LEGISLATIVE COUNCIL

Friday, December 4, 1970

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

SUCCESSION DUTIES ACT AMENDMENT BILL

(Continued from December 3. Page 3354.)

Bill recommitted.

Clause 31—"Repeal of Part IVB of principal Act and heading thereto and enactment of new Part and heading in their place"—reconsidered.

The Hon. R. C. DeGARIS (Leader of the Opposition): I move:

In new section 55k (1) to strike out "or in respect of a dwellinghouse or in respect of moneys received under a policy of assurance"; to strike out subsection (2); in subsection (3) to strike out "or in respect of a dwellinghouse" and to strike out "or, as the case may be, intends to use the dwellinghouse as a principal place of residence".

These are consequential amendments. It is no longer necessary for the question of the dwellinghouse and of moneys received under an assurance policy to be dealt with in this clause because, under other amendments that have been accepted, these are treated as separate successions as in the existing Act.

Suggested amendments carried; clause as amended passed.

Clause 38—"Amendment of second schedule of principal Act"—reconsidered.

The Hon. R. C. DeGARIS: I move:

In paragraph (*a*) to strike out "any rebates calculated as provided in".

This is a similar consequential amendment. It is necessary as we have altered the matter of rebates, making them an exemption, as in the present Act.

Suggested amendment carried; clause as amended passed.

Bill reported with further amendments. Committee's report adopted.

Bill read a third time and passed.

Later:

The House of Assembly intimated that it had agreed to the Legislative Council's amendment No. 7, but had disagreed to amendments Nos. 1 to 6 and 8 to 28.

Consideration in Committee.

The Hon. A. J. SHARD (Chief Secretary) moved:

That the Council do not insist on its suggested amendments.

Motion negatived.

A message was sent to the House of Assembly requesting a conference, at which the Council would be represented by the Hons. R. C. DeGaris, G. J. Gilfillan, A. F. Kneebone, Sir Arthur Rymill, and A. J. Shard.

Later, a message was received from the House of Assembly agreeing to a conference to be held in the House of Assembly Committee Room at 5 p.m.

At 5 p.m. the managers proceeded to the conference, the sitting of the Council being suspended. They returned at 5.7 a.m. on Saturday, December 5. The recommendations were as follows:

(1) As to suggested amendments Nos. 1 and 2:

That the Legislative Council do not further insist thereon but that the House of Assembly make the following amendment in lieu thereof:

Page 2, line 7—After "property" insert "(where the right, power, estate or interest was created by an instrument executed or an arrangement made by a person after the commencement of the Successsion Duties Act Amendment Act, 1970)".

(2) As to suggested amendments Nos. 3 and 4:

That the Legislative Council do not further insist thereon but that the House of Assembly make the following amendments in lieu thereof:

Page 13, lines 31 and 32 (clause 31)—Leave out "two thousand five hundred" and insert "five thousand".

Page 14, lines 24 and 25 (clause 31)—Leave out "two thousand five hundred" and insert "five thousand".

Page 15, after line 4 (clause 31)—Insert:

(*d*) Where the property derived by a daughter of the deceased person includes an interest in a dwellinghouse and the deceased person was a widow or widower, and the daughter was, in the opinion of the Commissioner, wholly engaged, during the period of twelve months immediately preceding the deceased person's death, in keeping house for the deceased person, an amount determined as follows:

(i) Where the value of the aggregate amount of property which she derives from the deceased person does not exceed thirty thousand dollars, either an amount equal to the excess of the value of that interest over three thousand dollars, or an amount of six thousand dollars, whichever is the lesser amount:

(ii) Where the value of the aggregate amount of property which she derives from the deceased person exceeds thirty thousand dollars but does not exceed forty-two thousand dollars, either an amount equal to the excess of the value of that interest over three thousand dollars or an amount equal to one-half of the sum by which forty-two thousand dollars exceeds the aggregate amount of property which she derives, whichever is the lesser amount.

(3) As to suggested amendment No. 5:
That the Legislative Council do not further insist thereon.
(4) As to suggested amendment No. 6:
That the Legislative Council do not further insist thereon.
(5) As to suggested amendment No. 8:
That the Legislative Council do not further insist thereon but that the House of Assembly make the following amendment in lieu thereof:
Page 12, line 33 (clause 31)—After "event" insert "not being land devised by a testator to his son or daughter contingently upon his or her attaining a certain age".
(6) As to suggested amendment No. 9:
That the Legislative Council do not further insist thereon, but that the House of Assembly make the following amendment in lieu thereof:
Page 13, lines 4 and 5 (clause 31)—Leave out "or as a member of a partnership".
(7) As to suggested amendment No. 10:
That the House of Assembly do not further insist on its disagreement and make such amendment to the Bill.
(8) As to suggested amendments Nos. 11 to 14:
That the Legislative Council do not further insist thereon.
(9) As to suggested amendment No. 15:
That the House of Assembly do not further insist on its disagreement and make such amendment to the Bill.
(10) As to suggested amendment No. 16:
That the Legislative Council do not further insist thereon but that the House of Assembly make the following amendments in lieu thereof:
Page 15, line 14 (clause 31)—Leave out "two-fifths" and insert "one-half".
Line 19 (clause 31)—Leave out "sixteen" and insert "twenty".
(11) As to suggested amendment No. 17:
That the Legislative Council do not further insist thereon, but that the House of Assembly make the following amendment in lieu thereof:
Page 15, line 20 (clause 31)—Leave out "one-tenth" and insert "three-fortieths".
(12) As to suggested amendment No. 18:
That the Legislative Council do not further insist thereon, but that the House of Assembly make the following amendment in lieu thereof:
Page 15, lines 30 and 31 (clause 31)—Leave out "land used for primary production" and insert "rural property".
(13) As to suggested amendment No. 19:
That the Legislative Council do not further insist thereon but that the House of Assembly make the following amendments in lieu thereof:
Page 15, line 34 (clause 31)—After "widower" insert "or daughter".
Line 36 (clause 31)—Leave out "land used for primary production" and insert "rural property".
(14) As to suggested amendments Nos. 20 to 27:
That the House of Assembly do not further insist on its disagreement and make such amendments in the Bill.
(15) As to suggested amendment No. 28:
That the Legislative Council do not further insist thereon.

The House of Assembly intimated that it had agreed to the recommendations of the conference.

Consideration in Committee.

The Hon. A. J. SHARD (Chief Secretary): I move:

That the recommendations of the conference be agreed to.

I have been to several conferences held between the two Houses of this Parliament during my career, but I do not know whether we have ever had a conference on such a complex matter—on a Bill that takes much understanding. I want to plead guilty that I do not know the full implications of this Bill.

The Hon. R. C. DeGaris: You did very well, by comparison.

The Hon. Sir Arthur Rymill: You are not the only one.

The Hon. A. J. SHARD: Yes. Taken all round, I think the managers from the Government's side did very well. We proved conclusively that we were not the only ones who did not know all the answers—that applied to both sides. The conference lasted for 12 hours on a Bill that had engendered some heat, politics and public attention. What impressed me was that, despite the fact that we were all tired after such long deliberation, the conference was conducted in a most admirable manner, and there was not a word spoken out of place.

The managers for the two Houses put forward the various points of view. As a result of this conference, I feel sure that the Parliament of South Australia has worked in the best traditions of a democracy. We receive criticism outside at times, and sometimes I think the criticism is justified. However, often people do not hear the good side. In my opinion, this was an example of Parliament's working at its best in the interests of the community at large, and I hope that it will continue to work in that way. I do not think anyone would say that he knew all about this Bill. However, it has now been agreed to by the managers from the two Houses after a long and good conference. I hope that the legislation works in the way the managers of the Houses think it will work.

The Hon. R. C. DeGARIS (Leader of the Opposition): I support the Chief Secretary and agree wholeheartedly with the sentiments he has expressed about the conference. This is an extremely complex Bill, and I congratulate the managers of this Council on the manner in which they put forward their case. I also pay a tribute to the managers of the

House of Assembly for the constructive way that they approached this conference. I believe that the points made by this Council were valid points and, whilst the totality of our amendments was not achieved at the conference, I do not think any member here expected that that would be the case. We in this Council moved amendments because in our opinion there were anomalies in the Bill. I believe that in the compromise we have reached we have achieved something that is really worth while.

I will briefly indicate the effect of the recommendations. First, the exemption from duty for a widow is increased from $20,500 to $23,000 by the inclusion of an increased benefit in relation to an assigned life assurance policy. It also includes a benefit to a daughter who acts as housekeeper or to a father in relation to the matrimonial home. The primary-producing rebate has been increased from 40 per cent to 50 per cent. Originally, the increased rebate disappeared at $80,000, but that now carries right through to $200,000 on a fairer basis. Also, there is an amendment in relation to the question of a succession to an uncertain person on an uncertain event, and there is an exclusion of primary producers in relation to members of a partnership. There is also a new definition of the area to which the rural rebate will apply, following exactly the present Commonwealth legislation.

I believe that this Bill will produce increased revenue for the Government. I do not believe that this Council has denied the Government revenue. I consider that the differences of opinion between the Houses have been resolved in a very amicable way. The two viewpoints were put quite clearly and during the whole period of about 12 hours there was no animosity whatsoever. In my time in Parliament I have never attended a conference where personal feelings were so completely excluded and where the issues were debated so fairly. I have much pleasure in supporting the motion.

