HOUSE OF ASSEMBLY

Wednesday 7 February 1979

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

SOUTH AUSTRALIAN TIMBER CORPORATION BILL

His Excellency the Governor, by message, recommended to the House of Assembly the appropriation of such amounts of money as might be required for the purposes mentioned in the Bill.

APPEALS COST FUND BILL

His Excellency the Governor, by message, recommended to the House of Assembly the appropriation of such amounts of money as might be required for the purposes mentioned in the Bill.

PETITION: BLINMAN ROADS

A petition signed by 61 residents of South Australia praying that the House would urge the Government to upgrade and resurface roads in the Blinman area as a matter of urgency was presented by Mr. Gunn.

Petition received.

PETITION: MOUNT GAMBIER SEWERAGE

A petition signed by 868 electors of South Australia praying that the House would urge the Government to provide for the filtration and purification of Mount Gambier sewerage was presented by Mr. Allison.

Petition received.

PETITION: ABATTOIRS AREA

A petition signed by 946 residents of South Australia praying that the House would define in the Abattoirs and Pet Food Works Bill the central abattoirs area, and that the Barossa Valley area be excluded from that area or, alternatively, allow the Barossa Valley to be served by local slaughterhouses was presented by Mr. Goldsworthy.

Petition received.

PETITION: MARIJUANA

A petition signed by 91 residents of South Australia praying that the House would not pass legislation seeking to legalise marijuana was presented by Mr. Mathwin.

Petition received.

QUESTION

The SPEAKER: I direct that the following answer to a question be distributed and printed in *Hansard*.

PORT PIRIE LAND

In reply to **Mr. VENNING** (23 November 1978).

The Hon. D. A. DUNSTAN: With reference to your question in the House on 23 November 1978 concerning Port Pirie land, I advise that at present there are no definite proposals for land use on the eastern side of the Port Pirie River. In October last year the Director, Commercial, and the Marketing Officer of the Department of Marine and Harbors visited Port Pirie and discussed the matter with representatives of the Port Pirie council, Broken Hill Associated Smelters Pty. Ltd., and the Chamber of Commerce. You can be assured that the potential of the area will be promoted whenever possible and every endeavour will be made to ensure the proper utilisation of the land available.

MINISTERIAL STATEMENT: QUESTION ON NOTICE

The Hon. D. A. DUNSTAN (Premier and Treasurer): I seek leave to make a statement.

Leave granted.

The Hon. D. A. DUNSTAN: The member for Mitcham asked Question on Notice No. 804, and it was answered: a following Question on Notice No. 978, was then asked. I am informed that the reply given to question No. 978 was given in error. The officers responsible have brought to my attention that the information that they gave to the Government to reply to that question was incorrect, and I therefore give the correct reply to that question now.

Mr. Millhouse: Perhaps you could read out the question.

The SPEAKER: Order! The honourable member is out of order.

The Hon. D. A. DUNSTAN: Well, if the honourable member does not remember his own question, I find it very difficult. The question is shown on the Notice Paper.

Mr. Millhouse: It will not be on the Notice Paper today. That question was asked yesterday.

The Hon. D. A. DUNSTAN: Question 1 was: What are the terms of reference of the inter-government committee of Commonwealth and State officers referred to in answer to question No. 804? The answer is:

1. The Terms of Reference given to and adopted by the Advisory Committee were:

(i) forecast total aircraft movements, domestic and international, expected to require access to Adelaide's airline airport facilities, differentiating between regular public transport and general aviation movements and taking into account Adelaide's anticipated population growth;

(ii) examine existing airports and possible alternatives or additional sites with a view to their use as airline airports, having regard to air safety, environment and conservation, acceptable land use in nearby areas and the need to permanently avoid undue noise nuisance, land acquisition and airport construction costs, surface access construction costs, other aviation industry and client costs including costs of surface transport to and from the airports, and social costs (or assessment) of any residual noise nuisance and of building height restrictions made necessary by the airport operations;

(iii) in the light of those requirements and the alternative means of satisfying them, what should be the respective roles of the existing Adelaide Airport and any alternative airports, and what are the appropriate development programmes for Adelaide's airline airport facilities and supporting surface access and engineering services?;

(iv) complementary to those airport recommendations,

what nearby land use zoning or other appropriate action should be taken to preserve or improve compatibility between the airports and their neighbours?

Question 2 was: who are the members of that committee? The answer is:

2. The membership of the committee presenting the report is:

Mr. J. W. E. Huggett, Commonwealth Department of Transport (Chairman);

Mr. R. K. Purdam, Commonwealth Department of Construction;

Air Commodore K. Tongue, Commonwealth Department of Defence (Air);

Mr. A. Tsipouras, Commonwealth Department of Environment, Housing and Community Development;

Mr. P. W. Cleary, Commonwealth Department of Administrative Services;

Mr. J. R. Rae, Commonwealth Department of Finance;

Mr. D. A. Speechley, South Australian Department of Housing, Urban and Regional Affairs and representing South Australian Department for the Environment;

Mr. J. W. Hutchinson, South Australian Department of Transport;

Mr. R. Beverley, South Australian Highways Department;

Mr. C. W. Branson, South Australian State Planning Authority;

Cr. D. J. Wells, West Torrens City Council;

Mr. R. G. Lewis, Representing Glenelg City Council

Question 3: When was it set up? The reply is: 1973.

Question 4: To whom is it to report? The reply is:

Commonwealth and State Ministers of Transport.

Question 5: Has it yet reported, etc.? The reply is:

The committee has reported. The report is receiving consideration.

Question 6: If the committee has not yet reported, etc. etc. etc.? The reply is: See answer to question 5.

MINISTERIAL STATEMENT: D. SCHOENEBERG

The Hon. D. W. SIMMONS (Chief Secretary): I seek leave to make a statement.

Leave granted.

The Hon. D. W. SIMMONS: I wish to report to the Parliament on the matter of deportation of a parolee last year. Recently, various media reports in South Australia and New South Wales have referred to the deportation of South Australian parolee Detlef Schoeneberg in June last year, as a "bungle". It was no bungle. That deportation was one of many such deportations that are carried out in similar cases by the Department of Immigration, not by the Parole Board, as stated yesterday in some editions of the *News*.

Various offences, including indecent assault, for which Schoeneberg was gaoled, fall into the category of rendering an offender, who is an immigrant, liable for deportation. Detlef Schoeneberg was a West German and, in the case of his deportation, all the usual and required procedures ruling in the case were followed. I have obtained a detailed report from the Secretary of the Parole Board and it reads as follows:

Sequence of events:

On 27 February 1978, Schoeneberg lodged application for probationary release. Prison records showed that he was under notice for possible deportation. Routine check with the Warrants Branch resulted in advice that there were no outstanding warrants. Routine check was made with the Department of Immigration and Ethnic Affairs, and advice was received that no Ministerial decision had been made at that time but it was thought that deportation was likely on release, whether it be on parole or completion of sentence.

On 24 April the Parole Board deferred Schoeneberg's case for further information. On 27 April Schoeneberg's parole officer was advised that Immigration Department had advised me that the New South Wales police wished to extradite Schoeneberg because he had skipped bail on 14 December 1976, when he was to have appeared in court charged with indecent assault of a male and indecent assault, and it was also reported that Schoeneberg was to face charges for indecent assault of a boy in New Zealand in 1975 and he was on bail when he left that country but in this case extradition was unlikely. The parole officer was requested to obtain verification of these matters.

The parole officer reported on 2 May that New South Wales intended extraditing Schoeneberg at the completion of sentence being served in Adelaide, that a warrant had been issued, and that the New Zealand police were considering extradition when Schoeneberg had fulfilled his obligations in New South Wales. On 22 May, I checked with the Warrants Branch at Police Headquarters and was advised that they had no record of a warrant for Schoeneberg's extradition having been issued but that they would investigate the matter. Warrants Branch subsequently advised that New South Wales would issue extradition warrant only when release was imminent.

On 29 May the Parole Board decided to release Schoeneberg on parole to permit his extradition to proceed to New South Wales. At this time it was believed that New South Wales were going to issue warrants for extradition, probably on 2 June.

When the parole officer advised the N.S.W. police of the Parole Board decision and of the Immigration Department's decision to definitely deport Schoeneberg eventually, he was requested to advise the detective sergeant concerned when Schoeneberg had been deported. South Australian Police Warrants Section confirmed that no extradition warrant had been issued for Schoeneberg.

The matter was then discussed with an officer of the Department of Immigration and Ethnic Affairs who telephoned the N.S.W. police and confirmed that the N.S.W. police had decided not to extradite Schoeneberg in view of the decision to deport him. Arrangements were then finalised for Schoeneberg's release on parole on 22 June 1978, and for Commonwealth Police to be in attendance to take him into custody for deportation.

When the Parole Board made the decision to release Schoeneberg initially for extradition to New South Wales and subsequently for deportation in view of absence of extradition warrant, they had knowledge that he wished to return to West Germany and that the German Consulate General in Melbourne had offered to assist him in gaining employment and in supervising his treatment programme when he returned to West Germany.

I believe that the full statement of events relating to the release and deportation of Schoeneberg shows that there was no bungle, that the South Australian Parole Board and its officers acted quite properly, and that the decision not to extradite him to New South Wales was made in that State. In view of the fact that the New South Wales authorities knew that the country was due to be rid of an undesirable visitor, I do not feel disposed to criticise any decision made by them, and still less to describe it as a bungle.

This matter was first raised with my Press Secretary about noon on Monday, when I was busy on Cabinet business. As the incident occurred when I was overseas

last year I could not have had any knowledge of it, but I asked for a report, which I received after the Cabinet meeting ended, and made an immediate press release. I understand that channel 9 made no reference to the facts in their 6.30 p.m. news service, merely saying that Don Simmons, at Cabinet "couldn't drag himself away for five minutes", while the *News* still persisted with banner headlines of "Parole Bungle" on page one of yesterday's editions. One wonders at the motives and integrity of some sections of the media.

QUESTION TIME

URANIUM

Mr. TONKIN: In view of the continuing ban on uranium announced by the Premier in this Parliament yesterday, can he say what new projects the Government has under investigation to replace the urgently needed economic and industrial development and jobs that will now go to the other States, with the loss of a uranium industry to South Australia? Although the Premier yesterday tried to play down the magnitude of the loss of employment and investment to South Australia as a result of the Government's continued ban on uranium, he did not deny that that loss was occurring and that potential jobs and investment would be lost to this State because of the Government's attitude. The people of South Australia are now vitally concerned to know what new projects and plans the Government has to stimulate industrial development and to create urgently needed jobs in this State.

The Hon. D. A. DUNSTAN: I will be making an announcement tomorrow in relation to some developments in South Australia, but the Leader is as usual mistaken, and he has misinformed himself, as he is wont to do. The Government has not said that there will be no uranium development in South Australia. What we have said is that, before any commitment is made for expenditure in actual supply in uranium, it will be necessary for conditions of safety to be met in respect of customer countries. The Leader must be well aware, if he has done any homework at all (and sometimes I doubt that he does any), that the lead time for the development of the uranium resource at Roxby Downs is variously stated at from six to eight years. What we have been urged by countries overseas involved in the nuclear fuel cycle is that South Australia should define closely the conditions that must be met for safety in customer countries by any development in the uranium industry. I have discussed those matters with Urenco-Centec, which sees no insuperable obstacle to such a course.

Mr. Tonkin: This is a change of heart.

The Hon. D. A. DUNSTAN: There is no change of heart at all. What I said clearly yesterday (and the Leader obviously did not listen) was that the advisable course for South Australia is to define closely the safety requirements in customer countries. That will make clear what the uranium industry has to meet. If it is clear on what it has to meet, there is no reason why it cannot step out its ore body and make its feasibility studies, subject to its being able to establish the same standards as were demanded in Sweden, and those are standards of absolute safety.

Mr. Tonkin: This is incredible!

The Hon. D. A. DUNSTAN: The Leader of course always finds anything that is unpalatable to him incredible.

The SPEAKER: Order! I do not intend to allow any interjections during Question Time, which is an important time for all members. Interjections must cease.

The Hon. D. A. DUNSTAN: I pointed out yesterday that the Leader was at variance with his Federal Leader, who has said quite clearly in the statement of policy of the Federal Liberal Government that safeguards requirements must come first. What we say in South Australia is that safeguards requirements must come first but that, in fact, the safeguard requirements in the present Federal model agreement are insufficient, and therefore we have to spell out the extras that are required. That will make clear to the uranium industry what has to be met and, in these circumstances, the uranium industry will know clearly what its course ahead is. Now, if the Leader thinks that this means leaving uranium in the ground, all I can say is that this is not what the industry believes. But if he wants to convince himself of that, no doubt he will do it as he has on a number of other things that he has tried to sell to the South Australian public with an equal lack of success.

REDCLIFF PROJECT

Mr. KENEALLY: Is the Premier able to advise the House of the present position regarding negotiations of the Redcliff petro-chemical plant? My question is prompted not only by the great interest of this House and the people of South Australia about the negotiations, but also by a statement made to the Port Pirie *Recorder* (as reported in the 2 February edition) by the Leader of the Opposition, about which statement a comment was made in the editorial. The statement was as follows:

> The State Opposition Leader, Mr. David Tonkin, told the *Recorder* yesterday that the South Australian Government has already jeopardised the petro-chemical plant by not going ahead with it in 1974. "Now, we are seeing the telling effects of that decision," he said.

The editorial stated:

> It is indeed unfortunate that when the original Redcliff complex was suggested in the early 1970's the State Labor Government had not been more practical and receptive to the idea. Initially, construction was to have begun in 1974—now it may never be seen, thanks to the bureacracies:

Of course, that statement is in common with many other statements made by the Leader recently.

The SPEAKER: Order! The honourable member is now out of order.

The Hon. D. A. DUNSTAN: The statement by the Leader of the Opposition is one of his fantasies. The initial announcement concerning the Redcliff petro-chemical project was made by me. I said, and I was quite right, that we had a letter of intent for the construction of the petro-chemical plant at Redcliff, and I was bitterly attacked by the Opposition on that score. During the time that we then developed the proposals for the project, the State Government gave the utmost support to the project at all times.

There was never a stage at any time when the South Australian Government was in any way non-receptive to the idea of the petro-chemical plant at Redcliff. In fact, the whole basis on which the Government decided that it would sell dry gas to New South Wales was to enable the economics to occur for the use of the liquids from the Cooper Basin in a petro-chemical plant in the north of the State. The Leader knows that the statement he made that in some way the South Australian Government was non-receptive to the petro-chemical plant at Redcliff is completely untrue.

Mr. Tonkin: I don't.

The Hon. D. A. DUNSTAN: It is reported in the Port Pirie *Recorder*, and I do not know whether the Leader is going to get up and say he was misreported.

Mr. Tonkin: No.

The Hon. G. R. Broomhill: He wants 20c each way.

The SPEAKER: Order! The honourable member for Henely Beach is out of order.

The Hon. D. A. DUNSTAN: If the Leader was not misreported, all I can say is that either he is living in a fantasy world or that he is imbued with the greatest mendacity.

Mr. Tonkin: Your statement was untrue.

The SPEAKER: Order!

The Hon. D. A. DUNSTAN: The position is that the South Australian Government has constantly supported the Redcliff petro-chemical project. In fact, it was the South Australian Government which was then involved in a joint study with a consortium to develop the Redcliff petro-chemical project, and it was in no way the South Australian Government's fault that that consortium chose to withdraw from the project in 1975.

Since then the South Australian Government has pursued the project, and we now have joint studies with Dow. The only reason that the project has been held up to this date is that, although the project was placed before the present Federal Government for the approval of that Government for borrowing powers of the project, the Federal Government constantly postponed a decision. We had a full study available for Loan Council early last year. The Federal Ministers, other than the Prime Minister, supported an immediate grant of the moneys by Loan Council. At the Loan Council meeting of June last year the Deputy Prime Minister said that it was vital then, at that Loan Council meeting, that approval be given for borrowing powers. The Prime Minister refused, and held it up.

It was the Prime Minister who, in fact, for over six months delayed the approval proposed by his own Ministers and by the Deputy Prime Minister. How the Leader can then have the temerity to say that somehow or other it is the South Australian Government that is being unreceptive to the petro-chemical project makes me wonder whether he has any appreciation of the fact that he is actually living in South Australia, because most of the time it seems to me that he is in cloud cuckooland.

URANIUM

Mr. GOLDSWORTHY: Following the Premier's statements yesterday, when he suggested that conditions satisfactory to him and the Labor Party as to the safety of uranium mining and supply may never be met, can he say whether the Government still intends to allow exploration for uranium and to provide funds for futher investigation into uranium technology, as it has done during the ban of nearly two years? The Premier's uncompromising stand of yesterday appears to have been modified in his answer to the Leader's question. The Premier said yesterday that the position in relation to the handling of wastes was quite unsatisfactory, that Sweden was fortunate in having some granitic rock in which it could place the vitrified mass, that other countries were not in that situation, and that France was storing its waste under the floor and that that is a completely untenable and unsatisfactory situation, and the Premier could see no solution to this problem.

The Hon. D. A. Dunstan: I didn't say that.

The SPEAKER: Order! The honourable Premier will have an opportunity to reply.

Mr. GOLDSWORTHY: I do not think anyone in this House or the people of South Australia would have any doubt whatsoever about the stance the Premier was taking. The Premier said that if this material had any chance of escaping to the biosphere it could cause cancer and leukaemia and the whole future of mankind would be threatened, and he would not accept that. He had to be absolutely sure that the situation would be remedied. I believe the stance has changed today.

The SPEAKER: Order! The honourable member is now commenting; I want him to stick to his question.

Mr. GOLDSWORTHY: In view of the uncompromising stance taken by the Premier yesterday, is there any sense in continuing with the uranium enrichment committee and with talks with uranium companies, or in spending money on exploration?

The Hon. D. A. DUNSTAN: As he is wont to do, the honourable member in his question deliberately attributed words to me which I did not utter and I challenge him to produce them. It is his common form. It does not matter what the truth is, the honourable member is prepared to make up something and then allege it.

Mr. Goldsworthy interjecting:

The SPEAKER: Order! The Deputy Leader has asked his question.

The Hon. D. A. DUNSTAN: I have stated that the present situation in relation to waste disposal is not satisfactory. The present situation regarding international control of dangerous material of highly enriched uranium and plutonium cannot be said to be satisfactory and is said not to be satisfactory by Australia's own ambassador at large in this area. Until those conditions can be met it is not safe for South Australia to proceed, and the course that we should adopt is the course that Sweden took, namely, that the conditions of absolute safety must be laid down before commercial commitments are made. I did not say that commercial commitments would never be made or that the safety provisions would never be met. I said quite specifically that it has never been the policy of the Labor Party, and it is not, that uranium is left in the ground forever. Our position is that uranium may not be mined or developed until it is safe, and that is what the honourable member voted for in this House.

The position is that we believe that it is proper for us to step out the exploration of our uranium supplies, to proceed with our uranium studies to keep up with the technology in which we are ahead of the rest of Australia, but to ensure that no commercial commitment is made until the necessary preconditions are met. That happens to be clear to the uranium industry to which I have talked and which is unable to understand some of the things that have been said in some newspapers, and completely unable to understand what the Leader of the Opposition is carrying on about.

Mr. Goldsworthy: France will have to find its granite.

The SPEAKER: Order! I call the honourable Deputy Leader to order.

NEIGHBOURHOOD CARE PROJECT

Mr. HEMMINGS: Can the Minister of Community Welfare give the House a progress report on the Intensive Neighbourhood Care scheme for young offenders which he announced last year? I noticed recently a number of advertisements for Intensive Neighbourhood Care parents, and I would be interested to know what has been the response from the community to the advertisements.

The Hon. R. G. PAYNE: Yes, I can give a report. A satisfactory response has been received to the publicity and advertising carried out by my department in relation to the Intensive Neighbourhood Care scheme. More than 200 inquiries have been received by the department

throughout the metropolitan area generally, and at least 20 applications have been processed to the stage where those families are currently going through what follows the selection process. Four families are attending a training programme at present in the northern metropolitan area. When I announced this scheme, or it could have been in answer to a question from the member for Glenelg, I said that we envisaged there would be a requirement, at least in the early stages, of up to 50 homes, speaking of them as individual placements in individual homes in the metropolitan area in terms of remand requirements, and up to 40 for longer-term care. That gives some idea of the size of the scheme as envisaged at this stage.

We have had 200 inquiries and we have commenced training programmes in the northern area. I stress to the House, particularly for the benefit of the member for Glenelg, that no placements will be made under the scheme until families have satisfactorily completed their training programme. In addition, I remind the honourable member that the placement will require the approval of the Juvenile Court.

URANIUM

Mr. RODDA: Will the Premier now table all the documents and reports relating to uranium mining and enrichment in South Australia, including the original version of the third interim report of the Uranium Enrichment Committee, as well as the revised version, all departmental working party reports, project papers, feasibility studies and recommendations that have been prepared?

The Premier said yesterday that he would table within two weeks, all documents relating to his recent overseas investigation. It will be of major interest to the House, and the people of South Australia, to have available for their study the third interim report of the U.R.C. in its original version and in its revised version, all the papers and reports of the working parties, together with feasibility studies. I would also like to see the Premier's proposals, to which he referred this afternoon, for the stepping out of the areas of the uranium resources in this State.

The Hon. D. A. DUNSTAN: I expect some time next week to publish and table in the House the third and final report of the Uranium Enrichment Committee. I do not propose to publish various drafts of that report, because the committee itself does not stand by drafts, but stands by the final report, and that is what will be tabled in the House. As a result of discussions with Urenco-Centec in Europe, there will also have to be a document which modifies some of the things in that report, because Urenco-Centec now informs us that the market prospects are not as good as the report states.

Mr. Tonkin: It is two years old, isn't it?

The Hon. D. A. DUNSTAN: No, the final third report was given to me in December last. The members of the committee agreed that what was in some of the original drafts was incorrect and they do not now stand by them. Therefore, the Government does not propose to table working documents which have been proved to be incorrect. We will publish the final third report with the comments which have been made and gleaned by Mr. Dickinson as a result of his conversations with Urenco-Centec in Europe.

I will publish the reports made to me by officers of the policy secretariat and the Mines Department in relation to the safe members of waste disposal and international safeguards, together with the agreed report amongst all members of the party who went with me to Europe, which modified those documents by the findings we made of fact in Europe.

PERSONALISED NUMBER PLATES

Mr. WHITTEN: Can the Minister of Transport provide any information regarding the new personalised number plates issued recently? Can he say how many of these plates have been purchased, and how the quality of the material in them compares with that in the conventional type of plate? How many people have taken advantage of the offer the Minister made that purchasers who were not satisfied with personalised number plates could have their money refunded? The City-State edition of today's *News* contains a letter from Mr. T. J. Cass, of West Lakes—evidently a disgruntled gentleman, who makes the point that several people have not been satisfied with the product. Apparently he is quite satisfied with the personalised number plates and is pleased to have them, but he casts reflections on the quality of the plates. Will the Minister comment?

The Hon. G. T. VIRGO: Although there was some hoo-hah last week, as usual we find that if one beats a big drum it makes a tremendous amount of noise, but there is not much substance in it. I was thinking of the Opposition at the time, too. All of the 1 400 new plates issued, including mine, have been paid for at the rate of $50, and they were cheap at that.

Mr. Dean Brown: I think they were junk.

The Hon. G. T. VIRGO: That is the type of stupid, infantile comment one would expect from the member for Davenport, and typical of him. Of that number, 13 plates from 10 different purchasers have been returned. So that members are not misled, let me say, reading from the list that I have here, that one organisation, which had bought three plates for three vehicles, returned them, not because of the quality but because at a later stage it did not like the three-number and three-letter combination, although the organisation had selected it. One wonders why they did not then like it.

Another gentleman and his wife, from the general area where the member for Glenelg lives, did not like the overall look and the colour of the plates. As these were on display before the order was placed, one wonders why they were found not suitable at a later date. One person found that he could not fit the plate on his car because the recess provided was smaller than the number plate, so he returned the plate. Another person did not take them, because he had ordered them in anticipation of buying a new car, but had decided not to buy a new car.

The last person I will mention did not like the colour of the plates. Four plates out of 1 400 were returned because it was claimed that the plates were warped. One person complained that the four holes drilled in the plates were not in the right place. We have had a storm in a teacup. I think that the plates have gone over well, and I believe their value will be shown later, when the funds involved can be used for specific and worthwhile purposes.

URANIUM

Mr. EVANS: Can the Premier say what was the evidence given him by his officers last year which led him to undertake his hurried trip overseas to investigate the advances in the handling of uranium waste, and in what way was that information incorrect? The Premier's statements before and during his visit overseas were widely interpreted as indicating a reversal of the Government's ban on uranium. He said he was given

information by his departmental officers, which, after consideration during the Christmas break, convinced him he must go overseas to investigate and check their submissions. In view of the outcome confirmed yesterday by the Premier, what was the nature of the evidence given to him, and in what way was it incorrect?

The Hon. D. A. DUNSTAN: No incorrect evidence was given to me by officers. Officers gave me information which showed that there might well have developed a process by which high-level active wastes could be safely disposed of. The question of how widespread the application of that was, was something that needed to be investigated, and I went for that purpose, and came to conclusions. As to the information given me by officers, I have said that I will table it in Parliament next week.

