Queensland

Parliamentary Debates
[Hansard]

Legislative Assembly

TUESDAY, 2 NOVEMBER 1965

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Mr. SPEAKER (Hon. D. E. Nicholson, Murrumba) read prayers and took the chair at 11 a.m.

ASSENT TO BILLS

Assent to the following Bills reported by Mr. Speaker:—

Stock Acts Amendment Bill.

Brands Acts Amendment Bill.

Sugar Experiment Stations Acts Amendment Bill.

Tobacco Industry Protection Bill.

DISTINGUISHED VISITOR

HON. P. J. NEWMAN, M.P. (TERRITORY OF PAPUA AND NEW GUINEA)

Mr. SPEAKER: It is my pleasant duty this morning to welcome to our Assembly the Honourable P. J. Newman, Treasurer in the House of Assembly of the Territory of Papua and New Guinea.

Honourable Members: Hear, hear!

QUESTIONS

GOVERNMENT AID TO DARLING DOWNS FLOUR MILLS

Mr. Diplock, pursuant to notice, asked The Treasurer,—

(1) Is the Government aware that the flour milling industry on the Darling Downs faces losses and retrenchment of staff because the Queensland Co-operative Milling Association Ltd. is building a new flour mill in Rockhampton with finance from the State Government Insurance Office?

(2) Is it aware that the Queensland Co-operative Milling Association already conducts four mills in Queensland and that two of them are working very short time?

(3) Is the Government prepared to do anything to assist the long established Downs mills to bear the extra freight costs on their flour to Rockhampton in order to compete for business and consequently keep employees in full employment?

(4) Why is a large sum of money provided by the State Government Insurance Office to finance an unnecessary mill when very little money is available for urgently required housing and local governmental requirements?

(5) Is the Government prepared to advance the same finance to the other milling companies wishing to build mills in Rockhampton?

(6) What finance was refused recognised building societies for housing by the State Government Insurance Office during the present year?

Answer:—

(1 to 6) "The Honourable Member must surely be a spiritual descendant of the 'Grand Old Duke of York.' It is implicit in his Question that wheat grown on the Central Highlands should for ever be transported to the south-eastern corner of the State and there gristed. In turn his Question envisages that flour should forever reach Central and North Queensland from remote southern mills at an unnecessarily high price. The Government rejects such a concept on two counts. In the first place it has a duty to support measures designed to reduce the cost of living in Central and North Queensland. Secondly, it favours the development of Queensland on a decentralised basis. To provide freight rebates would destroy the prospects of such a development. In any case, the general taxpayer should not be asked to bear the cost of reduced flour prices in Central and North Queensland when the same result can be obtained by milling locally produced wheat in Central Queensland. The suggestion implicit in the Honourable Member's Question that the State Government Insurance Office has neglected investment in Co-operative Housing Societies and in Local Government debentures is quite unworthy of him. The State Government Insurance Office was the largest single supporter of Co-operative Housing Societies in 1964-65, when it invested £1,317,000 in such societies. It is by far the greatest supporter from the ranks of the insurers in the debenture field and in 1964-65 made debenture offers totalling some £3,004,698. Indeed, the Office was the third highest supporter of debenture raisings from all sources in 1964-65. However, the Office follows no narrow investment policy. Development of the State and the securing of reciprocal insurance business are equally important. I would remind the Honourable Member that the Office operates in a highly competitive field and the interest of policy-holders is the first consideration. Whether advances will be made to other mills in Central and North Queensland will depend on what applications are received and what security is offered. Each application will be subject to careful consideration by the newly-appointed Investment Board."

TEMPORARY PREFABRICATED SCHOOL CLASSROOMS

Mr. Newton, pursuant to notice, asked The Minister for Education,—

(1) What is the number of temporary prefabricated classrooms purchased by his Department as at September 30, 1965?

(2) How many are being used in the metropolitan area and at which schools?

Answers:—

(1) "130 classrooms."

(2) "(i) 46 classrooms. (ii) Brisbane State High School, 12; Coorparoo State High School, 8; Everton Park State High School, 2; Hendra State High School, 2; Inala State High School, 4; Newmarket State High School, 2; Sunnybank State High School, 2; Wynnum North State High School, 4; Acacia Ridge State School, 2; Kenmore State School, 2; Mt. Gravatt Upper State School, 2; Serviceton South State School, 4."

SHORTAGE OF RADIOTHERAPISTS, QUEENSLAND RADIUM INSTITUTE

Mr. Aikens, pursuant to notice, asked The Minister for Health,—

(1) Has his attention been drawn to articles in the metropolitan press of October 27 and 28 wherein Professor M. M. Kligerman, Yale University School of Medicine and world authority on radiotherapy, was reported as saying, *inter alia,* that the Queensland Radium Institute was understaffed and as a result specialists who should visit country areas at least once a week made wholly inadequate visits every two months?

(2) How frequently do specialists from the institute visit Townsville and will he consider having these visits made more frequently?

Answer:—

(1 and 2) "It is a fact that there is a shortage of radiotherapists on the staff of the Queensland Radium Institute and this shortage is a reflection of an Australia-wide, if not a world-wide, shortage of medical officers specialising in the treatment of patients by radiotherapy. Visits are made to country centres as frequently as the work load at the main centre will permit. At the present time, radiotherapists from the main centre visit far northern sub-centres which includes Townsville, five times per year. More frequent visits will be paid to these sub-centres when the staff of radiotherapists can be increased. As the Honourable Member is probably aware, radium clinics have been conducted every week for a number of years at Townsville Hospital by a member of the part-time medical staff of that hospital."

INDICTABLE OFFENCES HEARD BEFORE SUPREME AND DISTRICT COURTS

Mr. Bromley, pursuant to notice, asked The Minister for Justice,—

(1) How many indictable offences were dealt with in the Supreme and District Courts during the years 1962 to 1965?

(2) What were the various offences committed and the sentences imposed?

(3) What are the figures with regard to sex and age of the persons involved in these criminal proceedings?

Answers:—

"The Government Statistician has supplied the following information in Answer to Question No. (1) asked by the Honourable Member:—(1) Twelve months ended June 30, 1962, 1,362; twelve months ended June 30, 1963, 1,367; twelve months ended June 30, 1964, 1,331; twelve months ended June 30, 1965, 1,389; total, 5,449."

(2 and 3) "These statistics are to be found in the Year Books of the Commonwealth of Australia and of Queensland respectively in the chapters headed 'Public Justice'. Prior to the publication of any such Year Book the statistics relating to any part of the relevant year may be obtained from the Deputy Commonwealth Statistician and Government Statistician, Taxation Building, Adelaide Street, Brisbane."

Police Special Patrol Vehicles

Mr. Bromley, pursuant to notice, asked The Minister for Education,—

(1) How many (*a*) "Q" cars and (*b*) motor cycles are now on constant patrol in the areas from the New South Wales border to Gympie, including the metropolitan area?

(2) What was the total cost of the new "Q" cars and what is the cost per week of maintaining these vehicles on the road, including wages, &c.?

(3) How many people have been booked for breaches by (*a*) motor cycle patrol officers and (*b*) "Q" car drivers since the introduction of the cars and what is the amount of fines paid and the number of alleged breaches contested?

(4) How does this amount compare with that paid during a similar period prior to the introduction of "Q" cars?

Answers:—

(1) "The Honourable Member presumably refers to the special patrol vehicles, readily identifiable as they are painted white and operated by uniformed police personnel. There are eleven of the special patrol vehicles at present operating in the area from Coolangatta to Gympie, including the Metropolitan Area. In addition, there are over 90 other motor vehicles and in excess of 100 motor cycles available and on patrol, attached to stations in this same area."

(2) "The eleven special patrol vehicles attached to the Traffic Branch, Brisbane, cost £7,315. These vehicles have been in operation for too short a period to assess accurately the weekly costs of maintaining them on the road."

(3) "Since October 11, 1965, the date when special white patrol vehicles were first used, motor cycle police attached to the Traffic Branch, Brisbane, have issued 452 on-the-spot penalty notices and have submitted 200 breach reports. During this period, police patrolling in the special patrol cars have issued 158 on-the-spot penalty notices and furnished 38 breach reports. The amount of fines paid and the number of alleged breaches contested is not known as summonses have not yet been issued in relation to breach reports furnished, nor is it known what amount of penalties has been paid for on-the-spot notices."

(4) "As the amount paid under (3) is not available, no comparison with a similar period can be made."

Reticulated Water Supply, Cooktown

Mr. Coburn for **Mr. Adair,** pursuant to notice, asked The Minister for Local Government,—

As Cooktown is without a town water supply and for three months of the year its residents are forced to pay for the cartage of water from council-owned wells, will he again communicate with the Administrator of the Cook Shire and stress the urgent necessity for the implementation of a suitable reticulated water supply for the town?

Answer:—

"The Honourable Member should make his representations direct to the Administrator."

Loans by S.G.I.O. to Industry

Mr. Lloyd, pursuant to notice, asked The Treasurer,—

(1) Will he tabulate individual loan advances to private industry, naming the company or industry, and the dates upon which such loans were made available by the State Government Insurance Office during the past five years together with the Office Fund from which such advances were made?

(2) Is the repayment of any of these advances prejudiced at the moment for any reason, e.g., by the company or industry being in the hands of an Official Receiver? If so, which of the advances are so involved?

Answers:—

(1) "The tabling of such information will be against all precedent. The breach of confidence would lead prudent borrowers to shun the Office. I content myself with reporting that there are twenty-seven separate advances by way of industrial mortgage totalling £5,043,855. All these advances are made from the General Fund of the Office but are in the course of being allocated to particular funds."

(2) "Not one of these industrial mortgage advances shows any sign of present difficulty. Indeed, the only sign of any difficulty is in relation to a marketable security, namely a parcel of debentures in H. G. Palmer (Consolidated) Limited where a receiver has been appointed. I would point out that the Office, when it entered this field of investment, foresaw the occasional hazard. Over the past two years, some £470,000 has been set aside in an investment fluctuation provision. The provision now totals £500,000 and is sufficient to meet the known hazard with comfort."

CONCRETE SLABS FOR ARMY INSTALLATIONS, TOWNSVILLE

Mr. Aikens, pursuant to notice, asked The Minister for Industrial Development,—

(1) Have quotations been invited from Queensland road hauliers for the transportation of 8,000 tons of concrete slabs from Brisbane to Townsville to be used in the construction of army installations there?

(2) If so, will he cause inquiries to be made as to why these concrete slabs cannot be made in Townsville and ascertain if any Townsville firm or person had been given an opportunity to tender for their construction?

Answer:—

(1 and 2) "The Department of Industrial Development has no knowledge of the matter. In view of the nature of the installations referred to, appropriate enquiries were directed to the Brisbane offices of the Commonwealth Departments of the Army, Supply and Works, but likewise they have no information on the subject. If the Honourable Member is in a position to furnish more specific details, I shall be pleased to pursue the matter further."

S.G.I.O. INVESTMENT ADVISORY BOARD

Mr. Hanlon, pursuant to notice, asked The Treasurer,—

(1) With reference to the Investment Board of five members provided for under section 19A of *"The State Government Insurance Office (Queensland) Acts,* 1960 *to* 1965," and the subsequent Regulation dated October 7, 1965, what was the date of gazettal of the appointment of the three persons, constituting a majority, who are not members of the Public Service of Queensland?

(2) What are the names and addresses of these three persons and the qualifications relevant to their appointment?

(3) In view of the proviso to Regulation 13 (3), allowing as a disinterested person in business before the board a member of a company or other body with no beneficial interest in any shares or stock of that company or body, would it not be prudent that even in such an event the member should be required nevertheless to disclose this to the Board?

(4) Have a chairman, deputy chairman, and secretary to the Board yet been appointed and, if so, who are they?

(5) As provision is made by regulation for a required confidential report to the Treasurer at the close of each financial year and such other times as the Board deems necessary, is there no provision empowering the Treasurer to call for any report on his own initiative? If so, why is there no such provision?

(6) Is the only power exercisable over the Board the right of termination of individual appointments by the Governor in Council?

Answers:—

(1) "October 9, 1965."

(2) "James Henry Lalor, Solicitor, care Thynne and Macartney, Solicitors, M.L.C. Building, Adelaide Street, Brisbane. Walter Raymond Hartland, Chartered Accountant, 74 Eagle Street, Brisbane. David Alexander Gray, Fellow of the Australian Society of Accountants, Fellow of the Chartered Institute of Secretaries, managing director, Appleton Industries Limited, Gerler Road, Hendra. Through business commitments, Mr. Gray has now informed me that he will be unable to take up office and has asked that his resignation be accepted."

(3) "I feel the present provisions amply cover the situation. I must confess that I took the pattern of the provision from other Acts passed by the previous Government."

(4) "James Henry Lalor has been appointed chairman of the Board. A deputy chairman and secretary have not yet been appointed."

(5) "The Regulation prescribed the powers, duties, authorities and responsibilities of the Board. It does not deal with the powers of the Treasurer. Let me assure the Honourable Member that if I require a report at any time I will obtain it."

(6) "Yes. I invite the Honourable Member's attention to my remarks during the Second Reading of the Bill under which the appointment of the Board was proposed. For his convenience I quote from those remarks—'I repeat that the Board is to lay down an investment policy to guide the Office and if, in approaching the detailed investment selection, the general manager acts on unpalatable advice, the Government of

the day is not without its power to immediately determine the appointment of one or more of the outside appointees and appoint somebody else'."

DEPOSITIONS OF RAILWAY APPEAL BOARD HEARINGS

Mr. Bennett, pursuant to notice, asked The Minister for Transport,—

(1) Is he aware that the Commissioner for Railways refuses to supply to appellants a copy of the depositions taken on appeal?

(2) As section 30 of the Railways Acts requires that the Appeal Board investigate in open Court every appeal, by what authority is the Commissioner empowered to refuse to supply a copy of the depositions taken?

(3) As the Commissioner himself is a party to all appeals, why is he given the right to determine who should get a copy of the depositions, thereby giving him an unfair advantage?

(4) Why does the Commissioner refuse to make a copy of the depositions available, if there is nothing to hide or conceal?

(5) Is the Commissioner unable sometimes to make a copy available because the mechanical recording device used at the Railway Appeal Board does not accurately record all the evidence taken and hence cannot be properly typed back?

Answer:—

(1 to 5) "The recording of evidence before the Railway Appeal Board is performed by a shorthand writer employed by the Department. To transcribe the evidence taken at all appeals heard would involve considerable work and expense, but there have been cases where copies of evidence have been supplied to appellants who have been prepared to pay and have paid for such transcribed evidence. If the Honourable Member is referring to a particular case and will acquaint me thereof, I will ascertain whether the Commissioner has, in fact, declined to make such depositions available, and for what reason."

EXPENDITURE ON SCHOOL TRANSPORT SERVICES, AYR DISTRICT

Mr. Coburn, pursuant to notice, asked The Minister for Education,—

(1) What was the total expenditure on school transport throughout the Ayr District, including Giru, for each of the financial years 1956-57 and 1964-65?

(2) What is the estimated expenditure for the financial year 1965-66?

Answers:—

(1) "1956-57—Transport services, £1,028 15s. 3d. 1964-65—Transport services, £8,418 4s. 2d.; conveyance allowances, £402 18s. 4d.; total, £8,821 2s. 6d."

(2) "1965-66—Transport services, £10,361 10s. 1d.; conveyance allowances, £400; total, £10,761 10s. 1d.

SOLAR PROTECTION CREAMS FOR PREVENTION OF CANCER

Mr. Murray, pursuant to notice, asked The Minister for Health,—

Is he aware of a claim by the Radium Institute that an ointment has been produced which will allow a suntan to be obtained and at the same time help to protect against skin cancer? If so, who at present produces and distributes the ointment?

Answer:—

"It is some years ago since the Queensland Radium Institute developed solar protection creams which prevent the harmful effects from sunlight. Sunburn and skin cancer are both caused by wave lengths less than 3,200 angström units in the sun's radiation and it is necessary to apply a cream which will filter these wave lengths to prevent such conditions. A colourless lipstick was first developed. This was reported in the Medical Journal of Australia of August 16, 1958, by Dr. K. S. Mowatt, the present Director of the Queensland Radium Institute, and Mr. D. F. Robertson, Reader in Physics, Department of Radiation Physics, University of Queensland. This was followed by creams for application to the skin. These were reported in the Medical Journal of Australia of September 26, 1959. The articles in the Medical Journal included the composition of the various creams. Dr. Mowatt and Mr. Robertson did not place any restrictions upon the publication of the results of their research, thus generously making them available to all manufacturing chemists and dispensaries. These products are, I understand, on sale in most chemists shops."

CONCESSIONAL RAIL FREIGHTS ON WHEAT FOR POULTRY FODDER

Mr. Wallis-Smith, pursuant to notice, asked The Minister for Transport,—

In view of the necessity to supplement wheat for maize as poultry feed owing to large stocks of maize being needed for drought relief, will he consider concessional rail freights to poultry farmers who order supplies of wheat by rail?

Answer:—

"The Government has already extended freight concessions to the Atherton Tableland Maize Marketing Board to assist the Board in obtaining a large tonnage of wheat from Southern Queensland for use instead of maize in the production of mashes. The freight concession was granted so that additional quantities of maize for sale to graziers for use in feeding starving stock could be made as well as permit of maintenance of supplies of whole maize to poultry farmers and other regular customers in the Atherton Tableland area."

SALE OF BUILDING ALLOTMENTS, WALKAMIN TOWNSHIP

Mr. Wallis-Smith, pursuant to notice, asked The Minister for Lands,—

In view of the number of enquiries for building blocks in Walkamin township, will he consider having all twenty-five blocks valued and advertised for auction as soon as practicable?

Answer:—

"Eight allotments in sections 3, 4, 7 and 8, town of Walkamin, will be sold as freehold at auction on December 16 next. This sale will be held at Mareeba. These are the only surveyed residential allotments available at the moment. If next month's sale demonstrates that further allotments are required by the public early action will be taken to survey further lots for sale at auction."

SURVEY OF TOBACCO-GROWING AREAS

Mr. Wallis-Smith, pursuant to notice, asked The Minister for Primary Industries,—

Has the survey of the areas planted with tobacco in the Mareeba–Dimbulah, South Queensland and other areas been completed? If so, what are the areas planted in those districts and is it anticipated that quotas will be filled in Queensland in the 1965-66 season?

Answer:—

"The survey of the areas planted with tobacco in the various districts of Queensland has not yet been completed. The acreage figures for these districts will be released by the Tobacco Leaf Marketing Board when available, but this is not likely to be before the end of the year. The seasonal conditions experienced, as well as the acreage finally planted, will determine whether or not Queensland's quota will be filled in the 1965-66 season.

SUB-INTERMEDIATE WARDS IN PUBLIC HOSPITALS

Mr. Melloy, pursuant to notice, asked The Minister for Health,—

(1) When and why were sub-intermediate wards in public hospitals abolished?

(2) What is the disposition of patients normally admitted to these wards?

Answer:—

(1 and 2) "The scheme of sub-intermediate wards in public hospitals has not been abolished but returns from hospitals boards show that relatively few patients have availed themselves of the facility and that during last financial year there was no demand for this type of accommodation."

ASSESSMENT OF CLAIMS FOR DROUGHT RELIEF

Mr. Melloy, pursuant to notice, asked The Minister for Primary Industries,—

(1) On what basis was drought relief assessed during the recent drought?

