LEGISLATIVE COUNCIL

Tuesday, November 25, 1969.

The PRESIDENT (Hon. Sir Lyell McEwin) took the Chair at 2.15 p.m. and read prayers.

QUESTIONS

BUTE BY-PASS

The Hon. M. B. DAWKINS: I wish to make a short statement prior to directing a question to the Minister of Roads and Transport.

Leave granted.

The Hon. M. B. DAWKINS: My question refers to an inquiry by the District Council of Bute. I have a letter from the District Clerk of that council from which I should like to quote the following passages. It is addressed to me and states:

Recently the District Council of Bute was very disturbed to learn that the proposed route of a new highway between Port Pirie and Adelaide via Port Broughton may by-pass Bute and that the new road will possibly be two miles west of the town . . .. Since the Second World War there have been approximately 50 new homes and business premises built in Bute. This, it is felt, is a reflection of the confidence in the town of business houses, of which quite a few cater for the travelling public. There are five garages and two delicatessens, which is above the normal number for a town the size of Bute. People living in Bute and desirous of travelling south would still use the present route, and likewise we feel that motorists going north would tend to take the short cut from Kulpara. This would mean that the present road would have to be maintained in good condition in addition to the new road running parallel to it, a distance of only two miles away.

After advancing further arguments on behalf of his township the District Clerk concludes in the following terms:

We do not believe that dollars and cents can be advanced as an argument when the future of a town and the welfare of its inhabitants is taken into consideration. We are very proud of our town and district and we cannot believe that anyone would want to take away from us what has taken many years to achieve. The present route is vital to our future, and any co-operation and help in overcoming any problems in retaining the present route will be gladly given by this council.

The clerk has asked whether I would assist in making representations to the Minister. Can the Minister say whether it is intended to build a by-pass around the town of Bute and whether in this case he would ask the Highways Department to re-examine the matter in view of the effect it might have on a small township? I am aware that some larger towns have perhaps benefited from a by-pass, because they still seem to get plenty of traffic, but in some of these smaller towns it may mean a considerable decrease in revenue. Would the Minister look at this matter again and ask the Highways Department to consider it further, if a by-pass is contemplated?

The Hon. C. M. HILL: The matter was discussed by representatives of the District Council of Bute with me when I visited the council a month or two ago. I think the first step had better be that I will obtain from the Highways Department a report on their forward planning on this question, and when I have obtained that information I shall report to the Council for the honourable member's consideration.

I believe that other honourable members representing that district have also been contacted by the clerk of the district council. I shall bring down the exact forward planning report submitted by the department and then mutually we can discuss the next step to take from then on.

FARM IMPLEMENTS

The Hon. V. G. SPRINGETT: In view of the increasing complexity and growing numbers of implements used in primary agriculture, can the Minister of Agriculture tell the Council the position existing in South Australia *vis-a-vis* other States in Australia in connection with safety measures taken to protect people who use these implements on the land?

The Hon. C. R. STORY: This matter is, of course, one in which everybody should be interested, although the question is really the concern of the Minister of Labour and Industry. However, as far as South Australia is concerned, the Secretary of the Department of Labour and Industry, Mr. Bowes, has attended all meetings that have been called on a Commonwealth basis over a period of 12 months or more.

I think it could be said that New South Wales has progressed most in its attention to safety precautions. It has introduced legislation and certain regulations, which at present are causing that Government a great deal of consternation. When an attempt is made to introduce legislation for a whole State on a matter affecting tractor and implement safety generally, some trouble must occur unless it can be zoned in a special way. It is obvious that precautions that would apply to undulating country would not be equally applicable to

flat country, while precautions taken in wheat-growing country might not be of any use in horticultural country. I believe this matter must be approached in conjunction with manufacturers, who should build safety features into their implements, certain couplings and take-offs.

The second point is that it is necessary to educate the farming community and those associated with it in the proper use of agricultural implements. To this end a new position is being created in the Agriculture Department that I hope will be filled in the new year—Agricultural Implement Safety Officer. When an officer has been appointed to that position his services will be made available to the farming community by way of lectures and generally bringing forward more ideas on farm safety.

ATHELSTONE SEWERAGE

The Hon. JESSIE COOPER: I ask leave to make a statement prior to asking a question of the Minister representing the Minister of Works.

Leave granted.

The Hon. JESSIE COOPER: I have had my attention drawn to an area in Athelstone called Judith Drive, which is unsewered but which lies in the vicinity of Vincent Street, which is sewered. Nearby is a new subdivision called Rostrevor Park, and that area also is sewered. I have received a request from one of the residents of Judith Drive that the Government should make arrangements to reduce the nuisance of septic tank effluent and to provide a sewerage system in the area. Petitions have, I am told, been submitted previously without result. Will the Minister please inform me whether it would be possible to proceed with sewerage in the specified area and, if so, when?

The Hon. C. R. STORY: I will take up the matter with my colleague and obtain a report for the honourable member.

INTERMEDIATE COURTS

The Hon. D. H. L. BANFIELD: Has the Minister of Local Government a reply to the question I asked on November 18 regarding the estimated cost of setting up the proposed intermediate courts system?

The Hon. C. M. HILL: No decision has been made on the precise number of judges to be appointed; such a decision may properly be made only after Parliament has approved the legislation. However, it is expected that the number would be between six and 10.

It is not possible before the decision referred to is taken for a firm answer on cost to be given. However, the Public Service Board has advised the Attorney-General that it estimates the cost of one senior judge and eight judges plus ancillary staff at $211,000 annually. If the legislation were not passed, it would be necessary to provide for additional Supreme Court judges and magistrates; the estimated cost of so doing is comparable. This estimate does not include the cost of additional court accommodation.

A sum of $100,000 has been provided in the Loan Estimates this year on the line "Public Buildings—Police and Courthouse Buildings—Intermediate Courts". Other accommodation will be provided as required in future. It is expected that district criminal courts will sit, initially, at Adelaide, where jury accommodation is being provided, and at Port Augusta and Mount Gambier, where such accommodation is already available. It is likely that in future district criminal courts will be established in the Upper Murray and at Port Lincoln and Whyalla. Local Court judges, sitting in the civil jurisdiction, will sit at such places as may be decided by the senior judge. There should be no problem with regard to accommodation, as court rooms suitable for the use of the judges are already widely available.

INTAKES AND STORAGES

The Hon. M. B. DAWKINS: Has the Minister of Agriculture a reply to the question I asked on November 18 regarding storages in the South Para, Warren and Barossa reservoirs, and also regarding the branch main from the Mannum-Adelaide main to the Warren reservoir?

The Hon. C. R. STORY: I have received the following reply from my colleague, the Acting Minister of Works:

The storages in gallons in South Para, Warren and Barossa Reservoirs at present are:

South Para reservoir—9,065,000,000.
Warren reservoir—1,072,000,000.
Barossa reservoir—902,000,000.

The Warren system is currently being augmented by an amount of 100,000,000 gallons a month from the Swan Reach to Stockwell main and the branch main from the Mannum-Adelaide main will only be used in unforeseen circumstances or if extreme weather conditions prevail during late summer.

BOLIVAR EFFLUENT

The Hon. H. K. KEMP: Has the Minister of Agriculture an answer to my question of October 21 regarding the use of effluent water from the Bolivar sewage treatment works?

The Hon. C. R. STORY: At present the Premier is co-ordinating information becoming available concerning the possible use of Bolivar effluents, and it is expected that positive results will be available in April or May of next year.

The Hon. H. K. Kemp: Is it right that all the information has been placed in the Premier's hands?

The Hon. C. R. STORY: I think that up to the present the matter of the use of Bolivar water has been somewhat of a hotch-potch arrangement. For instance, various Ministers were being asked to supply material; a co-ordinating committee of officers was set up, and those officers reported to their various Ministers. We also had a committee of Ministers. In view of the importance the Government attaches to this matter, it seemed to the Government that the proper thing to do at this stage was to place the matter under the jurisdiction of one Minister. The Premier has undertaken to co-ordinate all the information becoming available.

A tremendous amount of information is coming forward. Recently, I visited the Bolivar works for about the fourth time and had another look at the experiments being carried out by the Agriculture Department in co-operation with the landholders in that area, and I think I can say quite conclusively at this stage that a clearance has been given in respect of certain types of vegetable. We still have the great problem of the possibility of cysticercus bovis occurring in cattle and pigs, and all these matters have to be thoroughly looked into, in the interests of public health, before anything can be done. At the same time, a complete survey of water usage and utilization has to be undertaken, and we also have to see whether the economics of the whole thing make it a viable proposition.

AUSTRALIAN BOY SCOUTS ASSOCIATION, SOUTH AUSTRALIAN BRANCH, BILL

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

LOCAL GOVERNMENT ACT AMENDMENT BILL (WHYALLA)

The Hon. C. M. HILL (Minister of Local Government) brought up the report of the Select Committee, together with minutes of proceedings and evidence.

Report received and ordered to be printed.

In Committee.

Clauses 1 to 3 passed.

Clause 4—"Definitions."

The Hon. C. M. HILL (Minister of Local Government): The Select Committee has not raised any objection to these provisions. I want to thank the members of the committee for the conscientious manner in which they undertook their work. Honourable members, who have now received the committee's report, will see that the committee met six times; the list of witnesses who were examined is set out in the report.

It was particularly pleasing that the committee members, who are very busy at this time of the session, set aside their other work and attended the meetings at very short notice. The whole of yesterday had to be given to this work, because yesterday's meeting was held at Whyalla. I take this opportunity to thank the staff for their work in connection with the committee.

Clause passed.

Clause 5—"Enactment of Twenty-fourth Schedule to principal Act."

The Hon. S. C. BEVAN: During the second reading debate I said that the boundaries of the new council's area should be extended to take in the industrial areas. I said that I was reasonably assured about the areas containing the works of the Broken Hill Pty. Co. Ltd., but I had serious doubts about what would apply in the area on the opposite side of the road to those works, where a private industry was established; in the future there would undoubtedly be more industries established there. I said that I saw no reason why the industries on that side of the road should not meet their obligations in respect of rates to the new city council. For this reason I advocated reconsideration of the boundaries to bring this area within the new council's boundaries.

Since I made those remarks I have made further investigations, and I now know that the B.H.P. Company has given a guarantee that, in respect of the whole of its leaseholdings, which include this area, it will make an *ex gratia* payment to the new council of at least the amount that the council would have received under the unimproved land values system of rating if the area had been within the council's boundaries. I am satisfied that these areas are now covered by the assurance given by the B.H.P. Company. However, I understand that the present city commission is unaware officially of the undertakings given by the company. To dispel any doubt that the commission might have, perhaps it could approach the company to get the assurance

from it in writing. I am now satisfied with the arrangements made in this respect and have no further objection to offer.