The Hon. G. J. GILFILLAN: I support the Chief Secretary and the Leader in their remarks about this conference. I, too, have attended a number of conferences during my time in this Council, and I believe that this is one of the most constructive that I have known. The Chief Secretary and the Leader have covered the position very well. However, I think there is one point that has not been made clearly and that is that among the rebates that have been made is one to primary-producing properties which include not only the land involved but also the stock and plant. This, in addition to the added percentage rebate, must be a very valuable gain in this field. The gain has not only been in the rural field, because the $5,000 life assurance rebate to each beneficiary applies to all estates.

Motion carried.

HARBORS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from December 3. Page 3363.)

The Hon. C. M. HILL (Central No. 2): When this Bill was being considered last night, I was referring to hovercraft and air-cushioned vehicles and was about to make the point that the Council should be most careful in its deliberations about controls and restrictions that will affect this type of craft because in South Australia at least two firms are involved in the planning (and, indeed, the manufacture) of such craft. One party involved in this work is, I understand, about to go into production at a rate of some 10 vehicles a day. Although those vehicles are small, that evidence highlights the fact that in South Australia we must do all we can to help our industries, and particularly our new and growing industries that are endeavouring to make their mark on the national market with such products as these.

Naturally, because they expect to sell those products in other States as well as in South Australia, there is a real need for uniform specifications, fittings and navigational lights. The manufacturers need to know that the navigational lights will be acceptable both here and in other States.

From my investigations it seems to me that there is some conflict, because the Commonwealth Government has taken an interest in this matter (and it is only proper that it should) and the States have also discussed it. I repeat that rules for avoidance of collisions have been issued by the Commonwealth Government.

Can the Minister say whether, if clause 2 is passed in its present form, these hovercraft and air-cushioned vehicles will automatically be called "vessels" and will then be forced to abide by the usual navigational lighting arrangements? Obviously, they are a unique class of vessel. Because the amber flashing light has already been set down as their standard light, this point should be cleared up. It concerns South Australia perhaps more than the other States, because this type of vehicle may well be used to a greater extent in South Australian waters than in other waters.

I realize that the water in our two main gulfs could not always be termed calm but, generally speaking, the gulf waters, particularly in the northern parts of the gulfs, are relatively calm. Consequently, we may well see the day when hovercraft and air-cushioned vehicles ply as a ferry service between Whyalla and Port Pirie and across Backstairs Passage. Because of our geographical situation, we should be careful about any legislation that we pass on this matter, because we must ensure that the manufacturer is encouraged and that we do not rush into making mistakes that may be costly and foolish in the eyes of the manufacturers.

The amendment that I foreshadowed last night has not yet been placed on honourable members' files; it is still in the hands of the Parliamentary Draftsman. That amendment deals with the point that the term "hovercraft or other air cushion vehicle" does not necessarily include all the other types of vessel that it may be intended to include. I was told yesterday that surface-effected machines or aerodynamic devices might not normally come within the definition of hovercraft and air-cushioned vehicles.

I had a query this morning about how hydrofoil vessels were affected by this clause. From the information I have been able to obtain it seems that the hydrofoil does not really come into either of these categories. The hydrofoil must carry the ordinary navigational lights, because at the beginning and the end of its journey it is let down fully into the water and it travels as a normal vessel for those stages of its trip.

I am perfectly satisfied with the other clauses, but it is essential that the rather small but important amendment that is being processed should be considered in Committee, I ask the Minister to consider it and allow a few moments longer for it to be circulated. I should like further explanation of what navigation lights the manufacturer of these vessels in South Australia must fit, and I want an assurance that the new industries that are establishing here, which will need all the encouragement they can get from the South Australian Parliament, will know where they are going and that the fittings they will build into their new products will be acceptable both in this State and in other States.

The Hon. T. M. CASEY (Minister of Agriculture): In thanking the honourable member for his contribution to the debate, I know, as he is an old seafaring man, that he is capable of contributing to a debate of this nature dealing with the sea and with land vessels that travel in, above or under the water. His two points are worth considering. His first point concerned the definition of "vessel", which, under this amendment, will mean any kind of ship, boat, or vessel used in navigation, including a hovercraft or any other air-cushioned vehicle that travels in navigable waters within or adjacent to the State. I did not know that there were other vehicles of an aerodynamic nature that were being constructed on such a large scale in South Australia, but this is not unreasonable in the present progressive times, particularly in relation to technology, and it is not alarming to know that vessels of this kind are being built. I am unable to say whether they are being constructed on a commercial scale to be used in some commercial enterprise, and I do not know whether the honourable member can definitely say that. They may be pleasure craft but, if they are used on a commercial scale, that would be a different matter. I shall consider the effect of his amendment. On the question of navigation lights, I quote section 91 of the principal Act, which provides:

(1) If the master of any ship requires the services of a pilot, the signals to be used and displayed shall be the following, that is to say:

I. In the daytime—
  (i) to be hoisted at the fore, the jack or other national colour usually worn by merchant ships, having round it a white border, one fifth of the breadth of the flag; or
  (ii) the international code pilotage signal indicated by P. T.

II. At night—
  (i) the pyrotechnic light, commonly known as a blue light, every fifteen minutes; or
  (ii) a bright white light, flashed or shown at short or frequent intervals just above the bulwarks, for about a minute at a time.

I am sure the honourable member is more conversant with these matters than I am but, nevertheless, that is the situation and the rules with which these people have to abide. I hope that covers the situation to which the honourable member has referred. However, I point out that he must consider whether the craft to which he is referring and which are being used at night are, in fact, pleasure craft or commercial craft, for there is a considerable difference here. I do not say that people who use small pleasure craft at night do not need to have the regular navigation lights although, here again, varying circumstances may be

involved. I think the matter raised by the Hon. Mr. Whyte is covered; if he examines clause 7, I think he will see that the Minister's role is adequately covered in regard to floating timber or other materials, and I refer him also to the second reading explanation which, I think, covers the queries he raised.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—"Interpretation."

The Hon. C. M. HILL: I think perhaps there has been a misunderstanding on my part as much as on anyone else's. I was not concerned with the matter of navigation lighting in connection with drawing a pilot's attention to a ship or with his making contact with a ship, say, to bring a vessel into harbour: I was concerned only with the normal navigation lights that a vessel at sea must show at night, that is, the normal port and starboard lights and the masthead light, and so forth. I did not want the manufacturers at Elizabeth and in the Port Adelaide area to be fitting port, starboard and masthead lights when there was a Commonwealth order for rules for avoiding collisions which, to the best of my knowledge, lays down that the only light that the vessel in question should (and did) carry is a flashing amber light.

One of the unique features of these craft is that they can travel sideways, and I have referred to the strange sight that the captain of a ship may see when a hovercraft or an air-cushioned vessel is showing its normal port and starboard lights, but when one of these lights may be coming directly on a collision course with the ship, the captain not knowing what action to take to avoid a collision. Normally he knows what course to take because he has a normal vessel approaching his own vessel. Because of the unique feature of these vessels moving sideways, the port and starboard traditional lighting seems to be most dangerous. As I understand it, in the Commonwealth order it is not required or wanted. My question is as to the effect of classifying hovercraft and air-cushioned vessels as just vehicles.

The Hon. A. M. Whyte: You're gauging by the tonnage.

The Hon. C. M. HILL: I think that other requirements would automatically become involved if an air-cushioned vehicle were classified as a vessel under the parent Act.

The Hon. F. J. Potter: I don't think it is dealt with in the principal Act.

The Hon. C. M. HILL: I think it may be. The Minister referred to the question of navigational lighting when contact was made with the pilot or, in other words, when the vessel was about to enter the harbour. I do not want the manufacturer in Elizabeth to have to put in normal port, starboard and masthead lighting on a hovercraft when that type of lighting is not needed and should not be fitted.

The Hon. F. J. Potter: There seems to be nothing about lighting in the Bill.

The Hon. C. M. HILL: Surely the requirements for vessels set out in the parent Act would be in the Bill. The Minister has the help of experts to whom he can refer this matter. I am not an authority on this matter, but I contacted the manufacturer yesterday, because I knew he was trying to establish this unique industry; I am sure everyone wants to assist him. He told me about the aspect of the amber flashing light, referring to a recent demonstration trip during which the potential buyer of the vehicle said, "I am happy and satisfied with the craft in all respects, but I have some questions regarding the lighting." This uncertainty regarding the lighting caused the possibility of his losing the sale.

The Hon. F. J. Potter: Where does the amber flashing light have to go?

The Hon. C. M. HILL: No doubt that will be laid down in the Commonwealth order; it probably has to go on the masthead so that it can be seen from any direction. The purpose of the instruction is to avoid a collision in the case of hovercraft and air-cushioned vehicles. We should be sure about this, so that we in no way restrict the activities of this industry. The other point made by the Minister concerned whether the craft were pleasure craft or commercial vehicles. I should think that, irrespective of whether one of the craft was at sea at night for the purposes of commerce or pleasure, the same lighting specifications would have to apply.

One of these craft is privately owned and operated by Mr. Grundy at Mundoo Island; it is used over land and water. Owners such as Mr. Grundy will want to know exactly the proper lighting requirements for a vehicle of this kind. The amendment to which I have referred is being prepared now and I ask the Minister to be so kind as to allow a little more time, by reporting progress so that the amendment may be circulated. The amendment should be on members' files soon.