(2) Was any reference made to recent income tax returns of those who sought and were granted relief assistance?

(3) If not, was this consistent with the procedure adopted in relation to pensioners and other low income groups who make application for Government assistance?

(4) For what period is the sixpence per gallon on the price of milk imposed on the public for drought relief to be effective?

Answers:—

(1) "Government measures of drought relief during the current drought include rail concessions on fodder and stock to and from areas declared drought stricken; the removal of the obligation of stock-owners to pay State road transport fees on fodder for starving stock; assistance to cane-growers who received little or no income when attempting to become established in the industry during a drought, and special assistance to dairy farmers who are unable to purchase fodder for the drought-feeding of a nucleus of their herds. If the Question refers to the administration of the Drought Relief Appeal Fund, as I think it does, the Honourable Member will be aware that a representative Central Committee was appointed for that purpose. Local committees were then established in each drought area agreed upon by the Central Committee. Such local committees comprise representatives of relevant producer organisations, as nominated by their executive body, together with a departmental officer as secretary. In the case of dairying areas, the local factory

manager and a prominent local citizen also served on the local committee. Local committees had the responsibility for receiving applications, determining allocations and supervising distribution of the fodder made available to their particular areas. In addition to their considerable knowledge of local conditions, committees in some instances sought further information by means of an application form."

(2) "A good deal of discretion was extended to local committees in the matter of determining eligibility for relief fodder. Some committees saw fit to exclude from consideration dairy farmers who had achieved a certain level of output during the previous year. Others adopted a basis which accepted size of property and length of residence as criteria. The fact that relief has been afforded so rapidly and with very little dissension is a tribute to the painstaking and responsible manner in which the local committees performed a difficult task."

(3) "As stated in the Answer to Question (2) consideration was given to all relevant factors."

(4) "The recent increase in the price of milk, as a drought loading, applied in the first instance from June 3 to September 30, 1965. Because of the delayed effect, long term and severity of the drought, the period was extended to a date to be determined. The drought loading is 4d. per gallon, not 6d. as the Question states."

Reclamation of Area Fronting Cairns Base Hospital

Mr. R. Jones, pursuant to notice, asked The Treasurer,—

(1) Has any consideration been given to the provision of funds for the reclamation of an area fronting Cairns Base Hospital? If so, will this be a separate scheme or is it to be included in an overall reclamation of Cairns foreshores?

(2) Have any feasibility surveys or estimates been completed and what are the anticipated dates of commencement?

Answer:—

(1 and 2) "I am not aware of any such proposal. It has not yet been the subject of any submission."

Results of Pianoforte Examinations in Townsville

Mr. Tucker, pursuant to notice, asked The Minister for Education,—

(1) Have examiners under the auspices of the Australian Musical Examination Board carried out pianoforte examinations in Townsville since July 1, 1965?

(2) If so, can particulars be given of the respective examinations and the number of students who passed and failed in each category?

(3) Are figures available for the Brisbane area during the same period, and, if so, what are they?

Answers:—

(1) "Yes—in July."

(2) "Pianoforte—

	Passed	Failed
Preliminary Grade	36	0
First Grade	63	3
Second Grade	47	4
Third Grade	43	5
Fourth Grade	41	7
Fifth Grade	16	4
Sixth Grade	6	3
Seventh Grade	4	4
Associate (Performing)	0	3
	256	33"

(3) "No. The examination period in Brisbane extends almost to the end of the year. Statistics will not be available until early in the new year."

Alterations to Receiving Home, State Children Department, Townsville

Mr. Tucker, pursuant to notice, asked The Minister for Labour and Industry,—

(1) Was it necessary in the last few months to make internal alterations to the newly constructed building at the State Receiving Home, Townsville, and, if so, what are the reasons for the alterations, what was their extent and cost?

(2) Who was responsible for the design of the building and did such design receive the approval of Officers of the State Children Department?

Answers:—

(1) "The construction of new buildings at 'Carramar' Receiving Home for Children, Townsville, is proceeding in two stages, firstly the dormitory block recently completed, and secondly a general living and administrative building. The old Home building is to be demolished to make way for the new general living and administrative building and it is necessary to provide in the new dormitory block temporary facilities for cooking, dining, laundry and administration. This work is being undertaken by the Department of Works and is nearing completion at an estimated cost of £660."

(2) "The Department of Public Works designed the new buildings and these designs were approved by the State Children Department. It was however

found on completion of the dormitory block that there were two features requiring adjustment—(*a*) the provision of protective covering for ventilation louvres between floor and sill levels. The louvres blades were of normal construction but it was considered that the width between the blades when opened could provide a hazard to very young children; (*b*) the staircase, which is of modern open-tread design, also requires some adjustment to provide greater safety for the children."

PAPERS

The following papers were laid on the table:—

Orders in Council under—

The Harbours Acts, 1955 to 1964.

The Racing and Betting Acts, 1954 to 1964.

The State Electricity Commission Acts, 1937 to 1964.

The Northern Electric Authority of Queensland Acts, 1963 to 1964.

CHILDREN'S SERVICES BILL

THIRD READING

Bill, on motion of Mr. Herbert, read a third time.

SUPPLY

COMMITTEE—FINANCIAL STATEMENT—RESUMPTION OF DEBATE

(Mr. Campbell, Aspley, in the chair)

Debate resumed from 28 October (see p. 1190) on Mr. Hiley's motion—

"That there be granted to Her Majesty, for the service of the year 1965-66, a sum not exceeding £1,809 to defray the salary of Aide-de-Camp to His Excellency the Governor."

Hon. T. A. HILEY (Chatsworth—Treasurer) (11.38 a.m.), continuing in reply: In my few brief remarks before the adjournment of the debate on Thursday last, I indicated how utterly impossible it is for the Treasurer, when replying on the Budget debate, to touch on all matters raised by each hon. member. However, there are three matters with which I should like to deal at some length, for they were touched upon on a number of occasions by various speakers. They are these: firstly, the Government's performance in the field of education; secondly, some observations on housing; and, thirdly, some of the financial problems of the sugar industry. After I have dealt with each of these matters at some length, it is my intention, in the remainder of the time available to me, to deal with a number of miscellaneous matters raised by various speakers.

Dealing with education, once again we find the Opposition trotting out the perennial statistics on education in an endeavour to throw cold water on the Government's efforts in this all-important field. Let me say straight away that the Government appreciates that there is still much to be done in the field of education. We are not complacent and do not think that we have reached the end of the road, but we are getting along with the job. If one listened to the speeches of members of the Opposition one would think that we had performed nothing. Queensland's expenditure per capita on education is, and always has been, low in comparison with that of other States. It is a position we are endeavouring to remedy. However, we had so many legacies left by our predecessors that the task of correction is too big to be handled overnight.

Let us look at some of the milestones in education progress since we took over. On the side of primary education, Schools of the Air were instituted in 1960 and are now operating from Mt. Isa and Charters Towers, with a third to open at Charleville in the near future. The school leaving age for primaries has been raised from 14 to 15 years. Departmental textbooks are provided free to pupils in State primary schools. Revised syllabuses have been introduced in English and Social Studies. A new Science syllabus is in the course of printing, and a new primary school Mathematics syllabus is being prepared. The new syllabus for Grades I to III and a teacher's handbook are expected to be used in many schools in the coming year, 1966.

The Scholarship examination has been abolished and all students may now proceed automatically to secondary school. I ask hon. members to listen carefully to this one: the average number of pupils per teacher in State primary schools—the pupil-teacher ratio—has improved from 35·9 in 1957 to 31·8 in 1964. We confess it is still not good enough, but it is improving.

Subsidies are paid on local authority swimming pools in small centres to the extent of £5,000 in any one case, in addition to the ordinary subsidy on local authority works, on condition that the pool is available free of charge for swimming instruction to school children.

Turning now to the field of secondary education, we have extended the term from four years to five years. We have raised the school leaving age to 15 years and that means that most children will have at least two, and generally three, years' secondary education. We have introduced, in 1964, new syllabuses in all subjects to cover the first three years.

Dealing with school transport, there are now 930 school transport services, of which 561 have been established during the term of the present Government. The system has been extended to secondary schools. The cost of school transport in the year before

we took office was £359,142. Last year it reached the colossal total of £1,237,099 and, as a result of this extended school transport system, more than 250 small schools have been closed since 1957. Pupils who would previously have attended a one-teacher school now receive the benefit of education at a larger school.

The significant point there is that if we had not extended the school transport system and closed 250 small schools our pupil-teacher ratio would appear even better than it is but our educational standard of performance would have been infinitely lower. In other words, by deliberately choosing to close the small one-teacher schools in the interests of superior education, we have willingly accepted that this will cause the pupil-teacher ratio to run against us but, in spite of that, we are still better off.

Mr. Bennett: That only means that you have more teachers available in bigger schools than you would otherwise have.

Mr. HILEY: The hon. member may have pretensions to being a lawyer; he has none in the field of mathematics, so I suggest that he keep quiet.

Mr. Duggan interjected.

Mr. HILEY: I listened to the hon. gentleman; he can now listen to me.

Mr. Duggan: I want you to tell the truth. You don't always do it.

Mr. HILEY: The Leader of the Opposition says that I do not tell the truth. That remark is offensive to me and I ask that it be withdrawn.

The TEMPORARY CHAIRMAN (Mr. Campbell): Order! The Treasurer claims that the remark of the Leader of the Opposition is offensive to him, and I ask that it be withdrawn.

Mr. Duggan: I said it was a political untruth.

The TEMPORARY CHAIRMAN (Mr. Campbell): Order! The hon. gentleman cast a reflection on the Treasurer by saying that he was not telling the truth, and I ask him to withdraw the remark.

Mr. Duggan: Out of respect to you, Mr. Campbell, I withdraw it; but I did say that he was telling a political untruth.

Mr. HILEY: I will accept the hon. gentleman's withdrawal.

In the field of technical education this Government has built, or is in the progress of building, new workshops in Brisbane and in nine major country centres. The Queensland Institute of Technology was formed for the start of the 1965 school year.

Opposition Members interjected.

Mr. HILEY: I know that this is hurting them. I listened to all their points in silence. I wish they would show the same fortitude when they are under the whip.

Education at tertiary level is provided by diploma courses in the fields of architecture, chemistry, engineering, management and commerce. To cater for the technician rather than the technologist the institute also provides certificate courses at post-Junior level in such fields as chemistry, engineering, accountancy and management.

In the field of teacher training a second teachers' training college was opened at Kedron in 1961. Special two-year scholarships have been offered since 1958, enabling holders to study for one year at the university and one year at the teachers' training college. This scheme is increasing the pool of teachers with higher academic qualifications.

Since 1958, as a result of the 1957 Murray report, a permanent body, the Australian Universities Commission, has advised the Commonwealth Government on university development. Increasing amounts have become available from the Commonwealth, which have to be matched £1 for £1 by the State in respect of capital grants and £1 17s. to £1 by State grants and student fees in the case of recurrent expenditure. A second university has been opened at Townsville, and a site for another metropolitan university has been selected and is being acquired. The Government has made grants to the extent necessary with students' fees to qualify for the maximum amounts of Commonwealth grants recommended for Queensland universities by the Australian Universities Commission. The rate of increase in State grants to the university has been about double the rate of increase in State expenditure generally. The figures are as follows:—

STATE GRANTS TO UNIVERSITY

	£
1957	610,329
1965 (Est.)	1,842,000
Per cent. increase ..	201·8

CONSOLIDATED REVENUE FUND EXPENDITURE (EXCLUDING RAILWAYS)

	£
1957–58	53,463,623
1965–66 (Est.)	103,250,158
Per cent. increase ..	93·1

As between States, the levels of expenditure recommended for Queensland by the Australian Universities Commission were £9,053,000 for the 1961-63 triennium and £14,650,000 for 1964-66. This is an increase of 61·8 per cent., a higher percentage than in any other State except Victoria.

I feel that these statements of performance since we took office are, in themselves, sufficient to dispose of the point over-argued by hon. members opposite. Apparently the Opposition delights in per-capita statistics in a vain hope of persuading the electorate that our performance in the field of education is suspect.

Let us look at some per-capita statistics on the subject. In primary and secondary education in 1956-57 our per-capita expenditure was £6 12s. 1d., which was 82·9 per cent. of the six States average. In 1963-64 it was £11 16s. 9d. per capita; it had improved to 84·3 per cent. of the six States average. Over the subject period, our expenditure rose by 79·2 per cent. as against a rise of 76·3 per cent. in the six States average.

This year we enter the third phase of our educational expansion programme—the field of technical education. Reference to the Estimates will show that out of the Consolidated Revenue Fund we have this year provided £1,622,312 compared with last year's expenditure of £1,221,026, an increase of 32·9 per cent. in a single year. If hon. members compare this with the overall general escalation in expenditure of 4·7 per cent. they will readily see what emphasis we are placing on technical education.

Mr. Houston: You did not spend it last year. You held it over.

Mr. HILEY: The hon. member is confused between the Consolidated Revenue Fund, Loan Fund, and Trust and Special Funds. He worked very hard, but unknowingly, on those figures.

As pointed out in my Budget speech, capital expenditure on educational projects will increase this year from £7,033,000 to £9,358,000, or 33·05 per cent. One cannot help but notice that the Opposition avoid these figures in the statistics they quote.

One thing to which I do direct the attention of the Committee is that the Opposition does not criticise our standard of education but rather the amount of money spent on it. I often wonder if the cold monetary statistics are a real measure of standards.

Frankly, I would want to know in good detail the composition of these statistics for education before I attempted to draw real comparisons based upon money. Though this detail is not available, I can think of many items of expenditure included in, say, the New South Wales education costs that distort the comparison and nullify any argument that Queensland lags in educational standard or opportunity. New South Wales, for example, has equal pay for the sexes in the teaching service. Whatever the merits of equal pay may be, would higher expenditure per capita from this cause really lift the standards of education? The answer, of course, is obvious. It would not. New South Wales has also decentralised its teacher-training colleges, which now number eight, three of which have hostels attached. The heavier costs of decentralisation, plus the costs of hostels, have not yet to be met in Queensland. Queensland would have to double expenditure under this heading to reach the parity figure.

Mr. Bennett: Wouldn't you say that you would expect better teachers if they were better paid?

Mr. HILEY: That would suggest that teachers are not working because they are underpaid.

Mr. Bennett: I suggest that people with more ability might enter the teaching profession.

Mr. HILEY: I will not insult the teaching profession by answering that suggestion.

Due probably to a different system of operation, Queensland is well under New South Wales in its costs of the cleaning of its schools. Here we would have to almost treble expenditure to achieve a similar per-capita figure. Would that really do anything to lift our standard of education?

Certain commitments on libraries and museums in New South Wales, such as the Australian Museum and the Museum of Applied Arts are not repeated in Queensland. These all go to building up the per-capita figure for education in New South Wales.

I mention these cases not in an endeavour to draw comparison between levels of expenditure in different phases of education. I do so simply to show differing basic conditions and the danger of trying to draw too dogmatic a conclusion from apparent differences in per-capita expenditures on this function.

I say quite unequivocally that we, as a Government, have a good record of achievement in education. We are proud of that record. But, equally so, we openly acknowledge that there is still a tremendous amount to be done and, in a progressive society or an advancing community, there would always be something to be done in the field of education. There is no such thing as an end to the educational challenge or a finish to the educational road. I hope that in that spirit we will continue as a Government, for many years, to further improve what I suggest to the Committee is a splendid performance.

Mr. Aikens: Stagnation means decay, and that applies to education.

Mr. HILEY: To education more than to anything else.

During the recent debate on the Appropriation Bill I pointed out the paradox that the demand for Housing Commission homes has increased despite the high level of completions of dwellings in relation to the assessment of housing needs. We placed the assessed need at about 9,900 for 1964 whilst completions in that year totalled some 13,632.

I do not think I need remind the Committee of the figures of completion since we took office. It is sufficient to say that last year we completed almost twice the number of houses completed in the last year of office of our predecessors. I say that that quite definitely disposes of any argument that our housing record cannot scan against that of the previous Government.

Mr. Hanlon: When you say "we", you mean general home building, not through the Housing Commission alone.

Mr. HILEY: That is right.

Indeed, our record is quite outstanding. Over the last two years we have assisted the housing situation both from our own State funds and from sources under our control to the extent of £21,545,000. This year we propose to spend a further £11,600,000, lifting the figure to £33,145,000 for the three-year period.

I say to members of the Opposition that it is nonsense to assess and approach this problem on the narrow basis of how much comes out of only one pocket, namely, the Commonwealth-State Housing pocket, because if that was all the money that was available, no matter how much we put into it, it would not be enough. An analysis would show that Queensland has been able to virtually double its rate of house-building in the last eight or nine years because we have recruited and succeeded in obtaining consistent support from many other fields which previously gave no support.

However, all reports indicate a tightening of finance for home-building and increasing difficulty in selling old homes and homes recently built by speculative builders. Apparently this has been reflected in a fall in dwelling approvals during the September quarter for Australia as a whole. However, I ask the Committee to note that Queensland moved against the Australian trend and showed a further increase in dwelling approvals, as is indicated by the following figures:—

	Dwellings approved	
	Qld.	Australia
September quarter, 1964	3,697	34,222
September quarter, 1965	4,215	30,163
Per cent. movement ..	+14·0	−11·9

It is quite gratuitous that the momentum of this accelerated housing performance has kept running longer in Queensland than in the rest of Australia.

Our building industry is fully employed. The ratio of vacancies available for skilled building and construction workers to the number of such persons registered as unemployed is higher in Queensland than in any other State except Western Australia. Figures for the September quarter are—

State	Skilled Building and Construction Workers		
	Vacancies	Registered as unemployed	Ratio of vacancies per registered person
New South Wales ..	496	208	2·4
Victoria	538	211	2·5
Queensland	398	106	3·8
South Australia ..	227	109	2·1
Western Australia ..	196	33	5·9
Tasmania	105	35	3·0
Australia	1,960	702	2·8

We cannot afford, nor do we propose to allow, the level of housing construction to drop substantially. The overall level of housing funds is determined basically by the Commonwealth Government and the Reserve Bank within the framework of economic and fiscal policy. We are closely watching the position, and a quick approach will be made to these authorities if the circumstances so warrant. In the light of the statistics produced by the Commonwealth Statistician for the September quarter, we would not be in any position to apply for assistance as a special case because in house construction Queensland was still surging ahead whilst the rest of Australia was going backwards.

Mr. Newton: In other words, you have not applied for an increase of housing loan money over the past three years?

Mr. HILEY: The hon. member for Belmont is still bogged down in imagination.

Mr. Newton: It is not imagination. That is rumoured—and strongly rumoured, at that.

Mr. HILEY: If all that we received was Commonwealth-State Housing Agreement money, we would never end the housing problem.

Mr. Newton: But you could get more.

Mr. HILEY: If we got more for housing, we would get less for other purposes. This year we spent from our own resources £11,600,000 on housing. Compared with that, the finance received from the Commonwealth for housing is a mere flea-bite. If extra money was obtained for housing, it would have to be taken from something else. You cannot get a quart from a pint pot. The hon. member should not be stupid and imagine that money can be made by that type of method.