GENERAL MOTORS-HOLDEN'S

Mr. ABBOTT: Will the Premier give the House any additional information on the proposed General Motors-Holden's announcement about expanding its operations throughout Australia and indicate what benefit in employment this will be to South Australia, in particular?

The Hon. D. A. DUNSTAN: Mr. Chapman has already announced that there will be a number of extra jobs in South Australia (and that is reported in today's *News*). The G.M.H. plants have engaged an additional 600 employees in the last six months of 1978. They have already taken on another 180 this year, and that will reach a figure of 680 extra during the first six months of this year. The position as to reorganisation within the plant will mean that the Statesman and Caprice lines are transferred from Pagewood, in New South Wales, to South Australia. In addition, in the reorganisation that will be taking place and in the rationalisation of G.M.H. products on the basis of its seeking a world-scale engine production activity with complementation activities through world product, I have been informed by Mr. Chapman that the plastics component, which is a considerable component, will be sited in South Australia.

The Government has agreed with General Motors that, in relation to components manufacture, there will be a joint operation between the Government, General Motors, and components manufacturers in order to seek that components manufacturers in South Australia can get the maximum benefit from these proposals of G.M.H.

URANIUM

Mr. DEAN BROWN: Can the Premier say what preconditions will have to be met by customer countries for uranium from South Australia; who has drafted these preconditions for the South Australian Government; when will they be available for public scrutiny; and who will police the preconditions for the South Australian Government once uranium exports commence? So far this afternoon, the Premier has been dogmatic that the South Australian Government would lay down preconditions before any uranium could be mined in or exported from South Australia, and that it would be up to the customer countries and the mining companies involved to ensure that those preconditions were met (that is my understanding of what the Premier said). I read with interest from the *Hansard* pull before me what the Premier indicated to the House yesterday, and I have been trying to match that up with what the Premier has indicated today. Yesterday, the Premier said:

> Regarding the Brazilian Government, having a look at the recent history of South America and at what has happened in that country, the amount of assurance that can be given to the world about the safety of having plutonium in the hands of people of that kind, I think is nil.

He went on to say:

> We found, amongst all the countries that we visited, a belief, an expressed view, that it was desirable to have an international control system on plutonium. We also found that there was no design of such a system on the ground at all; they have not even begun to talk about it.

As no safeguards can ever be obtained from an area like South America, in the Premier's own words, it is obvious from those two statements that the Premier believes there should be an indefinite ban on the mining and export of uranium. That is quite clear from what the Premier argued yesterday.

The SPEAKER: Order! The honorable member should not comment.

Mr. DEAN BROWN: I am trying to match the comments made by the Premier yesterday with those that he has made today.

The SPEAKER: The honourable member has been making his own comments as well.

Mr. DEAN BROWN: There is confusion in the minds of the public as to where the Premier really stands on this issue. I ask him, therefore to come out and clearly indicate what the preconditions are that he has been talking about today but did not mention yesterday.

The Hon. D. A. DUNSTAN: I have said that I believe we must set out in detail the preconditions. At this stage of proceedings I do not suggest for one moment that they have been drafted, and I do not suggest that the drafting of them will take a short time. It will take some time.

Mr. Dean Brown: How long?

The SPEAKER: Order ! The honourable member has asked his question.

The Hon. D. A. DUNSTAN: I do not suggest that the preconditions have been drafted yesterday. The lead times in operations of this kind are quite considerable; the International Fuel Cycle Evaluation talks will bear upon them, and they will not finish for one year, but work within the kind of proposals that are being put to the International Fuel Cycle Evaluation talks will, of course, be taken into account in the drafting of any preconditions. I believe that this will take quite some months of work, and that is work that we should be getting on with. The Conditions Law in Sweden—

Mr. Dean Brown: Who—

The SPEAKER: Order! The honourable member has asked his question, and he was heard in silence.

The Hon. D. A. DUNSTAN: The Conditions Law in Sweden was not prepared overnight but was done carefully and properly. For the honourable member to suggest that the Government does not believe that we can ever supply anyone because we do not believe supply to Brazil is safe is, of course, to talk absolute nonsense, but that is his wont: that is what he usually says. There are countries in the world that I believe will be able to make the preconditions in due season, but countries with unstable governments which have not signed the Nuclear Non-proliferation Treaty would certainly not meet the bill.

I point out to the honourable member that apparently he is not aware of his own Party's Federal policy, which policy is that there should be no supply to any country that has not signed the Nuclear Non-proliferation Treaty, so the Federal Government does not propose to supply any uranium to Brazil.

Members interjecting:

The SPEAKER: Order! I have already spoken to the Deputy Leader of the Opposition. I now call him to order.

The Hon. D. A. DUNSTAN: I suggest seriously to the

honourable member for Davenport that he and his Leader and Deputy Leader go away and do a little homework, because their ignorance on this topic is so obvious and profound that they constantly make fools of themselves before this House and the public.

RODEOS

The Hon. G. R. BROOMHILL: Will the Chief Secretary examine recent claims made by the Royal Society for the Prevention of Cruelty to Animals that rodeos should be banned in South Australia? The society claims that the use of flank straps and other gear involved in this activity is cruel to the animals involved. I point out that those people who, like some members opposite, support rodeos do not think that they do cause cruelty to the animals involved. As it is difficult for members to make a judgment about the matter, I ask the Chief Secretary whether he will have his officers investigate the matter so that he may supply us with the truth of the matter about the claims being made.

The Hon. D. W. SIMMONS: I shall be delighted to obtain a report for the honourable member. This matter was discussed on television a week or so ago and conflicting claims were made about whether or not this was a cruel practice. I wonder whether I should ask the Minister of Health to get a report about what the effect is likely to be on the people who take part in rodeos, because it seems to me that they are building up untold physical harm to themselves. I guess that is their worry, whereas the animals have no choice in the matter.

BREEDER REACTORS

Mr. BLACKER: While on his recent overseas trip, did the Premier find evidence to suggest that restriction on the supply of uranium would hasten the development and proliferation of fast breeder reactors? If not, what reasons have been given for the development of the fast breeder reactors to this time? I was pleased to hear the Premier's comments about the dangers of fast breeder reactors. It is generally recognised that the dangers of nuclear reactors fade into relative insignificance when compared with the danger of fast breeder reactors. With a world energy crisis, nuclear power will inevitably be used, but the development of fast breeder reactors must be delayed for as long as is humanly possible, if not for all time. With provisos, I can tolerate nuclear reactors, but I fear like the devil fast breeder reactors.

The Hon. D. A. DUNSTAN: Fast breeder reactors are being developed. There is no question of their development, because fast breeder reactors are being developed in France. I saw the pilot plant, the Phoenix plant, near Niems in France, and that is simply the precursor of the plant which the French call "super-Phoenix". That will be developed completely regardless of what is done about uranium supply. It has already been undertaken. We, I believe, are in little situation to be able to influence France's course in this.

Mr. Millhouse: Who can influence France's course on anything?

The Hon. D. A. DUNSTAN: Not too many people: that is quite right. The course being followed by France is of great concern to other countries in Europe and elsewhere in the world. That does not mean that, in those countries that we can influence, we should do nothing about imposing conditions. We were urged by officials in other countries (certainly not in France) that the course of caution and provision of preconditions was the only safe and proper way for suppliers to proceed. I believe that that is right. I appreciate the honourable member's posing of the dilemma, that, if the preconditions were made too hard, it might be that people started going for fast breeder reactors the sooner. I appreciate that difficulty, but I do not believe, from what I saw in Europe, that that is a reason for us to give away the kind of caution and precondition that we are endeavouring to set. Given the kind of assured supplies of which Australia has possession, it is clear that there are countries in the world that would want to endeavour to meet conditions that we might properly impose.

The imposition and acceptance of those conditions can then be an influence upon the remainder of the nuclear fuel cycle elsewhere. I believe that is the only safe and the only responsible course to take.

CLUB LICENCES

Mr. SLATER: Will the Attorney-General say whether consideration can be given to amendments to section 67 of the Licensing Act, which section relates to club permits? Section 67 (11) of the Licensing Act, provides that the gross amount realised upon the sale of liquor by a club over a period of 12 months is not to exceed $25 000. Once the $25 000 is exceeded, it is necessary for the club to apply for a licence. The Act was last amended in 1974, when the amount was increased to $25 000. Since that time a substantial increase in the price of liquor has occurred and inflation would necessitate an alteration being made to the amount to bring it in line with current monetary values.

The Hon. PETER DUNCAN: The Government intends to move on that matter when next the Licensing Act is being amended. I do not believe the Act will be amended during the remainder of the current session, but later this year I hope that will be one matter to which we will be attending.

I imagine that the course of action we will adopt will be to increase the exemption base amount, in accordance with inflation at least, which will ensure that those clubs which, through inflation and a marginal growth in their business, have gone close to the $25 000 will be given some reprieve from the need to apply for a full licence.

INTRA-DISTRICT BUS SERVICES

Mr. ARNOLD: Can the Minister of Transport say whether the Government will now support financially intra-district bus services in rural towns, in view of the statement made by the Premier in the second reading speech of the Appropriation Bill (No. 1), 1979, and as a result of representations from the Riverland Community Council for Social Development and me on this matter? On 12 July 1978 the Riverland Community Council for Social Development wrote to the Minister indicating its concern for the lack of intra-town bus services to cater for pensioners, incapacitated persons and other disadvantaged persons in the community. As a result of that letter, the Minister asked the Director-General of Transport (Dr. Scrafton) to reply on his behalf. Dr. Scrafton's letter concluded as follows:

> Unfortunately, in view of the present economic climate it is not possible for the Government to render support in this regard, and consequently your request is denied.

That statement is in complete conflict with the Premier's second reading speech under the heading "Minister of Transport, Miscellaneous" last evening in which he said:

> Following the support generated for intra-district bus services, the Government is introducing community bus services in the Campbelltown, Tea Tree Gully and Thebarton districts. These services are independent of the State Transport Authority and cater for children and youth groups, senior citizen clubs and organisations and other community groups in need of welfare transport services. An amount of $100 000 is sought for these services.

That statement is completely in conflict with the statement made by the Director-General of Transport when he claimed that no funds were available for this type of transport. I ask the Minister whether he will now reconsider the situation of country people in this matter, or does the Government still regard people living in country areas as second-rate citizens?

The Hon. G. T. VIRGO: I did not know that the Government has ever suggested anything (certainly we have never said and I do not believe we have ever done anything) to warrant the rather foolish suggestion made by the honourable member about second-grade citizenship. The situation in relation to buses (and let us keep our discussion on the subject matter rather than on side issues) is that, when the Director-General of Transport responded to that letter, the question of community buses was under consideration and some trials were being conducted, but since then much change has occurred. The trials have shown quite clearly that the community buses, properly set up as a community project, have a worthwhile role to play in certain circumstances, and at this stage community bus services have been established successfully in Tea Tree Gully and Campbelltown.

The Thebarton project is still subject to final determination, and what has been established by the Thebarton project (I think this might be worthy of note by the honourable member) is that, for a community bus to operate, it must have a large enough area to service. It is crystal clear that the Thebarton council area is not of sufficient size, or it does not have sufficient people requiring that sort of service, to sustain a service. We have initiated discussions with the Hindmarsh corporation to see whether we can get it and community organisations to join with Thebarton and as such constitute an area where, I believe, a community bus service can be sure of operating successfully.

Those three projects will take up, we expect, the total $100 000 that has been allocated in the Appropriation Bill. We are presently looking at other applications that have been lodged with us for community bus services. I do not know whether the honourable member's request is in the form of an application. If it is, it will certainly be considered but, if it is not, I suggest that he get it in that form.

Mr. Arnold: It was in a letter to you last year.

The Hon. G. T. VIRGO: I suggest that the honourable member may care to take the initiative now himself and forward it in to me as an application, and we will consider it in line with the many others that have been received.

COMPANIES AND SECURITIES COMMISSION

Mr. GROOM: Has the Attorney-General seen a report in today's *News* concerning an alleged political row between Sydney, Melbourne and Adelaide over which city should become the headquarters of the new National Companies and Securities Commission? Can the Attorney-General say whether a decision will be made later this week, as mentioned in the newspaper report, at the Ministerial meeting at Tanunda on the location of the proposed headquarters?

The Hon. PETER DUNCAN: I have seen the article in the early editions of today's *News*, and it appears to be based on an article which appeared in the *Australian* this morning. The only matter of real significance that distinguishes the two articles is that the article in the *Australian* talks about the struggle between Melbourne and Sydney, and the *News*, I presume for its own parochial purpose, included Adelaide in its article when dealing with the matter, and, following the comments of the Chief Secretary earlier today, I think it is most appropriate. I want to say one or two words about the article that appeared in the *News*, because I think there has obviously been an inspired leak from the Commonwealth officers or from the Commonwealth Government. It is interesting to note that on page 10 of the *Australian* today its financial editor, Mr. Bryan Frith, said:

> It is widely believed that the Prime Minister, Mr. Fraser, has promised the headquarters to Victoria's embattled Premier, Mr. Hamer. The prize of the N.C.S.C. would be an important electoral asset for the Hamer Government in the forthcoming Victorian election campaign. It could also be represented as a solid personal victory for Mr. Hamer over the redoubtable New South Wales Labor Premier, Mr. Wran. One of the common reservations Victorians hold about Mr. Hamer is that he lacks strong leadership qualities.

That appears to be the framework in which the members of the Ministerial council are being pressured by the Commonwealth at present to discuss this matter at the conference tomorrow and on Friday in the Barossa Valley. The South Australian Government believes that it is entirely improper that such an important decision as to where the headquarters of the N.C.S.C. should be established should be made in the climate of the period before the Victorian election. For my part, and that of this Government, we will very strongly oppose making any decision at this time. It was previously suggested that, since the drafting of the national Companies Bill is months and possibly a couple of years away, there is no need to make this decision at this time.

We do not intend to be pressured into making such decisions simply for the electoral expediency of the embattled Hamer Government, to use Mr. Frith's words. That is not the way in which these sorts of decision should be made, and the South Australian Government has not yet made up its mind whether it will support the claims of Sydney, Melbourne or of some other centre. Until the past two or three weeks the matter was not one on which there appeared to be any urgency, but the forthcoming Victorian election campaign seems to have injected some politics into the issue that was not there before. This Government has no intention of being railroaded or stampeded into being party to a decision of that sort, simply to suit the Party political necessities of the Hamer Government in Victoria.

UNEMPLOYMENT

Dr. EASTICK: Can the Minister of Labour and Industry say whether any information is available through his office, or as a result of co-operation between his office and that of the Minister of Community Development, which would indicate that the number of school-leavers in South Australia at this time registering for unemployment is fewer than expected, or whether there is an improved employment opportunity for school-leavers with academic capacity?

The Hon. J. D. WRIGHT: It is a little early to be able to provide a full report in that regard. From what we know at the moment it appears that there is less chance of obtaining a job this year than there was last year or in

previous years. I shall be happy to provide to the honourable member whatever information is available.

BUS LANES

Mrs. BYRNE: Can the Minister of Transport give me the latest information concerning the introduction of bus priority lanes on the North-East Road?

The Hon. G. T. VIRGO: The arrangements for the exclusive bus lane on the North-East Road are now proceeding satisfactorily and are very close to finality. Members who use that road will have seen the new markings on the roadway and the new signs being erected. At this stage it is expected that the new bus lanes will come into operation on Monday 19 February. We are hoping that, as a result, the residents of the honourable member's electorate, and of the member for Newland's electorate particularly, will derive considerable benefit because the buses, instead of having to fight with the private motor cars, many with only one person in them, will have an exclusive lane, and hopefully will be able to convey their passengers to the city in a shorter time.

At 3.15 p.m., the bells having been rung:

The SPEAKER: Call on the business of the day.

PARLIAMENTARY SUPERANNUATION ACT AMENDMENT ACT (No. 2)

Mr. MILLHOUSE (Mitcham): I move:

That the Standing Orders be so far suspended as to enable me to move forthwith a motion without notice as follows:

That in the opinion of this House the Parliamentary Superannuation Act Amendment Act (No. 2) should be repealed with a view to a full re-examination of arrangements for superannuation for members of Parliament.

The SPEAKER: I have counted the House. There being present an absolute majority of the whole number of members of the House, I accept the motion. Is the motion seconded?

Mr. BLACKER: Yes, Mr. Speaker.

Mr. MILLHOUSE: The member for Flinders and I have taken the first opportunity since Parliament reassembled again to raise the matter of Parliamentary superannuation, which was dealt with in the Bill referred to in the motion I desired to move towards the end of the sittings in November. There are three reasons why this motion is moved at this time. First, the Bill itself (and I will say nothing about the contents of the Bill) and the way in which it was rushed through both Houses of Parliament subsequently caused widespread annoyance, criticism and indignation in the community as a whole.

Mr. Chapman: Rubbish!

Mr. MILLHOUSE: The member for Alexandra says, "Rubbish", and I hope that that is not an indication of the attitude of his whole Party to this matter, because we know there was as good deal of perturbation even within the ranks of the Liberal Party about it. There were two reasons for the indignation I have mentioned. First, the terms of the Bill, even though they were, as I shall say in a moment, imperfectly understood, led people to believe that there had been a feathering of the nest of members of Parliament in their retirement. Secondly, there is the fact that this Parliament was so unwise as to suspend Standing Orders to get the whole thing in and out of both Houses in less than a day.

The SPEAKER: Order! The honourable member knows he should not reflect on a decision of the House, and he was very close to doing so in referring to members feathering their nests.

Mr. MILLHOUSE: Very well, Sir, I will not say that again. However, at that time the headline in the *News*, that much maligned journal of today, was "New fury over super". The *Advertiser*, true to form, in a rather more dignified way, in an article written by Edward Nash, the finance and economics editor, said "The public with healthy, if bitter cynicism, borne of long experience, expects that once again the politicians have agreed with indecent haste—"

The SPEAKER: Order! I call the honourable member to order at this stage because he knows the Standing Orders of the House and he knows he is straying. The House would like to know the reason for his motion.

Mr. MILLHOUSE: I was quoting from the *Advertiser* but I will not continue with the quotation. The widespread indignation and annoyance that Parliament would do such as thing is the first reason for the motion. I now come to the second reason, which is that the increases in pensions that we have voted ourselves in the Bill were certainly not known and could not have been known in the time we had for debate. No hint of them was given in any speech that was made in this House, neither in the second reading explanation by the Premier, who, as I will say in a moment, is the main beneficiary of the Bill, nor by anyone else.

The SPEAKER: Order! I want the honourable member to stick to the reasons for the motion. He knows as well as anyone in the House the Standing Orders, and I warn him.

Mr. MILLHOUSE: Very well, Mr. Speaker. Let me explain why I said that the increases which were given by this Bill were not known, and what in fact those increases are. I have had the figures taken out by Mr. Whelan, the Deputy Public Actuary.

The SPEAKER: Order! This is the last time I will speak to the honourable member for Mitcham. He must give the reasons for his motion. He is commenting on the Bill. If he does this again, I will name him.

Mr. MILLHOUSE: Perhaps I can explain the second reason, that the increases under the Bill were not realised by members of Parliament or by anyone else until after the Bill had gone through, and I now desire to give some examples of the increases which this Bill allows. I am not going to talk about the Bill itself, but will simply say what its effect is that was not known at the time. What possible reflection can that be?

The SPEAKER: Order! I do not want to have to do this to the honourable member for Mitcham, but he is now on the subject matter of the Bill. If he does not keep to his reasons, I will name him.

Mr. MILLHOUSE: Can I not even say that, under this Bill, the Premier, for example, gets an increase of more than $9 000 in his annual pension, or that I would get an increase, if I had not renounced the benefit of it, of more than $5 500, or that, if we commuted, the Premier would get an extra $51 500, or I would have got an extra $35 600, or that the—

The SPEAKER: Order! The honourable member is straying again. If Standing Orders are suspended, he will have an opportunity to speak as he is now speaking, but he must not continue in this vein. I thought he would have accepted what I told him. I do not want it to happen again. As the honourable member knows, there is a thin line, but he is straying. I have given him the benefit of the doubt about some of the things he has said.

Mr. MILLHOUSE: I was going on to give other figures, but I will not do that now; I will circulate them publicly afterwards. I have figures that will show what each of the members whom we know are retiring will receive.

Let me come to the third reason for the suspension of Standing Orders. There was a misunderstanding, even by members in this place, of the effects of the Bill. Although you did not reply to it yourself, Sir, you may recall that I wrote a letter to every member of Parliament about this and asked that they take advantage of one of the provisions, an amendment which I had put into the Bill, to renounce the benefits. A number of members in both Houses replied to me—not all, not even half of them, but it was perfectly obvious that they did not know what they were talking about. For example, a former Leader of the Opposition, the member for Light, replied to me. At least his reply had some point to it; often his sentences do not mean anything at all. On this occasion he said:

> As has been clearly demonstrated by Ren DeGaris, your offer [to renounce] is of no consequence to your own position and of very little consequence to others.

I think even he now knows that that is not so.

The SPEAKER: Order! I do not want to have to name the honourable member. He knows the consequences, and this is the second occasion on which it has happened. I advise him not to continue.

Mr. MILLHOUSE: I am giving the third reason, that members do not understand what this Bill is all about. How I can do that without giving an example of what has been written to me, I do not know. Perhaps it is offensive to you, Sir, that I mention the names of members, or that I have mentioned that you did not bother to reply to me. I had replies from members on both sides of the House, and they were to much the same effect as that—an utter misunderstanding of what the Bill is about.

Those are my three reasons: first of all, the indignation in the community; secondly, the failure of any member to disclose his own interest; and, thirdly, misunderstanding by members of what this Bill is all about. If we are to retain, in the eyes of the public, any integrity at all as members of Parliament, we will undo what we did on this occasion. If we do not do that, we will have no reputation left for integrity, honesty, and honour. Every member in this place knows that that is the position. Despite what the member for Alexandra is saying, I hope that I will get some support from him, because the President of his own Party said this to me:

> I intend to investigate further matters relating to the Act and have discussions with various members of the Party—

The SPEAKER: Order! I ask the honourable member to take his seat.

Mr. MILLHOUSE: Can I go on now while I have some time left?

The SPEAKER: I asked the honourable member to take his seat. I intend to take a vote.

Mr. MILLHOUSE: What? Are you not going to allow another speech?

The SPEAKER: Does any other member want to speak?

Mr. Blacker having risen:

The SPEAKER: The question before the Chair is the motion moved by the honourable member for Mitcham.

Mr. MILLHOUSE: On a point of order, Mr. Speaker. The member for Flinders was on his feet, offering to speak in this debate, when you started to put the question.

The SPEAKER: Standing Order 463 provides that a mover shall in every case be limited to 10 minutes in stating his reasons for seeking such suspension, and one other member may be permitted to speak, subject to a like time limit, but no further discussion shall be allowed.

Mr. MILLHOUSE: I renew my point of order. The member for Flinders was on his feet.

The Hon. J. D. CORCORAN (Deputy Premier): Obviously, the member for Mitcham is very disappointed that no-one wanted to speak in opposition to his motion. That is not the case; I thought we should not waste the time of the House. The main reason behind the honourable member's move is for sheer political purposes. Let us make that clear. The honourable member is not sincere in what he is doing, and he knows it. He has said that he will opt out. We will wait and see. If he has not done it, we will wait and see.

Mr. Millhouse: I've done it already.

The Hon. J. D. CORCORAN: Good on you! It is probably the first decent thing you have done for a long time. You will opt in again if you can. I guess there is a provision for you to come back into it.

Mr. Millhouse: Nonsense.

The Hon. J. D. CORCORAN: We will see. It is like the pretence the honourable member put on with salary increases. He opted out for six months, or something. If someone wanted to make an accurate assessment of how much it cost him, he would probably see that it cost him nothing.

The SPEAKER: Order! I think the honourable Deputy Premier is straying.

Mr. Millhouse: He is being carried away by his own malevolence.

The SPEAKER: Order! The honourable member for Mitcham has already spoken. I do not know whether he will take heed of the Chair but, if he interjects once more today, he will be named.

The Hon. J. D. CORCORAN: I will come back to the point of the debate, because I agree that I did stray, Sir. I do not propose to follow the example set by the honourable member when he flaunts Standing Orders and says what he wants to get in the papers, and nothing else.

I oppose this motion, because the honourable member knows, like every other member in this place, that private members' business has ceased. He knows that, in the next session of Parliament, he will have an opportunity, in private members' time, to do exactly what he is saying he wants to do now. We will see what he does in the next session. This is not the last opportunity that he will have. The Government has an extremely busy programme, and it will not grant time to any private member; indeed, if the House were to grant time to the member for Mitcham, as a private member, to introduce this measure, why should it not grant time to any other private member who has a matter that he considers just as important? The Government must be consistent. It does not propose, therefore, to support the sham motion moved by the honourable member, and suprisingly supported by the member for Flinders. The member for Flinders has been conned, and I feel sorry for him.

Mr. Whitten: He was pushed into it.

The Hon. J. D. CORCORAN: I do not know about his being pushed into it; I do not think that the member for Mitcham has anything with which to push.

The SPEAKER: Order! I hope that the honourable Minister will return to the motion.

The Hon. J. D. CORCORAN: I oppose the motion.