Clause passed.

Title passed.

Bill read a third time and passed.

ROAD TRAFFIC ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 19. Page 3084.)

The Hon. S. C. BEVAN (Central No. 1): This is primarily a Committee Bill. I have examined it in conjunction with the principal Act. I have no serious objection to the Bill, which deals mostly with administrative matters. I support the second reading. However, there are one or two points I should like to raise, although most of the Bill can better be dealt with in the Committee stage.

Clause 3 deals with interpretation. "Median strip" is not mentioned in the principal Act but is now included in the definition of a "dividing strip". I remember that on one occasion a person parked a vehicle on a median strip and was told he had no authority to do so. However, the definition of "dividing strip" has been extended by adding the words "and includes a median strip"; so there should be no future confusion about this. Also, "roundabout" does not appear in the principal Act but is now defined in clause 3 (*b*). Then, what are popularly known as "rumble strips" or "rumble bars" are to be defined as "safety bars". This expression may confuse the motorist, because he may think that a safety bar is something fixed to a motor vehicle to protect it when colliding with another vehicle or that it is a bottle bar, for keeping bottles in!

Many amendments were made to the Road Traffic Act in 1966-67, and in 1967 comments were made in this Council about the power being bestowed on the board. During those debates it was suggested that we were vesting too much power in the board, but clause 4 empowers the Highways Department to appoint a representative on the board who will be a qualified engineer rather than, under the present terminology, one specific class of engineer, who may not be available at a particular time. This is a good amendment, which will enable an engineer with the appropriate qualifications to be appointed, if the necessity arises.

Clause 7 deals with direction lines and barrier lines on the roads. Clause 5, which amends section 16 of the principal Act, enables the board to delegate power in respect of traffic control devices to other authorities—the Highways Department, the Police Department, and perhaps even the local council, if the occasion warrants it. Clause 8 enacts new section 23a, authorizing the erection of various road signs —"stop" signs, "give way" signs, traffic lights, speed limit signs, roadworks signs, school crossing signs and pedestrian crossing signs, all of which need to be erected from time to time. Under the principal Act it is necessary for the board, in conjunction with local government, to authorize the construction or installation of certain traffic control devices, but this amendment will enable it to delegate that authority. As the Minister has pointed out in his second reading explanation, an emergency sometimes occurs where a decision is required immediately and, if it were necessary to await the next meeting of the board, some time would elapse before a decision could be obtained.

When I was Minister of Local Government, I consented at times to applications made to the Highways Department for permission to drive a heavy load over a certain route. Under the Act it may not have been permissible to allow a heavy or perhaps very wide load to travel on the roads. However, on occasions I considered it necessary to grant the request. That is an instance where it was necessary to make an immediate decision, even though it might not have been meeting the precise requirements of the principal Act. In other instances, where a heavy load would in the normal course of events use a bridge that might be in danger of collapsing under the weight of that load, the Highways Department would permit the load to be carried, but only on condition that it followed a route laid down by the department.

Similar action is taken at times with the erection of certain road signs. Perhaps a water main may have burst and immediate attention is required, so signs restricting the speed of vehicles past the scene of the broken main are erected. The department has not waited for permission from the board. It is an emergency, and obviously it must be treated as such. This clause ensures that authority will be delegated, thus enabling prompt action to be taken in instances I have mentioned. I do not object to the clause because it will eliminate any possible criticism that the Government tends to place too much power in the hands of the board: apparently the board is willing to delegate its authority in many cases of emergency.

Many other matters will be better dealt with in the Committee stage than at present. Clause 11 amends section 51 of the principal Act, and proposed new subsection (1) provides:

A person shall not drive a motor bicycle, with or without a sidecar attached thereto, carrying any person in addition to the driver, at a greater speed than forty-five miles per hour.

That must be read in conjunction with the Act. I take it that this provision will apply on zoned roads. Although it mentions a speed of 45 miles an hour, I take it that a motor bicycle carrying a pillion passenger would have to observe other speed limits. I should like to be assured that a vehicle of this type will not be able to ignore the 35 miles an hour speed limit in built-up areas.

The Hon. C. M. Hill: They must obey the lower limit.

The Hon. S. C. BEVAN: I agree. Many accidents are caused by motorists pulling out from a kerb into a stream of traffic without warning. Although it is a breach of the Act, I believe the provision needs tightening, and this amendment is an attempt to do that.

Clause 17 amends section 72a of the principal Act, and provides that the driver of a vehicle entering or about to enter the carriageway of a roundabout shall give way to any vehicle on his right that is travelling on that carriageway. This will clarify the position and overcome any doubts that drivers may have had previously about their obligations in a situation of that kind.

Clause 18 amends section 78a of the principal Act, and deals with the duty of a motorist to comply with other traffic signals. I believe that at present there is not sufficient standardization of road traffic rules. Many motorists entering a roundabout expect to be given right of way in any circumstances. The clause should control any situation that might arise, and I approve the amendment.

I draw the Minister's attention to clause 19, which places a restriction on sale of goods on roads, and, in effect, controls roadside vendors. Many of these vendors are using the roads at present, and this legislation will make it compulsory for owners of vehicles having goods for display and sale to place their vehicles well off the shoulder of that road. Although sometimes the shoulder of the road is wide, in other places it is narrow, and it is dangerous for these people to set up stalls on the sides of our main roads, especially during holidays periods. I saw such a danger during the last holiday period on the main South Road, to which the Minister referred when introducing the Bill. I was near the Clarendon turn-off at about 11.15 a.m., when most of the traffic was travelling to the south coast beach resorts. A person on the inside lane decided to stop at one of these stalls to purchase some fruit, as a result of which traffic was held up because the other lanes were full and vehicles approaching from his rear could not get around this person's vehicle. Chain accidents can occur as a result of such practices.

The provision in the Bill clarifies the position and places an onus on the vendor and passing motorists, especially in relation to where the latter should stop. Having made inquiries, I understand that these vendors are not licensed as a shop, although they are carrying on business as if they had four walls around them; nor are they licensed as hawkers. Indeed, I doubt whether they pay any sort of a licence fee to the council concerned. I do not know why councils do not introduce by-laws to prohibit this practice.

New section 83a (3), which will be inserted by clause 19, provides that the board, by instrument in writing, may exempt any class of persons from the provisions of new subsection (1). The latter provides that a person shall not stand or place himself or any goods on a carriageway, dividing strip or traffic island for the purpose of soliciting any business or contribution from the occupant of any vehicle, inducing the driver of a vehicle to take him into or on to the vehicle, or offering or exposing goods for sale. The penalty for a breach of that provision is $100. Despite that provision, the board is empowered to exempt any person from its terms.

On the one hand we stipulate that motorists and vendors are not permitted to do certain things, and we then say that the board may if it so desires exempt any class of persons. This means that we are perpetuating the very thing that we are trying to stamp out. There may be a logical reason for the inclusion of new section 83a (3) that the Minister has not explained. If there is, I should appreciate his explaining why certain persons can be exempted, because I see no reason why this should happen.

Several clauses allow the board to delegate its authority to another body. I will not dwell on that point. However, I am concerned about clause 26, which amends section 144.

The latter deals with the duty of motorists to comply with the loading provisions of the Act. I do not like the phraseology of paragraph (*a*), which provides that certain words shall be struck out from section 144 and the following inserted:

If a vehicle that does not comply in any respect with the requirements of sections 145 to 149 (inclusive) of this Act is driven on a road, the owner, the person in charge, and the driver, of the vehicle shall each be guilty of an offence.

The Hon. C. M. Hill: It says "driver or person in charge".

The Hon. S. C. BEVAN: The Bill in front of me provides that it shall apply to "the owner, the person in charge, and the driver".

The Hon. C. M. Hill: I am sorry. I was looking at line 9 on page 7. This matter will be examined.

The Hon. S. C. BEVAN: I thank the Minister for that intimation. Subclause (2) provides that in any proceedings for an offence under the section an allegation in a complaint that a person named therein was the owner, person in charge or driver of a vehicle therein referred to on a date therein specified shall be deemed to be proved in the absence of proof to the contrary. I am concerned that the onus is being placed upon the driver of a vehicle.

If the driver were responsible for the loading of the vehicle, I would have no objection to his being prosecuted when it was found to be overweight. However, when a driver merely works for a firm and the management or the person in charge of the loading of his vehicle instructs him that he must take out the load that has been placed on his vehicle, he should not be held liable. If he refused to take such a load, he would be liable to dismissal for not carrying out an order of his employer. On the other hand, if he is forced to do so and takes the vehicle on to the road, he takes the chance of being apprehended. In my opinion the management or the person in charge of the loading of his vehicle and not the driver should be held responsible and be liable to prosecution. Why should the latter be responsible for carrying out the lawful order of his employer, when he could be prosecuted and fined for doing so?

It may be said that in certain circumstances his employer will pay the fine, but often the employer says, "It is too bad. You are liable for it. You pay your own fine." That is an unjust imposition on the driver. Perhaps the Minister will examine this matter before the Bill passes. Most of the clauses deal with administrative matters, amendments to which have been found necessary as a result of today's changing traffic regulations. I support the Bill.

The Hon. R. A. GEDDES (Northern): As the Hon. Mr. Bevan has said, this is a Committee Bill that deals with many facets of the control of road traffic. I have carefully considered it and, after asking many questions of the Parliamentary Draftsman and other people on problems I had, I believe that it is a clean Bill. In connection with the duty to comply with loading provisions, the Hon. Mr. Bevan raised the question whether the onus was placed on the person in charge of a truck or the driver; this is not clear to me, either. In connection with clause 19, I am pleased that hawkers who operate on the sides of roads will be controlled. I only hope that the Road Traffic Board will exempt a sufficiently wide range of hawkers so that the sale of goods at the roadside is not restricted too much.

The Bill provides that newsboys are not allowed to stand on median strips and sell newspapers. If a motorist pulls into the kerb, the newsboy can sell him a newspaper through the passenger's window, but not through the driver's window. If the driver gets out of his vehicle and goes round his car to buy a newspaper, he is creating a traffic hazard, because newsboys operate at peak hours. In connection with clause 21, which deals with the need for brakes on semi-trailers, in his second reading explanation the Minister said:

Some articulated vehicles are equipped with two independent braking systems, one of which is operated by a foot pedal acting on the wheels of the prime mover and the other by means of a hand lever operating on the wheels of the semi-trailer. The Police Department considers it dangerous for semi-trailers to be allowed to operate with a foot brake only on the prime mover. The provision of a braking arrangement on the wheels of the trailer unit will ensure increased safety by preventing jack-knifing.

