unborn child, the argument that the procurement of abortion helps contain the population explosion must equally be rejected.

I again make the point made in the debate earlier that I do not equate abortion with contraception in any shape or form. In some people's minds at least, there seems to be some kind of equation made, but the idea that we can equate these two is completely fallacious. It seems to me, from reading books on the subject (one I read with great interest and found informative was *Legal Abortion, the English Experience*), that the evidence shows that, when abortion becomes more easily obtainable, the necessity for contraception

appears to diminish in the minds of many people who wish to avoid pregnancy. It appears to me that many people equate contraception with abortion, but I do not.

I believe that wider knowledge in the field of contraception should be disseminated, so that the demand for abortion would disappear. These two features cannot in any way be equated, nor do I believe that more liberal abortion laws would help us solve any of our social problems. I have even been told by a nurse at the Adelaide Children's Hospital that more liberal abortion laws could lead to a lower incidence of the battered baby syndrome, but I do not concede that that is a valid argument. The law affords the utmost protection to children injured by their parents. It is completely unnatural for parents to maltreat their children, and the law offers all possible protection. I do not consider that the liberalization of abortion laws is relevant in these circumstances.

The member for Playford explained the provisions of the Bill in detail and, in my view, those provisions are reasonable. The first provision deals with what is referred to as the psychiatric clause. This provision is causing considerable difficulty to the medical profession, which is seeking guidance on this matter. As a result of conversations I have had with doctors, I believe that, if a woman is intent on procuring an abortion, and if she is refused by one doctor, she may shop around until she finds someone who will give her a certificate. So here the onus of judgment is placed on the doctor and it depends on his private attitude; that seems to be unsatisfactory. The Bill seems to attempt to define the psychiatric provision more narrowly.

It does not seem unreasonable to me that the intention of the legislation should be to provide in some way that abortion may be obtained on psychiatric grounds, because I believe that sound argument exists for abortion on such grounds. However, there must be some definition of "psychiatric grounds", and the Bill seeks to provide such a definition. To my way of thinking, the Bill seems to provide for the necessity of a degree of permanency in the psychiatric condition. For the psychiatric condition to persist for six weeks after the expected confinement is not an unreasonable provision.

The member for Adelaide mentioned this matter and, in his admittedly emotional argument, he referred to straitjackets and the like, but the significant phrase is "by regular psychiatric treatment". If the condition is expected to persist for six weeks, I do not think it will make it any more difficult for the doctor to decide than does the present provision. The member for Adelaide seemed to think that it would make the law more complicated, but I do not agree; in fact, it would seem to make it more precise.

I agree to the provision which allows nurses the opportunity to opt out of assisting at abortions, without the onus of conscientious objection being placed on them, that is, if there is no immediate danger to the woman's life or if it is not immediately necessary for the abortion procedure to be initiated. From what I have read in the book to which I have referred and in other books, and from conversations I have had with nurses, I believe that many of these people find the abortion operation repugnant, especially if the pregnancy is in its advanced stages. I think it is eminently reasonable that a nurse should be given the opportunity to opt out, if there is no threat to the woman's life, without the onus being placed on her to prove a conscientious objection. Many nurses (not only those with a religious background), after being involved in these situations, find the operation totally repugnant. I can visualize no argument that can be advanced to compel nurses to take part in these operations.

The third substantial amendment relates to the stage at which abortions can be performed, and the relevant period is reduced from 28 weeks to 20 weeks. I do not think that is unreasonable. It should be possible well within 20 weeks for a woman to realize that she is pregnant and to make the necessary arrangements if, on medical indications, she should have her pregnancy terminated. Abortion involves the whole gamut of our society. I do not doubt that in the days of the Spartans the idea of killing weak infants was accepted. Further, I do not doubt that people in the community become hardened to changes produced by legislation. I think human beings can become hardened to all sorts of procedure and social change if confronted with it for a sufficiently long time. I quote as follows the view of British gynaecologists, expressed in the book *Legal Abortion: The English Experience*, by Anthony Hordern:

Prior to the passage of the Abortion Act, except on rare occasions, the majority of gynaecologists were opposed to terminating pregnancies, especially on psychiatric grounds, since the operation ran counter to their training and philosophy, contravened accepted medical ethics, and was of uncertain legality. Roman Catholic gynaecologists were opposed to abortion because of their religious beliefs,

but the majority of gynaecologists entertained grave reservations concerning the probity of termination of pregnancy.

In my view, these reservations are shared by many citizens of this State. I attach little credence to the public opinion polls quoted by the member for Adelaide, but I know that many people in the community have grave reservations about the probity of terminating a pregnancy. These views are held not merely because of religious convictions, and I point out that my own view is not based on any religious training or religious conviction. We must protect the lives of the women concerned, and the legislation gives that protection. However, in my view, an unborn child also should be protected. Like the member for Frome, I believe that the views I am expressing represent those of most of my constituents, although I am not competent to say whether they represent those of the majority of people in this State. We hear much said in this House about reform and about views being conservative or progressive, but this involves purely a relative judgment: it all depends on the view one holds on a certain issue. My own view is that this Bill is an attempt at reform. The popularly held view is that any change that will make something easier is reform.

Mr. Payne: That's not right.

Mr. GOLDSWORTHY: It is a view that is held.

Mr. Crimes: It might make things harder for many people.

Mr. GOLDSWORTHY: On many social issues, any relaxation is regarded as a reform, but I do not necessarily accept that point of view. For those people who believe that the life of an unborn child is worth preserving, this legislation is an attempt at reform, and so it is with much pleasure and, indeed, conviction that I support the Bill.

Mr. HOPGOOD (Mawson): I consider that thus far this debate has been conducted in an excellent spirit, and I hope that the reception of what I say will also be in that same spirit. I feel singularly unqualified to speak on this topic, because I am disqualified by my sex from ever being in a position of having to ask for an abortion. Nonetheless, I have been charged by the fact that I am elected to this place to cast a vote, one way or the other, on this important matter and, therefore, I must turn myself to the task. I point out to the House the fortuitous nature of whatever majority exists in here: it is purely by chance that there is a majority for any particular position on this matter.