The SPEAKER: The question before the Chair is "That the motion be agreed to." Those in favour say "Aye"; those against say "No." There being a dissentient voice, a division must be held.

The House divided on the motion:

Ayes (15)—Mrs. Adamson, Messrs. Allison, Arnold, Becker, Blacker, Dean Brown, Chapman, Eastick, Evans, Mathwin, Millhouse (teller), Russack, Tonkin,

Wilson, and Wotton.

Noes (24)—Messrs. Abbott, Bannon, Broomhill, and Max Brown, Mrs. Byrne, Messrs. Corcoran, Drury, Duncan, Dunstan (teller), Groom, Groth, Harrison, Hemmings, Keneally, Klunder, McRae, Olson, Payne, Simmons, Slater, Virgo, Wells, Whitten, and Wright.

Pairs—Ayes—Messrs. Goldsworthy and Gunn. Noes —Messrs. Hopgood and Hudson.

Majority of 9 for the Noes.

Motion thus negatived.

UNIVERSITY OF ADELAIDE COUNCIL

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

That one member of the House be appointed, by ballot, to the Council of the University of Adelaide, as provided by the University of Adelaide Act, 1971-1978, *vice* Bannon, resigned.

Motion carried.

A ballot having been held, Mr. Hemmings was declared elected.

ABATTOIRS ACT AMENDMENT BILL

The Hon. J. D. CORCORAN (Deputy Premier) obtained leave and introduced a Bill for an Act to amend the Abattoirs Act, 1911-1973. Read a first time.

The Hon. J. D. CORCORAN: I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill should be read together with the Abattoirs and Pet Food Works Bill, 1978, and the Health Act Amendment Bill, 1979. Those two Bills are designed to regulate the hygiene of abattoirs within the State. The principal Act, the Abattoirs Act, 1911-1973, empowers the establishment of local boards to either operate or supervise the operation of abattoirs within areas proclaimed under the Act. At present, only the Port Pirie Abattoirs Board owns and operates an abattoir. All the other abattoir's boards essentially supervise the inspection of meat and fix slaughtering fees. This Bill, therefore, is designed to enable the Port Pirie Abattoirs Board to continue to operate the Port Pirie Abattoir and to remove from the principal Act all provisions that do not relate to the establishment and operation of abattoirs by abattoirs boards but relate to hygiene or the inspection of meat.

Clause 1 is formal. Under this clause the principal Act, as amended by this measure, is to be referred to as the "Local Public Abattoirs Act". Clause 2 provides for the commencement of the measure. Clause 3 amends section 2 of the principal Act which sets out the headings to the Parts of the principal Act. Clause 4 amends section 3 of the principal Act by deleting all definitions that do not relate to the establishment and operation of an abattoir by an abattoirs board. Clause 5 enacts a new section designed to make it clear that the principal Act, as amended by this measure, is to be subject to the provisions of the Abattoirs and Pet Food Works Bill, 1978, if enacted, and the Health Act, as amended by the Health Act Amendment Bill, 1979, if enacted. The clause also provides for the disposition of the property of abattoirs boards that would be dissolved by virtue of the proposed repeal of Part IVA of the principal Act.

All the remaining clauses of the Bill effect amendments or repeals that remove references or provisions that do not relate to the establishment of abattoirs boards or the establishment and operation of abattoirs by abattoirs boards.

Mr. RODDA secured the adjournment of the debate.

HEALTH ACT AMENDMENT BILL

The Hon. J. D. CORCORAN (Deputy Premier) obtained leave and introduced a Bill for an Act to amend the Health Act, 1911-1977. Read a first time.

The Hon. J. D. CORCORAN: I move:

That this Bill be now read a second time.

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

Leaved granted.

Explanation of Bill

This short Bill should be read together with the Abattoirs and Pet Food Works Bill, 1978. The Abattoirs and Pet Food Works Bill, 1978, provides for the establishment of a licensing and inspection system for abattoirs situated within areas to be proclaimed under that measure. This Bill provides for the making of regulations under the principal Act, the Health Act, 1911-1978, designed to regulate the hygiene and sanitation at abattoirs situated outside the areas proclaimed under the proposed Abattoirs and Pet Food Works Act, 1978. The Bill provides for the repeal of those provisions of the principal Act that presently regulate the hygiene of abattoirs and instead empowers the making of a comprehensive set of regulations under the principal Act that are to be similar in form to the regulations to be made under the proposed Abattoirs and Pet Food Works Act, 1978.

Clause 1 is formal. Clause 2 provides that the measure is to come into operation on a day to be fixed by proclamation. Clause 3 amends section 87 of the principal Act which regulates the construction and maintenance of cesspools by removing the reference in that section to slaughterhouses. Cesspools at slaughterhouses are instead to be regulated under regulations to be made under section 147 of the principal Act. Clause 4 repeals section 101 of the principal Act which regulates the keeping of swine or dogs at slaughterhouses. Again, this matter will instead be dealt with under the proposed regulations.

Clause 5 repeals sections 103 to 109 of the principal Act. These sections deal with the inspection of animals for slaughter and diseased animals, matters which will also be dealt with under the proposed regulations. Clause 6 amends section 147 of the principal Act by replacing those provisions empowering the making of regulations with respect to slaughtering and slaughterhouses by more comprehensive powers as regards slaughter and slaughterhouses situated outside abattoirs areas proclaimed under the proposed Abattoirs and Pet Food Works Act, 1978.

Mr. RODDA secured the adjournment of the debate.

LOCAL GOVERNMENT ACT AMENDMENT BILL

The Hon. J. D. CORCORAN (Deputy Premier) obtained leave and introduced a Bill for an Act to amend the Local Government Act, 1934-1978. Read a first time.

The Hon. J. D. CORCORAN: I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This short Bill deals with matters consequential to enactment of the Abattoirs and Pet Food Works Bill, 1978, and the Health Act Amendment Bill, 1979. The Abattoirs and Pet Food Works Bill provides for the establishment of a licensing and inspection system for abattoirs in the more densely populated parts of the State, while the Health Act Amendment Bill provides for the regulation of the hygiene of abattoirs in any other parts of the State. This Bill provides for the repeal of those provisions of the Local Government Act, 1934-1978, which regulate the hygiene of abattoirs or slaughterhouses but does not affect the provisions that relate to the licensing of slaughterhouses by councils.

Clause 1 is formal. Clause 2 provides that the measure is to come into operation on a day to be fixed by proclamation. Clause 3 amends section 551 of the principal Act so that Part XXVII of the principal Act relating to slaughterhouses applies only in those council areas that are not within abattoirs areas proclaimed under the proposed Abattoirs and Pet Food Works Act. Clause 4 amends section 552 by providing that a licence is not required in respect of a slaughterhouse established by an abattoirs board under the Abattoirs Act, 1911-1973, as it would be amended by the Abattoirs Act Amendment Bill, 1979.

Clause 5 amends section 554 of the principal Act which provides for the establishment of a slaughterhuse by a council. The amendment provides that a slaughterhouse established by a council must comply with the proposed hygiene regulations under the Health Act. Clause 6 repeals section 555a of the principal Act which provides an exemption for farmers who carry on limited slaughtering for the production of meat for sale from the requirement under section 552 that a slaughterhouse licence be obtained from the council for the area. The Government has found that this exemption creates insuperable enforcement problems and as a result undermines the hygiene requirements in respect of slaughtering for the production of meat for sale. Farmers will, of course, continue to be able to slaughter for their own consumption and consumption by their employees by virtue of the proviso to subsection (2) of section 552 of the principal Act.

Clause 7 amends section 667 of the principal Act by replacing a reference to abattoirs areas under the South Australian Meat Corporation Act and the Abattoirs Act by a reference to abattoirs areas under the proposed Abattoirs and Pet Food Works Act, 1978. The clause also repeals subparagraph XVII of paragraph 4 of subsection (1) of that section relating to the hygiene of meat in butcher shops which is adequately regulated under the Health Act. Clause 8 provides for the repeal of sections 871w, 871wa, 871wb, 871x and 871xa of the Local Government Act, 1934-1978, which regulate the operation of abattoirs at Whyalla. These matters will be covered by the provisions of the proposed Abattoirs and Pet Food Works Act, 1978. Clause 9 amends section 877 of the principal Act by removing powers of inspection by council inspectors in respect of the health and cleanliness of slaughterhouses, butcher shops and shambles. These matters are adequately dealt with under the Health Act.

Mr. RUSSACK secured the adjournment of the debate.

SOUTH AUSTRALIAN MEAT CORPORATION ACT AMENDMENT BILL

The Hon. J. D. CORCORAN (Deputy Premier) obtained leave and introduced a Bill for an Act to amend the South Australian Meat Corporation Act, 1936-1977. Read a first time.

The Hon. J. D. CORCORAN: I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill deals with matters consequential to the enactment of the Abattoirs and Pet Food Works Bill, 1978, which provides for the establishment of a licensing and inspection system for abattoirs in the more densely populated parts of the State including the Adelaide metropolitan area. This Bill, therefore, removes from the principal Act, the South Australian Meat Corporation Act, 1936-1977, all the provisions that relate to meat hygiene and the inspection and licensing of abattoirs while leaving essentially untouched the provisions that provide for the establishment and operation of the corporation's abattoirs. The Bill also simplifies the controls under the principal Act on the entry of meat into the metropolitan area without making any changes of substance.

Clause 1 is formal. Clause 2 provides that the measure is to come into operation on a day to be fixed by proclamation. Clause 3 amends section 2 of the principal Act which sets out the arrangement of the Act by removing the reference to Part VII—Alteration of the Metropolitan Abattoirs Area which is to be repealed. Clause 4 amends the definition section, section 3 of the principal Act, by removing all definitions that do not relate to the establishment or operation of the corporation's abattoirs.

Clause 5 enacts a new section designed to make it clear that the principal Act, as amended by this measure, is to be subject to the provisions of the Abattoirs and Pet Food Works Bill, 1978, if enacted. All the remaining clauses, other than clause 23, effect amendments or repeals that remove references or provisions that do not relate to the establishment or operation of the corporation's abattoirs.

Clause 23 provides for the enactment in Part IX—Miscellaneous of a new section dealing with the entry of meat into the metropolitan area. The clause prohibits the sale within the metropolitan area of meat not produced at the corporation's abattoirs at Gepps Cross unless the meat was not sold for consumption in the metropolitan area or its sale was permitted under a proclamation made by the Governor. The metropolitan area is defined in this clause as comprising the same area as the present metropolitan abattoirs area under the principal Act. It is proposed that proclamations would be made under this clause permitting the sale within the metropolitan area of meat produced at abattoirs other than the corporation's abattoirs upon the same basis as such sales are presently permitted.

Mr. RODDA secured the adjournment of the debate.

ALSATIAN DOGS ACT AMENDMENT BILL

The Hon. G. T. VIRGO (Minister of Local Government) obtained leave and introduced a Bill for an Act to amend the Alsatian Dogs Act, 1934-1965. Read a first time.

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill proposes three amendments to the principal Act, the Alsatian Dogs Act, 1934-1965. The Bill proposes an amendment designed to enable the principal Act to be applied by proclamation to part only of a council area that is contiguous to the outer districts. The principal Act at present provides that the Act may be so applied only to the whole of a council area. Recently, a large area of pastoral land was annexed to the City of Whyalla and, being pastoral land, it is appropriate that the Act should continue to apply to that land while it is obviously not appropriate that the Act should apply within the city proper.

The Bill proposes an amendment to the principal Act that is designed to make it clear that the Act does not apply in relation to police dogs that may be engaged in search or rescue operations within the outer areas of the State or to any other dogs that are being used for official purposes. Finally, the Bill proposes an amendment to the principal Act that is designed to empower the Minister or his delegate to grant a permit to a person who is travelling with an Alsatian dog to have the dog in his possession while travelling through the outer areas of the State. A number of major highways pass through the area of the State to which the Act applies and it is only reasonable that it should be lawful for persons who are using the highways and who own Alsatian dogs to take their dogs with them.

Clause 1 is formal. Clause 2 amends section 3 of the principal Act by providing that the Act may be applied by proclamation to part of a council area that is contiguous to the outer districts. The clause provides that the Act shall not apply in relation to Alsatian dogs owned by, or being used for the purposes of, the Crown. The clause also empowers the Minister or his delegate to grant a permit to a person who is travelling with an Alsatian dog to have the dog in his possession while he is travelling through the part of the State to which the Act applies. Provision is made for the permits to be conditional. Clause 3 provides for an amendment that is of a consequential nature only.

Mr. EVANS secured the adjournment of the debate.

ROAD TRAFFIC ACT AMENDMENT BILL

The Hon. G. T. VIRGO (Minister of Transport) obtained leave and introduced a Bill for an Act to amend the Road Traffic Act, 1961-1976. Read a first time.

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill proposes a number of amendments to the principal Act, the Road Traffic Act, 1961-1976, that are of a disparate nature. The Bill proposes an amendment to section 19 of the principal Act which provides for apportionment between the Commissioner of Highways and each council of the cost to the Commissioner of installing, maintaining, altering, operating and removing traffic control devices. In practice, the Commissioner has found it to be a laborious and costly task to segregate the cost of performing such work in the area of one council from the cost in relation to the area of another council. Accordingly, the Bill proposes that the cost of such work be borne by the authority having the management of the road to which the traffic control devices relate. It has been determined that councils should benefit financially from these proposed new arrangements.

Section 35 of the principal Act provides that the person in charge of a ferry established under the Local Government Act shall be an inspector under the principal Act. However, since July 1976 ferries on the Murray River have been established and operated under the Highways Act and the persons in charge of such ferries have experienced difficulties in dealing with some drivers. The Bill, therefore, extends the powers of inspectors under the principal Act to persons in charge of ferries established or operated under the Highways Act.

The Bill provides for an amendment to section 43 of the principal Act designed to make it clear that the driver of a vehicle involved in a collision is not required to report the collision to the police if the only damage is property damage and the cost of repairing the damage would be less than an amount prescribed by regulation, but is required to report the collision if any other person whose property was damaged was not present at the scene of the accident.

The Bill proposes amendments designed to remove anomalies that are created by the present wording of the provisions of the principal Act which fix the penalties for subsequent offences. Some of these provisions omit to state a time limit within which a subsequent offence must occur before it attracts the higher penalty, while other such provisions fix the time limit by reference to the date of conviction rather than the date of the offence.

The Bill proposes an amendment to section 47e of the principal Act, the effect of which would be to empower a police officer to require a breathalyser test where he has reasonable grounds to believe that a serious driving offence has been committed. At present such power exists only where an accident has occurred or there has been some indication of impairment of driving ability. The Bill sets out a list of those driving offences that are clearly of a serious and not merely technical nature. So far as speeding offences are concerned, the Bill proposes that this power would exist only where the applicable speed limit is exceeded by not less than 20 km/h. The Government considers that this proposal is consistent with its opposition to random breathalyser testing, but would eliminate the existing anomaly whereby the blood alcohol level of drivers committing serious and dangerous offences may not in many cases be determined.

The Bill proposes an amendment to section 47g of the principal Act designed to eliminate legal arguments about the accuracy of breathalysers, except where a driver who has submitted to a breathalyser test has exercised his right under section 47f to have a sample of his blood taken. Under the amendment a breathalyser test, if properly conducted, will be presumed to be accurate and the only evidence to the contrary that may be entertained by a court will be evidence based upon an analysis of a blood sample of the defendant. The amendment would, however, also require the police to warn any driver who has submitted to a breathalyser test of his right to have a sample of his blood taken.

Section 63 of the principal Act requires vehicles turning right to give way to vehicles approaching from the opposite direction. However, the view has been taken that this requirement does not apply to a divided road. The Bill proposes an amendment to correct this situation. The Bill also proposes an amendment to this section that is designed to exempt vehicles from the requirement to give way at 'stop' or 'give way' lines drawn at intersections or junctions at which traffic lights are installed but not operating.

In accordance with the amendment proposed to section 63, section 78 is also to be amended by the Bill so that a vehicle is not required to stop at a stop line at or near traffic lights or railway signals or barriers whether or not the lights, signals or barriers are operating. The Bill proposes an amendment to section 141 of the principal Act designed to permit overwidth tractors as well as agricultural machinery to be driven on a public road in circumstances in which an unregistered farm tractor may be driven on a public road pursuant to section 12 of the Motor Vehicles Act.

It is proposed that section 153 of the principal Act be amended by removing the requirement that the weighbridge to be used for determining the unladen mass of a vehicle must be within eight km from the place where the vehicle is at the time at which notice requiring the weighing of the vehicle is served on its owner. This requirement has created obvious practical difficulties in the case of vehicles that are used for long-distance haulage. The Bill proposes amendments to section 160 of the principal Act designed to enable vehicles to be inspected for defects at the place at which they are stopped and to permit examination of vehicles that are exhibited for sale in order to determine whether any defects are present in the vehicles. The present wording of this section does not permit 'on-the-spot' inspections and permits examination of a vehicle exhibited for sale only where the police officer has already formed the opinion that it is defective.

The Bill proposes an amendment to section 162 that is designed to bring the requirements as to the wearing of seat belts into conformity with those provided in the National Road Traffic Code. Under the amendment, passengers in the front or rear seats of a vehicle would be required to sit in any position in that row of seats that is unoccupied and fitted with a seat belt and to wear the seat belt. At present, it appears that a passenger seated in, for example, a front bench seat with seating space for three passengers, but fitted with only two seat belts, is not required to sit in one of the spaces fitted with a seat belt even though it is unoccupied. The Bill proposes an amendment to section 163c that would exclude from the inspection requirements of Part IVA omnibuses operated by the Police, Correctional Services or Community Welfare Departments.

The Bill proposes an amendment to section 166 of the principal Act which would provide that it would no longer be a defence to proceedings for overloading offences against the principal Act if the driver is an employee acting on the instructions of his employer and having no knowledge of the breach. Although at first sight this may seem a reasonable provision, it does render trucking operations operating under "straw" companies virtually immune from prosecution for overloading offences. At present, thousands of trucks are being operated on South Australian roads by straw companies and through overloading would be contributing to a significant degree to the damage suffered by the roads. Although under the proposal ignorance would no longer be a defence in the case of drivers, they would still be able to rely on those defences that are available at common law.

The Bill proposes a significant amendment to section 168 of the principal Act, namely, that executive clemency, that is, the power of pardon, should be extended to disqualifications from driving. As is the case with pardons at the moment, this power would be used sparingly and only where no other legal remedy is available. Finally, the Bill proposes amendments to section 175 of the principal Act designed to strengthen the evidentiary assistance provided by that section in respect of the proof of radar offences and certain other offences.

Clause 1 is formal. Clause 2 provides that the measure is to come into operation on a day to be fixed by proclamation. Clause 3 amends section 19 of the principal Act by providing that the cost of installing, maintaining, altering, operating or removing traffic control devices be borne by the authority having the management of the road to which the devices relate.

Clause 4 amends section 35 of the principal Act by extending the powers of inspectors to persons operating ferries established, maintained or operated under the Highways Act in addition to those established under the Local Government Act. Clause 5 amends section 43 of the principal Act so that the section clearly provides that vehicle accidents resulting in property damage alone, where the cost of repair would be less than an amount fixed by regulation, need not be reported to the police unless any other person whose property was damaged in the accident was not present at the scene of the accident.

Clauses 6, 7, 8 and 9 amend sections 46, 47, 47b and 47e, respectively, and provide that offences against the sections are to be treated as second or subsequent offences for the purposes of penalty, if committed within five years after commission of a previous relevant offence. Clause 9 also amends section 47e by empowering a police officer to require a driver to submit to a breathalyser test where he has reasonable grounds to believe that the driver has committed certain listed driving offences that are of a serious nature.

Clause 10 amends section 47f by providing that blood samples taken from drivers who have submitted to breathalyser tests need to be prepared in two parts only, instead of the present three. Clause 11 amends section 47g so that the presumption created by the section as to the accuracy of breathalyser tests may be rebutted only by evidence of the concentration of alcohol in the blood of the driver as indicated by a blood sample taken under section 47f or 47i. The clause also requires the police to warn persons whom they require to submit to breathalyser tests that they may request that a sample of their blood be taken.

Clause 12 amends section 47i by defining the offences against the section that are to be treated as subsequent offences for the purposes of penalty. Clause 13 amends section 63 in order to make it clear that a vehicle turning right from a divided road must give way to vehicles coming from the opposite direction. The clause also provides that vehicles approaching a "stop" line or "give way" line at an intersection or junction at which traffic lights are installed but not operating need not give way to both directions but only to the right. Clause 14 makes a similar amendment to section 78 in relation to the duty to stop at "stop" lines at or near traffic lights or level crossings fitted with warning lights or gates.

Clause 15 amends section 83 in order to make it clear that there is no restriction on vehicles standing on the edge of a road opposite to the side of the road on which another road joins the road to form a junction. Clause 16 makes an amendment to section 141, the effect of which would be to enable overwidth tractors, as well as agricultural

machinery, to be driven on the roads in circumstances in which unregistered tractors may be driven on the roads pursuant to section 12 of the Motor Vehicles Act. Clause 17 makes a drafting amendment only.

Clause 18 amends section 153 of the principal Act by removing the requirement in that section that notices requiring a vehicle to be presented at a weighbridge must specify a weighbridge that is within eight km of the place at which the vehicle is at the time the notice is served. Clause 19 amends section 160 of the principal Act by providing that vehicles may be inspected for defects at any place at which they are intercepted by the police and that vehicles being exhibited for sale may be inspected in order to determine whether they are defective. Clause 20 amends section 162ab so that it provides that a person shall not be seated in a vehicle in forward motion in a seating position not equipped with a seat belt if there is an unoccupied seating position that is equipped with a seat belt in the same row of seating positions.

Clause 21 amends section 163c by empowering the Minister to exempt vehicles from the application of Part IVA. Clause 22 amends section 166 of the principal Act by removing the special defence provided for employees in respect of vehicle overloading offences. Clause 22 repeals section 166 of the principal Act which provides a defence for employees in respect of certain vehicle safety and overloading offences.

Clause 23 amends section 168 by empowering the Governor to remove a driver's licence disqualification. Clause 24 amends the definition in section 169 of subsequent offences for the purposes of penalty. Clause 25 amends the evidentiary provision of the principal Act, section 175, by facilitating the process of proving that a road is a clearway and that a traffic speed analyser accurately records the speed of vehicles.

Mr. CHAPMAN secured the adjournment of the debate.

APPEAL COSTS FUND BILL

The Hon. PETER DUNCAN (Attorney-General) obtained leave and introduced a Bill for an Act to establish a fund from which the costs of certain litigation may be defrayed; and for other purposes. Read a first time.

The Hon. PETER DUNCAN: I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill is based upon recommendations made by the Law Reform Committee in its thirty-first report. The report recommends the establishment of a fund to indemnify parties to appeals, or proceedings in the nature of an appeal, who have suffered loss by reason of an error of law on the part of a court or tribunal. The general law provides a more or less adequate indemnity to the successful party to an appeal by providing that the unsuccessful party is to pay his costs. Thus the unsuccessful party in the ultimate court of appeal usually finds that he must pay not only his own legal costs but those of his opponent as well. This cannot be regarded as satisfactory or just where the appellate proceedings have arisen from an error of law made by a subordinate court or tribunal.

The present Bill will remedy or at least alleviate this injustice. It will also provide an indemnity against legal costs in certain other cases where legal proceedings are rendered abortive through no fault of the litigants; for example, where the judge dies or falls ill in the course of hearing the proceedings. The fund will be financed by the annual allocation from the Treasury of an amount equal to a prescribed percentage of the moneys received as court costs and fines over a 12-month period.

Clauses 1 and 2 are formal. Clause 3 sets out the definitions necessary for the purposes of the new Act. Clause 4 establishes the fund. If the fund ever exceeds the amount required for the purposes of the Act, the excess may be applied towards legal assistance, legal research, or any other purpose approved by the Attorney-General with the concurrence of the Treasurer. Clause 5 requires proper accounts to be kept in relation to the fund and provides for audit of those accounts.

Clause 6 provides for the financing of the fund in the manner which I have just explained. This clause also empowers the Attorney-General to exempt any specified class of revenue derived from court fees and fines from the operation of the proposed scheme. Clause 7 provides for the granting of indemnity certificates where an appeal on a question of law succeeds or where a question of law is reserved for the determination of a superior court. The total amount that may be certified in respect of any one appellate action, or series of appellate actions, is not to exceed $5 000.

Clause 8 provides for the granting of indemnity certificates in respect of proceedings rendered abortive by the death or illness of the judge, or any other reason that does not reflect on the parties or their legal advisors. A certificate may also be granted where a court refuses to sanction the compromise of an action brought on behalf of an infant plaintiff and, on trial of the action, the amount recovered by the plaintiff does not exceed the amount offered by way of compromise.

Clause 9 provides that no appeal lies against a decision to grant or refuse an indemnity certificate. Clause 10 provides that the new Act is not to apply in respect of appellate proceedings arising from actions commenced before the commencement of the new Act. No indemnity certificate is to be granted in favour of the Crown. Clause 11 requires the Attorney-General to make payments out of the fund in respect of indemnity certificates twice in each year. Clause 12 empowers the Governor to make necessary regulations under the proposed Act.

Mr. GOLDSWORTHY secured the adjournment of the debate.