The Hon. T. M. CASEY (Minister of Agriculture): I draw the honourable member's

attention to the provisions of the Act regarding regulations. Section 144 of the Harbors Act, 1936, provides that the Governor may make recommendations and subsection (14) provides that the Governor may make regulations:

Prescribing and regulating the lights and signals to be carried by any vessels within harbors and for the better prevention of collisions within harbors.

I know that that provision determines the matter only in relation to vessels within harbors, but I draw the honourable member's attention to section 146, which deals with the application of regulations and which provides:

Any regulation may be made to apply only within the harbor or harbors or other place or places specified in the regulations, but unless otherwise specified shall apply generally within the limits of the jurisdiction of the Minister and elsewhere within the State.

I think that covers the honourable member's query.

The Hon. F. J. Potter: What are the limits of the Minister's jurisdiction?

The Hon. T. M. CASEY: I would say it would be for the Minister in a case such as this to decide when a regulation should be made about whether a type of light should be used on a particular type of vessel.

The Hon. C. M. Hill: But, within a harbor.

The Hon. T. M. CASEY: Or outside a harbor.

The Hon. C. M. Hill: But it comes under Commonwealth jurisdiction outside.

The Hon. T. M. CASEY: If he is within the three-mile limit, he does not, and I imagine that this man on the Coorong or at Goolwa would not be outside.

The Hon C. M. Hill: But a ferry service from Port Pirie to Whyalla would come within Commonwealth jurisdiction.

The Hon. T. M. CASEY: That may be so, but I do not know when we are likely to get a craft of this nature to undertake such a journey. If the honourable member wants to persist with his amendment, I am willing to ask the Minister of Marine to consider the matter. However, at present I think the honourable member's contention is adequately covered by section 146, which deals with regulations. However, I leave the matter to the honourable member's discretion.

The Hon. C. M. HILL: I hoped the Minister might be good enough to report progress.

The Hon. T. M. CASEY: Mr. Chairman, I ask that progress be reported.

Progress reported; Committee to sit again.

Later:

The Hon. C. M. HILL: I move:

To strike out all words after "includes" and insert—

"(*a*) a hovercraft or other air cushion vehicle; or

(*b*) any other vehicle supported or propelled by pneumatic force,

that traverses any navigable waters within or adjacent to the State:".

I thank the Minister for allowing progress to be reported. My question concerning lights for these vehicles can be taken care of, I understand, by regulation. My amendment further extends the proposal to cover all the facets the Government intended to include under the heading of "vessel".

The Hon. T. M. CASEY (Minister of Agriculture): The definition was taken from the British Marine Act. The honourable member is aware of the British nation as a major seafaring nation, and I do not think it would be prone to leave out something which was necessary. However, as the honourable member is well versed in seafaring activities, I am happy to accept his amendment. I hope the British Marine Act can be amended in due course.

Amendment carried; clause as amended passed.

Clause 3 passed.

Clause 4—"Duties upon approaching port."

The Hon. L. R. HART: This clause sets out certain duties of the master of a vessel. I am interested in the definition of "master". The Harbors Act defines the master as including every person except a pilot having command, charge or management of a vessel for the time being. The Marine Act defines a master as including every person, except a pilot, having command or charge of any ship. Although I assume the qualifications of a master are laid down by regulation, they are not included in these definitions. However, these refer only to a vessel on the water. A hovercraft is an air-cushioned vehicle and in addition to being manoeuvred over the water it can proceed over land and even through the air. What, then, is the position of the person in control of it? Is the same master still entitled to navigate this vessel over the land, or does he require a pilot's licence if it is in the air? In due course we may have to alter the Motor Vehicles Act to provide for the vehicle on land. Could the Minister clarify this?

Progress reported; Committee to sit again.

Later:

The Hon. T. M. CASEY: In reply to the Hon. Mr. Hart's question, I point out that, if this Bill is passed, hovercraft and air-cushioned vehicles will automatically be classified as vessels. Regarding the possibility that these vehicles might travel over land, I would say that, if they were used commercially over land and on highways, legislation would have to be amended to provide that they be classified as motor vehicles. I am sure that the Registrar of Motor Vehicles would smartly take the appropriate action. However, even though they are being used over land at present, that land is private property, not highways. Regarding the question of the competent manning of these vessels, I point out that they should be under the control of a captain who can efficiently handle them.

Clause passed.

Remaining clauses (5 to 8) and title passed.

Bill read a third time and passed.

Later, the House of Assembly intimated that it had agreed to the Legislative Council's amendment.

MARINE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from December 3. Page 3355.)

The Hon. C. M. HILL (Central No. 2): This Bill is similar in many respects to the Harbors Act Amendment Bill that we have just been discussing. I notice that it, too, contains the definition of "vessel", so I would think that if we carry amendments in regard to the Harbors Act Amendment Bill those amendments will have to be inserted in this Bill also.

The second point I make is that I have not had sufficient time to study this Bill. Because of the pressure of work and the co-operative spirit in this Council of those in Opposition, the Minister was permitted to go ahead to give his second reading explanation without members being able to see the Bill. I am now pleased to see that the Bill has been placed on members' files; it was not on my file at 10.45 a.m. today. I consider that we must have a little more time to acquaint ourselves fully with it.

I notice also that clause 8 deals with questions that affect professional fishermen. The Minister dealt with this aspect in his second reading explanation. I do not know whether the Government has put this matter to the fishing industry, but I think that it would be fair and proper for it to gain the views of people in the fishing industry in the various parts of the State where the industry is very active and is contributing considerably to the economic welfare of the State.

If the Government has consulted the fishing industry in regard to these amendments, I assume that the industry supports them. However, I cannot see from the Minister's explanation that such a reference has been made. If it has not been made, I consider that the Bill ought to be held so that those who are interested in it have an opportunity to contact the people in the fishing industry and ask them their views. It is quite normal procedure for members in this Council who take an interest in things to contact people in the industry affected by any measure such as this and to get their views.

I do not say that the Government or those who review Bills must at this stage take notice of everything that the affected industry has to say. However, the proper thing to do is to at least get the views of those constituents affected by the Bill made known on the floor of the Council and made known to the Government if the Government has not had that initial contact with them. Those views can then be debated before a final decision is made on the Bill.

Perhaps the Minister would tell me when he replies whether the Government did submit this question to the fishing industry and perhaps in what parts of the State that industry was contacted. The coastline is very long indeed, stretching from the far West Coast to the Lower South-East, so I appreciate that it is not something that can be done very quickly. However, I think the industry's spokesmen and their co-operatives generally ought to have some knowledge of what the Government proposes and of what Parliament is considering.

I ask the Minister first whether the Government has made that approach. Otherwise, in the very short time that I have had to review the measure I am satisfied at this moment with the Bill except that, as I say, the amendments that we pass in the Harbors Act Amendment Bill should also be considered in regard to this measure. The important aspects that affect the fishing industry should be aired so that those who may be concerned about the survey of fishing vessels and the fact that they may be faced with a $500 fine should be able to make their views known now.

I do not know what the previous amount of the fine was; I should like to know what it was so that we can assess the increase. If it is a big increase, we should like to know the reason for it. There may be legitimate

reasons for it and there may be one or two examples that the Minister can give to show that such an increase as this is warranted. We need further explanation from the Minister before the Bill goes into the Committee stage.

The Hon. A. M. WHYTE (Northern): Because there are some points in this Bill with which I do not agree, I foreshadow that I will move amendments during the Committee stage. The Bill empowers the Governor to require, by regulation, that plans of a proposed fishing vessel be submitted to the Director for approval before construction is commenced. There has been much controversey and discontent about the survey of fishing vessels. Credit should be given to the Department of Fisheries and Fauna Conservation and to the fishermen's organizations which reached eventual agreement regarding the survey. Hardship was experienced because of the enforced survey, although it was apparent that some control was necessary. However, I believe that the problem was eventually resolved more or less to the satisfaction of all concerned. In clause 4, which amends section 5 of the Act, the definition of "vessel" states:

> "vessel" means any kind of ship, boat or vessel used in navigation and includes a hovercraft or other air-cushion vehicle that traverses any navigable waters within or adjacent to the State.

That is clear but, when it is connected with the powers of regulation by the Minister, it means than anyone who builds a pleasure boat or a small fishing vessel must first of all apply to the Minister to have his plans approved before he can build such a vessel regardless of the fact that, to the best of my knowledge and based on the information I could obtain, the present regulation states that the survey does not apply to any vessel shorter than 25ft.; I think that is the position. It should not be necessary to submit plans for the building of a ship that does not come within the ambit of the survey.

This is the reason I have my amendment on file, and I hope that it will be passed. Fishermen generally know the kind of boat they require and, when a fisherman is sufficiently affluent to have his own boat built, he will have a definite plan in mind. As such a boat is not intended to be surveyed and does not have to comply with the regulations after it has been built, I do not see why it should have to conform to regulations to have it built. This is the only point of contention that I can see. Clause 8 should be amended to make it clear that a person desiring to build a fishing boat shorter than the prescribed length for survey should be at liberty to build such a boat to his own specifications.

Hovercraft have been thoroughly discussed in this debate and in the debate on a Bill that has just been passed. Hovercraft were ably covered by the Hon. Mr. Hill and in the Minister's reply. No doubt we will see more and more of this type of craft which, for the purposes of this Bill, is a vessel. The Hon. Mr. Hart made it clear that a hovercraft could also come within the description of a vehicle. They could be developed to a point where they will play a major role in the transportation of goods from various parts of the State.

