

**LEGISLATIVE COUNCIL**

Wednesday, December 8, 1976

The PRESIDENT (Hon. F. J. Potter) took the Chair at 2.15 p.m. and read prayers.

**ROAD TRAFFIC ACT AMENDMENT BILL (No. 3)**

At 2.17 p.m. the following recommendations of the conference were reported to the Council:

*As to amendment No. 2:*

That the Legislative Council insist on its amendment and the House of Assembly do not further insist on its disagreement thereto.

*As to amendment No. 3:*

That the Legislative Council amend its amendment by leaving out the words "one dollar" and inserting in lieu thereof the words "one dollar seventy-five cents".

And that the House of Assembly agree thereto.

*As to amendments Nos. 4 and 5:*

That the Legislative Council do not further insist on its amendments.

Consideration in Committee.

The Hon. B. A. CHATTERTON (Minister of Agriculture): I move:

That the recommendations of the conference be agreed to.

The conference deliberated on the matter for a long time, and there was much discussion. At one stage, we thought we would not reach any satisfactory conclusion. However, I am pleased to say that agreement has been reached, and I believe that it is a satisfactory compromise. I support the recommendations of the conference.

The Hon. C. M. HILL: I support the motion. I was pleased that ultimately a result came from the conference. As the Minister has said, it took a long time to finally forge an ultimate result, which I think is a fair and reasonable compromise. I am pleased that the managers for the other place have agreed to the amendment that was moved here by the Hon. Mr. Whyte. Also, the important amendment moved here regarding penalties for overweight vehicles has been adjusted, and by that I mean the minimum penalty rate on the mass within the first tonne has been adjusted. I think that will give relief to some constituents, especially those in country areas who have had genuine problems, and who have not tried deliberately to offend by overloading their vehicles with stock, grain, and other produce of that kind, but have, nevertheless, offended at times. Those people obtain some relief, compared to the situation as provided for in the Bill. I am, therefore, pleased with the results and I support the motion.

The Hon. A. M. WHYTE: I, too, support the Minister and the Hon. Mr. Hill. I think the result shows the true value of conferences on matters that are unresolved by both Houses. It did, indeed, fulfill that purpose. I was grateful for the co-operation that our managers received from the House of Assembly.

The Hon. M. B. DAWKINS: I, too, support the motion. As indicated by my colleagues, the conference was undertaken in an amicable manner and, while the result may not be entirely satisfactory, it certainly has reached a compromise, which I believe, in the circumstances, should be supported by this Council. I, too, am pleased that the Hon. Mr. Whyte's important amendment will be retained as a result of the recommendations of the conference.

Motion carried.

*Later:*

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

**WORKMEN'S COMPENSATION ACT AMENDMENT BILL (No. 2)**

The Hon. D. H. L. BANFIELD (Minister of Health): I have to report that the managers for the two Houses conferred together but that no agreement was reached.

The PRESIDENT: As no recommendation from the conference has been made to the Council, pursuant to Standing Order 338 the Council must either resolve not to further insist on its amendments or lay the Bill aside.

The Hon. D. H. L. BANFIELD: I move:

That the Council do not further insist on its amendments. I point out that the conference did not last very long, because it was decided that a specific section be considered first. On other issues there was room for a compromise. The Minister from another place indicated that the Government would not compromise on the amendment to section 51. However, he indicated that on other issues some compromise could be made. The managers from this Chamber said that they would be willing to discuss further that amendment, but the indication from the House of Assembly was that there could be no compromise.

The Minister intimated that he considered that the Government had gone as far as possible and he could see no room for compromise, and because of that attitude it was thought that no good purpose could be served by extending the conference. In moving my motion, I must point out that certain provisions in the Bill will be advantageous to employers and to those who have to pay insurance. The Government considered it had made certain concessions and that it had honoured the agreement it had made with the industry: that is, to make sure that no injured person was at an advantage over an able person still at work. Some different cases were considered that could be argued one way or the other. However, the Government considers there are advantages and savings to industry generally as a result of this Bill, and could go no further. The Government believes that, if we insist on our amendments, we are penalising industry as a result of maintaining charges that could have been saved if the Bill had been accepted.

The Hon. R. C. DeGARIS (Leader of the Opposition): Unfortunately, I cannot agree with this motion, which must be opposed. I believe the Council must insist on its amendments. The report of the conference by the Chief Secretary is reasonably accurate. One important amendment made by the Legislative Council was virtually the core of everything we did with this Bill. We decided to discuss that question—

The Hon. C. J. Sumner: How does that relate to insurance matters? It was not the core of the Bill.

The Hon. R. C. DeGARIS: All I am saying is that, for the managers on this side, any non-agreement on that clause was tantamount to the whole Bill.

The Hon. C. J. Sumner: How can you possibly say that? What about the insurance clause?

The Hon. D. H. Laidlaw: Insurance matters were worthless.

The Hon. C. J. Sumner: You put them in your Bill.

The Hon. N. K. Foster: Is this gentleman falsely reporting, or is he putting his own views?

The PRESIDENT: The Leader is putting his own views, as any other honourable member can put his views.

The Hon. R. C. DeGARIS: The central amendment from the Legislative Council's point of view was discussed first, but it was found there that there was no compromise with the House of Assembly. As the Chief Secretary has said, the managers from the Council said they were

willing to discuss compromises in that matter, but there was no ground for compromise on the amendment moved by the Council. While there was no area for compromise and as no compromise was possible, the conference concluded, as it was unable to achieve anything. I do not believe the Bill adds anything to the advantage of the employer or the employee. The Council should insist upon its amendments.

The Hon. C. J. SUMNER: Some of the matters the Leader raised need to be corrected. He maintains that the section 51 provisions were the core of the Bill and that, as no compromise could be arrived at regarding that section, there was no point in discussing the remaining clauses. That is manifestly absurd. Those matters are completely unrelated. The clause dealing with section 51 referred to weekly payments, average weekly earnings, and the method of their computation, whereas many other clauses dealt with important insurance matters, which are not worthless, as the Hon. Mr. Laidlaw suggested.

The nominal defendant aspect was an important provision and the Workmen's Compensation Insurance Advisory Committee would have been useful to the insurance industry and the Minister in setting up lines of communication. To say that section 51 provisions were the core of the Bill—

The Hon. R. C. DeGaris: They were the core of our amendments.

The Hon. C. J. SUMNER: That is not even true, either. Section 51 was one aspect dealing with average weekly earnings, but other matters are considered in the Bill that apparently could not be discussed with managers from another place, but that avenue should have been explored. The Council must accept, when discussing section 51, average weekly earnings and the method of computation, that this provision was agreed to in 1973 and insisted on by it at the instigation of the Hon. Mr. DeGaris. There was an anomaly in that method of computation that this House of Review did not detect in 1973. In fact, by its amendment, it perpetuated the anomaly: instead of relying on average weekly earnings over three months it allowed the calculation to be based over 12 months. The Council allowed that anomaly to pass through in the legislation, and it became apparent with the down-turn in the economy when less overtime was being worked. As a result, people at work could earn less than those who were absent from work on compensation and who had injured themselves during the economic boom when more overtime was being worked.

This Bill corrected that situation by providing that average weekly earnings would remain the basis of calculation of weekly compensation, but it would not be possible for a workman to receive more on compensation than he would receive while at work. That is how it should be; it is something that all honourable members should have supported yet, contrary to what they did in 1973, honourable members opposite moved amendments that lowered the rate of weekly compensation payable to a workman. They have done a somersault from their 1973 position to their present position. If the Council insists on its amendments, it will perpetuate the anomaly. What sort of House of Review do members opposite claim this Council to be if they adopt this approach to the Bill? It is absolutely nonsensical, as I am sure you will agree, Mr. President. There are important insurance provisions in the Bill. Has the Hon. Mr. Laidlaw studied the provisions relating to the nominal insurer?

The Hon. D. H. Laidlaw: Yes.

The Hon. C. J. SUMNER: That matter is important from the workman's viewpoint. Further, the insurer of last

resort is important in connection with the employer in industries where it may be difficult to insure. The advisory committee is important for liaison between the Government and industry. If honourable members opposite vote against the motion they will be perpetuating an anomaly and denying workmen and industry generally the important provisions that this Bill puts forward. I strongly urge all honourable members to support the motion.

The Hon. D. H. LAIDLAW: I support the remarks of the Hon. Mr. DeGaris and I oppose the motion. Clause 7, which deals with the basis of compensation for total and partial incapacity, is the vital matter in the Bill, despite what the Hon. Mr. Sumner says. I said this in my second reading speech.

The Hon. C. J. Sumner: What about the anomalies that are corrected?

The Hon. D. H. LAIDLAW: There were anomalies in the 1973 legislation. Some of the provisions in this Bill create other anomalies that are worse than the ones in the existing legislation.

The Hon. C. J. Sumner: For example?

The Hon. D. H. LAIDLAW: There is still the speculative element in connection with overtime.

The Hon. D. H. L. Banfield: Not to the same degree.

The Hon. D. H. LAIDLAW: It is most disappointing that the managers of another place refused to accept or even negotiate the amendments to clause 7 adopted in this place. Our amendments had three main objects: first, to provide an incapacitated workman with full award wages plus over-award payments, but to take the speculative element away from compensation by removing overtime; incidentally, this was introduced in the Australian Capital Territory in 1975. It was endorsed by the Whitlam Government.

The Hon. J. E. Dunford: Don't you agree that sometimes workers' overtime is more than half their wages?

The Hon. D. H. LAIDLAW: I do not agree. It may have happened in isolated cases, but it is very unusual.

The Hon. N. K. Foster: What about the pipeline industry?

The Hon. D. H. LAIDLAW: There are 449 000 workers in this State. Let us think of them overall. The amendments adopted by this place seek to achieve, secondly, some degree of uniformity with the benefits granted under State legislation in Western Australia in 1975 and under other State legislation plus make-up agreements between employers and unions in Federal awards in Victoria and New South Wales. There is a limit to which the private sector can carry burdens of overheads greater than its competitors do in the Eastern States.

The Hon. M. B. Cameron: And the Australian Capital Territory.

The Hon. D. H. LAIDLAW: Yes. As we know, more than 80 per cent of our goods are exported to the principal markets in Melbourne and Sydney. Freight rates in recent years have escalated.

The Hon. N. K. Foster: What about the transport industry? You are not—

The PRESIDENT: Order!

The Hon. D. H. LAIDLAW: Unfortunately, at present there are two major industries not yet announced that have to decide in the next two or three weeks whether to transfer from South Australia. This is one of the problems we are facing at present and one of the reasons why we cannot afford to have higher burdens like workmen's

compensation than competitors who are located close to the markets in Melbourne and Sydney.

Thirdly, the Council amendments would have enabled us to reduce the cost of administering workmen's compensation legislation. The amendments introduced to the Government Bill would have reduced the considerable burden imposed on small businesses in relation to the time and money required to calculate compensation. I refer to the problem of comparing the weekly award wage with the average weekly earnings for a year without overtime and special payments, to which must be added average overtime for four weeks. Also involved are the provisions for indexing workmen's compensation, which means that the small business man may have to calculate this regularly on a monthly basis. This would, I think, impose unnecessary administrative burdens on him.

I repeat that in no way were we trying to have compensation less than that obtaining in the other States. The House of Assembly managers argued that this Bill aimed to place a workman absent from his job because of incapacity in a financial position no better nor worse than he would be in if he was on the job. That principle was stated by the Premier and the Minister of Labour and Industry.

The Hon. J. E. Dunford: But your amendments do the opposite.

The Hon. D. H. LAIDLAW: They do not.

The Hon. J. E. Dunford: They disadvantage the worker.

The Hon. D. H. LAIDLAW: They do not. I am referring to the stand taken by the House of Assembly managers. The amendments do not achieve this result because they involve no deduction for the cost of a man's travelling to and from work or for wear and tear on clothing, or for the cost of food.

The Hon. D. H. L. Banfield: What about the other expenses incurred at home when a man is injured?

The Hon. D. H. LAIDLAW: That happens in isolated cases. However, I am referring to the cost of a workman going to work. Regarding the case referred to by the Minister, there would be isolated special cases in which a wife has to stay home to look after her seriously injured husband.

The Hon. D. H. L. Banfield: And you think they should be penalised?

The Hon. D. H. LAIDLAW: I think there should be special recompense in a case like that. The vast majority of workmen's compensation cases involve a foreign body in a workman's eye, or a workman's suffering from a cut or some sort of strain. There is certainly no reason for a wife to stay home and look after her husband in those circumstances. The Opposition in this place argued that up to 7 per cent ought to be deducted from compensation payments to cover the expenses of a man's travelling to and from work and the cost of his being at work. A number of people assessed this figure to be very much more than 7 per cent.

The Hon. D. H. L. Banfield: Employers or employees?

The Hon. D. H. LAIDLAW: The person whom I am going to quote is Mr. Justice Woodhouse, who was brought to Australia by the Whitlam Government to conduct the national injury and sickness inquiry.

The Hon. N. K. Foster: There is no comparison.

The Hon. D. H. LAIDLAW: I am not talking about the 85 per cent that Mr. Justice Woodhouse mentioned. I wish to use his argument. He said that there was no way in which one could justify equality on compensation with that of a man at work. He said that note must be

taken of the factors that I have mentioned and he also stated that, when we do discount it, we must remember that the fit and able person who is at work receiving 100 per cent is taxed more than is the man receiving, perhaps, the 93 per cent that we propose. Despite the logic of our argument, the managers for another place refused to accept it.

Regarding insurance, at no point in the debate did we suggest that insurance was a very important factor. In fact, I think that those insurance provisions should have been introduced in different legislation. They dealt with the nominal insurer. About a year or two ago, there was a failure by a certain insurance company that had been handling workmen's compensation, but since then the authorities have imposed on insurance companies control that is far more strict. I do not believe (and, certainly, the insurance industry does not believe) that this facility would be used very much in future, if at all.

In regard to the insurer of last resort, I have yet to find out the name of anyone who cannot get cover. People have told me that they know someone who cannot get workmen's compensation cover, but the insurance industry would like to identify a person who cannot get that cover. The people who have made these statements may have made them after approaching only one or two insurance companies. I doubt if any people in the community are unable to get cover. For that reason, I doubt that the provision regarding insurer of last resort would be of much use. In some cases (for example, in Government sawmills, where the workmen's compensation premiums are very high) it might be helpful to the Government if the community subsidised the compensation. I support the Hon. Mr. DeGaris in his statement that we should insist on our amendments.

The Hon. J. E. DUNFORD: I am satisfied that the Hon. Mr. Laidlaw is concerned only about clause 7, because that clause deals with wages. I believe that he has gone in to bat for the big industries and insurance companies, and he has not done a good job. He has heard from members on this side, and members opposite should think about what he is trying to do. He is trying to penalise the worker who is injured through no fault of his own at his place of employment, and he wants to halve the wages of that person.

The Hon. M. B. Cameron: Get back to reality.

The Hon. J. E. DUNFORD: The Hon. Mr. Laidlaw is trying to take away not only overtime. As I said in my second reading speech, he wants to take away bonuses paid to workers in brickyards.

The Hon. F. T. Blevins: And at the B.H.P.

The Hon. J. E. DUNFORD: I am speaking about brickyards, and one-third of the wages of workers engaged in making bricks is by way of bonuses.

The Hon. D. H. Laidlaw: I call them incentives.

The Hon. J. E. DUNFORD: The workers call it a bonus, and in the award it is referred to as a bonus, so as soon as a person was injured at work he would lose one-third of his pay.

The Hon. D. H. Laidlaw: I do not agree.

The Hon. J. E. DUNFORD: The honourable member also wants to do away with shift allowances and industry allowances. Some industry allowances now amount to \$5 or \$6 a week. The honourable member also wants to take away weekend and holiday penalty rates, on an average basis, and thousands of workers work seven-day shifts. The honourable member also wants to take away travelling allowances, which in some cases amount to \$2 a day

for construction workers, or \$10 a week. He wants to take away and not have calculated the clothing allowance, meal allowance, and such disability allowances as danger money, height money, dirt money, confined space money, money for working in hot, wet or cold conditions, money for call-backs, and camping allowances.

The Hon. M. B. Cameron: Did a Federal Labor Government put all these in?

The Hon. J. E. DUNFORD: The jackass is going off as well. What does the honourable member want?

The Hon. M. B. Cameron: Do Federal Labor Governments put all these in?

The Hon. J. E. DUNFORD: I am talking not about the Federal Government but about common sense. It is amazing that the honourable member has no conception of the poverty of workers when they are on workmen's compensation. In 1973 this State Government decided that a worker on workmen's compensation should not receive less than he would receive if he was at work. Since that time some workers, through the calculation of their overtime, have been receiving more than they would have received if they were at work. The Government has recognised that. After lobbying by employers and by industry, the Government has agreed that it is wrong that a person who is at home on compensation should receive more than persons who are at work. I think the workers who have been at work have resented the position.

However, the Hon. Mr. Laidlaw wants to go beyond a fair thing and he wants to cut some wages in halves. He does not want average earnings to be used. He wants to use average earnings excluding all the component parts, and the effect of that would be to reduce severely the pay of some workers. If his amendments were carried, the pay of some workers would be halved. He wants members on this side, who represent the workers and who are concerned with their dependants and wages, to agree to that proposal. The honourable member knows that he is in a spot. We are trying to solve an industry problem to some extent and we are carrying out the wishes of the fair-minded people of South Australia.

I know that the Hon. Mr. Laidlaw was embarrassed in putting up this proposition. He knows that it is crook. He was half-hearted about it, and he ought to be exposed. He is concerned only about big business and the insurance industry, not about injured workers in industry.

Regarding rehabilitation, I stated in my second reading speech what could be done. One reference to rehabilitation refers to the payment of full average earnings until the worker is well again. The Hon. Mr. Laidlaw would have his cohorts going around the houses of workers every day to find out whether they could take the workers off the book or, if they could not do that, to find out whether they could take them to court to get the disability assessed.

The Labor Government wanted to set up a national committee to deal with this matter, and members opposite were opposed to that. Members opposite are not concerned about the worker, and they want to cut him down to size. They want to halve the worker's pay, and yet they think that the worker will get better. In fact, in that case he would get worse. Members opposite are publicly in disgrace in trying to take away nearly half the wages of some workers and, in other cases, in trying to make a big reduction in take-home pay compared to the pay of a worker at the work place. I support the Government Bill and I support the Minister of Health in his statement that we should continue to oppose the amendments.

The Hon. J. C. BURDETT: I was at the conference and, certainly, the most controversial issue was clause 7, dealing with section 51 of the Act.

The Hon. C. J. Sumner: It was the only issue. You would not allow anything else.

The Hon. J. C. BURDETT: If the honourable member listens, I will tell him. It was a most controversial issue. It proved to be because the House of Assembly managers would not budge at all from their position on clause 7. They would not make any move of any kind. Certainly it is true, as the Hon. Mr. Sumner said, that other provisions were important, but it was clear, and it became clear early, that no agreement could be reached on either side unless agreement could be reached on clause 7. I want to make clear that the Council managers said expressly that they were prepared to compromise on clause 7.

The Hon. N. K. Foster: The Council managers?

The Hon. J. C. BURDETT: Yes.

The Hon. N. K. Foster: I thought you couldn't tell us what went on in conferences.

The Hon. J. C. BURDETT: Of course we can tell the Council what went on in the conference. It is perfectly proper to say what things were said by the managers who were, after all, managing the matter for the Council. The Council managers made it perfectly clear that they were prepared to compromise on clause 7.

The Hon. N. K. Foster: Who were you compromising?

The Hon. J. C. BURDETT: A compromise on the issue.

The Hon. N. K. Foster: Who were you compromising?

The Hon. J. C. BURDETT: On the one hand we had the Bill as it stood, and on the other hand we had the Hon. Mr. Laidlaw's amendment passed by this Council. We conceded that there was an area of compromise between the two—somewhere between the original Bill and the amendments. We made clear that we were prepared to consider such a compromise in some central position but the Assembly managers made very clear and patent that they would not budge from the Bill at all. They would not compromise.

The Hon. F. T. Blevins: On clause 7?

The Hon. J. C. BURDETT: There was no point in doing anything else unless we could reach agreement on that.

The Hon. C. J. Sumner: Why?

The Hon. J. C. BURDETT: There was not, because no agreement was reached and no compromise could be made unless agreement was reached on clause 7. The managers of both Houses took that viewpoint and that stand. It was the only commonsense thing to do. The Council managers were prepared to compromise on clause 7.

The Hon. C. J. Sumner: You don't want to correct the anomaly?

The Hon. J. C. BURDETT: The Assembly managers made perfectly clear that they were not prepared to resile from their position in any way at all. At least the Council managers tried to compromise and said they were prepared to try. The Assembly managers were not prepared to do that.

The Hon. C. J. Sumner: Don't you want to correct the anomaly? Apparently not.

The Hon. J. C. BURDETT: It is fair to say the amendments proposed by the Hon. Mr. Laidlaw, as passed by this Council, provide more generous benefits to the workman—

The Hon. J. E. Dunford: Rubbish! Are you deaf or something?

The Hon. J. C. BURDETT: Listen to what I am saying. The amendment moved by the Hon. Mr. Laidlaw, and passed by this Council, provided more generous benefits for workmen than in any other State or the Australian Capital Territory.

The Hon. J. E. Dunford: Rubbish!

The Hon. J. C. BURDETT: We were prepared to go further and compromise on the matter, but the House of Assembly was not.

The Hon. J. E. Dunford: It all depends under which award the workman is working. You are wrong. You are not rehabilitating.

The Hon. J. C. BURDETT: The Hon. Mr. Dunford talks about rehabilitation. That is all that anyone has done about rehabilitation; talk about it.

The Hon. C. J. Sumner: You have done nothing.

The Hon. J. C. BURDETT: The Minister, in his second reading explanation, talked about rehabilitation but the Bill does nothing about it.

The Hon. J. E. DUNFORD: I rise on a point of order. The Hon. Mr. Burdett is deliberately misleading the Council.

The PRESIDENT: That is not a point of order and the honourable member knows it. I ask the honourable member to resume his seat.

The Hon. J. E. DUNFORD: Will the honourable member give way?

The Hon. J. C. BURDETT: No, I will not.

The Hon. F. T. Blevins: That was not the position at the conference. You don't know what you're talking about.

The Hon. J. C. BURDETT: I do know what I am talking about. I was at the conference, and you were not. It was evident at the conference that the Council managers were prepared to compromise but the Assembly managers were not. Therefore, the Council should insist on its amendments which the Assembly managers were not prepared to consider in any way at all.

The Hon. N. K. FOSTER: I rise because I recall having said during the course of the debate on the Bill what happened in this Council in 1973, and for that reason I would like to commend the remarks of a previous speaker, a manager in this particular matter, the Hon. Mr. Sumner. He put the matter very clearly and concisely. Leaving that aside for the moment, I refer to what the Hon. Mr. Burdett said at the latter end of his contribution to this debate. He has to accept that the award or determination under which the workman is employed is important in the context of the amendment moved by the Hon. Mr. Laidlaw. That has to be accepted. Having accepted that, the honourable member cannot then go on one step further from that in any way, shape or form and try to justify that, by the amendment, the take-home pay of a person under workmen's compensation will be improved.