LEVI PARK ACT AMENDMENT BILL

Consideration in Committee of the Legislative Council's amendments:

No. 1. Page 1, lines 16 and 17 (clause 5)—Leave out "subject to the general control and direction of" and insert "responsible to".

No. 2. Page 2, line 6 (clause 6)—Leave out "two" and insert "three".

No. 3. Page 2 (clause 6)—After line 18 insert new subsection as follows:—

"(6) In the case of a member of the trust appointed on the nomination of the Walkerville Council no deputy shall be appointed except on the nomination of the Council."

The Hon. G. T. VIRGO (Minister of Local Government): I move:

That the Legislative Council's amendments be disagreed to.

The first two amendments were canvassed in this place and there is no point in going over them again. I am sure that the solution would be the same. The disagreement is not within this Chamber; it is between this House and the Upper House. I have reason to believe that there may be a softening of attitude in the other place and hence I suggest we refer the amendments back to it so that they may be reconsidered. Regarding the third amendment, I make no bones about the fact that the proposition is a common sense one, and I shall not be unhappy if that is incorporated, but incorporation at this stage by itself is quite pointless. I do not think that there is any value in debating the matter, because everything that can be said has been said.

Mr. RUSSACK: The attitude on this side has not altered since the Bill was debated in this place. As the Minister has said, the amendments made to the Bill in another place are very much along the lines of our thinking when the Bill was debated here. Therefore, we oppose the motion and support the amendments moved in another place. I think that, at this time, there is no need for debate, as the Bill was debated well. The Opposition's opinion remains the same.

Mr. CHAPMAN: I support the amendments. I think they demonstrate clearly that the members of the other place have exercised a responsible attitude towards the retention and proper control of the Levi Park premises as was intended not only by those who bequeathed the premises for the use and enjoyment of the public but also by those who have seen the merits of the respective councils represented on the management board.

As the member for Goyder has indicated, there is little point in pursuing detail of the debate at this time, but I am disappointed that after the lengthy period allowed to consider this matter that the Minister has taken the attitude he has of being so dogmatic about what he demands, with respect particularly to the role of the managers of that park in the future. Hopefully, in the short interim period left, there will not be a softening of attitude by members in the other place alone, but there will be some form of bending adopted by the Minister in his capacity as Minister in charge of such areas and as Chairman of the committee that investigated this subject for the Parliament.

Motion carried.

The following reason for disagreement was adopted:

> Because the amendments adversely affect the purpose of the Bill.

REAL PROPERTY ACT AMENDMENT BILL (No. 3)

(Adjourned debate on second reading.)

(Continued from 22 November. Page 2253.)

Mr. EVANS (Fisher): I point out, first, that I recognise the concern the Attorney has shown in introducing a Bill in relation to property lodgements so far as handling those lodgements is concerned within the Registrar's office. Perhaps the least significant matter but the one most beneficial to the department is the opportunity for the Registrar-General to delegate his authority to his Deputy or for he and his deputy to give others the opportunity to carry out the roles of the two higher officers when neither of the officers is available. I can see some merit in that, and the necessity for it.

The Attorney-General claims that the office has to handle up to 1 000 lodgements of instruments in any one day and has an average number handled of 750. That is a significant number. One of the intentions of the Bill is to change from the present process, which is called a narrative form, of handling the lodgements, to a panel form. I am not sure what the panel form is, but the Attorney assures us it will be speedier and easier for the department to handle.

He also tells us that there is still a guarantee that each instrument will be inspected by an officer. In other words, the correctness has to be guaranteed before the instrument is passed on. In saying that, I refer to a submission made to the Attorney-General, not by the Law Society itself, but in a report to the Law Society by the property subcommittee of the Law Society. I will read that so that the Attorney, in his second reading reply, can state whether he agrees or disagrees with that committee report and whether he is prepared to accept any amendments in relation to the submissions made by the property subcommittee. The report states:

> Clause 3: The subcommittee views with concern and disapproval the proposed provisions of subsection (3) of section 13 to the effect that the Registrar-General shall administer the Act in accordance with any direction of the Minister. The subcommittee is of opinion that there should not be any possibility of political interference in the administration of the Real Property Act governing the rights of parties to real estate transactions.

I think that is fair comment. I would like to know what justification the Minister has for allowing himself or any future Minister to give directions to the Registrar-General. I believe that the Registrar-General is appointed as a responsible person and should understand his position. I hope the Attorney will give us a reason why we should not delete from the Bill subsection (3) of new section 13. In relation to clause 5, the report states:

> The subcommittee entertains reservations with regard to the amendment of section 35 of the principal Act whereby notices issued by the Lands Title Office may be served by ordinary post. Although it is appreciated that difficulties associated with service by registered or certified mail have increased considerably over the last few years by reason of the practice now adopted by the post office of leaving a card in a letter box requesting the collection of registered mail from the nearest post office when nobody is home to receive it, nevertheless the uncertainties associated with ordinary post do not seem to be an adequate substitute nor to provide adequate protection.

If a letter is lost through ordinary post, what will happen? We all know that many letters are lost through the ordinary post. As members of Parliament we receive many complaints from people who do not receive mail, sometimes important mail, they expect to receive through the ordinary post. I have never received a similar complaint about letters posted by certified or registered mail. I wonder why we need to change that practice. I know it is more expensive to use certified or registered mail, but surely an important document should be sent by certified or registered mail so that it can be handed personally to the addressee. I hope the Attorney-General can convince us that there should not be an amendment.

In relation to clause 7, the property subcommittee said:

> This and a number of the clauses which follow have the effect of substituting for the forms of document presently contained in the Schedules an instrument "in a form approved by the Registrar-General". The subcommittee most strongly disapproves of this procedure, especially when considered in association with clause 28 of the Bill which amends section 220 of the principal Act by conferring on the Registrar-General a right to reject any instrument that in his opinion should not, for any reason, be registered and the Bill goes on to provide that any fees paid in respect of any rejected instrument shall be forfeited.

It is considered absolutely vital and essential to conveyancing practice that a solicitor or broker acting for any purchaser mortgagee or similarly interested party should be able at settlement and with complete certainty to determine whether any instrument submitted is in registerable form. In this context it is essential that the form of all common documents under the Real Property Act should be laid down with permanency and finality and without any likelihood that any form might have been changed without the change having been properly promulgated over a sufficient interval of time to enable all parties dealing in real estate to accommodate themselves to it.

The desirability of conferring a discretion upon the Registrar-General to accept for registration any document which might not strictly comply with the accepted form is appreciated, but an arbitrary power to reject any document notwithstanding that it might substantially comply is something which the subcommittee considers will introduce an element of uncertainty and insecurity to general conveyancing practice.

Any suggestion that documents may be submitted for approval to the Registrar-General prior to settlement is not considered feasible. This would place an impossible burden on all members of the conveyancing professions and in particular those practising in outlying areas. Furthermore, it would mean that parties acting for purchasers and mortgagees would require in all but the most simple and straightforward cases that documents be pre-examined and approved. This would place an equally enormous burden upon the staff of the Lands Title Office and would introduce complications, delays and obstructions into conveyancing practice.

The subcommittee considers that the general approach set out in subsection (7) of section 220 of the principal Act which it is not proposed to amend should be retained. This implies that the form of documents should be established in a clear, definite and publicly available manner either by means of a schedule to the Act itself or by regulation, the Registrar-General having the over-riding power to make variations subject to their being published in the *Government Gazette*. Even in this context the subcommittee feels that there should be a stipulated interval of the time between the date of publication and the date of the amended form becoming effective.

It is appreciated that Lands Title Office practice is now and has always in the past been reasonably consistent and predictable and that present and past Registrar-Generals have acted sensibly and with total propriety. The subcommittee, however, rejects this as an argument that it is quite proper that the most far-reaching arbitrary powers should be conferred upon the Registrar-General. Such an argument is quite contrary to accepted principles and that this trend must be opposed partly because the future administration of the Lands Title Office is an unknown quantity and because the human element is always unpredictable, and partly because of the possibility of political interference with the administration of the Lands Titles Office under the proposed section 13 (3).

It is considered that this and other discretions conferred upon the Registrar-General under the Bill might well be interpreted as being absolute discretions in which case the remedies available under a prerogative writ would not be available (see Kerr on the Australian Lands Titles (Torrens) System page 54). This is a possibility which the subcommittee felt should be most strenuously resisted.

The Attorney-General might have reason for giving the power that over-ride the complaints made by the property subcommittee. I think we all believe it is bad enough giving such power to a Minister, and I do not believe we should give power to a Minister to interfere politically with a Government department. It could be equally as damaging to give absolute power in areas of acceptance or rejection to a person at his own discretion or to his nominee. This amendment will allow a Deputy or a person nominated by the Deputy or the Registrar-General to act in his stead, so it may not be the principal officer making the decision. I put it to the Attorney-General that he needs to consider seriously what he is doing in this case. Perhaps he believes in this sort of power passing to individuals but I ask him to further explain why he seeks to give that power. In relation to clause 18 the property subcommittee of the Law Society said the following:

> This amends section 129 of the principal Act which deals with such documents as plans and specifications which, being referred to in a registered instrument, are required to be attached thereto unless they are available for public inspection in some other public registry. It is proposed to substitute for these provisions a general provision to the effect that the Registrar-General "may require" a copy of such document to be attached. This is another illustration of uncertainty being introduced into Lands Title Office practice which will place added responsibilities and burdens upon the conveyancing profession. Certainty in this regard is essential and there seems no reason whatsoever why the previous procedure of registering such documents in the G.R.O. should be eliminated.

The subcommittee is saying there is no reason why the present practice should be eliminated, and I ask the Attorney-General why he argues that it should be eliminated. In relation to clause 22 the property subcommittee said:

> The subcommittee has experienced considerable difficulty in arriving at any concrete conclusion with regard to this clause of the Bill. The clause eliminates the right to renew or extend a lease, mortgage or encumbrance by endorsement. The subcommittee have no objection to this. However, the clause goes on to provide that an instrument renewing or extending a mortgage encumbrance or lease must be lodged for registration before the day on which it would expire.
>
> The subcommittee appreciates that this provision has been introduced by reason of the proposed introduction of a computerised system of record keeping and that the computer will probably be programmed to eliminate an expired lease from the Register Book. However, such a consideration does not apply to mortgages or encumbrances which do not expire. In fact the use of that term in relation to such documents is quite inappropriate. The committee accordingly considers that such a provision should not extend to mortgages or encumbrances.
>
> With regard to leases the subcommittee is particularly mindful of the implications of the decision of Mercantile Credits versus the Shell Company in this context. It is also extremely mindful of the practical difficulties which are associated with the preparation and registration of extensions of lease so as to be available for registration prior to the expiration of the lease, for example:
>
> *(a)* In many circumstances the fixation of rent is subject to arbitration which cannot be concluded prior to the expiration of a current term.
>
> *(b)* Experience has indicated that the parties involved usually leave their decision-making to the last minute with the result that instructions are not received in sufficient time to allow the document of extension to be prepared, executed, stamped and then lodged for registration prior to the expiration of the term.
>
> *(c)* Not infrequently even when instructions are received in time unforeseen delays occur with the result that the document does not reach the Lands Title Office until after the date of

expiration.

It is appreciated that lessees could protect their rights under a non-registerable extension by caveat but this procedure is not an adequate substitute for registration.

An alternative might be to prepare all extensions of lease in the form of a fresh lease but incorporating by reference the covenants and conditions contained in the lease itself. This, however, would not help in the case of a right of renewal speaking of an extension. Purchasers and mortgagees could be protected against the effect of the Mercantile Credits case by provisions giving them priority over extensions of leases unregistered after the expiry of the original lease, without extinguishing the right to register after expiry.

Clause 31: The subcommittee is concerned at what it considers to be an inadequacy arising from this clause. It repeals section 276 of the principal Act and substitutes a very much simplified code relating to the service of notices. Section 276 presently provides that a notice is required to be posted by registered letter and might be addressed to the person at his usual or last known place of abode in South Australia or at his address as appearing in the Register Book or as given in any Application or Caveat. It also contains the normal provisions as to when a notice is deemed to have been received. The amended section 276 merely speaks of notices being served "personally" or "by post".

Service by post is defined by section 33 of the Acts Interpretation Act. This section is adequate as far as it goes. It covers the posting and the deemed receipt of the package containing the notice. It does not, however, mention the address to which such package may be directed nor does the Acts Interpretation Act cater for personal service at all. The subcommittee therefore considers that the amended section 276 should include reference to the address to which such a notice may be sent and that the conception of personal service might be amplified.

The subcommittee is also of the opinion that section 276 (as amended) would apply not only to notices served by the Registrar-General but also to notices served between parties where service is directed or authorised by the Real Property Act. An illustration of such a notice would be a notice to a defaulting mortgagee or encumbrancee under sections 132 or 133.

It is not my practice to take up something that a Law Society subcommittee has forwarded through its main body to members of Parliament. Some doubts have been raised that I believe the Attorney should clarify to the House and then this House or another one should decide whether attempts should be made to amend the legislation. There is a necessity to delete new subsection 13(3) where the Minister is given the power to interfere, I believe, with the Registrar-General's operations. The Attorney-General may have explanations that prove we should not take action at this stage. However, regardless of the answers he may give, I will have discussions with persons in the other place to see whether any other amendments are desirable. I support the Bill through the second reading.

The Hon. PETER DUNCAN (Attorney-General): The honourable member has raised a number of points brought to his attention in a report from the Law Society property subcommittee. This committee also forwarded a copy of that submission to me. It is dated 6 February, and I did not receive it until yesterday evening. After a brief look at it this morning, I have had an opportunity of giving some consideration to the matters that have been set out in the submission. New section 13(3), says that the Registrar-General shall administer this Act in accordance with any direction from the Minister and the intention, was to take account of the fact that the Registrar will now have wide powers to determine the forms to be used under the Real Property Act.

The honourable member, given his penchant to strut the stage as the friend of the ordinary man, would be only too aware of the difficulties that many people come across when confronted with Land Title Office documents. At the last election it was the expressed policy of this Government to attempt to simplify the procedures and the language of the law in this State to make it more accessible to the ordinary person who has to deal with the law from time to time. Under the Bill, it is proposed to give the Registrar-General quite wide discretions in relation to the preparation of forms and other documents. Because of that it was felt desirable that some supervision should be in the hands of the responsible Minister to ensure that we do not get into a situation where instead of simplifying the documents (and we have a wonderful opportunity to do that with the introduction of the lots system), we further complicate them. That is the principal reason why it was felt desirable that that power should be given to the Minister—to ensure that the procedures and the forms are kept as simple as possible.

Clause 5 enables notices to be served by registered or ordinary post. The honourable member read the submissions of the Law Society's property subcommittee concerning this matter. This provision was designed to give the Registrar-General a discretion as to how notices should be posted. It is not intended that all documents from the Lands Title Office should be sent by ordinary post. For example, in the examiner of files section, notices to owners, notices to produce documents and the forwarding of duplicate certificates of title and such matters would continue to be sent by registered mail. All other notices could be sent by ordinary mail, and this would save about 80 per cent of postage costs in this one section. Many of the notices and documents sent out by the Lands Title Office are quite routine matters which do not affect a person's rights in the narrow sense. Notices sent out to lawyers and various other people giving details of new procedures and practices in the offices can be reasonably sent by ordinary mail.

The Law Society subcommittee objects to clause 7 and other clauses which provide that the form of documents should be in the form approved by the Registrar-General, particularly when considered in association with clause 28. The intention of the amendment is to allow for the introduction of panel-type forms in lieu of the narrative type, as provided in some instances in the schedules to the Real Property Act at present. It is not simply a matter of repealing the schedules and replacing them with panel forms as prescribed, because it is to be done as a selective process to eliminate specific schedules and introduce new forms.

We believe that it is most desirable that these forms should be provided for by the Registrar rather than in the schedule of the Real Property Act. It may have been an appropriate method of dealing with forms last century or early this century to have them in the schedule to the Act, when South Australia was a smaller State with fewer people and fewer transactions at the Lands Title Office, and when the Parliament was far less busy than in modern times.

The situation that we would be required on each occasion to bring schedules back to the Parliament for quite minor amendments would be ludicrous. It has proved to be so in the past. Therefore, it is desirable, when the new forms are introduced, that the Registrar should be able to settle the forms and circularise them widely, so that members of the legal profession, land brokers, people working in banks and other financial institutions, and

others who, as part of their business activities, have cause to have regular dealings with the Lands Title Office will be able to become familiar with the new forms. That is how it is intended to operate. In particular, we believe it to be highly desirable, especially in the early stages of panel forms, to have this flexibility.

Clause 28 is intended to amend section 220 of the Act, and gives the Registrar-General the right to reject any instrument that should not, in his opinion, for any reason be registered under the Act. Section 220 at present provides that the Registrar-General may reject documents when his request for other instruments or information is not complied with. The difficulty at the moment is that the schemes were found to be quite unworkable as laid down. The amendment is similar to the New South Wales provision, and the intention is to try to make the provision workable.

At present, when a person comes into the L.T.O. and purports to register a document and it is sent out for correction, if that person chooses not to correct it, it stays on the title for some time. It is desirable that the Registrar should have the power to reject it if it is not in the correct form. I think that is a perfectly reasonable and proper provision. I imagine that in all Government departments where forms are required to be submitted the appropriate officer has this power. At the Companies Office, for example, if documents are not in the appropriate form they are not accepted by the office. It seems that this is a proper course.

Clause 18 has been the subject of some criticism from the Law Society subcommittee. The present provision is that, where a mortgage or encumbrance is required, for example, to build in accordance with plans and specifications in existence, such plans and specifications shall be attached to the mortgage or encumbrance unless they are in some other public registry. These plans and specifications are generally irrelevant to the registration of the instrument, and the Registrar-General is not particularly interested in them.

Instead of deleting the requirements altogether, the Parliamentary Counsel considered that flexibility should be retained, and gave the Registrar-General a discretion in such matters.

In relation to clause 22, a provision to eliminate the registration of extension of leases after the expiry date was introduced on two grounds: to facilitate the working of the land ownership and tenure system, the lots system, as previously indicated in my remarks in introducing the Bill, and to overcome the administrative difficulties in construing in a particular way the words "at any time" presently appearing in section 153 of the Real Property Act.

The literal application of the words "at any time" creates positions not in the best interests of the administration or of the general public. Difficulties have not been experienced with regard to extension of mortgages or encumbrances, as these are removed from the register book only by the formal means provided for in the Real Property Act, and have never been regarded as capable of expiring by effluxion of time.

Therefore, the proposed extension provisions need not be applied to mortgages or encumbrances, but the provision has included these instruments to make the proposed amendment uniform in dealing with all these instruments. There is also no objection to providing that a caveat can be lodged during the currency of the lease to preserve the rights of extension of a lease after the expiry date, but this may create problems which are unforeseen at present but which could probably be overcome with careful drafting.

That is what I want to say about the comments made by the Law Society property subcommittee. I believe it has raised some matters which needed clarification, but I believe that in each instance clarification is available, and I have given it to the House this afternoon. The Government does not believe that any of the matters raised by the subcommittee necessarily need amendments to the Bill as before the House.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

New clause 2a—"Interpretation."

The Hon. PETER DUNCAN (Attorney-General): I move:

Page 1, after clause 2, to insert the following clause:

2a. Section 3 of the principal Act is amended by striking out the definition of "Court" and inserting in lieu thereof the following definition:

"Court" means—

(*a*) the Supreme Court;

and

(*b*) in sections 52, 64, 71, 80, 87, 105, 108, 110, 142a, 165, 166 and 167 of this Act includes any other court or tribunal constituted under the law of this State or the Commonwealth:

Mr. EVANS: What is the reason for the new clause?

The Hon. PETER DUNCAN: It is a machinery provision.

New clause inserted.

Clause 3—"Repeal of ss. 13, 14, 15, 16, 17, and 18 of the principal Act and enactment of sections in their place."

Mr. EVANS: I have informed the Clerk of my intention to move to delete subsection (3) of new section 13, but I will not do that at this stage; I shall see what happens with other discussions I may have. If it is intended, by leaving the Minister's power to give a direction, to speed up the processes where people may have difficulty in trying to gain titles and have some action taken in the department, I do not wish to interfere with that process.

We need to be conscious of the fact that, in the immediate past, Ministers have interfered politically with departments. With a responsible Minister who does not wish to enforce his political philosophy on the department, there is no problem. The real property section of our society is one area in which the two political Parties tend to be far apart, to some degree, and I am concerned about that aspect. I am prepared not to move my amendment at the moment but to discuss it with a member in another place, obtain that member's opinion, and leave it at that. Opportunity exists for political interference, but I hope that the present Attorney-General or any future Attorney-General will not take such action.

Clause passed.

Clauses 4 to 17 passed.

Clause 18—"Contents of mortgage or encumbrance."

Mr. EVANS: As I am still not completely satisfied with the Attorney-General's explanation that the Registrar may require that a copy of plans and specifications or the documents concerned be attached to the mortgage or encumbrance, I suggest that the Committee vote against this clause. I am not convinced that it is necessary to have this provision, although the Attorney-General may have arguments why it should be in the Bill. I do not think that it helps in achieving the goals he is setting out to achieve. Discretionary powers exist for the Registrar-General. Registrars-General over the years have been responsible people, and are unlikely to require something that is unnecessary. However, there is a changing trend in the

Public Service that may not yet have reached this department; empire-building is going on.

Clause passed.

Clauses 19 to 21 passed.

Clause 22—"Renewal or extension of mortgage, etc."

Mr. EVANS: I move:

Page 5—

Lines 11 and 12—Leave out "mortgage, encumbrance or".

Line 13—Leave out "mortgage, encumbrance or".

In the Attorney-General's explanation of this clause, in answering the written opinions of the Law Society's property committee, he said that "mortgage" and "encumbrance" were included for the sake of uniformity; he did not say it was really necessary for the provision to be included. The committee that advised the Attorney-General and other members suggested that it should not be included.

Amendment carried; clause as amended passed.

Clauses 23 to 27 passed.

Clause 28—"Powers of Registrar-General."

Mr. EVANS: I move:

Page 6, line 7—Leave out all words in this line.

This clause provides that any fees in respect of any rejected instrument should be forfeited. Forfeiture may be genuine in cases where the instruments are rejected because of carelessness on the part of the broker or the lawyer who has lodged them but, in borderline cases, to ask that fees be forfeited is, I think, unreasonable.

The Hon. PETER DUNCAN: I am not prepared to accept the amendment. The honourable member's argument has merit in certain instances, but this has been a long-standing provision in the principal Act, based on the premise that the fees are lodgment fees, intended to cover the cost of lodging, examining, and subsequently registering the document on the title. As I know from practice, in the overwhelming number of matters arising under this provision the lawyer or land broker who has prepared the document has done it improperly or incorrectly, and it is rejected because of that. In most instances, the fee is a penalty on him, as he can hardly go back to his client and say, "I need another $15 or $20 for the registration fees, because I muffed it the first time, and need to have another bash at it."

It is a penalty to some extent, but it is also intended to cover the real costs, involved in the registry's accepting the documents and examining them to see that they are in proper registrable form.

Mr. EVANS: Where there is neglect or carelessness by a broker or lawyer, the cost or fess should be retained. I will not push the amendment, although I do not withdraw it, but I ask the Attorney whether he is prepared to consider, if it is moved in some other place, an amendment that gives the Registrar-General or the Minister the opportunity to return the fees where there is a genuine case of a very fine line and not a case of carelessness involved in the rejection.

The Hon. PETER DUNCAN: The suggestion the honourable member has made is reasonable and, if it is discussed in another place, I will look upon that sort of suggestion with some sympathy.

Amendment negatived; clause passed.

Clauses 29 and 30 passed.

Clause 31—"Service of notices."

Mr. EVANS: I move:

Page 6, line 19—After "personally or by" insert "registered".

Will the Attorney accept that as providing a little more security in relation to the service of notices?

Amendment negatived; clause passed.

Remaining clauses (32 to 36) and title passed.

Bill read a third time and passed.

SECURITIES INDUSTRY BILL

Adjourned debate on second reading.

(Continued from 14 November. Page 1945.)

Mr. TONKIN (Leader of the Opposition): I support this Bill. There has been, as the Attorney-General rightly pointed out when he introduced the Bill, a need for legislation governing the conduct of stockbrokers in the securities industry throughout Australia. There has been some legislation in New South Wales, but there has been no uniform legislation, and it is a good thing that this has now been arrived at. The community has been served pretty well by members of the industry in the past, but inevitably, as with any other profession or industry, there are always some exceptions to the rule, and there have been a number of unfortunate episodes in this industry. Fortunately, they have been relatively few and far between.

The Rae Committee conducted an investigation with thoroughness, and the report on securities in exchange was very valuable for the Australian community and the industry. The Commonwealth Corporations and Securities Industries Bill passed a number of recommendations and submissions from stock exchanges that have gone into the making up of uniform legislation. The Act has now been adopted uniformly by member States of the Interstate Corporate Affairs Agreement. The Adelaide Stock Exchange has been consulted about this matter at all times during the drawing up of the legislation and is entirely happy with it.

One small reservation expressed to me was that there may be some doubt as to the agreement with the other mainland States in signing the Interstate Corporate Affairs Agreement. That is something about which I would like to ask the Attorney later. However, I am informed that very little practical disadvantage arises from that. I can only welcome the Bill and suggest that it be supported wholeheartedly. It is very much a Committee Bill and uniform legislation, and I will reserve any further comment until the Committee stage.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—"Commencement."