Eyre Peninsula and Kangaroo Island have been at a great disadvantage regarding transportation. However, I believe that hovercraft could be developed to the point where they could carry 200 tons to 1,000 tons and travel at 250 miles an hour. I am concerned about the effect this legislation could have on hovercraft. Some companies have already investigated the economics of these craft. They are expensive, but this applies to the development of any new type of machine. Those now in operation are only prototypes. It is hard to envisage the types of regulation that will be necessary when these craft are operating more extensively. Will they use our harbours or will they land on the beaches? Perhaps they will not use our harbours to any great extent, but it will be necessary that their operations are controlled.

The Hon. C. M. Hill: Do you think that the increase from $200 to $500 in the fine is reasonable?

The Hon. A. M. WHYTE: It is unreasonable and I think that some other fines are unreasonable. A person convicted of peddling drugs could be let off because he might be a drug addict himself; yet here a fisherman could be fined $500 for a breach of a provision regulating fishing vessels. Surely there is no compatability in that. I support the second reading and I hope that my amendment will be accepted.

The Hon. L. R. HART (Midland): This Bill has to receive Royal assent because the Merchant Shipping Act of the United Kingdom is involved. Under the Bill the specifications of a fishing vessel must be submitted to the Director of Marine and Harbors before that vessel can be built. Although the Minister did not fully give the reasons for this provision, I assume that they are reasons of safety. I support the second reading.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—"Interpretation."

The Hon. C. M. HILL moved:

To strike out all words after "includes" and insert:

"(*a*) a hovercraft or other air cushion vehicle;

or

(*b*) any other vehicle supported or propelled by pneumatic force,

that traverses any navigable waters within or adjacent to the State".

Amendment carried; clause as amended passed.

Clauses 5 to 7 passed.

Clause 8—"Fishing vessels."

The Hon. A. M. WHYTE: I move:

In new section 67g (1) (ca) after "fishing vessel" first occurring to insert "that will when built be subject to the requirements of this Act relating to survey,".

My amendment provides that plans do not have to be lodged for vessels that are less than the minimum survey length.

The Hon. T. M. CASEY (Minister of Agriculture): I accept the amendment.

Amendment carried; clause as amended passed.

Remaining clauses (9 and 10) and title passed.

Bill read a third time and passed.

Later, the House of Assembly intimated that it had agreed to the Legislative Council's amendments.

CONSTITUTION ACT AMENDMENT BILL (VOTING AGE)

Adjourned debate on second reading.

(Continued from November 25. Page 3024.)

The Hon. M. B. DAWKINS (Midland): This Bill, in effect, deals mainly with the age of majority for voting. It seeks to amend section 33 of the Constitution Act of this State by striking out from paragraph (*a*) of subsection (1) the passage "twenty-one years" and inserting in lieu thereof the passage "eighteen years". There are two other amendments, one of which is to remove the disqualification of ministers of religion.

I indicate at the outset that I am not in favour of this Bill as it stands. I know that my friend and colleague, the Hon. Mr. Whyte, has an amendment to strike out "18" and insert "20" and I know you will tell me, Mr. President, that I should not address myself to this amendment. Suffice it to say that, if he had not put this amendment on file, I would have done so, for I believe the age of 18 as the age of majority for voting is, in many cases, far too young. If this becomes law in due course, I hope the Government will see the wisdom of leaving it as a voluntary vote for young people who feel that they are sufficiently mature and well-informed to vote, so that those who may not feel that way and are not sufficiently interested will not have to vote—at least, until they reach 21.

I have said before in this place that I do not feel that the oft-repeated assertion that young people are more mature today than they were 20 or 30 years ago is necessarily true. In some cases I believe the opposite is the case. As I have said previously, a generation ago young people left school at an average age of 15. Some continued for a longer time, and some left even earlier than the age of 15; many of them had some ambition but were not in a position to study full-time at school after that age so they pursued their studies part-time at night after leaving school. These young people for two or three years before they reached the age 18 had to go to work to earn some money with which to pay for their board, because things were difficult in those days and they had to know how to spend money and how to make it last: in other words, they had to have some experience of working in the world. Although that did not add to their theoretical education, it certainly added to their maturity and breadth of outlook; it also helped them assume a responsible attitude. Today we are in a more fortunate position in many respects, in that many young people are still at school at the age of 18, and, although they have more theoretical education, I doubt whether they have more maturity. Large numbers of them are still putting out their hands to their parents for not inconsiderable allowances, and they have not really any sense of responsibility about working in the world or about dealing with money. They have, as a result, to some extent, a school-boy or school-girl outlook, and even when they go to university, some of these young people—and I emphasize that this applies only to some—have an irresponsible attitude.

I am not in favour of this general reduction to the age of 18 for what one would call adulthood. If this Bill and another before the Chamber are passed in their present form young people at 18 will be able to do practically everything which can now be done by a person of 21. This is not wise in my view. The theory about 18-year-olds being more mature nowadays is certainly open to question.

It has been suggested that the age of majority should be 20 rather than 21. As I said, I was prepared to draw an amendment to that effect, but my colleague has beaten me to the task. Whether or not that age is acceptable to this and other Parliaments in the Commonwealth, it is a realistic age to which I think we should alter the age of majority and of voting. We could come back, with some wisdom and some common sense, to the age of 20, whereas I query this general trend—and I know it is a general trend not only in this but in other countries today—to bring back to 18 the age of responsibility.

The Hon. L. R. Hart: Do you think it is an emotional trend?

The Hon. M. B. DAWKINS: It could be. There are certain pressures working for young people to have more say about many things. I am sufficiently old fashioned to believe that a certain amount of value can be placed on maturity and wisdom, and, brilliant and clever as many young people are—and this is made obvious to us—at the age of 18 they still have to gain that measure of wisdom and maturity which will make them wiser and better informed citizens.

Formal education is a wonderful thing. It has been improved out of sight over recent years. We are continually hearing calls for further facilities for education, and this pressure has been answered in no uncertain manner. Some people who are seeking further improvements in education seem to think there should be a never-ending, bottomless pit of resources to put into it. While I believe this may be excellent, up to a point, and that the further improvement of knowledge is something we must all foster, I believe that no matter how much knowledge one may gain, one must still apply wisdom, experience and maturity, and some of these things at least will be gained only in the passage of time.

Even though this trend in education is sound, we all know that formal education is but a means to an end and that we continue to learn as we go through life. Many years ago I gained a very modest diploma, and some of my colleagues have secured degrees and distinctions of very much greater importance than that diploma. I am sure they all agree that, when they secured their distinctions, that was only the start, and they had to go on and learn from life and experience. This is one of the reasons why we should look very carefully at this trend towards reducing the age of responsibility to 18 years. I suggest that the age of 20 years would be a far more suitable age than 18 years.

The Hon. R. C. DeGaris: Do you think that this matter would be suitable for a referendum?

The Hon. M. B. DAWKINS: Because the present Government believes in referendums it may regard this matter as a suitable issue for a referendum. The Government could spend some money in that way, but I doubt whether the result of any such referendum would conform to the provisions of this Bill. Many people, even including younger people, believe that this question should be considered in more detail before a decision is made. In the Committee stage I intend to move an amendment to clause 2 that will provide that the Governor shall not proclaim this legislation until the Commonwealth Parliament has passed a similar Bill; I apologize that my amendment is not yet on honourable members' files. I do not think we should allow the position to be created where people aged between 18 years and 21 years can vote in South Australia whilst only people at least 21 years of age can vote in most of the other States and in Commonwealth elections.

The Hon. F. J. Potter: There could be trouble concerning enrolment.

The Hon. M. B. DAWKINS: Yes. The Government should reconsider this matter, because it may provide a reason for having separate rolls. I understand that, for some reason or other, the Government is not very taken with the idea of separate rolls. However, if we had to have one roll for people over the age of 18 years for the House of Assembly and another roll for people over 21 years of age for the Commonwealth Parliament we might get part of the way towards voluntary voting, because the people would get to know that enrolment for the Lower House is voluntary at present. Clause 5 provides:

Section 44 of the principal Act is amended by striking out the passage ", and no clergyman or officiating minister".

Section 44 of the principal Act provides:

No judge of any court of the State, and no clergyman or officiating minister shall be capable of being elected a member of the Parliament.

Consequently, if clause 5 is passed, section 44 would then provide:

No judge of any court of the State shall be capable of being elected a member of the Parliament.

This provision was mooted previously, and I opposed it then because I could not see why there should be a special dispensation for a

clergyman or officiating minister. No public servant can become a member of Parliament unless he follows the rather simple procedure, but an act of some consequence for him, of resigning from the Public Service, and no schoolteacher can become a member of Parliament unless he resigns from the Education Department. I cannot see why any clergyman or officiating minister, if he wishes to continue as a clergyman or minister, should become a member of Parliament. He may if he is prepared to give up his other office. I am not prepared to support clause 5. I have no objection to a clergyman who feels that he should serve in the Parliament of the State becoming a politician, but I think that he should not remain a clergyman and be a politician any more than a schoolteacher should carry out his Parliamentary duties part-time.

The Hon. R. C. DeGaris: Do you think that a lawyer should resign from his practice?

The Hon. M. B. DAWKINS: That might be a good thing, and it is something that the Leader might care to develop later in the debate. I will support the amendment which I have already mentioned and which will be moved by another honourable member, and as I mentioned earlier I hope to move an amendment that will ensure that this Bill will become law only if similar legislation is passed by the Commonwealth Government. I support the second reading, to give an opportunity for those amendments to be carried.