On sugar finances, I must confess that I was rather astounded at some of the "calamity howling" by the Opposition in respect of our great sugar industry. It is true that the industry has struck troubled times with the drop in overseas prices of sugar, some uncertainty in overseas marketing arrangements, and the effects of frost and drought from Mackay south. Let me say here and now that I, and the Government, appreciate these difficulties. They have to be faced and met, but I state quite unequivocally that I have no real doubt about the basic soundness of the industry or its long-term prospects.

Mr. Duggan: You heard what the Premier said about our having to restrict production.

Mr. HILEY: We will hear what he has to say when he returns, and it may be necessary to draw in the belt to be stronger later. That is not uncommon. With present troubles, we have the usual crop of those who criticise the recent expansion of the industry. As one might expect, they blame the Government for all the trouble. Indeed, if I understand the

hon. member for South Brisbane correctly, by some quirk of reasoning he put the blame on me personally.

Let us examine the position. The recommendations of the 1963 committee of inquiry into matters concerning the expansion of the sugar industry were made only after the fullest investigation. The committee consisted of men of capacity and integrity. In view of the importance of overseas markets, the committee went to Rome, London, Washington, and New York, and discussed relevant matters with officers of such expert bodies as the Food and Agriculture Organisation of the United Nations, the British Ministry of Agriculture, Fisheries and Food, the International Sugar Council, and the United States Department of Agriculture. Due weight had to be given to the opinions of such experts. We acted on that advice and had the support of the industry in so doing. What has happened to the overseas market since is, of course, a matter of record.

In 1963 it was hard to find a man in the sugar industry who had any doubts about expansion, and I doubt whether there was one hon. member in this Chamber who had any doubts about the wisdom of expanding the industry. However, in spite of tumultuous demands from the industry, the Government played it safe. The question was referred to an expert committee in 1963, and its findings left the Government in no position to withstand the clamour of the industry and the trend of world opinion, both of which told us precisely the same thing.

Mr. Aikens: If you had not accepted the committee's recommendations and things were all right, they would have abused you for doing that.

Mr. HILEY: Yes, for holding the State back.

But not all the financial troubles of the growers and the sugar mills are due to low overseas prices. They are accentuated by the effects of drought and frost, which have reduced both the quantity and quality of the cane and lowered the efficiency of the mills. Mention was made during the debate of Gin Gin, North Eton, Cattle Creek and Marian mills. These factors apply in varying degrees to each one of these mills. But, in answer to those who blame only the expansion programme for the present difficulties, it is pointed out that no mill that has been affected only by the low overseas price has applied for special Government assistance. It has been those mills that were severely hit by drought and frost that have had to seek aid.

The State Government Insurance Office has lent, in the normal course of its investment policy, £250,000 to each of the five sugar mills that applied for finance. A further £250,000 was lent to North Eton under Government guarantee. These amounts might sound large, but they form a very small portion of the additional capital expenditure by all sugar mills in this State.

The next point to which I refer is that it has come to my notice that some of the sugar mills were a little bit careless when budgeting for their expansion programmes, with the result that mill managements, or mill directors, and the bankers who were supporting them, found, after accepting programmes estimated to cost £600,000, that the actual cost was £850,000 when all the accounts were in and the cheques had to be written. In instances in which real difficulty has occurred, almost invariably there was an element of careless capital budgeting and of entering into commitments before ascertaining accurate costs and working out where the capital would come from.

Much of the necessary capital for the expansion programme has been provided by banks. If I have any criticism to offer of the banks, it is that they did too much, because they could lend from the special-term lending funds only for a maximum period of seven or eight years. Had the mills been forced first to go elsewhere for part of their requirements they may have been able to secure a longer term of repayment, thus easing the annual amount required for servicing the debt.

I cannot stress too strongly the need for mills to plough back into the business a reasonable share of profits. Experience of co-operatives generally has shown the tendency to distribute too much of the profits as bonuses to the members, causing too high a reliance on borrowed capital. Those mills that have avoided this pitfall and have built up a high proportion of shareholders' funds (including in this term deferred bonuses and the like to suppliers) are in a more fortunate position under present circumstances.

The Gin Gin mill had a lower member's equity than would have been desirable and the members were unwilling, although asked repeatedly to do so, to increase that equity by raising the rate of levy. Cane pays had been held up; further substantial capital expenditure was required to allow full advantage to be taken of expenditure already made; the mills' co-efficient of work was low—in short, the position was hopeless before it came to the notice of the Government. My immediate concern was to ensure that the mill completed this year's crushing. To this end I undertook to meet any increased loss due to the continuation of crushing, up to a maximum of £20,000.

Apart from Gin Gin, the mills in difficulty have short-term problems in meeting repayments and, in some cases in carrying losses. They also have long-term problems in meeting further capital expenditure. We are examining carefully the circumstances of each case and will do everything within our power to see these mills through to normal seasons.

In so far as growers are concerned, we have extended drought relief in the appropriate areas and, in so far as growers have been clients of the Agricultural Bank, we have extended sympathetic consideration to any reasonable request of a grower to overcome his immediate difficulties. I am satisfied—and I am sure every thinking member is satisfied—that this great industry will fight back and overcome its problems. It has seen dark days before and it has come through them and emerged into the clear sunlight of good fortune. The Government will give every aid in that fight.

On present indications, only Gin Gin will be a casualty and the matter of a new management and control for that mill is being prospected. For the others, temporary help and longer-term arrangements should provide the answers.

The Leader of the Opposition made reference to the alleged sell-out by the Government of Queensland companies, namely Queensland Oil Refineries Pty. Ltd. The claim that Queensland Oil Refineries will cease to operate in this State as from 1 December next, when the Amoco refinery comes on stream, is not entirely correct. True, the refining operations will cease when the larger Amoco refinery comes on stream. However, the company will continue to manufacture bitumen emulsion, for which purpose they will draw their supplies of bitumen from Amoco. They will also continue to operate their hot-mix plant, which produces a type of bitumen concrete used principally for airport runways and so on. Further, they will continue to do contract work for the laying of bitumen.

Queensland Oil Refineries will become distributing agents for Amoco for bitumen throughout Queensland, and for this purpose they will continue to operate their rail and road tanker service.

The second point raised by the hon. gentleman related to costs of collection by the State Transport Department. He pointed out that in 1957 £1,150,591 was collected at a cost of £64,652, whereas in 1965 £2,512,442 was collected at a cost of £380,863. Of course he overlooked the fact that since 1956-57 the Roads (Contribution to Maintenance) Act has come into operation and the collections from this source should also have been included in the comparison. Revenue collected by the State Transport Department would then have shown an increase of £2,875,476, from £1,150,591 in 1956-57 to £4,026,067 in 1964-65.

The increased cost of collection over the period, from £64,652 to £380,863 is therefore in a somewhat more comparable ratio. This is more evident when it is realised that the costs of maintaining weighbridges is included in the 1964-65 figures and that these costs cover a service performed both for the Transport Department in the collection of fees and for the Main Roads Department in checking on weights of loads because of wheel loading on main road arteries throughout the State.

The hon. member then went on to say—

> "In some directions there has been a gradual increase in taxation, although I must confess that has not been markedly so in this State, or, for that matter, in the other States."

I was interested to see the remarks of the Leader of the Opposition, which I thought were a fair summation of the position in this regard. However, I cannot help but remark that the Opposition does not speak with one voice. The hon. member for Baroona, for example, contended that the Government has laid a heavy hand on the taxpayer. The member for South Brisbane, in his usual manner, accused me, as a tax gatherer, of matching (as he put it) the Federal Treasurer in his "rapacious" attitude.

Mr. Hanlon: You are asking the State taxpayer to contribute to a proportionately heavier degree than we did in our time.

Mr. HILEY: I can only suggest that hon. members opposite confer with their Leader and speak with one voice.

Mr. Duggan: It sounds like Satan reproving sin.

Mr. HILEY: Before rank-and-file members opposite make such conflicting statements they should listen to the sound and wise observations of their Leader. The record clearly shows the fairness of comment of their Leader in this matter and the quite irresponsible statements which they themselves are prepared to make.

The Leader of the Opposition said—

> "Another unfortunate aspect of the Financial Statement, despite protestations about increases in the rate of growth of the State and so on, is the fact that the overall Governmental works programme this year is to be less than it was previously. The expenditure last year was £40,395,000 while for this year the allocation is £39,014,000."

This is a case of taking what I would call convenient figures. As long as the hon. gentleman can find a figure for 1965-66 that is down on the figure for 1964-65, it will do. In my Budget speech I explained fully that in 1964-65 developmental works proceeded at a pleasingly high rate of progress, owing mainly to the fact that the drought assisted to the extent that there were few hold-ups in jobs. As a result there was a run-down in construction fund balances, and we entered 1965-66 with smaller carry-overs than in 1964-65. In addition, I pointed out that with the increased capital works grants from the Commonwealth added to the State Government works programme figures, the tempo of capital expenditure

this year would show a substantial increase. I would remind the Leader of the Opposition that capital works this year from all sources are expected to total £75,163,000. Last year the expenditure was £70,500,000. The figures speak for themselves.

Mr. Duggan: Last week five painters were sacked in Toowoomba after 11 years' service, and thirty forestry workers with long service have been sacked.

Mr. HILEY: In the words of the late Hon. J. B. Chifley, no Government can expect to give every man a permanent opportunity for employment in the shade of his own gum tree. This is a big State. We have to provide work where the challenges are. We cannot afford to stop work elsewhere because we have to keep five painters employed forever in Toowoomba. If we accepted that doctrine the State would stand still.

Mr. Duggan: When these men communicated with the Under Secretary in Brisbane they were told that the same pattern applied elsewhere in the State. I can produce the letter.

Mr. HILEY: That could be true for painters, but there is other work going on. We are building houses, docks, harbours and so on in other parts of the State. That sort of challenge has to be faced and met.

The hon. member for Bulimba has attempted to examine the details of the Estimates-in-chief. If I may say so, in all kindness I feel that he has made a very genuine effort to analyse the document and has endeavoured to offer some constructive criticism of the figures contained therein, but unfortunately he has failed to grasp some of the fundamentals. This is to be regretted because I feel that his contribution to the Budget debate would be quite valuable if he had fully grasped his subject—he has worked hard at it. Perhaps a few moments on some of his basic misconceptions may be worthwhile.

Firstly, let me explain why actual results for a year should, and do, vary from the Estimates for the year under their many sub-headings. The Budget is conceived and compiled nearly 12 months before the final receipts and expenditure provided in it are received and spent. The size and disposition of the various parts have been based on today's assessment of what is likely to happen in the 12 months that lie ahead. This is not a haphazard assessment. It is arrived at only after very careful scrutiny by trained and experienced officers. However, the many and varied changing influences throughout the year—some controllable, some not—such as weather, industrial disturbances, economic policy and fluctuation, both inside Australia and outside in countries with which we trade, even to the incidence of death as it affects our succession and probate revenue—a lot depends on who dies—all affect the detail within the total Budget. It is a continuing process of government throughout the year to put and take within this detail to ensure that the overall Budget result is as planned.

It required two simple arithmetical exercises to arrive at the deduction that transport licence fees were up in 1964-65 and railway revenues were down compared with the previous year, and the hon. member was correct in both his sums. However, the reason for this movement was not the loss of business from the railways to road transport, with all its dire consequences that the hon. member suggested. The transport licences and permits figure for 1964-65 was enhanced by £162,500 as a result of the issue of new taxi licences in Brisbane, while the railway revenues reflect the loss of £1·6 million in Mt. Isa freights. If we make an adjustment for these two fortuitous events we find that the railways record the better figures for 1964-65. This does not mean that there has been a rush of business away from road transport to railways. Let me assure the hon. member, and hon. members generally, that there is a place in the Queensland transport and communications system for both the railways and road transport.

Mr. Newton: Provided they are co-ordinated.

Mr. HILEY: Yes, provided they are co-ordinated. Each will be required to play the part best suited to it and neither will be permitted to devour the other.

The reasons that the totals received for mining royalties have fluctuated from £491,347 in 1963-64 to £816,164 last year and to an estimate of £665,000 this year are simple. In 1964-65 receipts from Mary Kathleen Uranium Ltd. increased from £47,964 to £80,181. This, however, was a final payment and reflects in the reduced figures for this year. In addition, Mt. Isa royalties in 1964-65 increased by £77,419 and oil royalties moved from £9,337 to £188,583. However, as Mt. Isa royalties are assessed on the previous year's operations, the revenue from this source this year will be reduced by approximately £173,000 owing to the suspension of production during the strike.

The hon. member also raised the question of underspending on technical education equipment last year, and here I should like to explain that last year an additional provision of £150,000 was made for the purchase of special items of equipment. These were all ordered but a good deal had not been delivered and paid for by 30 June last, hence the underspending in the Vote. The amount unspent has been re-provided this year, and when the bills come in they will be paid.

The hon. member for Bulimba also queried the apparent reduction in créche and kindergarten grants and subsidies, and in this he was supported by the hon. member for Nudgee. A special grant of £50,000 was provided last year to assist the association in its Kindergarten Training College building

project. This item naturally is not required again this year and the provision has been reduced accordingly. On the other hand, the Government has agreed to increase the subsidies paid to kindergartens each year towards their operating costs, and ample provision has been made in the apparently reduced figure for this purpose.

Mr. Houston: You must admit that my statements brought out this information, which was not forthcoming previously.

Mr. HILEY: I should have thought that a man who was interested in kindergartens would know that the grant of £50,000 towards the building of a training college has been publicly recorded. "Blind Freddy" would know that we do not build a training college each year. I did not think I would have to tell the hon. member that.

Mr. Houston: I was referring to the overall picture.

Mr. HILEY: Again, if the hon. member was in touch with kindergartens—and I believe that he is—he must know that we have increased the subsidy to them and, knowing that, why tax us with reducing it?

Mr. Houston: Overall, you have; of course you have.

Mr. HILEY: If the hon. member tries to tell that to the kindergarten committees, they will know better.

Mr. Houston: They have already told me.

Mr. HILEY: That they are getting a bigger cheque this year; that is right.

Mr. Houston: No, not at all.

Mr. HILEY: The hon. member for Nundah raised the matter of the need for fire-fighting equipment in the port of Brisbane. I agree with the hon. member that it is very necessary to have first-class fire-fighting equipment in the port of Brisbane. However, I would not like to leave the impression that nothing has been done in this matter.

In the first place, I should mention that there are four vessels in the port of Brisbane at present equipped for fire-fighting and capable of delivering a combined stream of 2,070 gallons a minute. In addition, the Department of Harbours and Marine is at present negotiating with the Queensland Tug Company Pty. Ltd. to have installed on its new tug, which is at present under construction for the port, equipment which will be capable of delivering water at the rate of 2,100 gallons a minute. The capital cost to be met by the department is expected to be in the vicinity of £28,000, and annual maintenance and other charges, £3,000. There are two berths not capable of being served by land-based fire equipment, namely, the crude-oil berths at the mouth of the river. Amoco have fully equipped their wharf to meet an emergency, and negotiations are at present in hand with Ampol in the hope that the same result will be achieved.

The hon. member for Baroona charged the Government with what he called its complete disregard of the problems of local government. What rot! By any and every test our performance in the field of local government finance stands supreme. Let us look at the record.

Between 1950 and 1957, when our predecessors were in office, some £16,813,324 was lost to the State and local government in unraised debenture allocation. Since we have been the Government not one penny of a larger allocation has been lost.

Mr. Hanlon: They were totally different periods and loan-raising conditions.

Mr. HILEY: I thought some of the years between 1950 and 1957 were the boom years.

In our eight years of office the amount raised per annum in debentures has averaged £10,786,192 above the average of the preceding seven years under Labour. As a result of this we have nearly doubled the expenditure on water supply and more than trebled Labour's expenditure on sewerage. That is not a bad record. But those are described as the hopeless years for local government.

For the last eight years of Labour, the total payment of subsidy to all local bodies was £22,311,410. In the next eight years we paid out, in subsidy, £42,551,726 or £2 for £1.

Mr. Hanlon: How did your own revenues and your own loan-raising programmes go during that time?

Mr. HILEY: The Local Government Association was kind enough to invite me, on this last occasion on which I was able to speak as Treasurer, to deliver the valedictory in August-September this year. I have experienced no more moving and touching demonstration in my life than when, after I had completed my address and had reminded those present of these figures, they gave me a continuous ovation, not only while I stood on the platform but during the time that I passed among them until I was in the street outside. I accepted that as a tribute to the Government, and as a direct lie to the stupid nonsense talked by the hon. member for Baroona.

I shall continue with the record. Greater expenditure on main roads and progressive relief of local government in the level of contribution required to be made under those Acts is a substantial relief to local government. The lead we have taken in tackling the traffic problems of Brisbane and the generous offer we have made to the Brisbane City Council of financial assistance in Stage 1 all speak for themselves.

Mr. Hanlon: If the Commonwealth Government treated you the same you would be whinging for months.

Mr. HILEY: We gave £2 subsidy for every £1 Labour gave.

Mr. Hanlon: And got twice as much from everything else; so why shouldn't you?

Mr. HILEY: Our revenues during the same period were up by less than 100 per cent. It is a pity that the hon. member has strayed from the realism of fact into the region of fantasy.

The hon. member for Belmont mentioned dredging plant. I state briefly, for the information of the Committee, the present progress in this matter.

In 1964 the Commonwealth Government announced its decision concerning measures of assistance to the Australian shipbuilding industry. A subsidy of up to 33⅓ per cent. of the cost of construction is payable in respect of ships or other floating structures of 200 tons gross and over which are built for the Australian coasting trade or for use on Australian inland waterways. Marine dredging plant is included in these categories. Indeed, strong representations by this Government were undoubtedly a factor in the inclusion of dredging plant in the subsidy scheme. A retired portmaster, Captain Masterman, was selected by a conference of Australian port authorities to state the case for the subsidising of dredging plant to the Commonwealth Government. I felt that unless dredges were recognised for subsidy purposes, the cost of building them would be impossibly high. I am glad to say that their construction is now subsidised.

The Department of Harbours and Marine has prepared a performance specification for a trailer suction dredge preparatory to inviting the Australian Shipbuilding Board to call tenders for the design and construction of such a dredge. A condition of the granting of subsidy is that the Australian Shipbuilding Board calls the tenders and supervises the construction.

Conferences have been held with the Australian Shipbuilding Board in connection with the proposal, and further discussion will be held next month with a view to finalising arrangements. The proposed dredge is to be a sea-going, side-trailer, twin-screw vessel, with 3,600 tons dead weight and hopper capacity of 3,000 cubic yards for silt or 2,500 cubic yards for sand. It will be capable of dredging to a maximum depth of 65 feet below light water line and of operating in exposed areas during moderately bad weather conditions, in a swell of up to 8 feet. I think that that is necessary at places such as the Gladstone Harbour and the entrance to the channels to the port of Brisbane, where at times there is a considerable swell.

Mr. Bromley: When will it be built?

Mr. HILEY: That is a question that even the Archangel Gabriel could not answer at the moment.

Mr. Bromley: I hope it will be constructed here.

Mr. HILEY: So do I.

The cost is expected to be about £1,500,000, and spending will be spread over a period of 18 months to two years. We think it will take that long to build. At present the Port of Brisbane is equipped with two small suction dredges, and these vessels are mostly fully employed in river maintenance. We have a bucket dredge built, of course, for the heavy task of developmental work and quite unsuited to maintenance work as its cost of operation is too high. In addition, the cutter-section dredge "Saurian" acquired in 1963 is steadily undertaking reclamation dredging, mostly near the mouth of the river.