The Hon. PETER DUNCAN (Attorney-General): I move:

Page 1, after line 6—Insert new subclause as follows:

(2) The Governor may, in a proclamation made for the purposes of subsection (1) of this section, suspend the operation of any specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

This amendment ensures that the licensing system can be brought in over a period of time. There are various types of licences, and it may not be that they can all be brought into operation on the same day. This is just a precaution.

Amendment carried; clause as amended passed.

The CHAIRMAN: This is a large Bill with many clauses, and, if each clause is put separately, it will take a considerable length of time. I hope to be able to put *en bloc* as many clauses as possible.

Mr. TONKIN: I think in this instance I shall be entirely happy to accept the Attorney's assurance that the legislation as presented in this form is entirely uniform with legislation being considered in other Parliaments. In that case I shall be happy to have the clauses submitted in

block form, other than those clauses where amendments are necessary.

The Hon. PETER DUNCAN: It is not entirely uniform, because the necessary changes have been made to take account of the local situation.

Clauses 3 to 8 passed.

Clause 9—"Disclosure to Commission".

The Hon. PETER DUNCAN: I move;

Page 11, line 15—Leave out ", *(c)* or *(d)* " and insert "or *(c)*".

I move this amendment because the Bill as printed is garbled. It is merely a typographical error that I am correcting.

Amendment carried; clause as amended passed.

Clauses 10 to 34 passed.

Clause 35—"Investment representatives."

The Hon. PETER DUNCAN: I move:

Page 25, lines 33 and 34—Leave out the words "is the holder of a dealer's licence or an investment adviser's licence" and insert—

(a) is the holder of a dealer's licence or an investment adviser's licence;

or

(b) is the holder of an investment representative's licence and the investment adviser is named in that licence as an investment adviser on whose behalf the first-mentioned person may act.

This clause seems to have gone through the scrambler in the typewriter, and the amendment is intended to ensure that the errors that occurred in the printing of the Bill are corrected.

Amendment carried; clause as amended passed.

Remaining clauses (36 to 133) and title passed.

Bill read a third time and passed.

COMPANIES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 14 November Page 1932.)

Mr. NANKIVELL (Mallee): This is a large amendment Bill to a large and complex Act. I am grateful to the Attorney-General for the time he has allowed for people to try to determine exactly what his amendments mean and how much uniformity, if any, has been created by the amendments proposed in this Bill. I have to admit to not having been able to compare this Bill with every other Corporate Affairs Bill. I have accepted what has been said in the second reading speech, that there is uniformity amongst those States that are party to the Interstate Corporate Affairs Agreement. I have, therefore, largely made my assessment by comparing this Bill and the amendments contained in it with the Victorian Act, which I accept should be in conformity with the Acts of New South Wales, Queensland and Western Australia, which are parties to that agreement.

I would like the Attorney to say why South Australia is not a party to that agreement. If it is the intention that this Bill, as was stated in the second reading explanation, is a preliminary step towards national uniformity, and if we are going to accept uniformity as it exists in other States, or uniformity that might be established by the Corporate Affairs and Securities Act of the Commonwealth, probably much of the concern that has been expressed about certain minor provisions of this Bill may not be of any consequence. I understand that the administration of the Bill is in the hands of the State and, therefore, I accept that creating a new Part XIII, as we have done, and setting up an independent commission is probably a proper step to take if we are going to have uniformity. This then means that we have a Bill that is not subject to control by the head of a department but is administered by an independent authority.

I was advised on consultation that this provision is a copy of what is presently in existance in the New South Wales Act. New South Wales has a commission whereas Victoria has a Commissioner. If one reads the present sections relating to the adminstration of this Act in Victoria and substitutes "Commissioner" for "Registrar", they are almost identical at the present time. This is quite a significant difference from what is proposed, but I believe that there is probably some justification for it. As the Leader said in supporting the Securities Industry Bill, we are strongly in support of uniformity in respect of this sort of legislation where there is a national need to have uniformity in the administration of companies between one State and another.

It is always accepted that there are reasons why States should differ, and in some ways there are benefits in the States being able to set their own course. In this type of legislation, which is terribly important to the whole Administration of the company system within Australia, much emphasis is being placed on uniformity, and as a Party we support that. Therefore we support all those aspects of the Bill which bring the legislation into uniformity with the existing Acts in other States and with the Bills that will be passed, I presume, complementary to the Commonwealth Act, and probably in conformity with the uniformity established by those States which are already partly to the Interstate Corporate Affairs Agreement.

I point out that there are four deviations from the uniform standard that I have been able to establish when studying the Bill. I have already referred to the Corporate Affairs Commission. That is a significant difference in this State. Whilst it brings us into conformity with New South Wales, we are not in conformity with Victoria. I believe Victoria may be considering setting up a commission also to create an independent position so far as the administration of the Companies Act is concerned.

Clause 129, which relates to the declaration by directors of contributions for political and charitable purposes, is the only variation admitted to in the second reading speech. I accept that this is a matter of Government policy. It has been stated that the intention of the Government is to set up a Corporate Affairs Commission and that these sorts of declaration should be made public just as we have in the Bill relating to members of Parliament.

Presumably this is in conformity with the views of the Government, but I would make this point: it is singling out one area of expenditure and requiring a declaration on it. The only declaration required under the Companies Act otherwise is more specifically related to people employed by the company, to emoluments to directors and loans and gifts that are made, other than the normal statements of accounts and the balance sheet. This is isolating one area of expenditure. I realise this conforms with Government policy, but I wonder whether it is Government policy to interfere with donations to charities, forgetting entirely the concept of donations to political parties.

I am advised that the Law Society, in its report which I have not yet seen but which the Minister might have received, expresses some concern that in its view the word "charitable" has a narrow definition, and it suggests this matter needs to be explained, otherwise there could be problems. I point out to the Minister that, if these declarations are made about charities, many of which depend on the generosity of companies, not only on the

generosity of the Government, it is possible that at a meeting of the shareholders people will waste the time of the meeting asking why one charity was given money and not the pet charity of that person. I think there is a lot of humbug in the proposal of the Attorney-General. Whilst it may be Government policy in both instances, I do not think it achieves anything and it is an area which is at variance with other legislation and with which we disagree on that account.

Clause 137 repeals the existing section 167b and inserts a new section in its place. It refers to a qualified privilege for auditors in respect of certain defamatory statements. I ask the Attorney-General why we have to change it, because it seems to be a change in wording only. Perhaps there was some difficulty in interpreting the original clause in our principal Act and as it is in the Victorian Act.

The other clause which varies from the Victorian Act, which I have been using as the uniform standard, is clause 160 which relates to advising employees of the payment of certain debts out of assets. Section 196 of the principal Act is amended by inserting a new subsection relating to employees being advised of the payment of certain debts out of assets subject to floating charges in priority for claims under charge. I see nothing wrong about employees being advised of circumstances of the company which is employing them but again, as was pointed out to me by the Law Society, there is a lot of humbug involved in calling together a group of employees to present a *fait accompli* to them. The advice could just as easily be given to the people concerned by sending them a notice, a normal letter, advising them of the circumstance of the company in which they are employed.

I do not intend to speak any more on the matter. It is a complex Bill which has been looked at closely by many people, and I thank the Attorney-General for allowing the House the time it has had to look at what is intended by these amendments and to establish whether or not they are uniform. I repeat that we support uniformity and, where this Bill is uniform in respect to matters relating to companies or where there is a reason such as there is for the establishment of a commission instead of having a public servant such as the Registrar of Companies in charge, we accept the legislation, but we do not accept that there is any need for some of the other amendments, particularly clause 129, which places us out of line with the other States. With those exceptions, we support the Bill.

The Hon. PETER DUNCAN (Attorney-General): A few matters have been raised with which I would like to deal. In particular I want to spend a few minutes dealing with the background of uniformity and why we should have the Bills we now have before the House, because from what the honourable members has said there may be some misunderstanding about what we are doing in passing this legislation. Some people have asked why, if we are going into a fully uniform scheme called the National Companies and Securities Commission, we are passing legislation at the moment. The answer to that is that, whilst the agreement to the National Companies and Securities Commission has been signed by the Prime Minister and the Premiers, the legislation which will provide the basis of that agreement is far from agreed, and I do not believe that it will be possible really to set up and fully operate the national scheme for possibly another two years. Two years might sound a long time but if members will reflect for a few moments on the steps that are necessary from now on I think they will see that two years may not be an unreal estimate.

A meeting will be held tomorrow and Friday during which some further consideration will be given to the legislation, which consists of five Bills: the national companies Bill, the securities Bill, the takeover Bill, the national companies Bill setting up the national corporate structure, and the Bill to establish that the legislation of the Commonwealth will in fact apply in each State. Perhaps I should explain the way in which the whole scheme is to be structured. There will be an agreed Bill passed through the Commonwealth Parliament using the Territories power, which will apply only in the Australian Capital Territory. We in South Australia will then have a short Bill which will simply repeal all the existing companies legislation in South Australia and provide that the legislation applying in the A.C.T. from time to time is to be the legislation governing the operation of companies in this State.

Those Bills will take a long time to draft. Some of them are at first draft stage, and others have been settled by the Ministers' council meetings and have been displayed for public comment. In that category is the takeover Bill. It seems as though it will be some time before we are in the position to be able to introduce the national scheme. It is desirable that South Australia, having agreed to go into the national scheme, should at the earliest possible time upgrade its companies administration to at least the standard of ICAC States, New South Wales, Queensland, Victoria and Western Australia.

Mr. Nankivell: Why aren't we a party to that agreement?

The Hon. PETER DUNCAN: We already send officers to the ICAC meetings as observers. They take part in the meetings and, *de facto*, are part of the arrangements, but at this stage to go through the procedure of getting an agreement and having it signed by not only South Australia but also Western Australia and Queensland etc. just did not seem to be of any great merit in light of the fact that we will be going into the national scheme reasonably soon.

Everybody is reasonably confident that the national scheme will go ahead at this stage, and it is only a matter of reaching some agreement as to the content of the legislation. The honourable member said that our arrangements for the setting up of the commission was a copy of the New South Wales arrangements. We followed that scheme, but it may not be a direct copy in terms of the language in the Bill. Clause 129, deals with the need to disclose. If the honourable member looks at that provision he will see that as far as charities are concerned it is not necessary for the company to indicate which charities have been supported during the year. Only the global amount needs to be declared in the annual accounts. Discussion with various charitable bodies reveals that they believe that, contrary to the honourable member's suggestion that this might lead to internal arguments in company meetings as to which charities are to be supported, for what reason, why others were not supported, and these types of issue, the effect of this clause might be to flush out considerably larger amounts of money for charities. This is because some companies which have possibly not been donating large sums in the past may be rather embarrassed when they have to stand up and be counted.

Mr. Nankivell: Those who have been too generous may be asked why.

The Hon. PETER DUNCAN: It may work in that direction but, as I have said, people I have spoken to from the Professional Fundraisers Association indicated that they felt the opposite might be the case.

Regarding clause 129, I have received a letter from a Mr. Blackburn who, as I understand it, is an officer of the Shareholders Association. In the long letter he wrote to the Director of Corporate Affairs, he said, in part the

following:

> Over the past weekend I had the opportunity of discussing with Mr. Mackenzie in Sydney the subject of your letter of 15 January. Mr. Mackenzie will be writing to you shortly giving the official view of the Australian Shareholders Association in relation to the proposed amendments to the South Australian Companies Bill. Generally the association supports the principle of disclosure of payments made by public companies other than in the ordinary course of business, but we do have some reservations in relation to the manner in which this requirement is proposed to be applied . . .

I raise that matter briefly to indicate that this is a matter of some concern to shareholders and has been for some time. It is proper that shareholders should know just how their money is being spent, and where it is being spent when it is not used directly in the normal course of business. Therefore, the Government believes that we should vigorously pursue clause 129.

Bill read a second time.

In Committee.

Clauses 1 to 17 passed.

Clause 18—"Names of companies."

The Hon. PETER DUNCAN (Attorney-General): I move:

> Page 18, lines 7 to 12 inclusive—Leave out all words in these lines.

Amendment carried; clause as amended passed.

Clauses 19 to 128 passed.

Clause 129—"Declaration of contributions for political and charitable purposes."

Mr. GUNN: I find it rather interesting that the Attorney-General and his colleagues have seen fit to insert this clause in the Companies Act, when they are a party to allowing a situation to operate in this State where every person who subscribes to a trade union that is associated with the South Australian Trades and Labor Council pays a contribution to the Labor Party, whether he supports that organisation or whether he is a member of another political Party. The Attorney-General will not amend legislation to alter that situation so that people are first invited to make a contribution to the A.L.P. so that it is no longer virtually mandatory as it is at present. That situation clearly indicates to the people of this State that not only is the Labor Party a bunch of hypocrites but it is setting out to deny people their rights.

It is the right of any organisation, group or individual to make a political contribution to any political Party he sees fit. This clause is purely designed to try to place some stigma on organisations that want to make a contribution. If the Attorney-General were being fair and just in having legislation of this kind, he would also take action to rectify the previous situation to which I have referred. I meant to obtain some information from the library as to how many people are associated with the Trades and Labor Council in this State, whether 25 000 or 40 000 people. If each of these persons is paying a dollar, about $50 000 a year is going to the Labor Party. A lot of those people would not be aware that these union secretaries are providing these funds to the Labor Party. In most cases it allows them to buy a seat in Parliament, because they have the numbers at conventions.

The CHAIRMAN: Order! I have allowed the honourable member for Eyre a considerable degree of tolerance, but I think he is straying far and wide and I wish him to cease commenting in the direction that he was taking before I asked him to sit down.

Mr. GUNN: It is essential that the Attorney-General should indicate clearly why he is prepared to have double standards in this State. If he wishes to put such legislation as this on the Statute Book, he should introduce legislation to provide that it is not automatic that people who are affected by the compulsory unionism attitude of this Government have affiliation fees taken out of their union subscriptions. I am most unhappy about this clause.

The Hon. PETER DUNCAN: The honourable member has made his position clear: it is one of ignorance. The clause seeks to require companies to fall into line with requirements affecting trade unions in this respect. In their annual balance sheets, trade unions must set out clearly what has been done with the money of the unionists, and that includes donations to political Parties. Such information is available to all members of trade unions in the annual balance sheets which are brought down by every trade union. The clause seeks to put companies in the same position. There is nothing hypocritical about it. It is a sad thing when Ministers, time and time again, have to run tutorials for the benefit of members opposite, who seem to believe the propaganda put out on the West Coast by the League of Rights, and such organisations.

Dr. EASTICK: Will the Attorney-General acknowledge that, whilst the information which will be made available under the Bill is available publicly, the information made available by the trade union movement in its records is not available publicly? Further, if a member of the public requires access to the detail in the trade union annual reports lodged with the Industrial Court, he must show cause to a judge of the Industrial Court why he should be permitted to peruse—not to take away—the document so lodged. I want to be sure that the information given to the Committee is factual, and I do not believe that the Attorney-General's recent assertions on this matter are factual.

The CHAIRMAN: The operations of the trade unions are not matters for debate in this Committee, and I ask the Attorney-General not to discuss the matter further unless he wishes to do so. The honourable member for Eyre compared the activites of trade unions with those of companies, and the Attorney-General answered that point. I do not wish to have the proceedings of this Committee deteriorate into a debate on the activities of trade unions, as that has no relevance to the Bill.

Mr. MATHWIN: If the Attorney-General has misled the Committee he should put the record straight.

Mr. RUSSACK: In his second reading explanation, the Attorney-General mentioned that the legislation was uniform with that in other States. Is this clause uniform with provisions in legislation in other States?

The Hon. PETER DUNCAN: No. A number of clauses in the Bill are not uniform but, by the time the national legislation is agreed to, this clause will be inserted as part of that legislation.

Mr. RUSSACK: Until it is uniform in all States, I oppose the clause.

Dr. EASTICK: In the absence of an answer from the Attorney-General, I accept that the statement I made that his recent assertion was not factual was a statement of fact by me, and not by him.

Mr. NANKIVELL: If the national legislation does not contain a similar clause, what is the Attorney-General's intention and how would he get himself out of this predicament?

The Hon. PETER DUNCAN: It is not a predicament. The national agreement provides that no State legislation shall contain any provisions which negative the operation of the national scheme. Legal opinion is that a provision of this kind does not negative the operation of the national scheme.

The Committee divided on the clause:

Ayes (23)—Messrs. Abbott, Bannon, Broomhill, and

Max Brown, Mrs. Byrne, Messrs. Corcoran, Drury, Duncan (teller), Groom, Groth, Harrison, Hemmings, Klunder, Langley, McRae, Olson, Payne, Simmons, Slater, Virgo, Wells, Whitten, and Wright.

Noes (17)—Mrs. Adamson, Messrs. Allison, Arnold, Becker, Blacker, Chapman, Eastick, Goldsworthy, Gunn (teller), Mathwin, Nankivell, Rodda, Russack, Tonkin, Venning, Wilson, and Wotton.

Pairs—Ayes—Messrs. Hopgood and Hudson. Noes—Messrs. Dean Brown and Evans.

Majority of 6 for the Ayes.

Clause thus passed.

Clauses 130 to 151 passed.

New clauses 151a to 151m.

The Hon. PETER DUNCAN: I move to insert the following new clauses:

Page 87, after clause 151 add the following clauses:

151a. Section 180a of the principal Act is amended—

(a) by striking out paragraphs *(a)* and *(b)* of subsection (5) and inserting in lieu thereof the following paragraphs:

(a) shares in which that person has a relevant interest; and

(b) shares in which an associate of that person has a relevant interest;

and

(b) by striking out from subparagraph (ii) of paragraph *(a)* of subsection (7) the word "substantially".

151b. Section 180b of the principal Act is amended by striking out from subsection (1) the word "corporate" and inserting in lieu thereof the passage "corporate or unincorporate".

151c. Section 180c of the principal Act is amended—

(a) by striking out from paragraph *(c)* of subsection (1) the word "Registrar" and inserting in lieu thereof the word "Commission"; and

(b) by striking out from paragraph *(c)* of subsection (3) the word "Registrar" and inserting in lieu thereof the word "Commission".

151d. Section 180d of the principal Act is amended by striking out from paragraph *(b)* of subsection (2) the passage "an interest" and inserting in lieu thereof the passage "a relevant interest".

151e. Section 180g of the principal Act is amended by striking out from subsection (3) the word "Registrar" and inserting in lieu thereof the word "Commission".

151f. Section 180h of the principal Act is amended by striking out from paragraph *(b)* of subsection (1) the word "Registrar" wherever it occurs and inserting in lieu thereof, in each case, the word "Commission".

151g. Section 180j of the principal Act is amended—

(a) by striking out subsections (1), (2) and (3) and inserting in lieu thereof the following subsections:

(1) Where—

(a) there is, in a statement that purports to be a Part A statement given under section 180c of this Act, matter that is false in a material particular or materially misleading in the form and context in which it appears; or

(b) there is an omission of material matter from such a statement,

a person to whom this subsection applies is, subject to this section, guilty of an offence against this Act.

Penalty: Two thousand dollars or imprisonment for one year, or both.

(1a) Where—

(a) there is, in a statement that purports to be a Part B statement given under section 180g of this Act, matter that is false in a material particular or materially misleading in the form and context in which it appears; or

(b) there is an omission of material matter from such a statement,

a person to whom this subsection applies is, subject to this section, guilty of an offence against this Act. Penalty: Two thousand dollars or imprisonment for one year, or both.

(2) A person to whom subsection (1) or (1a) of this section applies is, in the circumstances referred to in subsection (1) or (1a) of this section, whether he has been convicted of an offence under that subsection or not, liable, subject to this section, to pay compensation to a person who accepts a take-over offer on the faith of the contents of the statement, for any loss or damage sustained by reason of the false or misleading matter or by reason of the omission.

(3) The persons to whom subsections (1) of this section applies are—

(a) the offeror;

(b) where the offeror is or includes a corporation, a person who was a director of that corporation at the time the statement was given, not being—

(i) a director who was not present at the meeting at which the resolution authorizing the signing of the statement was agreed to; or

(ii) a director who voted against that resolution;

and

(c) subject to subsection (4) of this section, a person a notice of whose consent to the inclusion in the statement of a report made by him has been given to the offeree company under paragraph *(b)* of subsection (1) or under paragraph *(b)* of subsection (3) of section 180c of this Act.

(3a) The persons to whom subsection (1a) of this section applies are—

(a) the offeree company; and

(b) a person who was a director of the offeree company at the time when the statement was given, not being a director who was not present at the meeting at which the resolution authorizing the signing of the statement was agreed to or a director who voted against that resolution.;

and

(b) by striking out subsection (5) and inserting in lieu thereof the following subsection:

(5) It is a defence to a prosecution of a person for an offence under subsection (1) or (1a) of this section if the person proves—

(a) that, when the statement was given, he—

(i) believed on reasonable grounds that the false matter was true;

(ii) believed on reasonable grounds that the misleading matter was not misleading;

(iii) in the case of an omission, believed on reasonable grounds that no material matter had been omitted;

or

(iv) in the case of an omission, did not know that the omitted matter was material;

and

(b) that—

(i) on the date of the complaint or summons, he so believed or did not so know;

or

(ii) before that date, he ceased so to believe or came to know that the omitted matter was material, and forthwith gave reasonable public notice containing such matters as were necessary to correct the false or misleading statement or the omission.

151h. Section 1801 of the principal Act is amended by striking out from subsection (5) the word "Registrar" and inserting in lieu thereof the word "Commission".

151i. Section 180r of the principal Act is amended by striking out from subsection (1) the word "Minister" and inserting in lieu thereof the word "Commission".

151j. Section 180u of the principal Act is amended—

(a) by striking out subsection (1) and inserting in lieu thereof the following subsection:

(1) The regulations may amend the Tenth Schedule, either by omitting or altering any requirement set out in that Schedule or by adding additional requirements, and the Tenth Schedule, as so amended, shall be the Tenth Schedule to this Act.;

and

(b) by striking out from subsection (2) the word "Registrar" and inserting in lieu thereof the word "Commission".

151k. Section 180w of the principal Act is amended—

(a) by striking out subsection (4) and inserting in lieu thereof the following subsection:

(4) The penalty for an offence against this Act arising under this section is a fine not exceeding two thousand dollars or imprisonment for a period not exceeding six months, or both.;

and

(b) by inserting after subsection (5) the following subsection:

(6) The provisions of this section do not apply in relation to section 180j of this Act.

151l. Section 180x of the principal Act is amended by striking out from subsection (3) the passage "(disregarding any extension under subsection (3) of section 180l of the period during which the take-over offer remains open)" and inserting in lieu thereof the following passage "(any variation under subsection (3) of section 180l being disregarded)".

151m. Sections 180z and 180za of the principal Act are repealed.

New clauses inserted.

Clauses 152 to 248 passed.

Clause 249—"Repeal of s.390 of principal Act."

The Hon. PETER DUNCAN: I move:

Page 131, line 7—Strike out this clause and insert the following clause in its place:

249. Section 390 of the principal Act is amended by striking out from subsection (1) the passage "four hundred dollars" wherever it occurs and inserting in lieu thereof, in each case, the passage "two thousand dollars".

This clause as amended simply increases the amount under section 390 of the Act from $400 to $2 000, which is the amount that can be executed from a director where that director has control of company funds; in other words, where a director has funds of a company, execution can occur against him up to $2 000 to gain the company funds involved.

Amendment carried; clause as amended passed.

Remaining clauses (250 to 259) and title passed.

Bill read a third time and passed.

SECOND-HAND MOTOR VEHICLES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 9 November. Page 1887.)

Mr. CHAPMAN (Alexandra): The Bill gives wider protection to consumers on purchasing secondhand motor vehicles, and it is proposed to embrace the sale of caravans and boats, and, by proclamation, the sale of motor cycles. The Bill substantially increases the penalties for dealer default and makes it more difficult for new dealers to enter the trade and easier for others to get out.

Some dealers have claimed that, if the Bill is passed in its present form, they will be out by its design rather by their desire. The Bill, introduced on 9 November, has attracted wide and violent reaction from sections of the secondhand motor vehicle dealer industry and sections of the caravan industry, the boating industry, and those associations representing the respective authorities. I understand that considerable correspondence and representation have been made to the Minister and to his department seeking a delay and a further consideration period for the impact which the Bill is alleged to have on the industry and that, during the period of such negotiations and discussions with the Minister's office, certain undertakings have been given to the industry that have allayed its fears.

However, my understanding of the Bill and the attitude of the industry concerned with its effects cause me to inform the House that the Opposition intends to move a considerable number of amendments. We are not at all happy with the effect that this wider consumer protection is likely to have on the industry itself. Whilst not criticising the need for an appropriate amount of consumer protection, we believe that in recent years the efforts by this Government to protect consumers have had the opposite effect: they have so far burdened and encumbered dealers and traders in South Australia that those traders have accordingly been required to increase their prices to cover the compensation, warranty and guarantee requirements under the various sections of the consumer protection legislation, to such a degree that the whole community is now suffering as a result. I believe that, while there is some merit in widening consumer protection within the ambit of this Act, the Minister has again demonstrated, in the preparation of the Bill, that he has no understanding of the impact on the community at large when seeking to protect what might be an element of it.