I reiterate that it is the award or determination that is a factor in that regard. Nor, if the Hon. Mr. Burdett would listen, does it do anything for the argument put forward by his co-manager concerning this particular matter, the Hon. Mr. Laidlaw, who clearly thumped the barrel when in the past 10 or 20 minutes he said that the amendments of the Council ought to be carried, that they are more than worthy of support in this place and ought to be carried because they do something for the differential cost structure between the Eastern States. He qualified that by saying,

almost in percentage terms, what the markets for our products in the Eastern States were, and he said the cost factor had to be brought back to where it was a few years ago.

The Hon. D. H. Laidlaw: I didn't say that.

The Hon. N. K. FOSTER: You did say that. You went on to quote the transport industry and I said you could not blame workmen's compensation because of the effect of the escalation in transport costs over the past few years. The energy crisis alone was responsible for the great increase in transportation costs in this country. The honourable member knows better than I that any increase at all in the taxes on petrol and diesel fuels is tantamount to a direct increase in the transport costs because of the heavy reliance on transportation.

The Hon. D. H. Laidlaw: I didn't say anything like that.

The Hon. N. K. FOSTER: I want to make the point that your colleague did not support your argument as to why your amendments ought to be supported in the Council when he, in fact, fails to understand properly the cause because he will not recognise the award areas in regard to industry. He said, and the Hon. Mr. DeGaris supported him by way of interjection, that the provisions of the amendment were better.

I want to come back to the point I made earlier in reference to what appears in *Hansard* concerning the managers' meeting of 1973. It is perfectly true what the Hon. Mr. Sumner said concerning the fact that you did not foresee in 1973 what would happen later, and I think you did not foresee it in 1973 because of the reason given by the Hon. Mr. Sumner. No-one on this side of the Council would be critical of you for accepting what you did accept in 1973. It was a different ball game then as regards the economics of industry at that time.

You have failed to convince us on this side of the Council that we should condemn those areas where there is direct industrial agreement under award provisions. Within certain areas of the transport industry in this country they have an agreement with employers for 100 per cent, and you may regard that as a better claim for workmen's compensation. It is in absolute terms; a non-loss basis. I am going to conclude on the basis—

The Hon. C. J. SUMNER: Will the honourable member give way?

The Hon. N. K. FOSTER: Yes.

The Hon. C. J. SUMNER: Would the honourable member agree that this Council, having made the mistake in 1973 of not picking up this potential anomaly and accommodating it in legislation, should take the opportunity, now that there is a new Bill before us—

The PRESIDENT: Order! The Hon. Mr. Sumner is not allowed to repeat what he has said when he is given leave to speak under the give-way rule; he is not allowed to repeat what he has already said, and he has already said this.

The Hon. C. J. SUMNER: I have not said it.

The PRESIDENT: Excuse me—I think you have already said it; the only difference is in putting it in the form of a question.

The Hon. C. J. SUMNER: If you will let me finish, you will see that there is a difference in what I am saying.

The PRESIDENT: Very well.

The Hon. C. J. SUMNER: I am saying that this Council should use this opportunity to correct this anomaly, and the President of the Council, as the officer in charge, would have a special responsibility in this respect.

The Hon. N. K. FOSTER: I could not agree more; I gave way because I anticipated the question. If the Chairman thinks that the honourable member who has just resumed his seat had already said this in debate, I blame the honourable member not for that. Members opposite have to make a decision this afternoon, and it should be one that will bring the least criticism on their heads. I do not envy them that position, but at least they should be aware of the fact that the Government has retracted on this matter. It is true, as the honourable member who has just resumed his seat said, that an anomaly that was not previously seen has, some three years later, been seen by the Government.

The Hon. M. B. CAMERON: But you haven't cured it.

The Hon. N. K. FOSTER: You can have your opinion and I will have mine. My view is certainly opposite to your view. If you want to take it on the basis of a month or 12 months and say that that in itself may prostitute the aim of the Government, you are wrong. The fact is the Hon. Mr. Laidlaw, who has come into this Chamber this afternoon and spoken of the overheads of the smaller employers and people in industry generally, knows as well as any employer knows that a person who goes on workmen's compensation through injury has a responsibility regarding a piece of paper from a doctor. It is presented to the company, which passes it on to the insurance company; it is computerised by the insurance company, and in the case of the company management, large or small (I challenge any member opposite to refute this), even down to the fellow employing one person, any inquiry by a union official, or any direct inquiry from the person injured or from his family, is referred to the insurance company, mainly to a lawyer, when there is a possibility of litigation. It is not a matter of a great burden of overheads, as implied by the Hon. Mr. Laidlaw.

I refer now, Mr. President, to your remarks to this Council as a manager on this very matter in 1973, with which I dealt adequately either last week or the week before. Your view then was that you had to come down on the side of the legislation because you considered there had been a mandate from the people at the previous election. If one accepts that—

The Hon. D. H. LAIDLAW: There is no mandate here; the Government didn't even mention it.

The Hon. N. K. FOSTER: I am glad the honourable member interjected; I am glad to know the position. If we are to think that the President of this place determines how long a mandate exists given by the people by way of a direct policy statement during the course of an election campaign, his task will be very difficult. No-one here is prepared to say that the defence policies enunciated by Menzies in 1963, under a mandate given at an election in 1963, were not still valid when Harold Holt won a landslide election in 1966.

The Hon. D. H. LAIDLAW: But you don't—

The Hon. N. K. FOSTER: I am suggesting that it is not for you or me to state the length of a mandate. A mandate would not exist, of course, if it was repudiated by the political Party concerned at a subsequent election: in other words, if Don Dunstan got up and said, "In the matter of workmen's compensation, I come down on the side of 85 per cent", or something of that nature. What the Hon. Mr. Burdett said is wrong and false. The Hon. Mr. Cameron constantly refers to what Whitlam did; he said it was 85 per cent. What you are getting mixed up with here, and falsely, is that that was dealing with a different concept of insurance altogether. If anyone was

worth his salt in this Parliament and could achieve a no-fault clause for workmen's compensation insurance and road accident insurance and would not be prepared to settle for 85 per cent, there would be something wrong with his thinking when considering the average benefit that might accrue to the people involved.

It has been the spirit of this place that, if we agree to a compromise (which is important to us on this side of the Chamber), we do not buck that but go along with it and say, "If the managers agree to a compromise, we will accept it"; but members opposite have an equal responsibility to accept the fact that on this occasion there was no compromise and therefore they should support what the Minister put to the conference this morning. I urge the Council to support this motion.

The Hon. J. C. BURDETT: That's hardly logical.

The Hon. N. K. FOSTER: Members opposite want to get it all their own way. After all, there is a difference of only one in this place. The matter at issue is not to be taken lightly on the basis that a vote was taken in a place consisting of 21 members. We must consider that the legislation carried in 1973 has been in operation for some years; the industry has looked at it, the insurance industry has looked at it, and the main groan in regard to it has been taken care of responsibly by the Government. This motion should be supported.

The Hon. M. B. CAMERON: It is always difficult to follow the Hon. Mr. Foster, not so much as a speaker but rather trying to understand his various flights of fancy; it is hard to get him down to earth. We have a Bill that is supposed to cure certain things in the Workmen's Compensation Act. I recall the Minister of Labour and Industry and the Premier making statements, which have been read out several times, indicating clearly, we thought, that they were interested in the problems facing industry and they were going to do something about workmen's compensation, whereas this Bill does practically nothing. The Hon. Mr. Foster referred snidely to the burden of overheads, as though they were no problem at all. However, they are a problem for anyone employing people in South Australia. It is not much use workmen getting some sort of supposed benefit when it reacts against industry in this State to the point where jobs are lost. I would not mind if we were getting industry pouring into this State, but that is not happening. South Australia is almost going backwards.

The Hon. C. J. SUMNER: Haven't we the lowest rate of unemployment in Australia?

The Hon. M. B. CAMERON: I do not care what we have got: it is job opportunities that count. The Hon. Mr. Dunford referred sneeringly to a former State Premier, yet that Premier did more to create job opportunities than has been done by any other Government. The Hon. Mr. Sumner said that we created an anomaly in 1973 and we should now do something about it. The Hon. Mr. Laidlaw's amendments did do something about it by taking out the most speculative item, that is, overtime. That is exactly what every other State in Australia has done, except Tasmania, and it is what the Federal Labor Government did. That is the element causing the anomaly and if that same element is based on a monthly period the same anomaly will apply.

The Hon. C. J. SUMNER: How?

The Hon. M. B. CAMERON: At the end of a month of high overtime the same anomaly will obtain. It will not make any difference. To claim otherwise is absolute

nonsense. The fact is that we were promised that something would be done about workmen's compensation, but nothing has been done.

The Hon. J. E. Dunford: You want to starve the worker.

The Hon. M. B. CAMERON: That is absolute nonsense. It is time the honourable member thought more responsibly of industry generally and not just of one section of it. The Government has done nothing about workmen's compensation, and it has not helped the situation. The Government has shown no willingness to compromise in regard to this Bill, and there is only one thing that can be done with it. The Government has not helped industry in any way. It has not even gone back to the point reached by its Commonwealth colleagues, yet it put a smear over the Council because we have tried to bring the matter back part of the way to give a little assistance.

The Government runs away from the matter every time we raise it. It ignores the stage reached by its Federal colleagues, and it has taken the matter nowhere near as far as it is taken by the Hon. Mr. Laidlaw's amendments. Merely because the Minister showed no willingness to compromise at the conference, it is suggested that we accept what he said. That is nonsense. If there is no room for discussion and compromise, because this Bill does so little I would not be bothered to vote for it.

The Hon. D. H. L. BANFIELD (Minister of Health): The Hon. Mr. Laidlaw referred to the burden of overheads but, as I pointed out to him, because of amendments he moved during the Committee stage, he added to that burden, and that was long before a conference came about. Regarding the Woodhouse report, the honourable member said that in no way could one expect the same costs to apply as between an able person and a person absent from work, yet he then agreed with Government members that there were cases involving greater expense in relation to a man who was injured at work and was at home, not receiving anything. The honourable member merely wants to ignore some people.

He says that, because that position does not apply in 100 per cent of cases involving people injured at work, we should ignore those people who incur greater expense when they are at home. Why should we ignore them? Why should they be excluded from the benefits of workmen's compensation? The honourable member did not deal with that aspect. The Hon. Mr. Cameron said that the Government was not interested in the problems of industry and that practically nothing was being done in this Bill. So he admits that at least something is being done, yet he is still willing to accept the continuation of the same problems that the Government is seeking to resolve.

If members opposite claim that something should be done for industry, that some benefit should be given to it, this is their opportunity to prove that they really want to assist. However, in no way through their actions are honourable members opposite proving to industry that they are attempting to relieve it of some of its burden of overheads. Members opposite want to continue an anomaly that the Government is trying to correct. When the pressure is on, they have no interest in assisting South Australian industry. It is not to their advantage because, as one Government member said, we have the lowest unemployment rate in Australia. We have assisted industry generally, and we are continuing that assistance, but the Government is being barred by the action of members opposite. They know that that is the position.

The Hon. Mr. Cameron said that there was no compromise. Of course there is compromise. True, there was no

compromise regarding clause 7, but there is room for compromise regarding the present law. The Government wants to compromise with industry and assist it. That is the purpose of the Bill. However, we cannot worry about compromise when honourable members come up with such a scheme. They have said there is no room for compromise, but that is the reason for the Bill's introduction: to reach a compromise between the Government and industry. This matter will test whether members opposite are sincere in their desire to assist industry.

In view of the comments made by four honourable members opposite, it does not seem that they have any desire to assist industry. However, I believe that some honourable members opposite are responsible in this area and will vote to support my motion that the Council do not insist on its amendments.

The Council divided on the motion:

Ayes (9)—The Hons. D. H. L. Banfield (teller), F. T. Blevins, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, Anne Levy, and C. J. Sumner.

Noes (9)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, C. M. Hill, D. H. Laidlaw (teller), and A. M. Whyte.

Pair—Aye—The Hon. T. M. Casey. No—The Hon. Jessie Cooper.

The PRESIDENT: There are 9 Ayes and 9 Noes. This Bill and the amendments thereto have been through all the Parliamentary processes provided for in the Standing Orders. In spite of that, no agreement has been possible. I think the outcome is disappointing, but it is not surprising because, in truth, one central issue in the debate has involved a clash of industrial philosophies. Very important economic consequences for South Australia are involved in the final resolution of this conflict. One ray of light has emerged from the conference of managers; namely, that, given time, some measure of agreement seems possible on a number of issues. I propose to grant that further time by giving my casting vote for the Noes. The Bill is therefore laid aside.

Bill laid aside.

The Hon. D. H. L. BANFIELD (Minister of Health) moved:

That Standing Orders be so far suspended as to enable Question Time to last for 10 minutes.

Motion carried.

## QUESTIONS

### SOUTHERN DISTRICTS HOSPITAL

The Hon. C. M. HILL: I seek leave to make a short statement before asking a question of the Minister of Health.

Leave granted.

The Hon. C. M. HILL: Yesterday, Mr. Brian Wreford of Morphet Vale called at Parliament House and left a parcel of petitions for the Minister. I understand that the petitions were addressed to the Minister and were not addressed in the normal way in which petitions to Parliament must be addressed. Therefore, it was impossible for them to be presented to Parliament, but I understand that they were delivered to the Minister. The petitioners sought a hospital in the southern districts or in the area generally known as Christies Beach and Noarlunga. I



understand that there were 9 574 signatures to the petitions. I realise that the Minister has been very busy in Parliament in this last week and would not have had much time to consider the matter carefully. However, has he anything to add about this matter generally? Will he and the Government fully consider the petitions and the need for a hospital in that area?

The Hon. D. H. L. BANFIELD: I did not count to see whether there were 9 574 signatures, but I read the submission in the petitions. If that was the basis on which Mr. Wreford collected the signatures, he got them under false pretences, because some points were completely contrary to the facts. If such untruths were put to the petitioners by Mr. Wreford, the whole thing should be ignored. The Government has already indicated its attitude to a hospital at Christies Beach in the future. Mr. Wreford knows all about that, and he knows that we have already put a first-class hospital 12 kilometres nearer Christies Beach than the people ever had under a Liberal Government.

The Hon. C. M. Hill: How far is that from Christies Beach?

The Hon. D. H. L. BANFIELD: How far is the honourable member from a hospital? How far am I from a hospital? How far is McLaren Vale from Christies Beach? The Hon. Mr. Hill has not admitted that the Government has just given more money to McLaren Vale to upgrade facilities there. This does not detract from the fact that we are interested in having a hospital in the Christies Beach area. If the signatures on the petitions were obtained on the basis of the statement at the front of the petitions, the signatures were obtained under false pretences.

The Hon. C. M. HILL: Is it a fact that the Government has just decided to build a major new hospital at Elizabeth, and that this decision has been made despite the fact that the Lyell McEwin Hospital is at Elizabeth? If a major new hospital is to be built there, how much money does the Government expect to spend on it?

The Hon. D. H. L. BANFIELD: Of course the Government has decided to put before the Public Works Committee a submission for a hospital at Elizabeth. We must do forward planning. As the Hon. Mr. Hill should know (as a shadow Minister), the Lyell McEwin Hospital is not sufficient for the growing district, and the design of that hospital is not suitable for the purpose. The Government has made no decision about the Lyell McEwin Hospital, except that we believe we will be going forward. We cannot make a decision until the Public Works Committee has reported on our submission. We are interested in the project and we expect to go ahead with it. We make no secret of it. A new hospital is needed. The submission will be made to the Public Works Committee possibly before the end of this year or in the new year.

The Hon. C. M. HILL: I refer to the following item in the Stop Press of today's *News*:

The State Government will build a major new hospital in John Rice Avenue, Elizabeth. The first stage of the proposed Para Districts Hospital will have 250 beds. The Lyell McEwin Hospital will become a nursing home when the new hospital is finished.

How does the Minister tie up his remarks about the possibility of a hospital at Elizabeth with that news item?

The Hon. D. H. L. BANFIELD: The item does not say who made the statement. We have already indicated to the Salisbury council that this is our desire, and we intend

to go ahead. The Hon. Mr. Hill knows the workings of this State: nothing can be done in connection with expenditure of more than \$500 000 before the project has been submitted to the Public Works Committee. The Government has indicated that this scheme will be referred to that committee. It is as simple as that.

The Hon. M. B. Cameron: How long before Christmas?

The Hon. D. H. L. BANFIELD: Members of the committee in the Council should know how long it will take.

## ROADS EXPENDITURE

The Hon. A. M. WHYTE: I seek leave to make a statement before asking a question of the Minister of Agriculture, representing the Minister of Local Government.

Leave granted.

The Hon. A. M. WHYTE: Over the last couple of years, reports in the *Advertiser* have stated that acceptable sums of money have been allocated by the Commonwealth Government for council roadworks. Since October 5, press headlines have referred to allocations of \$11 900 000, \$10 200 000, and \$5 300 000. The latest report, which appeared in the press on November 30, was headlined "South Australia \$5 300 000 for rural roads". I have been asked by council representatives how that \$5 300 000 will be allocated, what is the method of application, and for general information. Will the Minister confer with his colleague and obtain that information for me?

The Hon. B. A. CHATTERTON: I will refer the honourable member's question to the Minister of Local Government and bring back a reply as soon as possible.

## FIREARMS LEGISLATION

The Hon. M. B. CAMERON: I seek leave to make a statement before asking the Chief Secretary a question.

Leave granted.

The Hon. M. B. CAMERON: His Excellency the Governor said in his Speech earlier this year that the Government intended to introduce legislation controlling the use of firearms. Will the Government be introducing that legislation in the present session of Parliament (whether it be now or later in the session) and, if it intends to do so, will it be on a similar basis to the legislation which, I understand, was drawn up in 1974 but which was not presented to Parliament?

The Hon. D. H. L. BANFIELD: True, the Government expected that a Bill controlling the use of firearms would have been introduced by now. However, as the Government was about to introduce the Bill, further representations were made to it. As a result, further amendments have had to be drafted. I assure the honourable member that the Bill more or less conforms to the principles enunciated earlier, and that the Government hopes to introduce the Bill before the end of the session next year.

## QUEEN ELIZABETH HOSPITAL

The PRESIDENT laid on the table the report by the Parliamentary Standing Committee on Public Works, together with minutes of evidence, on Queen Elizabeth Hospital—Emergency Department Extensions.



## BURNSIDE TRAFFIC REGULATIONS

Adjourned debate on motion of the Hon. R. C. DeGaris:

That the regulations made under the Road Traffic Act, 1961-1975, relating to traffic prohibition in the city of Burnside, made on May 6, 1976, and June 3, 1976, and laid on the table of this Council on June 8, 1976, be disallowed.

(Continued from November 24. Page 2403.)

The Hon. R. C. DeGARIS (Leader of the Opposition): When I last spoke on this matter about a fortnight ago, I indicated that I believed the Government should rescind the existing regulations and allow the recommendations made recently by the Burnside council to be regazetted as new regulations. I think that we have reached a satisfactory situation in this respect, and that I may be able to discharge this Order of the Day. Perhaps the Minister would give me an undertaking to enable me to do so.

The Hon. B. A. CHATTERTON (Minister of Agriculture): So that honourable members have a correct understanding of the intention of the Government and the Road Traffic Board in relation to road closures in the city of Burnside, namely, in the Toorak Gardens and Rose Park area, I have approached the responsible Minister who, in turn, has obtained a statement from the Chairman of the Road Traffic Board. Addressed to the Minister of Transport, that statement is as follows:

As you are aware, on November 11, 1976, the city of Burnside requested the Road Traffic Board to reduce the number of closures in the Toorak Gardens and Rose Park area from 12 to seven. At the same time, the council requested the installation of certain roundabouts. The Road Traffic Board considers that the existing closures should prevail for a period of at least six months, in order that the effect of the existing closures on the overall accident pattern can be properly assessed. As some of the closures were affected as late as mid-June, 1976, the Road Traffic Board considers that they should continue until at least mid-December, and that some further period be allowed for accident analysis in order to properly assess their effect.

After this period, the Road Traffic Board will promulgate regulations to reduce the number of closures to substantially conform to the current request from the council. No guarantee can be now given as to the exact location and number of the closures in the amended scheme, as this is somewhat dependent on the accident analysis of the existing scheme. However, it is confidently expected that the total closures will be about seven in number, and the date of operation of the new scheme will be April 1, 1977.

The Hon. R. C. DeGARIS: As I do not wish to conclude the debate at this stage, I ask leave to direct a question to the Minister.

Leave granted.

The Hon. R. C. DeGARIS: Does the Minister's undertaking mean that before April 1, the Government will rescind the existing legislation relating to 12 closures and regazette regulations for about seven closures, as recommended by the Burnside council?

The Hon. B. A. CHATTERTON: The Minister of Transport has assured me, as he has assured the Leader, that this would be the case. I am somewhat surprised that the Leader should not be satisfied with the assurance. I again give an assurance that the regulations will be rescinded and fresh regulations promulgated.

The Hon. R. C. DeGARIS: I am surprised that the Minister is surprised. With the undertaking that he has given, I move:

That this Order of the Day be discharged.

Order of the Day discharged.

## RACIAL DISCRIMINATION BILL

Adjourned debate on second reading.

(Continued from December 2. Page 2727.)

The Hon. R. A. GEDDES: I will speak on a specific facet that has been raised by the Hon. Mr. Sumner, the Hon. Mr. DeGaris, and especially the Hon. Mr. Whyte, and I will devote my speech to asking the Government to give more consideration to its intentions on racial discrimination in future. At present, society accepts the general concept that, before punishment is ordered by a court, every effort is made, first, to see that the accused is not unduly scared by the possibility of going to gaol, and I apply that especially to the younger people. In social security we accept the need for counselling services for such people as deserted wives and pregnant women who are upset, and we believe in concepts that encourage people to sit down and talk about their problems.

In many other areas of society, it seems to be the objective of the Government to promote discussion before imposition of penalty. Under the Alcohol and Drug Addicts (Treatment) Act, the alcoholic or the drug addict is given the opportunity to dry out in a centre, with the aid of experts. That is far better than the old system of putting him in gaol or allowing his problem to continue. However, in this Bill there is no provision for counselling. We do not allow the defendant to explain his case before he is required to go to court, in which he must either prove his innocence or suffer a maximum fine of \$500.

The Hon. Mr. Whyte pointed out that in Great Britain there must be a big problem in seeing that people do not discriminate in any way regarding race. That is because of the big-heartedness of the British Government over many years in allowing members of the old British Empire or Commonwealth of Nations to live in Great Britain. The Government there set up a Race Discrimination Board, which was designed to listen to alleged complaints, and there was, first, an opportunity to explain where people were going wrong. Only as a last resort would they be taken to court.

Surely in South Australia it should be the objective to take similar action. Whatever the problem, there should be an opportunity for a counselling service to listen, explain, and possibly give advice to both parties. Surely that is a far better way of dealing with the matter. However, the Bill provides only for the person to be charged and taken to court, where he must try to prove his innocence.

The Hon. J. C. BURDETT: Mr. President, I draw attention to the state of the Council.

*A quorum having been formed:*

The Hon. R. A. GEDDES: As the Hon. Mr. Burdett has said, if we could measure the degree of fault of the guilty person as being about 1 per cent of the reason why he discriminated on the grounds of race, and that would make him liable for punishment if it could be proved that he was harsh or unjust to a person of another race, surely use of a counselling service would have been a better and wiser way to deal with the problem. It seems that, once a charge is laid, there will be little opportunity for the police to do other than proceed with it. Although I support the second reading for the purpose of dealing with amendments that have been foreshadowed, I do so with reluctance, because the Government, which has been a pathfinder in so many areas of social welfare, has now failed, by introducing a Bill that helps only one part of the racial discrimination question.