The hon. member for Mackay asked, "How does the Treasurer justify the tremendous increase in the cost of servicing the Public Debt since this Government took office?" Perhaps I could re-state his question: "How does the Treasurer justify expending increasing sums each year in the development of the State?" In effect, that is the query, for the Public Debt cannot increase unless the cost of servicing it also increases. I make no apology for the fact that we are borrowing as heavily as we are permitted to and spending the money in various ways to speed the development and advancement of the State.

Mr. Hanson: The hon. member for Mackay merely used the argument that you used when in Opposition about increasing the Public Debt.

Mr. HILEY: If I accept the truth of that interjection, my reply is that two wrongs do not make a right.

I hope I do not have to justify a policy of development of Queensland. For too long this State lay in the doldrums of Labour administration. Does the hon. member advocate an easing of activity in housing; the building of education facilities; conservation; port, road, and railway development; and the like?

I do not deny that there is a ceiling to the amount of Public Debt that the community can afford to service; but it is quite wrong to think that every increase in servicing costs is a charge on the taxpayer. Many capital works themselves service the debt that they create. For example, it has never cost the taxpayers of this State one penny for housing or for electricity. They are self-servicing through the moneys that are levied by way of rentals or electricity charges.

The cost of servicing the Public Debt has risen from £8 11s. 8d. to £14 12s. 11d. a head since the Government has been in office. The part that is self-servicing has increased over the same period from £1 15s. 7d. to £3 15s. 3d. a head of population. Therefore, the cost to posterity of all the works carried out on its behalf in the last eight years is the difference between £6 16s. 1d. and £10 17s. 8d. When we consider that this is the one instance in which deflated money values work in our favour, we find that the £10 17s. 8d. reduces to a comparable £8 14s. 7d., and that the real cost of eight years of development—development that is

apparent in every area in the State—is no more than £1 18s. 6d. a head per annum. I believe that the ordinary Queenslander prefers paying a little more and enjoying higher standards for himself and his children to accepting a service that is mediocre.

The hon. member for Bundaberg had a good deal to say about State Government Insurance Office investments. In the first place, he asked whether the office had money invested with H. G. Palmer Pty. Ltd. It holds H. G. Palmer debentures of a face value of £87,000 that it acquired at a cost of £83,635, all of which were acquired after M.L.C. Limited had taken substantial action to inject new capital into the company.

Might I remark that the interests of the State Government Insurance Office have not been jeopardised by the appointment of a receiver. Indeed, its position is improved to the extent that its interests will be fully protected by the receiver. There is, as yet, no indication that any loss will be incurred in respect of debentures held by the office.

Mr. Hanson: According to the Press this morning, that is problematical.

Mr. HILEY: I have made a study of the figures myself. There is about £20,000,000 worth of debentures; the value of the assets is about £40,000,000. Assuming that the value of those may have to be cut down quite a bit, I still think that debenture holders will come out of it all right. I do not think the shareholders will get a penny.

The need for the office to diversify its investment portfolio and include a percentage of higher-yield investments must, and will, be accepted by the Committee.

Mr. Hanlon: Do you know what the average yield was on the debentures?

Mr. HILEY: I could not say offhand; I think it worked out at under 8 per cent. If the office is to continue to improve its position in relation to its competitors, it must receive a return on investments comparable with that received by its main competitors. It has begun to improve its position in respect of its competitors, in that last year (1964-65) new business written was 23 per cent. above that written in the preceding year and 64 per cent. above that of two years before.

The State Government Insurance Office is now second only to two companies in Queensland in the writing of new business. It had slipped to fourth place; it has recovered and is now in third place. I do not think I should give the names of the two companies concerned, but, if hon. members will forgive me to that extent, I think they will be interested in the figures. According to the published reports, one of the companies received, for the calendar year 1964, an effective rate of interest on its funds of £6 4s. per cent., while the other had an interest-earning rate on its assurance fund of £6 4s. 8d. per cent. There is every indication that higher figures will be logged by these organisations during the current year.

The State Government Insurance Office has no possible chance of matching these returns if its investments are limited to governmental and semi-governmental securities, with current maximum interest rates of 5¼ and 5¾ per cent., respectively, and with an average over the years below these currently high rates. Its holding of Commonwealth securities returns at 5 per cent., and the average return for semi-governmental securities, at 30 June, 1965, was £5 4s. 5d. per cent. The office's holding of governmental and semi-governmental securities would, therefore, average more than 1 per cent. below the interest rate of its main competitors.

It must be accepted that venturing into higher-earning investments will expose the office to greater risks than if investment is limited to the gilt-edged field; but, if this limitation applies, the office will never compete in a highly competitive field. However, investment in wildcat or highly speculative fields is not undertaken, and it is fundamental that the risk should be spread as widely as possible and that part of the higher interest earned from these investments should be earmarked to provide sufficient reserves against any possible losses. This has, in fact, been done in so far as the accounts of the office, published by the Auditor-General, show that, as against investments in companies and first mortgage loans aggregating £7,147,189 at 30 June last, investment fluctuation reserves totalling £500,000, or approximately 7 per cent. of total investments, are actually in standing. Reference to the balance sheets of the office's main competitors operating on a much larger scale and diversified over a long period shows corresponding reserves of 2 per cent.

I have every faith in the ability and integrity of the General Manager and the members of the newly appointed Investment Board. Considered and sensible investment is the key to the future of the State Government Insurance Office in a competitive field and I propose to continue to encourage such class of investment. I would expect the infrequent ill wind, but I know that overall the result that will flow will be to the benefit of the office and, in turn, to the benefit of this State and its development.

If the competitive pressure shows out most in the life field, the wider investment policy has had a marked beneficial effect on the fire and general insurance section. This has always been a strong profit section, enabling large bonuses or rebates to be allowed to policy-holders in the fire and marine departments. The new policy has led to a steep increase in premiums won, profitability has never been better and, on top of maintaining the magnificent rebates on a greater volume, additions to reserves and to carried-forward profits have been excellent.

Make no mistake about it, the State Government Insurance Office, always a good office, is better than ever. Apart from its

rapidly growing funds and underwriting strength, it is now making a magnificent contribution to the development of the State. I do not think it should lose one penny over the Palmer investment; but even if it lost the lot it would not even feel the effect.

Mr. Aikens: Is it a fact that it is proposing to give rebates on storm and tempest policies as well?

Mr. HILEY: Yes.

I should also like to say something further on the problem of local authority raisings. I have never doubted that this could prove to be a tough year. I said so deliberately. I wanted local authorities to get on with the job vigorously and, in spite of the harder climate, most of them have made a good deal of headway.

For some years past, the Treasury has been able to use a lot of its investable funds to assist in local authority raisings. By 30 June last we had placed over £16,000,000 in that field. We will get back this year some £280,000 in redemption, and then we have Public Service superannuation and other money, all for new investment. This month I will be placing a further £1,327,000—I have already placed some—and the offers will go out as quickly as we can do the necessary typing.

I see from the Press that the Toowoomba people were worried, and their statement sounded a little bit despairing. They will be glad to receive an offer of £76,080, which will help them in their task. I do not want anyone to think that I will be doing something special for Toowoomba. In the placing of Treasury funds I have set my face against any differential treatment.

On the present evidence I now think that the total programme will be raised—not easily; certainly with nothing to spare. But it should be raised. After all, there is still two-thirds of the year to go and nearly 60 per cent. is already raised or in sight.

And now, in the time that remains I wish to say a word on the problem of finance for co-operative associations, a matter of deep import not only to the sugar industry but to many of Queensland's food-processing industries as well. The whole concept of co-operatives during the entire history of their growth was to limit any large personal shareholdings. To this end most co-operative rules put a limit—not a very high figure—on individual shareholding, and the Act applied a limit on the rate of dividend. In turn, taxation laws levied no tax on co-operative profits as long as they were distributed. Now, this produced certain clear trends. It kept co-operative capital low, and it discouraged any building up of reserves. Indeed, so strong was the desire to avoid paying any tax that many co-operatives had negligible reserves.

This may have sufficed when capital requirements were small, but as co-operatives found their assets rising to the value of millions of pounds it forced them to meet some of the need by systems of deferred credits, which retained the use of portion of the payment to suppliers for a term of years. But this was not nearly enough, and large recourse to banks absorbed millions of pounds of overdraft funds, commonly on a seven to eight-year repayment period.

Mr. Hanlon: Do you think the complaints of the Queensland Co-operative Milling Association went too far?

Mr. HILEY: I will argue the matter generally. I am not dealing with that company particularly.

This arrangement left no room for stress. If the capital programme overshot the budget, if prices fell, or mill through-put suffered from drought—any one of these things could provide a minor crisis. If two or three happened a co-operative could be in trouble.

Now, what are the lessons? Firstly, co-operatives must learn to budget carefully for their capital expenditure. They are not called upon to prepare and file a prospectus, and I do not suggest that they should; but if they were that might make them budget more carefully. Next, they must realise that with heavy capital expenditure a seven-year repayment term is too demanding. It is all right if they have, in nautical parlance, "a wet sheet and a following wind" all the time. But it is too rapid if they encounter a difficult year or two. They would be wiser to get some of the money from a source whence a longer term is possible, thus easing their burden of redemption.

But most of all, I think the co-operatives must learn to respect the part that reserves can play in a large industry. True, they will have to bear some tax but, in a normal year, their suppliers have to bear as much and more if the funds, instead of being reserved, are distributed. There is little change in the total tax burden, the main difference is in who pays the assessment.

From the member's point of view the stability of the mill, or works, is vital to his well-being. It does not matter whether it is sugar, wheat, meat, or butter, the processing works is often the economic heart of a district. If it fails, the district fails. That is why I am going to watch the future of Gin Gin so closely.

Some day this Parliament may have to consider the protective features of its co-operative laws now that co-operatives have left the "junior league" and are playing with the "majors". They are big business; they have investments worth not tens of millions but hundreds of millions of pounds.

There are plain lessons to be learnt in 1965, and I have deliberately said what I have so that the co-operative movement generally can take a survey of its needs for

so much capital, and work out the safeguards that will reduce the hazard of difficult finances if a year or two prove to be below average productivity.

Item (Aide-de-Camp to his Excellency the Governor) agreed to.

Progress reported.

DECENTRALIZATION OF MAGISTRATES COURTS BILL

SECOND READING—RESUMPTION OF DEBATE

Debate resumed from 13 October (see p. 839) on Dr. Delamothe's motion—

"That the Bill be now read a second time."

Mr. HANLON (Baroona) (12.50 p.m.): The Bill was fairly extensively discussed at the introductory stage. It is one on which there has been some controversy, particularly with regard to new procedures on certain complaints which provide for variations of existing procedures on summonses.

The purpose of the Bill is to make provision with respect to the decentralisation of and expedition of hearings by Magistrates Courts, and for other purposes. Firstly, dealing with the decentralisation of Magistrates Courts, it is generally accepted as desirable that a further attempt should be made to provide for decentralisation of the courts initially in the Brisbane district, or the metropolitan area. Although the new district could not be said to be actually identical with the metropolitan area, I think I could refer to them as such. Later on, as the need arises in other parts of the State, other districts will be declared.

The hon. member for Windsor suggested that the Government may be acting a little prematurely in this matter. However, it seems that the general opinion is that there are many advantages to be derived from decentralisation. But, as the hon. member for South Brisbane pointed out, some of the advantages which have been claimed will not necessarily flow. He said that in some instances, instead of costs being reduced, they may be slightly greater than at present. Having regard to the points advanced by the Minister and other hon. members concerning advantages which may flow from decentralisation, I think it is difficult to oppose the Bill. No doubt hon. members who have a particular interest in decentralisation so far as it concerns Inala and other places will have some comments to make.

There is general disappointment with the Minister's statement in the introductory stage that he does not intend to appoint additional magistrates at present. While we approve of decentralisation and the advantages which will accrue, we believe that there is a corresponding need for an increase in the number of magistrates in Queensland. The Minister pointed out that decentralisation will result in greater efficiency and, in some respects, a shortening of procedures, and therefore, initially, it will reduce the load on magistrates. He said that, for a time, he intends to examine what happens before taking action to appoint extra magistrates. In this Assembly and elsewhere the need has been stressed to increase the number of magistrates to deal with the increase in work which, in turn, creates delays in the procedures in the Magistrates Courts.

I now intend to deal particularly with the new procedures envisaged for certain offences. Under the legislation it will be permissible for summonses to be served by registered mail. Some people have raised the objection that there is a possibility of summonses going astray, or that someone other than the actual defendant may sign for the registered letter. As a result, the person concerned may not receive the summons.

It cannot be denied that time and effort have been wasted and that there are few benefits in the serving of summonses by police officers. Quite often a police officer has to make a number of calls at a residence because the person concerned has not been at home. Eventually, the police officer leaves the summons with another person at that address or puts it under the door. Therefore, little real objection can be raised to the serving of summonses by registered mail.

A considerable amount of criticism has been levelled by those well qualified to criticise against the new procedure of election to appear. I think it was the Dean of the Faculty of Law at the University of Queensland, Professor Sykes, who pointed to the danger of conditioning the people to accept "instant justice" by encouraging them to forsake the safeguards that exist in our British system of justice.

Mr. Aikens: Many people want to plead guilty and get it over quickly rather than go to court.

Mr. HANLON: That is true. Many of the breaches under the Traffic Act, the Brisbane City Council ordinances and the Main Roads Act are such that the person involved does not want to go to court. But that does not justify the Government's attempting to take away the normal procedures simply because this procedure is less costly, more convenient, or easier. I agree with the hon. member for Townsville South that many people want to plead guilty in writing and not bother going to court. But that does not relieve us of the responsibility of ensuring that the necessary safeguards are provided. In some respects the Bill affords greater protection than the existing law.

It is difficult to understand why it was necessary to introduce on-the-spot fines for mobile offences when this Bill, with its election-to-appear provision, has the same effect, although the procedures adopted under the two systems are totally different.

[*Sitting suspended from 1 to 2.15 p.m.*]

Mr. HANLON: I was referring to the fact that there is a world of difference between the on-the-spot ticket system recently introduced by the Government and the new

procedures provided by the Bill with respect to summonses arising from breaches of certain Acts, amongst them being the Traffic Act.

The on-the-spot system for the issuing of tickets for traffic offences is certainly the very worst form of "instant justice". I might mention that some people have expressed the opinion that the provisions of clause 15 of the Bill also provide "instant justice", although that is an opinion to which I do not subscribe. I believe that there is a great difference between what is provided by the Bill and the on-the-spot ticket system. Undoubtedly there are some similarities between them, but there are in the Bill protections that make what it proposes completely different from the "instant justice" of the on-the-spot ticket system.

Under the on-the-spot system there is no mature consideration of the facts, the circumstances, and the traffic record of the person concerned. I should imagine that those matters would be considered before the issuing of a summons. There are predetermined, standardised fines for a wide range of traffic breaches. After knowledge of the offence is communicated to the person who has allegedly committed it, he has the opportunity to appear, as against election to appear, which is the procedure to be followed under the Bill when a summons is issued. With the on-the-spot ticket system, a person already knows the penalty struck against him and he has to weigh that against a possible greater penalty and costs if he contests the matter before a magistrate.

Under the Bill, a person has the opportunity to make an election to appear or not to appear. Up till the time that a person who receives a summons makes his election, the position is exactly the same as it is in any other case. At that point he has to be presented with a sworn statement by the complainant recounting briefly the alleged facts of the offence or breach. That is certainly an improvement in many respects on the present procedure.

Recently a motorist drew to my attention a summons complaint that he had received. I have the document with me now. I am not raising it now as a matter of complaint because I have taken the matter up with the Minister for Education and he has informed me that he is examining the points mentioned. He always does have a thorough investigation made of matters referred to him. I instance this as an example of the type of summons being sent out under the Traffic Act. It states that it is the complaint of a senior sergeant of police and superintendent of traffic at Brisbane in the State of Queensland, made on the eighth day of October, 1965, and it then reads—

> ". . . before the undersigned, a Justice of the Peace for the said State, who says that on the 11th day of June, 1965, at Brisbane in the Magistrates Courts District of Brisbane in the said State, one"—

I shall not mention the name—

> "did drive a vehicle to wit a motor car upon a road namely George Street, Brisbane aforesaid, such vehicle not then being in a good and thoroughly serviceable condition contrary to the Acts in such case made and provided:"

The only detail that appears on the form apart from that information is "Reg. 68 (1) (d)" at the top. Surely it was not necessary to introduce a Bill to effect this improvement. The alleged facts could have been set out on the summons purely as a matter of procedure.

Regulations 68 (1) (d) was mentioned on the summons, but the person who received it would have to get a copy of the regulations to find out what that regulation said. I am sure that the Minister for Justice would not know offhand what it said; I would not expect him to. On going to the Parliamentary Library and getting the latest consolidated volume of the Acts and regulations, I found that regulation 68 (1) (d) was not included in it. Apparently it is one of the more recent regulations, and one would have difficulty in ascertaining what it says. I checked with the Traffic Branch as to what it did say, and it is purely and simply a general prohibitive regulation making it an offence to drive a vehicle or stand a vehicle or permit it to stand unless its parts are in a good and thoroughly serviceable condition. It does not inform the person who receives the summons what the defect is.

If a summons is issued in respect of a particular vehicle, one would think that the registration number would be shown on it. In the case to which I am referring, this question is of great importance to the person concerned because he alleges that the date of the alleged offence is some three days after his vehicle had been involved in an accident and had been towed to a nearby panel beating works where it remained for eight weeks. He says that if he was driving a defective vehicle in George Street on that day, contrary to the provisions of the Act, it could not have been his own vehicle but must have been somebody else's vehicle. He says that he does not recall being pulled up by a policeman. Of course, this was back in June, and it is now November.

It will be an improvement to have the alleged facts of the breach set out on the summons instead of having only, say, "Regulation 68 (1) (d)" shown on the top of the summons. I do not intend to be unduly critical of the Traffic Branch in that respect. Possibly because of the volume of work going through the branch they may have got into the habit of putting only information of that kind on the summonses.

I ask the Minister to indicate later whether, under the new procedure giving an election to appear, the alleged facts that will be set out briefly in a sworn statement attached to the summons that is issued will be sufficient to give the person concerned an idea of the

breach that he is being charged with. In my opinion, we should not agree to this procedure if the so-called sworn statement consists merely of the number of a regulation.

If one assumes that this will be done and the person receives a statement of the alleged facts, he will have an opportunity to elect to appear. If he elects not to appear and the matter proceeds in his absence, the Bill gives the protection that no further evidence can be offered in his absence. In other words, the magistrate will give his decision according to the information that appears on the summons, and the person on whom the summons is served will know before he makes his election the evidence that will be presented in his absence. If he elects not to appear, no further evidence can be presented in the case, other than evidence of previous convictions when the question of penalty is being considered.

The actions of the Government today justify the censure that has been placed on them by a number of people, because the Government has endeavoured to condition the public to forms of "instant justice" by introducing an on-the-spot ticket system for breaches committed in a moving vehicle. I concede that it has done so to a certain extent.