None of us was preselected by our political Parties because we took up a certain stance on this issue (I am certain that that is true), and none of us was elected by our constituents because we took up a certain stance on this issue. We were largely preselected and elected because of our attitudes to other issues and, therefore, as I say, whatever majority exists in here, for whatever position, is a fortuitous majority. I believe that the majority that will emerge will largely mirror public opinion on this matter. That is because, in a sense, it will be because of a chance sampling process. It will be because of the way in which the dice happens to have fallen; it will be a statistical thing. However, this has simply thrown a greater burden of responsibility on the Parliamentarian to address himself properly to this measure. It would be far too easy for me to go, as it were, into the coward's castle of current public opinion on this matter. I refer to it in passing before I reject it as a basis for what I am about to say.

A Gallup poll was taken on this and other issues in March and April, 1972. It was an overall Australian poll. People were asked which of a number of alternatives came closest to their opinion on this issue. The first proposition was that abortion should be legal in all circumstances, and 19 per cent answered in favour; the second was that abortion should be legal in cases of exceptional hardship, either physical, mental or social, and 23 per cent answered in favour, making a total of 42 per cent in favour of the first and second propositions; thirdly, that abortion should be legal if the mother's health, either physical or mental, was endangered, and 27 per cent were in favour, giving a total of 69 per cent for the first, second and third propositions. I believe that the combination of those three propositions comes as close as any combination of these questions can do to the present state of the Act. The fourth proposition was that abortion should be legal only if the mother's life was in serious danger, and 15 per cent answered in favour; the fifth was that abortion should not be legal in any circumstances, and 11 per cent answered in favour, while 5 per cent had no opinion.

It would seem, therefore, that, to the extent that any combination of the questions asked for an endorsement of the current law in this State in regard to abortion, 69 per cent were in favour. Of course, this is an overall figure. Further down on the document, however, appears a note to the effect that, in every State,

answers were close to the figures quoted. That would appear to be the current state of public opinion.

With regard to opinion in my electorate, there is never any machinery provided for the member to determine the current state of opinion about anything in his district, but I have had more than a dozen letters from electors on this point specifically, and this morning I received the first letter from an individual in support of the measure introduced by my colleague, the member for Playford. All other letters asked that the present Act should not be touched. I mention these two merely to give some indication of what seems to be current public opinion, but I must add that on this question, as in all questions placed before us in this House (and I stress "all questions"), we must ultimately go back to our own conscience and our own beliefs to determine the way in which we should vote. Therefore, the viewpoint I am placing before honourable members is one which I placed before one organization in my electorate prior to my election in 1970. Since then I have not wavered in that conviction. At the time I made that statement I had no idea of the state of public opinion.

There appear only two logical positions one could take on the question of abortion, but neither the current Act nor this Bill (nor in fact, my own position at present) coincides with either of these two extreme positions. I say this because I think it is a little barren for honourable members to canvass the basic issues, since neither the Bill nor the Act comes down on one side or the other in relation to them. To really turn ourselves in a relevant way to such basic issues we would need a far stronger Bill before us. I point this out in advance, because unless we take cognizance of this point much that will be said in this debate will be quite irrelevant to the measure introduced so ably by the member for Playford.

I should like to list five grounds on which I believe the present *status quo* should be preserved. The first is that it is perfectly clear that at present we do not have in South Australia a situation of abortion on demand. I refer to "Current Notes" in the *Current Affairs Bulletin* of November 1, 1971, written by L. W. Cox, and I quote:

It is interesting to note that at two of the hospitals where careful confidential records have been kept, not only of those being granted abortion but of those applying for it and who were refused, 50 per cent of the applicants were judged to have insufficient reasons.

I also quote from Dr. Aileen Connon's article in *The Medical Journal of Australia* in September, entitled "Medical Abortion in South Australia", speaking of the first 12 months under the new legislation. On page 611 some rather more specific figures are given, and they are as follows:

The request for abortion was agreed to in 348 cases (59.8 per cent) and refused in 234 cases (40.2 per cent). Three women in each group subsequently miscarried spontaneously.

One patient who was accepted for termination of pregnancy continued with her pregnancy because her husband refused to allow abortion. Another two women who had had their request for abortion refused were later accepted for abortion as private patients, and had their operations performed in the hospital at which they had initially been refused. Therefore, 346 abortions were performed in the two hospitals during the year under review.

In a situation where about one in every two is being refused, I do not think anyone can claim that we have abortion on demand.

Secondly, I suggest that one of the more beneficial effects that some degree of legal abortion could have is the protection of young girls who are at continual risk because of psychosexual disorders. Again, I quote from the *Medical Journal*:

Out of a total of 214 single girls 45 (21 per cent) had already had one or more illegitimate pregnancies. This tends to confirm the widely held belief that many young girls who conceive out of wedlock suffer from psychological or psychosexual disorders and are at risk of further illegitimate pregnancies. A small number actually refuse to use adequate contraceptive measures even when offered advice.

This is the situation where successful continuing of the pregnancy will put the girl in a great deal of difficulty, and even if, for various reasons, contraception is not used, I believe abortion should be available.

My third reason is that it is clear that we are not becoming the abortion State in Australia. One of the documents available to me made it clear that many women coming from other States seeking termination of pregnancy in hospital often are turned away disappointed. I refer, too, to the reduction in health risks associated with backyard abortions, and this is something to which L. W. Cox has turned his attention in his article. For example, on page 188 of his article, he has this to say dealing with the situation that existed prior to the passing of the present section in the Act:

There was a small number of untrained operators against whom evidence would accumulate and the police would prefer charges. Periodically a number of patients with septic abortion would be admitted to a

public hospital and some of them admitted to having had illegal operations, but they would not incriminate the operator.

Again, on page 190 of the same document we read:

What happened to the "backyard abortions"? The number appears to have dwindled considerably. There have been hardly any cases of sepsis associated with abortion admitted to the public hospitals since the Act, and it is believed that no deaths have occurred. Tragically there were three deaths from illegal abortion in the few weeks just before the passing of the Act. However, the "backyard" operators still get a little business, perhaps from a few of those women refused abortion legally and from a few others still seeking this attention.

I quote further:

From one's own observations of the cases presenting at the public hospitals, it is clear that many very deserving and tragic cases have been helped, so that in this respect the law has been a good one. While it has not eliminated the illegal operator, at least it has cut down his activities; so that in this respect it has also been beneficial.

The other point I raise is my conviction that there has been a holding of the line so far as illegitimacy is concerned in this State since the passage of the amendment in 1969. L. W. Cox refers to this when he says:

The complete picture will never be recorded. Some inferences will be drawn from the numbers of nuptial and ex-nuptial births for 1970 and 1971 when these are published. The latter (1971) should show a decline, especially since 49 per cent of the legal abortions have been in single women. In 1970, there were 1,715 ex-nuptial births, an increase of 207 on the 1969 figure.