The Hon. C. M. HILL: First, I commend the Hon. Mr. Dunford on his speech last week. It is always enjoyable to hear an honourable member put such sincere expressions of feeling into a speech. I support the Bill, and it is pleasing that action is being taken to prohibit discrimination on the grounds of race. I support clause 4, which provides that the Act will bind the Crown. As honourable members know, I believe that this practice should be adopted in other measures. I query the worth of clause 6, which deals with discrimination in relation to employment, and provides:

A person shall not discriminate against another on the ground of his race—

- (a) in determining who shall be offered employment;
- or
- (b) in the terms on which he offers employment.

I am concerned that discrimination exists in the area of employment at present. A report in yesterday's newspaper, headed "Principals told: hire unionists", states:

Further ancillary staff recruited by the Education Department will be required to join an appropriate union. In the latest edition of the *Education Gazette*, the Cabinet directs school principals not to engage a non-unionist for any work to the exclusion of a well-conducted unionist. The department said yesterday the ruling was expected to apply to teacher aides, office workers, laboratory staff, groundsmen and cleaners.

Teachers aides would be expected to join either the Public Service Association or the South Australian Institute of Teachers. The provision would apply to all categories of ancillary staff. Before a non-unionist was employed a principal should obtain in writing from that person an undertaking that an appropriate union would be joined within a reasonable period after beginning work.

The Hon. J. E. Dunford: That is conditions of employment, not discrimination.

The Hon. C. M. HILL: Not unless he undertakes to join the union.

The Hon. J. E. Dunford: You have it at B.H.P., at Holden's and all the big companies. They support it.

The Hon. C. M. HILL: I pose the question: what would happen if an Aboriginal applied now for a position as a teacher aide, an office worker, a member of the laboratory staff, a groundsman, or a cleaner in the Education Department? That gentleman would be asked if he were a member of a union or be told that, if he was to be considered for the job, he would have to agree to join a union. It seems to me that there is something wrong with the Government's priority if an Aboriginal lining up in a queue for a job has to overcome that type of discrimination, and that is what it is. It discriminates against a person who wishes to exercise his freedom, and his right of choice whether he joins a union or not. It is discrimination.

The Hon. J. E. Dunford: It is a contract of employment.

The Hon. C. M. HILL: We are legislating on the grounds that, because of his race, he cannot be discriminated against. I totally agree with this Bill and all that it stands for. However, I think one aspect deserves deep questioning indeed; the Government gives such instructions to its departments, and yet, at the same time, introduces a Bill of this kind, then goes out to the people at large in this State and holds itself out as being a champion of prohibiting discrimination.

The Hon. J. E. Dunford: I think Perry Engineering, of which the Hon. Mr. Laidlaw is a director, does exactly the same thing.

The Hon. C. M. HILL: I am not concerned about Perry Engineering. I am concerned with the example I gave to this Council concerning the Education Department. I ask Government members whether they can explain why it is necessary for this kind of discrimination to exist.

The Hon. J. E. DUNFORD: Will the honourable member give way?

The Hon. C. M. HILL: Yes.

The Hon. J. E. DUNFORD: The Hon. Mr. Hill wants to know the reasons. He calls this discrimination: I disagree with him. What happens is—

The Hon. C. M. Hill: I am interested in the Education Department.

The Hon. J. E. DUNFORD: I know what you mean. In your opinion a person is discriminated against if the contract of employment provides for an employer's giving preference to unionists. The honourable member asked why it is done, and I can say that the B.H.P., B.H.A.S.—

The Hon. C. M. Hill: What about the Education Department?

The Hon. J. E. DUNFORD: For the same reason: they do it to avoid industrial disputes. In organised industries, such as the teaching industry, people object to working with non-unionists. People who do not want to work with a non-unionist may be sacked, and that is why industry generally has a form of contract that the workman must be there at 7.30 and do certain things, and included in the certain things is that he is expected to join the appropriate union. If he wants to get the benefits of the award, he should join the union. If he does not wish to join the union, the whole factory may stop tomorrow or the school may shut down. Industry does not want industrial disputes because someone does not want to pay his way. Sporting clubs or the Real Estate Institute will not have members who do not pay their fees. Representatives of the rural areas, such as Mr. Andrews and Mr. Kelly, have said that they wish they could make squatters join their associations, because they bludge on them. They try to fight the unions and reduce the worker's pay. That is what it is all about. Does that explain your position?

The Hon. C. M. HILL: It certainly explains the beliefs of the Hon. Mr. Dunford. Returning to my example about the Education Department, I am concerned about the individual who applies for a job, whether he be an Aboriginal or not. I want the individual to have freedom of choice when he applies to the Education Department. Unless he has freedom of choice, I believe there is discrimination against him. I am not the only one who is a champion of the freedom of the individual in this State. The Hon. Mr. Dunford was at a State dinner the other evening when the Premier, the Leader of the honourable gentleman's Party, expounded on the great worth of individualism in this State.

The Hon. J. E. Dunford: I agreed with him.

The Hon. C. M. HILL: You did?

The Hon. J. E. Dunford: Of course.

The Hon. C. M. HILL: I wrote down on the back of the menu some of the words that the Premier used in his speech. First, he extolled "the rights of citizens to pursue their own beliefs". What about the man applying to the Education Department who had a belief that he did not wish to join the union? What right has he to pursue his own beliefs if he has to walk away hungry because he is not willing to join a union? There is a definite conflict here. The Premier was talking about the "worth of individuality of every citizen of South Australia".

What individuality is there for any citizen of this State when he has to subject himself to this kind of order from the Government (the Government that stands as being the Government against discrimination) when that order from the Government states that a person must belong to or must join a union. The Government's credibility must

come into question when it introduces a Bill of this kind into the Council dealing with one aspect of discrimination but turns its back on the other area of discrimination in employment, simply because it is bound by its own dogma on this question.

The Premier spoke about control that South Australians have "over their own lives". What control has an individual got over his own life who applies for a job in the Education Department, if he has to subject himself to obeying that order to join a union, or to promise to join a union? None at all. The Hon. Mr. Dunford said that he believed in this individuality.

The Hon. J. E. Dunford: You speak to B.H.P. and Holdens. They will support it.

The Hon. C. M. HILL: The honourable gentleman cannot get away from Perry's, General-Motors, and B.H.P.. I am referring to the Education Department, an arm of the Government.

The Hon. M. B. Cameron: Which substantially believes in freedom, so it says.

The Hon. C. M. HILL: Yes, of course it does, and the Hon. Mr. Dunford said that he agreed with everything the Premier said the other evening.

The Hon. B. A. Chatterton: Did you agree with everything your Leader said at the same function?

The Hon. C. M. HILL: Yes. My Leader spoke exceptionally well. I think your Premier extolled Liberal ideals in his speech, and I thought that the Hon. Mr. Dunford would have crawled under the table, but he says now that he agrees with what the Premier said, that any citizen of this State should be able to pursue his own beliefs and that individuality is paramount to South Australian citizens. What kind of individuality can an applicant to the Education Department have if he is to bind himself to become part of the machine? The answer is, no individuality at all. It is all brought about by the order of this Government to one of its Public Service departments, the Education Department, the same order having gone out to all departments and all semi-government authorities, such as councils. It is discrimination of the worst kind.

The Hon. J. E. DUNFORD: Will the honourable member give way?

The Hon. C. M. HILL: No: we do not want to get back to the B.H.P. and Perry's. I am connecting my remarks to the Education Department, to any individual who seeks employment there and who, on the orders of the Government, is unable to enjoy his own rights—incidentally, contrary to the United Nations *Universal Declaration of Human Rights*.

The Hon. M. B. Cameron: And civil liberties.

The Hon. C. M. HILL: Contrary to civil liberties.

The Hon. J. E. Dunford: We are back to compulsory unionism.

The Hon. ANNE LEVY: On a point of order; we are discussing a Bill on racial discrimination. Should not any remarks made by speakers have to do with racial discrimination?

The Hon. C. M. HILL: I am wondering whether this Bill should be expanded to cover other forms of discrimination.

The Hon. Anne Levy: Will you propose an amendment?

The Hon. C. M. HILL: I am thinking about it.

The Hon. J. E. Dunford: It "crossed your mind"!

The Hon. C. M. HILL: I wonder whether honourable members opposite would support an extension of these terms of racial discrimination.

The Hon. J. E. Dunford: You are trying to wreck the Bill.

The Hon. C. M. HILL: The Government goes out to the people of this State and proclaims itself as a Government against discrimination: it cannot deny that. When this Bill came to this Council, it dealt only with one aspect of discrimination. Honourable members opposite say that, unless a person joins a union on being employed, he will be discriminated against and he will go home hungry. That is what members opposite think of the individuals of this State and their freedom. The matter of expanding the grounds of discrimination has been raised to see whether it is possible to amend this legislation to include at least one other area of discrimination. I know we have only two more sitting days in which to do it, and I did not want to introduce the matter that might cause interference.

The Hon. R. C. DeGaris: It would have to be a big amendment.

The Hon. C. M. HILL: Yes, to cover all aspects of discrimination. Perhaps we can narrow it to the second important area highlighted yesterday in the press about the Education Department, a matter which is being spoken about by the public at large—

The Hon. J. E. Dunford: Most of the public agree with it.

The Hon. C. M. HILL: Most of the public are upset. A few weeks ago Mr. Max Harris—

The Hon. C. J. Sumner: Who is he?

The Hon. J. E. Dunford: He is a goose.

The Hon. C. M. HILL: I know Government members do not like his name mentioned, because he has been telling some home truths, but in a recent article, of which I have a copy should honourable members want me to read it, he certainly gave the Government the rounds of the kitchen on the principle of discriminating against a person applying for a job—discrimination against South Australians enjoying their freedom of choice!

The Hon. J. E. Dunford: You never come down to earth.

The Hon. A. M. Whyte: Unionists qualifying for unemployment relief.

The Hon. C. M. HILL: That is another area. Whether we could include discrimination on the grounds of employment in this Bill I do not know, but would honourable members opposite support such a proposal?

The Hon. Anne Levy: We cannot say now until we see your amendment.

The Hon. C. M. HILL: If you are genuine in your claim that you are a Government that prohibits discrimination in all areas of human endeavour, you must support it but it seems to me that you would be in conflict with the principles referred to a moment ago by the Hon. Mr. Dunford.

The Hon. J. E. Dunford: But you do not know what non-unionists do generally: they use them in strikes, and they break down conditions for decent workers.

The Hon. C. M. HILL: I stand for the individual and I want him to have freedom of choice in this State.

The Hon. J. E. Dunford: He has.

The Hon. C. M. HILL: You know he has no freedom of choice: he has one choice only. That is my point. I hope the honourable member will consider that point. I want to know whether honourable members opposite would be willing to support an amendment of that kind, or whether the Government would introduce an amendment against discrimination on the grounds of employment. This is a serious matter. If an Aboriginal in the queue for work in the Education Department was rejected on this

one ground, he would think that that was not the reason for his rejection; he would think that the ground was because of his race.

The Hon. J. E. Dunford: They are more intelligent than that. You won't have any trouble with an Aboriginal joining a union.

The Hon. C. M. HILL: I ask the Hon. Mr. Dunford: would he in that case say to an Aboriginal, "No, you cannot be employed at the Education Department unless you are willing to join a union"?

The Hon. J. E. Dunford: I would say it to any individual.

The Hon. C. M. HILL: The honourable member would say, "Very well, you prefer to exercise your freedom not to join a union", and the honourable member would be happy to see that man walk away.

The Hon. J. E. Dunford: Yes, he has the right to do that.

The Hon. C. M. HILL: I think that is a shocking attitude, and I hope the Government agrees (if not in this Bill) that we shall see the day in this State when discrimination on the ground of employment—

The Hon. J. E. Dunford: It is not discrimination; it is weeding out the non-unionists.

The Hon. C. M. HILL:—will be introduced in legislation.

The Hon. M. B. CAMERON: I congratulate the Hon. Mr. Hill on the way he has brought into focus a serious matter.

The Hon. J. E. Dunford: Union bashing!

The Hon. M. B. CAMERON: You are a union basher if you give people their rights and if you allow people their individual rights in this country! Of course, the Hon. Mr. Hill failed to refer to an important aspect of this matter, that in this State a person has to join a union if he is unemployed and seeking unemployment relief. I know of a case in my home town of a person who was unemployed and working on an unemployment relief scheme and who was sacked because he did not join a union. There are people involved in politics in this State who are active in the cause of civil liberties. The Hon. Anne Levy will know about whom I am speaking, for she is one of those individuals. Why is not something done about this? The Hon. Mr. Dunford will say, "Of course, this is not discrimination; it is not compulsory unionism."

The Hon. J. E. Dunford: It is not.

The Hon. M. B. CAMERON: They have the right not to join—what an incredible way of thinking!

The Hon. M. B. Dawkins: They have the right to starve!

The Hon. ANNE LEVY: I rise on a point of order Mr. Acting President. We are debating the Racial Discrimination Bill, and I suggest that speakers in the debate should refer to the Bill.

The ACTING PRESIDENT (Hon. C. W. Creedon): Order!

The Hon. M. B. CAMERON: The Hon. Mr. Hill has indicated that he is considering amendments to the Bill based on widening the Bill to cover other forms of discrimination. Therefore, I am entitled to speak on that subject. I would support such amendments, and I intend to refer to those aspects. The other evening the Premier purported to be the Leader of a Government that believed in individual freedom. It was suggested that members of the community could do as they liked, that is, as long as they joined a union, if they wanted a job. The Government is false. We recently had the fiasco in this Chamber of legislation dealing with the description of a horse and

amendments on the grounds of sexual discrimination. However, in respect of individuals no-one cares to ensure their freedom.

The Hon. J. E. DUNFORD: Will the Hon. Mr. Cameron give way?

The Hon. M. B. CAMERON: No. Two aspects of public concern involving discrimination have been selected as the basis for Acts of Parliament. We have heard much about sexual discrimination, and now we are dealing with racial discrimination. If the Government is such a great believer in the rights of the individual and his freedom from discrimination, why has it done nothing about preventing discrimination against those who believe they have rights and should not have to join a union?

The Hon. J. E. Dunford: Preference is given to unionists.

The Hon. M. B. CAMERON: When such a direction is issued, compulsory unionism applies. If the Hon. Mr. Hill's amendment does not come to fruition, then South Australia will need a law covering this aspect to ensure that people who are subject to discrimination by their Government are not denied freedom. We will have to create a law to protect people from their own Government which purports to believe in freedom. In supporting such a move, I hope that any decent future Government believing in freedom will introduce such legislation. The Government can legislate all it likes about sexual and racial discrimination and I will support it, but why does it not do something to prevent discrimination in other areas? Its backers will not allow it to do so, but it is time that something was done. When the State Government takes such action instead of protecting the individual, it is a shocking state of affairs. Will the Government now consider moving an amendment to cover this aspect? Why should people face such Government controls, which are being imposed on them? I support the second reading.

Bill read a second time.

In Committee.

Clauses 1 to 4 passed.

Clause 5—"Discrimination to which this Act applies."

The Hon. J. C. BURDETT: I move:

Page 2, lines 21 and 22—Leave out "by a number of factors one of which is" and insert "to a significant extent by".

After line 26—Insert following passage after paragraph (b): "notwithstanding that other factors motivate or influence his decision".

As clause 5 stands, any one of up to 100 factors could influence the person discriminating on racial grounds, as widely defined in clause 3, and the person could be guilty: This is a reasonable amendment.

The Hon. D. H. L. BANFIELD (Minister of Health): The Government is always willing to accept anything reasonable that comes from the Opposition, and this is one of those odd occasions.

Amendments carried.

The Hon. A. M. WHYTE: I support the amendments, and I refer to the position obtaining in 1966-67 when prosecutions were launched in this matter. Where a prosecution was not brought about the matter was settled amicably between the two parties. I have subsequently maintained that our laws should provide for a conciliation provision similar to that applying in Great Britain for the past 10 years. There, the problem is much greater, but necessary amendments have been made to that legislation to ensure it operates as it was intended. In Australia a Federal Act encompasses this aspect. It came into force last year and deals with access to places and facilities,

land, housing, other accommodation, the provision of goods and services, the right to join a trade union, employment, advertisements, and it also establishes a Commission for Community Relations and a Community Relations Council. The Federal Act is more comprehensive since it makes provision for discrimination in fields such as advertising, union membership, etc., and in this sense is very similar to the British Race Relations Act. The Federal Act also makes provision for a Community Relations Council of between 10 members and 20 members. I suggest that we do not need a council of anywhere near that size; possibly three members or five members would be ample for South Australia's needs. The Federal Act provides for a Community Relations Council of between 10 members and 20 members to advise and make recommendations to the Attorney-General and the Commissioner on any matters related to the observance and implementation of the convention.

The Commissioner for Community Relations is empowered to inquire into written complaints, and compel parties to attend conferences presided over by the Commissioner or a member of the staff of the Commissioner. The Act also makes provision for the establishment of conciliation committees. No proceeding can be instituted unless the person aggrieved has already received a certificate signed by the Commissioner stating that a conference directed by the Commissioner has endeavoured to settle the matter, and that at the date of the certificate the matter has not been settled. If we had such a provision as that in this State, it would be complementary legislation to that enacted federally. It gives a degree of conciliation that would do so much more to overcome racial discrimination than does this Bill, which is centred on prosecution, which aggravates a situation.

I have found that it would be very difficult to amend this Bill along the lines I have indicated; further, to attempt to amend the Bill would delay it and perhaps leave us without legislation. I have been informed that it could be done more effectively if, perhaps in the next session, I introduced a private member's Bill along the lines I have outlined. I would hope to have the support of all honourable members for such a Bill, which would provide for conciliation rather than prosecution.

Amendment carried; clause as amended passed.

Clauses 6 to 10 passed.

Clause 11—"Burden of proof".

The Hon. J. C. BURDETT: I move to strike out clause 11 and insert the following new clause:

11. Where, in proceedings for an offence against this Act, the court—

(a) is satisfied beyond reasonable doubt that the defendant discriminated against another;

and

(b) is satisfied on the balance of probabilities that the defendant discriminated against that other person on the ground of his race,

the offence shall be deemed to have been proved.

I said earlier I would oppose clause 11, which is unique as regards serious offences in completely reversing the onus of proof. I pointed out that there are a number of cases where, upon proof beyond reasonable doubt of the elements of the offence, the defendant must satisfy the court on the balance of probabilities—in connection with unlawful possession, for example. Since the second reading debate, I have given more thought to the matter and discussed it with various people. As a result, I am now satisfied that, instead of simply opposing clause 11, it would be suitable to insert a new clause. Under the amendment, the prosecution has to prove the act of discrimination beyond reasonable doubt, but it only has to

prove that the discrimination was on the ground of race on the balance of probabilities. This preserves our system of justice, and it also takes care of the fact that discrimination on the ground of race is very hard to prove. This amendment is a reasonable compromise between the view that I advanced earlier and what the Government is trying to achieve.

The Hon. D. H. L. BANFIELD: I accept the amendment.

Amendment carried; clause as amended passed.

Clause 12 and title passed.

Bill reported with amendments. Committee's report adopted.

The Hon. D. H. L. BANFIELD (Minister of Health) moved:

*That this Bill be now read a third time.*

The Hon. C. M. HILL: Unfortunately, I did not have time to pursue the idea I mooted during the second reading debate. I had a preliminary discussion with the Parliamentary Counsel, but my idea would have involved a very complex change. Therefore, as there are only today's sitting and tomorrow's sitting before the Christmas recess, I cannot proceed at this stage. I hope that relatively soon Parliament will have the opportunity to debate the question. The principal provision I am mooting relates to discrimination on the ground of employment.

Bill read a third time and passed.

#### APPROPRIATION BILL (NO. 4)

Adjourned debate on second reading.

(Continued from December 7. Page 2786.)

The Hon. C. M. HILL: This is a money Bill which will, no doubt, pass in the Council. It appropriates a further sum of \$4 000 000 to assist the Government in its financial programme. The Bill stipulates that \$4 000 000 shall be appropriated as advances and grants for unemployment relief projects, and it is on this allocation of money by Parliament that I wish to concentrate my remarks.

In June, the Council agreed to an appropriation of \$10 000 000 for unemployment relief. Honourable members willingly agreed to the passing of that Bill because help for the unemployed was a cause that was supported by everyone. However, not long after the passing of that Bill some serious complaints were brought to members of Parliament by people who had applied to councils for unemployment relief work, having read in the press and heard truthfully that the money was being allocated for this purpose.

The Government publicised the fact that it supported the cause of the unemployed, and that it was appropriating \$10 000 000 for that purpose. However, nothing was said by the Government in those announcements or in this Parliament, when it was asked to appropriate that \$10 000 000, about the money's benefiting only certain unemployed persons and about its not being available to unemployed people generally.

The Hon. C. J. Sumner: Yes, it was.

The Hon. C. M. HILL: Let me tell the Hon. Mr. Sumner that it was available only to those unemployed persons who were either unionists or who had agreed to join a union. The Hon. Mr. Sumner is therefore incorrect.

The Hon. C. J. Sumner: I am not. It's available to everyone. Join a union!

The Hon. C. M. HILL: It depended, of course, on whether those involved were willing to join a union. I

was upset at this example of compulsory unionism. I asked some councils why they were discriminating against certain unemployed persons. Why did some genuine people, who could not get a job and who presented themselves at council offices for work because they had heard on television and seen in the press that the State Government had allocated money for this purpose, find that they had to belong to a union or promise to join one? If they were not willing to do that, but wanted instead to exercise their freedom of choice, they had to walk away and go hungry.

The Hon. A. M. Whyte: Also, the councils couldn't get the money to pay them.

The Hon. C. M. HILL: Yes. There was a sting in the tail, as there so often is with this Government's legislation. The councils were told, "Unless you ensure that this is policed, you will not get an allocation." I asked some councils what sort of communication they received from the Local Government Office. I have with me a form of letter signed by the Minister of Local Government.

The Hon. J. E. DUNFORD: Will the honourable member give way?

The Hon. C. M. HILL: No. I gave way earlier this afternoon, and honourable members went into the whole industrial arena, although I was concerned with only one Government department. I am concerned here with local government matters. This letter, signed by Mr. Virgo, went out to all councils. Headed "Unemployment relief scheme: preference for unionists", the letter states:

Councils are advised that the State Government has implemented a policy of preference in employment with Government departments and authorities to members of unions as set out in the attached industrial instruction No. 464. It is pointed out that, if State Government funds now allocated to local government authorities for unemployment relief, etc., were used in departments, preference would be given to the employment of union members.

The Government has therefore determined that future allocations of money be made to councils on the condition that they conform with the policy of the State Government, as set out in the attached industrial instruction, as far as expenditure of such moneys is concerned.

Attached thereto is an instruction headed "Industrial instruction 464", issued from the Public Service Board, Adelaide, as follows:

Permanent heads are informed that Cabinet has varied the provisions relating to preference to unionists by including a requirement that employing officers obtain an undertaking in writing that a non-unionist will join an appropriate union within a reasonable time after commencing employment. Accordingly, the following provisions will apply in lieu of these prescribed by industrial instruction No. 464 issued on November 27, 1973.