I can only presume that many semi-trailers do not have such a braking arrangement on the wheels of the trailer unit.

The Hon. C. M. Hill: That is so, in South Australia.

The Hon. R. A. GEDDES: The Bill provides that it is permissible to have a hand lever to operate these brakes. However, I cannot see where it is provided that such a hand lever must be fitted, whether a breathing space will be allowed during which the hand lever may be fitted, or whether the fitting will take place some time after June, 1970. I fully

realize that these hand-lever braking systems are on the market. Since they are fairly costly, will the Minister allow a breathing space? Clause 24 provides that the maximum width of a vehicle shall be 8ft. 2½in. At present, when such vehicles have a special permit they may not operate during peak hours or at night. In his second reading explanation the Minister, dealing with the problems of container traffic, said:

The draft regulations of the Australian Motor Vehicle Standards Committee now prescribe that the maximum width of a vehicle may measure up to 8ft. 2½in. This is equivalent to two and a half metres as fixed by the United Nations Convention on Road Traffic and which has been adopted as an international standard in many countries, particularly in relation to containers.

If container traffic between Adelaide and Melbourne cannot move at night or during peak hours, perhaps we are being somewhat restrictive. For the occasional wide load, the Minister's argument is legitimate. We all know that many of our roads, particularly the older ones, are narrow. I am not quibbling about the fact that a permit must be issued but, if it restricts the container trade between Adelaide and Melbourne, I ask the Minister to consider either not allowing vehicles that are 8ft. 2½in. wide on the road or somehow speeding up the traffic.

The Hon. C. M. Hill: It may have to go by rail!

The Hon. R. A. GEDDES: That may not be a bad idea. The Bill also deals with hovercraft; apparently amendments are necessary to control their use. I support the second reading.

Bill read a second time.

In Committee.

Clauses 1 to 15 passed.

Clause 16—"Turning vehicles to give right of way."

The Hon. R. A. GEDDES: Can a vehicle give way to another vehicle? Should the wording not be "unless the drivers of those vehicles are required to give way"? Section 72 of the principal Act mentions "a driver" and new section 72a mentions "the driver of a vehicle", whereas this clause 16 mentions merely "those vehicles".

The Hon. C. M. HILL (Minister of Roads and Transport): I believe the terminology used here is correct although I agree with the honourable member that it can be confusing, as drivers are mentioned in other sections.

Clause passed.

Clauses 17 and 18 passed.

Clause 19—"Restriction upon sale of goods upon roads."

The Hon. C. M. HILL: I did not reply in the second reading stage because it was emphasized that it was principally a Committee Bill. However, I now take the opportunity to thank honourable members for their contributions. Clause 19 is the first clause upon which some explanation was sought. The Hon. Mr. Bevan asked whether there was a real need for new section 83a (3). The reason for its inclusion is that some people should be exempt from the provisions of new section 83a (1)—for instance, milkmen, grocers and bakers. They will be able to gain exemption under subsection (3).

The Hon. S. C. BEVAN: I thank the Minister for his explanation, which he gave also in his second reading explanation. However, I do not think a milkman delivering milk to his regular customers or a baker or grocer delivering his goods would be covered by new subsection (1), because they have their customers and deliver their goods directly to them. I thought that tradespeople would be excluded from the provisions of this section without needing an instrument in writing from the board exempting them. After all, a milkman or a baker does not sell from his vehicle at the side of the road: they both deliver to their regular customers. Why is it necessary for the board to have the power to issue an instrument in writing to exempt them?

The Hon. C. M. HILL: I am told that some tradespeople stand their vehicles on a carriageway and offer goods for sale. Therefore, there may well be a need for them to be exempted. This is the "let out" part of the new section.

Clause passed.

Clause 20—"Portion of body protruding from vehicle."

The ACTING CHAIRMAN (Hon. Sir Arthur Rymill): There is a printing error in this clause. In new subsection (2c) "(2b)" should be "(2a)". With the concurrence of the Committee, I will make that alteration.

Clause passed.

Clause 21—"Brakes on motor vehicles other than cycles or trailers."

The Hon. C. M. HILL: The Hon. Mr. Geddes queried the legal position in regard to the need for brakes being installed on the trailers of semi-trailers. At present, they are not necessary, and this Bill does not provide for that. The present plan for braking on semi-trailers (I know this interests the honourable member and other people who

have had representations made to them from the country) is that the Government intends, in spite of pressure of business, to introduce regulations proposing the need for a braking system to be installed. These regulations will flow from a Bill to amend the Road Traffic Act—not this Bill but one of which I have given notice and which deals with the maximum speeds of vehicles. If that Bill is passed, regulations will follow requiring a braking system to be installed on semi-trailers.

Clause passed.

Clauses 22 and 23 passed.

Clause 24—"Width of vehicles."

The Hon. L. R. HART: As I understand the situation, a person who wishes to travel on certain roads within prescribed times, and whose vehicle load is over the prescribed width, has to obtain permission from the board to do so. I understand this permission is readily given, but it poses a problem for the person living some distance from the metropolitan area who has to telephone the board. I believe that in many instances the local police officer would be a suitable person to give permission for a vehicle with a load over the prescribed width to travel on certain roads. A primary producer may desire to transport a load of hay over part of a public road and, if he is not going to break the law, he is required to contact the board, possibly having to make an expensive telephone call. This might be at a time when the board's offices are closed, although permission could readily be given by the local police officer. Is the Minister prepared to examine the situation to see whether such permission could be obtained from the local police officer?

The Hon. C. M. HILL: I think the point has been well made by the Hon. Mr. Hart, and I shall be pleased to see whether something can be done to help the people to whom he has referred. In reply to the Hon. Mr. Geddes, I point out that the matter concerning containers is not important in this regard. The most important point of this clause concerns the fact that at present trucks and passenger buses, etc., are being imported from oversea manufacturers, and it is now internationally accepted that these vehicles should be a normal width. We wish to vary our law to provide that the extra 2½in. can be accepted in respect of these vehicles without the need to obtain special permission, as applies at present.

The Hon. R. A. GEDDES: Is it intended that the new widths will be allowed in respect of vehicles travelling on the open road, for instance, the Adelaide-Melbourne road?

The Hon. C. M. HILL: If this clause is passed, the vehicle whose width is 8ft. 2½in. will not require a permit and, of course, will be driven unrestricted anywhere at any time.

Clause passed.

Clause 25 passed.

Clause 26—"Duty to comply with loading provisions."

The Hon. C. M. HILL: I said in my second reading explanation that it was desirable for both the owner of the vehicle and the person in charge of it to be responsible in respect of an overloading offence, so that the Act could be effectively policed. As in some cases it has been found that the driver who has committed an overloading offence cannot be readily located, particularly if he lives in another State, we believe that it is desirable to provide for the owner of the vehicle and the person in charge of it at the time, as well as the driver, to be prosecuted. The Crown Solicitor being of the opinion that section 144 in its present form does not enable this to be done, we are trying to rectify this weakness in the Act.

The Hon. S. C. BEVAN: I think it would be completely unfair to hold responsible for overloading a vehicle the driver who has been specifically instructed by either his employer or the person in charge to overload that vehicle, for if he refused to carry out a lawful instruction given by his emyployer he would receive instant dismissal. When we are dealing with further amendments to the Act in another Bill, I think the Minister might consider this position. If the driver overloads the vehicle of his own volition, action may fairly be taken against him; but, if he is carrying out an instruction from his superiors, I do not think the responsibility is his.

The Hon. V. G. SPRINGETT: The Hon. Mr. Bevan says that a driver carrying out an employer's lawful instruction should be covered. Surely it is not a lawful instruction if the employer is telling him to overload the vehicle.

The Hon. D. H. L. Banfield: That is true, but he still gets the sack.

Clause passed.

Remaining clauses (27 to 37) and title passed.

Bill read a third time and passed.

SOUTH AUSTRALIAN RAILWAYS COMMISSIONER'S ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 19. Page 3085.)

The Hon. A. F. KNEEBONE (Central No. 1): I agree with the sentiments expressed by the Minister when explaining this Bill and

moving the second reading: if the railways are to compete effectively with other forms of passenger transport, they must offer comparable amenities. Much has been done by the Railways Department in recent years to improve the standard of comfort for passengers, particularly in regard to passenger coaches on the Overland and other long-distance trains. The fine craftsmanship of those employed at the railway workshops at Islington is evident in the coaches recently brought into use on the Overland and on the Port Pirie line. I think it is high time that similar coaches were provided also on the South-East line.

In my opinion, the attitude of the general travelling public in relation to the service it receives is curious. Frequently when travelling by air passengers are subjected to all sorts of delay as a result of the non-arrival of some connecting aircraft or the malfunction of some part of an aircraft preventing it from leaving on time. I accept that there must be a high safety standard for air travel, but the attitude of the travelling public intrigues me. This type of delay is accepted almost without resentment, and no comment is made either in the newspapers or on radio or television, yet if an interstate train is delayed for even half-an-hour it is mentioned in the newspapers or on the radio and passengers are usually most irate. Apparently it is expected by the travelling public that the Railways Commissioner shall supply a higher standard of service than exists with other forms of transport. This may be a back-handed compliment to the Railways Department.

The railways refreshment services have also shown much improvement in standards over recent years. As a result, the services of this section have been sought in catering for many important functions in the last three or four years. I believe that much of the credit for this improvement must go to Mr. George Mensforth, who is in charge of the railway refreshment services, and also to Mr. Lomp, the manager of the Adelaide railway refreshment rooms. Unfortunately, however, the Railways Department has shown considerable financial losses as a result of its refreshment services. The figures I have been able to obtain for the years 1965-66 to 1967-68 (the latest I have been able to get) are as follows: in 1965-66, goods sold amounted to $640,989 and the loss was $58,209; in 1966-67, goods sold amounted to $676,153, and the loss was $22,367; in 1967-68, goods sold amounted to $683,862, and the loss was $32,460.

There was quite a drop in losses in the second of those years (1966-67), and this was a considerable improvement, but in the following year the loss increased again by a further $10,000 over 1966-67. I cannot understand what could have caused this when such fine improvement was made in the previous year. I consider that the new service which this Bill seeks to ratify may result in some reduction of the losses experienced in those years.