The Hon. A. M. WHYTE secured the adjournment of the debate.

CAPITAL AND CORPORAL PUNISHMENT ABOLITION BILL

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

The Hon. A. J. SHARD (Chief Secretary): I move:

That this Bill be now read a second time.

Its purpose is to abolish the death penalty and various forms of corporal punishment, which are still capable of being imposed by the courts in this State. The punishment of death is probably as old as organized society itself. It is certainly as old as the oldest of known legal systems. For most of human history it has been accepted as the appropriate punishment for certain serious crimes. It has its foundation in deeply felt, although often irrational, beliefs as to retribution and vengeance. In the last 300 years, however, men have gradually come to question the validity of the arguments in support of the retention of this form of punishment. A realization has developed that traditional beliefs as to the intrinsic value of the human person have important consequences with respect to criminal punishment. These developing ideas were greatly stimulated by the rise of the Labor movement and its vivid consciousness of the human dignity of the common man. The Australian Labor movement from quite early in its history set its face against capital punishment. The Australian Labor Party's legal and prison reform platform has for many decades been headed by a plank requiring the abolition of capital punishment. Labor Governments have consistently reprieved prisoners under sentence of death, and the death penalty has been abolished by legislation initiated by Labor Governments in New South Wales and Queensland. Capital punishment has been abolished in most of the countries of Western Europe, in the United Kingdom, and in 14 of the States of the American Union. There has been a steady trend in democratic States towards the abolition of the death penalty.

The case against capital punishment rests primarily and basically upon the intrinsic value of the human person. It is not too much to say that the degree of civilization of a community is determined by its price of the worth of the human person. A profound reverence for human life is the mark of truly civilized societies. Carelessness of human life and disregard of its value are the marks of barbarism. When the State carries out the death penalty, it deliberately and with premeditation destroys a human life. This necessarily has the effect of depreciating the community's sense of the value of human life. When the State, as a deliberate act of policy, lays aside its power to punish by inflicting death, it demonstrates in a practical and striking way its conviction of the value of all human life. If the State refrains from inflicting death on those guilty of the gravest crimes because of its awareness of the value of human life, it contributes greatly by its example to the civilized condition of society. A very practical if less fundamental reason for desiring to abolish the death penalty is that it is by its nature irreversible. A mistake cannot be rectified. Two examples may illustrate this point.

In 1947, Frederick Lincoln McDermott was sentenced to death for a murder in the outback of New South Wales. The then Labor Government of that State commuted the sentence to imprisonment for life. In January, 1952, a Royal Commission reported that McDermott had been wrongly convicted and he was released

and compensated. Had McDermott been convicted in Sonth Australia, it is probable that the discovery of the error would have been too late. A mistake would have been irreversible. A very striking and tragic case is that of Timothy Evans. Evans was an illiterate, mentally-backward lorry driver who was charged with the murder of his child. At the trial, Evans's counsel sought to show that a boarder in the house by the name of Christie had murdered Evans's wife and child. Evans was convicted and executed. Subsequently, Christie was arrested and charged with the murder of eight women, some of the murders having striking similarities to the murder of Mrs. Evans. Christie confessed to the murder of Mrs. Evans. Evans was posthumously pardoned. The only compensation the State could offer was to re-bury him in consecrated ground, 17 years after his execution.

The loathsome ritual of execution affects the whole community but in particular the officials who must directly participate in it. It would be tolerable in a civilized community only if it could be shown that it was a unique deterrent to serious crime and that its abolition would result in the increased loss of innocent life. The evidence is overwhelming that the abolition of the death penalty has no effect on the incidence of the crime of murder. In South Australia in 1970 we have the advantage of the experience of a great many jurisdictions in which the death penalty has long been abolished. Statistics from those countries show that disappearance of the death penalty has not resulted in an increase in the crime of murder. The British Royal Commission on Capital Punishment, after considering exhausively the experience of countries where the death penalty had been discontinued, reported as follows:

> The general conclusion which we have reached is that there is no clear evidence in any of the figures we have examined that the abolition of capital punishment has led to an increase in the homicide rate or that its reintroduction led to a fall.

This was also borne out by a detailed study of the incidence of murder in Great Britain published by the Home Office last year just before the United Kingdom Parliament carried the Bill for the permanent abolition of capital punishment.

The same conclusion has been reached by one of the world's foremost criminologists, Professor Norval Morris, formerly Bonython Professor of Law at the University of Adelaide. In a recent book, he referred to studies made on the consequences of abolition. He said:

> The conclusion which emerges from such studies and from all the literature and research reports on the death penalty is, to the point of monotony: the existence or non-existence of capital punishment is irrelevant to the murder, or attempted murder, rate.

The greatest single factor which has led to the progressive abolition of the death penalty in countries with a democratic tradition is the failure of those who favour retention of capital punishment to prove that it is a unique deterrent and that its abolition affects the murder rate. In the 1965 debate in the House of Lords, the Archbishop of Canterbury, Dr. Ramsay, put the matter thus:

> It just is not shown that the death penalty is a uniquely powerful deterrent . . . A sentence of life imprisonment is a terrible sentence, deterrent in effect, and capable of issuing in a wise, stern and human penology, and I believe that to abolish the death penalty in this country will set us in the way of progress . . . and rid us from the wrong of a system which punishes killing by a penalty which helps to devalue human life.

But when all arguments have been weighed and considered, we must return to the basic consideration that the death penalty, like torture, is unacceptable to a civilized community because it is an affront to the dignity of human nature.

Perhaps the last word on the controversy is to be found in the words of Sir Ernest Gowers, who was Chairman of the British Royal Commission on Capital Punishment. He said that he started the inquiry in favour of the death penalty, though without having given much thought to it. He said:

> In the end I became convinced that the abolitionists were right in their conclusions, though I could not agree with all their arguments and that so far from the sentimental approach leading one into their camp and the rational one into the supporters, it was the other way about.

The final question to be answered is whether the effort to abolish capital punishment is worth while. Few murderers are executed in South Australia. The last execution took place in 1964. There have been only 19 executions in this State in this century and only half a dozen of them since the end of World War II. The question may be asked: why bother? I think that the answer to this contention was well expressed by the leading British abolitionist, Sydney Silverman, M.P., when he spoke during the debate on the Abolition Bill in the House of Commons in 1965:

> I can well understand people saying that in the face of all our anxieties it may not matter whether we execute or do not execute two or three wretched murderers every year.

It is impossible to argue that the execution of two people in England every year can make a very great contribution to improving a dark and menaced world. Yet we could light this small candle and see how far the tiny glimmer can penetrate the gloom.

The formal abolition of capital punishment may not save many lives, but it will be an affirmation by the Parliament of South Australia of its belief in the worth and dignity of human beings. It will be a renunciation of the power to destroy life and an emphatic assertion of the values of a humane and civilized society.

The penalty of corporal punishment is deemed by the Government to be archaic and quite inconsistent with modern ideas on the treatment of law-breakers. By corporal punishment is meant whipping, solitary confinement, chaining in leg irons and bread and water diets. Such punishments are relics of a past age and have rarely been used in this State for many years. There is no justification for retaining these penalties as part of our penal law when they should not be, and are not, imposed by the courts in this State. In order to achieve the above purposes, the Bill contains consequential amendments to the Children's Protection Act, the Criminal Law Consolidation Act, the Juries Act, the Justices Act, the Local and District Criminal Courts Act, the Kidnapping Act, the Poor Persons Legal Assistance Act, and the Prisons Act. I shall now deal with the clauses of the Bill.

Clause 1 is formal. Clause 2 is the key provision of the Bill and provides for the abolition of the sentence of death and the sentences of whipping, solitary confinement and all other forms of corporal punishment, notwithstanding any provision in any other Act or law. Part II of the Bill deals with the consequential amendments to the Children's Protection Act, 1936-1969, as follows. Clause 3 is formal. Clause 4 repeals sections 15, 16, 17 and 18 of that Act, which provide for the whipping of males under 16 years of age in the case of certain offences.

Part III of the Bill deals with the consequential amendments to the Criminal Law Consolidation Act, 1935-1969, as follows. Clause 5 is formal. Clause 6 amends section 3 of that Act, which sets out the arrangement of the Act, by deleting a reference to execution. Clause 7 enacts a new section 10a providing that the penalty on conviction of treason is imprisonment for life. This clause fills a gap left by the general abolition of capital punishment because, at common law, the only penalty applicable to treason is the death penalty. Clause 8 amends section 11, which provides for the penalty for murder, by changing the penalty from death to life imprisonment. Clause 9 amends 18 sections of the Act, which cover various offences, by deleting all references to whipping as an additional punishment to imprisonment. Clause 10 repeals section 52a of the Act, which provides for the whipping of persons convicted of carnal knowledge as an additional punishment.

Clause 11 amends section 70 of the Act, which provides the penalty for indecent assault on males, by deleting reference to whipping as an additional punishment. Clause 12 amends section 101 of the Act, which provides the penalty for damaging trees, by deleting reference to whipping as an additional punishment. Clause 13 amends section 207 of the Act, which provides the penalty for attempted murder in the course of piracy, by changing the penalty from death to life imprisonment. Clause 14 amends section 238 of the Act, which provides the penalty for rescuing murderers, by deleting reference to rescuing a murderer on his way to execution. Clause 15 amends section 296 of the Act, which provides that certain convictions disqualify a public servant from office, by deleting reference to the death sentence. Clause 16 repeals sections 301-308 inclusive of the Act, and schedules 8 and 9, all of which deal with the carrying out of a sentence of death.