When we actually look at the figures for illegitimate births (I refer here to a document that was sent to all members by the Abortion Law Reform Association of South Australia, and I have no grounds for disbelieving the statistics it quotes) it states:

Throughout Australia 8.3 per cent of births were illegitimate in 1970. The figure for 1971 was 9.29 per cent—a rise of 1 per cent. In New South Wales the increase was 1.4 per cent. . . . In Victoria the increase was .59 per cent. . . . In Queensland the increase was .83 per cent. . . . All States with one exception, show these large increases. The exception is South Australia, where the illegitimacy rate is lower than the average for Australia, and has remained steady. It was 7.58 per cent of births in 1970; and 7.75 per cent in 1971.

These would be my five main reasons for recommending a maintenance of the *status quo* or something closely approximating it.

I will repeat them for the benefit of honourable members. The first is that we do not have at this stage abortion on demand or anything approaching it. The second is that we do have effective protection of young girls who are at continual risk. The third is that we are not becoming the abortion State. The fourth is that there has been a reduction in health risk associated with backyard abortions because of the reduction in backyard abortions. The fifth is that there has been a holding of the line so far as illegitimacy is concerned.

However, I am conscious of the fact that the member for Playford's Bill does not tighten up all that very much, that what he envisages is a fairly moderate alteration of the Act. So I want now to address myself to the essential assumptions that seem to emerge from the honourable member's second reading speech and explain why I want to hold not only something near to the *status quo* (which could be this Bill, after all) but also the actual *status quo* that we have. It seems to me there are three basic assumptions in the thinking of the member for Playford. The first is that Parliament did not really appreciate the significance of section 82a when it was passed. If I may quote from what the member for Playford said in his second reading speech, he said this at one stage:

It is my belief that members misunderstood the significance, especially the legal significance, of the changes then proposed.

Further on, he was a little more specific:

There was, then, a general opinion that the Bill, the social clause apart—

which, of course, was not carried—

was little more than a codification of the prior law.

What previously had to be extracted from case law was now written into the legislation. That was his feeling or belief about what had happened in 1969. All I want to say on that is that even if it is true (and I do not know that it is) it is not an argument in favour of altering the Act. It is an argument in favour of introducing a Bill to give a new Parliament an opportunity possibly to rectify a mistake that was made then, but it does not of itself bind members. We are a new Parliament; many of us were not present in that previous Parliament when that legislation was passed. So, if the honourable member was attempting to justify his action in introducing this Bill, that justification can be granted. It cannot, however, be used as an argument for the "reform" (which I use for the benefit of the member for Kavel) that the mover envisages.

The honourable member's second assumption seems to be that, if we do not have abortion on demand at present, we very soon shall

have. Again, I will quote the honourable member, to be fair to him:

The point which I am attempting to make, then, is that, even if the practices immediately consequent upon the 1969 Act do not constitute abortion on demand or request, the slide towards such a situation is inevitable.

The honourable member canvassed competently the reasons for his making that decision; I will not go over them again. He is saying that we may not have abortion on demand now but we shall very soon, because the slide is inevitable. I will return to that point once I have dealt with the third basic assumption that seems to be in the thinking of the honourable member, because that is pertinent to the second assumption.

The third assumption seems to be that legal permission implies moral sanction. Again, I quote the honourable member:

As the law permits abortion so widely, more come to the view that it is also morally permissible.

This is a position that simply does not follow. Many women who favour the legalization of abortion would not themselves undergo it. I have had this put to me on various occasions. On the other hand, as the converse of this, many women when it was illegal or believed to be illegal did not see it as being immoral. I took the opportunity last night to read through the *Encyclopaedia Britannica* entry on abortion, for what it was worth, and I noticed that one of the arguments put forward on the side of those who would seek more liberal abortion (of course, this was written some time ago) was this:

It is inefficient and socially unwise to impose criminal sanctions against behaviour of which a significant body of opinion does not approve.

Of course, that is something we could apply to many areas. It is a lesson that was learnt in the United States of America between 1919 and 1934 (I think it was) in relation to the prohibition of alcoholic liquor. No doubt we would learn the same lesson quickly if we were to attempt to ban the sale and consumption (if that is the right word) of cigarettes.

Mr. Mathwin: It would be a good idea.

Mr. HOPGOOD: It would be an extremely good idea in theory if we could enforce it in practice. However, we all know what would happen if we did.

The Hon. L. J. King: It would be the same as what has happened in schools.

Mr. HOPGOOD: I cannot think of a name to give such institutions where people could consume cigarettes illicitly. They are called "speak-easies" for alcohol, but I am sure that the member for Glenelg could come up with an appropriate name for the den of iniquity to which people would go to smoke their cigarettes furtively.

Mr. Mathwin: Smellies.

Mr. HOPGOOD: We will leave it at that. There is not necessarily any direct connection between the operation of the law and what is permitted and, on the other hand, the moral sense of individuals. Social mores and moral codes change from time to time, although I am not at all certain what causes this change. I should like to believe that moral codes are refined continuously as civilization goes on. I know that, for example, slavery as it existed in the world 200 years ago hardly exists now, and this seems to represent a considerable advance in moral thinking in people and their social outlook. I should like to believe that this is the sort of thing that happens all the time; I should like to think that the Christian ethic, which I share, has much to do with this. However, I am also aware that the Christian ethic is divided on this matter that we are now discussing.

It does not follow that, because something is made legal, people will suddenly change their moral opinions and moral codes in that regard. Indeed, this point has an extremely important implication regarding the second assumption to which I referred earlier, that if we do not have abortion on demand we soon will. We will only have abortion on demand if there is a gradual trend in social mores towards abortion on demand, and the state of the law is largely irrelevant to the growth of this trend. If the trend occurs (for whatever the reason), and given the second assumption as put by the member for Playford, we will finish up with abortion on demand under this Bill. On the other hand, if the trend does not take place, we will not get to that position which he fears, and this is an excellent reason for supporting the *status quo*. I have already indicated that, whatever majority exists on the floor of this House concerning this matter, it is purely fortuitous. How, then, does public opinion come in?