The Bill is short, having only seven clauses. Clause 2 (*a*) inserts a definition of "liquor" in section 5 of the principal Act, that being the interpretation section. The definition, which is that used in the Licensing Act, is as follows:

"Liquor" means brandy, gin, rum, whisky, cordials containing spirits, wine, cider, perry, mead, ale, porter, beer, or any other spirituous, malt, vinous, or fermented liquors, but does not include any liquor which does not contain more than 2 per centum of proof spirit.

I would say that this covered every type of liquor. Clause 2 (*b*) inserts section 5 (3) as follows:

Any amendments that might have been made to this Act by the Licensing Act, 1967, are hereby cancelled and this Act shall be read and construed as if that Act had had no effect whatsoever upon the text or validity of any provision of this Act.

I do not know that this is the right place for this subsection to go, for I consider it would have been more appropriately placed following section 3. This amendment has an important effect on both the principal Act and the Licensing Act. The amendments referred to in clause 2 (*b*), which were made to the Licensing Act in 1967, repeal sections 102, 104 and 105 of the principal Act. These sections govern the sale of liquor by the Railways Commissioner or by a lessee of a railway refreshment room holding a licence under the old Licensing Act before it was amended. Clause 2 (*b*) cancels those amendments and, as a result, sections 102, 104, and 105 of the principal Act are re-enacted.

Section 102 provides that the Commissioner may supply liquor at a railway refreshment room without having to have a licence, and section 104 provides that the Commissioner or any lessee of a refreshment room outside a radius of 10 miles from the General Post Office at Adelaide may sell or supply liquor to persons at certain specified times. It also provides that the Commissioner may supply liquor to passengers on a train in any car or buffet car while the train is in the course of making a journey. This section also provides that

the Commissioner is not required to obtain a licence or permit in order to sell or supply such liquor.

Part IV of the Licensing Act, 1967-1969, appears to take no cognizance of the fact that the Commissioner may sell or supply liquor without having to apply for a licence. This may well have been the intention of the 1967 amendments. Part IV of the Licensing Act refers to the Commissioner's power to lease refreshment rooms and provides that the lessee, in order to sell or supply liquor, shall hold a railway licence. Sections 114 and 115 of that Act provide the conditions to be observed and specify what are interpreted as offences under the Act. However, they appear to me to apply only to those persons who hold a licence under that Act. Apparently it is for this reason that clause 7 was included in this Bill. Under this clause it is proposed that by-laws may be made providing that any of the provisions of the Licensing Act shall apply with the necessary alterations or change or with such modifications thought advisable in relation to the sale, supply or consumption of liquor at any railway refreshment room run by the Commissioner.

Clause 6 deals with section 105 of the principal Act. This section was repealed by the amendments to the Licensing Act in 1967, but it was re-enacted, and clause 6 repeals it again and replaces it with a new section 105. The old section 105 had a career almost as chequered as Finnigin's train, which was off again, on again, and away again; that section provided for the partaking of certain liquid refreshments with meals at the Adelaide railway station refreshment rooms. The Commissioner, without having to hold a licence, was permited to sell or supply Australian dry wines and ciders, the wines not to contain more than 25 per cent proof spirit and the ciders not to contain more than 12 per cent proof spirit.

New section 105 provides that the Commissioner may, without obtaining a licence, sell or supply at the Adelaide railway refreshment rooms all types of liquor six days a week, Good Fridays excepted, between 8 a.m. and 10 p.m. I hope this venture is successful and that it assists in reducing the losses now being sustained by the refreshment rooms. I support the second reading.

The Hon. R. A. GEDDES (Northern): I support the Bill, which deals with the right of the Railways Commissioner to supply a service to the public at the Adelaide railway station. I only wish that Parliament could have similar power to help other people who wish to supply such a service to the public. Pursuant to new section 105 the Minister may, at the railway refreshment rooms at the Adelaide railway station, without obtaining any licence or permit, sell or supply, subject to the appropriate by-laws made pursuant to this Act, liquor to any person between the hours of eight o'clock in the morning and 10 o'clock in the evening on any day except Sunday and Good Friday. It is interesting that the Commissioner is given power to do these things. I consider that the Licensing Court, which has been set up by Parliament, should have to be approached by all persons wishing to dispense liquor. Nevertheless, that is what the Bill provides, and I am supporting it.

I notice from the Minister's second reading explanation that the Railways Commissioner is empowered to make by-laws providing for certain of the provisions of the Licensing Act to apply *mutatis mutandis* to any refreshment rooms from which he sells liquor. In this instance, it appears that the provisions of the Licensing Act must apply in relation to the sale of liquor at all refreshment rooms other than the one at the Adelaide railway station. It makes one wonder what could happen in this modern day and age, with everyone wanting everything allowed to them. It would be interesting to know, too, whether the prices to be charged at the Adelade railway station will be the same as in hotels across the road. I support the second reading.

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

LAND ACQUISITION BILL

Adjourned debate on second reading.

(Continued from November 19. Page 3088.)

The Hon. A. J. SHARD (Leader of the Opposition): This Bill is based on recommendations contained in the final report of the Land Acquisition (Legislation Review) Committee set up by the Government to examine a wide range of matters concerned with the compulsory acquisition of land; in particular, to review the Compulsory Acquisition of Land Act, 1925-1966; and, if thought fit, to make recommendations for a new Act. Clause 3 provides:

The following Acts are repealed:
the Compulsory Acquisition of Land Act, 1925;
the Compulsory Acquisition of Land Act Amendment Act, 1959;
the Compulsory Acquisition of Land Act Amendment Act, 1966.

Since the Minister made his second reading explanation I and one or two friends have examined the 38 clauses of this Bill, and we cannot find anything to complain about. The Bill is probably better than the Act it repeals because it provides a fair deal for the owner of land that is to be acquired. Also, it protects the purchaser of land when notification has been given that that land is to be acquired. I support the second reading, but I reserve the right to make further comments in the Committee stage.

The Hon. C. D. ROWE secured the adjournment of the debate.

BULK HANDLING OF GRAIN ACT AMENDMENT BILL (DIRECTORS)

Adjourned debate on second reading.

(Continued from November 20. Page 3158.)

The Hon. A. F. KNEEBONE (Central No. 1): This Bill, like three other Bills dealt with recently, relates to the grain-producing industry, and it has been introduced as a result of requests from representatives of that industry. Although some criticism was directed against the other three Bills at one stage, I see nothing in this Bill that will cause much discontent. Indeed, in view of the dramatic expansion of grain growing on Eyre Peninsula, no-one could oppose the increase in the number of zone directors from that area on South Australian Co-operative Bulk Handling Limited. Statistics showing the growth of production on Eyre Peninsula justify this increased representation. According to the Statistical Register, in 1962-63 the area sown on Eyre Peninsula was 909,722 acres, from which the yield was 11,946,393 bushels (31 per cent of the State yield of 38,338,860 bushels). In 1966-67 the area sown had increased to 1,246,006 acres, from which the yield was 23,953,364 bushels (44½ per cent of the State yield of 53,815,500 bushels)—a substantial increase indeed!

Of the 10 silos constructed in 1968, seven were on Eyre Peninsula. It was with regret that I heard of the serious bush fires there during the past week, and I extend my sympathy to the people who have lost much property as a result. The alteration of the term of office of elected directors from six years to four years is sound, because it gives members of the co-operative a more reasonable opportunity to reconsider their representation and the new term is comparable with the terms of office of directors in similar organizations. Clause 2 inserts the following definition:

> "the Wheat Board" means the Australian Wheat Board continued in existence by the Wheat Industry Stabilization Act, 1968, of the Commonwealth or by that Act as amended or by any Act passed in substitution for that Act.

The insertion of this new definition is a wise precaution, because it will obviate the need continually to amend the definitions clause to catch up with amendments to the Commonwealth Act. In recent years, whenever we have amended the principal Act we have had to alter the year of the Commonwealth Act. Clause 3 repeals sections of the principal Act that are no longer needed. Clause 4 deals with a further guarantee by the Treasurer, and clause 5 increases the number of directors of the co-operative. This change will be accomplished after "the sixth day of September, 1970". The present situation will continue until that date, after which another director will be added to the board. He will be a zone director, which will mean there will be five instead of four zone directors after September 6 of next year.

Paragraph (*d*) provides that the directors shall divide the State into five zones, with a director for each zone. The implication is that the additional director will be for Eyre Peninsula. This Bill does not say that (it merely adds one zone director) but, as this was the reason given by those people in the industry who were concerned with and requested the introduction of the Bill, we can rest assured that the industry will see that the additional director will represent Eyre Peninsula.

Paragraph (*e*) provides for every elected director holding office for four years instead of six, although the principal Act refers to a six-year term and a period of three years. This was to ensure that the zone directors and the State directors did not all retire at the same time, thus providing for the continuity of the board. The State directors were elected at a certain time and, half way through their period of six years, the zone directors were elected, thus ensuring continuity. Paragraph (*f*) recognizes the four-year term of office and corrects the situation so that there will be continuity and a staggering of elections. I support the second reading.

The Hon. A. M. WHYTE (Northern): I support the Bill, which has been sought by some primary producers for several years. Because farmers on Eyre Peninsula grow about 40 per cent of the grain produced in this State,

they believe they are entitled to an increased number of zone directors. The remainder of South Australia, which produces the other 60 per cent of our grain, has three zone directors, whereas Eyre Peninsula has had only one. As a result, for some years pressure has been applied to have the legislation amended. In effect, there have been two separate zones on Eyre Peninsula, one with a terminal at Thevenard and the other with a terminal at Port Lincoln. Last year the Port Lincoln terminal received 19,000,000 bushels whilst the Thevenard terminal received 10,000,000 bushels. The handling of all this grain from such a vast area has not been easy but, in view of the circumstances, an excellent job has been done.

At Thevenard hundreds of thousands of tons of oats were affected by water and it appeared that they would be a total loss. However, as a result of reconditioning, this grain was eventually sold. Also, there have been problems associated with receiving bumper harvests without adequate silo space. Much travelling and much communication have been necessary to sort out the many problems that have arisen. Because of the tremendous expansion that has been taking place, it is appropriate that Eyre Peninsula should have a zone director for each of the Thevenard and Port Lincoln zones.