Clause 17 repeals section 312 of the Act, which provides for the solitary confinement of a prisoner. Clause 18 amends section 314 of the Act, which provides the penalty on successive convictions for felony, by deleting reference to the death penalty. Clause 19 amends section 357 of the Act, which provides for the time for appealing from a conviction, by deleting reference to the death penalty and by striking out the whole of subsection (2), which provides certain procedures in an appeal from a conviction involving the death penalty or corporal punishment. Clause 20 amends section 369 of the Act, which deals with references by the Chief Secretary on petitions for mercy, by deleting reference to the death penalty.

Part IV of the Bill deals with the consequential amendments to the Juries Act, 1927-1969, as follows. Clause 21 is formal. Clause 22 amends sections 55-56 inclusive of the Act by deleting reference to capital offences and substituting therefor the description of such offences as those of murder and treason. Clause 23 repeals section 87 of the Act, which provides for a medical examination to determine the pregnancy or otherwise of a woman who has been sentenced to death. Part V of the

Bill deals with the consequential amendments to the Justices Act, 1921-1969, as follows. Clause 24 is formal. Clause 25 amends section 109 of that Act, which deals with certain procedures at trials, by changing the description of capital offence to that of murder or treason. Clause 26 amends section 134 of the Act, which deals with a defendant's plea, by changing the description of capital offence to that of murder or treason.

Part VI of the Bill deals with the consequential amendments to the Kidnapping Act, 1960, as follows. Clause 27 is formal. Clause 28 amends sections 2 and 3 of that Act by deleting any reference to whipping as an additional punishment for the offences of kidnapping and demanding money with threat. Part VII of the Bill deals with the consequential amendments to the Local and District Criminal Courts Act, 1926-1969, as follows. Clause 29 is formal. Clause 30 amends section 4 of that Act, which deals with interpretation, by deleting the reference to a capital offence. Part VIII of the Bill deals with the consequential amendments to the Poor Persons Legal Assistance Act, 1925-1969, as follows. Clause 31 is formal. Clause 32 amends section 3 of that Act, which provides for legal aid to persons accused of indictable offences, by deleting reference to a capital offence.

Part IX of the Bill deals with the consequential amendments to the Prisons Act, 1936-1969, as follows. Clause 33 is formal. Clause 34 amends section 6 of that Act, which is a saving provision, by striking out subsection (3), which relates only to the sentence of death. Clause 35 amends section 14 of the Act, which gives the Governor power to make regulations for labour prisons, by deleting paragraphs (*c*), (*d*) and (*e*), which provide for the wearing of irons, whipping and solitary confinement. Clause 36 amends section 29 of the Act, which deals with the escape of prisoners, by deleting the reference to wearing irons as a punishment. Clause 37 amends section 47 of the Act, which deals with punishment of prisoners, by striking out paragraphs (*a*) and (*b*) of subsection (1), which provide for solitary confinement and bread and water diets.

Clause 38 amends section 48 of the Act, which deals with repeated offences by prisoners, by deleting the reference to wearing irons, and by striking out paragraphs (*b*), (*c*) and (*d*) of subsection (3), which provide for solitary confinement, dietary punishments and corporal punishment. Clause 39 repeals section 51 of the Act, which deals solely with the corporal punishment of prisoners. Clause 40 amends section 57 of the Act, which deals with prisoners assaulting officers, by deleting reference to corporal punishment as an additional punishment. Clause 41 amends section 58 of the Act, which deals with prisoners attempting to escape, by deleting reference to wearing irons and solitary confinement.

The Hon. V. G. SPRINGETT secured the adjournment of the debate.

MOUNT GAMBIER HOSPITAL ADDITIONS

The PRESIDENT laid on the table the report by the Parliamentary Standing Committee on Public Works, together with minutes of evidence, on Mount Gambier Hospital Additions.

AGE OF MAJORITY (REDUCTION) BILL

Adjourned debate on second reading.

(Continued from November 25. Page 3024.)

The Hon. F. J. POTTER (Central No. 2): The purpose of this Bill, as the Minister has said, is to confer on persons who have attained the age of 18 years the full age and all the attendant rights, privileges and so on, which go in our society to people at the age of 21. In other words, the purpose is to reduce the legal age of majority; no more than that. It is perhaps rather ironic that we are being asked to sweep away a social and legal custom which has existed in our community and in the whole of the western world as we know it for many hundreds of years. We are being asked to do this in a day; that is what happened in the other place.

One must wonder what magic the Legislature can work, because apparently all can be changed in the twinkling of an eye. The existence of 21 as the age of majority has a long history of background reasons, and in introducing the Bill the Minister mentioned strange and illogical customs which have grown up, such as the wearing of armour, and one must be impressed by the background of accidental and strange events. But that history does not help in determining today a new age of majority. The history given—and much of it was examined by the Latey Commission of Inquiry in Great Britain—is of no help in deciding what should be done now. We cannot say that because all these things no longer apply we should abolish 21 and choose another age, which we think should be 18. I could give the long legal history of the rise of trial by jury in our community. Honourable members would find it just as full of strange instances and

accidental happenings, but I cannot remember any suggestion that because trial by jury came into being for unusual reasons we should now abolish it. The Government is considering making even further extensions of trial by jury.

Much of what the Minister said was interesting but rather irrelevant to the consideration of the real problem at hand. In our community between 55,000 and 60,000 people are in the age group from 18 to 21 years, and these are the people who will be affected largely by this measure. However, there is virtually no demand whatsoever from them for increased rights or privileges. One must assume that they are not very dissatisfied with their lot. It seems then that the new privileges, powers, responsibilities and obligations on this section of the community are being conferred from above.

Strangely enough, the real impetus to this movement to lower the age of majority to 18, at least here in Australia, probably arose from the cry some years ago, "If you are old enough to fight then you are old enough to vote." The Commonwealth Government, as a result of agitation, altered the law and gave the right to vote to people who were sent overseas into defined zones on active service. That did not go as far as the Bill debated here a short time ago. It is not until young men reach 20 years of age that they are required to serve outside Australia. The argument of "old enough to fight, old enough to vote" is probably one of the more illogical, and probably the weakest, of the arguments for reducing the age of majority. However, I think that, too, is irrelevant.

Recently, I noticed some statements from Prof. McCallum dealing with this question, I noted his comment that it was uncanny to observe the lack of opposition in our community to reducing the age of majority. He said it was wholly out of character with our adult community, which has strong emotions about the problems of youth. I think that that is a pretty discerning comment.

I think it is true that our adult community is very concerned about the problems of youth and that it has conflicting emotions about them. Some of those emotions are difficult to describe, but parents generally are very worried about some of the tendencies they see in their midst at present. The comment that it was quite uncanny to find such a lack of opposition to reducing the age of majority is very true. One can suspect that it is a kind of final surrender of the adult community, which has been forced, often against its better judgment, to be more and more permissive.

One can be forgiven for wondering just how sincere and how certain of the consequences the advocates of this Bill really are. One suspects that the supporters of the Bill are giving lip service to the proposed new laws mainly because they are over-anxious not to appear resistant to change or to be labelled as conservatives or (to use a common term of these days) "squares". This question of lowering the age of majority was exhaustively dealt with by the Latey commission set up in England, the report of which was given to the United Kingdom Parliament in July, 1967. That report was followed in Australia by that of another investigating commission, which has come to be known as the Manning commission, headed by Mr. Justice Manning of New South Wales. Its report was presented to the New South Wales Parliament about two years later, in 1969.

I have read both those reports and I think all honourable members should look at them very carefully. They are very detailed, lengthy and careful examinations of the problem. There were 13 members of the Latey commission, 11 of whom presented a majority report favouring reducing the age of majority to 18 years, whilst the other two members voted against it and presented a minority report. At the end of the Latey commission's report is a schedule showing the results of a survey conducted by the national opinion polls in Great Britain on some of the questions involved in the commission's inquiry. The commission refers to the results of the survey on page 32 of its report. The survey showed that a sample of young people between the ages of 16 years and 24 years favoured the retention of 21 years on some subjects and was evenly balanced in respect of some other matters. The preponderant view in that survey favoured 21 years in a broad ratio of 2 to 1. That reinforces the point I made earlier that one cannot see within that age group in our community any real desire for this change to come about suddenly.

The Latey commission spent much time on what was probably the principal matter it dealt with—the question whether a person should be free to marry at the age of 18 years. Fortunately we do not have to discuss that matter in this Council, because, as the Minister said in his second reading explanation, it is covered by Commonwealth law and it will have to be dealt with, if at all, by the Commonwealth

Parliament. The general conclusions of the Latey commission are as follows:

That the historical causes for 21 are not relevant to contemporary society;

That most young people today mature earlier than in the past;

That by 18 most young people are ready for these responsibilities and rights and would greatly profit by them as would the teaching authorities, the business community, the administration of justice, and the community as a whole;

That whatever the age of full legal capacity, the law for those under it should be reformed along the lines suggested in the preceding sections of this report;

That the start which has been made in education at school in personal relationships and in the realities of family life should be developed much more fully;

That the age-limits for a number of subsidiary items such as consent to medical treatment, blood donation, passports, independent domicile, representation by a next friend or guardian *ad litem* and the actual moment of attaining majority should be tidied up and declared plainly along the lines already discussed and now summarized in our recommendations;

That whatever else is done we should stop calling young people under the age of majority "infants" and call them "minors" instead.