A non-unionist shall not be engaged for any work to the exclusion of a well-conducted unionist if that unionist is adequately experienced in and competent to perform the work. This provision shall apply to all persons (other than juniors, graduates, etc., applying for employment on completing studies and persons who have never previously been employees) seeking employment in any department and to all Government employees. However, before a non-unionist is employed the employing officer shall obtain in writing from him an undertaking that he will join an appropriate union within a reasonable time after commencing employment.

The Hon. J. E. Dunford: What's wrong with that? That's the fairest thing I have ever heard.

The Hon. C. M. HILL: It deals with compulsory unionism, and it is no good. There is no purpose in honourable members opposite trying to tell me that this involves a policy of preference to unionists. It is compulsory unionism. The industrial instruction continues, as follows:

Cabinet also desires that, where possible, present employees who are not unionists be encouraged to join appropriate unions. It is not intended that this instruction should apply to the detriment of a person who produces evidence that he is a conscientious objector to union membership on religious grounds. (Signed) G. J. Inns, Chairman, Public Service Board.

That letter and industrial instruction went out to local government, and the money that Parliament appropriated in June for unemployment relief was therefore expended in a discriminatory way on certain unemployed persons and not on all of them.

Parliament should have been told at the time of the debate when it was asked to approve that allocation (in the same way as it should have been told when this Bill was introduced) that, whereas the schedule stated that this money would be going to the unemployed for unemployment relief, it would be going only to those who were unionists or to those who agreed to join a union.

I am opposed to this form of discrimination. How this Government, which holds itself out as a Government of the people, is satisfied to see some men who prefer not to join a union but who want to exercise their freedom of choice go home to their families without a job after Parliament, which is made up of the representatives of the people, has approved the use of that money for this purpose, is beyond my comprehension. It is political hypocrisy of the worst kind for this Government to require that money be allocated for unemployment relief and then to send out instructions saying that the money is being sent but those to whom it is being sent must remember that, when the queue comes to the door, those who wish to exercise freedom of choice and not join a union should be sent home hungry.

The Hon. D. H. L. Banfield: They will not be going home hungry.

The Hon. C. M. HILL: They will not be far from it. The Minister does not know what it is like to have a large family and to be trying to eke out an existence on unemployment relief. These people will be willing to work and will present themselves, but they will have to go away without a job. The Government should be ashamed of itself and it should at least disclose in this debate that it intends to put this string on the money. I do not know why the Government pursues a policy of compulsory unionism.

The Hon. F. T. Blevins: It does not.

The Hon. C. M. HILL: It pursues it under another name, because the people do not want compulsory unionism. I have the result of a poll conducted by Roy Morgan Research Centre on the question of compulsory unionism. The poll showed that 68 per cent said membership of trade unions should be voluntary. Only 22 per cent said it should be compulsory. For voluntary unionism, the breakdown was A.L.P. 58 per cent; L.C.P. 79 per cent. The vote for voluntary unionism came from 61 per cent of union members. 71 per cent of unionists polled said that they had to join their union.

I want to help the unemployed by my vote on this Bill, but where has freedom gone when people who want to show their own pride and exercise their right and freedom of choice must be turned away? The councils will be in the middle of the sandwich. They do not want to turn people away, but this big brother Government has insisted that they do.

The Hon. N. K. Foster: You are a party to conscription, and you know it.

*Members interjecting:*

The Hon. N. K. FOSTER: Will the honourable member give way?

The Hon. C. M. HILL: No.

The Hon. N. K. FOSTER: You conscript people to death.

The PRESIDENT: Order! If the Hon. Mr. Foster continues like this, I will have to name him.

The Hon. C. M. HILL: The honourable member's Party is trying to conscript these unemployed people to join trade unions.

The Hon. N. K. FOSTER: I rise on a point of order, Mr. President.

The PRESIDENT: It had better be a point of order, too.

The Hon. N. K. FOSTER: My point of order is that, under Standing Orders, the honourable member has not the right and privilege in this place to make such utterly false and degrading statements to members of this place.

The PRESIDENT: The honourable member knows that that is not a point of order.

The Hon. C. M. HILL: I will read again for the Hon. Mr. Foster one part of the instruction I quoted previously. This was issued by the Chairman of the Public Service Board, on the order of the Government, to all authorities and Government departments in the State. That part of the instruction states:

However, before a non-unionist is employed the employing officer shall obtain in writing from him an undertaking that he will join an appropriate union within a reasonable time after commencing employment.

In other words, they are told that they must conscript the man into signing a pledge to join. This Government does not give a tinker's curse for the social degradation that these people are suffering. That is the main cause of members opposite in this matter. The Government wants to draft those who are prepared to be conscripted into an elite group, and it will throw the rest to hell. The people at large are against the Government on the issue. I refer now to the report by Rex Harris.

The Hon. D. H. L. Banfield: Do you mean Rex Harrison, the actor?

The Hon. C. M. HILL: No, I mean Mr. Max Harris, who was upset with the Government on this issue, as are all the people. They cannot understand the Government. The Hon. Mr. Sumner has some principles towards his Party and socialism, and I cannot understand how he subjected himself to the rules of a Party that does this. I do not know how he must have resolved the matter with his conscience in regard to the instruction purporting to apply not to compulsory unionism but only to preference to unionists. This is a money Bill, and it will pass, but I hope that it is not too late for the Government to show magnanimity and repeal the instruction, at least for this allocation.

The Hon. C. J. Sumner: Do you agree with the Hon. Mr. Laidlaw, of Perry Engineering, who insists that people join a union before they take a job?

The Hon. C. M. HILL: The honourable member is taking the same line as the Hon. Mr. Dunford did earlier today and is trying to switch this whole question to the general subject of compulsory unionism in industry at large. I am talking to the Bill before us and I am talking about the fact that \$4 000 000 is going out to unemployed people from the public purse.

The Hon. C. J. Sumner: Do you think the Hon. Mr. Laidlaw is doing the wrong thing?

The Hon. C. M. HILL: I am not concerned with the Hon. Mr. Laidlaw on this question. I am concerned with my own attitude.

The Hon. C. J. Sumner: Why do you criticise the Government?

The Hon. C. M. HILL: I am telling you why I criticise the Government. Public money is going out for unemployment relief but on its way out the Government gives the message to local government that the money is not to be used unless union labour is employed. That is discrimination of the worst kind, and how members opposite can live with this situation and see those fellows go home hungry I cannot understand. It is all very well for the Hon. Mr. Sumner to talk about benefits under social welfare. In this State there are people with big families and wives who are not working and who have carry-over commitments from the time their wives were working; they are really feeling the pinch, and you are satisfied to let these people, who are willing to do a full day's work—

The Hon. C. J. Sumner: They can get a job.

The Hon. C. M. HILL: Yes, they can if they bow to orders of joining the union. You should be ashamed of yourself. I hope the time might come in the next week or two, as this allocation is approved through the various stages in the Public Service, and money sent out, when the Government can see its way clear to rescind that instruction so that the Government can ensure that genuine unemployed people, irrespective of this question of unionism, who are prepared to go and do a full day's work for a council, can in fact be taken on and given the benefits of this public money for which my vote is going on this occasion.

The Hon. N. K. FOSTER: I seek to take the honourable gentleman to task. He has given a speech in this Chamber this afternoon which is indeed derogatory to members of the Government side in every way, shape and form. Let me assure the honourable member that what he says is totally untrue. I am prepared to walk across the Chamber and make a presentation to him, or his colleague the Hon. Mr. Cameron, of a document which clearly sets out what trade unions are all about in Australia, and why people employ trade unionists. It is not written by anyone who agrees with the trade union movement.

I bow to the Leader on this side of the Council concerning the more sensible, reasonable and responsible people in this Chamber who do not remain on their feet for a long time. We have here in the person of the Hon. Mr. Hill a member speaking to a money matter before this Council which has for its purpose allocating a sum of money to assist those who his Federal Party said would no longer be in the position in which they are today if that Party had been elected to office some 12 months ago—

The Hon. M. B. Cameron: You created that problem.

The Hon. N. K. FOSTER: That is an absolute lie and the honourable gentleman should know it. We have got beyond the stage when we are considering a money Bill in the interests of the people in this community where people, and not as politicians, make snide remarks which are no longer constructive in the strict political sense. To sit here and say that people can suffer their lousy fate and that we caused it, or someone else caused it, is a very narrow political view. In fact, the blame, if you are going to apportion it, can only be placed upon the system under which we have lived ever since the first industrial revolution.

Surely we have to recognise the situation that people have taken their original share of the profit and that the O.P.E.C. countries a few years ago inflicted burdens on the Western countries. Japan's energy bill skyrocketed by 47 per cent. Are you going to tell me that Australia and other Western countries are not going to be affected by that? America, West Germany, Canada, New Zealand, and Australia were all affected. Great Britain and every



country in the Western world was affected, and, indeed, are they not today? And are they not fearful of the fact that the same group of people, who accept a fair share from the profits of their own country, are about to sit down at the conference table this afternoon and determine whether or not there will be a 10 to 20 per cent higher cost in fuel supplies and energy sources which will have a lasting effect on the economy of this country?

Let us not sit as complacent people on this side of the Council. I hope there is not one member on this side of the Council who will abrogate his responsibility to the less fortunate in the community because we can say "Fraser has been in for 12 months. To hell with these people we now represent." I am not going to go through a whole sheath of press statements I have concerning the condemnation of the present Government. It serves no practical purpose in a debate like this. I am sick and tired of this type of attitude. I will play my part in policial criticism of the Opposition, and I expect that those on the other side will do the same.

The Hon. C. M. Hill: Why don't you help the unemployed?

The Hon. N. K. FOSTER: I think it is unfortunate at this time of the debate that we hear this type of tripe from the Hon. Mr. Hill. The attitude which he has displayed is a cheap attitude towards the people that this Bill seeks to assist. It is not monumental, but it is designed to provide that the most deprived people in the community, deprived not only from the point of view of direct financial assistance—

The Hon. C. M. Hill: You won't give some of them a job.

The Hon. N. K. FOSTER: The Hon. Mr. Hill seeks to defend what he has said in the debate this afternoon by saying that we will not give them jobs. That is not true.

The Hon. C. M. Hill: It is true, unless they join the union.

The Hon. M. B. Cameron: Or promise to join.

The Hon. N. K. FOSTER: Now you qualify it. You will find that the percentage of people in Australia who are workers or wage or salary earners are in a union or an association. Honourable members opposite are members of various Parliamentary associations. Why?

The Hon. M. B. Cameron: We are not compelled to join.

The Hon. N. K. FOSTER: No. I thank the honourable member for his interjection. Neither are they. Various chambers around the Commonwealth have almost 100 per cent membership, and it is not true to say that the system does not operate within business. If a fellow does not line up and belong to an appropriate chamber he may find himself without metal supplies if he is in that particular business. Do not say that it does not happen, because we know that it does. Tell me how many independent petrol resellers are here? Who does Mr. Mill represent? How many people are not in that organisation? You are just discriminating against one section of the community, a section which is something well over 50 per cent. You make no criticism—

The Hon. C. M. Hill: Get back to the unemployed.

The Hon. N. K. FOSTER: Yes, if you want to. It is because of the Government's present policy that the public sector remains depressed and will not be permitted any growth or replacement rate. That sector is responsible for employing a high percentage of the totally employed in Australia. I do not know whether the Government is on the right track—personally, I think it is not. I am talking about the Federal Government, because

that is where the problem largely arises. If we are not going to replace people in the public sector, where there has been a growth rate responsible for an increase of about 2.5 per cent in the work force every 12 months until recently, that area of employment will be depressed.

The Hon. M. B. Cameron: Isn't that what Hayden wanted?

The Hon. N. K. FOSTER: I could stand up here and say it is not Fraser who was responsible for the improvement—it was Hayden. I do not care whether we say it was the fault of Hayden, Whitlam, Cairns, or Lynch. The system is at fault. I support the measure because it is necessary to ensure that we can play our part and shoulder our responsibility in seeing that people are not forced to suffer more than they are at the moment. There is no way in which the State Government (which has not the resources; no-one here would disagree with that) can cope on its own. The resources are beyond the bounds of any one State.

The Hon. C. M. Hill: There is \$4 000 000 in this Bill.

The Hon. N. K. FOSTER: Yes, and some States would need a lot more than others. Do you seriously tell us on this side of the Chamber that unemployment is a direct result of the fact that people are required to join a union? Are you suggesting that, if trade unionism was absolutely compulsory and a magic wand was waved so that it would no longer be compulsory, everyone would be employed tomorrow? Do honourable members opposite say that, if trade unions were destroyed, unemployment would disappear?

The Hon. C. M. Hill: What has this to do with the debate?

The Hon. N. K. FOSTER: Is the Hon. Mr. Laidlaw telling me that the unemployed are unemployed because they have to join a union? That is what he has been saying all day.

The Hon. C. M. Hill: All I am saying is that unemployed people should get the benefit of this \$4 000 000 across the board and should not be compelled to join a trade union before they can get it.

The Hon. N. K. FOSTER: They are not being compelled.

The Hon. C. M. Hill: Are you happy about it?

The Hon. N. K. FOSTER: You will not allow anyone to practise in your profession as a land shark unless he belongs to an appropriate association.

The Hon. C. J. Sumner: Is that right?

The Hon. C. M. Hill: No, it is not right. A person gets a licence and then may join the institute. It's not a union; it's the institute.

The Hon. N. K. FOSTER: What is the difference between the institute and a union?

The Hon. C. M. Hill: The institute is a voluntary organisation.

*Members interjecting:*

The Hon. N. K. FOSTER: The fact is that you are wrong to get up here and attack us. Although the Chair will not agree with me, I repeat that, even though you have corrected *Hansard*, you have used the term "dole bludgers".

The Hon. C. M. Hill: I have not used that term.

The Hon. N. K. FOSTER: If your accusations are true, should you not be on your feet making a direct criticism of the Federal Government? After all, Senator Guilfoyle has been forced to say this week that there should be payments to people out of work. She was referring to

people who leave school and are out of work, people who will not receive any benefits until February or March of next year.

The Hon. C. M. Hill: What has that to do with the Bill?

The Hon. N. K. FOSTER: It is relevant, in the light of your narrow attitude. I will not go on with you any longer; you are not damned well worth it. You have this narrow, right wing view, with people alongside you shouting in support of your narrow views. I will not sit here and listen to the type of abuse you have hurled across the Chamber in the short time I have been here. What you are saying is untruthful. You will not get up and refer to a document that is procurable mentioning the name of a company in the automotive industry and the name of a person connected with that industry and say that there are employers in that industry who will, in no circumstances, take on an employee unless he belongs to a union.

The Hon. C. M. Hill: But those people do not spend public money on unemployment; the Bill does. This is the people's money. You keep on the track.

The Hon. N. K. FOSTER: I am right on the track.

The Hon. C. M. Hill: You make strong condemnations; you are supposed to represent those working people.

The Hon. N. K. FOSTER: The Hon. Mr. Laidlaw, who is associated with Perry Engineering, will give preference to trade unionists.

The Hon. C. M. Hill: But he is not spending public money.

The Hon. N. K. FOSTER: It is the same thing.

The Hon. C. M. Hill: This is the people's money we are talking about, and you should recognise that; it has nothing to do with private enterprise.

The Hon. N. K. FOSTER: So, if the Engineering and Water Supply Department wants to apply the same industrial principle, do you say it is wrong?

The Hon. C. M. Hill: Yes. You have brought the heavy hand of the dictator down on them, too.

The Hon. N. K. FOSTER: No. No legislation can be cited stipulating that a person shall be a member of a trade union.

The Hon. M. B. Cameron: You are hiding now.

The Hon. N. K. FOSTER: You cannot do it and I challenge you to do it. I say this in conclusion: the Opposition should put up or shut up.

The Hon. R. C. DeGARIS (Leader of the Opposition): I support this Bill. Perhaps I can explain what it does: it provides an appropriation of \$4 000 000 under the line of the Minister of Labour and Industry. This is to be used in relation to the unemployment relief scheme under the Department of Labour and Industry. It is appreciated that in the last Budget there was a loan for unemployment relief under the Minister of Lands and, as this is new expenditure, the Government has chosen the course of bringing down an Appropriation Bill for \$4 000 000 in a new line under the Minister of Labour and Industry. As has been pointed out, the Government can gain this money from other sources (the Government Appropriation Fund is one) but, rather than do that, it has brought down another appropriation. It is the first time since I have been in Parliament that we have had an appropriation so quickly after the Budget passing in October. It appears that probably Parliament will not be sitting again until later than usual in the next calendar year.

The Hon. C. J. Sumner: What is your guess?

The Hon. R. C. DeGARIS: Probably March, perhaps in May, with all the things that are going on. I support the second reading. During the debate, we have talked of inflation and unemployment; we have travelled to the United States and Japan and have been to Western Europe; we have spoken of gentlemen like Fraser, Hayden, Cairns, Whitlam, and Lynch, and of companies such as Perry Engineering, and the B.H.P.; also, the Engineering and Water Supply Department and the Electricity Trust have been mentioned in this debate, and the Commonwealth Parliamentary Association besides that. The Hon. Mr. Foster said that the Hon. Mr. Hill's speech hit below the belt. To claim that unemployment relief relies on the fact that a person must join a union deserves comment, and that is exactly what the Hon. Mr. Hill did. I believe that this is the correct Bill on which to do it and, although he spoke vigorously on that question, it is a matter of some concern and it must worry the Government that, when we appropriate money for unemployment relief and hand it out to local government to spend, the Government places tags on how it must be spent and also issues the threat that, unless certain things are done in regard to the employment of people, or unless they are forced to join a union, the money will be withdrawn. That is all that the Hon. Mr. Hill commented on. I believe that it was reasonable that the matter be raised and brought to honourable members' attention.

The Hon. J. E. Dunford: It's in the award.

The Hon. R. C. DeGARIS: I am not concerned about whether or not it is in the award.

The Hon. J. E. Dunford: That's a non-unionist attitude.

The Hon. R. C. DeGARIS: No. All I am saying is that, when that condition exists, it is correct that an honourable member should draw attention to it, and the Hon. Mr. Hill has done just that. I support the second reading.

The Hon. M. B. CAMERON: The Hon. Mr. Foster made what I think must be the most woolly-headed contribution to a Bill I have heard for a long time, although he really did not talk about the Bill at all: he ignored the Bill completely and went trotting off into the realms of the Federal Government, as he often does, and got right away from the measure. What he totally ignored was that the Hon. Mr. Hill raised the problem directly associated with the Bill, namely, compulsory unionism and, to try to hide from that fact, is just sheer poppycock. The Government is showing a contemptible indifference to individual rights in this matter. What really alarms me is that the Government is being hypocritical in the matter.

I am sure that the European regimes involved in the Second World War would have been proud of such a directive. This is the kind of thing I would have expected at that time. Before a non-unionist is employed, the employing officer shall obtain in writing from him an undertaking that he shall join an appropriate union within a reasonable time after commencing employment, according to the Bill, and that is not compulsory unionism! How can a person be a good unionist when already unemployed? How do we know he was ever a unionist? Because he is unemployed, the Government is getting at him and will conscript him in with public money. That is an alarming thing. The Government does not allow him any choice. If he wants work, he must join a union. The Government is showing a contemptible indifference for individual rights and is embarking on a course that will bring it down.

The Hon. F. T. Blevins: You should be happy.

The Hon. M. B. CAMERON: I suppose so, but I am never happy when individual rights are suppressed by a Government. No honourable member could be happy in taking advantage of that matter. It is time that the Government took stock of itself and stopped listening to the dictators on South Terrace who are telling the Government what to put in legislation. Those dictators are instructing the Government that, if it spends public money, it shall conscript the people on whom it is spending it by getting them into one of their unions. I trust that the Government will take stock of the situation. Government members are embarrassed. Their consciences are starting to work at last, and it is up to the Opposition to prick their consciences until they withdraw this distasteful document that the Government has introduced. The Bill should never have been introduced. The Government should withdraw the Bill in the name of freedom in the State, and I trust that it will withdraw it before the money becomes available. I look to the Government to show some little kindness towards the people and their rights. I support the second reading.

The Hon. C. J. SUMNER: I am intervening in the debate, because I believe that something needs to be said about the contribution of honourable members opposite. I shall not speak too long, particularly in deference to my Leader, the Chief Secretary, who has business on the Notice Paper that we must get through this evening. What unfortunately has happened in the debate is that the main issue we are considering has been sidetracked by the Hon. Mr. Hill. The main issue is that this State has made a \$4 000 000 allocation for unemployment relief that has not been made by any other Australian State. The only comparable allocation that has been made, I believe, is in Victoria, where \$1 000 000 or so has been made exclusively for rural unemployment relief. This Government has made the allocation, and it is the only State Government to make a positive contribution to a reduction in unemployment, which has been increasing rapidly over the past 12 months. We must also put on the record that this State has the lowest unemployment rate in Australia, despite what the prophets of doom—

The Hon. C. M. Hill: Can you quote any figures to prove that?

The Hon. C. J. SUMNER: Yes, I can, and I have quoted them in the Chamber previously, as the Hon. Mr. Hill knows.

The Hon. C. M. Hill: Were they the latest figures?

The Hon. C. J. SUMNER: They indicate precisely the same, as the Hon. Mr. Hill also knows.

The Hon. D. H. Laidlaw: Have a look at your work force.

The Hon. C. J. SUMNER: What does the honourable member mean?

The Hon. D. H. Laidlaw: Employment in the total work force.

The Hon. C. J. SUMNER: In this State, we have had an increase in the manufacturing work force.

The Hon. D. H. Laidlaw: Not only manufacturing but the total employment in the work force in the past four years.

The Hon. C. J. SUMNER: The honourable member might tell us. South Australia has 7.2 per cent of the total number of Australians unemployed, yet it has 9.4 per cent of the work force. Based on the national average we have the lowest rate of unemployment. The debate was sidetracked by the Hon. Mr. Hill who attempted his usual union bashing.

The Hon. C. M. Hill: I was not bashing the unions: I was merely trying to help people unemployed, who did not want to join a union, to get jobs.

The Hon. C. J. SUMNER: This measure will assist the unemployed by way of a grant of \$4 000 000 by this Government. No similar action has been taken by any other State Government to relieve an unemployment problem deliberately exacerbated as part of the Federal Government's economic policy. The Federal Government has relied on a trade-off between inflation and unemployment. It deliberately increased unemployment in the hope of reducing inflation. That economic policy has been blown open in the last few days and, if it ever had any chance of success, it has now been lost.

In the defence of unionism, I refer to its history and to the enormous benefits unionists have brought to the working people of the community. First, the Hon. Mr. Hill said that workers had no obligation to contribute to efforts made to increase living standards and win benefits.

The Hon. C. M. Hill: I am not saying that at all.

The Hon. C. J. SUMNER: Secondly, the honourable member also overlooked the fact that there is a preference to unionists provision in most awards covering employment under the relief scheme. Thirdly, for industrial stability and ease of negotiation, employers encourage unionism. The Hon. Mr. Hill did not say that many manufacturing establishments apply the same sorts of condition, because they believe that they can best negotiate with unions on wages and benefits. If the principle is bad in respect of the State Government, it is equally as bad in respect of Perry Engineering Company Limited and General Motors-Holden's, but the criticism is levelled only at the State Government to sidetrack people from the real issue: that this Government has made an allocation to relieve unemployment.

The Hon. A. M. WHYTE: Will the honourable member give way?

The Hon. C. J. SUMNER: Yes.

The Hon. A. M. WHYTE: If the honourable member is condemning big business for promoting that situation, the Government should be the first to change its position and to give a lead by example.