Clause 4 makes appropriate provisions to continue in operation the guarantee given in respect of the last advance made to the company by the Commonwealth Bank. Clause 5 increases the number of zone directors. This Bill will greatly ease the situation of the man who is at present doing so much work for Eyre Peninsula farmers. I support the Bill.

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

CORONERS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 20. Page 3151.)

The Hon. F. J. POTTER (Central No. 2): I support the second reading of this Bill, which calls for little debate. All it does is to make certain administrative alterations to the jurisdiction of coroners. The principal Act has not been touched since 1952, 17 years ago. Prior to that, many years had elapsed before it was amended. This Bill brings the administration up to date. Over the years certain anomalies have been detected, and opportunity has been taken in this Bill to correct some of them. The jurisdiction of the City Coroner has been increased to include areas that are clearly within the metropolitan area as fixed by the Director of Planning and the Electoral Commission. I think the Bill in every way should have the support of honourable members.

The Hon. V. G. SPRINGETT (Southern): There are three points regarding the Bill to which I should like briefly to refer. The first is the way in which the metropolitan area of Adelaide is increasing enormously, especially when one considers Elizabeth and Salisbury. It is obvious that with the increasing growth of scientific study of criminology there will be an increasing need for the examination of bodies after death when there is no complete certainty regarding the cause of death. Therefore, with a larger area of territory to cover, it is essential that this Bill be passed so that the Act can be brought up to date.

Secondly, I know only too well that doctors are glad to receive the help of qualified pathologists and other ancillary personnel in discovering the true nature and cause of death, especially in complicated cases. Thirdly, clause 4 provides that section 8 of the principal Act is amended by striking out from subsection (1) thereof "one guinea" and inserting in lieu thereof $2.10. The Act has not been amended since 1952, which is 17 years ago. It appears that the coroner is worth no more now than he was then!

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

LOCAL COURTS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 20. Page 3152.)

The Hon. F. J. POTTER (Central No. 2): I have earnestly considered this measure. It and the Justices Act Amendment Bill are the two most important Bills before the Council dealing with the creation of an intermediate courts system in South Australia. The other similar Bills on our Notice Paper are purely ancillary to these two Bills. What I am about to say can be related also to those other Bills. Some aspects of this new legislation have caused me considerable concern. For many years South Australia has followed what can broadly be called a two-tier court system, which means that apart from some special courts such as the Industrial Commission and the Licensing Court, we have the Supreme Court at the top and the magistrates courts, both civil and

criminal, underneath. Most of the other States in Australia, and in particular the Eastern States, have for many years operated a three-tier system—their Supreme Court, their district courts (or county courts, as they are sometimes called) and their magistrates courts.

One significant way in which South Australia has differed from the other States is that under its two-tier system it has for many years been the policy of the Government to insist that all magistrates appointed must be legally qualified people. In fact, the system has operated in such a way that only members of the legal profession who have been admitted to the bar have been eligible for appointment as magistrates in South Australia. That system is perpetuated under this Bill.

In the Eastern States the magistrates, under the three-tier systems, have been able to qualify for appointment by a much less stringent process than this. I am not saying they are without legal training of a kind (in fact, they are now all required to have some legal training) but they are not required to be members of the legal profession admitted to the bar of the Supreme Court. In some cases they can graduate to being appointed magistrates through the court system and by serving as clerks of court who have passed certain prescribed examinations in legal matters that satisfy the Governments of those States. As I say, that system has not existed in South Australia. It has been stated that the system existing in other States, as it is administered, is inferior to the South Australian system. I cannot express an opinion on this, because I am not familiar with the lower jurisdictions in the other States, never having appeared before any of the magistrates sitting in those jurisdictions. I think that any assessment that a South Australian practitioner makes of this matter must be based largely on hearsay. However, I sometimes wonder whether the proposition that the justice administered in the lower courts in the other States is an inferior brand of justice is not a fairly questionable one.

It seems to me that there are matters other than mere legal qualifications that go to make a good magistrate. By all means, let us have adequate legal training, but what is just as important, I think, is temperament and experience in the every-day affairs of men. An experience of life is terribly important for anyone who is a candidate for appointment to the bench. I think that along with that goes the proposition that the ideal age for a person to be appointed as a magistrate is about 35 years. Although some people may have had sufficient experience at a lower age, I think 35 years is a good all-round balancing age to take. The work of the Supreme Court and of all the magistrates courts over the years has increased tremendously. However, I think the statistics clearly show that the work of the Supreme Court has not increased proportionately as much as the work of the lower courts has increased.

The Minister said recently that from 1954 to 1964 the cases dealt with in the magistrates courts had risen from 10,000-odd to 28,000, and had risen to over 40,000 in 1968. The figures given to me concerning cases heard during 1967 show that the total number of cases of all kinds, including criminal matters and chamber applications, heard by the judges of the Supreme Court in that year was 2,638, and there were only six judges to hear them. Of those cases, there were 722 criminal matters, only 100 of which were actually tried by jury, the rest having all involved pleas of guilty that were dealt with as such by the judges. The 1967 figures I have received show that the Adelaide Magistrates Court, comprising only five full-time magistrates and two part-time retired magistrates who help out from time to time, dealt with 32,450 cases in that year. The total number of cases heard by special magistrates in the local courts, including courts situated in the country and the suburbs and involving not only a civil jurisdiction but also a criminal jurisdiction comparable to that exercised in the Adelaide Magistrates Court, was 91,834. Here, there were only one local court judge, two temporary local court judges, 10 full-time special magistrates, and three part-time retired special magistrates assisting.

Summarizing the position, we see that the Supreme Court judges heard only 2 per cent of the cases covering all that field of judicial activity. The Supreme Court masters, whose jurisdiction is a valuable one, heard 8 per cent of the total number of cases, the rest, 90 per cent of the work, being dealt with by magistrates in the Adelaide Magistrates Court and in the Local Court, including country and suburban courts. I think that shows where the real burden of work has lain in past years. Indeed, this is the present situation, which I think we can say is very unsatisfactory because of the lack of suitable people available to take positions on the bench. I agree that something needs to be done quickly in order to remedy the present situation.

Analysing the problems, I think we can say first of all that, although it is dealing with only 2 per cent of the cases in our system, the Supreme Court has much work to cope with and that the state of its lists is not as good as it ought to be. To get a different picture, one has only to compare the situation existing in this State with that existing in England where one can get a hearing in a civil matter or even in a divorce matter within a comparatively short time, sometimes, I have noted, as short as three or four months. I think one must realize that in the Supreme Court it is not just a question of the number of cases coming before that court. It is no good saying, "The court only deals with 2 per cent of the work, anyway; why should it be relieved of some of its present jurisdiction?"

The position is that Supreme Court judges are called upon to perform work outside their strictly judicial spheres. They are used (as has been done this year) on commissions and committees of inquiry for the Government. It is important that judges should sit as courts of appeal, not only from decisions of magistrates but also from decisions of individual judges on the Supreme Court bench. That work takes up a considerable amount of time and, in addition, each member of the Supreme Court bench has to have sufficient time at his disposal to keep up with the law, to read extensively various court decisions arriving from all jurisdictions, and generally to keep abreast of current decisions. Therefore, the Supreme Court is one where we must take account of several factors.

Turning now to the problems existing in the lower courts, the principal one is that of insufficient magistrates. Indeed, I think it is true to to say that there would be a complete breakdown of our judicial system in the lower courts were it not that a number of retired magistrates have been prepared to work on a day-to-day basis and hear cases, particularly in the Adelaide Magistrates Court and in the suburbs. In addition to magistrates, a great deal of use has been made of lay justices of the peace who have been hearing a large number of cases in maintenance and in road traffic jurisdictions.

The problem of what action to take in this situation is, I think, one of some difficulty. The Government in this measure has seen fit to establish a new intermediate court to be composed of judges with an increased civil jurisdiction above that of magistrates. It will also be able to hear criminal matters in district criminal courts, with juries. The first thing to notice is that this system will relieve the Supreme Court of a great deal of criminal work as well as a good percentage (it is hard to know the exact figure) of civil work. It is true that this will enable the Supreme Court to handle more easily the appeal work that comes before it; it also means that it will be able to concentrate more on its matrimonial jurisdiction.

I think it will amount to this, that once the Supreme Court bench is increased by the appointment of a judge under the Land and Valuation Court Act there will be little reason in future for the appointment of further Supreme Court judges. I think that, if this system is introduced, the Supreme Court judges who will number seven in future are likely to remain at that figure for a long period in this State.

One of the big questions unanswered at present in connection with the jurisdiction of the Supreme Court (or what will be left of it) is that of what the Commonwealth Government will do in relation to its proposed new Commonwealth courts, because an announcement was made with somewhat of a flourish a few months ago by the then Attorney-General of the Commonwealth Government that he proposed to establish a court in each State to handle matters involving Commonwealth jurisdictions. For example, it would handle such matters as bankruptcy, income tax, navigation, and so on; but nothing was said precisely about divorce and matrimonial matters. If, in fact, that Commonwealth court was either immediately or at some time in the future also empowered to handle the matrimonial causes jurisdiction, which, after all, is still a Commonwealth jurisdiction, it would have a tremendous effect on the volume of work handled by our Supreme Court. Indeed, I think it would so alter the situation of that court that one would not clearly know what would happen to the seven judges proposed.

As I said a few moments ago, the intermediate court to be set up by the Government under this Bill will relieve the Supreme Court of a large amount of its criminal and civil work, and the question that must be asked is: "What will be done to help the magistrates who are struggling to cope with literally thousands of cases a year?" The only thing I can see in this Bill that will in any way assist the magistrates to cope with their work is the provision for the appointment of special justices.

In arranging for the appointment of special justices it seems to me steps are being taken towards establishing what exists in other States, namely, magistrates not legally qualified in the full sense, but with special qualifications that will justify their taking charge of a special jurisdiction.

In this sense, I think perhaps for the first time we in South Australia may be recognizing that there is something in the system adopted in other States. I think the idea of special justices is fundamentally a good one. I know there will be some members of my profession who will not think this is good, but it is true that there is a wide jurisdiction vested in magistrates at present. They are required to do much of this work because no justices of the peace are available or merely because they happen to be present when the work is required to be done. Minor traffic and police offences, as well as the hearing and determination of unsatisfied judgment summonses in the civil jurisdiction, can be time consuming and do not require the experience and training of a fully qualified legal man.