That was the sum total of the final general conclusions of the Latey report. A close examination of the report will show that two main subjects come under this general heading. The first is the law affecting minors, irrespective of when they cease to be such, and secondly, what should be the actual age limit itself. This matter is dealt with at page 70 of the report, and I think the commission clearly recognized that these two factors were involved. The commission regarded the law as it affects minors as the technical aspect of its inquiry.

One cannot but be impressed by the great list of anomalies that exist in the law as it now stands concerning minors. In fact, the commission went to the trouble of setting out in a further schedule to the report a whole list of matters that are significant in English law regarding people under the age of 21 years.

The commission stated that the list was not to be considered exhaustive and that it had been compiled with the best possible accuracy it was able to bring to it. The list covers several pages of the schedule. One can see that there are various significant changes in ages from birth up to the age of 21 years.

It is interesting to note that our Sovereign the Queen, under the common law, is always considered to be at full age at the moment of birth. It is also true that anyone can own personal property from birth and that, under the British Friendly Societies Act, a person can become a member from birth. A person can be a shareholder in or a director of a company from birth. One can also see that various other changes are made in legal rights and status at the ages of 4 years, 5 years and 7 years. At the age of 7 years a person can become liable for civil liability and fraud.

After the age of 7 years a person can withdraw money from a post office savings bank, and a child of 7 years can be charged with being drunk-in-charge. At 10 years further changes are involved. Twelve years is the legal age of puberty of a female. No child below 13 years is liable to be employed. Fourteen years is the legal age of puberty for males. At 15 years a child can leave school, although I think the age has recently been changed to 16 years. At 16 years, a whole series of laws come into force concerning criminal offences, particularly those involving indecency and sexual offences. The jurisdiction of the juvenile courts ends at 17 years, and at that age a minor may drive a motor car or tractor in England. At 18 years a further series of laws comes into effect involving the right to bet and to take out certain licences.

At 19 years, family allowances are payable to children only if undergoing full-time instruction, and 21 years is the age of majority. The commission considered it was its duty to suggest that these technical matters and anomalies of one kind or another should be rationalized. I do not think anyone who has had any training in or understanding of the law could fail to be impressed by the need to rationalize such a hotch-potch of varying laws that apply to people under 21 years.

The second question dealt with the actual age limit itself and the commission hastened to point out not the technical aspects but the social aspects of the inquiry. This matter required an investigation into such aspects as an assessment of young people today, what they need, how they live and how mature they are. So, after dealing with the technical matters, a good deal of the report went into the question of maturity and responsibility. One must inevitably look at this problem, if one is satisfied, as I am completely satisfied, with the technical aspects, namely, that there is a great need to rationalize all these conflicting anomalies that apply to people under 21 years. One could find just as formidable a list on our own Statute Book as

the Latey commission was able to find in England.

However, when one turns to this second aspect of the inquiry (whether or not the age should be 18 years) and considers the various kinds of maturity problems, one is forced to the conclusion that there are no real facts with which to come to grips. Honourable members will support the Bill or oppose it, depending on their own view as to the ability and maturity of young people to assume full legal responsibility at 18 years. I think we will search in vain for any facts upon which to base an opinion. It will come down in the final analysis to a matter of personal judgment from one's experience whether one considers that young people should or should not be able to assume this responsibility. A person will naturally be guided by his impression and will make his judgment in accordance with what he believes and what he understands about young people.

In considering this question of the maturity of our young people, I think one cannot help but face the fact that there are various kinds of ways in which a person may be said to be mature or not mature. I think we have had rather overwhelming evidence from the medical profession and probably from our own observations that young adults today are perhaps physically more mature than they were in our generation. Certainly, medical evidence seems to support the fact that people are drawing near to full physical maturity at 18 years.

However, that is not a terribly important aspect of maturity. I think the aspects of maturity that worry older people and certainly many parents are the questions whether young people are intellectually mature and, more particularly still, whether they are emotionally mature and whether they have achieved social maturity of some kind or another. With intellectual maturity, the question is whether these young people are capable of thinking in an adult way. The Minister has told us in his explanation that people are now better educated and therefore they should be intellectually more mature than any young people have ever been in the past. Without doubt, people are better educated today. In fact, many people are still at school of one kind or another and economically dependent on their parents up to the age of 21 years, and sometimes even beyond that.

However, education in itself does not really confer anything more than a start in life to achieve full intellectual maturity. I remember Professor Cornell giving one of the last university commemoration speeches last year. Addresses at commemorations and at school speech days sometimes follow a pattern of "preaching down" to young people. However, we must remember that Professor Cornell's speech was to university graduates. After telling them that they were now graduates and that they had been educated up to that point, he said, "We cannot give you wisdom and experience of the world." I think that is not a bad summing up of the position. No matter what one may say about the higher education of our young folk today, education in itself does not give them experience and it does not necessarily give them wisdom. Wisdom comes later in life with education and experience of the world. The years between 18 and 21 are largely years of great experience. If this Bill is to become law, I think that we will be perhaps imposing on young people at an earlier age not just a benefit but also some burden for them to carry in those years when they are rapidly gaining experience of the world.

I have not said much about social maturity, because this relates to the adjustment of young people in their relationship with others. I consider that between the years I have mentioned is a period when certain conflicts seem to result and develop in our community. I think it is also true that social maturity is in some way bound up with a sense of responsibility which some people have and which others do not have. It has been said that it is a product of heredity and environment, and this may very well be true.

Perhaps the most difficult aspect of maturity is that of emotional maturity. This question deals with the development of feelings in people and the development of self-discipline. Even some people of very mature age have never developed emotional maturity. In fact, I think it has been shown by investigation and research into the problem that one of the greatest causes of marital disharmony and divorce in our community is the lack of emotional maturity in people.

The Latey commission, although it recommended quite strongly, in the terms that I have previously read out, a reduction of the age of majority to 18 years, recognized that problems existed. It particularly was a little hesitant on one particular point, because, at page 41 of the report, it said:

We know that the schools nowadays teach them vastly more than they used to about the realities of ordinary life; that a curriculum which once covered only the three R's now includes trips to factories, Paris and Parliament; that mathematical problems which once

concerned only the speed at which bathwater went down the plughole now at least sometimes cover the complexities of credit dealing; that the list of the Kings of Israel and Judah have more and more given way to some sensible form of civics. But we feel—

and this is emphasized by being printed in italics in the report—

it is essential that the schools should do more. The young, advanced as they are, need far more training in human relations. They need a much less cursory instruction in finance and in the mechanics of modern life. It is not enough to teach the girls domesticity *via* a few quick courses in cooking and the boys the facts of life *via* the reproductive system of a frog; both boys and girls need a great deal more instruction in the technical, emotional and moral problems of modern family life.

I support to the hilt that remark. This Government and all State Governments should be seriously considering introducing into our schools some course in human relations. I know that the previous Government was thinking of this. I was in some way instrumental in helping, by offering the assistance of the National Marriage Guidance Council, in preparing suggestions for the Government. I hope the present Government will follow this through, because I know that at present much attention is being paid by the National Marriage Guidance Council to this kind of thing and that at a local level pilot experiments are already being conducted (and most successfully, too) in two or three of our high schools.

These courses should be further extended in our State schools, but one thing is certain: we just cannot introduce this kind of human relations course into a school curriculum without teachers being specially trained for the purpose. The ordinary teacher cannot be expected to handle such a course. It must be tackled by specially selected and trained teachers, who are adequate in all respects to give this kind of instruction. There is a need in our schools for this to be done.

To some extent, it has been successfully started in Britain. The Marriage Guidance Council of Great Britain was the first body to be responsible for the inauguration of training programmes for human relations in schools in that country. However, the Latey report says that much more needs to be done. In this State we should get on with doing something in this respect for many of our schools. I should not like it rushed too much, but should like to see this type of experiment carried forward to some satisfactory conclusion. I think enough has already been learnt from these experiments to realize that they can be successful with the young people who are participating in the present classes, which are conducted on the basis of a properly established group discussion method of instruction; they gain enormous benefit from them, and they are greatly appreciated.

I began by saying that education in itself does not give experience of life, nor does it give final wisdom. We return to the point I started from this afternoon, that this Bill has nothing to do with emotional, social or physical maturity: it deals simply with legal maturity. Consequently, we have to decide where we stand in this matter on our own judgment, with very few facts to go on. I said earlier that there was a minority report of two eminent members of the Latey commission. To complete the record, I shall quote that minority report, which is at page 144. After setting out their reasons for presenting a minority opinion, they said:

We therefore conclude that (*a*) there is no substantial demand for any change in the general age of majority, which is well-founded in history, accepted throughout the Western World and consistent with the present and probable future fabric of our society; (*b*) the prolongation of full-time education—by Statute and by choice—is postponing the age at which children begin acquiring experience outside the class-room and is a powerful reason for maintaining the present general age of majority; (*c*) the age of majority in private affairs cannot logically be considered in isolation from the age of majority in public and civic affairs;

I pause there to say that, although the Latey report recommended an age reduction that has since been translated to the Statute Book in Britain, it did not deal with the question of, nor has the British Parliament allowed, minors (people under 21 years of age) serving on juries. This Bill goes a step further, so we are going a little further in this respect than was done in England. The minority report continued:

(*d*) the fact that young marriages are three times more likely than the average to end in divorce suggests that, although young people today are more prosperous and, on average, more physically mature, their emotional maturity is not significantly greater than in the past.