At the appropriate time, I hope to bring to the attention of the House sufficient amendments that will, first, introduce an appeal clause into the principal Act, as that which applies at present provides only for appeal against the outright refusal or disqualification of a licence, and, with the additional disciplinary powers proposed to be vested in the board under this Bill, opportunities for dealers to appeal against such board decisions in the future must widen simultaneously. I further intend to amend clause 14 so that it will provide that the consumer, when purchasing a secondhand motor vehicle, caravan, or boat, will be responsible for returning that vehicle, caravan, or boat to the dealer's yard at the dealer's nomination, at the purchaser's expense. I do not know what the Minister and his department are thinking about here, but I do not think that they have taken seriously into account the kind of

implications that can occur as a result of introducing legislation in this form.

For example, under the Bill, dealers will be responsible for the total recovery cost of returning a vehicle, under the definition of "vehicle" in the Act, to the site of sale at the expense of the dealer when that vehicle is alleged to be faulty and subject to the conditions of warranty. In the five or six years I have been a member of this House I have never encountered such a wide and embracing protection clause for consumers and such a deteriorating clause for the dealer. The reaction from the industry was wide regarding that proposal, and we hope to have the matter cleared up.

The third point drawn to our attention is the concern of the industry regarding 24(3)(*d*) in the principal Act. The benefits of that section of the Act should be restored, not deleted, as is proposed in the Bill, so that tyres, batteries and other prescribed accessories, including radios, tape players and refrigerated air-conditioning units, which may be in a caravan or boat at the time of sale, are not subject to the warranty provisions. These items, which are subject to wear and tear and cannot be reasonably assessed or identified at the time of sale, should not be the responsibility of the dealer in relation to warranty or guarantee. The opportunity should be restored to the South Australian Chamber of Commerce to nominate two of its representatives on the intended board of five to administer the future Second-hand Motor Vehicles Act, so that the industry is properly represented. If and when caravans are included in the restrictions under the Second-hand Motor Vehicles Act, the caravan industry, if not the caravan and boat industry, should also be represented.

To ensure the licence fees payable by the partners of a business do not exceed the fee payable by a corporate body, the Opposition proposes to move an amendment regarding a dealer licence fee as prescribed. Irrespective of the number of partners in a business, a licence fee should apply only to a total business and not to each of the partners, as would apply in a corporate body.

New section 24 (6) *(f)* refers to $500, which is the sale figure above which a vehicle is subject to warranty. Values of vehicles have substantially increased since the Motor Vehicles Act, 1973, fixed this figure, so the base figure at which warranty commences should be increased. In order to be consistent with the other States, that figure should be raised to $1 000, which is the base figure in Victoria and Western Australia. The base figure is $1 500 in New South Wales, and from my information there is no such legislation in Queensland, so no base figure applies. I am not aware of the figure in Tasmania. It is desirable to introduce a figure of $1 000 as the base figure at which warranty requirements commence.

Regarding the requirement that a dealer must furnish the board with manufacturing details of a vehicle upon sale, concern has been expressed by dealers concerning vehicles not fitted with information discs or compliance plates. New section 32b (2) *(c)* proposes to make allowance for that. The wording of clause 18 is inadequate. In the Committee stage I will introduce an amendment to alter the wording, retain the effect, but make the issue of information discs clearer for the trade at large.

The Opposition agrees with the principle of ensuring that the public is protected, but the effectiveness and good running of a business should not be destroyed. If this Bill is passed without amendment, many people in the second-hand dealer trade will go to the wall. In the meantime, those who remain in business will charge the public a substantially increased figure to cover the encumbrances caused by this Bill. There is no point in the Minister's coming into this place and introducing legislation, on the one hand saying that the Government is anxious to protect the interest of the consumers and, on the other hand, knowing full well that, as a result of the Government's actions, the cost to the consumer across-the-board will increase for the products purchased, particularly regarding the second-hand motor vehicle trade. I point out that the Act relates to third, fourth and fifth-hand vehicles as well. For the Minister to suggest that a Bill that brings boats under the Act covering motor vehicles is quite unacceptable.

Regarding the proposal to incorporate in the Act the sale of caravans, I point out that the caravan trade is not consistent with that of motor vehicles. There is no way of determining, in many cases the life of the caravan, its manufacturing origin or other details that are required under the Bill for the purposes of identification. It is difficult to obtain details of the builder of the caravan and its background.

There are no engines in such a unit. There are no hidden parts that one could be required to pull apart in order to avail oneself of the condition. The wearing parts on a caravan, other than perhaps the bearings in the wheels, can easily be observed by the client, and on those grounds we do not believe there is a need to have caravans or boats under the ambit of the Act.

If the Minister, as a result of his undertaking to his department or those in the trade, is adamant about proceeding to bring the sale of caravans and boats under the legislation, we will at the appropriate time move a whole heap of amendments that will seek to make the best of a bad deal. In our opinion, the proposed increases to the penalties under the Second-hand Motor Vehicles Act are essential. Some of the other amendments for the purposes of protecting consumers in relation to vehicle sales are acceptable, and we will go along with them, but the rest are not acceptable to us.

While dealing with the subject of caravans, I think it is interesting and of some use to draw to the attention of the House a little of the history and some details of the current position that prevails in the caravan industry. A submission from the Caravan Trade and Industries Association, an authority that has been corresponding with the Minister and his department over recent weeks, states among other things that there are 73 members of the association, consisting of the only three South Australian caravan manufacturers, the remainder of the members being engaged in hiring, camping, parks, insurance, accessories and dealers.

There are some 29 caravan dealers in the membership total and to the best of their knowledge there are only two caravan dealers who are not members of the association. It is because of that that I accept that association as the voice of the industry concerned. In the past two years, they say, the industry has faced the greatest downturn ever experienced in any industry today, and no improvement is foreseen in the immediate future. They say that figures provided on registrations will verify the situation that exists and that the introduction of any restriction will not improve the tourist industry in South Australia.

I am not sure whether the shadow Minister for Tourism intends to speak on this matter, but I am aware of his concern about this legislation, which seeks to restrict further the activities of caravan dealers and, in turn, the tourist industry activity in South Australia.

I have some national and State figures relating to registrations of new caravans. For the year ended 30 June 1976 sales in South Australia were 6 102 and national sales 38 890; in 1977 South Australian sales were 5 907 and national sales 36 635; in the year ended 30 June 1978 South Australian sales were 3 913 and the national sales

28 181. Further figures that I have draw to the attention of the House are production figures which relate to the national production. State figures are not available for publication. However, with only three manufacturers in South Australia the percentages would be negligible. Those figures are as follows: 1976, 35 641; 1977, 33 623; and 1978, 22 781.

That association has demonstrated its concern about any further restrictions that may be placed on it. It has further demonstrated its concern about providing a sound and proper service. It has, from its own resources, appointed a technical and complaints officer. That officer is required to assist the client, advise the dealer, and carry out work designed to improve the overall service in the caravan industry in this State. I do not propose to deal with any more of the details provided by that industry. I am certainly sympathetic about the depression that is occurring in the caravan industry.

So far as I am aware, there have been few, if any, complaints about the conduct of that industry. On making inquiries within my own Party, I found that the matters drawn to the attention of members about crooks in the trade or bad deals in the caravan industry, are so negligible that they are not worthy of mention. I fail, therefore, to understand how the Minister can claim in his second reading speech that as a result of numerous complaints to his department he has been encouraged to include the practices of this industry under this licensing proposal.

So often we have Ministers (and the Attorney-General in his present capacity, and his predecessor for that matter, are not exempted from this criticism) coming into this House and trying to promote a Bill by citing a lot of complaints (unidentified, of course, and unproven as well) to justify the action that they are taking. It reminds me of a situation that occurred in this place when the Hon. Mr. Justice King was Attorney-General. He set out to convince this House in 1972 that it should introduce a Commercial and Private Agents Act. The implication throughout his address to this House (not only during the introduction of that Bill but also during the debate and his concluding remarks) was that those practising in that profession were so crook that they had to be licensed and controlled by a board.

It is interesting to look at the history of some of the events that have occurred as a result of the shallow and synthetic promotion behind some Bills that have been introduced into this place. On making inquiries, for example, about that Bill I found that the Registrar in charge of administering the Commercial and Private Agents Act had not had one complaint that he could recall against loss assessors, for example, since 1972.

Part of the intention in introducing that Bill was to embrace the profession of insurance loss assessor and insurance loss appraiser. I do not want to waste the time of the House citing a whole lot of examples, but having reserved that subject for the purpose of raising it in connection with another Bill on the Notice Paper, about which I will address the House, I have some concern about this claim of the Attorney-General that as a result of a whole lot of complaints he has taken this action. When introducing this Bill the Attorney might have been a little more informative and given the House the benefit of knowing the number of complaints that he had received about caravan dealers, for example, which have apparently justified the inclusion of that trade within the encumbrances of the Act.

One could go on at great length about the concern that we hold about bringing caravans and boats under this legislation. I do not propose to do so, except to recognise the concern of the boating industry. How the Attorney can suggest for a moment that the sale of a boat can be compared with the sale of a motor vehicle, I do not know.

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

Mr. CHAPMAN: Before dinner I was discussing the situation within the boat industry. It is proposed that this industry will be embraced within the Bill. In order to understand their problems I contacted some people from within that industry and have received a submission from them which sets out their concern, and it is similar to the type of concern I mentioned on behalf of the caravan industry. The association which furnished me with this material claims to be a strong, properly organised and well-established association of manufacturers and distributors representing about 70 per cent of the industry in South Australia.

I do not intend to place on record all the complimentary remarks that the association makes so proudly about its industry, nor do I propose to put on record all the points of concern that it has drawn to my attention. As I said earlier, we do not believe that the boating industry should be covered by the Second hand Motor Vehicles Act at all. We do not believe that the skills and the specific dealer areas applicable to the boating industry can be reasonably associated with those applicable to motor vehicles.

The association I have mentioned claims that, because of the differences in those skills required for properly advising on types of craft and motors required by purchasers, as distinct from those required for advising on the type and weight of caravans, and as distinct from those required for the sale of motor vehicles (about which the general public is better informed), and because of other good reasons stated in this submission, it is requested that the licences for motor boats, if licences are required at all, and those for caravans, should be kept separate from those for motor vehicles. Under a subheading in this submission headed "Uniform standards for new boats should precede warranty requirements for secondhand boats" the associations submission states:

> There has been no uniform set of standards for the design or construction of boats or conversion of motor to marine use in the past. A very large proportion of the present stock-in-trade of second hand motor boats would not conform to any recognisable standard. It is unfortunately the case that a large number of former boat builders are no longer operating and also that many boats are home built or "Kit" constructed. All these boats have no measurable standard of construction. This is entirely different from motor vehicles which have all been strictly controlled in design and manufacture and from caravans which have mostly been manufactured by large companies. Accordingly, to require dealers to give warranties on craft which are of unknown make, manufacture, age and standard is grossly unfair.

I support the association in its express remarks in that regard. The submission continues:

> The association does recommend that where boats have been built to proper standards, that on their resale as secondhand boats, proper warranties should be given, but not otherwise. There is a particular difficulty with boats in view of the enormous diversity in sizes and types of boats compared with cars or even caravans and even within a category a competent expert cannot warrant that a boat will be sea-worthy for two or three months after inspection unless he is aware of the standards and designs of manufacture.

In proposing to incorporate the sale of boats under this legislation, we are dealing with a totally different trade. Whether or not the Attorney-General has had these points drawn to his attention before, I ask that he at least be prepared, after reporting progress on this Bill, to consider

the plight that the boat industry finds itself in and the great difficulty it has had, and that we will have, in trying to amend this Bill so that this industry may be reasonably and properly incorporated. Despite the 29 suggested amendments that we have that specifically refer to the problems of the boating industry, I do not believe that, even by their inclusion, this Bill will then be satisfactory. It will certainly be a great improvement on its present style, but I believe the only answer is to withdraw the boats and the caravans from the encumbrances of this Bill and, if necessary, deal with them separately. Frankly, I do not think this legislation is necessary with respect to either caravans or boats.

I would like to mention the degree of effort the boat industry in South Australia has gone to to prepare within its own industry a code of ethics and standards of manufacture which it proposes to adopt in this State so that the safety, the manufacture and the design of those vessels are properly taken into account and dealt with in an orderly fashion.

Mr. Olson: Have you spoken with the commodore of the small boats club in relation to this?

Mr. CHAPMAN: No.

Mr. Olson: Well, you should do, and you might learn something.

Mr. CHAPMAN: As I said earlier, the association which furnished me with the material I am now referring to, claimed to represent some 70 per cent of the trade within the boating industry in South Australia.

Mr. Olson: We are concerned with 100 per cent, not 70 per cent.

Mr. CHAPMAN: I do not know whether the honourable member is aware of it, but the major source of my information came from one of the largest boat dealers in South Australia, and if he is not in the honourable member's electorate he is in the electorate adjacent to him. It is not with any reluctance that if I am pressed I shall name him, and I shall name one or two others in the Port Adelaide area if members want them to be named. Indeed, I shall be quite happy to furnish those people with the type of interjections I have heard from their respective members.

The SPEAKER: I hope the honourable member will get back to the Bill.

Mr. Mathwin: You haven't been off it, have you?

Mr. CHAPMAN: I did not think so, but I recognise the Speaker and his position and I try to observe the directions from the Chair as my colleague from Glenelg would well know. Under the subheading "The assessment of past use of boats and caravans is very difficult", the association's submission continues:

> With boats and motors far more than with motor vehicles or even caravans, the conditions and extent of use are the crucial factors in assessing the state of secondhand equipment and not only the age or distance of travel. All matters relating to odometers are inapplicable and no satisfactory alternative simple means is available for the assessment of what is a proper standard of repairs to attain for a boat or motor.

Already in this State, thanks to the Government, we have boat registration laws which provide for inspection before such vessels are registered. We have laws which require the operators of boats to obtain licences before going to sea. The regulations contain safety provisions, and to try further to load up the South Australian boating industry with an additional licensing system, as proposed in the Bill, is more than unnecessary; it is an insult to an industry and to a profession which has a good name and which has demonstrated their intention to carry out good business practice, and to continue to improve that practice in manufacture, design and safety.

A further submission is that appropriate warranties should be given, but that they should be restricted to vessels or motors which can be properly identified as having been built to a standard and which are of a known pedigree. That is not possible with existing secondhand boats, but it could be achieved with boats manufactured in the future and is in accordance with standards which the association is about to implement and which it understands are likely shortly to receive statutory recognition in at least two of the other States.

Following my reference of that report to this House, I ask the Attorney-General to consider seriously the contents of the submission of the boating industry, and to withdraw that section of the trade from the secondhand motor vehicles legislation. To grant one form of licence to cover car dealers, caravan dealers and motor-boat dealers would expose motor-boat dealers to direct competition from car dealers, with what is considered to be inevitable change in standards of advice available to purchasers.

Separate forms of licence should be required to show that people selling motor boats specifically hold themselves out as competent to do so. The boating industry is saying that it does not want to be a part of the legislation. It has not been satisfied that there is a need for it to be embraced within the canopy of the Second-hand Motor Vehicles Act. If it has to be within that canopy, substantial changes will need to be made to the Bill before it is acceptable at law, acceptable to them as an industry, or in any way beneficial to the public and to the consumer at large.

After all, surely the whole object of the Minister's attempt here is to offer reasonable and fair protection to the consumers, without the action having the effect of destroying the dealers in this State. I challenge the Minister to bring forward any real evidence which shows that the professional tradesmen and the dealers I have referred to have acted improperly, and therefore have justified the action that the Minister intends in this Bill, which is to embrace all of these other trades under the Act and to be as severe on the existing secondhand motor industry as the Minister intends to be within the terms of the Bill.

Although I have a bundle of material to which I could refer in support of the arguments of the Opposition, I do not propose to burden members with statistical details or evidence. However, if and when the Bill reaches Committee and the third reading stage, I will have adequate evidence to support the amendments to be put forward by the Opposition. Hopefully, in the meantime the Attorney-General will consider my remarks in relation to the boating and caravan industries, and will seek to divide those industries from the motor vehicle industry. He may look quite separately at some tidying up of standards and practices within the respective trades, not trying to bundle them in with the rest, as the Bill seeks to do.

Mr. DEAN BROWN (Davenport): I support the remarks of the member for Alexandra, who has thoroughly researched the Bill and who has taken what can be described only as a common-sense approach to it. I rise simply to voice my objection to the introduction of legislation, particularly in the consumer area, that will add significant administration to the public sector of this State and to the cost of operating private industry, when the Attorney-General is not prepared to present to this House justification for introducing that legislation.

We have had nothing from the Government in effective cost benefit studies to show whether it is necessary to introduce the legislation. I looked at the Attorney's

second reading explanation, and the only justification there was at page 1884 of *Hansard*, where the Attorney-General stated:

> The major new initiative contained in the Bill is the widening of the scope of the Act to embrace sales of motor boats and caravans about which there have been increasing numbers of complaints and inquiries to the Public and Consumer Affairs Department in recent years.

There is no indication of the number of complaints and their nature. We have had only an indication of an increase in the number. That is no reason for introducing legislation which could add significantly to the cost of the sale of these vehicles and to the cost to the State in administering the Act.

Caravans and boats are different in nature from motor vehicles. The motor vehicle is basically a mechanical object with an engine, transmission, and other items in which it is difficult for the consumer to detect malfunction. The caravan is quite different, with very few mechanical parts: the wheel bearings, the brakes and some of the ancillary items, such as refrigerators and stoves. It is almost like a home, and one could say that, if such legislation should apply to a caravan, then equally it should apply to a home. The position with boats is similar, although a boat, if it has some type of motor attached, is mechanically more complex than is a caravan.

It is difficult for any secondhand dealer to assess what a boat has been through. It is different from a motor vehicle since there is no account of the distance it has travelled, no account of the hours or of the age of the boat; it is possible to assess the age of a motor vehicle. It is difficult for any secondhand dealer to give the sort of guarantee asked for in the Bill.

If the Attorney-General is prepared to present to this House a detailed analysis of the reasons why such legislation is necessary, I am prepared to examine it; if satisfied, I would support the Bill. No such cost benefit study has been carried out. We have no indication of the increased number of staff required in the Public Service to administer this legislation, the increased costs to companies selling the boats and caravans, or the increased price of each unit to be sold, nor do we have any indication of the cost to the Public Service or to the Government to administer the legislation.

I oppose the legislation. I will not support such consumer legislation until adequate justification is given. It will require more than a few figures taken out of his annual report and thrown up by the Attorney-General in concluding the second reading debate, if he has yet found the figures. I require a detailed assessment of the types of complaint and whether or not this legislation would be effective in countering them.

Mr. TONKIN (Leader of the Opposition): First, I echo the remarks of the member for Davenport because I believe that the member for Alexandra has indeed put much work into this Bill. What is more to the point is that I believe we have come to a point in this State where we have had almost all the consumer legislation we can carry. The member for Davenport made the point that, if the Attorney-General were to introduce detailed reasons and justifications for such legislation, he might be convinced by those decisions. He has suggested that perhaps there are figures available that the Attorney-General has not yet introduced and that we may be going to hear about those soon, possibly within the next few minutes.

I am sure that members are agog with expectation, but I am afraid that we will not be getting those figures or any detailed analysis of the reasons for introducing this legislation. Consumer legislation is now virtually the Attorney's only avenue of getting a platform in this House through his Cabinet, and consumer legislation is being taken to extremes in this State. I totally agree that there is a place for consumer legislation; the community must be protected. A balance must be found between the old situation of *caveat emptor* totally and absolutely where "buyer beware" was the only principle that applied and the need to provide adequate redress for damages or for injury done in buying goods or products that were not up to standard or not as advertised.

However, another real and important principle is involved, that is, that every citizen has rights at common law, as the Attorney-General, as the first law officer of the State, should well know. Every individual has the right to take action to recover damages in the event that he has been a victim of misrepresentation, of shoddy workmanship that has been passed off as true workmanship, or whatever the cause. One of the problems that has led to consumer legislation growing and growing is the fact that legal expenses and the difficulties involved in taking that action have been increasing all the time. The Attorney-General would do far better in this State to make it possible for people who are aggrieved in this way to take action a little more easily.

I totally agree with the member for Alexandra and the member for Davenport when they say that, for motor vehicles, there is a case, but, for boats and caravans, there is not a case. Sooner or later we are going to have to draw the line on consumer protection in this State. To take it to a ridiculous length, some day there will be consumer protection against, I suppose, newspapers, television programmes, and the media generally, and this is exactly what we are looking at. I believe that the Attorney-General is agreeing with me.

The Hon. Peter Duncan: There's already unfair advertising legislation.

Mr. TONKIN: Exactly, but unfair in whose opinion?

The Hon. Peter Duncan: The courts'.

Mr. TONKIN: The courts are an answer, but Parliament will be laying down the legislation on which the courts will reach their decisions. I do not know where this matter will end. For me, a fundamental principle is involved. I accept that some consumer legislation is necessary and desirable, but I submit that too much consumer legislation is too much. All that it does is to take away from people their initiative and their individual responsibility for their own affairs, and it instils in the community as a whole a total dependence on Government.

Mr. Mathwin: "From the cradle to the grave."

Mr. TONKIN: Yes, as the member for Glenelg so rightly says. This legislation is something which this State and country cannot afford. Now, more than ever before, when our employment situation is so desperate, when our prospects for future development in this State are so critical, we need individual enterprise and initiative. We want people to be free to move ahead, to get ahead, to work and to prosper. Consumer legislation to the enth degree will turn us all into a population of Government-dependent zombies, and that is something which I and members of my Party will not stand.

The Hon. PETER DUNCAN (Attorney-General): The debate in the House this evening, starting with the member for Alexandra, reminded me of a rerun of the debate in this Parliament in 1971, when the Second-hand Motor Vehicles Bill was first introduced, and we heard all the same arguments then.

Mr. Chapman: You weren't here in 1971.

The SPEAKER: Order! The honourable member was heard almost in silence.

Mr. Tonkin: How could it remind you of something, when you weren't here?

The SPEAKER: Order! The honourable Leader is out of order.

The Hon. PETER DUNCAN: It reminds me of it clearly, because one has only to look at *Hansard*. Unfortunately, members opposite are not in Tasmania, or in some other place, where their ramblings are not recorded for posterity. It is a typical conservative approach that we have seen this evening—the kind of conservative approach that always pervades this sort of reform. They take the attitude of saying, "We're probably not able to delay that matter for long; the public demands this kind of protection. We'll delay it, to the best of our limited ability, until the pressure builds up, and we have to give way." That has been the history of consumer protection legislation in the House throughout the whole of this decade: every piece of consumer legislation that has been introduced in the House has been opposed in some way or other by members opposite, and we are seeing the same kind of approach being taken this evening.

Let us look at the legislation. The Bill is an amendment to the Second-hand Motor Vehicles Act, 1971. When that legislation was introduced, the Opposition cried hell fire and doom for the secondhand vehicles industry. It was predicted that the secondhand motor vehicle industry in South Australia would come to a sorry end as a result of that legislation. Now, one has only to look to see what has happened as a result of the legislation. It has been a resounding success.

Mr. Mathwin: Cars are dearer here than anywhere else in Australia.

The Hon. PETER DUNCAN: I will come to that point later. People in South Australia appreciated the protection given them by the legislation. They resoundingly supported it, and they have continued to support that kind of approach at election after election since the 1970 election. I remind the member for Glenelg, who has just interjected, that it was a policy promise of this Government at the most recent election that we would introduce this legislation to cover caravans and boats, and we were elected with a considerable majority as a result of the people's decision. We are now carrying out our policy promise, and I remind the Opposition that we have a mandate for the legislation.

When this legislation was originally introduced, it was criticised by members opposite and also by members of trade associations. The legislation, which was introduced by my predecessor in 1971, has now been adopted in Victoria by a Liberal Government. However, honourable members opposite have never taken their political creed from the Liberal Party in Victoria, which has had some tradition in recent times of emphasising the liberal element instead of a conservative view. This legislation has also been introduced in New South Wales and Western Australia.

There has been considerable consultation with the industry. The Automobile Chamber of Commerce was consulted from the outset. The Caravan Traders Trades and Industries Association has been consulted and members indicated last week the industry would be happy with the Bill. The Boating Industry Association provides an interesting example of an industry association, when invited to have its view heard by the Government, has chosen not to do so.

Mr. Chapman: To whom did the invitation go?

The Hon. PETER DUNCAN: On 13 November 1978 the Director-General of the Public and Consumer Affairs Department wrote to the Secretary of the Boating Industry Association and enclosed a copy of the new Second-hand Vehicles Act Amendment Bill. The letter stated:

> If you have any comments on the contents of the Bill, I would be most interested to receive your submissions as early as possible so they can be given full consideration.
>
> If you have any queries on the progress of the Bill, please contact Mr. Garry Mason, project officer, of this department, on telephone. . .

Before criticising the association, I must say that the letter may never have been received. But the Public and Consumer Affairs Department never received an acknowledgement from the Secretary of the Boating Industry Association. Apparently, the reason is that the association has chosen to brief the honourable member to represent its interests in Parliament. That is the association's choice and it is welcome to do that. I would have thought it would be to the benefit of the association for discussions to take place with the Government regarding this matter.