A big problem regarding the Bill is that it proposes nothing, except in two respects, for the magistrates, who will still be required to exercise their present jurisdiction. First, the Bill provides that they may have an opportunity to apply for promotion to be a judge in the new intermediate court and, secondly, if they are not successful in being raised to that status some of the special magistrates may be designated after a period of service as "senior special magistrate" with the idea that this will attract an increased salary for those people with sufficient experience.

However, my knowledge of industrial law leads me to doubt whether that will be anything more than a fancy title, because I should have thought that the determination of salaries was based very much on the jurisdiction that the special magistrates exercise and not on what kind of title they have or, for that matter, what experience they have. If it cannot be said that the senior special magistrate is exercising a wider jurisdiction than the most junior man who has just been appointed, even though the former may have had several years' experience, it will be difficult for any differentiation in salary to be brought about.

Another matter that disturbs me about the Bill is that it is not going to be easier in the future to attract persons to the magistracy. This has been a big problem that the Government has had to face under our two-tier system, because it has wanted to appoint people who are fully legally qualified, who have had the experience in life that I mentioned before, and who are about 35 years of age, which is the age I mentioned. However, the Government has not been able to obtain enough recruits who satisfy most of these requirements.

True, there is a large gap in the legal profession that was brought about largely as a result of the war. There is no doubt that this gap, which occurred either during the war or in the post-war years, is to some extent responsible for the lack of enthusiasm amongst that section of the profession to apply for jobs as special magistrates.

Also, in spite of the salary increases that have been awarded in later years, the profession does not like the title of magistrate, or the status attached thereto. The general impression amongst the profession is that once one is appointed a magistrate one is in a dead-end job, that one is there until one is 65, that one is a public servant subject to the provisions of the Public Service Act and that it is not a very wonderful job, even though the salary may not be an unfair one in all the circumstances.

I am not pronouncing judgment on whether the salaries of magistrates are right or whether they should be higher. I do not think I am competent to do so at this stage, because no matter what a man's salary might be it is only human for him to think sometimes that he should be getting more. Everyone thinks this from time to time. These matters have to be dealt with by tribunals after the evidence has been examined. Indeed, this has been done by the Public Service Arbitrator from time to time.

Difficulty is experienced in selling to the profession the idea of appointments to the magistracy. The question of being subject to the Public Service Act is sometimes a little overdone. This is an imaginary difficulty rather than a real one. However, there is no question that the status of a magistrate is not highly regarded. One of the reasons for this is that if a magistrate goes to another State to a legal conference or something of that kind he meets people who in many instances are exercising the same kind of jurisdiction as he is here but who are known as judges.

Of course, in other States a magistrate is regarded as being a somewhat inferior class of person. In many cases, if he is an untrained and not legally qualified person, he does not rank highly. Secondly, the people at these conferences ask our magistrates whether they

are legally qualified which, of course, is pretty hard to take in some circumstances. All these little things add up in one's mind, and one concludes that the job is not good enough for someone who has had considerable experience in practising law.

I note with interest that it has been stated (I think in another place) that the question of being subject to the Public Service Act can be dealt with in an administrative manner. I trust that this right will be exercised in the future, because it may make some difference to future recruitments. Also, difficulty can be experienced in the fixation of magistrates' salaries as long as they are subject to the provisions of the Public Service Act, because no matter what is decided about their salaries magistrates are fitted into the hierarchy of the Public Service.

The Hon. A. J. Shard: Which has an effect on other people.

The Hon. F. J. POTTER: Yes. They have been relegated to their slot in the order of things, and any alteration to their salaries naturally raises a fear in the minds of the Government advisers that other salaries in unrelated jobs and professions will have to be altered as well. This is largely the reason why opposition has been experienced in relation to salary increases for special magistrates.

It has been said (I think the Hon. Mr. Shard raised this problem) that the provision of an intermediate court as is contemplated by this Bill will be a somewhat expensive process, and I think that the Government ought to be required to justify its decision to take this step. Perhaps the best justification for setting up this court is not so much that it is necessary now to cure the existing position (because in some ways I doubt whether it does very much towards solving the existing problem) but I think we have to be looking 20 to 25 years ahead, in which time we expect that the population of South Australia will be greatly increased. It seems to me that the greater the activity in a particular State and the greater the increase in population the greater will be the need for a three-tier system to be set up. Consequently, I think the best justification for this Bill is that the Government has said (or I presume that it has, because we have not actually been told this), "Well, we have looked at the problem and we have decided to take the long-term view and we will act now to set up a three-tier court because in the long term we would have to come around to it and it would probably be even more expensive then to set it up than it is now."

However, I hasten to say that it seems to me that the setting up of this particular court may not solve the existing problems of the number of magistrates required for the lower courts. It has been suggested that we require at least an additional 10 magistrates in our lower courts to deal with the present volume of cases, and I think it is terribly important, in the lower courts just as much as in the Supreme Court, that we have to allow magistrates a little time so that they can deliberate carefully about their decisions and keep abreast of the law within their own particular jurisdictions and not in fact have to work at full pressure during the day and then take a great amount of work home at night in order to write judgments.

We can get to a situation where, if a magistrate is hearing cases at pressure constantly every day and he has a few defended cases on which he has reserved his decision, he will, before he gets very far, lose the thread of those cases and be just wondering what was actually put to him in respect of each separate matter. I think this is a danger that can exist. One magistrate told me not long ago that he was really getting rather confused because he had about six or seven decisions that he had deferred and it was hard to recollect, once they were deferred for any length of time, precisely the exact terms of the evidence and the argument that was put to him. This is the kind of thing that arises. In fact, even in other fields when people work at pressure they lose the immediate track of things.

An estimate of the cost involved was given by the Minister this afternoon. It is interesting to note that if we had one senior judge and eight other judges in this court the cost would be an estimated $211,000 annually for them and ancillary staff. That estimate does not include the cost of additional court accommodation. I do not know how this figure would be worked out. I am not questioning the figures in any way.

The Hon. A. J. Shard: My figure was not far out.

The Hon. F. J. POTTER: It seems to me that it is necessary to ask, "What is meant by ancillary staff?" What one would get in ancillary staff would depend on how this court was set up. I can visualize (in fact, I do not think there is any secret about it) that this new intermediate court will not be a court where things are dealt with in a semi-formal way as they have been in the magistrates and the local courts: this is going to be

a full wig and gown affair, with the judges and counsel robing, and when this happens I think we run into the situation that each judge will want an associate or at least a clerk, as well as a tipstaff, and suitable accommodation will have to be provided to satisfy the particular dignity of a court set up along these lines. Therefore, I am a little inclined to agree with the Hon. Mr. Shard when he says that these figures should be taken as the minimum amounts that will be involved.

The Hon. A. J. Shard: You're telling me!

The Hon. F. J. POTTER: At present I am disposed to support the second reading because I think that this is a matter on which a decision has been taken by the Executive Government in this State. It has seen fit to bring this Bill forward, and it must have agreed to face up to the cost involved and must have considered that the system was very desirable. However, I hope that if the Bill is passed the Government will not immediately rush in and appoint about six or eight judges.

The Hon. A. J. Shard: That's the very thing it will do.

The Hon. F. J. POTTER: I think this is the kind of new court which, in the long term, may be very necessary in this State but which in the short term ought to be introduced in pretty low gear. In fact, I think that about four judges at the outside would be all that were required at this stage. Of course, some effort must be made also to increase the number of magistrates. Whether this system will increase the number of magistrates, I do not know. It may be that if there was some real feeling in the profession that no longer was the magistrate's job a dead-end one but that it would be a stepping stone to higher things, we would get over one of the very big problems that have been affecting people's attitudes towards taking on the job of a magistrate.

Of course, so much of this depends on how the legislation is administered in practice and on whether or not real consideration will be given to the promotion of those magistrates who are worthy of it. We will have to wait and see how it works out. Some consideration should be given to increasing the number of magistrates.

The Hon. R. A. Geddes: Hasn't there been difficulty in obtaining suitable applicants for such positions?

The Hon. F. J. POTTER: Yes; I thought I had made that clear and that I had given the reasons why that was so. In the Committee stage I will raise several further points; in particular, I should like to see a special jurisdiction for minor claims (perhaps up to $100 or $200) that at present never receive any kind of judicial hearing because of the costs involved. This has long been a pet subject of mine. People often come along to a solicitor and say, "I have a claim for $50." Usually, the reason is that someone has backed into the client's motor car and it has cost $50 to repair it. The question arises of who the responsible person is and to what extent he is responsible. The average sensible solicitor (and I commend him for this) will say, "Insufficient money is involved to justify your going to court. If you win the case you may get some of your costs and a small percentage of your claim. If you lose the case you will not only lose the $50 but also have to pay the other man's costs." This is good advice.

A simple form of jurisdiction should be provided to deal informally with such cases in chambers, without costs being involved by either side. A very good precedent already exists; it has grown up almost unawares in the Industrial Commission. At present the Industrial Registrar is enabled to deal informally with quite extensive and important matters involving claims for wages in arrears and claims for long service leave. A decision can be made and enforced, yet no-one is up for any costs unless it is a frivolous and vexatious matter (which should always involve costs, anyway). This kind of procedure could be incorporated in a new jurisdiction. I do not know whether it will be possible for me to draft an amendment to this Bill; I hope I have time to do so, and I will certainly consult the Parliamentary Draftsman about it.

The appointment of additional magistrates, which is essential, is to some extent a public relations job for the Government. In addition, some consideration should be given to extending in some way the jurisdiction of magistrates to deal with minor indictable offences. The jurisdiction magistrates possess in connection with such offences is fairly limited, but the higher courts could be saved much time and trouble if magistrates had a slightly increased jurisdiction so that they could deal with these offences. At present, the defendant charged with a minor indictable offence that cannot be dealt with by a magistrate may want to enter a plea of guilty very quickly. Because he cannot do so at that stage, depositions have to be taken and the man has to be committed for trial or sentence in a higher court, despite the

fact that he would like to plead guilty then and there and have the matter dealt with.

The Hon. D. H. L. Banfield: You will be ostracized by the Law Society if you keep this up.

The Hon. F. J. POTTER: I do not think so. I understand the society's position, and I am not against its recommendation. In many ways it may be looking ahead, too. It may realize that the three-tier system has considerable advantages.

The Hon. D. H. L. Banfield: You will have five tiers by the time you get your special justices and ordinary justices.