I do not feel that this particular aspect of the Bill that will apply in the election to appear can be regarded as "instant justice" because, quite differently from the on-the-spot system the procedure is exactly the same, up to the point where the person makes an election as to whether he is to appear or not. He has no pre-knowledge of the fine that will apply if he does not appear. He is not discouraged to appear on the summons. It could be said that he is discouraged to a degree in that he can avoid added court costs but that would also apply in existing circumstances.

In view of the introduction of the procedure in this Bill I suggest that the Government should discontinue the system of issuing on-the-spot tickets, because the system that is proposed in the summons procedure in this Bill will prevent quite a considerable loss of time that is now involved in the attendance of policemen at court where there is no appearance of the defendant, and so on.

Many of the arguments—indeed, the majority of the arguments—advanced by the Government to justify the on-the-spot ticket procedure will be met by the implementation of the new procedures of summons set down in this Bill. It will mean that, instead of the on-the-spot, sausage-machine issuing of tickets, the normal procedure of summons can apply. In every case there will be a mature consideration of procedure before the summons is taken out, with the definite reasons shown on it, and the defendant will have the opportunity, if he wishes, not to proceed to court.

Whilst I cannot agree that the suggested procedure on summons is "instant justice," I believe there is a disturbing trend on the part of the Government to endeavour to condition people—that was demonstrated by the introduction of the on-the-spot system—to the idea that they will benefit by avoiding court hearings. In itself this measure should support the revoking of regulations issued in respect of the introduction of on-the-spot fines for mobile traffic offences.

Mr. BENNETT (South Brisbane) (2.28 p.m.): I can see that, as usual, I have been urged into speaking at a very inopportune time this afternoon, but I shall carry on.

The main purpose of this Bill, as was indicated by the Minister in his second-reading speech, is to expedite hearings in Magistrates Courts and to ease congestion in those courts. Therefore, he automatically concedes and admits that hearings do require expediting and that there is congestion in the courts. Unfortunately, his method of solution is not going to obtain the desired results, because to implement the proposals envisaged in the Bill he requires more magistrates.

It is no use having more courts if there is not the manpower available to operate those courts. The Minister has said that we should expedite hearings; that they require expediting; that there is congestion in our courts; and that we are going to provide more space. But it is not much use having a mill unless there is power to operate it, and that is exactly the position the Minister is creating under this Bill. He disappointed everybody when he announced publicly that, at this stage at any rate, he does not propose to increase the numerical strength of the magistracy.

It matters little to many people in the metropolitan area whether Magistrates Courts sit at Inala, Sandgate, Wynnum, Pinkenba, South Brisbane, Mount Coot-tha or Mt. Gravatt, provided they do sit and provided the business is dealt with. So that we, as an Opposition, cannot seriously challenge the suggestion to decentralise the courts, knowing that no doubt there are the same commendable and desirable features in decentralisation as apply to most things.

The essential point is that the decentralisation was to expedite hearings, but that cannot be done. Only yesterday we had the spectacle of certain work being performed in the Magistrates Court at Sandgate by two justices of the peace. A new court building has been erected there but obviously there are insufficient magistrates to man the court. Admittedly under the Justices Act and under the Magistrates Courts Act two justices of the peace have the right, power and authority to supervise a court under certain conditions, but this is completely undesirable. It is a relic of the ancient days in Queensland when two justices of the peace presided over a court to deal with urgent offences, usually simple offences, in places where no magistrate would visit in the course of his ordinary routine or under the normal circuit arrangements.

Just imagine that in this modern age we have two justices of the peace presiding over a court in one of our heavily settled metropolitan areas! I do not know whether the hon. member for Sandgate would refer to Sandgate as a suburb of Brisbane or as an integral part of Brisbane, nevertheless it is a well-developed part of the metropolitan area. There we have a rather ornate court over which no magistrate is permanently presiding. Instead, it is operating under the outback conditions of having two justices of the peace coming in to deal with urgent work. Those two justices of the peace, like any other justices of the peace, have no knowledge of the law or understanding of court procedure. But they are at the dictates of the police authorities, who are responsible for their appointment.

Mr. Aikens: The other day you were very fulsome in your praise of the magistrates.

Mr. BENNETT: Apparently the hon. member has been busy arranging his personal Melbourne Cup. I am not talking about magistrates at the moment. I am talking about justices of the peace sitting in magisterial jurisdiction, which is entirely different. Magistrates are qualified men. Magistrates are qualified to preside and to do the job they are called upon to do. They have a knowledge of law; they have passed examinations. Magistrates have had experience—unlike justices of the peace, who would be just as ignorant of the law as is the hon. member for Townsville South.

There is only one way to ease the present congestion in the Magistrates Courts, and that is to have the membership increased. In introducing the second-reading debate the Minister gave statistics covering cases dealt with by magistrates in the last 2½ years. I do not know what his real purpose was in so doing, but it would seem that he was perhaps trying to argue that an increase in the numerical strength of magistrates did not automatically increase their output. If that was his intention I think it was a rather unfair silent commentary to make on the endeavours of magistrates.

In the first place, such cold statistical figures do not take into consideration the amount of sickness amongst the magistracy in any one year. Brisbane magistrates are the senior magistrates in the State. They have seen service throughout the length and breadth of Queensland. In years they are older than all other magistrates. I suppose it is to be expected that the logic of the years has been wearing heavily on their health and capacity to work regularly and assiduously day after day, so that they would be in the category of those who would normally be suffering a certain amount of ill-health and would have to take a certain amount of sick leave. Therefore we cannot apply accountancy, or statistical figures, to the operation of law and justice. No two cases are the same; no two cases require the same judicial consideration, and no two cases relating to the same charge last the same time, because everything is so different.

It would be unfortunate if the Minister applied to the operations of the law and the output of magistrates the same thinking as an accountant in the Treasury Department, or, for that matter, a doctor in relation to the number of appendices which may be removed, because they would all be done in much the same fashion. The law, however, does not operate in that way. For instance, in one year's activities there could be an undue number of pleas of guilty while in another year there might be a considerable number of pleas of not guilty.

I do not know if the Minister was trying to prove that magistrates are loafing, or are not doing the work they should be doing. I sincerely hope that was not his idea or ambition because, as I know magistrates, they are all working conscientiously to clear the list of outstanding cases, and their endeavours cannot be measured in terms of material output. In referring to those figures I should hope that the Minister was merely presenting them as an interesting aspect of the court's operations and was not using them to suggest that there should be no increase in the numerical strength of the metropolitan magistracy. In any case, the figures do not read true, even if the Minister intended them to do so. In recent times, half of the magistrates in Brisbane have been required to attend the Minister's annual conference, which reduces their working time by a week. That would considerably affect the output.

The Minister said that he is introducing the measure to ensure the maximum use of all courtrooms. I assure him that they cannot be used to the full extent until there are more magistrates. At present there are more than 17 courts available for the use of magistrates in Brisbane. We do not need more rooms. There is also accommodation at Millaquin House, where the magistrates are now operating partially. If the large area set aside for the mechanical recording equipment, which incidentally has not yet arrived, was used, space for another court would be available.

I have been reliably informed that the floor space which has been set aside for the purposes of this Act was lying vacant for a long time, and that now the Department of Justice is paying a handsome rental for the space which could not otherwise be rented or leased by the Millaquin mill authorities. In order to employ this space, people are now thrown into confusion in the inner city, not knowing whether they are to go to the Magistrates Court at the top of George Street—under the tunnel at the rear of the District Courts—or, alternatively, to Millaquin House. It often happens that litigants—defendants and others—whose presence is required in court report to the wrong building. Sometimes they run the risk of having a bench warrant issued against them because they are in the wrong court or of having judgments signed in their absence.

The situation is far from clear. Admittedly, on the form of summons, a type of which has been produced by the hon. member for Baroona, there is an indication, not in very prominent or clear phraseology or terms, that the person is required at a particular court in Millaquin House or in George Street. The average person who has no knowledge of the law and its procedures, and is not represented by counsel or a solicitor, fails to properly appreciate the directions contained on the summons and invariably ends up in the wrong place.

The confusion relative to location delays hearings on some days by an hour or an hour and a half while the respective litigants sort out the perches on which they are to sit.

The Minister said that the Bill contains some desirable improvements. I indicated at an earlier stage that there are some desirable improvements. Location, as such, is a mere bagatelle because people in the metropolitan area can get to a court, no matter where it is.

The so-called radical change in the Bill is the provision that enables litigants to plead guilty in their absence. The publicity given to this proposal would lead one to believe that this was a complete innovation in court procedures in Queensland. That is far from the truth. For some simple offences—traffic offences, offences against Brisbane City Council or other local government ordinances —it has been possible for many years to plead guilty in writing in one's absence. Perhaps this tidies up the procedure a little. I concede that it gives the defendant a distinct advantage over what has happened in practice in the past.

Like the hon. member for Baroona, I concede that the proposal is yet another step to condition public thinking to avoiding going to court. I have noticed that the Government has the sinister intention of circumventing legal procedures in many instances if it considers it can improve State revenue or eliminate what it considers to be a public evil. Even with those intentions, I do not think it is fair and proper to so condition public thinking. On that point I agree with the critics of this proposal.

Having made that comment, as a practising lawyer, I must admit that the proposal to allow a person to plead guilty in writing is a major improvement on the present system. It is true that people need not plead guilty in writing; they need not even turn up at court for simple offences or traffic offences, and the court can go ahead in absentia; in other words, in their absence.

What happens is the same in all cases. The police officers responsible for the arrest and apprehension of offenders and the issuing of the complaints and summonses have to be present in court in case hearings are contested. Even if such a hearing is not contested, the traffic police officers and others associated with it have to be there.

I have mentioned this matter on several occasions over the years. I have pointed out that traffic policemen, up to at least 40 of them on numerous occasions, are each day idly spending their time sitting round on the court veranda smoking cigarettes and exchanging yarns whilst waiting for their cases to be heard, when their services could be used to better advantage on the roads, not catching motorists from concealed positions but driving the highways in a prominent position to be seen by all. I am pleased to see that that criticism of mine has struck home and that the Government is now prepared to introduce a procedure that will enable this vast amount of police manpower to be better used.

If a case was heard in the absence of the defendant (called an ex parte hearing), the police officer who apprehended him had to go through the farcical procedure of listening to a court orderly, another police officer, call the name of the defendant three times in a loud voice on the court veranda and then enter the witness box, be sworn on oath by another police officer, and then swear that he had heard the name of the defendant called three times and that he had not appeared. He had to swear on oath that he served the defendant with a copy of the complaint and summons, which had then to be tendered.

At that stage the police officer knows that the defendant will not appear, and in the past there have been police officers who have been prepared to embellish the facts to which they swear in evidence, knowing that the defendant is not present and that there is no possibility of being cross-examined to test the truth of the evidence given. Although this does not happen regularly, in those tempting circumstances some police officers have been prepared to exaggerate the facts and present cases much blacker than they actually were. They have given what is called inflammatory evidence. There is also yet another police officer in attendance who sits at the Bar table and hammers home the evidence by repeating what has been sworn on oath from the witness box. He advocates that the penalty should be considerably increased.

From the presence of all that police manpower, the result is the grave possibility that if there is any hearing at all the penalty will be increased. What the Bill proposes, is, in my opinion, a desirable improvement. The facts alleged against a defendant will be served on him by registered post, thus enabling him in the first place to know what case is to be made against him if he wishes to contest the issue. He therefore has an opportunity to prepare an adequate defence or, in the alternative, he can elect to be dealt with in his absence. He could elect to plead guilty as he knows full well that the only evidence presented against him will be what is contained in the copy of the notice that he has in his possession and

which he must agree is correct or he would not plead guilty. In other words, he would defend it.

I also make the statement that, even if he has the right to go to court—I certainly hope that that right will not be taken away under any circumstances—and he wishes to admit the truth of the allegations contained in the complaint against him and plead guilty, a person becomes somewhat anxious about appearing in court. Defendants in these cases are not criminals or even quasi-criminals, and they are upset about the fact that they have to appear in court and the atmosphere in the court. So, in order to relieve their nervous system of strain and anxiety, they brief a legal man—sometimes counsel; very often a solicitor—to appear for them, and his fees are more than the fine that they have to pay. In effect, they are paying for counsel who, under circumstances such as these in a plea of guilty, is doing no more than relieving them of their strain and anxiety.

Mr. Aikens: They would probably win if they did not have a barrister.

Mr. BENNETT: I am talking about pleas of guilty. I do not know why the hon. member for Townsville South must display his crass ignorance so often. If he went along to plead guilty on behalf of a friend who did not know his capacity, he would not only plead guilty but also advocate that a heavy penalty be imposed upon the friend for whom he was supposed to be acting.

I support the submissions of the hon. member for Baroona relative to the principle of on-the-spot fines. Members of the Opposition strenuously opposed the introduction of this principle and advanced, I think, very sound and convincing arguments against it. Our arguments have now been proved correct. With the amendment proposed in this Bill there will not be any need for on-the-spot fines, because people will be able to go to court or, alternatively, elect to plead guilty in writing and have each individual case dealt with on its merits. Instead of people being treated as if they were sausages, cyphers, or units of society, under this system each person will be dealt with by a magistrate, who will read his story and the allegations made against him. Although I have not seen a copy of the notice of election, I assume that, following the rules of fair play and justice, if a notice is to be dealt with in one's absence, one will be given an opportunity of making an explanation in writing.

As I said, the magistrate will then read the case for the prosecution, read one's explanation, and deal with one accordingly, instead of acting like a slot machine on the principle of the on-the-spot fines. The jurisdiction and prestige of the court will be preserved if the matter is allowed to go before a magistrate instead of giving the police the power not only to apprehend and charge but also to determine the penalty, as they are doing with on-the-spot fines. If a magistrate hears the matter, the police will not act in the dual capacity of prosecutor and magistrate.

It has already been pointed out by the Minister that the clerk of the court—within 21 days, I think—will notify the defendant of the fine, the costs and the fees involved. I sincerely hope that there will be no costs other than court costs. I believe that the only costs involved should be the £1 4s. for the issuing of the complaint and summons. I do not think that any defendant, in his absence, should be charged with professional costs for the prosecutor who has prepared the summons, nor should any other costs be paid for issuing the summons because the magistrate's fees would have to be paid whether he is dealing with pleas of guilty or any other matters.

Whilst dealing with costs, there is provision in this Bill allowing an application for a change of venue to be made to the clerk of the court before the case comes on for hearing and before it ever reaches the magistrate. I am not wholeheartedly in accord with that principle because I do not think the clerk of the court, who admittedly has certain training, has the capacity of the magistrate or the knowledge or qualifications to deal with the question of adjournment, which is a very serious matter containing a lot of law.

Let me say briefly that the exercise of a decision to grant an adjournment is a judicial exercise and I do not see why anybody who is not a magistrate should exercise a judicial authority. Kennedy Allen, in his textbook, says—

> "Although justices have a discretion to refuse an application for adjournment they must exercise their discretion judiciously and with the utmost circumspection. It should be remembered that adjournment is a judicial act."

He goes on to say—

> "On the other hand, an adjournment should not be granted upon extraneous considerations. In granting an adjournment on irrelevant grounds justices would be acting illegally."

So, without going into detail, there is a lot of law involved in deciding to exercise one's discretion to refuse or allow an adjournment, and I do not see why the clerk of the court should be vested with that power.

In relation to costs, let me say that there is a provision which states, in effect, that if one is within half a mile of the boundary of a neighbouring district or equidistant between two divisions of a district, the case can be heard in either division. In addition, if one is in the wrong district so far as venue is concerned the magistrate has no jurisdiction to award costs.

That is the law as it presently stands and I should think that when the Minister is giving litigants the right of a change of venue and extending the elasticity of a court's jurisdiction, he should have written into the legislation power to allow costs to a litigant

if the plaintiff or the prosecutor commences the action in the wrong jurisdiction. If he brings a defendant into a jurisdiction that has no authority and puts him to the expense of proving that it is the wrong jurisdiction, that is no reason why the plaintiff or the prosecutor should not pay the costs of being in the wrong jurisdiction.

I could not quite follow the Minister when he said, in effect, "After all, in such a matter the litigant would have the right to apply within 21 days for a re-hearing." I do not know that his submission in that regard is accurate. Certainly, under section 142 of the 1963 amendment there is power to apply for a re-hearing within seven days subject to stringent conditions in law. But because this Bill says that the clerk of the court shall send out the details of the conviction and the amount of costs allowed and the fine imposed and that a warrant of execution or commitment shall not issue to enforce an order for the payment of a penalty, costs, fees or other sum made in such a proceeding until the expiration of 21 days after the date on which such order was made, the Minister apparently jumped to the conclusion that because a warrant of execution does not go out until the expiration of 21 days, there is the right to apply for a re-hearing within that period of 21 days.

As I understand the law from the amendment introduced by this Government as recently as 1963, it says that there are only seven days within which to apply for a re-hearing. Incidentally, the application for re-hearing does not give the applicant an automatic right to get one. I know that magistrates will and must—as they have in the past—apply the law strictly to any such application for re-hearing. The power of justices to hear a complaint de novo after a conviction lies within limits very much narrower than their power, after hearing and determining a case, to reopen it. In other words, it is most unusual to get a favourable decision on an application for a re-hearing. The rule is that once a conviction has been pronounced magistrates are functi officio, and to that rule there appears to be only one exception. Kennedy Allen goes on to give particulars of the exception. It is a very strict rule.

To get a re-hearing one almost has to prove that the magistrate acted in the first instance completely without authority. Of course, if he acted in a dishonest fashion the applicant would get a re-hearing, but as far as I know no such application or suggestion has been made for years. So the circumstances under which one could get a re-hearing are particularly limited. The only redress, if there is any real redress, is by way of appeal.

I am not arguing, of course, that there should be any ready avenue of redress in these circumstances. If a defendant has been served with a notice giving him the right either to go to court or to elect to be dealt with in his absence, and if in fact he sends in a document in writing pleading guilty and requesting that he be dealt with in his absence, obviously only in very limited circumstances should he have the right to a second go. If it was made too easy everybody would plead guilty in writing, wait to see what fine was imposed and then, if dissatisfied, want to have a second bite at the apple. The law says that just cannot be done.

The Minister was perhaps a little hasty when he said that even though this procedure is applied an applicant will still have a right of re-hearing within 21 days. So far as I know he has a right to apply for a re-hearing within seven days, but no right to actually get a re-hearing. It is only in exceptional circumstances that one should get a re-hearing.

The other provision relating to a re-hearing within seven days is in section 28 of the Justices Act which, in effect, refers to the position when two justices are evenly divided. This goes back to the old archaic system of having two unqualified men sitting on the bench who perhaps might not be able to come to any conclusion one way or the other. It is obvious that in such an event there must be a right of re-hearing because no decision has been made one way or the other. That again is only in extraordinary circumstances.

I made mention of the fact that the right of appeal is governed by section 223. That appeal to a single District Court judge must still be made within seven days of conviction. It is provided that if the appellant is unable, through no fault of his own, to serve notice on the other party, he may apply to a judge for an order enlarging the time. This also is very unusual.

The proceedings by way of appeal or re-hearing are indeed limited. I should not like the public to think that they can run the risk of convictions under this section and then easily obtain re-hearings, because they simply cannot. I am not arguing that they should be able to.