We accordingly recommend that:

(1) the general age of majority should remain at 21;

(2) parental or court consent to marry should continue to be necessary until the age of 21—

I stress that, fortunately, we are not dealing with that matter here. They further recommended that the wardship jurisdiction of the courts should continue until the age of 21 years (again, we do not have to worry about that problem here) and, finally, that:

(4) a young person below the age of 21 who is able to show that a contract to which he is a party is harsh or oppressive should be entitled to have the contract set aside to such extent as the court considers just and equitable.

That is an important point that I stress: the dissenters, the minority, further said:

Upon a narrow balance of convenience we are, however, persuaded that: (*a*) those below the age of 21 can probably manage with less protection in other respects than they now enjoy; and (*b*) except on the matters set out above, the law could reasonably be amended along the lines suggested in the majority report.

So that even those two eminent gentlemen, after examining their doubts on the matter and coming out with a strong recommendation along the lines I have previously mentioned, said, in the end, "Well, you know, perhaps we are wrong in our judgment; perhaps we could give young people more responsibility than they now have—or rather, less protection than they now have—because, after all, we are not actually giving anything to these young people. In fact, we are removing some protection that they now enjoy. But the general consensus was that perhaps the law could be amended along the lines suggested by the majority. Probably they came to that final conclusion because of the conglomeration of varying laws, to which I referred, applying to people from birth to the age of 21 years, and which I think cries out for amendment.

I come to having to make my own personal decision, as will other honourable members. I do not know why this was not made a social question and left to a free vote: I think it is predominantly a social question. I heard the Leader suggest in another debate that perhaps the matter being dealt with could have gone to a referendum, but I think this is a question on which the individual member must make up his mind. I am prepared to vote in favour of the Bill. I do not know that it will solve all the problems of young people, but we have reached a stage in our history where we should boldly make a decision. The individual clauses of the Bill deal with a multiplicity of matters, and I do not know that there will be unanimity among members about them all. I have some doubts about service on juries, and matters raised concerning taxation problems must be looked at very carefully. I support the Bill and I look forward with interest to seeing how other members approach it and how they announce their attitudes to this difficult question.

The Hon. C. M. HILL secured the adjournment of the debate.

MINES AND WORKS INSPECTION ACT AMENDMENT BILL

(Continued from December 3. Page 3363.)

Consideration of message from the House of Assembly.

The Legislative Council granted a conference, to be held in the Legislative Council Committee Room at 5 p.m., at which it would be represented by the Hons. D. H. L. Banfield, T. M. Casey, R. A. Geddes, C. M. Hill, and A. M. Whyte.

At 5 p.m. the managers proceeded to the conference, the sitting of the Council being suspended. They returned at 5.7 a.m. on Saturday, December 5. The recommendations were as follows:

That the Legislative Council do not further insist on its amendments to which the House of Assembly has disagreed but that the Legislative Council make the following amendments in lieu thereof and that the House of Assembly agree thereto:

Clause 2, page 1, lines 12 and 13—Leave out the definition of "the advisory committee" and insert definition as follows:

"the appeal board" means the Mines and Works Appeal Board established under section 10b. of this Act.

Clause 4, pages 2 and 3—Leave out new sections 10a, 10b and 10c and insert new sections as follows:

"Appeals.

10a. (1) A person who is required to comply with an order or direction under paragraph IVa of section 10 of this Act, may, by notice in writing addressed to the secretary to the appeal board, appeal against the order or direction.

(2) The appeal board shall consider any appeal under subsection (1) of this section and may affirm, vary or revoke the order or direction subject to appeal.

(3) The appeal board may inform itself in such manner as it thinks fit concerning the subject matter of the appeal.

(4) An appellant to the appeal board who is aggrieved by a decision of the board may, by notice in writing, appeal to the Minister.

(5) The Minister may, upon consideration of an appeal, affirm, vary or revoke the order or direction subject to appeal.

Establishment of appeal board.

10b. (1) There shall be a board entitled the "Mines and Works Appeal Board".

(2) The appeal board shall consist of three members appointed by the Governor of whom—

(*a*) one shall be a person who is in the opinion of the Governor qualified and experienced in mining engineering;

(*b*) one shall be a person who has had, in the opinion of the Governor, extensive experience in the conduct of mining operations;

and

(c) one shall be a person who is, in the opinion of the Governor, qualified to assess the aesthetic effect of mining operations and practices upon the environment in which they are carried out.

(3) The Governor may appoint one of the members of the appeal board to be chairman of the appeal board.

(4) A person who holds office in the Mines Department or who has any direct or indirect financial interest in the conduct of mining operations in this State shall not be a member of the appeal board.

(5) The members of the appeal board shall hold office for such term, and upon such terms and conditions, as may be determined by the Governor.

(6) The Governor may make such appointments as are necessary to fill any vacancy occurring in the membership of the appeal board, and may appoint a person to be a deputy of a member if the member is unable to perform his duties as a member because of illness or any other cause, or if it is otherwise expedient so to do, and a person so appointed to be a deputy of the chairman shall be deemed to be the chairman while so appointed.

(7) The Public Service Act, 1967, as amended, shall not apply to or in relation to the appointment of a member of the appeal board and a member shall not, as such, be subject to that Act.

(8) The office of a member of the appeal board may be held in conjunction with any office in the public service of the State.

(9) A suitable person shall be appointed by the Governor to be secretary to the appeal board.

Quorum, etc.

10c. (1) Two members of the appeal board shall constitute a quorum of the appeal board and no business shall be transacted unless a quorum is present.

(2) A decision concurred in by two members of the appeal board shall be a decision of the board."

The Hon. T. M. CASEY (Minister of Agriculture) moved:

That the recommendations of the conference be agreed to.

The Hon. C. M. HILL (Central No. 2): I support the motion. First, I should like to say what a pity it was that the other place originally did not agree to the suggested amendments that the Legislative Council sent it. The Legislative Council made every possible endeavour to protect the people in the opal mining industry because it believed that those problems should have been dealt with under the Mining Act.

Secondly, we endeavoured to write compensation provisions into the legislation. However, the other place did not accept those proposals, and now we have this motion before us. In the new proposals, a new appeal board is being set up in lieu of the present advisory committee. I do not want to speak at length on this but I point out that in the new proposals all those people involved in mining, whether they be opal miners, big quarry interests or any other parties involved in mining, will now, as a result of these further changes, have two rights of appeal, whereas under the present legislation there is only one right of appeal.

These appeal proposals are a considerable improvement on the present situation and I hope in due course that, if mining interests at Coober Pedy, in the Adelaide Hills or anywhere else have cause to appeal against the decision of the mining inspector, they will find that the opportunity of having two separate rights of appeal will work much more advantageously for them than was the case with only one appeal.

Motion carried.

Later, the House of Assembly intimated that it had agreed to the recommendations of the conference.

AIRCRAFT OFFENCES BILL

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

ADJOURNMENT

The Hon. A. J. SHARD (Chief Secretary): I move:

That the Council at its rising do adjourn until Tuesday, February 23, 1971, at 2.15 p.m.

I take this opportunity, particularly after such a busy week, of thanking honourable members for their co-operation in considering the legislation brought down this session. On behalf of myself and my colleagues, I extend to all honourable members the compliments of the season. I hope they have a happy time and will return in February refreshed and fitted to continue their work and to continue debating in the manner to which we are accustomed to in this Chamber. One thing about the Australian way of life is that, irrespective of our different points of view on various matters, we can take the Christian attitude at Christmas time, sink our differences of opinion and feel for those who are not with us. Without mentioning names, may I express the wish that the two honourable members of this Chamber who are indisposed will soon be restored to health and take their place with us again.

The Hon. R. C. DeGARIS (Leader of the Opposition): I support the Chief Secretary

in his remarks and extend to all honourable members and the staff of the Council the compliments of the season. I know my colleagues will support me when I mention the work that the catering staff did at the Christmas dinner on Thursday evening and offer them my compliments. Also, I should like to congratulate the Chief Secretary and other Ministers on the way in which the Council has been handled so far this session. I know it is not easy for the Chief Secretary to lead the Council. We have our little differences at times but I appreciate the co-operation I have received. I join with the Chief Secretary in wishing the two honourable members who at the moment are not in the best of health all the best for the future.

The PRESIDENT: I realize that this is not a prorogation but, nevertheless, I should like to join in the sentiments that have been expressed about this session. It has been one of the heaviest sessions that this Parliament has had for a long time, involving much strain on Ministers and honourable members alike, and particularly in the last fortnight, when complicated legislation has involved a great deal of research to be able to understand it. I think honourable members have acquitted themselves creditably and I congratulate the Ministers and all honourable members on the way in which they have applied themselves to their duties in this Chamber.

I say nothing more except to support what has been said about the work of the staff during this part of the session. To find honourable members in the happy and amiable condition in which they are now, after sitting through the night almost until breakfast this morning, speaks volumes for their enthusiasm and good humour. I join in the expression of good wishes to those honourable members who are indisposed at the moment. We hope to see them back hale and hearty after the Christmas recess; I wish all honourable members the compliments of the season.

Motion carried.

At 5.41 a.m. the Council adjourned until Tuesday, February 23, 1971, at 2.15 p.m.