The Hon. F. J. POTTER: The special justices and the ordinary justices exercise much the same basic jurisdiction. I am well aware that the Council of the Law Society favours the scheme; indeed, I do not see how it could do other than favour it. In the long term it has certain advantages and it obviously provides an opportunity for the best possible people to be appointed to judicial office. I have no doubt that the Council of the Law Society is deeply concerned (as, indeed, are I and many other members of the profession) that there have been insufficient suitable applicants for magisterial positions. In some cases the problem has been like that of a dog chasing its tail and never being able to catch up.

I support the second reading. I believe that the Government must have considered this matter very carefully, and it has decided that in the long term this system will provide a way in which the present unsatisfactory situation can be remedied. Of course, the proof of the pudding will be in the eating, and we will have to wait until the intermediate courts begin to work. What will really determine whether the system of justice in this State will break down or not will be whether or not in the light of the new circumstances additional people can be attracted to the magistracy. It is confidently hoped by the Government that this will come about. I, too, sincerely hope so because, without it, we shall be in real trouble.

The Hon. H. K. KEMP secured the adjournment of the debate.

CONSTITUTION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 19. Page 3101.)

The Hon. A. M. WHYTE (Northern): It affords me no great pleasure to speak to this Bill—and, of course, none at all to support it in its present form. Although the commissioners who were appointed to examine the redistribution of boundaries did, in my opinion, perform a worthwhile task, I believe the instructions they were given were entirely wrong, since about only 3 per cent of the State's area, the thickly populated portions of the State, will have an increase in representation to 28 seats, which means there will be 19 country as against 28 metropolitan members in another place, the latter representing, as I say, only a very small portion of the State's area. Although this could be regarded as complimentary to the standard of country members, in that they will need to be of excellent quality to represent their electors effectively, this new position is unfair. I oppose the Bill in its present form for exactly that reason.

I believe that South Australia has come up with one more "first", in that generally a redistribution is not well accepted by either one Party or the other. Seldom is the position accepted by the Opposition. The old catch cry of "one vote one value" was used by the Leader of the Opposition, but he finds he can accept this Bill.

The Hon. A. J. Shard: You write out the one roll and we shall be happy. Do not issue any challenges, because it is the right time for them to be accepted.

The Hon. A. M. WHYTE: According to an article I have here, it is the first time in Australia that such a redistribution of boundaries has ever been accepted without any ifs or buts, kicks from the Opposition or cries of "gerrymander".

The Hon. D. H. L. Banfield: Didn't that come up in the earlier Bill?

The Hon. A. M. WHYTE: Yes; it leaves very little to be said during this debate. I believe some increase in the number of seats was warranted, because our population has grown and is now more concentrated. I am prepared to concede that some further representation was necessary for the metropolitan area, but not such a great increase as we have in this Bill. I hope amendments will be moved that will make the Bill a little more acceptable, one being a suggestion often made during the last elections that spouses of enrolled voters for this Council should have a vote.

The Hon. D. H. L. Banfield: Why not give it to everybody?

The Hon. A. M. WHYTE: It can be explained.

The Hon. D. H. L. Banfield: Why not go the whole hog? The fact is that your Party will not let you.

The Hon. M. B. Dawkins: We do not believe in identical franchise.

The Hon. A. J. Shard: Try one vote one value and see how we go! Give us one vote one value and see what happens!

The ACTING PRESIDENT (Hon. Sir Arthur Rymill): Order! There are too many interjections.

The Hon. A. M. WHYTE: There is little more I can say about this Bill. We have already passed the Electoral Districts (Redivision) Bill, which gave instructions to the commission. Little can be said in favour of this Bill. Previous speakers have already pointed out that amendments may be moved. I hope they will be. As the Bill stands, I remain non-committal about its being passed.

The Hon. C. M. HILL (Minister of Local Government) moved:

That the debate be now adjourned.

The Council divided on the motion:

Ayes (12)—The Hons. M. B. Dawkins, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan, L. R. Hart, C. M. Hill (teller), H. K. Kemp, C. D. Rowe, Sir Arthur Rymill, V. G. Springett, C. R. Story, and A. M. Whyte.

Noes (4)—The Hons. D. H. L. Banfield, S. C. Bevan, A. F. Kneebone, and A. J. Shard (teller).

Majority of 8 for the Ayes.

Motion thus carried; debate adjourned.

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL (ABORTION)

Adjourned debate on second reading.

(Continued from November 20. Page 3162.)

The Hon. D. H. L. BANFIELD (Central No. 1): This is the Bill that has aroused great emotional feelings, and it is one that will bring criticism upon each of us whatever line of action is taken, whether for or against the legislation. I refer to legalized abortion. I believe that not one member of this Council has escaped from dual pressures that have been placed upon him. Some people are strongly opposed to the Bill in any form. Some people are opposed to certain clauses in the Bill, while others have urged us to support the Bill as it left another place, whilst still others believe that the Bill does not fully achieve what it sets out to do.

I think that whatever action is taken by the Council, or whatever members' personal feelings are on this subject, we must be sure that the person we are trying to assist will be properly assisted. Apart from an attempt to set down guide lines to be followed by both the medical and the legal professions, the Bill should give every possible assistance to the woman who, for one reason or another, believes it is in her best interests to have her pregnancy terminated. I think that this Council, comprising 95 per cent male members, is in a difficult position in attempting to frame laws that could possibly determine the fate of women for the rest of their lives. I believe that if in the past some of the legislation that has been placed upon the Statutes had been decided by women instead of by men, then some of it would never have "hit the deck". Other legislation, if it had so adversely affected men in the same manner as some of the legislation passed adversely affects women, would have aroused a great hue and cry in revolt from the males of the community. I have no doubt that had more women been in Parliament we may have had on the Statutes what the President of the Lutheran Church of Australia says he believes; that is:

> In the case of abortions desired by women who have been raped, I maintain that persons who have been convicted of rape, or of carnal knowledge without the woman's consent, should be rendered impotent by castration. If such a law were passed, and then also implemented, I maintain that this would practically eliminate raping, afford protection for women and girls, eliminate the need for many abortions, and, moreover, come somewhere near what the Great Teacher said, as recorded in Matthew 5: 27-30.

I believe that if women had been in charge there may have been a complete sanction for such a measure, and I suggest that there would have been a different cry from men if that had happened. However, women in the past have meekly sat by and accepted laws made, in the main, by males. I think that the feeling and instinct of protection for the family would be so great that it would only be after much soul-searching that a woman would come to the conclusion that an abortion would be in the best interests of all concerned. I have no doubt that a woman's maternal instinct is so great that she would not lightly seek to have a pregnancy terminated without sufficient reason.

It is not very long ago that the word "abortion" was a dirty word and would only be spoken in undertones, and then in a furtive manner. But today in this so-called enlightened society the subject can be openly approached and discussed, and I congratulate the Attorney-General on bringing the matter forward.

I purposely used the words "so-called enlightened society" to draw attention to the fact that we have a long way to go before we become a fully enlightened society. While there is still one person in the community who looks down upon, frowns upon, rejects, and entirely blames the unmarried girl who becomes pregnant, then we still have a long way to go before we can claim that we are a "fully enlightened society".

Down through the ages it is the female who has been expected, in all circumstances, to resist all temptations and approaches made to her. The female is only as human as the male, possibly because of the part she has to play in populating the world. Her emotional feelings are greater than those of the male; they may take a little longer to become fully roused but, once roused, her powers of resistance are no greater than those of the male. Yet we find in the event of the girl becoming pregnant she becomes an outcast and the villain of the piece as far as society is concerned.

I believe many good, sound reasons exist why a girl or a woman, after careful thought and advice from her doctor, should, if she so desired, be able to have her pregnancy terminated. I am not alone in thinking along those lines. Although public opinion has not yet reached the stage where it completely accepts the position of abortion being available at the request of a pregnant woman for any reason, it is interesting to quote the figures of the two public opinion polls that have been taken in Australia.

The first of these polls was conducted in 1967, and in reply to the statement "that abortions should not be legal or allowed under any circumstances" only 27 per cent of those interviewed agreed with it, 64 per cent disagreed, 7 per cent were unsure, and 2 per cent did not answer. Of those who considered that abortion should sometimes be legal, 92 per cent said it should be permitted in order to preserve a woman's life, 75 per cent agreed if there were dangers of mental or physical deformity to the child, while 85 per cent agreed if the pregnancy resulted from rape. Here I assume that people answering that question were referring to the illegal rape of the woman, and not to the legal rape of a wife by her husband. In that instance, 27 per cent of those in favour of legal abortion in certain circumstances were agreeable to allowing abortions to take place for purely economic reasons.

It is also interesting to note that 69 per cent of Anglicans and 49 per cent of Catholics favoured abortion in certain circumstances. No question was asked at that poll that would indicate what proportion of people favoured abortion being legally unrestricted, but it can be reasonably assumed that the attitudes expressed in Australia are similar to those expressed in the United Kingdom and the United States of America. If we assume that, about 10 per cent of Australians believe that the decision regarding an abortion should be left to the individual concerned and her doctor. I am one of those who believes this, too. I believe that only two people (the woman and her doctor) should have the final say.

The second Australian poll was conducted early in 1968. Only married women drawn from Melbourne and Sydney were questioned during this poll. They were asked whether abortion should be made legal if carried out by a properly qualified medical practitioner. The replies were as follows: 44 per cent of the women asked in Sydney and 36 per cent of those asked in Melbourne said that an abortion should definitely be made legal in those circumstances. Also, 20 per cent of those approached in Sydney and 26 per cent of those approached in Melbourne said that most probably it should be made legal. This therefore means that 64 per cent of the people questioned in Sydney and 62 per cent of those questioned in Melbourne were in favour of abortion; 5 per cent of those asked in Sydney and 4 per cent of those asked in Melbourne said it probably should not be legal. Also, 21 per cent of those asked in both Sydney and Melbourne said that it definitely should not be legal. Therefore, 26 per cent of the people approached in Sydney and 25 per cent of those approached in Melbourne were against abortion, and 10 per cent in Sydney and 13 per cent in Melbourne were undecided.

It can be seen from these figures that the majority of people in Australia favour abortion being legalized. Now that the people have stated this, it is difficult to understand how they can say that it is permissible for one person but not for another. By making that decision, we are exposing some women to the dangers associated with the practice of going to backyard abortionists. I have no doubt that once a woman has decided to have her pregnancy terminated, she will have it done whether by a properly qualified medical practitioner in an approved hospital or by a backyard abortionist, in which case there is a greater risk of her losing her life.

One could have seen from the *Advertiser* of September 10 this year that two persons were

charged with murder because they assisted in aborting a woman. That woman lost her life because she was forced to go to a backyard abortionist. Had she been able to go to the medical profession or to an approved hospital, there is no doubt that she would still be alive today and those men would not have been charged with murder.