Under section 223 of the Justices Act, if the judge on appeal so orders or the parties so agree, an appeal shall be by way of re-hearing, but otherwise an appeal shall be heard and determined upon the evidence and proceedings before the justice. Invariably, on an appeal before a District Court judge, there cannot be a re-hearing of the case. The judge can be asked to upset the decision of the magistrate only on the material and evidence put before the magistrate. If the judge sees that a person deliberately and conscientiously pleaded guilty in writing, after actually considering the allegations against him, I should say, to use the vernacular, he would have Buckley's chance of getting a re-hearing before anybody and I do not doubt that in this regard the law is fully justified.

Part III of the Bill contains a principle which says, in effect, that there can be a change of jurisdiction in relation to a complaint of a simple offence in certain circumstances. Perhaps the Minister did not take

into consideration the fact that before this Bill was made law the Children's Services Bill would have passed the second-reading stage and be ready for the final wash-up, because that Bill now gives magistrates the right to deal with children on certain indictable offences; yet Part III of this Bill, which deals with the authority and power of magistrates, makes no reference to indictable offences. The provisions of Part III giving certain powers to magistrates relate only to simple offences and, if we are to accept the concept of magistrates having the right to deal with children on indictable offences in certain circumstances, then the provisions in relation to Part III should apply to children on indictable offences just as they do to people on simple offences.

Mr. Smith: Surely you do not suggest that a child on an indictable offence would be dealt with under that part.

Mr. BENNETT: Part III deals with the actual venue of the place of hearing. I do not like to embarrass my friend, but it is obvious that he has not read the Bill. If he cares to come to me afterwards I will inform him on its main principles. Even at this late stage I might enlighten him by saying that Part VI of the Bill is the portion that deals with the authority to convict people in their absence, not Part III.

The Minister is certainly acquiring great power when he says, according to another principle in the Bill, that the Chief Stipendiary Magistrate shall not only organise the work in the Metropolitan Magistrates Court but also shall report to the Minister. If that envisages an annual report, I agree.

(Time expired.)

Mr. AIKENS (Townsville South) (3.8 p.m.): We have heard a lot today from the hon. member for South Brisbane, but unfortunately he was not listened to by most of the people of Queensland. Had he been they would know the truth and wisdom of what I have been trying to tell them for many years—what, in fact, I told the students at the Townsville University the other day when I was their guest speaker—that there is no justice; there is only law. Today we have listened to 40 minutes of law—or the law as he perceives it—from the hon. member for South Brisbane. We realise from his dissertation how little justice there is in this State—that is, justice as it is understood and appreciated by the ordinary man in the street.

It is true that, under this Bill there are to be certain shortcuts in the procedures taken before the Magistrates Court. It is also true, as I interjected when the hon. member for Baroona was speaking, that the people whom we represent, that is, the ordinary people—not the barristers and the lawyers and those who fatten and batten on the ordinary people as a result of the processes of the law—the ordinary people want these shortcuts in our courts. Time and time again my electors have approached me; often I am approached by people who come from far afield—from the four corners of the State—to get my views on litigation in which they are involved.

While I was in Townsville at the week-end, a prominent citizen who considers he will be charged with a traffic offence asked me if he could defend himself in the Magistrates Court on that charge. He said that he had been told that he could not appear in the Supreme Court without a barrister or in the Magistrates Court without a solicitor. I told him that if he wanted to he could appear in any court in the land without a solicitor or a barrister and defend himself even on a charge of murder or treason. I told him that it was not this Parliament and not the average citizen, but the lawyers, as a result of mutual back-scratching amongst themselves, who decided that a person must take a solicitor or a barrister into the Magistrates Court or a barrister into the Supreme Court. Following on many representations that I made in this House, our law lays down that a person can be represented in the District Court by a solicitor.

I feel sure that the hon. member for South Brisbane was putting forward the viewpoint of the legal fraternity which, as we all know from bitter experience, is shot through with mercenary interests; it is concerned only with the money that it can make out of the administration of the law. As representatives of the people, we should see that our courts of law get as close as possible to the administration of pure justice.

I have frequently told people, "If you go before a magistrate and plead guilty, or plead guilty by letter, it is more than likely that you will be fined £3, £4, or £5, with 24s. costs of court, whereas if you appear before the magistrate, you will have to lose a day's wages, provide yourself with transport to and from the court, and pay your solicitor." One solicitor in Townsville charges 40 guineas a day to appear in the Magistrates Court.

I can see the eyes of the hon. member for South Brisbane and the hon. member for Windsor glinting with envy to think that a solicitor could charge, and get, 40 guineas for appearing before a magistrate. Lawyers are the only people who get any money out of litigants who go to court to fight a case. The magistrate must administer the law; he is not concerned with the administration of justice, because our courts are not courts of justice. He is concerned with the administration of the law. The advice I give to people is to write a letter pleading guilty, if the law allows such a procedure, so that they will not lose a day's wages and have to pay a lawyer.

Perhaps one of the most famous lawyers in American history, a man named Robert Green Ingersoll, said, in the presence of

quite a number of people, "I have this watch. It was my father's watch. I value it more than any other of my possessions. If a man came to me and said, 'Would you please give me that watch?' I would graciously refuse, telling him that I valued it and could not give it away. If a man came to me and said, 'I am going to take that watch from you by force,' I would resist him even to the point of losing my life. But if a man came to me and said, 'I am going to take legal action against you to get that watch from you,' I would very reluctantly give the watch to him." That was the opinion of one of America's greatest lawyers on the way lawyers work. He realised that if he went to court in order to keep his watch, the people who would finish up getting it would be the lawyers who appeared in the case.

I was going to ask a question on the matter to which I now propose to refer, but as it comes within the scope of this debate perhaps the Minister for Justice may condescend to give me an answer in his summing up at the conclusion of this stage of the Bill. Recently a conference was held to decide on amendments to what are known as the Judges' Rules and the various forms and procedures followed before Magistrates Courts, the District Court, and the Supreme Court. That was a conference not of the representatives of the 1,500,000 ordinary citizens of Queensland but of the legal fraternity, and, of course, they worked things out to suit themselves. I mean by that that they worked things out to suit their pockets.

If such a conference is to be held to deal with the law, which affects the people by whom we are elected and are paid to represent, I should like the Minister for Justice to say why in the name of heaven were there not some decent, ordinary representatives of the ordinary people at the conference? Why leave it to lawyers to decide how they are going to fleece the people and the measures they will adopt to do it?

I should like the Minister to explain why that important conference dealing with the legal rights of the people was allowed to be held in the absence of any representatives of the ordinary people. No representative of this Parliament was there. I would not have minded if the Leader of the Opposition and a couple of back-bench members from the Government side had attended. I exclude, of course, the hon. members for South Brisbane and Windsor. Representatives of the ordinary people should have been there to see that they would get a fair go. Their views and interests were not considered. They were all nicely placed on the butcher's block to be chopped up into nice little pieces of fillet, rump, and what-have-you for the purpose of lining the pockets of the legal fraternity.

Much has been said today about the on-the-spot system of fines for traffic offences. I am very much in favour of police having the right to issue tickets for traffic offences because, if a person who receives a ticket does not want to pay the fine indicated on it, he has the right to appear before a magistrate and defend himself or be defended. Magistrates will then determine the case on the evidence presented, and if the person is still not satisfied he can appeal to a higher court. Consequently the principles of justice are still retained. He is the only one to determine whether he will pay the fine or appear before a magistrate, and, finally, whether he will appeal to a higher court.

The most important thing that the issuing of on-the-spot tickets by policemen does is remove the opportunity that high-ranking police officers have of not proceeding with traffic cases. Quite often in the past when inspectors in charge of various districts have received reports from policemen of traffic breaches, even serious ones, approaches have been made to them by the people concerned, or on their behalf, and the inspectors, for reasons best known to themselves, have decided that the cases were not to be proceeded with. I am not referring now to any inspector in charge of the Townsville district. I have known inspectors in the past who have done this, and, if hon. members want me to name them, I will do so.

Mr. Bennett: Name them.

Mr. AIKENS: I will name them, and some of the names that I will mention will give the hon. member for South Brisbane a very great shock. Let him just wait for a minute. The hon. member knows that I have more guts in my little fingernail than he has in the whole of his unworthy body. Many times policemen came to me in the old days and said, "Mr. Aikens, I booked So-and-So, So-and-So, and So-and-So." They enumerated the people concerned and the breaches they had committed, yet no prosecutions were launched because the inspectors, for some reason or other, were not prepared to go on with them. I do not suppose that I would be correct in imputing improper motives to them, nevertheless that happened in the case of more than one inspector.

Mr. Bennett: Give us the names.

Mr. AIKENS: The hon. member for South Brisbane wants names. I will tell him a better story than that. When the party of which the hon. member is a member was in Government, if it found a top-ranking police officer who was determined to go on with prosecutions of this sort against prominent members of the community, prominent members of the Labour Party, or people who subscribed liberally to Labour Party electioneering slush funds, it did not hesitate to transfer him as punishment for merely enforcing the traffic laws.

Mr. Bennett: Give us the names.

Mr. AIKENS: Here it comes. One of the men that the hon. member's party transferred for enforcing the traffic laws in his

district was Inspector Reinke, who at that time was Sub-Inspector Reinke, stationed at Cairns. He was transferred from Cairns because he was one of the few top-ranking police officers who was prepared to go on with every report of a serious traffic offence that was made to him by a junior policeman.

Mr. Bennett interjected.

Mr. AIKENS: Here was a man who was proceeding——

Mr. Bennett: You were going to name the inspectors who pulled out these prosecutions. You have not named one of them.

Mr. AIKENS: I can name a dozen of them.

Mr. Bennett: Name a dozen.

Mr. AIKENS: I have named the worst case. I could name a dozen, but that one came to my mind as the worst case. That man was one of the sub-inspectors who proceeded with prosecutions brought to his attention by traffic constables under his control. Because he did, the Labour Party transferred him from Cairns as a punishment.

Mr. Hanlon: Where was he transferred to?

Mr. AIKENS: He was transferred from Cairns to Townsville.

Mr. Hanlon: Was that a punishment?

Mr. AIKENS: The hon. member can go along to Inspector Reinke, who is now one of the top echelon——

Mr. SPEAKER: Order! I trust that the hon. member will confine his remarks to the subject before the House instead of getting on to other subjects. He has canvassed very fully the subject with which he is dealing.

Mr. AIKENS: I was, of course, led astray. The hon. member for South Brisbane can go right on with that if he likes. That is an example of how the traffic laws, particularly, of Queensland were prostituted in the interests of the electioneering slush funds of the Labour Party when a Labour Government was in office.

Mr. SPEAKER: Order!

Mr. AIKENS: As I mentioned at the introductory stage, the terms of the Bill are as wide as one could wish, and it could come about that the Minister for Justice might determine—I think he should determine it now—to set up Magistrates Courts as close to the centres of population as possible. The position in Townsville is peculiar because the administration of justice, the civic administration, the city area, and so on, are right on the perimeter of the city, with the centre of population perhaps 2½ or 3 miles away. I should say that the centre of population in Townsville today, as far as one can accurately judge, would be somewhere about Mysterton Estate, yet people farther out than that, at Aitkenvale, Wulguru, and Stuart, have to travel 3 or 4 miles to appear in the Magistrates Court.

Mr. Newton interjected.

Mr. AIKENS: I understand that the Bill makes specific provision for Magistrates Courts to be established in outlying areas, and I am merely asking the Minister for Justice to do for Townsville what he proposes to do for Brisbane. As we know, the Minister for Justice intends to sell the present court house and its grounds and the watchhouse to the Townsville City Council.

Mr. Bennett interjected.

Mr. SPEAKER: Order!

Mr. AIKENS: When the new Magistrates Court is erected, I really think that it should be erected in conjunction with the other courts. It is about time we stopped the "Brown's cows" sort of arrangement that we have with our courts in Townsville.

The hon. member for South Brisbane has frequently referred to the Magistrates Courts, the District Courts, and the Supreme Courts, to prisoners being marched across the lawn handcuffed to each other, and judges having to suffer the indignity of walking across the lawn fully gowned to get to their courts. He forgets that in the Assizes in Great Britain, not only does the judge walk across the lawn, he walks along the street with all the retinue of the court following him. It is one of the judicial traditions.

If we are to have a new court house in Townsville, let us have one huge building known as the Hall of Justice. Let us adopt the American system. Let us put the court offices on the ground floor with the cells in the basement and the Magistrates Court, the District Court and the Supreme Court on their respective floors so that no-one will have to be walking from one court to another or across the lawn or along a street.

Apparently the hon. member for South Brisbane does not like to have people seeing lawyers and judges, in their old-fashioned, prehistoric gee-gaws, walking around the place. Let us have one building and have every instrument of justice incorporated in that one building. If we are to have a new court house, a new District Court, a new Supreme Court and a new watchhouse in Townsville—we are going to have them—put them all into one building. We could have a building of eight or nine floors, preferably in the centre of population. As I say, the cells could be in the basement, the public offices on the ground floor, the Magistrates Courts on the next floor, the District Court on the next floor, and the Supreme Court and so on on the other floors. No-one would have to wander round, as the hon. member for South Brisbane said, not knowing what particular court he has to attend or where he has to go.

Mr. Bennett: Why have the cells in the basement?

Mr. Aikens: The hon. member, if he likes, can have the cells in the top floor. I am only making a suggestion. As a matter of fact, seeing that the hon. member for South Brisbane is so interested in criminals—he always has been—build them a mezzanine lounge where he can go along and serve them—particularly the vicious sexual criminals—with morning tea out of his own pocket.

Mr. SPEAKER: Order! The hon. member will confine his remarks to the principles of the Bill.

Mr. Hughes: He does not wish to see them heavily punished.

Mr. AIKENS: He does not want punishment for them, especially the vicious——

Mr. SPEAKER: Order!

Mr. AIKENS: He can do it here, if he likes.

If the Minister is going to have a court house at Wynnum, or Sandgate, as envisaged in this Bill, and if he thinks that later on there will be need for a District Court or a Supreme Court there, he could make provision for them now. If he is building a new court house at Sandgate he can build a Hall of Justice in which there will be the offices for its administration, the Magistrates Court, the District Court, the Supreme Court, the Full Court and even the High Court. Let us do away with separating the courts of justice, whether they be lower, higher or superior courts and spreading them all over the place like a piccaninny's footprints on the plain.

I put that suggestion sincerely and honestly to the Minister for Justice. The present court buildings in Townsville are to be replaced. Why not put the new Magistrates Court, the new District Court and the new Supreme Court together? It may be necessary soon to have more than one District Court or Supreme Court judge. We already have two magistrates and it will not be very long before we need three, or even more, so why not make provision for them now and put all the courts into one big building in the centre of population, preferably at Hermit Park, Currajong, or the Mysterton Estate area. By doing that we will have a place where justice can be administered, that is, if Parliament will face up to its responsibilities and make courts of law genuine courts of justice.

Mr. SMITH (Windsor) (3.30 p.m.): I was going to say that we have been "blessed", but it is more like "cursed", with the waste of about 25 minutes while the hon. member for Towsville South indulged in one of his pet theories—the mercenary attitude of lawyers.

Mr. Aikens: You said you would not send me a reply because I didn't send you a stamp.

Mr. SMITH: I sent the hon. member a reply. Whatever experience the hon. member had in the past which has so soured his outlook and blinded his eyes to the real merits of the case, he does the legal profession a grave disservice when he speaks as he does in this House.

Mr. Aikens: You should hear me on the public platform when Mr. Speaker has no control over what I say.

Mr. SMITH: The hon. member should be very thankful that Mr. Speaker tolerated his rot as long as he did this afternoon.

Mr. Aikens: He is a man of the people, not a mercenary lawyer.

Mr. SMITH: I thought the hon. member for Townsville South had finished his speech. Apparently he wants to continue it from his seat.

Mr. Aikens: Don't try to sool Mr. Speaker onto me. He can sool himself onto me if he wants to.

Mr. SMITH: I am certain that, had Mr. Speaker not been so tolerant, the hon. member would have been sooled out long ago. He engaged in a personal attack on a member of the House and generally attacked lawyers, instead of speaking to the principles of the Bill. If he read Standing Orders he would find that in a second-reading debate hon. members must confine their attention to the principles of the Bill before the House. I cannot see anything in the Bill that deals with the legal profession, its ideals, or ethics.

Mr. Aikens: Can you tell me any lawyer who is really concerned with justice?

Mr. SMITH: Yes, every one. The trouble is that the hon. member imagines himself to be qualified in this field. He does not bother to find out what lawyers do or think; he is so smug in his own outlook that he never tries to improve his knowledge.

Coming back to this Bill dealing with the decentralisation of Magistrates Courts, I should like to reiterate what I said about some matters at the introductory stage. I do not altogether agree with the suggestion that by decentralisation we will expedite hearings. I do not think it follows. What the hon. members for Baroona and South Brisbane said about on-the-spot fines now being redundant was not quite accurate but it touches the point I wish to make. I do not agree that on-the-spot fines are redundant—I think that the system of on-the-spot fines could well be used—but their imposition should not be at the option of the policeman. A policeman should be empowered to apprehend an offender on the spot and notify him that he proposes to lay a charge against him, but it should

be left to the person apprehended to ask for an on-the-spot ticket. A policeman has tickets to give and he is inclined to give them out. I think it would be better if the policeman kept his book of tickets in his pocket until he was specifically asked for an on-the-spot-fine ticket by the person apprehended. In that way we could ensure that the charge was specified and that the evidence was clarified. The whole matter would be reduced to writing.

I am in agreement with the method outlined in the Bill for ex-parte hearings but I prefer that on-the-spot fines be limited in some way. I think tickets should be issued only at the express request of the person concerned. This would prevent policemen from becoming on-the-spot-fine happy. This could quite easily happen. For a long time there have been unhealthy rumours that policemen have to get so many prosecutions and convictions for promotion. If that is so, let them get them in the ordinary way with a typed, sworn statement of the facts, keeping on-the-spot tickets simply for those who ask for them.

Mr. Aikens: Will you agree that traffic is better controlled now that on-the-spot fines have been introduced?

Mr. SMITH: No, in Brisbane it is worse than it has ever been. One of the reasons for traffic being worse is that drivers in Brisbane are driving without regard for their own safety or anyone else's. They change lanes; that is my pet aversion. Lane-changing, as an offence, is all too infrequently before the courts and yet lane-changing, as a matter of driving technique, is one of the most serious causes of accidents. People will be proceeding along a road marked in two lanes. The car on the inside will come towards a stationary motor vehicle. All that happens is that the motorist swerves out around the parked car, quite oblivious—or, if not oblivious, unmindful—of the car on his right, which, to avoid an accident, is forced either to stop suddenly—in which case the car behind him hits him—or to swing out to the other side of the road and risk a head-on collision. I repeat that lane-changing is one of the greatest single causes of trouble and, until such time as the police get down to tin tacks to deal with it our road toll will mount.

Mr. Duggan interjected.

Mr. SPEAKER: Order! I remind the House that we are not dealing with traffic. We are dealing with Magistrates Courts.

Mr. Aikens: You do not even know the Bill, let alone the law.

Mr. SMITH: I am not seeking as much tolerance as was extended to the hon. member for Townsville South.

Mr. SPEAKER: Order! The hon. member has heard my ruling.

Mr. SMITH: Yes, but I submit I am quite entitled to point out proceedings that come before the Magistrates Court that are germane to this Bill, and proceedings that come to the Magistrates Court are prosecutions for traffic offences. One of the principles of the Bill is the expedition of the work in those courts and I submit that traffic cases have a specific bearing on the courts.