I have already rejected the view that we should simply take a set of public opinion figures, which are taken from people while they are absolutely cold and who have no real opportunity to be involved in public debate, and simply apply that and say that that is what the public wants and that is what we should give them. If we accept the member for Playford's other assumption, that the current state of the Act allows for the gradual growing of a situation of abortion on demand,

and if the public really wants it, that seems to be an excellent reason for supporting the situation. On the other hand, if that well-known pressure group, the Right to Life Association, which supports the member for Playford, can get busy and convince the public that the majority is wrong in its belief, it seems that we will not get abortion on demand and that social mores will leave the position as it is or even tighten it up.

The real solution to this problem lies not in what Parliament does, but rather in the prevailing opinion and the prevailing ethical presumptions of people in general. That is the situation that is allowed for under the present Act, and that is an excellent reason for allowing the Act to remain unchanged. The present law has run for only two years and I do not believe that that is a period long enough for proper evaluation. For this reason I oppose the second reading of the Bill. If it does go into Committee, there is, however, every chance that I will support one clause relating to conscientious objection and the onus of proof being placed on the medical practitioner involved. I would normally oppose the onus of proof being on the accused at any level of jurisprudence and, in the event of this Bill going into Committee, I will support that clause unless subsequent speakers can talk me out of it. However, my present intention is simply to oppose the second reading.

I conclude with one final point and refer to an article in the *Medical Journal* to which I have earlier referred, in which there are pertinent remarks relating to contraception, which is a topic not entirely irrelevant to that which we are discussing this afternoon. It states:

Failure to use contraceptives by 82 per cent of the 582 women is difficult to ignore. Forty per cent were not using any contraceptive technique when they conceived, and another 42 per cent had never taken any precaution to avoid pregnancy. A number of young women had been having regular sexual intercourse, but had not expected that they themselves could become pregnant.

We have much educating to do in the community. We must break down the social taboos and ignorances that have existed in the past. Abortion is something that is only a tenth best in this type of situation and it is something to be avoided at all costs. We have a responsibility not only as members of Parliament but also as a Government to provide far more contraceptive advice to the citizens of this State. In this way I hope that we can eventually eliminate abortion because it is so obviously undesirable. This is the way to eliminate abortion, not by an Act of Parliament.

Mr. BURDON (Mount Gambier): I support the second reading of the Bill as introduced by the member for Playford and indicate that I take the same stand as that which I took when the original Bill was first introduced to this House in 1969. The present Bill attempts to close some of the loopholes that have become apparent. Abortion has been practised over the years both legally and illegally and the amendments put forward by the member for Playford will set out guidelines as to the meaning of the Act in a much clearer manner than currently exists. Guidelines will be laid down regarding the termination of life and stronger guidelines on clinical matters will be available to the medical profession. I have said that my attitude to this Bill will be the same as my attitude to the legislation introduced in 1969 by the member for Mitcham, who was then the Attorney-General in the Hall Government. It was said that it was because of my religious beliefs that I opposed the legislation. I do not deny that that was correct, but I point out that my opposition to the legislation reflected my private views, too.

Of course, there will always be a continuing argument for and against this issue, which in the last two years has become an extremely emotional one in some sections of the community. I recognize that some of the views expressed by the member for Mawson are widely held, and I respect the right of people to express such views. The 1969 debate became emotional at times, and it will be tragic if this debate is conducted in a similar manner. We must bear in mind that several petitions have been presented in connection with this matter. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

OPTICAL LENSES (SAFETY) BILL

Dr. TONKIN (Bragg) obtained leave and introduced a Bill for an Act to prohibit the sale of optical lenses that do not conform to the prescribed standards of impact resistance. Read a first time.

Dr. TONKIN: I move:

That this Bill be now read a second time.

It seeks to introduce minimum standards of safety for the lenses of optically corrected spectacles and sunglasses and is similar to legislation that has been introduced and passed in many other parts of the world. Indeed, as

from December 31, 1971, all glasses and sunglasses in the United States must be made of impact-resistant lenses, except in special circumstances. With developing industrialization in our community, the need to provide protection from accidents that can occur at work has long been recognized. Machines have guards fitted wherever possible; protective clothing is worn where necessary; and, in occupations where flying pieces of metal or other material may be a hazard, protective goggles or some other form of eye protection are supplied. There has been no doubt that these measures have been instrumental in saving many people from serious injury, or loss of life, and that the eye protection measures have saved serious eye injury, and probable loss of sight. Members will know that a schedule of disability due to eye injury is an important part of the Workmen's Compensation Act and that a consideration of eye safety is an important section of industrial safety.

Following a period during which the need for eye protection was only slowly accepted by the worker (and it is regrettable that Australia's rate of industrial eye injury was 10 times higher than that in the United States and the United Kingdom some years ago) the wearing of eye protection is now accepted generally as being very necessary. Unfortunately, accidents still occur when protection is not worn for one reason or another. I regret to say that very often an excuse for not wearing protective goggles is found because it is too much trouble to put them on.

While many accidents can occur in industry, many other accidents, just as serious, can occur in the home and in recreational activities. Until recent years, one of the most common causes of eye injury was the domestic task of chopping wood, and I would repeat the warning commonly given, particularly during these times of fuel shortage, that people chopping wood, or splitting kindling, should wear protective goggles while doing so. Many other common injuries can occur in the course of the handyman's activities; for example, using a cold chisel or chipping concrete with a hammer, and even the simple process of driving a nail, can be potentially dangerous to vision. Rotary lawn mowers, though now well guarded to prevent flying stones, still, on occasions, cause injuries to eyes.

Children, too, are particularly susceptible to eye injury, and abuse of bows and arrows, sharp pointed scissors and other potentially dangerous articles should be discouraged. The throwing of stones, green fruit, and so on, can also cause blindness if the eye is struck forcibly. The severity of injury is significantly increased if the victims of the accidents are, at the time of the accident, wearing spectacles with lenses which are not impact-resistant. Untreated glass lenses tend to splinter, producing numbers of knife-sharp spicules of glass which can, and often do, penetrate the eye ball. These injuries frequently result in total loss of sight in one eye and sometimes partial loss of sight in the other eye. My medical colleagues and I have seen many examples of such injuries.

Dr. Arthur H. Keeney, Director of the Wills Eye Hospital and Research Institute in Philadelphia, has found that personal assault is a major cause of eye injury in this way. Thrown rocks are also responsible for a significant proportion, while sports injuries account for another significant number. In particular, golf and squash, because of the size of the ball involved, have caused serious injury and loss of sight resulting from shattered glasses. Road accidents may also cause similar injuries from shattered spectacle lenses.