Some people say that we do not have the right to abort because an unborn child is being murdered. However, the fact is that an adult human being was murdered because of the laws on our Statute Book and because the medical profession was afraid to go outside the law. I do not blame the profession for that; I blame the law of the country, which should be amended. The woman to whom I have already referred would have been alive today had the law been different.

I said earlier that I did not believe a woman would resort to having her pregnancy terminated if there was not a justifiable reason for so doing, and I shall give a few of those reasons. First, there is the case of the young teenage schoolgirl who has not properly matured and who has had her sexual feelings aroused by a number of schoolboys and, not fully knowing what is ahead of her, gives in to the boys, only to find later that she is pregnant. Surely that immature young girl should not be forced to continue with the pregnancy, with the possibility of her mental health being impaired for the rest of her life, and with the possibility of an unwanted child, which will not get the love and affection it deserves, coming into this world.

There is also the young lady who believes that her boyfriend loves her and intends to marry her, but who suddenly finds that she is pregnant and that her boyfriend is no longer interested in marrying her. Surely, if she thinks she will be unable to cope with the upbringing of the child she should have the right to have her pregnancy terminated. After all, the man involved has dodged his obligations and responsibilities. He does not have the scorn of society heaped upon him, yet we are not prepared to allow the female in this case to be relieved of her worry.

One can also consider the married woman who, during her upbringing, was told all sorts of stories about pregnancy and who suddenly find herself pregnant. The fear of having a child then sets in, to the extent that she becomes mentally unstable. No-one knows whether this will last for a short time or whether it will last forever. Surely, such a woman should be allowed to have her fears relieved under proper conditions.

In other cases there is a substantial risk of a baby being born with a physical or mental defect if the mother suffers from rubella during her pregnancy. It is estimated that one in every three babies is affected in these circumstances. True, science is working on this question, and possibly it will find an answer to it, but what will happen to the mothers and the babies in the meantime when the mother feels that her child will be born mentally or physically defective? Surely a mother should not have to carry that fear throughout her pregnancy. Then, we must consider hereditary diseases, as a result of which a woman may have fears of her baby being affected from, say, Huntington's chorea (in other words, St. Vitus Dance), with which half of the children born are afflicted.

The Hon. R. C. DeGaris: Is that figure right?

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

The Hon. R. C. DeGaris: Where did you get it from?

The Hon. D. H. L. BANFIELD: The medical profession. It can show up until one is 40 years old, and it will continue through the generations.

The Hon. R. C. DeGaris: I thought it was more than 50 per cent.

The Hon. D. H. L. BANFIELD: It is at least half the people. Of course, in some cases it does not show up.

The Hon. R. C. DeGaris: I am only trying to be helpful.

The Hon. D. H. L. BANFIELD: The Minister is being helpful. I was merely pointing out that Huntington's chorea might not show up until the person is well and truly married, and a woman might not realize until too late that her child could be affected. Surely in those circumstances such a woman should not have to go through the rest of her pregnancy fearful that her shild will be affected. If she knows in time, surely she should be entitled to seek medical advice and have her pregnancy terminated.

One can also consider the cases of women who are approaching the menopause and who become pregnant. This is also a tricky period because the incidence of mongolism rises with maternal age. I am associated with an organization that deals with much of this. I do not know what the percentage is in this

case, but I have seen some of the tragedies that have resulted from a woman in this age group having a child affected by this disease. Just because it is legal for a woman to have a pregnancy terminated does not mean that she will go and have an abortion, but at least if she is fearful of the consequences of her pregnancy she can be relieved of that fear.

This Bill does not force any person into being aborted: the provision would be availed of only if, after a person's soul-searching and after the advice that she had received, it was decided that it was in the best interests of everyone for the pregnancy to be terminated. Therefore, it is not right to say that this legislation would result in lowering the population rate. All it does is alleviate the fears of some people and prevent the disasters that we see as a result of some pregnancies that have to go to the end. I say again that the woman and her doctor should have the right to make the decision.

We have heard some very good speeches on this Bill, and I compliment those who have made contributions to the debate. I compliment particularly the Hon. Mr. Springett, who put forward a very good case. The Hon. Mr. Potter last week spoke exceptionally well on the matter, as did the Hon. Mr. Rowe before him. I consider that all speakers have been very sincere in their views. I do not agree with some of the views that have been expressed. However, even though we agree to differ we can at least respect the views of others.

I do not agree with the view expressed by the Hon. Mr. Springett that the husband should be one person to decide on the matter. I have no objection to the husband's being in on any consultation when the woman goes to a medical adviser, but I am against his having any say in coming to a decision. I consider that the husband should have had agreement with his wife before allowing her to become pregnant; that is when he should have stepped into the role of being a decider as to whether or not there would be a baby. It is well known that often a husband deliberately attempts to force his wife into pregnancy, well knowing that the wife is fed up with him and his home and that she intends to leave as soon as her responsibilities to her children have been carried out. It might be said that with present-day contraceptives this should never happen. However, I have been assured by medical men that it is surprising the number of women who are ignorant of the steps that can be taken to prevent pregnancy, while others prefer to buy their family a pair of shoes rather than a packet of pills because they cannot afford to purchase the necessary pills. These are reasons why I say that a husband should not be one of the deciders. I agree that it is quite all right in certain circumstances for the husband to be in on the discussion, but the decision should be left entirely to the woman, who knows her feelings in the matter.

The Hon. Mr. Rowe implied that he thought we should do nothing that might hinder the natural growth of population. I consider that the honourable member is most fortunate in that it would appear that he has never been touched by some of the tragedies that have affected other people and whole families resulting from certain pregnancies that should have been and would have been terminated under certain conditions. I sincerely hope that neither he nor his family will ever be touched by these tragedies. I also sincerely hope that he and other members in this Council will do nothing that will prevent other people from escaping from these tragedies. Much could be done by allowing the termination of pregnancy to take place when it is realized that certain circumstances could arise in the future and that it is not in the best interests of the baby, the mother or the rest of the family for the pregnancy to continue.

I am against the provision of the Bill which makes it necessary for a woman to have resided in South Australia for four months before the termination of a pregnancy can take place. I see that the Hon. Mr. Springett has an amendment on the file to reduce the period to two months.

The Hon. F. J. Potter: I have one that would take it out altogether.

The Hon. D. H. L. BANFIELD: That would suit me fine: I prefer it to be taken out altogether, for I cannot agree with the provision of four months or two months. If we believe it is necessary that a termination of a pregnancy should take place, I do not see why we should add the further risk to the mother of having to delay the termination of that pregnancy for a period of four months, two months or even one month, because with the termination being effected at an earlier stage there is less risk to the person concerned and less chance of medical complications arising. I am against any time limit. I know that people say it will stop some border-hopping. So what? Aren't we Australians? Are we in favour of women being protected, or are we parochial

enough to say that we are only South Australians and that a woman is not a South Australian until she has lived within this State's borders for four months? If it is necessary for the pregnancy to be terminated, I say that it should be done at the earliest possible moment. I am sure that the medical profession will agree that it is much safer and that there is far less risk of complications if the termination takes place under 12 weeks of the commencement of the pregnancy.

There is an amendment on file seeking to delete clause 3 (3), which allows a doctor, in determining whether the continuance of a pregnancy would involve risk or injury to the physical or mental health of a pregnant woman, to take into account the actual or reasonably foreseeable environment of the pregnant woman. I hope that the Council rejects this proposal. Although it will be argued that the doctor will automatically take these things into consideration when a patient goes to him, I feel certain that if we remove this provision the doctors will feel they will not be able to take these matters into consideration and we will be back to where we are today, with a doctor being afraid to carry out what he thinks would be in the best interests of the woman and her family. I maintain that this provision should remain in the Bill. With those few remarks, I support the second reading. I am interested in some of the amendments that are on file, and I will have more to say about them in Committee.

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

GIFT DUTY ACT AMENDMENT BILL

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

CRIMINAL INJURIES COMPENSATION BILL

Adjourned debate on second reading.

(Continued from November 19. Page 3099.)

The Hon. Sir ARTHUR RYMILL (Central No. 2): This Bill has given me some little concern, mainly in its inter-relationship between the criminal and the civil jurisdictions of the courts. As all honourable members know, different standards of proof prevail in these two jurisdictions: in the criminal jurisdiction, the cause has to be proved beyond reasonable doubt, whereas in the civil jurisdiction (to put it in a loose way) it is decided on the balance of probabilities, which is a lesser onus of proof to discharge.

Viewing this Bill in that relationship (and I think it is very important that it should be so reviewed), I have some qualms as to whether it could do justice, in view of those differing standards, as to whether on the one hand in the criminal jurisdiction the possibility of a person's having to forgo his rights in a civil action might have swayed a jury, for example, or, of course, in the converse. In my opinion, the main thing that should be spelt out in the Bill is that any order in relation to compensation made under it should not affect a person's civil rights to apply for further compensation but should merely be deducted from any amount that might be ordered by the civil courts subsequently. I should like to hear the Minister on this, because my qualms on this matter are not fully removed.

Clause 8 deals with this matter, but I think it does it more by implication than specifically. I am just wondering whether it would not be very easy to add a specific provision to this clause to the effect that, except in so far as an order is made, civil rights should not be interfered with. I think clause 8 (2) (*b*) makes this implication, for it states:

> The Solicitor-General shall furnish the Treasurer with a statement in writing specifying any amount that, in the opinion of the Solicitor-General, the applicant has received, or would, in the circumstances, be likely to receive, independently of this Act, as compensation for the injury to which the application relates, if he exhausted all relevant rights of action that he is able, or might reasonably be expected, to exercise.

This is the only clause in the Bill that is related to this matter, and I am just wondering whether it is sufficiently spelt out to be entirely satisfactory. Perhaps the Minister would agree to look at this question. As long as he will consider it, I will be quite happy to accept his judgment in the matter. However, I just raise the point as to whether these words are sufficient to make the necessary implication or whether it might not be necessary to spell it out in a more direct way which, as I say, would be a very simple matter. Perhaps the Minister would be good enough to report progress.

The Hon. A. F. Kneebone: We are not in Committee yet.

The Hon. Sir ARTHUR RYMILL: I ask leave to conclude my remarks later.

Leave granted; debate adjourned.

ADJOURNMENT

At 6.6 p.m. the Council adjourned until Wednesday, November 26, at 2.15 p.m.