I am concerned with traffic because prosecutions under the Traffic Act lead to the large number of cases referred to by the Minister in his second-reading speech. We were told that in 1964, when there were 15 magistrates, they dealt with 79,553 cases for the year, which, when reduced, represents 5,530½ cases per magistrate. Allowing them Saturday and Sunday and a couple of other days off in the year, we give them 250 working days and that represents 23 cases per day per magistrate. It is quite obvious that, to reach those figures, many of the cases dealt with would be pleas of guilty and it is quite obvious also that most of them would be under the Traffic Act. In the following year the reduction comes to 20 cases a day per magistrate, and, for the six months period ended June, 19 cases a day per magistrate. It does not require even the capabilities of the hon. member for Townsville South to work out that magistrates are hearing many traffic cases.

Mr. Aikens: You worked it out yourself; that is how easy it is.

Mr. SMITH: I got some help.

As so many traffic cases are dealt with by way of pleas of guilty, these are particularly germane to the congestion in the courts. I suggest that prosecutions under the Traffic Act should be increased materially to curb lane-changing and failure to give right of way. In other States it is noticeable that right of way is given without a shadow of doubt but in Queensland, where on-the-spot tickets are used, or complaints are laid, one can look in vain for prosecutions in the Magistrates Courts for failure to give right of way. The only time that happens is after a collision. That is too late; there must be prosecutions in court for failing to give right of way, so that people know about them.

At the moment the courts are so dispersed that it is difficult to locate the correct one. Administration work is carried out in one place; some courts are in another place; and more courts are in yet another place. A person conversant with the workings of the courts has difficulty finding the correct court, so it must be extremely difficult for a litigant who is appearing for himself. Steps should be taken to make clear where the courts are and in which court each matter is to be heard.

Mr. Aikens: Do you think there is any merit in my suggestion of a central hall of justice?

Mr. SMITH: In "The Courier-Mail" of 23 November, 1963, and in 1959 "Hansard" I made such a suggestion. In 1958 I suggested the resumption of all buildings on this side of George Street between Parliament House and Queen Street and the erection of Government buildings including a complex court building to house all courts, and a library to be available to people appearing in all courts. A matter not immediately apparent to the layman is that there can be involved points of law in a Magistrates Court action. Unless a person is possessed of a good private library, he is at a disadvantage because books cannot be removed from the Supreme Court library. Fortunately I have a good library and can use my own books.

Mr. Hughes: Is it likely that a Sandgate case could be delayed or adjourned because books were not available?

Mr. SMITH: I have pointed out that decentralisation of courts could cause confusion about their location—the hon. member for South Brisbane has said the same thing—and that points of law have to be argued and counsel find difficulty getting authorities. I hope that, if the hon. member for Kurilpa is involved in a case in Sandgate, he does not require from the Supreme Court library a book that he cannot go on without.

One reason for prolonged hearings of Magistrates Court actions is that, if a matter is set down for two days and is not completed in two days, it is adjourned. The practice in the Supreme Court is to carry on until the case is finished.

Mr. Aikens: Does Judge Mack sit on Fridays now?

Mr. SMITH: Yes.

Mr. Aikens: Since I brought it up in the House?

Mr. SMITH: I thought the hon. member for Townsville South was still smarting from being thrown out of the Casket Commission. In the Magistrates Court a case is not pursued continuously to the bitter end. It is adjourned from one day to another, and the days may be up to four weeks apart. This does not produce good or expeditious hearings. For one thing, the evidence of witnesses is heard over a long period of time, and the magistrate may have to recall as best he can the impression gained 12 months earlier, which is far too much to expect. Juries in criminal cases are expected to announce their verdicts immediately at the conclusion of trials. They are decisions of fact, and they are recorded immediately cases end. In other matters, however, magistrates hear evidence and months later have to attempt to decide which of the witnesses heard were telling the truth. This puts a great deal of strain on them, and it would be of inestimable value if cases before them could continue till they finished. I think that would do a lot to clear up the difficulties presently experienced in that jurisdiction.

I think the saving of the time of police officers is a pious hope because police officers will still be required to attend courts. The police officer who arrests a resident of Sandgate on the Range Road near Toowoomba will be called to Sandgate to give his evidence.

Mr. Bennett: Not if there is a plea of guilty.

Mr. SMITH: No, but he will be if the plea is not guilty. Under this system, the case will be heard at Sandgate because it is to "the manifest preponderance of convenience to the defendant" to have it heard there. The policeman, who would be better patrolling the road keeping motorists in the correct lanes and watching right-of-way breaches, will therefore have to mount his motor-cycle and ride to Sandgate. That follows from the wording of the section. I do not know how the clerk of the court is going to approach the making of these Solomon-like decisions that will be necessary when considering "the manifest preponderance of convenience to the plaintiff or, as the case may be, complainant or to the defendant". Is he to consider the "manifest preponderance of convenience" to the plaintiff or to the defendant? As it stands, I think that this provision will produce certain difficulties, and I would not like to be the clerk of the court who has to face up to them.

Mr. Duggan: Why weren't your constructive ideas given greater weight by your Caucus?

Mr. Bennett: In future, if you have difficulty with Caucus, I will give you a hand.

Mr. SMITH: Some of these things are not manifest at the time. I like to study Bills thoroughly, and it is only on a closer and closer study that these minor imperfections are found. They are quite easily overcome, and consequently when this clause is reached at the Committee stage I propose to have a little more to say about it.

Hon. P. R. DELAMOTHE (Bowen—Minister for Justice) (3.49 p.m.), in reply: I would be churlish if I did not express my appreciation to the various speakers for their general approbation of the principles of the Bill. The points of criticism raised were only minor ones, and I should like to join those speakers who took the opportunity of paying a tribute to magistrates. From time to time we hear very loose and unfair criticism of, and attacks on, them. They do not have a chance to defend themselves, and I am very pleased that some hon. members saw fit to come to their defence. I should like to join heartily with them in the praise given to magistrates for their devotion to duty and their concentration on doing the right thing. I would be the first to enter the lists on their behalf in opposition to those who criticise them unfairly.

One point of criticism flowed, perhaps from a lack of understanding of the Bill. I refer to criticism of on-the-spot fines. Members of the Opposition praised the new method of issuing summonses because it provides the person summonsed with an affidavit of the evidence and gives him an opportunity to elect whether or not he will appear. On-the-spot fines are only an extra facility for the citizens of this State. Let us follow the procedure through. First of all, a person who is served with a ticket can decide there and then that it is a "fair cop", that the fine is a reasonable one, and that he will pay it. On the other hand, he can decide to take no notice of the ticket and await a summons. Once the summons issues, exactly the same procedure as that outlined in the Bill can come into operation if he elects at that stage not to appear. If he elects to appear, of course, the ordinary procedures apply. The on-the-spot ticket system is only another rung in the ladder of this procedure.

Mr. Hanlon: There is a predetermined fine for quite a range of breaches, though.

Dr. DELAMOTHE: Yes, but the citizen has the right to accept or reject. If he rejects, then he can take advantage of this procedure.

Mr. Hanlon: By having a predetermined fine you are conditioning him by saying, "It is a 'fiver' now, but you go on and see what happens." Under the system proposed in the Bill, if he does not appear the matter is still left to the magistrate for determination.

Dr. DELAMOTHE: The ordinary man who knows that he is guilty of a misdemeanour or a breach of the regulations does not want to put up a great fight. He is glad to have the incident closed. However, I make the point that this procedure applies equally to the man who does not pay an on-the-spot fine and to any of the other matters coming under that section.

It was suggested that there might be confusion in the minds of people trying to find the court that they have to attend. I assure hon. members that that will be tidied up by indicating as clearly as possible at the courts and in the summonses the location of the particular court.

Finally, another point on which some hon. members took issue with me was my unwillingness at this stage to increase the number of magistrates. I was interested to find out whether or not more magistrates were needed. Since I introduced the Bill, I have appointed a relieving magistrate who is attached to the Department of Justice. He can be used anywhere where congestion or overloading appears. Very accurate statistics will be kept of the work he is doing, and these will indicate to me whether in fact there is sufficient work to warrant the immediate appointment of more magistrates. My feeling is that we should wait and appoint them in the future.

Mr. Bennett: Do you know that at least two in Brisbane will retire at the end of this year?

Dr. DELAMOTHE: They will be replaced. I think about four magistrates are to go and they will be replaced. There will not be any reduction.

The hon. member for Windsor raised the question of the absence of a library at, say, Sandgate or Inala and pointed out that there might be a point of law to be argued. Say we put a library at Inala or Sandgate, what about the other 100 or more Magistrates Courts all over Queensland? Are we to supply them with a full legal library also?

Mr. Bennett: Why not?

Dr. DELAMOTHE: I would sooner build more court houses.

The other points raised will be dealt with in the Committee stage.

Motion (Dr. Delamothe) agreed to.

COMMITTEE

(The Chairman of Committees, Mr. Hooper, Greenslopes, in the chair)

Clauses 1 to 7, both inclusive, as read, agreed to.

Clause 8—Venue of hearing complaint to be determined subject to this section—

Mr. BENNETT (South Brisbane) (3.57 p.m.): This is the first clause in Part III, which deals with venue—in other words, the locality jurisdiction in which the magistrate will sit. It extends the provision whereby cases can be heard in neighbouring districts. That is what it boils down to in layman's language. It says they can be heard within half a mile of the common boundary of two or more districts. The reasons for that are perfectly obvious. A person who usually would appear at, say, Petrie, might find it more convenient to appear at the new court house at Sandgate. Subject to the conditions set out in clause 8, he can make the necessary provision.

This is a desirable provision that has been in the Justices Act for a long time. Clause 8 says—

> "Section one hundred and thirty-nine of 'The Justices Acts, 1886 to 1965,' shall apply in respect of a complaint of a simple offence or breach of duty to which this subsection refers subject to the following provisions . . . "

and so on.

A simple offence, in effect, according to the Criminal Code, is any offence other than an indictable offence. That is in the broad category. In other words, a simple offence is any offence other than a crime or a misdemeanour. Section 139, which was

written into the Act by the 1964 amendment and to which this clause 8 is tied, begins with—

> "Subject to the provisions of any other Act in that behalf, a complaint of a simple offence or breach of duty shall be heard and determined—
>
> (a) at a place appointed for holding magistrates courts within the district within which the offence or breach of duty was committed; or
>
> (b) at a place appointed for holding magistrates courts within the district within twenty miles of the boundary of which the offence or breach of duty was committed."

It is a long section but again it gives defendants, litigants or interested parties the right to go into a neighbouring district. It could well be that in country areas one district is regularly visited by a circuit magistrate whereas a neighbouring district does not receive such regular visits because, with its lack of work, frequent visits are not necessary. For various reasons it might well become very desirable for litigants to journey into a neighbouring district. That is the reason for clause 8 and for writing section 139 into the Justices Act in 1964. It preserves a principle that has been enjoyed since the introduction of the Justices Act in Queensland. The point I make is that it relates only to simple offences or breaches of duty. We now have other types of offences that can be dealt with completely by a magistrate without his having to commit a person for trial in another court. At the time, I said that I did not agree with the proposal to extend the jurisdiction of the magistrates in that manner. Nevertheless it was the will of this Parliament and the policy of the Government to do so.

If children charged with indictable offences are to be completely dealt with by magistrates, then surely they should have the same privileges and benefits when charged with simple offences or breaches of duty as if they were adults. My argument substantially is that children charged with indictable offences who are to be dealt with by a magistrate should have the privilege and the right of making application, under conditions similar to those set out in clause 8 of the Bill and section 139 of the Justices Act, to be tried in a neighbouring district when the circumstances of convenience more suit a trial in that neighbouring district or if a magistrate is more readily available in that district. I do not see why a suitable amendment has not been included in this part of the Bill seeing that this Parliament has now accepted the principle of having magistrates deal with indictable offences.

Clause 8, as read, agreed to.

Clause 9—Power of clerk of the court to adjourn hearings—

Mr. BENNETT (South Brisbane) (4.4 p.m.): I presented my main argument on this point during the second-reading debate. In effect, before a hearing an application can be made by an interested party for an adjournment, and the powers given in this clause are particularly wide. As I pointed out at the earlier stage, the law governing the exercise of the discretion as to the granting of an adjournment is very complicated and complex and much has been written into it by previous decisions of courts of all jurisdiction. Never before has any power of adjournment of contested hearings been given to other than judicial officers of the court.

I am not speaking in any way disparaging of clerks of the court, who are, as it were, junior legal men. They have a certain amount of legal knowledge and are acquiring legal experience, but in no way can they be regarded as judicial officers in the strict sense of the term, and certainly they would not argue that they have the qualifications to be regarded as judicial officers. Therefore, it is a serious matter to give to them the power of adjournment, which may mean much to the plaintiff or the defendant, as the case may be, depending on who is making the application.

As the hon. member for Windsor pointed out, in clause 9 (b) (ii) the clerk of the court will be guided by "the manifest preponderance of convenience to the plaintiff". Why should he consider the manifest preponderance of convenience to the plaintiff above that of the defendant? The clause then continues—

> ". . . or, as the case may be, complainant or to the defendant of hearing the plaint or complaint at some other time or place requires such an adjournment;"

In effect, under this provision, he has an almost unfettered discretion to grant an adjournment; but it must be exercised in compliance with the strict limits of the law.

As I pointed out, an adjournment could affect one party from the point of view of time. It may be desirable for one party to have an expeditious or speedy hearing of a complaint; an adjournment might considerably embarrass him. Nevertheless the clerk of the court, who will have no say in the final decision on the merits of the case, has full authority to grant an adjournment.

Secondly, a certain venue may be admirably suitable for one party to the proceedings and at the same time a grave handicap to the other party. There again, the clerk of the court will have full and unfettered discretion, subject to the law; he will be empowered to allow a change of venue and adjournment to a time, although he will have no say on the merits of the case.

Moreover, the granting of an adjournment to another time or another place could be very costly to one party, yet the clerk of the court will have no power to allow costs

to the party adversely affected by the application. So far as I can see, the Bill contains no clause allowing for the cost of the adjournment to another place, at another time, except that, when the final result is determined, costs will be at the discretion of the magistrate, who will consider all aspects of the case. We could have the farcical position of a magistrate finding in favour of a person who perhaps got an adjournment when he should not have, and allowing costs of the action, and costs of the adjournment as well. In effect, the costs will abide the event or be the costs of the cause. The magistrate might wholeheartedly disagree with the adjournment granted by the clerk of the court, yet he will be bound, in fixing costs, to comply with the terms of the order for the adjournment made by a subordinate officer with whose decision he entirely disagrees. I think that aspect could have been tidied up a little better.

Hon. P. R. DELAMOTHE (Bowen—Minister for Justice) (4.10 p.m.): Clause 9 (b) provides that a plaint or complaint on a simple offence or breach of duty committed elsewhere within the metropolitan district may be heard and determined within, say, the Inala division or the Sandgate division, if the defendant resides there or is reasonably believed by the complainant at the time of making his complaint to reside there. This extension of local jurisdiction to an area where the defendant resides is not new at all; it really follows the present civil procedure. It provides some safeguard for defendants. A complainant could purposely take proceedings at a place far away from the defendant's place of residence with the object of being spiteful and inflicting a pecuniary penalty on the defendant because he would have to appear in a far-away place.

Mr. Hanlon: Like some of the electric appliance companies registered in Canberra?

Dr. DELAMOTHE: Yes. A person who lives on the north side of Brisbane could be issued with a summons to appear at Inala purely and simply to cause him extra expense and inconvenience. This is really to bring it into line with the civil practice.

Mr. BENNETT (South Brisbane) (4.12 p.m.): I did not for one moment suggest that the principle of being able to apply for a change of venue is anything new to our law. It applies in all jurisdictions—namely Supreme Court, District Court, and Magistrates Courts—and has done for many years. As a matter of fact the right to apply for change of venue was there before Australia was Australia. My argument was that the application should be entertained by a judicial officer, not a subordinate officer in the registry of the court. I endorse, and agree with, the remarks of the Minister. I share the horror of the hon. member for Baroona at these unconscionable hire-purchase companies that launch actions in Canberra and Sydney against people who have entered into contractual obligations with them in Brisbane knowing full well that those people cannot travel to Canberra to defend the case. For that very reason, I realise, malicious plaintiffs will try to exercise the law so as to place at a disadvantage an impecunious defendant or a defendant who is not in a very comfortable financial position. But he is still subject to any decision, in Queensland, made by a court or a junior officer on an application for adjournment or change of venue. This problem is important. There is so much racketeering by launching actions in districts where they cannot be defended economically that the person to deal with this serious problem and its ill effects should be a very responsible officer of the court and not the clerk of the court, who is only a junior, subordinate officer.

Clause 9, as read, agreed to.

Clause 10, as read, agreed to.

Clause 11—Administration—

Mr. BENNETT (South Brisbane) (4.14 p.m.): I was about to speak on this matter in my second-reading speech when my time expired. In effect, the Chief Stipendiary Magistrate is being placed in the same relative position as the Chief Justice of the Supreme Court, and has to organise the business of the courts and allocate work to the personnel of the courts. He is like the Chairman of District Courts. He will organise the administrative side of the work of the metropolitan Magistrates Courts district. It is perfectly obvious that this will apply only in Brisbane, as each magistrate in other locations is the sole person in charge of his court and obviously must organise his own work.

I quite agree with the principle that the Chief Stipendiary Magistrate should act as the manager, as it were, of the work and its allocation to magistrates in the metropolitan area. I agree that he should be vested with the authority to apportion the work, and perhaps he will take into consideration that some magistrates are more gifted in one field of law than in others. Some magistrates have a natural propensity to work in one field of law rather than in others. For example, some magistrates prefer to work in, say, the industrial jurisdiction and are very expert in that field. I think that they should be given the opportunity to do that type of work.

In view of the conflicting answers given by two Ministers on this matter, I am wondering what rule is to apply now that it has been placed on a proper legal basis. The Minister for Justice has said in this Chamber in the past that the apportionment of court work in Brisbane and other places throughout the State depends virtually upon the demands and exigencies of the time. On the other hand, in sharp conflict with what the Minister for Justice said, the Minister for Transport said, in respect of the service of magistrates in one field, that as from 5 October,

1964, they were to be placed on a strict roster so that all magistrates would be given an opportunity to serve in this jurisdiction. That comment was made in relation to the principle contained in this clause. The Minister said that the Chief Stipendiary Magistrate would not have the right to organise and control the magistrates, as they were to be placed on a roster. The roster did not operate, but the decision operated from 5 October, 1964, when Mr. Wolfgang was appointed the magistrate to preside at hearings of the Railway Appeal Board.

There was a strong feeling at that time, particularly in trade-union circles, that the Minister made the change of appointment because the then magistrate who sat on the Railway Appeal Board was fair and judicially minded and allowed too many appeals. This did not please the Minister for Transport. Mr. Wolfgang was therefore appointed on 5 October, 1964, and the Minister said that his appointment was made in keeping with the change in policy under which, according to his answer given to a question asked by the hon. member for Nudgee, a roster system was to be instituted. Strangely enough, Mr. Wolfgang has been the only one so far on the roster. He has been there for 12 months, and most of the present magistrates will die of old age without serving in that position if the present system prevails.