A large proportion of the community wears glasses at some time and, indeed, most people over the age of 45 require glasses for close work and reading. Many people associated with industry have their corrective glasses made up in approved safety glass conforming to industrial standards of safety. Many spectacle lenses, too, are now being made in new materials of the plastic group, having the advantages of lightness, great strength and, of course, great safety. I have no doubt that further developments will provide even better materials as time goes on, and that the number of glass spectacles will diminish.

The fact remains, though, that large numbers of spectacles are still made in ordinary glass, glass that will splinter on impact and thus be a danger to the eye. Such lenses may be hardened by air cooling after heating them in a kiln after grinding. This is done after the glass is ground and prepared. Further developments indicate that an additional method using an acid treatment will have the same effect. Glasses so treated will not splinter but will crumble into usually quite large pieces without the razor-like edges of the untreated glass.

The ideal situation would be to require all lenses to be made up to industrial standards. However, this would be a costly process. To provide protection for those people who are prescribed glass lenses, such lenses should be required to comply with the standard of impact

resistance that would both act as a protection against minor injury and prevent secondary damage to the eye from spicules of breaking glass, when an accident occurs.

Clause 1 of the Bill is formal. Clause 2 covers self-explanatory definitions of selling spectacles and sunglasses, while clause 3 exempts certain glasses presently being used from the provisions of this Bill. In a few cases, it is impossible to harden certain corrected lenses because of their nature, and these may be exempt by the provisions of subclause (2). Clauses 4 and 5 provide the time from which it shall be required that spectacles and sunglasses shall conform to the prescribed standards. The additional 12-month period is allowed for the disposal of stocks of sunglasses with glass lenses that may be held by wholesalers and retailers.

These stocks are likely to be small, because most sunglasses are now manufactured from plastic materials (semi-rigid polycarbonate plastic or the rigid cast plastic, Columbian resin 39—CR39, for short). Clause 6 sets out details of the commonly accepted impact resistance test. The requirements of this test, which are less stringent than those required for industrial eye protection, are similar to those required in the United States, and accepted for general spectacle use when hardened lenses are ordered in Australia for non-industrial use. Honourable members will note that the measurements in the Bill are shown in metric terms so as to be in accordance with current practice. The test itself is a standard test and involves about half the height and weight of the ball drop of the full industrial test.

Clause 7 provides that the defendant in any proceedings shall be required to show that the lens prescribed conforms to the prescribed standard. Clause 8 provides that offences shall be disposed of summarily. I take this opportunity to thank members of the optical industry who have advised and helped me in preparing this Bill. I pay a tribute to the work of the firm of Sola, which is earning much needed money for Australia. We can be proud that this firm is based in South Australia. I also give my thanks to members of the firm of Optical Prescriptions Spectacle Makers Proprietary Limited, whose manager tragically died only today.

The Hon. L. J. KING secured the adjournment of the debate.

ADMINISTRATION AND PROBATE ACT AMENDMENT BILL

Mr. McANANEY (Heysen) obtained leave and introduced a Bill for an Act to amend the Administration and Probate Act, 1919-1972. Read a first time.

Mr. McANANEY: I move:

That this Bill be now read a second time.

It makes amendments to the Administration and Probate Act to increase the sums that may be paid by the Government to the widow of a deceased employee or by a bank to the widow of a deceased depositor, without production of probate or letters of administration. Clauses 1 and 2 are formal. Clause 3 amends section 71 of the principal Act, which authorizes the Treasurer to pay to the spouse of a deceased Government employee any sum not exceeding $1,200 owed to the deceased employee by the Government. This sum is increased by the Bill to $2,500, which is a more realistic sum now that the minimum amount on which a spouse can pay succession duties is $12,000 and it is possible to have an estate of $23,000 without paying any succession duties. A subclause is also included to give protection by providing that the Government can ask for any indemnity or protection in this way.

Clause 4 amends section 72 of the Act. This section provides that a bank may pay, without production of probate or letters of administration, to the spouse of a deceased depositor a sum not exceeding $1,200 standing to the credit of that depositor. By the Bill, this sum is now increased to $2,500. The bank can do this only if probate or letters of administration have not been taken out in the first three months. The legislation also provides that anyone who misses out on these provisions has a claim against the person equal to the claim that he would have if the sum were in the bank. I have known many cases where no probate duty has had to be paid, yet the widow has had to go to much expense in legal fees. The Government will take no risk in accepting these provisions and, at the same time, they will save widows much work and legal expense.

The Hon. L. J. KING secured the adjournment of the debate.

ROAD TRAFFIC ACT AMENDMENT BILL

The Hon. G. T. VIRGO (Minister of Roads and Transport) obtained leave and introduced a Bill for an Act to amend the Road Traffic Act, 1961-1971. Read a first time.

The Hon. G. T. VIRGO: I move:

That this Bill be now read a second time.

It seeks to give effect to some of the recommendations made by the Government Committee on Road Safety and to some of the decisions recently made by the Australian Transport Advisory Council. The Bill contains many of the proposals of the Bill previously introduced into Parliament earlier this year. However, it contains new amendments relating to axle weights for buses, and temporary parking zones. The amendments relating to drinking drivers have been left in temporary abeyance pending a report from a committee established by the Government for the purpose of considering the most effective methods of implementing the Government's policy in this area. It is expected that a Bill will be introduced later this year dealing with this important subject.

The Bill establishes a completely new approach in relation to the installation of traffic control devices. Members will recall that in the committee's report, which was circulated to all members, great emphasis was laid on the fact that a crash programme of installing traffic signals would have an immediate effect in the field of road safety. However, there has not, up to now, been what could be regarded as an entirely satisfactory response to the problem. The Bill vests the Road Traffic Board with overall responsibility for the installation of traffic control devices. It confers on the board the necessary powers to enable it, if necessary, to insist on the installation of traffic control devices in dangerous locations.

The Bill lays down the criteria on how cost is to be shared, not only in relation to the installation of traffic control devices but also in relation to the subsequent maintenance and operation costs and, if need be, the cost of removing traffic control devices. It also deals with pedestrian crossings, including school crossings. Accordingly, although in the past these have not been paid for by the Government, the same cost-sharing arrangement will in future apply to these crossings as applies to other kinds of traffic control devices.

The Bill provides that the Commissioner of Highways will meet two-thirds of the cost and that the remaining one-third of the cost will be met by the local government body concerned, on those roads over which the Commissioner has assumed responsibility. Where the care, control and management of a road is vested in the council and the Commissioner has not assumed responsibility for the road, the council will be required to pay the two-thirds and the Commissioner the one-third.