The Hon. C. J. SUMNER: I am not condemning that, because it represents a desirable attitude. Employers find it desirable because they can negotiate with the union over a whole range of conditions and wages. Unionism is a desirable institution in our community from the point of view of both obtaining benefits for members and providing industrial stability and allowing orderly negotiations between workers and employers.

The Hon. Mr. Hill's criticisms are all the more absurd when we see whose actions have led to the present economic situation. I refer to the complete misreading of the economy by the Federal Government including a devaluation partly caused by those with money in this community who indulged in capital speculation on the Australian dollar seeking to make a quick profit. That was followed by a revaluation by 2 per cent. What sort of contribution is big business making to the economy in those circumstances? The Hon. Mr. Hill criticises unions, unionism and the Government.

The Hon. C. M. Hill: I have never criticised unionism.

The Hon. C. J. SUMNER: The position of unions pales into insignificance in comparison with the financial manipulation surrounding the devaluation and the Fraser Government's policies adopted in the past year seeking to increase the rate of unemployment.

The Hon. D. H. L. BANFIELD (Minister of Health): I thank honourable members for the attention they have given to the Bill. I agree with the Leader that the Bill appropriates \$4 000 000 under the line of the Minister of Labour and Industry to relieve unemployment. True, it is unfortunate that such a Bill is necessary, especially as 12 months ago certain people were saying, "Vote for us and there will be no unemployment; we will fix up all your ills." To keep down the unemployment numbers the gentleman in question has cut out the seasonally adjusted figures. That accounts for about 100 000 unemployed. In view of the promises made in Canberra, it is unfortunate that the Government has had to make this provision.

I was amazed to see the Hon. Mr. Hill turn white; we know he is the shadow Minister for the Arts, and he put on a good turn. It was not a slip of the tongue when he referred to Rex Harrison: the honourable member was trying to emulate him this afternoon. The honourable member was worried by the speech of the Hon. Mr. Cameron, who was breathing down his neck, giving us another fine act and performing in this place without caring at all about what the Bill does. The Government makes no apology for its policy of preference to trade unionists. Everyone knows that this is our policy. We do not have to mention it in every Bill, because it has been stated in our policy speeches and elsewhere.

What amazed me was that the Hon. Mr. Hill said that we were discriminating against the unemployed people: we turned them away, and they were going home starving, he said. Of course they are going home starving, because Fraser has not increased the unemployment benefit to the rate that he should have. It is not our fault that people are starving. We are trying to overcome that position by providing this \$4 000 000 to give work to these people.

There is no compulsion about it, and there is no compulsion about the people concerned joining a union. They see a position vacant, and they want the award rate. They feel they want more than they are getting from Fraser. If a person wants anything he has to pay for it. I can imagine those starving people going along to the Hon. Mr. Murray Hill's business and wanting to rent a house. They go at the same time as a man with money in his hand. What is the Hon. Mr. Hill going to do? He will give the property to the man who wants to pay for something, turning poor, starving, homeless kids into the street. That is what trade unions are all about: they want the award rate paid because of what has been achieved for people over the years by someone else.

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

#### BUILDERS LICENSING ACT AMENDMENT BILL

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

#### REGIONAL CULTURAL CENTRES BILL

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

#### TRADE MEASUREMENTS ACT AMENDMENT BILL

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

The Hon. B. A. CHATTERTON (Minister of Agriculture): I move:

*That this Bill be now read a second time.*

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

Leave granted.

#### EXPLANATION OF BILL

Its objects are threefold. First, the titles of "Warden of Trade Measurements" and "Deputy Warden of Trade Measurements" have been changed to "Commissioner for Standards" and "Deputy Commissioner for Standards" respectively. The new titles are more appropriate to the Department of Public and Consumer Affairs in which the Trade Measurements Branch is incorporated and, it is hoped, will create more public awareness of the role of the Commissioner and the Trade Measurements Branch in consumer protection.

Secondly, the Act is amended to provide additional protection to the consumer where goods are sold by reference to their nature, quality, purity, class, grade, size or octane rating. It will be an offence to make a false declaration as to any such characteristic of an article, or to sell an article which has a different characteristic to that offered for sale. Penalties for these offences are the same as those for making a false declaration as to the mass of an article and for selling by short mass or measure. These penalties have been raised to bring them in line with current money values.

The need for this wider area of protection is apparent, for example, in the case of sales of petrol. It is quite possible for "super grade" petrol to be adulterated with petrol of a lower octane rating without the knowledge of the consumer. In times of petrol shortages and petrol discounting, some form of control is obviously necessary to prevent such practices. At present the Trade Measurements Branch has no powers in this area and the proposed amendments will extend the service which the branch can give to the consumer in cases in which the quality or grade of an article for purchase is a matter of importance to the consumer.

Thirdly, the Bill extends, retroactively, the regulatory powers of the Act to ensure that regulations which have been promulgated to give effect to the mandatory conversion of trade transactions to the metric system are valid. Clause 1 is formal. Clause 2 provides for the Act to come into operation on a day to be fixed by proclamation.

Clause 3 amends the definitive section of the Act, section 5, by changing the titles of "Warden of Trade Measurements" and "Deputy Warden of Trade Measurements" to "Commissioner for Standards" and "Deputy Commissioner for Standards". Similarly, inspectors are to be Inspectors of Standards under this Act. The definition of "the Commissioner", that is, the Commissioner for Prices and Consumer Affairs, is deleted for clarification. Clauses 4 and 5 amend sections 9 and 11 respectively of the principal Act by changing the title of the Warden. Clause 6 amends section 13 of the principal Act by changing the titles of the Warden and Deputy Warden. It is also made clear that "the Commissioner" referred to in the principal Act is the Commissioner for Consumer Affairs.

Clause 7 changes the titles of the Warden and Deputy Warden in section 19 of the principal Act and provides that the Warden and Deputy Warden in office at the commencement of this amending Act shall be deemed to be the Commissioner and Deputy Commissioner for Standards respectively. Clauses 8, 9 and 10 amend the title of the Warden in sections 20, 25 and 26 of the principal Act. Clause 11 amends section 33 of the principal Act by increasing the characteristics of articles in relation to which it is an offence to make a false declaration. The penalties provided are raised from \$200 to \$500 for a first offence and from \$400 to \$1 000 for a subsequent offence.

Clause 12 amends section 34 of the principal Act to include as an offence the selling or delivering of goods with different characteristics from those offered or exposed for sale. The penalties provided in this section have also been increased to \$500 for a first offence and \$1 000 for a subsequent offence. Clauses 13 and 14 amend the title of the Warden in sections 40 and 46 of the principal Act. Clause 15 adds to the regulatory powers of section 50 of the principal Act to include regulations relating to the conversion of trade transactions to the metric system. Regulations relating to such conversions made between July 31, 1975, and the commencement of this Act are to be deemed as valid as if this Act had been in force on that day.

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

#### ARCHITECTS ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

#### EMU WINE COMPANIES (TRANSFER OF INCORPORATION) BILL

Returned from the House of Assembly without amendment.

#### NARCOTIC AND PSYCHOTROPIC DRUGS ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

*[Sitting suspended from 5.41 to 7.45 p.m.]*

#### STATUTES AMENDMENT (CAPITAL PUNISHMENT ABOLITION) BILL

Adjourned debate on second reading.

(Continued from December 2. Page 2681.)

The Hon. J. C. BURDETT: I support the second reading of the Bill. All honourable members will have read many arguments on both sides on this issue. Those who have been here for a longer period (and that does not include myself) have even debated the issue before. The second reading explanation was laudably moderate. The Attorney-General acknowledged that this is an emotional subject and that often abolitionists refuse to acknowledge the sincerity of retentionists, and vice versa. The second reading explanation states:

I recognise also that it is quite possible for retentionists to be both intelligent and honest, and I respect their right to hold their views. I consider only that their views are wrong.

*Mutatis mutandis* I reciprocate the Attorney-General's views exactly. The Attorney-General also says that he does not suppose that what he says is likely to change anyone's mind, and that probably applies to any speech on this Bill. The first question, the Attorney-General rightly says, is this: are there any circumstances or could there be any circumstances where society, represented by the State, is justified in taking the life of any one of

its citizens? This, he says, is the moral issue. I believe that every State does have the moral right, after proper trial, to take the life of one of its citizens if it considers on reasonable grounds that that citizen's actions are completely inimical to the rights of the rest of society. Wilfully killing other members of society and acts of treason are completely inimical to the interests of the whole of society. And society, represented by the State, does in these circumstances have the moral right to take the life of a citizen. Once the preliminary moral question is answered in the affirmative, as I have answered it, one turns to what the Attorney-General has termed the pragmatic question: how efficient is capital punishment as a deterrent? Statistics have been quoted on both sides as to the efficiency of capital punishment as a deterrent. It is a case where figures have been used to mean anything that their compiler wishes them to mean.

I believe that in this society capital punishment, at least in some cases, does act as a deterrent. In the Committee stage I intend to move to amend the Bill to retain capital punishment in the case of (as separate issues): first, second convictions for murder; secondly, murders of law enforcement officers; thirdly, murders committed during acts of terrorism; fourthly, murders committed by hired assassins; and, fifthly, murders committed during the course of sexual offences against young children. The Attorney-General quoted Professor Sellin's evidence to the United Kingdom Royal Commission on Capital Punishment. I myself have used the same quotation before. Professor Sellin indicates that the effective thing, finally, is not the utilitarian effect of the punishment but the strength of popular beliefs and sentiments. He says:

When a people no longer likes the death penalty for murderers it will be removed, no matter what may happen to the homicide rate.

It is worth noting that in England last year there was a move to reintroduce the death penalty, but the move was defeated. Polls showed that public opinion ran up to 80 per cent in favour of reintroduction. This is a moral issue. In my view, it is precisely on moral issues that the wishes of the public should be ascertained. Therefore, in Committee I intend to move an amendment to delay the gazettal of the Bill until there has been a favourable vote at a referendum.

This is an important social issue. The Government has been prepared to allow the people to vote on social issues previously, and I trust that it will not deny them a vote now. In general, I acknowledge that it is for the Government to govern and for the elected representatives of the people, the members of Parliament who are answerable to their electors, to make up their minds as to how they will vote, having regard to the wishes of their constituents. However, there are some major and relatively clear-cut issues on which the people should have a direct say, and I believe this is one of them. It has been said that innocent people may be executed. This is a serious and cogent argument for abolition, but it carries—

Anne Levy: Hear, hear!

The Hon. J. C. BURDETT: Yes, it is indeed.

The Hon. F. T. Blevins: Have innocent people been executed?

The Hon. J. C. BURDETT: Perhaps the honourable member will listen to what I am going to say. The argument that innocent people may be executed carries much less weight today and in South Australia than it did formerly, and with the sense of justice, education, and the mental abilities of modern juries, I cannot concede that an innocent person could be found guilty of murder today and also fail in any appeal.

The Hon. Anne Levy: You have great faith in our institutions.

The Hon. J. C. BURDETT: I have great faith in modern juries and in modern courts.

The Hon. F. T. Blevins: They can be wrong.

The Hon. J. C. BURDETT: Supposing that the accused person does fail before the jury and before the appellate court, he can still go to Executive Council in the matter of execution. For those reasons, I support the second reading of the Bill, but I propose in Committee to move the amendments I have indicated.

The Hon. ANNE LEVY: I support the Bill. I have always objected to capital punishment on philosophical grounds, and the Attorney-General quoted a number of eminent philosophers and writers of the same view. We agree, as a society, that murder is wrong, and we make it a crime. So the State itself must not murder in its turn, for it debases its own standards. A killing done in cold blood with deliberate ceremony brutalises those who actually carry it out and it brutalises the society as a whole that orders such a killing.

The Hon. R. C. DeGaris: Are you sure you don't brutalise society by abolition?

The Hon. ANNE LEVY: We brutalise society by carrying out a murder ordered by the State.

The Hon. R. C. DeGaris: No, you brutalise society by the carrying out of murder, full stop.

The Hon. ANNE LEVY: Yes, and two wrongs do not make a right.

The Hon. R. C. DeGaris: I am not saying they do.

The Hon. ANNE LEVY: I should like to give a quotation from perhaps an unusual person in the circumstances, and that is Robespierre who, in the eighteenth century, had perhaps an uncanny foresight when, in speaking on capital punishment, he said:

When it occurs, man is no longer an object so sacred as before. One has a lower idea of his dignity when public authority makes light of his life. The idea of the murder filters with less horror when the law itself sets the example and provides the spectacle. The horror of the crime diminishes from the time the law no longer punishes it except by another crime.

For those who say that the risk of punishment deters crime, this is demonstrably not true for those who commit it. There is no conclusive evidence that the unique deterrent of death deters uniquely. Murder rates around the world certainly do not support the contention that capital punishment deters murder. The figures show no correlation between penalty and the murder rate. Most murders in Western countries are domestic ones, in situations where cool calculation of risks of detection and the deterrent effect of possible penalties do not occur. Crime rates and murder rates are determined more by sociological factors such as racial, religious or economic tensions, effectiveness of police, climate, urbanisation, drinking habits and general stability of society.

There is no evidence whatsoever that capital punishment affects the murder rate or prevents a single murder. So, even on a practical level there is no argument for it, quite apart from the philosophical objections to which I have referred. Furthermore, there is one major practical argument against capital punishment which was referred to by the Hon. Mr. Burdett: mistakes cannot be corrected. The Hon. Mr. Dunford referred to the case of Timothy Evans, who was hanged in the United Kingdom in 1949 for murder. However, Reginald Christie was later convicted for the murder of Evans's wife and several other women. Evans was posthumously pardoned in 1966 and reburied outside the gaol. Much good that

did him, I am sure! Had he received a life sentence instead, he could have been released from gaol when pardoned. The knowledge that society so cold-bloodedly killed an innocent person horrifies me beyond measure.

I should like at this stage to mention the various amendments that have been placed on file by the Hon. Mr. Burdett. His first amendment proposes that capital punishment be not abolished until a referendum be held. This I oppose most strongly. We are elected to this Parliament to make the laws of this State, and we should not dodge our responsibilities by holding referenda on all controversial matters. The Australian Labor Party was clearly elected as the Government of this State, and it has long had the abolition of capital punishment as its official policy. This has been well known throughout the community, and it can be no surprise that this Bill is now before us. Such decisions as to policy regarding penalties are properly the function of this Parliament. We must not be afraid of our responsibilities in this matter.

The second amendment is an abrogation of the principle that capital punishment should be abolished. The Hon. Mr. Burdett obviously considers that capital punishment should be retained for certain heinous crimes, although surely a sexual murder of a child of younger than 12 years old is the same as far as the victim is concerned as the sexual murder of an older person. The Hon. Mr. Burdett's criteria for heinous crimes would indeed be open to argument. It seems to me that classification of degrees of abomination for the purpose of retaining capital punishment is a fruitless exercise and would never lead to a logical resolution. Mainly, I oppose this amendment on a matter of principle: capital punishment *per se* is to be abhorred as retribution for any crime. Nothing can justify the State's cold-bloodedly taking the life of one of its citizens.

Even on a pragmatic approach, the amendment seems pointless. If its author intends vengeance, this is unworthy of him. If it is meant as a deterrent, there is evidence from the United States that the death penalty does not have this effect at least where the killing of police is concerned. As reported in the book *The Death Penalty in America*, an extensive study was made by Professor T. Sellin of the cases of fatal attacks on police by criminals. He examined data for six States that had abolished capital punishment and 11 States that had not done so. This showed a death rate for police for each hundred thousand population that was no different in the two groups. In fact, over a 35-year period the rate for the abolitionist States was 1.2, and in the capital punishment States it was 1.3, fatal attacks on police for each hundred thousand population. Professor Sellin, in the conclusion to his study, states:

The claim that if data could be secured they would show that more police are killed in abolition States than in capital punishment States is unfounded. On the whole the abolition States, as apparent from the findings of this particular investigation, seem to have fewer killings, but the differences are small. If this is, then, the argument upon which the police is willing to rest its opposition to the abolition of capital punishment it must be concluded that it lacks any factual basis.

Finally, I quote a brief passage by the great American lawyer, Clarence Darrow, when he said of capital punishment:

In the end, this question is simply one of the humane feelings against the brutal feelings. One who likes to see suffering out of what he thinks is a righteous indignation or any other, will hold fast to capital punishment. One who has sympathy, imagination, kindness and understanding will have it and detest it as he hates and detests death. I urge all honourable members to support the Bill in its entirety. We have had a cruel and brutalising law on our

Statute Book for far too long, and it is well past the time for us to join all the other States except Western Australia in abolishing the death penalty. I support the Bill.

The Hon. M. B. DAWKINS: I have previously clearly stated in this Chamber my views on capital punishment. I will state them briefly once again. No-one wishes to see the present provisions for capital punishment used generally; no-one in the present-day society would consider that seriously. Personally, I have received many letters on the subject over the years and not one of those letters has ever sought the general use of the provisions of capital punishment; I would take no notice of anyone who did suggest that. It follows most certainly that I do not wish to see these provisions used, except possibly in the most drastic circumstances.

I have travelled to Cadell and have, in that institution, been served lunch by murderers who are being rehabilitated. I believe in rehabilitation where it is possible. However, there is a vast difference (and I emphasise those words) between an unpremeditated crime committed in the heat of the moment under provocation, where sometimes the crime could be almost justifiable, and an atrocious odious, cold-blooded murder of the type which has unfortunately been committed from time to time and which is exemplified in the type of crime that the Hon. Mr. Burdett has tried to cover in his proposed amendments to the Bill.

Admittedly, some of the unpremeditated crimes to which I have referred may not be far removed from manslaughter. Sometimes a fine line can be drawn between manslaughter and unpremeditated murder. However, occasionally people are unfortunately on the wrong side of that fine line and commit a crime under provocation. I strongly favour commutation and rehabilitation in such cases. As I have said, I have met people who are in the course of rehabilitation and I have met people who have rejoined society as useful citizens. I applaud the fact that these people have been rehabilitated.

I know that this policy has been followed for many years, and I look forward to a continuation of it. However, because of the heinous crimes that regrettably occur from time to time, I do not favour removal of capital punishment from the Statute Book. I am willing to support the second reading so that we can deal with the Hon. Mr. Burdett's amendments, which I believe in the main cover the types of crime that must horrify all decent thinking people. I hope that in Committee we will deal with these amendments responsibly. I believe that capital punishment in some cases at least acts as a deterrent to murder. I believe that it should be retained on the Statute Book to be used as a possible punishment for dastardly, odious crimes such as have tragically occurred in this State. I support the Bill at this stage so that the amendments can be considered.

The Hon. M. B. CAMERON: I support the Bill. Frankly, I do not have the same faith in modern juries or in any other person as perhaps the Hon. Mr. Burdett has, because I do not believe that any person, whether of this or a past generation, is infallible.

The Hon. R. C. DeGaris: There are appeals.

The Hon. M. B. CAMERON: Yes, and that is why they are needed. For the reason I have given, if for no other, I have serious doubt about the carrying out of the sentence of death. If a mistake is made (and mistakes have been made in this matter), a person who has been imprisoned can be taken from the gaol, but it is difficult

to do anything about the matter when a person has been executed. I should say it would be impossible.

Secondly, I do not contemplate being able to sign any document that would give official approval to carry out a sentence of death and, because of that, I do not believe in putting others in that situation. I do not think that that is something that the average person would be able to approve, because of possible doubt existing and because I hope most of us feel unable to bring about the death of another person. The Hon. Mr. Burdett has amendments on file, and I will consider them in Committee and perhaps support them for the reason that you support amendments from time to time, Mr. President; that is that, the matters, which in this issue perhaps are more deeply involved than in other cases, have not been considered by another place. Perhaps it would not be right and proper for this Council to make a decision without the amendments having been considered by the House of Assembly.

However, I indicate that my support in the Committee stage will not indicate final support of the Bill. If I support the amendments, I will do so in order that they can be considered in another place. Some of these matters will be debated in the community if the measure is passed and then after that time, and because of that I think it is well for this Parliament to consider the issues before a final decision is made. Life is precious and the taking away of life is an abhorrent thing for any person to do, so I do not think it is proper for society then to do the same thing to one who has taken life, because that would be going back to the basis in the Old Testament of an eye for an eye and a tooth for a tooth. I hope that society has got beyond that point. Certain civilisations in this world of ours believe in retribution.

The Hon. R. C. DeGaris: It is still the rule for modern politics.

The Hon. M. B. CAMERON: That may be so. In certain areas, I have noticed a tendency towards retribution.

The Hon. Anne Levy: It is a vile crime.

The Hon. M. B. CAMERON: Yes, I do not support capital punishment but, for the reasons I have indicated, I can support the Bill at this stage. However, I do not wish to be taken as supporting the Bill in its final analysis.

The Hon. C. J. SUMNER: I support the Bill as proposed by the Government, but will vote against amendments foreshadowed by the Hon. Mr. Burdett. The first time a Bill to abolish capital punishment was introduced into this Parliament was as long ago as 1959, when the Premier, Mr. Dunstan, introduced such a measure. It was, I believe, defeated in the House of Assembly and never reached this Chamber. Just as in many other areas of social and legal reform, the Premier has played an important—indeed, a leading—part in removing many of the anachronistic sections that have existed on our Statute Books and championing a more compassionate and humane approach to many of the problems with which we are faced.

This is another example of his commitment to this sort of philosophy. There have been other attempts since that time to abolish the death penalty in this State, generally spearheaded by the Premier, and I hope that this time the matter will be finally resolved, that the death penalty will be abolished, and that we can no longer be labelled a hanging State, with all the inhumane connotations that that involves.



The Hon. R. C. DeGaris: What are the inhumane connotations?

The Hon. C. J. SUMNER: I will not explain them to the Leader. If he had listened to the speeches of the Hon. Mr. Blevins, the Hon. Anne Levy, the Hon. Martin Cameron, who has just sat down, and the Hon. Mr. Dunford, it might have occurred to him. I reject the theory that the State has a right to take life in retribution purely on a basis of vengeance. We can concede that people have feelings of vengeance: they feel they would like to take action based on getting their own back; this is a feeling we have all had in emotionally charged moments in various situations in life.

The Hon. R. C. DeGaris: Has anyone defended capital punishment on those grounds?

The Hon. C. J. SUMNER: I am not sure whether or not he has, but it is an argument that is put forward.

The Hon. R. C. DeGaris: By whom?

The Hon. C. J. SUMNER: I do not know.

The Hon. R. C. DeGaris: You have not listened to the debate.

The Hon. C. J. SUMNER: I have listened to the debate and I suspect that previously when the matter has come before this Council, the question of retribution would have been one of the arguments that was advanced in defence of the death penalty. I am putting a point of view. Whether or not it has been referred to in this measure is hardly the point. The point is offered as a philosophical argument at times, and certainly it was argued in a rather contorted way by the member for Mitcham in another place. Honourable members opposite do not know what to do about him, and that is why perhaps they did not recognise his arguments: it is certainly a philosophical argument that is used. Whether or not the Hon. Mr. DeGaris chooses to use it I do not know, but it seems to me there is no moral basis on that ground to retain the death penalty, in that vengeance, for its own sake, is without any demonstrable benefit to the community by way of deterrence. The member for Mitcham said in another place that, if the State does not take on the role of carrying out the death penalty in certain situations, the people with this emotionally charged feeling of vengeance or a desire for retribution will. His argument was that, if the State does not carry out retribution in an orderly fashion, the people will return to the law of the jungle and the lynch law about which one hears in the west: in other words, they will take the law into their own hands. I reject that retrograde argument by a society that claims to be civilised. One would hardly have thought that it would be put forward seriously by honourable members of the opposing political complexion, but it was put forward by the member for Mitcham in another place.