I did not examine the details in the annual reports, but honourable members know, because they have been vociferous enough lately, that the Commissioner of Consumer Affairs, pursuant to Statute, is required to supply Parliament with a report. Reports of recent years show the need for legislation of this sort and show also the need to extend the legislation to include caravans and boats. These two areas have been the sources of many complaints, and greater protection for the public is required. The Leader of the Opposition asked where consumer protection legislation will end. I do not believe there is an end to it, because there is no end to the ingenuity of people who are out to make money for themselves and who, in some instances, defraud and cheat the public.

Members interjecting:

The Hon. PETER DUNCAN: Not all people in industry defraud and cheat the public; the vast majority endeavour to run a business in a fair and proper manner. The member for Hanson has used this House very effectively to bring to the attention of the public the activities of some people in the market place regarding defrauding of consumers, and I commend him for the way he has done that in the past. While people are intent on making money from commercial activities, there will be some who will be prepared to overstep the mark. Thus, there is a need to upgrade consumer protection legislation to draw those people into the net of protection, so that the South Australian public can be protected. There is no end to consumer protection.

Mr. Tonkin: So you're saying there's no end to consumer protection?

The Hon. PETER DUNCAN: I repeat that while the ingenuity of people is such that others will be taken down, there is no end to the need for consumer legislation.

Mr. Tonkin: So there's no end to it?

The Hon. PETER DUNCAN: There is no end to the legislative process. The honourable member evidently agrees with me. There is a need to upgrade legislation in all areas. This Bill is long overdue: it will provide adequate protection to consumers in South Australia. An overwhelming number of people in this State appreciate the protection that the Government has provided and will certainly appreciate the protection to be gained from this legislation.

Bill read a second time.

In Committee.

Clauses 1 to 5 passed.

Progress reported; Committee to sit again.

INFANTS CONTRACTS (MISCELLANEOUS PROVISIONS) BILL

Adjourned debate on second reading.
(Continued from 12 October. Page 1417.)

Mr. WILSON (Torrens): This Bill, relating to the contractual capacity of infants, deals with one of the great principles of common law: a person cannot be held responsible for any contract into which he or she enters before he or she attains the age of majority. Before dealing with the nub of the Bill, I shall say something about the short title, the Infants Contracts (Miscellaneous Provisions) Act. I stress the word "infants". The following is an extract from the forty-first report of the Law Reform Committee of South Australia relating to the contractual capacity of infants:

> An infant is a person who has not attained the age of majority. In South Australia the age of majority is 18 years. See the Age of Majority (Reduction) Act, 1970-1971. The terms "infant" and "minor" are interchangeable.

The Law Reform Committee, which consisted of several distinguished lawyers, saw fit to put that at the head of its report. Obviously the lawyers themselves were aware that the terms "infant" and "minor" were interchangeable. I wonder whether members of the general public are similarly aware. It is obvious that lawyers and many members of this place are aware that the term "infant" in legislation means someone who has not reached the age of majority—in this State, 18 years. However, I submit that the public at large would confuse the term "infant" when it is used in legislation. The term "infant" is usually accepted by members of the public as relating to a very young child who has not reached the toddler stage. That interpretation of the term "infant" gives a false impression of the scope of this Bill. The law has to be understood not only by lawyers and members of Parliament but also by members of the general public. Of course, there has been a movement in recent years to alter the language of the law to make it more comprehensible to the general public. I submit that the term "infant" in this context is misleading, and I suggest that the term "minor" would be preferable and that the short title should be the "Minors Contracts (Miscellaneous Provisions) Act.

We have already had a precedent for this in a Bill debated here earlier this session—the Minors (Consent to Medical and Dental Treatment) Bill, which referred to children under the age of 18 years. I do not pretend that this is an earthshaking matter, but it is nevertheless important. We have to make a start somewhere to amend the language of the law when it could be confusing to lay people. I admit that when I became a member of this House I was puzzled (and sometimes I still am) when dealing with the language of the law, and I do not believe that in this respect I am any different from most people in the community. Parliament has to show the way. This Bill results from the recommendations of the forty-first report of the Law Reform Committee of South Australia. It would be advantageous to the House and to members of the public who will read the *Hansard* report of this debate to ascertain what the present law is as regards the contractual capacity of infants. The report states:

> The common law rules relating to contracts to which an infant is a party apply in South Australia. In general the contract is voidable at the option of the infant. In this branch of the law, however, the word "voidable" is understood in two different senses. Certain contracts by which the infant acquires some durable interest in property and which create obligations of a continuing nature are valid and binding upon the infant unless he avoids them during infancy or within a reasonable time after the attainment of his majority. Other contracts are not binding upon the infant unless ratified by him when he attains the age of majority. An infant is however bound by a contract of service which is for his benefit. He is bound to pay a reasonable price for necessaries supplied to him.

What may be a necessary for one infant is not necessarily a necessary for another infant. The report continues:

> This rule is embodied in section 2 of the Sale of Goods Act, 1895-1972. Where an infant avoids a contract, he cannot recover back money paid or property transferred pursuant to the contract unless there has been a total failure of consideration. The infant is not required to restore benefits received by him under the avoided contract except that in certain instances of fraud, equitable principles may be invoked to compel the infant to restore property received under the contract which is still in his possession. Contracts with infants are binding on the other party or parties to the contract and the infant may enforce the contract against such party or parties.

That gives a succinct resume of the law at present. The report deals with clause 4 in the Bill as follows:

> A statutory modification of the common law rules which operate in South Australia—

this refers to a modification of the common law rules regarding infant contracts—

> is section 5 of Lord Tenterden's Act (9 Geo. IV c.14) which was part of the law brought to this State at settlement. It is as follows:
>
> > No action shall be maintained whereby to charge any person upon any promise made after full age to pay any debt contracted during infancy or upon any ratification after full age of any promise or simple contract made during infancy, unless such promise or ratification shall be made by some writing signed by the party to be charged therewith.

That is an Act of the Imperial Parliament which applied, and still applies, to this State. The Law Reform Committee was not unanimous in its recommendations on these measures. In connection with the general principles that the committee was espousing, I quote the following extract from the report:

> The committee has been unable to agree on the general approach that should lie at the basis of the law governing the contractual capacity of infants. It is, however, unanimous in believing that the general principle should be that contracts should not be enforceable against infants, and that the law should continue to protect infants against exploitation by others and their own immaturity.

That is the great principle of common law to which I referred earlier and with which most members would agree. The report states:

> A majority of the committee believes that there should be no change in the general approach to the law and that in consequence contracts should continue to be unenforceable against infants: that the exceptions in favour of contracts for necessary and beneficial contracts of service should continue to exist and that the existing rules as to restitution should remain substantially unaltered.

I think that is very important because the changes that are contained in this Bill actually fall within the parameters that I have just read.

I turn to the Bill itself and refer to clause 4, which provides:

> Where a person has entered into a contract that is by reason of his infancy at the time of entering into the contract, unenforceable against him, the contract shall remain unenforceable against him unless it is ratified by him, in writing, on or after the day on which he attains his majority.

This is the section I referred to when I quoted from Lord

Tenterten's Act. The Law Reform Committee in its report says on this particular part of the legislation:

> If protection for infants is to be effective, ratification of the contract upon attainment of the age of majority must be prohibited (as it is in jurisdictions which have enacted the Infants Relief Act) or restricted.

It then goes on with this recommendation:

> The committee recommends that the principle of the present law that ratification be in writing be retained, but it draws attention to criticisms of the drafting of Lord Tenterten's Act and to the desirability of replacing section 5 with a clause in more intelligible form and in closer harmony with twentieth century legal concepts.

In fact, that is what clause 4 seeks to do. There is some feeling in the community that, although an infant should be able to rafity the contracts upon obtaining majority, there should be some sort of time limit on this sort of action. Perhaps we can discuss that further in Committee. Clause 5 provides that, where an adult guarantees an infant's contract, that contract is enforceable against the guarantor.

I quote two brief sentences from the Law Reform Committee's report on this actual recommendation. Recommendation 3 states:

> If an adult guarantees contractual obligations entered into by an infant, he is generally bound by his guarantee.

It then goes into a fairly lengthy explanation which I will not read to the House. The committee ends by stating that the infancy of the principal contracting party should not of itself protect an adult guarantor.

Clause 6 makes provision for a contract to be enforceable against an infant if the terms of the contract were approved by the court before the contract was entered into. The Law Reform Committee has a brief paragraph on this which I think is worth reading to the House. Recommendation 4 states:

> In both New South Wales and New Zealand Statutes established machinery by which an infant may enter into binding contracts and dispositions with the prior sanction of the court. It is unlikely that recourse to such a provision is frequent, but there may be circumstances in which such a power in the court would be useful. The committee recommends that such a provision be enacted in South Australia.

Mr. Venning: Isn't that the case now?

Mr. WILSON: Yes, it is. Clause 7 provides for restitution by the court to an infant that has passed from the infant where that infant has avoided a contract on the grounds of infancy. This is likely to be the most controversial clause in the legislation. The Law Reform Committee argued about restitution, as follows:

> Although the need to protect infants has led the majority of the committee to recommend that there be no general principle adopted that a defaulting infant contractor should have no more extensive obligation to restitution than the common law presently imposes upon him this reasoning does not bear on the rule that no restitution may be ordered to an infant unless there is a total failure of consideration on the side of the adult party. There are a number of cases in which an infant may obtain trivial benefits from a very partial performance of the contract by the adult party, and yet, having avoided the contract, be unable to have restored to him property that he has transferred under it. The majority recommends that a discretion be granted to the court to enable it to order restitution of some or all of property provided by the infant when a contract is properly avoided.

The minority report states:

> The minority further believes that the existing rules governing restitution of benefits provided by the infant are inadequate, and that those which preclude restitution benefits received by the infant except in the case of fraud are unjust and have provoked much of the criticism of the present law.

Clause 8 provides that a court may, on the application of an infant or on the application of a parent or guardian of an infant, appoint a person to transact any specified business, or business of a specified class, on behalf of the infant, and any liabilities so incurred are enforceable against the infant.

This really puts into effect the Law Reform Committee's sixth recommendation, although it goes slightly further than it. The report states:

> It has been the practice for many years in this State that when an infant who is the registered proprietor of an estate in land which is under the provisions of the Real Property Act desires to deal with his interest in the land application is made to the Supreme Court for the appointment of a guardian and for the empowering of the guardian to carry out the intended transaction on the infant's behalf. The committee recommends that the present practice, which seems to work well, be given statutory backing.

That is what the clause does, although I note the extension of the clause, which goes outside the Law Reform Committee recommendation and which states:

> Where a person appointed to transact business on behalf of an infant under this section incurs any liabilities in the course of so doing, those liabilities are enforceable against the infant.

Finally, I should like to compliment the Law Reform Committee on its work in producing that report. This shows the value of having a body of this nature to examine the complex intricacies of the law. It shows how much more necessary, for the future of this State, is the formation of a full statutory law reform commission, which I believe is a necessity in this State. I also believe that the reform of the law is one of the most important, if not the most important, aspect of the government.

Mr. Millhouse: Have you any estimate of how much a full statutory law reform commission would cost?

Mr. WILSON: No. I had not intended to canvass the matter completely tonight. However, I make the point that it is completely necessary, and I believe that any such law reform commission should have the power to receive evidence from the public. The Opposition supports the Bill.

Bill read a second time.

In Committee.

Clause 1—"Short title."

Mr. WILSON: I move:

> Page 1, line 3—Leave out "Infants" and insert "Minors".

I canvassed this matter in my second reading speech. I move this way in an attempt to make at least the title of the Bill comprehensible to the general public. "Minor" is far more acceptable to the public, because it shows the public to whom the Bill refers. Most contracts are entered into by minors between the age of 12 and 18 years, and there is no way in which the general public will accept that those people are infants.

Mr. GOLDSWORTHY: In the interests of common sense, I support the amendment. However, there seems to be a language for laymen and another one for the law. My understanding of "infant" was a babe in arms or thereabouts. However, the dictionary defines "infant" as a child during the early period of his life. However, it then states that in law it means "minor". So, in law, an infant means something different from common parlance. The law should be readily understood by the public, and this simple change enables a greater public realisation of what the Bill is all about.

Mrs. ADAMSON: I understand that the Attorney-

General will accept the amendment. Nevertheless, I must state that the moving of this amendment provides an opportunity to stress the importance of the expression of statute law being consistent, clear, and simple at all times. Precise words should be used to convey precise meanings, and they should be consistent throughout the Statute Book.

One of the greatest strengths of our democracy is that people should know their rights and responsibilities under the law and should be able to understand it easily at all times. That can happen only when the law is expressed in clear and simple language.

Attention was drawn to the importance of this principle by the Bright Committee in its report on the law relating to persons with handicaps. Paragraph 3 on page 8 of that report states:

> There is a complete lack of uniformity in terminology, which tends to indicate to us that Parliamentarians experience the same difficulty as the bulk of the community in knowing what to call people—

In this instance it refers to people with physical handicaps, but in the Bill it could be infants, children or minors, call them what one will. The report continues on page 9, paragraph 6, to state the following:

> Although there are historical explanations for choice of terms it seems clear that no attempt has been made to replace the more antiquated references with less emotive modern counterparts.

The report also states at paragraph 9 on page 10:

> We consider it vitally important that any legislation mentioning persons with handicaps—

although one might say persons in any capacity—

> should minimise all ambiguities of language. Definitions, in particular, should be chosen and worded carefully to ensure that the action which follows is appropriate for, if the words are not precise, the action will be unfocussed.

I believe that the Attorney shares these views. It is important to highlight them so that in future legislation the attention of Parliament can be drawn to the need for consistency, simplicity, and clarity.

The Hon. PETER DUNCAN (Attorney-General): I am pleased to be at one with members opposite on this matter. I have certainly expressed many times the sort of view that members opposite have just expressed, and I will be interested to have their support on another Bill that will return here from another place in a few days. I understand that Opposition members in another place have replaced "lawyer" with "solicitor" or "counsel" in a certain Bill. No doubt I will have the support of members opposite on that occasion.

Dr. EASTICK: I should like to know how, if this matter has been researched and considered at length, the Attorney was able to put through Caucus a Bill containing "infant" rather than "minor".

Mr. MILLHOUSE: I think I can answer that, because in law "infant" is the proper word to use and "minor" is not. The word "minor" is not a lawyer's term, and it is not a word that has been construed repeatedly for centuries as has "infant".

With great respect, to a lawyer what the member for Torrens and the member for Coles have said is arrant nonsense. We are here replacing "infant", which is well known and the meaning of which is known to lawyers (heaven knows, it must be if this Bill is to work) with a word that is inexact in its meaning. If Opposition members want to give out a few briefs to the legal profession, this is the way in which to do it.

In the interests of some superficial clarity for lay people, we are substituting a word which is not clear and which has not been construed as "infant" has been construed.

That is the real answer why the word "infant" appeared in the Bill that the Attorney-General introduced. I was not going to take any part in this debate, but I came in when the member for Torrens was reading out slabs from the Law Reform Committee's Report. Did it deal with this, and did it make the suggestion? Of course it did not, because it is an absurd suggestion to anybody who knows anything about the law, yet the Attorney-General is accepting it. If the implication is clear, it has got to be clear. I am amazed that the Attorney will accept this and I think he is very unwise to do so. In all fairness I must say that in the last couple of minutes since I heard the amendment moved and realised that the Attorney was going to accept it, I have had a chance to look at the Age of Majority Reduction Act. Section 4 (4) reads as follows:

> The expressions "majority", "full age", "*sui juris*", "minor", "minority", "infant", "infancy", "nonage" and any other similar expressions in any Act, proclamation, regulation, by-law, rule or statutory instrument, whether passed, promulgated or made before or after the commencement of this Act, shall be construed, unless the contrary intention appears, in accordance with the provisions of this Act.

In other words, it lumps all those terms together as a sort of dragnet. Nevertheless, we are not being sensible, in the interests of some superficial clarity for lay people who after all are not the ones who will finally have to construe this, to change the word "infant", which is well accepted and well known and tested, to a word which is perhaps understood by lay people but may be completely out of date in 10 years and may not be used at all. This is a trap, and no doubt the member for Torrens is very pleased because it looks as though he will get an amendment through, but it is certainly not a good amendment.

An infant now is recognised as a person under the age of 18 (it used to be under the age of 21). "Minor" is an inexact term, which may have different shades of meaning, and situations may arise where the courts, puzzled by an apparently capricious change by Parliament, may look for some distinction in meaning between "infant" and "minor" and may think that Parliament deliberately meant something different. If the amendment goes through and the old people upstairs are silly enough to leave it there, it will be used instead of the word "infant".

The CHAIRMAN: Order! The honourable member will not reflect on members in another place.

Mr. MILLHOUSE: The Attorney-General was congratulating himself with being at one with the Opposition on this, but he is not at one with me, and it is a very foolish thing to do.

The Hon. PETER DUNCAN: Fortunately, we are still making laws in this Chamber for all people in South Australia and not just for lawyers. If it assists people in South Australia to understand what the Bill is about, it is a worthwhile move. The matter raised by the former Leader of the Opposition was referred to the Law Reform Committee, no doubt using lawyers' language at that stage, and that language has continued to ride along with the project. The member for Torrens having raised the amendment, I have studied the situation, and I think it is worth while in the interests of clarity that the amendment should pass.

Mr. McRAE: I am surprised that my legal colleague, the member for Mitcham, should find any difficulty about this, because I recall that on previous occasions he has drawn our attention to the need to bring up to date language that has become otiose and cannot be easily understood by people in the street.

Mr. Millhouse: You cannot say "infant" is otiose.

Mr. McRAE: Of course it is otiose in this context.

Mr. Millhouse interjecting:

The CHAIRMAN: Order! The honourable member for Mitcham is out of order. He has had his attention drawn to Standing Orders earlier in the day, and I do not wish to continue warning him.

Mr. McRAE: I think the honourable member for Mitcham is rapidly becoming otiose himself.

Mr. Millhouse: Can I reply to that one?

The CHAIRMAN: Order! The honourable member for Playford will not refer to members of Parliament in such a way.

Mr. McRAE: I will guard my tongue closely. I can see absolutely no worries, legally or otherwise, in the reasonable suggestions that have been put forward by the member for Torrens, and I hope that they will be passed. I believe that it is a little bit of petulant behaviour on the part of the member for Mitcham to speak in the way that he did.

Mr. WILSON: The idea came to me when reading the 41st report of the Law Reform Committee of South Australia. In one sentence of that report is a very definite statement that the terms "infant" and "minor" are interchangeable. It does not say that they are substantially the same; it says that the words are interchangeable. The Law Reform Committee, which wrote this report, comprised, as they are now, Their Honours Zelling, J., Jacobs, J., King, C. J., Cox, J., and Messrs. D. W. Bollen, J. F. Keeler, and K. T. Griffin.

Amendment carried; clause as amended passed.

Members interjecting:

Mr. Millhouse: It had nothing to do with me, I just said what a fool of an amendment it was.

The CHAIRMAN: Order! The honourable member for Mitcham should not continue to interject. He is on very shaky ground indeed as well he knows.

Clause 2 passed.

Clause 3—"Interpretation."

Mr. WILSON: I move:

Page 1—

Line 7—Leave out "infant" and insert "minor".

Line 8—Leave out "an infant" and insert "a minor".

Amendments carried; clause as amended passed.

Clause 4—"Contract that is unenforceable by reason of infancy remains unenforceable unless ratified in writing."

Mr. WILSON: I move:

Page 1, line 10—Leave out "infancy" and insert "minority".

Amendment carried.

Mr. WILSON: As I said before, clause 4 provides the contract which is unenforceable by reason of infancy should remain so unless notified in writing upon the infant attaining majority. There has been some concern in the community about clause 4, and I wish to put on record and perhaps the Attorney-General may like to comment on it. Because performance of the contract continues whether or not ratification has been or will be made, it may be better for ratification to be compulsory within a restricted time period so that the legal position between the parties is clarified as soon as possible.

As the report states, while there is no doubt that unreasonable pressure will sometimes be brought to bear on persons who have recently attained their majority to ratify contracts made during infancy, they should require no greater protection than other young adults who are subject to pressure to enter into contracts. Would the Attorney-General comment on the desirability of having a time limit built into the ratification of a contract by the infant upon obtaining majority?

The Hon. PETER DUNCAN: I do not really want to comment, because this matter is somewhat arbitrary; you have to make a decision as to whether or not you will have a time limit. I think the sort of consideration that swayed the Law Reform Committee to recommend what is proposed in the clause was the thought that many of these contracts are hire-purchase contracts, where an adult has gone guarantor for the contract and, some little while after the minor becomes adult, it is the practice to release the guarantor and for the minor to ratify the contract so that he becomes fully liable in law for the responsibility under the contract.

In those circumstances, a time limit might have been useful; if it extends over the time limit, the guarantor is left with all the responsibility, where he might have intended to be responsible only for 12 months, until the minor became an adult. That sort of consideration, I think, swayed the mind of the Law Reform Committee.

Mr. WILSON: Does the present law require ratification within a reasonable time? The Attorney-General may be familiar with the phrase in a submission made to him on the Bill. Not being a member of the legal profession, I cannot give a judgment on what that means.

Mr. Millhouse: It doesn't mean anything.

Mr. WILSON: I believe that is the present situation. That is the point I am trying to make.

The Hon. PETER DUNCAN: As I understand it, the law does not require it.

Clause as amended passed.

Clause 5 — "Guarantees."

Mr. WILSON: I move:

Page 1—

Line 13—Leave out "infant" and insert "minor."

Line 14—Leave out "infant" and insert "minor."

Line 16—Leave out "infant" and insert "minor."

Amendments carried; clause as amended passed.

Clause 6—"Approval of infant's contract by court."

Mr. WILSON: I move:

Page 1—

Line 18—Leave out "an infant" and insert "a minor".

Line 18—Leave out "the infant" and insert "the minor".

Line 20—Leave out "the infant" and insert "the minor".

Page 2—

Line 3—Leave out "the infant" and insert "the minor".

Amendments carried; clause as amended passed.

Clause 7—"Restitution of property to infant."

Mr. WILSON: I move:

Page 2—

Line 12—Leave out "infancy" and insert "minority".

Line 16—Leave out "infant" and insert "minor".

Line 22—Leave out "infant" and insert "minor".

Amendments carried.

Mr. WILSON: This is probably the most controversial clause, and the Law Reform Committee was divided on it. I have no idea who was against the recommendation and who was in favour of it. The clause provides that the court may order restitution of property to some other contracting party before the avoidance of the contract. It would seem that the power to order restitution is in one direction only. The Law Reform Committee recommended that it remain in one direction only. All of the organisations I contacted on this Bill made submissions that there should be restitution both ways.

Clause as amended passed.

Clause 8—"Appointment of agent to act on behalf of infant."

Mr. WILSON: I move:

Page 2—

Line 38—Leave out "an infant" and insert "a minor".

Line 40—Leave out "an infant" and insert "a minor".

Line 42—Leave out "the infant" and insert "the minor".

Page 3—

Line 1—Leave out "an infant" and insert "a minor".
Line 3—Leave out "the infant" and insert "the minor".

Amendments carried.

The Hon. PETER DUNCAN: I move:

Page 2, line 42—After "class" add the words "or to execute any documents".

Amendment carried.

Mr. WILSON: Referring to subclause (2), can the Attorney say whether the person so appointed is acting as an agent and, in that case, would the liabilities be enforceable against the person so appointed? There seems to be some doubt as to whether a person appointed to transact business on behalf of an infant is in fact an agent, and whether that would make the person able to incur a liability.

The Hon. PETER DUNCAN: Yes and yes.

Clause as amended passed.

Title.

Mr. WILSON: I move:

To leave out "infants" and insert "minors".

Amendment carried; title as amended passed.

Bill read a third time and passed.

COMMERCIAL MOTOR VEHICLES (HOURS OF DRIVING) ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 11 October. Page 1387.)

Mr. CHAPMAN (Alexandra): We support the Bill, involving amendments which simply seek to alter the word "weight" to "mass" wherever it occurs in the principal Act. We recognise the agreement of the industry and the department, and the general acceptance of the word "mass" in relation to vehicle weights and contents, and we recognise that it should be used in that context in future.

The only other amendments to the principal Act refer to the keeping of log-books and the duplicate pages required to be retained for record purposes. The third part of the Bill refers to the production of those log-books at least once a month, rather than once a week as previously proposed by the Minister.

It has been interesting to note over the period I have been in this place the nature of criticisms that have been directed at the Minister of Transport. I have from time to time subscribed to those criticisms and may have called the Minister all sorts of nasty things. All those criticisms of him, whilst mainly true, are not totally true. On 15 February 1978, I sought to amend the Commercial Motor Vehicles (Hours of Driving) Act Amendment Bill, which the Minister had presented to the House, by deleting "week" and inserting "month" in the appropriate place, and the Minister, whilst agreeing to consider that matter, about 12 months later has proposed the same thing. So, he is not wrong all the time. He may be crook, nasty, arrogant, inefficient, and all the other things we call him from time to time, but he is not wrong all the time.