The Bill enables the Road Traffic Board to grant permits authorizing the holder of the permit to establish a temporary parking zone. This power is to be exercised only where it is in the pulblic interest to do so. The amendment arises from doubts and difficulties that have arisen regarding the legality of the practice of the Municipal Tramways Trust in establishing such parking zones for public convenience. There are other conceivable circumstances where the power to establish these zones would be necessary or useful. The Bill, which is sufficiently flexible to enable suitable action to be taken in these circumstances, at the same time provides reasonable safeguards to prevent a proliferation of temporary parking zones that might possibly lead to public confusion.

The power to exempt buses from the axle weight provisions of the principal Act will be exercised subject to strict safeguards contained in the Bill. Before a permit is granted, the Minister will consider reports on the desirability of the proposed exemption. If granted, the permit will define the route the vehicle is authorized to traverse in pursuance of the permit. Thus, road damage will be kept to a minimum. The M.T.T., which is expected to be the principal beneficiary under the amendment, will be required by a complementary amendment to the Highways Act to make an increased contribution to the Highways Fund to provide compensation for road damage.

The Bill also seeks to clarify several matters. In particular, it seeks to clarify the provisions relating to signalling. At present, the requirements are partly in the Act and partly in regulations. The Bill also makes provision to enable symbolic signs to be erected; this is in keeping with world trends.

There are also amendments to enable several of the more recent design rules approved by the Australian Transport Advisory Council to become effective, and provision is also made for the Road Traffic Board to exempt vehicles from compliance with various aspects of the design rules where the need can be adequately shown.

I now deal with the clauses of the Bill. Clauses 1 and 2 are formal. Clause 3 amends section 5 of the principal Act by providing a definition of "installation" and broadening the previous definition of "traffic control device". The term "installation", which is used in the principal Act, is consequential on the widened definition of "traffic control device" in section

5. The definition of "traffic control device" has been broadened to cover all those devices, signs and marks whereby the movement of traffic can be regulated or guided. Additionally, devices to regulate or guide the standing of vehicles are now classed as traffic control devices. Doubt has existed in the past in relation to the legal effect of parking bays and the use of special island kerbing at intersections to provide for one-way entry; the new definition overcomes this doubt.

Clause 4 repeals and re-enacts sections 16 to 19 of the principal Act. Section 16 provides a definition of those "authorities" empowered to install, maintain or operate traffic control devices, and this definition is applicable to all provisions of Part II of the principal Act. Section 17 provides the machinery whereby the authorities mentioned in section 16 may apply to the Road Traffic Board for approval to install, maintain, operate or remove traffic control devices, and provides a right of appeal against a decision of the board. This section is largely a consolidation of existing provisions. Section 18 is a new provision designed to implement the findings of the Committee of Inquiry into Road Safety. The Road Traffic Board (as the appropriate central authority) is vested with responsibility for the general oversight of traffic problems and is given the power to direct the installation, maintenance and operation of necessary traffic control devices. An authority to which a direction is given may appeal to the Minister on the grounds of financial hardship.

Section 19 concerns the manner in which costs shall be borne on the installation, maintenance and operation of traffic control devices, and provides for the sharing of the cost of traffic signals and pedestrian crossings (including pedestrian over-passes) between the Highways Department and councils on a two-thirds and one-third basis; the proportion to be borne by each authority is dependent on which body has the responsibility for the management of the road. The cost of other traffic control devices is to be borne by the authority installing, maintaining or operating the particular device. This new legislation does not, however, interfere with existing arrangements relating to traffic control devices within the area of the Corporation of the City of Adelaide.

Clause 5 repeals sections 21 and 22 of the principal Act, as the provisions of these sections are now covered by new section 17. Clause 6 amends section 23 of the principal Act by deleting subsection (1); the provision of pedestrian crossings is now dealt with under new section 17. Subsections (2) and (3) of section 23 are amended by deleting the references to the use of flags at pedestrian crossings; hand signs bearing the word "stop" are currently in use, and the amendment reflects this position. Clause 7 repeals sections 23a and 24 of the principal Act. The enactment of new section 17 will render these sections redundant. Clause 8 amends section 25 of the principal Act. This amendment is consequential on new section 19 (3) to ensure that the responsibility for maintenance is defined. Clauses 9 and 10 repeal sections 26, 27, 28, 29, 30 and 31a of the principal Act, and clause 11 amends section 32 by deleting subsections (3a), (3b), (3c), (3d) and (4), as the former requirements of these sections and subsections are now embodied in new section 17.

Clause 12 amends section 61 of the principal Act to enable incapacitated persons to operate motorized wheelchairs on footpaths. This is an amendment that all members will, I am sure, warmly support. Clause 13 repeals and re-enacts section 74 of the principal Act. The terms of the original enactment prescribed the duty of drivers to give signals when stopping, turning or diverging, and the method of giving those signals is laid down under regulation 6-01 of the principal Act. However, certain parts of the existing section 74 are regulatory in nature, and it is desirable that those subsections should be removed from the Act and transferred to the regulations in order to consolidate the regulatory details and specifications within the same area of legislation. The new section 74 now prescribes the obligations of drivers to give signals, and regulatory detail has been removed.

Clause 14 amends section 76 of the principal Act. This section at present prescribes the form of the signs prohibiting turns. However, symbolic signs of a regulatory nature are incorporated in the United Nations Convention on Road Signs, and their use will be progressively introduced throughout Australia. In order that those symbolic signs currently agreed to on a national basis may be legally installed in South Australia, amendment of the principal Act is necessary. Section 76 now permits the use of verbal signs only. Clause 15 amends section 82 of the principal Act. The amendment provides that, where it is in the public interest to do so, the board may grant a permit authorizing the establishment of temporary parking zones. Where such a zone is established and properly marked out,

it will be unlawful for anyone except an authorized person to park in the zone. Clause 16 repeals and re-enacts section 91 of the principal Act.

Following the sinking of a Murray River ferry at Wellington in 1969, the Commissioner of Highways set up a committee to report on legislative changes necessary to improve the safety of these craft. Arising from this investigation, it was found that at dual crossings problems arise in traffic control, as vehicles were not always loaded in strict order of arrival. It is difficult for the ferryman to exercise control over this matter from his position on the ferry, and provision has been made under the ferry lease agreements for the employment of an assistant ferryman to control this traffic movement. However, under the existing provision of the principal Act, a motor vehicle driver is required to obey only the directions of the person in charge of the ferry, and the proposed amendment extends the authority for traffic control to the assistant ferryman.