If our civilisation was going anywhere, it was going away from the concept that vengeance or retribution was something, in itself, that was a philosophical base for the State's taking a person's life. I would have thought that that was clearly contrary to the philosophical basis of the Christian religion, not so much as expounded in the Old Testament (the eye-for-an-eye and tooth-for-a-tooth basis) but certainly in the teachings of Christ in the New Testament. My understanding of the Christian religion, as given to me through many years of attending Methodist Sunday school, was that Christ was crucified to herald a new compassionate approach to sin and evil, that the hell fire-and-damnation approach to these matters was to be rejected, and that an opportunity was to be given to the sinner to retrieve his position. Associated with that

approach was the turn-the-other-cheek philosophy: compassion to the sinner and an opportunity for rehabilitation and confession. That seemed to me to be the major message that Christ brought, and it seems enshrined in the New Testament, as opposed to the philosophy in the Old Testament.

The Hon. R. C. DeGaris: Plus the views on marriage which are important and which were laughed at in a previous debate.

The Hon. C. J. SUMNER: I was merely quoting the Christian argument and was putting the argument that, if one espouses Christian principles, that is the kind of philosophy I would have thought would motivate people in considering this legislation. One then comes to the question of whether the retention of the death penalty can be justified on utilitarian grounds and whether one can establish whether the death penalty uniquely deters people from committing murder. It seems from my readings on this matter that there are no grounds for saying that the death penalty is a deterrent. The Hon. Mr. Dawkins, I think, made the bland assertion that the death penalty acts as a deterrent, but he did not produce any evidence to indicate that that was true. It is his belief, but is, apparently, not well grounded on any basis of fact.

The Hon. R. C. DeGaris: It's well grounded.

The Hon. C. J. SUMNER: I believe that, in order to justify the retention of the death penalty on utilitarian grounds, surely Opposition members must come up with something more substantial than a bland sort of personal belief that it acts as a deterrent.

The Hon. R. C. DeGaris: It's the same bland belief that you have, but statistics show otherwise.

The Hon. C. J. SUMNER: So far as statistics indicate anything, they show that the retention of the death penalty is not a deterrent.

The Hon. R. C. DeGaris: You are wrong.

The Hon. Anne Levy: There is such a thing as a null hypothesis, under which one assumes the negative until the positive is proven.

The Hon. C. J. SUMNER: The point raised by the honourable member is good. As retentionists assert that the death penalty deters people from committing crimes to which it applies, it is up to them to establish that fact, but I do not believe they can do that.

The Hon. R. C. DeGaris: It's not up to you?

The Hon. C. J. SUMNER: It is the Leader who is asserting that the State, in a civilised society, ought to have the right to take a person's life. That is an important and deep issue and, if retentionists rely on the deterrent theory, they should show that it is a deterrent, but they cannot.

The Hon. R. C. DeGaris: If I prove that to you by statistics, would you vote for the Bill?

The Hon. C. J. SUMNER: No.

The Hon. R. C. DeGaris: Then why argue about it?

The Hon. C. J. SUMNER: It is an argument advanced in this Council by the Opposition. From my reading I believe that there is no evidence to suggest that the case is as it is advanced by members opposite.

The Hon. R. C. DeGaris: But why do you bother to argue the matter?

The Hon. C. J. SUMNER: I am merely countering the arguments advanced by members opposite. It is an argument advanced by the Leader, and he is getting agitated. Apparently I am countering it effectively, because he is getting jumpy.

The Hon. R. C. DeGaris: You had better change the subject, you are not going so well.

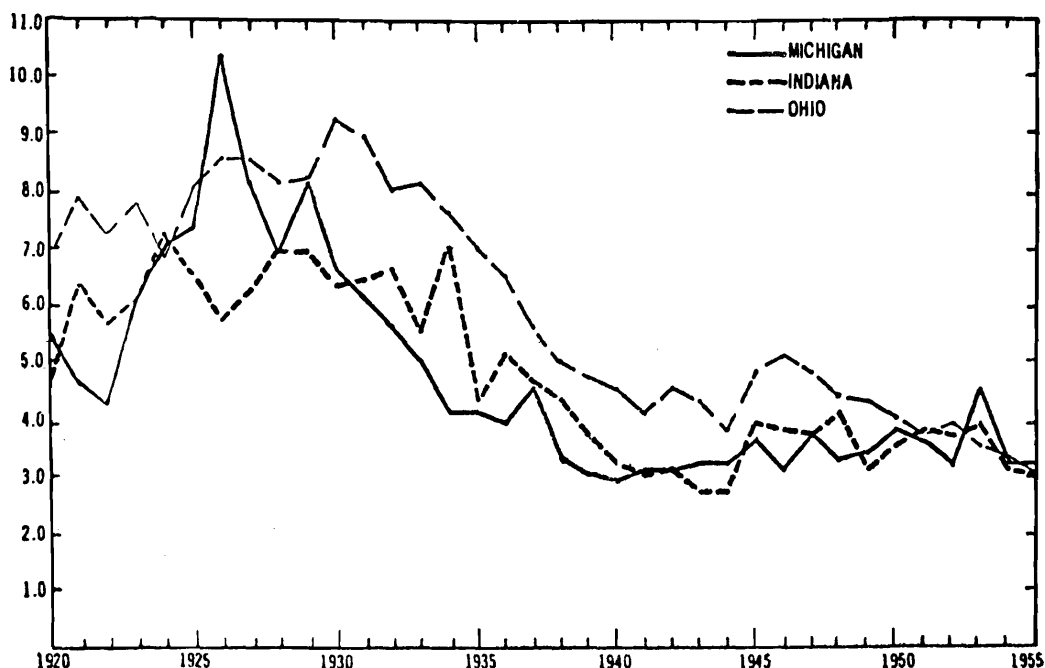
The Hon. C. J. SUMNER: I thought I was doing exceptionally well. I refer to the experiences in three States of the United States: Michigan, Indiana and Ohio as shown by a graph contained in an article by Professor Sellin in Barry Jones's book *The Penalty is Death*. The situation is that of these three States one was an abolitionist throughout; one executed the death penalty frequently; and the third exercised it only spasmodically. The graph shows that the

trend in homicide death rates during that period was about the same in each case. I seek leave to have the graph inserted in *Hansard* without my reading it.

The PRESIDENT: The honourable member must realise that printing capabilities may prevent the reproduction of the graph in *Hansard*.

Leave granted.

DETAILS



The Hon. C. J. SUMNER: While each State had different laws relating to the death penalty, the homicide rate in each State remained about the same.

The Hon. R. C. DeGaris: For what period?

The Hon. C. J. SUMNER: It was for a period of 35 years from 1920 to 1955. The homicide rate decreased about equally in each case. The other matter referred to by Mr. Barry Jones that counters the deterrent argument put by honourable members opposite, is the situation that existed in Victoria before 1949. At that stage there were nine capital offences in the Crimes Act, eight of which were abolished in 1949. The one offence of murder was continued as a capital offence. One would have thought that, if the death penalty was a deterrent for those other offences, their incidence would have increased following the removal of the death penalty. Of course that did not happen. There was no increase in the incidence of rape, or carnal knowledge of a girl under 10 years, or robbery with wounding, or burglary with wounding, all of which were capital offences before 1949, the penalty for which was abolished at that date. That did not produce any greater increase in those offences. Yet if it were a deterrent, one would have thought that the incidence of those crimes would have increased.

There are other examples from other States and especially in the United States, given in the book edited by Barry Jones, *The Penalty is Death*. I will not go into those, but they all indicate the same sort of trend, that there is no real deterrent effect in the death penalty. That, to my mind, dismisses the utilitarian argument, leaving aside the moral and philosophical point that I put earlier. It is true that when a person commits a murder it is rarely premeditated. Murder is generally

committed in an emotional situation, often in a family setting and is committed much in the heat of the moment. The death penalty will not act as a deterrent to a person who is in that sort of emotional state.

One of the most advanced thinkers on this matter was the Italian Cesare Beccaria, who lived in the eighteenth century. I know that honourable members find that surprising. He lived from 1738 to 1794, and he came to the conclusion (which I think is valid today, although one would not think so, from the arguments of honourable members opposite) that the greatest deterrent to crime was certainty of detection and conviction. Crime rates are said to be determined by factors other than the severity of the punishment; crime rates tend to be determined by factors such as the general stability of society, the social climate, the degree of urbanisation, economic conditions, and drinking habits. I am not sure that I would include the climate factor, but the general approach deserves support. Basic underlying social factors lead people to commit murder. The question of having the death penalty seems irrelevant to those situations, especially the emotional situations that often provide the background for many murders.

The Hon. Mr. Burdett's amendments deal with types of murder where I suppose he believes capital punishment will act as a deterrent to a potential murderer in certain situations. The first type of murder dealt with by his amendments is the type committed by a person who has previously been convicted of murder—an exceptionally rare situation. The second type of murder dealt with by the Hon. Mr. Burdett's amendments is the murder of a police officer or a prison officer while acting in the course of his duties. I suppose it is true that police officers have special responsibilities in apprehending offenders, but I do not see that one can maintain that capital punishment

would be an effective deterrent to people who might commit murder in these situations. On the basis of deterrence, there seems to be absolutely no ground for drawing a distinction between police officers and other citizens.

The third type of murder dealt with in the Hon. Mr. Burdett's amendments is the type of murder committed by gangsters. Of course, a gangster is hardly likely to be deterred by the death penalty, because he no doubt thinks that he will not get caught. In any event, the stakes are probably high. No doubt gangsterism exists in American States where the death penalty is retained, and that penalty does not seem to have had a uniquely deterrent effect there.

The fourth type of murder dealt with by the Hon. Mr. Burdett's amendments is that committed by terrorists. No doubt the tactics at present used by many groups in the world community horrify us; I refer especially to the use of innocent people as hostages by terrorists who are trying to achieve a certain aim. One must examine the causes of terrorism. Two of the most obvious examples at present are the Arab-Israel conflict and the Northern Ireland conflict. Rightly or wrongly, the Palestinian Liberation Organisation believes that the Palestinian people have been deprived of their lands. It is a question of war to these people. Whether the death penalty operates in this kind of situation does not make one jot of difference as to whether these people carry out terrorist acts. The underlying cause is that the Palestinian question has not been resolved satisfactorily. There are large numbers of Palestinian refugees. They are breeding grounds for discontent. They live in poverty, and they feel that they have been deprived of their land. So, there are underlying social factors that promote these problems.

Whatever we think about the argument, they feel it very deeply, and it will not make any difference to them whether or not the death penalty is on the Statute Book. The same situation applies with Northern Ireland. Whilst one condemns these actions, one must look, in terms of this debate, at whether the retention of the death penalty will have any force in trying to deter them. I am afraid that I am convinced that it will not. They have grievances and, for them, it is a matter of war.

The Hon. J. A. Carnie: That has nothing to do with this debate. It is an act of war, as you have said.

The Hon. C. J. SUMNER: The Hon. Mr. Burdett has included in his amendments the retention of the death penalty in the case of terrorism, and I am saying that some of the terrorism in the world today is caused by underlying social factors. It will not make one jot of difference to the Arabs whether or not the death penalty is retained on the Statute Book, as more fundamental factors are operating in this situation.

The Hon. A. M. Whyte: You would have a job to relate war to premeditated murder.

The Hon. N. K. Foster: He is talking about the terrorists, Arthur.

The Hon. A. M. Whyte: I thought he was talking about the Lebanese situation.

The Hon. C. J. SUMNER: No, I was talking of the general Arab-Israeli conflict, and about the terrorism of the Palestine Liberation Organisation and other groups committed to that cause. The death penalty will not make any difference to them. Finally, I ask honourable members opposite, quite genuinely, whether or not they would be prepared to carry out the act themselves. Are they prepared to leave this Chamber, and to go down to the Adelaide Gaol, having approved of an execution in Cabinet, and actually witness the execution and pull the rope?

The Hon. J. A. Carnie: That is not relevant. Many people couldn't kill a sheep for food.

The Hon. C. J. SUMNER: I am not sure. It is a good litmus test of their own conviction about this. I could not do it. On that basis, I do not believe that I should approve of something that I am not prepared to do. I put it as a personal thing for honourable members opposite to consider: would they do it themselves? It is like the conscription situation.

The Hon. J. A. Carnie: Would you cut a sheep's throat?

The Hon. C. J. SUMNER: Yes.

The Hon. J. A. Carnie: A lot of people couldn't.

The Hon. C. J. SUMNER: I do not find it particularly pleasant, but I have killed rabbits and fowls. No doubt, if it came to the point, I would have done it. It is the conscription question again. Governments pass laws to conscript people to fight wars. Again, the question comes back to the individual: is he prepared to go; would he be prepared to go; has he gone? That is a similar situation. I put it genuinely to honourable members opposite: would they be prepared to go down and carry out the death sentence? If they would not or could not do it, I do not think they can vote against this legislation. I support the Bill.

The Hon. J. A. CARNIE: I shall speak briefly to the Bill, for only two reasons. First, as I have said so often in this place and another place, I believe that, on social questions, every member has an obligation to stand up and say why he is voting the way he intends to vote. Secondly, it is just a few days over six years since I first spoke on this matter in the House of Assembly. At that stage, I supported the retention of capital punishment and voted against the Bill. It was interesting a week or two ago to read the speech that I made six years ago. Although I thought that it was a good speech, I could not convince myself on this occasion, because over that six years I have changed my mind. This is another reason why I thought I should now participate in this debate. I should like now to quote from the speech I made a little over six years ago to show the reasons I gave for supporting the retention of capital punishment. I said:

My sole reason for voting as I shall vote is that capital punishment should be retained as a deterrent.

It is interesting to note that a week or two ago the Hon. Mr. Blevins voted for a Bill and said that he would like to see it passed because, if it acted as a deterrent in only one case, it was worth having it on the Statute Book.

The Hon. F. T. Blevins: I wouldn't deliberately murder anyone in the vain hope that it would deter someone else from murder.

The Hon. J. A. CARNIE: I do not intend to enter into an argument on this matter.

The Hon. F. T. Blevins: Then you shouldn't bring up these things.

The Hon. J. A. CARNIE: I merely said that the Hon. Mr. Blevins and I used exactly the same argument: if an Act of Parliament acts as a deterrent in only one case, it is worth having it on the Statute Book. That is an argument that the Hon. Mr. Blevins used, and it is the argument that I used six years ago. I am no longer convinced that capital punishment acts as a deterrent. If I thought that it did, perhaps I would be voting for its retention.

The Hon. Mr. Sumner spoke for some time about the fact that capital punishment is used as a punishment: it involves the "eye for an eye and a tooth for a tooth" concept. At no time did I ever regard capital punishment

simply as a punishment or an act of revenge. That is a little different from the idea suggested by a lady a week or two ago on a talk-back programme which was dealing with the matter of a man in America (I think Gilmore is his name) who had been sentenced to death. The State in which he was sentenced to death gives a person who has been so sentenced the choice of death by firing squad or death by hanging. This man chose death by firing squad. The lady telephoned the radio station to say that capital punishment is meant to be a punishment and, as the man concerned chose to be executed by firing squad, he should not therefore get his own way but should be hanged. I hope that there are not many people in the community who think in that way.

The Hon. F. T. Blevins: No-one admits to it, you know.

The Hon. J. A. CARNIE: That may be so. In the six years since I last spoke on this matter in another place, I have thought often about it. I am sure that it is a matter about which most people think often. I have found my viewpoint changing. When one looks at the usual murder case that comes before our courts, one finds that most of such crimes are committed in a moment of rage, jealousy or drunkenness. I doubt whether the thought that the person involved might hang for the commission of his crime would ever enter that person's head. This would apply to most murders.

There are few calculated murders in our society, so I doubt seriously whether the retention of capital punishment would act as a deterrent. This would be borne out by someone who I think could be regarded as an authority: a man who has acted as Britain's hangman for 25 years. I refer to Mr. Albert Pierrepoint, who in 1974 published his autobiography "Executioner Pierrepoint", part of which is as follows:

The fruit of my experience has this bitter aftertaste: that I do not now believe that any one of the hundreds of executions I carried out has in any way acted as a deterrent against future murder.

A former executioner from an American State said much the same sort of thing as did Albert Pierrepoint. I regret that I cannot find the reference to what he said, but I remember reading about him 12 to 14 months ago. It could be said that these two men know no more about this aspect of capital punishment than does anyone else in the community. Perhaps it could be argued that they know less than psychologists or psychiatrists; nevertheless, their opinion must be heeded. I also said in 1970 that I hoped that I would never witness an execution in my time but, at that time, I believed that capital punishment should be kept on the Statute Book, for the reasons I then stated.

I have now altered my views and ask, "Why should we keep a law on the Statute Book if it is not being used?" It is interesting to consider the States in Australia where capital punishment has been abolished. Queensland abolished the death penalty in 1922, New South Wales abolished it in 1955, and Victoria abolished it either this year or late last year. Regarding executions in the Australian States, no-one was executed in New South Wales for 16 years before the abolition of capital punishment; Victoria executed the rather notorious escapee Ryan in 1961, and has not executed anyone since; Tasmania has hanged no-one for 31 years; and only two executions have occurred in the Commonwealth or the Territories since Federation. In South Australia no executions have occurred since 1964. We must therefore

ask ourselves whether any purpose is served by keeping capital punishment on the Statute Book. I have come down on the side of saying my answer is "No".

This has been an emotional subject for many years. The Hon. Mr. Sumner referred to a statement made by someone in the seventeenth century, so this issue has arisen periodically for a long time. We can always find experts who are willing to argue on both sides of the issue; they can be extremely convincing, too. People who believe in the abolition of capital punishment are growing in number. In 1970, I said that, if the retention of capital punishment acted as a deterrent in one case, it should be retained, but I have now swung almost full circle to the point where I believe that if an error could occur the penalty should not be retained. We all know that, unfortunately, errors have occurred in this regard.

I said that I have swung almost full circle, but I do believe that three specific areas could be argued for the retention of capital punishment, where hopefully it could act as a deterrent. The first area relates to policemen and warders who carry out their duty; they are paid by the community and are expected by that community to take risks that ordinary citizens are not expected to take. For that reason, it could be said that they are entitled to greater protection than is the ordinary citizen. The second area is killing for hire for monetary gain. That practice is not common in this country but, unfortunately, it is beginning to come. It could be that the retention of capital punishment would act as a deterrent to hired killers. The other area is the one that the Hon. Mr. Sumner has mentioned, namely, terrorism and hijacking. I agree with his statement that those people, whether they are warped or otherwise, are patriots, and whether retention of capital punishment would prevent their carrying out acts of terrorism is debatable. We know that the number of cases of terrorism throughout the world is increasing, particularly in relation to aircraft. I do not think such incidents have happened in Australia (certainly not in South Australia), but we cannot assume that they will not occur. The matters that I have mentioned are covered in the Hon. Mr. Burdett's amendments. I support the second reading, and I will support those amendments.

The Hon. N. K. FOSTER: I support the Bill, because I have a firm conviction that neither the State nor any person has the right to take a life. I am also supporting the Bill having regard to the debate in the Commonwealth Parliament. There was a free debate in the House of Representatives on a particular matter and, although on that occasion the matter was not conclusive, later it was conclusive so far as the Senate was concerned. I have not checked Commonwealth *Hansard*, but I think that, when the matter was referred back to the House of Representatives, it was defeated.

I will deal now with the farce that the taking of a life by a State has been a deterrent to crime in any field, whether in relation to the gross crime of murder or rape (for which the death penalty applies in some countries), or for less serious crimes. It is not a deterrent. I will recall some cases, and I hope to be able to do so without mentioning names, because doubtless some people still living would not find my speech pleasant reading. In 1958, a person was hanged in the Adelaide Gaol. A few months later, in 1959, in the Far North of this State or in the Northern Territory, a woman, her daughter, and a friend were killed. The person concerned played a wily game with the police, who took the trouble to fly him back to the area of the crime to try to find the

murder weapon. (He had concocted a story that the shell that was found exonerated him from blame.)

The hanging of the person in 1958 did not mean that similar murders did not occur. In fact, one could come down heavily on the side of saying that the number of murders tended to increase at an alarming rate. There was a whole series of murders in the two or three years after that time, involving people such as those who were travelling and who stopped at a wayside spot in a caravan. What I have said has exploded the myth about the deterrent, and contradicts all those who have supported retention of capital punishment in debates in the Commonwealth Parliament in 1971 and who saw fit to quote what Lord Denning said, that society demanded that the survival of society could be met only by capital punishment being carried out against the guilty persons. War is not a deterrent to war, and punishment for theft is not a deterrent to theft.

The Hon. R. C. DeGaris: Then why have it?

The Hon. N. K. FOSTER: That is a good question. Why have war?

The Hon. R. C. DeGaris: Why have punishment for theft, if it is not a deterrent?

The Hon. N. K. FOSTER: I am putting that it is not a deterrent: I am not putting that there ought not to be some sort of punishment. Because I have said that war is not a deterrent to war, and that theft is not a deterrent to theft, the honourable member should not, by interjection, pull me to pieces on the basis of saying, "Why have a punishment for theft?" There is no comparison between the penalties applied in this State for that crime and the penalties applied to the crime under debate.

The Hon. R. C. DeGaris: If it is no deterrent for theft, why have a punishment?

The Hon. N. K. FOSTER: I say there should be a punishment, but the supreme punishment for murder is death. I am talking about the abolition of capital punishment, and capital punishment means death to an individual, does it not?

The Hon. R. C. DeGaris: Yes.

The Hon. N. K. FOSTER: If I wanted to answer the Leader in terms of another debate in regard to what should be a deterrent for murder, I would say that I hold strong views that there are some victims of mass murder that may be inflicted and some of the media should show more responsibility regarding the films that are shown. If there was censorship there might be less violence in the community. However, let me not get sidetracked there. Some members say that the victims and the relatives of the victims have feelings in these matters. The stupid murder in this State of a shop proprietor at the corner of Angas Street left a widow who received compensation; in fact, she was the first person in this State to receive it in such circumstances. As a result of the loss of her husband at the hands of three young teenagers, who received varying sentences of imprisonment for that crime, they will remain in prison. She has said publicly that she bears no ill-will against those unfortunate three teenagers, who she hoped would in due course be able to obliterate from their minds their crime and lead normal lives again. I have mentioned that because I thought it was the kind of argument that the Hon. Mr. DeGaris would put up. I agree with the Hon. Mr. Sumner that, if we are not prepared to pull the lever, we should not be prepared to support or retain capital punishment.

The Hon. C. J. Sumner: The Hon. Mr. DeGaris was not here then. Perhaps you could ask him whether or not he would do it.

The Hon. N. K. FOSTER: I do not want to do that, because there is no evidence whether someone like the Leader would do that. However, he can deal with it in debate—if he wants to. The death penalty is not a deterrent, and it is wrong to take another person's life. The first time I ever got involved in a demonstration against hanging was when I returned from the Middle East in 1942. A fellow was provoked by unscrupulous people in the community, and he committed a crime against one of his mates. Those people took his money, his home, and even sold his war medals for a few pence, and they drove him to crime. He should not have hanged. I never forgot that; there was a great public outcry, even in the war years, against that. No doubt, the Hon. Mr. Hill can recall that case. However, what happened during the war years is different from now, but I have witnessed people in Aleppo being hanged. Honourable members opposite would not be standing here, if they were normal people, defending the retention of capital punishment or death inflicted on a person who has offended against society by involving himself in this way.