That has been exemplified on this occasion, when he has come forward and adopted exactly what we had proposed. On behalf of the Opposition, it is my pleasure to support the passage of this Bill in all haste. As we have no amendments, we will have no discussion on the Bill after the second reading. I congratulate the Minister on adhering, first, to the industry's request and, secondly, on his upholding our request on its behalf.

Mr. BLACKER (Flinders): I, too, support the measure; my only regret is that it is not a Bill to repeal the Commercial Motor Vehicles (Hours of Driving) Act. As the industry has been consulted on this measure, which provides greater flexibility for drivers and owner operators, I believe the Bill should be supported, and I commend the Minister for consulting with the industry on this matter.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2 —"Interpretation."

Mr. GUNN: I believe that this clause gives me the opportunity to make some brief comments on the manner in which the current legislation is administered. I have complained in this Chamber several times about the activities of Highways Department inspectors. We all realise that, if people flagrantly break the law, not only will they be prosecuted but we can make little complaint about inspectors carrying out their duties. However, when inspectors resort to quite foolish—

The ACTING CHAIRMAN (Mr. Klunder): Order! The honourable member should be speaking to clause 2, but he has not been doing that.

Mr. GUNN: I thought that this was an appropriate —

The ACTING CHAIRMAN: I ask the honourable member to resume his seat.

Clause passed.

Remaining clauses (3 and 4) and title passed.

Bill read a third time and passed.

ROAD MAINTENANCE (CONTRIBUTION) ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 16 November. Page 2078.)

Mr. CHAPMAN (Alexandra): When explaining this Bill in the House last November, the Minister made clear that the Government intended to clean up the practices of what it described as "straw" companies. I think that, before referring to them again, it is reasonable that I should explain what the industry regards as "straw" companies.

A "straw" company is a company that is formed by persons who do not directly operate in the State in which the company is formed and in the industry concerned. I think that, for general purposes, it may be described as an escape valve to avoid paying the road maintenance tax charges applied by the respective Australian States and that, as a result of this, the entire Act is being ignored by at least a section (some claim a significant section) of the transport industry. Clearly, some action ought to be taken to abolish the road maintenance tax altogether, and I am sure that the industry supports that view.

The Hon. G. T. Virgo: Nixon won't be in it.

Mr. CHAPMAN: Indeed, it is clear that a number of Ministers and shadow Ministers in other States also expressed that view. The Minister has interjected, once again, on the same old half-note that he plays on this subject, namely, "Nixon won't be in it." Why should Nixon be in it? Why should the Commonwealth or the Federal Minister for Transport collect the taxes that are the responsibilities of the respective States? Although I am unlikely ever to be the Federal Minister for Transport, if I worked in that position in no circumstances would I seek to do the dirty work for the respective State Ministers of Transport.

It is about time that those Ministers of Transport throughout Australia got together, recognised the obligation that they have to collect their own tax and, if they are not prepared to do so, to knock it off altogether, and certainly not inflict upon heavy transport hauliers the burden of road maintenance tax. It is farcical to consider

the avenues by which that tax can be, and has been, avoided.

This Bill seeks to tidy up the practices of the "straw" companies that have been formed in the respective States. That action is of a reciprocal nature which, it is hoped, will be adopted by each State somewhat simultaneously so that the escape valves are closed. However, while agreeing with the Minister's attempt to close these loopholes, the Opposition cannot accept that a person proclaimed guilty by the Registrar, acting under the Road Maintenance Act, shall have no right of appeal. In the Committee stage I propose to move an amendment to overcome that position.

While the effect of this Bill will be to tighten the law regarding the collection of road maintenance tax in the future, no circumstances should arise where retrospective action could be taken against hauliers. I have had brief discussions with the Minister regarding this, and there has been some commitment in this direction from him, but the area of retrospectivity should be eliminated altogether from the Bill. While it exists, it is parallel to the process of the "Warming" Bill. A person who has acted technically within the law, prior to that loose law being tightened up by Parliament, should not be penalised whilst the Minister has explained to certain people in the industry that the prime object of the Bill is to tighten up the practices of the "straw" companies. I am not satisfied with the Bill in its present form.

The opportunity exists for the present Minister or any Minister in the future to instruct his Registrar to deal retrospectively with a person allegedly dodging the road maintenance tax. My amendment refers to the committing of offences after the passing of the Road Maintenance (Contribution) Act Amendment Act in 1978. From then onwards those who break the law should be penalised in the appropriate way, but those who have tried to evade the law prior to that date should not be subject to any prosecution or conviction. There is no point in labouring this subject. The Government knows the Opposition's attitude to road maintenance tax: we believe it should be abolished, as the Minister has said it should be, and he is in a position to repeal the legislation, but he has not done so. If and when revenue is required, the obvious place to seek it is in the fuel area, and it should apply to fuels that are used by all vehicles on the roads and not be restricted to the fuel used in the road transport industry.

The Hon. G. T. Virgo interjecting:

Mr. CHAPMAN: The Minister is always having a crack at me. He can rave on forever and criticise the Federal Minister for Transport. This responsibility is that of the respective Ministers in their own States. There is no reason why a fuel tax cannot apply in South Australia, as does beer tax and tobacco tax. It can be called a fuel levy. It can be done, and when the Opposition is in Government, it will be done. Until then, the whole process of penalising a few road hauliers is quite unfair and unacceptable.

If a fuel tax were introduced in South Australia to avoid the encumbrance of road maintenance, it would cost ·00318c a litre, or 3·18c a kilolitre (1·4c a gallon) in fuel sales to recover the same gross amount that is now received through road maintenance tax. If the load was spread, it would not cost each individual or purchaser of fuel any great amount and it would relieve that incredible burden on big hauliers.

It has been demonstrated since the introduction of the Road Maintenance (Contribution) Act that there are a host of avenues by which one can avoid paying the tax. Some people refuse to put in a return; others put in a return which includes only some of their activities, while others claim to put in a return that reveals the whole of the mileage clocked up by their vehicles. There is a scattered situation whereby some pay their dues, some pay a portion of their dues, and others pay nothing at all. Despite the efforts to police this Act, it is not impossible but extremely difficult to do so.

A measure has been introduced by the Minister to tighten up the Act, and it is pretty good, but it is not good enough. This measure will not solve the situation, and in the meantime we are concerned about the two aspects I have cited. The Bill provides no opportunity for appeal to the Registrar against action he may take. A situation where an industry or persons involved in that industry may be dictated to without an avenue of appeal cannot be tolerated. Secondly, the Opposition disagrees with any retrospective provision, although the Minister has lightly assented to our argument on that matter. I would be interested to hear the Minister's explanation for some of the amendments that he has on file. Hopefully, in his reply to the second reading debate he will give the reasons for distributing 2½ pages of amendments only a few minutes ago.

The SPEAKER: That will be discussed in the Committee stage.

Mr. CHAPMAN: I appreciate that. There should be some explanation for filing these amendments, which I have not had a chance to study, at this stage.

Following a cursory glance at the amendments, I believe that they seek to tighten further the Bill, rather than make it more flexible with respect to appeals and the retrospectivity aspect. Of course, the Minister may be relying on our amendment. It appears that he is making a distinct effort to be consistent with legislation in the Eastern States, and I would agree that the principle of seeking such uniformity is fair enough. Hopefully, the Minister at the appropriate time will take account of our amendments, and we will be interested to hear his explanation of his amendments.

Mr. BLACKER (Flinders): I support the remarks of the member for Alexandra. I can only reinforce his sentiments about the total abolition of the Road Maintenance (Contribution) Act. This Bill seriously affects my district, most of which is 600 km from Adelaide. Nearly all consumer goods have to be transported that distance, and the prices of most other commodities have a large freight component. As a result, the road maintenance tax seriously affects the livelihood of every constituent in my district. The Auditor-General's Report refers to the sum of $807 000 that has not been collected from sundry debtors and the report refers to other large sums that have been written off. The report states:

> To improve measures available for the recovery of charges a provision to impose liability upon persons concerned in management of corporate bodies was included in the Road Maintenance (Contribution) Act Amendment Act, 1975, which operated from 11 December 1975. Although a significant number of convictions has resulted from this amendment, it is considered that avoidance of tax through the ineffectiveness or absence of procedures for enforcement, particularly in interstate jurisdictions, is considerable.

I appreciate that this measure is designed to close that loophole. If road maintenance contributions are to apply throughout the State, they should apply equally to all road users, and I support the remarks of the member for Alexandra about a fuel tax. Even though the present law does not operate equitably or 100 per cent effectively across the State at present, why should all Eyre Peninsula transport operators have to pay tax when those nearer the border get away with it through straw companies? All

transporters should be treated equally.

The SPEAKER: Order! If the Minister speaks he closes the debate.

The Hon. G. T. VIRGO (Minister of Transport): I am disappointed that the member for Alexandra has made his speech and departed.

The SPEAKER: Order!

The Hon. G. T. VIRGO: I am sorry. I now realise that the member for Alexandra is in the Chamber with the Parliamentary Counsel. I am pleased that he is here, because I say to him and the member for Flinders that the question that they raised, the abolition (that is their term; I have persistently used the term "replacement") of the road maintenance tax is something that I have strongly advocated for a long time. All I can hope is that the member for Flinders will convey to his Country Party colleague, the Federal Minister for Transport, the views that he has just expressed. I have put those views to Peter Nixon time and time again, but unfortunately they have fallen on deaf ears. Mr. Nixon is quite unmoved by the case for the rural people. Indeed, we have gone as far as having the Premier write to the Prime Minister stating the case for the replacement of the road maintenance charges with the fuel tax proposals, but Mr. Fraser has rejected the case, as has Mr. Nixon. I can only hope that the member for Alexandra and the member for Flinders will put their money where their mouths are and persuade their Federal counterparts, their Federal bosses, that what they want ought to be introduced. They will certainly get 100 per cent support from the South Australian Labor Government.

Regarding my amendments, I apologise to the House that they have been circulated only of late. For a considerable period I adopted the view that, when the State Government's legal advisers advised us that amendments to the road maintenance contribution legislation would be lawful, we would then amend our Act, but we would not do it before then. It is only of latter days that we have received a change of heart on the part of the Government's legal advisers. Before, we had all sorts of views. The Victorian Parliamentary Counsel tried to pressurise us about 10 months ago, to the consternation of the then Minister of Transport in Victoria; he has since been elevated to the position of Agent-General for Victoria (I think he was frightened that he would lose his seat at the election next May).

He tried to pressurise South Australia to amend our legislation to conform to the views of the Victorian Parliamentary Counsel. I told him, and I do not apologise for doing so, that the South Australian Government depends for advice on our South Australian legal representatives. We are not interested in what others say. We want the good oil from our own people. Our own legal advisers have now advised us, contrary to what they previously said, that this amendment is lawful. I do not offer an opinion on that, other than that the Bill which was introduced three months ago is now suddenly amended again. I hope that the lawful application of it is correct. We can only wait and see. I think the only way we will ever know whether what we are doing tonight is lawful is to wait for someone, who is trying to cheat, to take this legislation to the courts, which will decide the matter.

Mr. Gunn: In their wisdom.

The Hon. G. T. VIRGO: I do not offer a comment on that. The member for Alexandra said that he believes that the Government is sympathetic to his amendment. My appreciation of what he is moving is to correct what is obviously an anomaly in the original drafting because, of course, there should be no retrospective action in relation to claims. Indeed, when I spoke to the Parliamentary Counsel on this matter I was informed that the member for Alexandra had already placed the amendment on file and that there was no need for me to correct what was obviously an oversight and error on the part of the Parliamentary Counsel. It is a strange way of correcting legislative drafting but nevertheless it does not matter, as long as it is corrected.

The only thing I do worry about, and I will make the point in Committee, is that clause 3 is not being so amended. Whilst I have accepted the advice I am given, that it is not necessary, I will record my concern that it ought to be and that the responsibility for not so amending it is not mine. I appreciate the concern of members about this matter, I make the point plainly that there is an anomaly but as I have said, both here and more particularly at Austraian Transport Advisory Counsel meetings, overcoming the problem of straw companies is simply dealing with the tip of the iceberg. The problem is still there and it will remain there until Governments have the courage to tackle the problem in the way in which it ought to be tackled, and that is by replacing the road maintenance tax with a fuel tax. To date, unfortunately, the Federal Minister, Mr. Nixon, has refused point blank to have anything to do with this, and indeed quite a number of the Liberal members of ATAC have adopted the same attitude. Eventually, I hope they will see the light.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—"Definitions."

The Hon. G. T. VIRGO (Minister of Transport): I move:

Page 1, lines 13 to 15-Leave out all words in these lines after "includes" in line 13 and insert—

(a) any person in accordance with whose directions or instructions the directors of the body corporate are accustomed to act;

(b) any person who is concerned in the control or management of the business of the body corporate:.

This amendment has been prepared by the Crown Solicitor's Office, which believes that the terminology used is not adequate for meeting the purposes of the Bill and has accordingly recommended the amendments circulated in my name. I do not offer a comment, except to say that we poor mortals must accept this advice.

Amendment carried; clause as amended passed.

Clause 3—"Offences."

Mr. CHAPMAN: I wanted to insert in this new subsection, as well as later on in the Bill, the words "committed after the commencement of the Road Maintenance (Contribution) Act Amendment Act of 1978 or whatever appropriate words to that effect would be necessary. As indicated by the Minister, I was guided by legal opinion in this respect and was advised that it was not necessary in that instance to overcome our concern about the possible retrospective effect of this legislation. I have rested very heavily on that advice, which I do not question at this stage, except that I do put on record the request that was made to this effect and my concern for it to be included in this new subsection. I have accepted the advice and will proceed at the appropriate time to insert the provision that will eliminate retrospectivity that the Minister has indicated he will support.

The Hon. G. T. VIRGO: In my reply to the second reading debate I referred to the fact that I believed this clause needed amendment. I sought advice and was told that it did not. As a mere mortal of Parliament who am I to question the veracity of Parliamentary Counsel? I must accept that advice. I hope that if this provision ever turns

out to have needed amendment, I will not be held responsible.

Mr. CHAPMAN: What Parliament has heard is virtually an agreement in this instance by members on both sides that it is the intention of this Parliament to avoid any opportunity for retrospectivity with respect to penalties in this Act. That is now established clearly by the record and endorsed by the Minister, and that is good enough for me. I am sure the industry concerned about the whole element of possible retrospectivity will be relieved and satisfied with the statements which have been made and which will ultimately be on record following this debate.

Clause passed.

Clause 4—"Recovery of charges."

Mr. RUSSACK: I believe that the Minister said just now that in ATAC not only the Federal Minister but others now took the position of the Federal Minister. Has the situation deteriorated or is there less chance now of a change at ATAC than there was, say, two years ago?

The Hon. G. T. VIRGO: I find myself in an extremely difficult situation. I would dearly love to give a clear, explicit answer. Indeed, I would like to put the records of ATAC before him. Unfortunately, the Federal Minister (Mr. Nixon) imposes, and always has imposed, an embargo on ATAC records, to the extent that they are marked on almost every page, "Strictly confidential; publication not permitted", or words to that effect. I would probably be acting improperly if I told the honourable member which States did and did not support the move for a fuel tax to be imposed. Although I would love to tell the honourable member, I must express a degree of loyalty to the committees on which I serve.

Clause passed.

Clause 5—"Reciprocal enforcement of orders."

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

Page 2—

Lines 5 to 7—Leave out "and one or more directors of the body corporate is, or are normally, permanently or temporarily resident in this State or is or are in this State".

Lines 12 to 24—Leave out paragraphs *(b)* and *(c)* and insert paragraphs as follows:—

(b) a certificate purporting to be signed by the clerk or corresponding officer making the request certifying the amount outstanding under the order;

(c) a certificate purporting to be signed by an officer employed in the administration of this Act or of a corresponding law certifying that—

(i) a person or persons named in the certificate is or are in this State or normally resident in this State; and

(ii) that person was a director, or those persons were directors, of the body corporate against which the order was made when the liability to which the order relates was incurred, or the offence to which the order relates was committed,.

These amendments have also been suggested by the Crown Solicitor.

Mr. CHAPMAN: I appreciate the Minister's explanation about the lateness of the arrival of this detail, and I do not criticise or question the reasons behind that. I am concerned that the Minister is able merely to tell the Committee that the amendments are simply those suggested by the Parliamentary Counsel and the legal fraternity but that he is unable to explain what they basically mean. Would the Minister say what is the basic intention of the amendments?

The Hon. G. T. VIRGO: They are intended simply to enable the acceptance of a certificate of an interstate client.

Mr. Chapman: So, that applies to the area relating to a certificate.

The Hon. G. T. Virgo: If the honourable member had legal training—

Mr. CHAPMAN: I have not had such training, and that is exactly why I seek from the Minister a down-to-earth statement explaining the intention of the amendments.

Amendments carried.

Mr. CHAPMAN: I move:

Page 3, after line 4 insert subsection as follows:

(3a) Where an order has been registered in pursuance of this section, a director of the body corporate may apply to a magistrate in chambers for an order—

(a) forbidding the issue of a warrant of commitment against the director; or

(b) setting aside a warrant of commitment issued against the director.

(3b) Where, upon an application under subsection (3a) of this section, the magistrate is satisfied that—

(a) grounds for the issue of a warrant of commitment against the director under this section do not exist; or

(b) the director exercised reasonable diligence to ensure that the body corporate would meet its obligations under the corresponding law,

the magistrate shall make an order forbidding the issue of a warrant of commitment, or setting aside a warrant of commitment, against the director.

I am pleased to be able to state that this amendment has been available to members for some hours, if not days, and that members would no doubt have had a chance to examine it. This subclause particularly seeks, in legal terms, to place an appeal provision in the legislation. The amendment will provide an opportunity for a person against whom a warrant has been issued by the Director to have recourse through the ordinary process of the court. I hope that the Minister will accept the amendment.

The Hon. G. T. VIRGO: The amendment will create a lawyer's paradise. The Government does not want that to happen but is merely trying, as the honourable member and all other members know, to pick up cheats. The legislation is aimed at those people who cheat by establishing straw companies and evading their legitimate payments. Of course, legitimate operators must pay an appropriate sum to compensate for that lost as a result of the actions of cheats. I make no apology for the legislation, because the practices to which I have referred are occurring throughout the length and breadth of Australia. The States are trying to achieve reciprocal legislation. Every other State now has this legislation and, if we fiddle around any longer, we will not have it.

Mr. CHAPMAN: I dispute what the Minster has said. My amendment does not in any way seek to let off the cheats or conflict with the ordinary process of the law. All we are seeking to insert is a simple safeguard against the direction of a person. If there were any reasonable grounds to commit a director of a company (a cheat, as the Minister attempts to describe such people), there would be no grounds for appeal. However, if an error should occur, we believe that a safeguard should be there. I cannot understand the Minister reacting so violently to our request. We agree that the cheats must be dealt with, but we do not accept the Minister's attitude, and I hope that he will appreciate our point of view. We are supporting the principle of the Bill and the object of the Government in trying to clean up this trade, but in doing so we cannot get further into the mire and commit ourselves to agreeing to this sort of practice whereby a person can be found guilty on the say-so of one person, and have no right or avenue of appeal. It is quite unfair to tolerate that sort of thing.

Amendment negatived.

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

That the time for moving the adjournment of the House be extended beyond 10 p.m.

Motion carried.

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

Page 3, after line 37 insert subsection as follows:

(7a) The clerk of a court of summary jurisdiction shall, at the request of an officer employed in the administration of this Act, issue any request, certificate or other document that may be necessary under the law of another State or Territory of the Commonwealth for enforcement of an order, made under this Act against a body corporate, against directors of the body corporate in that State or Territory.

This amendment is one which rephrases what was previously recommended by the Crown Law Office.

Amendment carried.

Mr. CHAPMAN: I move:

Page 4, after line 11—Insert subsection as follows:

(9) This section does not apply where the order of the reciprocating court relates to—

(a) an offence committed before the commencement of the Road Maintenance (Contribution) Act Amendment Act, 1978;

or

(b) a liability incurred before the commencement of the Road Maintenance (Contribution) Act Amendment Act, 1978.

I simply remind the members who may have not been here earlier that the Minister has indicated his support for this amendment, and has explained the reasons why.

Amendment carried; clause as amended passed.

New clause 6—"Evidentiary provision."

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

Page 4, after line 11 insert new clause as follows:

6. Section 13 of the principal Act is amended—

(a) by striking out the passage "prosecution or proceedings for an offence against this Act in respect of any vehicle" and inserting in lieu thereof the passage "prosecution for an offence against this Act, or any other proceedings instituted in pursuance of this Act;"

(b) by inserting after the word "stating" in paragraph *(a)* the passage "in respect of a vehicle"

(c) by striking out from subparagraph (ii) of paragraph *(a)* the passage "the records described therein" and inserting in lieu thereof the passage "records referred to therein and received by the Commissioner on a specified date or on specified dates,";

(d) by inserting in subparagraph (iii) of paragraph *(a)* after the passage "stated therein to have been made" the passage "on a specified date or on specified dates";

(e) by striking out from paragraph *(b)* the passage "the vehicle" first occurring and inserting in lieu thereof the passage "a vehicle";

(f) by striking out from paragraphs *(c)* and *(ca)* the passage "the motor vehicle or trailer" wherever it occurs and inserting in lieu thereof, in each case, the passage "a motor vehicle or trailer";

The Crown Solicitor has looked at the amending Bill.

Mr. Chapman: You don't know what it means, do you?

The Hon. G. T. VIRGO: You are so right; I do not pretend to know what it means.

Mr. Chapman: But you expect us to accept it without knowing, either.

The Hon. G. T. VIRGO: It is legal mumbo jumbo to me. I remind the Committee that initially we were given very solid advice that it would be unlawful to amend our legislation to prevent straw companies. We have now had a change of heart, and who am I to offer judgment on those conflicting legal opinions? I accept them, and I have said all the way through that when lawyers advise me it is lawful to amend the legislation I will do so, and that is exactly what I am doing.

Mr. TONKIN: I am immensely surprised to hear the Minister's comments.

The Hon. G. T. Virgo: Frankness.

Mr. TONKIN: Frankness it may well be, but I do not believe frankness in this regard is what this Committee deserves. I am being quite serious about this, and obviously the Minister is not. If amendments are to be moved, it is the Minister's duty to explain those amendments and state the reason why they are being moved. The Minister has given us a blanket reason why they are being moved, but he is certainly not explaining the amendments to us or telling us how they are to work.

I am appalled to find that the honourable Minister says he does not understand the amendments he has moved and is not prepared or able to give an explanation to this House. If, as he says, the amendment is the result of drafting by the Crown Solicitor, the Crown Solicitor or the Parliamentary Counsel or someone else who understands what it is all about should be able to explain it to the Minister. One of his colleagues, the excellent member for Playford, might be able to tell him what it is all about. As a matter of principle, the Minister should give that explanation to honourable members, and to enable him to do so I move:

That progress be reported.

The Committee divided on the motion:

Ayes (15)—Mrs. Adamson, Messrs. Allison, Arnold, Becker, Blacker, Dean Brown, Chapman, Eastick, Goldsworthy, Gunn, Mathwin, Russack, Tonkin (teller), Venning, and Wotton.

Noes (21)—Messrs. Abbott, Bannon, Broomhill, and Max Brown, Mrs. Byrne, Messrs. Corcoran, Drury, Groom, Groth, Harrison, Hemmings, Klunder, Langley, McRae, Olson, Payne, Simmons, Slater, Virgo (teller), Whitten, and Wright.

Pairs—Ayes—Messrs. Evans, Rodda, and Wilson. Noes—Messrs. Dunstan, Hopgood, and Hudson.

Majority of 6 for the Noes.

Motion thus negatived.

Mr. CHAPMAN: I am grateful for the action of the Leader. On his own admission, the Minister has taken legal advice in relation to the amendments on file and he has introduced into this Chamber 2½ pages of amendments, without the benefit of any understanding of what they contain. I would be grateful if he could explain them, but he has not been able to. He does not know what they mean. He has had no briefing to indicate the intention of the amendments. He has depended entirely on Parliamentary Counsel, or on legal counsel from the Law Department or elsewhere, certainly from the legal profession, and he has introduced what they have conveyed to him, without knowing its worth or its value, simply relying on their integrity.

Five minutes ago, however, when I sought to introduce an amendment based on legal requirements, on the ordinary course of the law, and on common justice, the Minister said the amendment was not acceptable, and was merely providing a bonanza for the legal profession. The Minister is quite wrong, and he has failed miserably, in not explaining the amendments, to uphold his role as Minister. He has been grossly inconsistent during the course of the debate.

Mr. RUSSACK: I support the remarks of the member

for Alexandra. I am concerned about the procedure that we have witnessed. It is most improper that we should be given amendments which the normal person (because it is written in legal terms) would find difficult to absorb in a short time: so much so, that the Minister has been unable to do that. The matter is serious to this degree that, earlier, advice was given to the Minister that it was not possible to achieve what this clause will achieve. Suddenly, it has been discovered that there is a legal way in which the measure can be presented to achieve what is required.

I should like to register my concern, with that of the Leader of the Opposition and the member for Alexandra, about the indecent haste with which these amendments have been presented and the way in which the Opposition has been asked to consider them and to give an intelligent vote on them.

New clause inserted.

Title passed.

Bill read a third time and passed.

ADJOURNMENT

At 10.10 p.m. the House adjourned until Thursday 8 February at 2 p.m.