A further matter arising from the committee's report concerned the load limits applicable to Murray River ferries. The ferries are designed to carry an overall load of 48 tons under normal operating conditions; however, drivers of vehicles are not required under the Road Traffic Act to carry weighbridge notes and as a consequence the assessment of a vehicle's load is based on the operator's experience. New section 91 now provides that the driver shall inform the ferryman of the vehicle's laden weight or supply sufficient information to permit an estimation of that weight.

Clause 17 repeals certain sections and enacts new sections 136 and 137. The requirements for windscreen wipers and washers to ensure reasonable visibility through the windscreen are now covered by an Australian design rule for motor vehicle safety. The existing section 136 conflicts with the requirements of this Australian design rule, and it is essential that it be amended to permit the promulgation of regulations incorporating these requirements. The Australian design rules for motor vehicle safety also prescribe standards for the fitting of rear vision mirrors that are incompatible with the present requirements of existing section 137 of the principal Act. In order that South Australia can adopt the nationally accepted standard, it is necessary that new section 137 be enacted.

Clause 18 enacts new section 138b of the principal Act. There are many road-construction and earthmoving vehicles operated by various Government departments, local authorities and contractors which technically must comply with the provisions of sections 111-124 of the principal Act with respect to headlamps and rear lamps. The majority of these are not operated during the hours of darkness or periods of low visibility, and it is considered that it is unnecessary and uneconomical for them to be so fitted, as they would soon become covered by dirt, dust or mud and, in the case of certain equipment, for example, soil stabilizers, would soon work loose. If these vehicles were used in emergency situations (for example, flooding, land slides, falling trees) after sunset or during periods of low visibility, they would still be required to be fitted with the necessary lights. This could be achieved by the use of portable equipment. There are also instances where vehicles of a "special nature" should also be given an exemption (for example, fork lifts not equipped with electrical wiring, such as those used in conjunction with the handling of flammable liquids where insulation is costly). Under existing legislation the board has no power to grant exemptions from the fitting of this equipment and, to enable it to do so, where in the opinion of the board it is unnecessary to fit the equipment, amendment to the Act is necessary, and new section 138b incorporates these exempting powers and the provisions of section 137a of the principal Act, which is repealed by clause 32 of this Bill.

Clause 19 empowers the Minister, after consideration of reports from the Commissioner of Highways and the board, to grant a permit for the operation of a motor omnibus, notwithstanding that it does not comply with the axle-weight requirements. The permit must define the route on which the bus may be operated and may be subject to any other conditions or restrictions. Clause 20 amends section 160 of the principal Act. The existing section of the Act provides that only a member of the Police Force may issue a defect notice for a motor vehicle and approve the removal of such notice. The new section 160 allows for the appointment of inspectors to issue, and approve the removal of, such notices. Clause 21 amends section 161a of the principal Act. The existing provisions of section 161a require Road Traffic Board approval before a hovercraft can be driven on a road. With the construction of other special vehicles such as land yachts, it is necessary to broaden this control section to include these vehicles. The

amendment provides for regulations to be made to bring special classes of vehicle within the scope of this section.

Clause 22 repeals and re-enacts section 162a of the principal Act. It has been said in Parliament and by members of the public that the wording of existing section 162a of the principal Act is too complex and that the intent is not clear. From time to time, section 162a of the principal Act has been amended and there is now a need to consolidate the original section; new section 162a effects this consolidation. Clause 23 amends section 176 of the principal Act, as follows: (*a*) paragraph (*n*) is amended as a consequence of the provision of exempting powers in regard to lighting equipment on vehicles as detailed in clause 33 of this Bill; and (*b*) with the adoption by South Australia of regulations under the Road Traffic Act in accordance with design rules endorsed by the Australian Transport Advisory Council, it has been seen fit to allow the Road Traffic Board to exercise discretionary power to exempt certain vehicles from compliance with these rules.

The functions of the board as described in section 15 of the principal Act are mainly of an advisory nature, and the Crown Solicitor has indicated that under present circumstances this discretionary power could be construed as an authorized delegation of power. To eliminate this doubt, new subsection (4) of section 176 of the principal Act has been enacted.

Mr. WARDLE secured the adjournment of the debate.

TEXTILE PRODUCTS DESCRIPTION ACT AMENDMENT BILL

The Hon. D. H. McKEE (Minister of Labour and Industry) obtained leave and introduced a Bill for an Act to amend the Textile Products Description Act, 1953-1969. Read a first time.

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

That this Bill be now read a second time.

The need for this short Bill, which amends the Textile Products Description Act, 1953, as amended, arises from a view taken, in connection with certain proposed proceedings in another State, about the true meaning of the definition of "textile product" in section 4 of the Act.

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

The Hon. D. H. McKEE: For convenience I set out the definition in question in full:

> "textile product" means—
> (*a*) woven, knitted or felted materials manufactured from fibre;
> (*b*) tops, yarns, threads and lace;
> (*c*) articles of wearing apparel manufactured in whole or in part of such materials, but not including linings, interlinings or trimmings forming part of such articles;
> (*d*) carpets of all kinds;
> but does not include any article which is for the time being declared by regulation not to be a textile product for the purposes of this Act.

For a number of years the authorities administering the legislation, which is essentially similar in all States, have assumed that all articles manufactured of materials specified in paragraphs (*a*) and (*b*) of the definition were textile products within the meaning of the definition, unless specially exempted by regulation. In fact, some such articles have been exempted from the provisions of the Acts of all States on the basis that they fall within one or other limbs of the definition.

To put the matter beyond doubt the responsible Ministers in the States propose that a common amendment should be made to the definition contained in each relevant State Act. The amendment proposed is to remove the words "of wearing apparel" from paragraph (*c*) of the definition, and this amendment has been effected by clause 4 of this Bill.

Mr. CARNIE secured the adjournment of the debate.

INDUSTRIAL CODE AMENDMENT BILL

The Hon. D. H. McKEE (Minister of Labour and Industry) obtained leave and introduced a Bill for an Act to amend the Industrial Code, 1967-1972. Read a first time.

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

That this Bill be now read a second time.