I will now deal with the amendments of the Hon. Mr. Burdett, who spoke of it as a crime of violence. If we are going to talk about international raids and what the Hon. Mr. Whyte interposed in regard to what happened to motor torpedo boats as a result of that, we have had a previous occasion when a similar type of raid has been made by the opponents. The Munich affair had its parallel in what followed about two or three years later in Africa, and I do not think that we can guard against that type of happening. The honourable member said that a person who carries a firearm should be hanged if he kills a policeman who is carrying out his duties. That seems to be wrong, because a policeman that is trained for four years in an academy in South Australia and is initiated into the handling of weapons at an early stage of his training. He knows the risk in which he is involved, and he is given a licence to kill. Perhaps one could argue that he should be given a licence to kill. However, he knows the risks he takes in the pursuit of earning his living. Members of certain police forces in the United Kingdom still carry no guns. I recall the controversy over the arming of the London Police Force and the argument that was put that its members ought not to carry firearms because the criminal element would do likewise, with resultant loss of life.

I recall the Rundle Street incident, too. The person who was shot was standing on one leg at the time, attempting to clamber over a barricade, with no firearms in his hands. It took him 32 seconds to do this, completely unarmed. The police waited for him to pick up the arms, then the order was given, "Lay down your arms." He had two shotguns, although his hands were not actually on the firing mechanism, and the police opened fire and shot him. He was a menace to the public, and I accept that. I viewed the incident several times on television that evening, timing it and retiming it. The verdict was that the police action was justified and, although I did not notice how many people were close to the scene, I do not quarrel with what was done.

The Hon. C. M. Hill: The subsequent inquiry cleared the Police Force.

The Hon. N. K. FOSTER: Yes. I make the point that they are the only people in the community who have a licence to kill in certain circumstances, and it is necessary

from their point of view to take this action from time to time. I do not think that any honourable member could deny that capital punishment has been abolished everywhere in the Commonwealth, except in Western Australia and in South Australia. Further, I do not think that any honourable member would say that the Australian Council of Trade Unions, the Federal Government, the Queensland, New South Wales and Victorian Governments are wrong. Society in those places is no worse off as regards continuing crime. No reasonable man would agree that the abolition of capital punishment in South Australia would give rise to a serious increase in capital offences against society. I commend the Bill to honourable members, appreciating the fact that the vote on it will be a free vote at least by Government members.

The Hon. C. J. Sumner: It's in all our policy speeches.

The Hon. N. K. FOSTER: Yes. The abolition of capital punishment was one of the aims of one of the best Attorneys-General South Australia, indeed the Commonwealth, has seen. I refer to Mr. Justice King, as he now is, who served as Attorney-General for two terms. One of his disappointments was that he was unable to convince Parliament that the right course to adopt in this State was to vote in favour of the abolition of this penalty in South Australia. I commend the Bill to those members who have not yet determined their attitude to this matter.

The Hon. A. M. WHYTE: I do not wish to discuss this Bill at length, but I do wish to make clear my stand on it. I do not wish to take anyone's life by hanging or by any other means. Yet I do not wish to protect a person who wilfully murders an innocent victim, especially for nothing more than personal gain. A person, who in self-defence or who is otherwise provoked, has a valid case for looking after his own affairs.

It is unfortunate that there are people in society who do commit premeditated crimes and atrocities. I have in mind the case of two young men who tortured a mother of a small family for several days in Queensland and then murdered her. I have no sympathy for such people; they are not an asset to society, and I doubt whether they themselves wish to live after committing such a crime.

There is much literature to examine on this matter, but I do not believe it is possible to form an opinion from the graphs and evidence advanced both in favour and against the retention of the death penalty. Learned people throughout the world have argued this matter just as forcibly one way as another. I believe that the results of graphs and polls all add up to the same thing. As an earlier speaker stated, there is no way that one can gauge whether or not the death penalty is a deterrent.

However, let it not be argued at all that it is an inducement to commit murder. In no way can it be said that the death penalty encourages murder, and whether that penalty is a deterrent is a moot point. I do not believe we are arguing about that aspect, although one could get emotional and develop all sorts of arguments about it. The debate tonight is whether this provision stays in or is removed from our Statute Book. It is nothing more than that. We are not debating whether we are to hang persons, whether hanging is a brutality or whether it is a deterrent. None of those considerations can be proven. What we are debating is whether this provision will stay on our Statute Book, and I come down in favour of its remaining.

The Hon. R. C. DeGARIS (Leader of the Opposition): What the Hon. Mr. Whyte has said is correct, but I go a shade further than the point made by the honourable

member. I do not think we need to speak at any great length on this matter. The points have been adequately canvassed on both sides. The arguments for and against capital punishment have been put to the Council on many occasions. In my opinion, the argument comes down to two questions, the one just referred to by the Hon. Arthur Whyte which I will not state again, and the question whether capital punishment is a deterrent. The latter question must be answered by every honourable member in this Chamber. Those who have examined the available evidence and have determined in their minds that the retention of capital punishment is a deterrent will not vote for its abolition. Those who have examined the available information closely and have determined that the retention of capital punishment is not a deterrent will obviously vote for its abolition. This is the point upon which the Bill finally turns.

There have been many people over the years who have published views on the question of whether or not capital punishment acts as a deterrent to homicide, but on the examination of statistics in Australia I am convinced that the retention of capital punishment does act as a deterrent to homicide. I go a shade further than the valid point made by the Hon. Arthur Whyte. Taking that view, it is my belief that those who support the abolition of capital punishment will not be saving lives, but ensuring that more people will be the unfortunate victims of homicide or attempted homicide. I put the emphasis somewhat differently. Whilst those who favour abolition challenge me and say, "How about the odd cases that may happen where the innocent are hanged," I find that those who favour abolition must wear on their conscience the stark fact that there will be an increase in the number of murders committed: there will be an increase in armed robbery and crimes of that nature with the abolition of the death penalty.

I take that view, and I believe it is supported by available statistics in Australia. In my research into homicide statistics in Australia, I am convinced of the deterrent argument. In dealing with homicide statistics, one must be careful that they are taken over a relatively long period, because of the likelihood of fluctuations in any relatively short period. For example, a spate of homicides can occur and has, in fact, occurred; over a relatively short period, one can get all sorts of fluctuation. However, taking a five-year period, I believe that these fluctuations are ironed out and the general trend is shown more clearly. The period I have taken as a comparative base is five years. I think honourable members will agree that that is a reasonable period in which normal fluctuations can be ironed out.

The Hon. C. J. Sumner: I do not think that is long enough.

The Hon. R. C. DeGARIS: It does not matter. I am also quite prepared to quote a 10-year period if the honourable member so desires. However, I can assure him that the 10-year period does not make any overall difference to the statistics I wish to present. The Hon. Jessie Cooper took a similar statistical base in presenting her figures when the Bill was before us in 1971. She took the five-year period 1964-69 and correctly came up with the following figures, which I have checked. For each million of population in that period in the various States, there were the following homicides: Western Australia, 69; South Australia, 77; Tasmania 83; Victoria, 114; New South Wales, 144; and Queensland, 150. New South Wales abolished the death penalty in 1955, and Queensland abolished it in 1922. Those figures on their

own, without any examination of any other period, demand the attention of honourable members. In the period 1964 to 1969, there were 123 homicides for each million of population in Australia. The only two States where the incidence was higher than the average were New South Wales and Queensland. Let us examine another five-year period. In the period 1958 to 1962 inclusive, the number of homicides for each million of population was as follows: Queensland, 200; New South Wales, 125; Victoria, 43; South Australia, 60; and Western Australia, 105. Although the pattern in those figures varies from the pattern for the period from 1964 to 1969, we still find that New South Wales and Queensland head the field, and both States had abolished capital punishment.

The Hon. C. J. Sumner: Which State was third?

The Hon. R. C. DeGARIS: Western Australia. Let us not forget that at that time four States had retained capital punishment—Western Australia, South Australia, Victoria, and Tasmania. In each of the five-year periods, the two States above the Australian average for homicides for each million of population were New South Wales and Queensland.

The Hon. Anne Levy: Why the big difference between them?

The Hon. R. C. DeGARIS: One could combine the two figures over a 10-year period, and one would still come down with the same conclusion: New South Wales and Queensland have the highest incidence of homicides in Australia—above the national average. This cannot be discounted. The argument advanced by some honourable members (that there is no evidence) does not stand up to critical examination.

The Hon. C. J. Sumner: What about Western Australia's being third?

The Hon. R. C. DeGARIS: The Queensland figures are about double the Western Australian figures. Further, the Western Australian figure for 1964-69 is about half of the New South Wales figure. Whilst there will be variations, the overall figures are convincing evidence that the retention of capital punishment is a deterrent. Some honourable members should consider whether they want to have on their conscience the responsibility for an increase in the homicide rate.

The Hon. C. J. SUMNER: Will the Leader give way?

The Hon. R. C. DeGARIS: Yes.

The Hon. C. J. SUMNER: Has the Leader any figures on the situation in Queensland and New South Wales prior to the abolition of the death penalty?

The Hon. R. C. DeGARIS: If the Hon. Mr. Sumner will be patient, I assure him I will come to that point. I know he is concerned with the facts I am giving the Council. A number of publications are available dealing with statistics on homicides in Australia. The honourable member evidently read Barry Jones hurriedly, because he could not find the page to incorporate in *Hansard*, but if one examines the figures of Barry Jones on homicides in Australia, one sees quite clearly from the statistics presented that what I am saying is factual.

Going back in history in South Australia and Queensland, back before the year 1900, I point out that the homicide rate at that stage was almost equal in Queensland and South Australia. The homicide rate is declining over the whole of Australia; there are fewer homicides for each million of population now than there were in 1900 or in 1930. The homicide rate is declining.

The Hon. C. J. Sumner: As capital punishment is abolished.

The Hon. R. C. DeGARIS: The honourable member should wait until I come to the point. With this declining rate of homicide, the decline has occurred irrespective of whether the death penalty has been abolished or retained.

The Hon. C. J. Sumner: That is our point.

The Hon. R. C. DeGARIS: The point is that, if one draws the graph of all States in regard to homicide rates for five-year periods, the graph comes down in a declining line in all States that have retained capital punishment. Where a State has abolished capital punishment, the graph comes down in a general line, but rises steeply where capital punishment has been abolished, and then continues in a parallel line in regard to the decline in homicides. From 1903 to 1908, the homicide rate in Queensland for each million of population was 180; from 1908 to 1912, 140; from 1913 to 1917, 130; from 1918 to 1922, 130; and in 1923, 16, which, over the five-year period, is about 100, but somewhere about the norm of 130. In the five-year period on abolition it rose to 170, and that is the picture one could see on the graph if one went to the library and examined the statistics in the *Commonwealth Year Book* and the *State Year Book*, plus the figures in a five-year period on the graph. One can see on the abolition of the death penalty a rise taking place in the number of homicides committed.

If one examines the statistics closely and with an open mind, as I did, one can only come to the conclusion that in Australia the retention of capital punishment does act as a deterrent. Indeed, if one wants to think in pure mathematics, if we abolish the death penalty in South Australia, with no strings attached, one can be assured on the statistics that there will be in a five-year period at least 50 more homicides than there would have been had the death penalty been retained. That is clear if one examines the history of New South Wales and Victoria. The rate of homicide has been declining in all States since 1900, but there is a hump on the graph in the five-year period in which both Queensland and New South Wales abolished the death penalty. It is not possible to see the effect in Victoria and Tasmania, because there has not been a five-year period in which to compare the statistics.

I should like to draw the attention of the Council to another question. Although it is difficult in this argument to obtain accurate statistics, it does appear that on the abolition of capital punishment the homicide rate amongst certain groups in the community escalates considerably, and escalates in crimes of violence. This area of research has been sadly neglected by those who present statistical data on the matter of capital punishment. For example, since the abolition of capital punishment in Great Britain, armed robbery has been the fastest-growing crime. This involves not only an increase in homicides but also a rise in the incidence of crimes of extreme violence.

The Hon. C. J. Sumner: But did the death penalty apply to armed robbery?

The Hon. R. C. DeGARIS: I do not think that influences the matter. If one reads the Police Federation reports from Great Britain, one sees that if there is no capital punishment those involved in crimes of violence tend to arm themselves and take the risk, particularly in relation to people in certain jobs in the community. This is evidenced by the fact that, since the abolition of capital punishment in Great Britain, armed robbery has been the fastest-growing crime. The Police Federation in Great Britain makes the claim that a criminal has nothing to lose by being armed. So, let us not confine this to the question of homicide.



A report published by the Police Federation in Great Britain some time ago (and I quoted from it in the debate on this matter in 1971) stated that, since the abolition of capital punishment, the murder rate of policemen in Great Britain had more than doubled. If capital punishment is removed from the Statute Book, we will be certain to see an increase in the homicide rate, particularly in that group of people who have special responsibilities in the community. I therefore oppose the Bill.

The Hon. C. J. Sumner: Would you carry out the penalty?

The Hon. R. C. DeGARIS: That is not a fair question. However, I have no hesitation in saying that, if society has a rule that there is a death penalty, there is capital punishment, and (as the Hon. Mr. Burdett said) if the courts and juries have found a person guilty of murder, and appeals have been exhausted, with the Executive Council acting as a further means of protection, I would have no hesitation whatsoever in carrying out the penalty if it was my job to be the hangman. I make that quite clear.

The Hon. N. K. Foster: You're as bad as your mate, Senator Wood.

The Hon. R. C. DeGARIS: That may be so. If this society wants a deterrent (and capital punishment is a deterrent), I have no hesitation in accepting that position. If the second reading is carried, I will support the amendments that have been placed on file by the Hon. Mr. Burdett. If one reads the Minister's second reading explanation, one sees that the Government will find it difficult not to accept the amendment that the Hon. Mr. Burdett will move. I have read the second reading explanation carefully, and it tries to come down as a two-shillings-each-way proposition, stating that there are arguments on both sides. It then comes down strongly on the side of the arguments favouring the abolition of the death penalty.

If there is one issue on which the people of this State should have their say, it is that of the retention of capital punishment. There would be no great difficulty in this matter's going to the people of South Australia. It would be a simple matter to put it to a referendum at the next election. I will also support an amendment to be moved by the Hon. Mr. Burdett providing for a referendum.

The Hon. C. J. Sumner: It was in the Government's policy speech.

The Hon. R. C. DeGARIS: I stand firmly by my belief that we do not use often enough the process of referring matters to the people. We go to the people every three years and, if we can determine what the people of South Australia think on an issue of this nature, we should refer it to the people for their opinion. It is not wrong to advocate that viewpoint. The whole question seems to be one that should be referred to the people for their endorsement before the death penalty is expunged from our Statutes. On matters such as this I do not see why the procedures of the referendum should not be used.

I will also support the Hon. Mr. Burdett's other amendments because I believe, as I have shown, that reasonable grounds exist on which to assume that statistical evidence is available from the Parliamentary Library suggesting that capital punishment is a deterrent. Although it may seem rather easy for people in the Opposition to say, "Yes, but you could kill an innocent person by the retention of capital punishment," I would refer to the statistics and say that every person who believes in abolition must wear on

his conscience, in my opinion, the certainty that, on the statistics, the homicide rate will increase to the tune of 50 deaths for each 1 000 000 population in a five-year period if capital punishment is abolished.

Bill read a second time.

In Committee.

Clause 1 passed.

New clause 1a—"Commencement of this Act."

The Hon. J. C. BURDETT: Honourable members will have noted that I have on file an amendment that this Bill should not be proclaimed until it has been submitted to a referendum and has received a favourable vote. I would suggest that, before honourable members vote on the question whether or not the Bill should be submitted to referendum, they should know on which Bill they are voting that will send the issue to a referendum.

The PRESIDENT: Are you suggesting that we postpone new clause 1a until the appropriate time?

The Hon. J. C. BURDETT: Yes.

Consideration of new clause deferred.

Clauses 2 and 3 passed.

Clause 4—"Abolition of capital punishment."

The Hon. J. C. BURDETT: I move:

Page 2, lines 19 to 26—Leave out subsections (1) and (2) and insert subsections as follows:

"(1) Notwithstanding any provision of any Act or law, but subject to subsection (2) of this section, no sentence of death shall be—

(a) imposed upon, or recorded against, any person; or

(b) carried into execution upon any person, and where, but for this subsection, a person would be liable to sentence of death under any Act or law, the Court before which that person is convicted shall, in lieu of sentencing him to death, sentence him to be imprisoned for life.

(2) Sentence of death shall be passed upon a person convicted of murder, and the sentence unless commuted shall be carried into effect in any of the following cases:

(a) where the convicted person has previously been convicted of murder;

(b) where the victim of the murder—

(i) was a member of the police force, or a prison officer;

and

(ii) was murdered while acting in the course of his duties as such;

(c) where the murder was committed in pursuance of an agreement or arrangement under which the convicted person received, or was to receive, valuable consideration for committing the murder;

(d) where the murder was committed in pursuance of a scheme or design—

(i) to terrorise the people of any country or state, or of any national, ethnic or religious group;

or

(ii) to extort any benefit from the government of any country or state, or from any national, ethnic or religious group;

(e) where—

(i) the victim of the murder was a child under the age of twelve years;

and

(ii) the murder was committed in the course of the commission of an offence of a sexual nature upon the victim."

As I said in the second reading debate (and it has been referred to by other members, too), the purpose of this amendment is to retain capital punishment on the Statute Book for five specified categories of murder. Several members on this side and I have referred to the desirability

of submitting this matter to the other place. An alternative to abolishing capital punishment is to retain it for particularly serious cases or where there is likely to be a deterrent effect.

The Hon. C. J. Sumner: Why do you think it is likely to be a deterrent in these cases?

The Hon. J. C. BURDETT: In the case of the murder of a policeman, I believe it has a deterrent effect, because a person would be unlikely to murder a policeman without having thought about the matter beforehand.

The Hon. Anne Levy: Professor Sellin's figures do not support that.

The Hon. J. C. BURDETT: The Hon. Mr. DeGaris has given figures about the number of murders in the United Kingdom, whereas the professor's figures were about the United States. I believe that there is a strong case for putting such an important social matter to a referendum. The people are entitled to have all possibilities argued and, if these amendments are not debated here and sent to the other place, we will have only the black and the white, namely, the possibility of abolishing it altogether and the possibility of retaining it. Another possibility is to retain it in some cases, and this also should be debated by Parliament.

The Hon. F. T. BLEVINS: I oppose the amendments. The issue is black and white: either we abolish capital punishment or we do not. It is wrong to retain capital punishment on the Statute Book. The following is an extract from the transcript of a news report on *A.M.* on December 2:

The Americans are possibly about to see the ultimate in television spectacular if the networks get their way. The programme, to be seen in millions of American homes from Boston to San Diego, could be called *Execution of the Week*: Terry Hughes has the details:

Robert White and Gary Gilmore both face the death penalty, White in Texas, Gilmore in Utah. Mr. Gilmore's date of death will be decided later today, Mr. White's time to be announced at a later date. Robert White wants his execution to be shown on television, he hopes as a deterrent to other would-be murderers. The networks would like to run it, not as a deterrent but to sell a few more commercials. In Dallas the sentencing of Mr. White has been broadcast on television; the news director there says he will try to get the rights to the execution. Gary Gilmore's lawyer is selling his client's death to the highest bidder. Film rights have been sold for over \$100 000, there are book rights up for grabs and the American Broadcasting Company is bargaining for the rights to turn the execution into a movie of the week. Mr. Gilmore's lawyer is quoted as saying: "Even though I want him to stay alive I stand to make a lot of money from his execution." Gary Gilmore wants to die and he has hired his lawyer to make sure it happens, so there is no conflict of interest. Gilmore will die, the lawyer will have satisfied his client and will make a million, to boot. Prison officials are faced with pressures from television stations here and overseas. Thousands of applications have been lodged. One news director said in his application: "We are not in the business of not covering the news." One news department has hired a helicopter and a dirigible in case the prison officials turn them down. "Execution of the Week"—don't laugh, it could happen.

That is happening all over the world now. Every time we turn on the radio or read the paper we get another instalment of this horrible and revolting practice. We have an opportunity here completely to dissociate ourselves from that by abolishing the death penalty. It seems strange in those cases to talk about the death penalty as some sort of a deterrent. The Hon. Mr. DeGaris has said it has proved to be a deterrent. Gilmore and White have said

clearly that they prefer to die rather than face a long time in gaol, so it is reasonable to assume from their actions that, having done that thing, what they most feared was a long stay in gaol.

The Hon. R. C. DeGaris: You want a crueller vengeance?

The Hon. F. T. BLEVINS: I am a little bit of an amateur on this.

The Hon. N. K. Foster: The Leader has vengeance on his mind.

The Hon. F. T. BLEVINS: These two gentlemen have gone through it all—they have committed murder. Certainly, the death penalty was not a deterrent.

The Hon. R. C. DeGaris: But they both said they favoured the retention of capital punishment because it was a deterrent.

The Hon. F. T. BLEVINS: It did not concern them, did it? I can only read you the news report.

The Hon. R. C. DeGaris: You did not read all they said; they advocated the death penalty.

The Hon. F. T. BLEVINS: I read all that I had from the American Broadcasting Company; that is a transcript of the report. This is a horrible and revolting practice and, however much we wish to dissociate ourselves from it, we cannot unless we abolish the death penalty entirely, because the world's population is getting some kind of a thrill out of this. I can remember it in the mid-1960's here, with demonstrations outside the gaol and news bulletins about what was going on. It is for South Australia to do the only really decent thing and stop this kind of murder. Apparently, the Hon. Mr. Burdett was also speaking to his clause relating to a referendum.

The Hon. J. C. Burdett: No, that is deferred.

The Hon. F. T. BLEVINS: But you did speak to it?

The Hon. J. C. Burdett: Sufficiently to have it deferred.

The Hon. M. B. CAMERON: I indicated earlier that I would support these amendments. I believe that a matter such as the one we are discussing should be subject to the greatest possible debate in the Parliament as a whole, and that any matters individual honourable members want to bring forward should be considered by members in another place also. My support does not necessarily indicate my support for the third reading of the Bill.

The Hon. C. J. SUMNER: The amendments seem to me to have placed the Hon. Mr. Burdett in a completely illogical contortion. He says that, in the general category of murders, the death penalty should not apply.

The Hon. J. C. Burdett: I didn't actually say that.

The Hon. C. J. SUMNER: The honourable member's amendment is designed to abolish the death penalty for murder, except special kinds of murder. Even though he seems to be maintaining that a deterrent exists for all murders, he does something of a backflip and decides that the death penalty can nevertheless be abolished. He justifies the exceptions on the basis that, to retain the death penalty, this has a specially deterrent effect. That is patent nonsense, when we consider the categories that are included. There may be an argument, in the case of a murder of a prison officer by a lifer to say that the potential murderer has nothing more to lose and that death is the only deterrent. I do not accept that argument, but I suppose that it is the only conceivable one that would give some credence to the specially deterrent effect of retaining the penalty in these cases. The others seem to have absolutely no relationship, such as the first case of a person who had committed a previous murder. How would the inclusion

of that have a specially deterrent effect on that person, or on the gangster who had planned his crime and hoped to get away—

The Hon. J. C. Burdett: Because he had planned it.