There is perhaps little need for me to enlarge on the reasons why this Bill concerning shop trading hours is introduced, as the subject has been discussed exhaustively in each of the first two sessions of this Parliament. When a Bill to permit shops within the metropolitan area to open until 9 p.m. on Fridays was before the House in the last session, there appeared to be no objection to that proposal. Most of the debate related to the Government's view that, when shops were permitted to open on Friday nights for the convenience of the public, the extended shopping hours should not be applied in a way that would be detrimental to the working conditions of shop assistants. Shop assistants are one of the few groups of employees who still do not work their 40-hour week in five days, and it is in the Government's view only reasonable that they should get the benefit of the same working

conditions as day workers in other industries enjoy. The Government cannot accept that shop assistants should be regarded as second-class workers and be expected to work under conditions inferior to those of other employees. The means by which the ordinary hours of work of shop assistants were to be regulated was the point on which there was the disagreement between this House and another place in the last session that caused the Bill to be laid aside.

The Government now reintroduces this Bill in a somewhat amended form in an attempt to overcome the objections raised in the last session. Clauses 1 to 4 of the Bill that I now introduce are in substantially the same form as the relevant clauses of the Bill that was laid aside, but clause 5 provides for two alternative schemes for the working of the ordinary hours of work in addition to that included in that Bill. Once the decision is taken that Friday night shopping should be provided for, it is clearly necessary that the legislation should also concern the ordinary working hours of shop assistants. In the past, industrial tribunals have ruled that shop assistants should be required to work in ordinary time on the days on which the legislation authorizes shops to trade. Shop assistants have not been granted a five-day week until now because the law authorizes shops to open on five and a half days. It is, therefore, necessary to include in this Bill provisions relating to the ordinary working hours and conditions of shop assistants.

Let me now consider the Bill in some detail. Clause 1 is formal. Clause 2 provides for the Act proposed by the Bill to come into operation on a day to be fixed by proclamation. It is clearly desirable that some time should elapse between the passing of this measure and the formal introduction of the extended hours. This period will enable shopkeepers to make the appropriate arrangements for late night shopping and also, should they desire to do so, to make applications to the Industrial Commission as provided by the new sections enacted by clause 5. Clause 3 is intended to ensure that a place or yard used for the purposes of selling goods shall be a shop for the purposes of the principal Act. This is not altogether clear from the present context of the Act and it is intended to resolve a question that has arisen whether, say, secondhand car yards are shops.

Clause 4 amends section 221 of the principal Act, which deals with closing times for shops. The amendment proposed by paragraph (*a*) in effect provides that the present closing times shall apply in shopping districts outside the metropolitan area. Subsection (1*a*) proposed to be inserted by paragraph (*b*) of this clause provides that, in general, the closing hours for a shop situated within the metropolitan area will be 5.30 p.m. on week days other than a Friday, 9 p.m. on a Friday, and 12.30 p.m. on a Saturday. Subsection (1*b*) in this amendment provides, in effect, that butchers shops will close at 5.30 p.m. on every week day and 12.30 p.m. on Saturdays except that, where a butcher's shop is conducted in conjunction with any other sort of shop—say, as part of a supermarket—that supermarket, if it is situated in the metropolitan area, may remain open until 9 p.m. on a Friday so long as the part that is a butcher's shop is kept closed to the public between 5.30 p.m. and 9 p.m. on a Friday. It will be seen then that the closing hours for butchers shops operated exclusively as such are unchanged by this Bill. The amendments proposed by paragraphs (*c*) and (*d*) effect similar alterations to the closing hour of hairdressers shops, which in the ordinary course of events is 6 p.m. on week days.

Clause 5 proposes the insertion of a number of new sections in the principal Act and it may be convenient to deal with these in sequence. Section 221a is intended to cut down the rather wide definition of "shop assistant" in section 5 of the principal Act. The effect of this "cutting down" will be to restrict the application of the definition to the persons who are "shop assistants" in the popular sense of the term and who are employed in either a full-time capacity or a regular part-time capacity. Section 221b provides that "ordinary hours of work" of shop assistants will be worked only on the five week days and will cease at 5.30 p.m. on a Friday or, in the case of hairdressers, at 6 p.m. on a Friday. In its terms, this section does not apply to a shop assistant employed in an exempted shop. If the ordinary hours of work of a shop assistant are determined by reference to the scheme set out in this section, it follows that hours of work, after 5.30 p.m. on week days or on Saturdays, will be remunerated at overtime rates.

Sections 221c and 221d prescribe two alternative systems of determining "ordinary hours of work". Either system may be applied by the Industrial Commission (*a*) on the application of an employer of shop assistants; and (*b*) where the commission is satisfied that it is the "genuine desire" of the shop assistants concerned to have their hours determined by reference to the designated alternative system. Section 221c sets out in somewhat

modified form the proposal, discussed at the conference of managers of the Houses last session, for ordinary hours to be worked over a five-day week between Mondays and Saturdays inclusive, but in such a way that they will not exceed 80 hours in a fortnight. In that case a minimum of a 50 per cent penalty rate would be payable for all work done after 5.30 p.m. on a Friday and at any time on a Saturday. This will permit employers to operate under what has been described as the "roster system".

Section 221d provides for the time of cessation of the ordinary hours to be 5.30 p.m. on Mondays to Thursdays, and 9 p.m. on Fridays with a penalty rate of not less than 50 per cent applying to work done in ordinary time between 5.30 p.m. and 9 p.m. on Fridays. By implication, any work done on Saturday will be in overtime. Both sections 221c and 221d provide that in all cases 6 p.m., which is the present closing time of hairdressers shops, shall be substituted for 5.30 p.m. in respect of hairdressers. Section 221c provides for a postal ballot to be held where necessary to determine the "genuine desire" of the shop assistants concerned. Although this provision is, I feel, self-explanatory, I would draw the attention of members to subsection (4) of this section, which provides in effect that for the purposes of applications for the introduction of one of the alternative schemes the "genuine desire" of the shop assistants concerned will be that of a simple majority of the valid votes cast.

Section 221f provides that an order providing for either of the alternative schemes shall have a life of not less than two years but leaves the way clear for further or other applications on its expiry. To sum up, unless the Industrial Commission makes an order, the scheme set out in section 221b will be applied to determine the "ordinary hours of work" of shop assistants. If the Commission does make an order during the currency of that order, the appropriate alternative scheme will apply.

Dr. EASTICK secured the adjournment of the debate.

ADJOURNMENT

At 7.43 p.m. the House adjourned until Thursday, August 3, at 2 p.m.