The Hon. C. J. SUMNER: —or on the terrorist, or against the child under the age of 12 years, or a person involved in a sexual offence? That is nonsense. It seems to me that nothing would indicate a specially deterrent effect in retaining these categories of murder to which the death penalty ought to apply. The Hon. Mr. Burdett has merely picked them out of a hat as being the worst kinds of murder. To say that the death penalty is a special deterrent for them is, I believe, completely confounded by the facts.

The Hon. A. M. WHYTE: I am so confused that I do not know whether I should support the amendment. I think that the Hon. Mr. Sumner put up such a valid case for voting against the whole measure that I am wondering whether I should vote for the amendment or completely against the Bill. It is difficult to assess whether the death penalty is a deterrent or not. No manner of argument can fully substantiate the case. Although the death penalty may not be a deterrent, certainly it is not an encouragement. The Hon. Mr. Foster must have confused me with another speaker when he referred to what I said about Entebbe. I have not spoken about that episode. Also, not all Labor Party members support the abolition of the death penalty.

The Hon. D. H. L. Banfield: All Liberal Party members do not support retention, either.

The Hon. A. M. WHYTE: True, and that is why I am in favour of the suggested referendum. It was suggested in the press several days ago that Dr. R. Gun, who is a strong supporter of the Labor Party, was going to hang an effigy of President Suharto in Rundle Mall. Does that indicate that gentleman's views on hanging? I could refer to the present sadistic position in America in regard to the Gilmore case, but I do not believe that is relevant to this debate. It would be logical to refer this matter to a referendum of the people of this State with whom I believe the decision rightly belongs. I am not sure that the Hon. Mr. Burdett's amendments go far enough, and I am inclined to agree with the Hon. Mr. Sumner. Perhaps the decision should rest with the courts.

The Hon. D. H. L. BANFIELD (Minister of Health): The Government and I believe that there are no circumstances in which the State is justified in taking the life of one of its citizens. This matter has been around for a long time, and no-one has yet convinced me that, if the State takes a life, it is not murder. It is murder however that is committed, whether it be committed by an individual or the State, and we do not recognise it.

The Hon. J. C. BURDETT: Regarding the comments of the Hon. Mr. Blevins, I do not see what American sensationalism has to do with the consideration of whether the death penalty should be retained. I point out to the Hon. Mr. Sumner and the Hon. Mr. Whyte that the process of amendment is well known. If a member considers that the Bill in question with which he disagrees is likely to be passed, it is reasonable for him to get the Bill into the best possible form. That is a proper, logical, and perfectly honest process. I indicate to the Hon. Mr. Whyte that one of my motives in moving the amendment was to ensure that the representatives of the people in Parliament could both debate and vote on all of the options open. No matter what honourable members say, there are more than two options open. It is not just a matter for the Bill or against the Bill. There is the

possibility of retaining the death penalty for murder in certain cases. I believe that the House of Assembly should have the opportunity of debating and voting on this issue also, or of amending it.

The Committee divided on the amendment:

Ayes (9)—The Hons. J. C. Burdett (teller), M. B. Cameron, J. A. Carnie, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, C. M. Hill, D. H. Laidlaw, and A. M. Whyte.

Noes (9)—The Hons. D. H. L. Banfield (teller), F. T. Blevins, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, Anne Levy, and C. J. Sumner.

Pair—Aye—The Hon. R. A. Geddes. No—The Hon. T. M. Casey.

The CHAIRMAN: There are 9 Ayes and 9 Noes. I do not personally support this amendment, for a number of reasons, but it is an important social issue and I believe it is my duty to give my casting vote to the Ayes to enable the amendment to be considered by the House of Assembly. I so give my casting vote.

Amendment thus carried; clause as amended passed.

Remaining clauses (5 to 26) passed.

New clause 1a—"Commencement of this Act"—reconsidered.

The Hon. J. C. BURDETT: I move:

Page 1—After line 17 insert new clause as follows:

1a. (1) Subject to subsection (2) of this section, this Act shall come into operation on a day to be fixed by proclamation.

(2) This Act shall not come into operation until a referendum has been held at which all persons enrolled as electors for the House of Assembly are entitled to vote and a majority of the persons voting at the referendum has voted in favour of the proposition that capital punishment should be abolished.

Both I and several other members have spoken on the question of a referendum in the Committee stage and at the second reading stage. I made it clear when I first raised the question that, generally speaking, certainly one can expect the Government to govern and one can expect members of Parliament who have been elected by the people to vote having regard to the wishes of their constituents, but I believe that there are some issues where it is proper to go to the people. If there ever was one, I believe that it is this one. The present Government, of course, accepts that there are times when a referendum is proper: it proposed a referendum in regard to casinos. There are some social issues and moral issues on which it is proper that the people should directly have their say. I do not think it is sufficient to say that it has been known that the abolition of the death penalty has been in the Labor Party's policy for some time, particularly at the last State election. People voted for members for a whole variety of reasons. There is no guarantee whatever that, because a slight minority of the people voted for the Labor Party at the last election, a majority would support the abolition of capital punishment. Last year in England the polls showed that up to 80 per cent of the people favoured reintroducing capital punishment.

The Hon. R. A. Geddes: In certain circumstances.

The Hon. J. C. BURDETT: Yes. I believe that, if there was a referendum in South Australia, a majority would favour retaining capital punishment on the Statute Book. For those reasons, I urge honourable members to support my amendment.

The Hon. F. T. BLEVINS: I oppose the amendment. What the Hon. Mr. Burdett has said is correct: we are here to govern the State.

The Hon. R. C. DeGaris: With a minority of votes.

The CHAIRMAN: Order! Let us not get into that.

The Hon. F. T. BLEVINS: Mr. Chairman, you are looking at me when you say that. I wish you would direct your remark to the Hon. Mr. DeGaris.

The CHAIRMAN: The Leader's remark was not very timely.

The Hon. F. T. BLEVINS: We are elected to govern, and that is what we should be doing. The amendment is a device to get around what has been clearly signified: a majority of honourable members will vote for the abolition of capital punishment. The Australian people, for some reason best known to themselves, almost always vote "No" at referendums, and I suspect that that could happen in this case. The following extract from a United Nations report on capital punishment was published in Keesing's *Contemporary Archives*, page 25838, for the period April 16-22, 1973:

The death penalty would still appear therefore to be regarded by a considerable number of Governments as an efficient or at least an acceptable way of getting rid of certain types of problems—whatever the experts may have to say about the lack of deterrent effect of this penalty. Moreover, it seems clear that in most cases Governments satisfy public opinion by using this sentence. Whether this popular backing for the death penalty be regarded as desirable, regressive, or a sheer lack of understanding, it is nevertheless a factor. Indeed, there is evidence that even the countries totally abolishing capital punishment have sometimes acted contrary to the majority view of the population.

I urge the Committee to reject the amendment.

The Hon. M. B. CAMERON: While I supported the previous amendment, this amendment is an entirely different matter, on which it is competent for Parliament to make a decision. I therefore oppose this amendment. While there may be sound reasons for putting almost every issue to a referendum, once we set the precedent we will have to follow it for all issues. Parliament has debated this matter fully, and it is competent for the representatives of the people in Parliament to make a decision on the matter.

New clause negatived.

Title passed.

Bill read a third time and passed.

#### BEVERAGE CONTAINER ACT AMENDMENT BILL

Second reading.

The Hon. D. H. L. BANFIELD (Minister of Health): I move:

*That this Bill be now read a second time.*

Honourable members will recall that the principal Act, the Beverage Container Act, 1975, at section 2 provides it would come into operation on a date to be fixed by proclamation. Prior to a date being fixed, the Beverage Container Act Amendment Act, 1976, was enacted by this House and this Act dealt, for practical purposes, with the proscribing of certain containers the introduction of which into South Australia would have undesirable environmental consequences. This amending Act, in its terms, was expressed to come into operation on the day that the principal Act was proclaimed to come into operation.

By notice published in the *Gazette* of November 4, 1976, the principal Act was proclaimed to come into operation on July 1, 1977. The effect of this proclamation is that the powers given to the Government to prescribe containers under the relevant section, section 13a, will not be available

to it until July 1, 1977. There is evidence that environmentally undesirable containers may be marketed in this State in the near future, and as a result the Government feels a better course would be to bring the principal Act into operation on January 1, 1977, and this is the effect of the proposed Bill at clause 2. I point out to honourable members that the provisions of the principal Act dealing with deposits on containers and the creation of "can collection depots" will still not apply until July 1, 1977.

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

#### SOUTH AUSTRALIAN MEAT CORPORATION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from December 7. Page 2798.)

The Hon. M. B. DAWKINS: I rise to support the Bill, which, as indicated previously, provides for the transfer of the Port Lincoln abattoir to the South Australian Meat Corporation, the former Government Produce Department having been abolished. The history of the Port Lincoln abattoir goes back to 1937, when the Hon. Percy Blesing, then Minister of Agriculture, introduced into this Chamber the Port Lincoln Abattoirs Act. The works have operated more or less successfully, although perhaps with some ups and downs, ever since that period.

The reference to Samcor calls for some comment about the operation of the Samcor board and the fact that this facility at Port Lincoln is to be transferred into the Samcor operation. Samcor was formed in 1972, and it was basically a business man's board; no primary producer representative is on the board at present or is contemplated, either from the mainland section or from Eyre Peninsula. I said at that time, and I still believe it, that it was unwise to scrap the previous board completely. I certainly do not complain about reconstructions, although I consider that some of the expertise and experience of the former board should have been retained. As a result, we have a business man's board, which has tried to make the service abattoir a paying proposition. We have also had a considerable escalation of costs.

It is clear that the charges imposed at other South Australian and some Victorian meat works are lower than those charged by Samcor. I am given to understand that the cost of slaughtering sheep at Port Lincoln is about 30c a head lower than it is at Samcor. This is, in my opinion, something of an indictment on Samcor.

In supporting the Bill, the Hon. Mr. Whyte indicated that in his opinion Eyre Peninsula could treble its live-stock production. If this is possible, it is a good reason for upgrading the Port Lincoln works. With my limited knowledge of Eyre Peninsula, I believe that the Hon. Mr. Whyte was correct in saying what he said, provided that sufficient water becomes available. I am reminded that the Engineering and Water Supply Department is trying to improve the situation on the West Coast by providing a complete interchange with the Uley South, Uley Vanilla and Poldas schemes in conjunction with the Tod River reservoir. In past years, it has been possible seriously to overpump one of those schemes.

With the suggested interchange, those schemes can be linked up, and it should make the situation much safer in relation to the future expansion of livestock numbers

on Eyre Peninsula. I trust that that scheme will eventually be implemented. It will mean a considerable improvement in the quality of Tod River reservoir water. This will happen because of the addition of underground water from one of the underground basins to which I have referred. The salt content of the Tod River reservoir water is high indeed, and it needs to be improved by the addition of underground water. If this scheme is altered, it will undoubtedly be possible to treble livestock production on Eyre Peninsula, and the necessity for the Port Lincoln abattoir extension will become more evident.

The Hon. Mr. Whyte has indicated that he intends to move two amendments, one to clause 4 and a consequential amendment to clause 12. Clause 4 (c) contains the following definition:

"Port Lincoln abattoirs area" means the municipality of Port Lincoln and any area added thereto by regulation under section 93d of this Act.

The Hon. Mr. Whyte has indicated that he intends to amend that definition to read, "'Port Lincoln abattoirs area' means an area comprised in the hundred of Lincoln." I will support that amendment, as I believe that it is unwise to leave open the door for an extension of the Port Lincoln abattoir area to a large portion of Eyre Peninsula, some of which probably should not come under the ambit of the Port Lincoln abattoir. The Hon. Mr. Whyte's amendment is a wise amendment which will enable the Port Lincoln abattoir to expand and work successfully. At the same time, it will mean that areas far removed from Port Lincoln will not be forced to come within the scope of alterations to the Port Lincoln abattoir. The absorption, as it were, of Port Lincoln abattoir by Samcor, despite the unfortunate escalation of costs to which I have referred, is probably the most logical move that could be made, so I therefore support the Bill.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—"Interpretation."

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

Page 2, lines 6 to 8—Leave out all words in these lines and insert—

"Port Lincoln abattoirs area" means an area comprised in the hundred of Lincoln.

I have moved the amendment because I believe that the area to which the Bill refers should be defined. It seemed somewhat difficult to define exactly an area that was suitable to everyone. Although several suggestions were made about how the area should be defined, the hundred of Lincoln seems the most appropriate way to define clearly the area, whereas none of the other suggested definitions could be followed easily on a map or on the land title. It is necessary to define such an area, but it is not intended that the measure should apply to a large area. The South Australian Meat Corporation Act defines the metropolitan area of Adelaide. My amendment will define the appropriate area around Port Lincoln. Since the metropolitan abattoir and the Port Lincoln abattoir will both be controlled by Samcor, it is necessary to define areas outside which meat can be slaughtered and brought into the defined area, provided it passes the necessary inspection and the necessary inspection fee is paid, so that it can compete with meat slaughtered at the abattoirs.

The Hon. B. A. CHATTERTON (Minister of Agriculture): As I have not had a chance to study the consequences of the amendment, I ask that progress be reported.

Progress reported; Committee to sit again.

## RACING BILL

Consideration in Committee of the House of Assembly's message that it had disagreed to the Legislative Council's amendments.

The Hon. B. A. CHATTERTON (Minister of Agriculture): I move:

That the Legislative Council do not insist on its amendments.

On behalf of the Government, I give an assurance that the position of the Greyhound Owners, Trainers and Breeders Association of South Australia, Incorporated will be considered as soon as the Government is sure that the association is operating effectively and is truly representative of the owners, trainers and breeders. The association can be assured that, when the Government is so satisfied, it will receive a position on the board.

I also give the assurance that the Government will review the whole operation of the Dog Racing Control Board in June or July next year, and will consider the position of the clubs and the National Coursing Association of South Australia, Incorporated.

The Hon. J. C. BURDETT: In view of the assurances, I will not oppose the motion, but I do not know what the Government has had against the N.C.A., which has been the body for both open coursing and speed coursing and has been the registering body in relation to the stud book. We have not been told in debate what the Government has against the association, but I accept the assurance.

Motion carried.

## MINING ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from December 7. Page 2806.)

The Hon. R. A. GEDDES: I wish to refer to the Government's handling of the Mines Department and to its policy on mining at present. My first criticism is in relation to the alarm that I noted when it was published in the press a few weeks ago that the Electricity Trust would have to contribute \$164 000 towards the cost of exploring for coal, and that the Government was willing to contribute only \$44 000.

The Government has deprived the Mines Department of sufficient finance, so that it is not now in a position to know where adequate coal reserves are. Why does the Mines Department have to get money from the Electricity Trust of South Australia to speed up new research when it is claimed that 1985-86 could still be the critical years for the energy supply from E.T.S.A. within the State? Why does it have to contribute finance when its job is to supply electricity? Surely, the Mines Department's job should be to advise and assist the authorities from its stored knowledge of the geological data that should be available to it as to where suitable coal is. It is a serious threat when all manner of people have been talking about the energy problem for Australia, and E.T.S.A.'s annual report, issued earlier this year, highlights where E.T.S.A. itself is concerned about being able to provide more fuel and more power after about the year 1985. It must be remembered that E.T.S.A. provides supply to nearly all the homes in South Australia. The alternative could well be problems with restrictions on power and, if we get to that stage, because of bad planning and bad initiative from the Government, this industry will be surely disturbed, and the housewife along with it.

The Government has been promoting grandiose ideas through the years it has been in office—for instance, the petro-chemical works, the uranium enrichment works, the possibility of nuclear reactors, etc. They have all been mentioned and headlines have appeared in the press at various times. I sometimes wonder, particularly as regards the petro-chemical project, whether the Government has not a date file so that it can come up about every half year with a reference to that works.

The Hon. J. E. Dunford: Speculation by the press.

The Hon. R. A. GEDDES: The press secretary of the Minister of Mines never fears this. Every six months, by sheer coincidence, there is another report from Dow chemical company.

The Hon. J. E. Dunford: You think it is false?

The Hon. R. A. GEDDES: Is it a coincidence that there was a leak to the press about the uranium enrichment plant? It was never accepted by the Government that it was trying to promote the uranium enrichment plant when the Minister, Mr. Hudson, was in Europe, but the press got hold of it and highlighted what the State was doing. In some of these cases I favour the Government's trying to promote industry, thus creating more employment opportunities and wealth from the extractive industries of the State, but what is the good of looking at a petro-chemical project and at a uranium enrichment plant if we do not have the fuel to drive the boilers to make the electricity at about the time those plants are to be set up? Why does the Government demand of E.T.S.A., "You will provide \$186 000. You know how to distribute electricity right across the State. You will now turn some of your financial energy into promoting the search for coal"?

The Hon. J. E. Dunford: There is nothing wrong with that.

The Hon. R. A. GEDDES: Is that not the province of the Mines Department, and should the Government not assist the Mines Department with that sort of finance?

The Hon. B. A. Chatterton: They know a fair bit about the coal mining industry; they are very competent.

The Hon. R. A. GEDDES: E.T.S.A. certainly knows a lot about coal mining, but there is a big difference between mining and looking for coal.

The Hon. B. A. Chatterton: No, there is not: it is continual exploratory work.

The Hon. J. E. Dunford: The mines in Broken Hill are exploring all the time.

The Hon. R. A. GEDDES: But are they mining companies or are they electric supply companies?

The Hon. J. E. Dunford: They mine coal and should be involved in exploration and finding new leases in conjunction with the Government.

The Hon. R. A. GEDDES: That is what they are doing.

The Hon. J. E. Dunford: You're going crook about it.

The Hon. R. A. GEDDES: I am entitled to do so.

The Hon. J. E. Dunford: You have not used common sense about it.

The Hon. R. A. GEDDES: That is a matter of opinion. It is wrong for E.T.S.A., out of money supplied by consumers, to supply money to look for further coal reserves in South Australia. I have asked the Minister to give a promise that the \$186 000 will not be passed on to the consumers of the trust's supplies, but the Minister has not replied to my question. How do we know that this expenditure will not be charged to the overall cost of the trust?

The Hon. J. E. Dunford: The public must pay for it, anyhow, whether through E.T.S.A. or general revenue.

The Hon. R. A. GEDDES: Let the public pay when it is ready for development.

The Hon. J. E. Dunford: Has E.T.S.A. complained to you about the \$186 000?

The Hon. R. A. GEDDES: That is a leading question, and I do not have to answer it. I showed my concern by asking the question in the Chamber the day after the report appeared in the press. We have discussed petro-chemical and uranium enrichment suggestions that have been made.

The Hon. F. T. Blevins: Are you against those proposals?

The Hon. R. A. GEDDES: I have said I am in favour of some of these proposals for the development of the State.

The Hon. F. T. Blevins: Are you in favour of the petro-chemical works at Redcliff going ahead?

The Hon. R. A. GEDDES: The honourable member can make his own speech on that subject. I touch now on nuclear reactors. The energy committee was set up by the Government to look into where the future supplies of energy would come from after about the year 2000, but what did that committee come up with? It recommended that nuclear reactors would be the most sensible energy source for the State about that time.

The Hon. F. T. Blevins: As a last resort.

The Hon. R. A. GEDDES: Naturally enough, as a last resort.

The Hon. C. M. Hill: What's your policy on them?

The Hon. F. T. Blevins: The Minister made a statement a few days ago.

The Hon. R. A. GEDDES: The Minister said to the Electricity Trust of South Australia, "You supply \$186 000 to find coal."

The Hon. F. T. Blevins: Did the Minister say that?

The Hon. R. A. GEDDES: The Minister implied it. The Mines Department has extremely efficient officers, is well administered, and its Director has always been held in high regard. I do not criticise the officers or the department, but lay the blame on the Minister, and on the Government's policy in this regard.

In his second reading explanation, referring to clause 4, the Minister said:

The present provisions of section 9 prohibit mining within 400 metres of a dwellinghouse. In the case of Andamooka and Coober Pedy, the existence of houses and dugouts near the town boundaries can prevent access to potential fields close to the towns. In addition, a dugout outside the town areas can prevent legal access to a large area surrounding it.

In other words, he said that 400 metres was a large area. Clause 4 (b) provides:

By inserting after the word "dwellinghouse" in subparagraph (i) of paragraph (d) of subsection (1) the passage "(not being a dwellinghouse of a class excluded by regulation from the operation of this paragraph)".

What type of dwellinghouse will be excluded from the 400-metre area in which mining for precious stones can continue? No indication is given as to how close to a dwellinghouse people will be able to mine. I presume reference is made to dugouts and similar buildings. I seek clarification of this aspect. An interesting sequence follows from clause 21 and, in his second reading explanation, the Minister stated:

Clause 21 provides the machinery to permit exploration for and the mining of any minerals which may be below the opal fields at Andamooka and Coober Pedy. The amendment will permit the Director of Mines to stipulate the conditions applicable to such operations, provided, of course, that these conditions give due cognisance of the interests of opal miners.

This seems to be a sort of strata title in reverse. Instead of relating to a high-rise building, this type of strata title relates to the area below the ground. It is believed that opals are found in the first 50 metres below ground. With the Western Mining Corporation finding possible huge reserves of copper near Andamooka, it will mine at a 350 m depth.

Will the top 50 m be reserved for opal mining? At present, our main opal fields are at Andamooka, Coober Pedy and nearby. What will be the position if, say, Western Mining Corporation in its drilling for copper finds precious stones in the first 50 m at another field, say, 400 kilometres from Andamooka or Coober Pedy? Will that find belong to the corporation or will the area be proclaimed under the provisions of the Act? Will the corporation control that area, or will the Minister or Director take over the precious stones lease? I seek that information on behalf of the miners in the area. In his second reading explanation, the Minister said:

Clause 33 is designed to prevent some of the malpractice which occurred in other States during the mining boom, and to ensure that valuable geological data are not lost. New section 77 provides:

(3) The holder of a mining tenement shall at the request of the Director of Mines, or any person acting under his written authority, permit a person nominated in the request to make tests, and take samples of minerals, from the land comprised in the mining tenement.  
Penalty: Five hundred dollars.

(4) The Director may publish the results of—

(a) any tests made in pursuance of this section;

or

(b) the analysis of any samples taken in pursuance of this section.

It has been a Mines Department tradition that, when mining companies or miners bring core tests to the department for analysis, the department has always respected the results submitted; no-one else has ever been told the

details of a specific set of results. Prospectors could go to the department to get general information about an area from the results that the department has received, but the department has never made public the details of a set of results. I appreciate the reason given in the Minister's second reading explanation: it is undesirable that fly-by-nighters have an opportunity of claiming that they have another Poseidon, possibly to the detriment of investors. I am also concerned that the publication of results could possibly jeopardise a genuine company in some way. I cannot see a way around the problem, except to express concern. I intend to move an amendment to new section 77 (4) in Committee to provide that the Director, with the consent of the Minister, may publish results. In this way, the responsibility will be shared. Because of weather conditions in the Far North, it has been extremely difficult to communicate by telephone with Andamooka and Coober Pedy. Would the Government be willing to consider delaying the passage of this Bill until the people are contacted?

The Hon. D. H. L. Banfield: We will consider it.

The Hon. R. A. GEDDES: Two points concern the people there: first, what sort of houses should be considered; and, secondly, how close can they mine to those houses? Their interests should be considered because of their uniqueness. I support the second reading of the Bill.

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

#### ADJOURNMENT

At 10.45 p.m. the Council adjourned until Thursday, December 9, at 2.15 p.m.