All that I can conclude is that the change of policy was made by the Minister for Transport not because of any truth in the averment that a roster system was to be instituted but in order to conceal his dislike of being defeated in appeals within the Railway Department. It seems that he was anxious to ensure that there was a Railway Appeal Board that would give decisions in accordance with his way of thinking, because no attempt has been made to implement the roster system that he said would operate when he answered the question asked by the hon. member for Nudgee in this Chamber on 16 October last year, following the dismissal of Mr. O'Connor as Chairman of the Railway Appeal Board on 5 October. That was a shockingly misleading statement by the Minister for Transport, because he did not believe for one moment that any such roster system would be introduced. In fact, I think that the Minister for Justice with his integrity and honesty——

Mr. Chalk: You are the fellow who made representations on behalf of a man who had had his job back for a month. That is how far you are behind with your homework.

Mr. BENNETT: I do my homework.

Mr. Chalk: Do you want to develop it? If you do, I will carry it on.

Mr. BENNETT: If the Minister for Transport has any ambition to become Leader of the Liberal Party and Deputy Premier of the State, he should not carry on any fight with me over this matter. He will certainly come off second best if he does.

Mr. Chalk: That will be the day!

Mr. BENNETT: He will win only the disdain of his Liberal colleagues who are anxious to see him defeat the Minister for Industrial Development. The Minister for Transport is battling and struggling, and he should keep out of my way if he wants to preserve his reputation. I should imagine that Mr. Marshall Cooke, who is one of my colleagues at the Bar, would not vote for either of the present contestants for the leadership.

The CHAIRMAN: Order!

Mr. Chalk: Your fellows would not vote for you.

Mr. BENNETT: It is funny that they did.

Mr. Chalk: What for?

Mr. BENNETT: The position of shadow Minister for Transport.

Mr. Chalk: You will be the shadow Minister for a long while.

The CHAIRMAN: Order!

Mr. BENNETT: If all the provisions of this clause are to be implemented in their entirety, there will be a healthy and extremely desirable improvement in the administrative procedure of the allocation and control of work for magistrates in the metropolitan area of Brisbane. I am very confident that the Chief Stipendiary Magistrate will allocate those duties fairly and effectively, without fear or favour. The only thing that he might take into consideration is the seniority of a magistrate, and I think he is entitled to do that. In other words, perhaps the duty to travel to Wynnum, Sandgate, Inala or other courts that might be constituted from time to time under the provisions of the Bill, will fall mainly on the shoulders of the more junior magistrates who have arrived in Brisbane fairly recently. Those who have travelled the State and put up with a certain amount of inconvenience and hardship should be granted the privilege of not having to travel out of the city as frequently as junior magistrates. I think that will be the only favour or consideration shown to the band of magistrates operating in Brisbane: I think it will be the only consideration that they will want or demand.

The final provision in subclause (1) of clause 11 is to the effect that the Chief Stipendiary Magistrate shall, when required so to do, "report thereon to the Minister". Not for one moment do I want the magistracy to be regarded as an ordinary Government department, but I agree that the Minister is entitled to know what is going on in the government instrumentalities for which he is responsible. He can be properly apprised of, and acquainted with, the necessary details only if he gets suitable reports.

I sincerely think and agree that if the Minister's intention is to have an annual report prepared by the Chief Stipendiary Magistrate

and printed and tabled in Parliament, the idea and the aim are perfectly commendable. On the other hand, I would not expect the Minister to use his Chief Stipendiary Magistrate merely as a clerk or office boy to make written reports to him from time to time and at any time it suits the Minister's whim. I do not think he should be treated in any way as an Under Secretary to the Minister, who must report on any moves he makes or like a clerk in the Justice Department.

In the main the Minister should require only an annual report, or, alternatively, if there is a change in policy in administrative matters, the Minister would be entitled to be informed in writing of the particulars of it. I do not endeavour to read into the provision any desire by the Minister for reports on matters of a judicial nature. In other words, I do not expect the Minister to seek a supervising authority over decisions the magistrates make in the exercise of their judicial activities, either as a body or individually. I do not think for one moment they should be asked to report on their court activities so that the Minister would act virtually as a court of appeal.

I know that there is, in some sections of this Parliament, a strong desire—particularly on the part of the hon. member for Townsville South—to direct magistrates to inflict harsher penalties. I do not think the Minister should call on magistrates to report on why their penalties should not be more severe.

Mr. Lickiss: Aren't you getting mixed up with the views of the hon. member for Sandgate?

Mr. BENNETT: If the hon. member for Mt. Coot-tha spent more time in the Chamber he would have heard me speak about the hon. member for Sandgate. I believe that the hon. member for Sandgate, as I said when the hon. member for Mt. Coot-tha was either away or spending his time in the condition he mostly is in in this Chamber, is a sincere and conscientious member who makes his views known to this Chamber believing he is doing the community a service. On the other hand, he is the first to concede that in some matters he has not the expert knowledge that men trained in a particular field have acquired over the years. In some instances I do not agree with the submissions he makes, but he makes them in a very sincere manner whereas the hon. member for Townsville South makes his observations only because he has a bitterness, a bigotry and an accompanying hatred of all legal men, magistrates and judges. He is blinded by his bigotry to such an extent that he cannot make a fair observation. Unfortunately, he sometimes succeeds in intimidating this Government into doing what it can to increase penalties against people who have paid their debt to society. He is not doing that in the interests of the person charged or in the interests of the community, as the hon. member for Sandgate does, but as the result of his bitterness and hatred of legal men and the profession generally.

Mr. Hughes: You must admit that there is a growing public uneasiness at the softness of some penalties.

Mr. BENNETT: I would not say so. I could name some of the hon. member's own constituents who would not say so. It is all right for those who sit here to make certain observations for the benefit of the gallery which they think are in keeping with public views, but some of the hon. member's own constituents have approached me on behalf of their own sons to see what can be done about getting the lightest penalties possible. It is all very well to graze in the other fellow's green field. Some of these people with aspirations in public life make considered comments that they think are good for their public image, but when it comes to their own family it is a very different story. We meet that sort of thing every day and it is well for us all to remember the expression, "There go I but for the grace of God." We are still living our lives and a lot of us could get into a lot of trouble before we die. A lot of us do, and we are not protected. The hon. member for Kurilpa and others should consider that.

Mr. Hughes: I join with the hon. member for Sandgate in a sincere approach to this problem.

Mr. BENNETT: The two hon. members are as alike as chalk and cheese.

I am sure the Minister was sincere when he acknowledged the work of the magistrates. It must be pleasing to them to know that Parliament generally, except the hon. member for Townsville South, believes that even though magistrates err both in law and fact, because they are human and consequently do make mistakes, they assiduously apply themselves to their task in an endeavour to carry out the provisions of the law, to do justice to defendants and to protect society.

Clause 11, as read, agreed to.

Clauses 12 to 14, both inclusive, as read, agreed to.

Clause 15—Permissible procedure on certain complaints—

Mr. HANLON (Baroona) (4.32 p.m.): This clause deals with the election to appear. It is a pity the Minister did not include as an appendix to the Bill the prescribed form of the election to appear. I know that in some Bills this would be impracticable because of the number of documents involved, but I think it might have been done on this occasion because it is an important document, the consideration of which is germane to the clause. Briefly, the permissible procedure is that a summons issued upon a complaint would have to be served at least 21 days before the date on which the defendant is required to appear. The summons will be accompanied by, or have endorsed thereon, a sworn statement by the complainant recounting, briefly, the alleged facts of the offence or breach in question.

I have already mentioned this matter at the second-reading stage. I ask for an assurance that the brief recounting of the facts will not be of the type I mentioned earlier. I accept the Minister's nod as the assurance I have requested. In addition, the summons will be accompanied by, or have endorsed thereon, a notice in or to the effect of the prescribed form to the defendant that—

> "(i) he may notify the clerk of the court at the place at which he is required by such summons to appear by furnishing to such clerk on or before the date specified therein (being a date not later than seven days before the date on which such person is required by such summons to appear) his election in or to the effect of the prescribed form to appear in answer to such summons;
>
> (ii) if he does not furnish his election in accordance with the terms of such notice he is liable to be convicted of the offence or breach alleged in such complaint and to incur a penalty therefor pursuant to this section."

Does the person necessarily have to plead on the form? Does he have to elect to plead guilty or not guilty at that stage? Is provision to be made by regulation for the prescribed form to make provision for a person to plead not guilty and, in any event, to offer a short explanation of the circumstances?

I know it is possible to take this too far. A further provision in the clause provides one of the reasons which justifies the Opposition in supporting the clause in that the prosecutor will be restricted to the short statement of facts that he presents. No further evidence is to be presented if the defendant does not elect to appear. I suppose if we kept taking it backward and forward he would look at what the Crown alleged, the Crown would look at what he explained, and would then send their comments back to him and so on.

As the hon. member for South Brisbane pointed out, for a long time there has been a practice in traffic matters for people to plead guilty in writing and to set out mitigating factors to be taken into consideration. I submit to the Minister, without putting forward the extreme case where there could be an endless exchange of views between the prosecutor and the defendant, that some way might be found so that the prescribed form can provide for the defendant, if he is not appearing, to outline any circumstances that he considers relevant for the magistrate to know. While no fresh evidence may be presented, there is provision for past offences to be mentioned. To balance it up, there could be a place for a person, if he elects not to appear—and it is taken for granted that he has pleaded guilty—to put in a few lines or so any circumstances that he wants to advance before the magistrate. It is done in a number of cases. In electoral forms there is a definite statement that has to be made and then space is provided for a few lines of explanation which people may be desirous of supplying. I ask the Minister if there is any possible way to provide for this in the present form.

Hon. P. R. DELAMOTHE (Bowen—Minister for Justice) (4.37 p.m.): The hon. member has raised a very good point. I will have a further look at it and see if we can so arrange the form to comply with his request. If it is at all possible, I will do so.

In regard to the affidavit of evidence which will be supplied with the summons, the hon. member can be assured that it will be in the form and will contain all the necessary information that the defendant will have to answer.

Mr. Hanlon: It would be necessary for the magistrate if he does not have any further evidence.

Dr. DELAMOTHE: Yes. That is all the magistrate is to get, so it will be the full affidavit of evidence.

Mr. BENNETT (South Brisbane) (4.38 p.m.): The Minister has agreed that, if possible, the suggestion of the hon. member for Baroona will be implemented. The hon. member for Baroona said that, following the conviction of the defendant, the prosecutor will bring to the notice of the magistrate previous convictions of the defendant. That is not new in law. Obviously the magistrate is entitled to know of previous convictions, particularly for the same type of offence, so that he may take them into consideration when imposing penalty. As a matter of fact, that is a weakness in the on-the-spot fines legislation. A person can have 20 on-the-spot fines and still pay the same fine. If he were to go to court the magistrate would exercise his discretion and obviously the fine would be increased if the record showed that the particular type of offence was prevalent.

In the interests of the community all these matters should be referred to the magistrate. The prosecuting attorney has the right to refer to previous convictions, so it is desirable for the form to contain a space wherein the defendant can indicate whether or not he has had previous convictions. If the defendant pleads guilty he can indicate whether or not he has any previous convictions, and if he does, and his indication coincides with the prosecution claim, no harm or injustice is done. But on the other hand, if he denies he has any previous convictions and the prosecution claims he has, the magistrate should adjourn the hearing to enable him to come in and explain away what the prosecution claims.

The form should allow him also to give a brief explanation of each conviction. For instance, if he had a previous conviction for crossing a double white line, which to my way of thinking is a very serious offence, his explanation might be, "I crossed the double white line because a semi-trailer had broken down and was blocking my carriage-way, and the only way I could get past was to cross the double white line." Of course, that is no defence in law because it is an objective test and he must be penalised. But it is not nearly as serious as being convicted for crossing a double white line to overtake another motorist travelling at 50 miles an hour.

Subclause 8 (a) reads—

> "As soon as practicable after the conviction of a defendant in a proceeding conducted under subsection (4) of this section the clerk of the court shall give to the defendant a notice in writing signed by such clerk wherein shall be set forth—
>
> (i) the amount of any penalty, costs, fees or other sum which the defendant is required by an order made in such proceeding to pay;"

The serving of what was called the minute of conviction is nothing new. It is in keeping with the fundamental concept of justice that an absent defendant should be advised officially of the magistrate's determination. I am in agreement with that. He should be informed also of the penalty. I am sceptical in regard to costs. Surely all he should have to pay are the costs of issuing the plaint and summons. What fees are involved? If he pleads guilty in writing or elects to be dealt with in his absence, no witnesses are necessary. In ex-parte proceedings he would be required to pay the expenses of witnesses who attend to give evidence of the offence. No such fees or costs will be incurred. Therefore the only money that should be extracted from him is the penalty the magistrate imposes, and the £1 4s. costs of issuing the plaint. I do not know what subclause 8 (a) (i) means. It may mean that he will be saddled with the costs of administering the whole Act.

When introducing the second reading the Minister said that the defendant will have the right to apply for a re-hearing within 21 days. I take it he came to that conclusion because of subclause 8 (b), which reads—

> "A warrant of execution or commitment shall not issue to enforce an order for the payment of a penalty, costs, fees or other sum made in such a proceeding until the expiration of twenty-one days after the date on which such order was made."

That surely means what it says—that no warrant of execution or commitment will issue within 21 days. I do not see anywhere in the clause a provision under which a person can apply for a re-hearing within 21 days. On the contrary, it appears to me that the 1963 amendment will apply.

Section 142 (6) (a) of the Justices Act reads—

> "Where a case is, at any place, heard and determined ex parte under paragraph (a) of subsection (1) or this section, any Magistrates Court at that place, upon application made in that behalf by the defendant or on his behalf by counsel or solicitor within seven days after such determination, may, for such reason as it thinks proper, grant a re-hearing of the complaint upon such terms and subject to the payment of such costs as it thinks fit."

In any case, even if the Minister can discover in the Bill provision for the making of an application for re-hearing within 21 days, why should there be any differentiation between defendants? In other words, there will be an inducement to plead guilty in writing and so test the feelings of the court, and, if the penalty is too severe, within 21 days a defendant can apply for re-hearing and have another go to see if he fares better. A defendant who does not elect to plead guilty in writing and who is dealt with under section 142 of the Justices Act and allows proceedings to be taken against him ex parte has only seven days in which to make application for a re-hearing. I do not see why there should be that differentiation between the two defendants, if there is in fact a distinction.

Hon. P. R. DELAMOTHE (Bowen—Minister for Justice) (4.47 p.m.): I have here an extract from "The Australian" of Wednesday, 27 October, 1965, in which it is stated that the Government of New South Wales proposes to introduce exactly the same principle. As a matter of interest to hon. members, I shall read it. It states—

> "Traffic police in New South Wales in future will not be obliged to attend court for minor undefended traffic cases.
>
> "The New South Wales Cabinet decided on the change yesterday so that traffic police could spend more time on the roads.
>
> "The Premier, Mr. Askin, said amending legislation would provide that where a defendant did not pay the penalty imposed by a traffic infringement notice, a summons would be issued.
>
> "Detailed particulars in the summons would allow the defendant to decide whether he would defend the charge.
>
> "If the defendant did not appear, the court could rely on the details in the summons to prove the offence."

With regard to the hon. member for South Brisbane, it is not often possible to catch him because he has not properly examined the Bill. He raised the matter of 21 days and 7 days in which to apply for re-hearings. I refer him to page 11, lines 23 to 27, of the Bill.

Clause 15, as read, agreed to.

Clauses 16 to 18, both inclusive, and schedule, as read, agreed to.

Bill reported, without amendment.

MAINTENANCE BILL

SECOND READING

Hon. P. R. DELAMOTHE (Bowen—Minister for Justice) (4.50 p.m.): I move—

"That the Bill be now read a second time."

I spoke at some length when I introduced the Bill, and hon. members will recall that I referred specifically to those provisions that are new to the law of Queensland. I do not intend to traverse those matters again at this stage, as there will be ample opportunity to discuss them all in detail in the Committee stage.

I point out to hon. members that a maintenance obligation, although a legal obligation, is very difficult to enforce against a person who sets out deliberately to defeat it. Such a person can usually be punished for his disobedience only by sending him to gaol, but most often this is of little comfort to a wife or child who is not being maintained. That is why hon. members will find that the Bill sets out particularly to improve the enforcement provisions by providing other and, we hope, better means of actually forcing a person to maintain his dependants. Like any such new law, its efficacy can be determined only after it is introduced, but it is hoped that under its provisions deserted persons will get a better deal than they do at present.

Reference was made in this Chamber at the introductory stage to the question of the Commonwealth's handling this problem. As I told hon. members earlier, the Commonwealth has no power under the constitution to enter this field and, if it had the power —that is, if the States generally were prepared to surrender this power to it—it still has no machinery to implement such a system. Even the system already brought into force by the Commonwealth relative to marriage and divorce still depends almost entirely for its implementation upon State courts and State officials.

There is an old adage that law that is provided for particular cases is almost invariably bad law. We are unable to devise a system of maintenance law adequate to cover the situation while a man has several families, and generally we must confine answers to his lawful family. A man may have several wives and many children, but usually he has only one income. In the complicated cases, such as the one referred to at the introductory stage by the hon. member for Townsville South, we must, I am afraid, rely on our child welfare law and Commonwealth social services. I think hon. members will agree, now that they have perused it, that the Bill does a great deal to improve the law relating to maintenance responsibilities and their enforcement, particularly relative to the movement of persons within the Commonwealth of Australia. I am certain that it will, in due course, improve the situation in relation to our existing migrant population.

When the Bill is considered in detail in the Committee stage I have no doubt that I shall say, on occasions, that a particular provision is in the Bill for the sake of uniformity with other States. As I have explained already, in our endeavour to prevent persons defeating this law by moving interstate we have had to arrive at basic rules common to all States before we could get agreement throughout Australia on the enforcement of orders interstate. There had to be some give and take and, although I assure the House that I will consider seriously any suggestion made by an hon. member that is aimed at improving the Bill, it may well be that, for the sake of this uniformity, my hands will sometimes be tied.

I look forward to a detailed discussion of the Bill, which deals with such a very basic community problem that I consider that any time the House spends on it will be time very well spent.

Mr. DUGGAN (Toowoomba West—Leader of the Opposition) (4.55 p.m.): I have not meditated a great deal on this Bill but, despite the invitation of the Minister to participate in lengthy discussion, I do not think from my understanding of it and from conversations with party members that there is much need to engage in detailed argument about it. because it seems to bring into one piece of legislation practices that have been current for a long time under other legislation.

However, it deals basically with a very great social problem and for that reason there is an obligation on us to see if we can improve the law through legislation to give effect to the wishes of the Minister in regard to this social problem, namely, the abandonment by people of their social obligations to their wives and children. Unfortunately, there is an increasing disposition to cast off what have been regarded over the centuries as basic family obligations of people to their wives and children.

In this age of cynicism, of great movement and of counter-attractions, an age in which a great deal of publicity is given to people who spread their activities over a wide field, there seems to some degree to be a lessening of family ties on the part of people who are rather weak in honouring the obligations they owe to those dear to them. One of the things that have happened in recent times is that, because of increased mobility, a person can get farther away from, and thus escape, his obligations.

I think the Minister would be the first to acknowledge that the family is the basic unit of society, the pillar around which every other activity revolves, and that we must do all we can to make people entering the marriage state realise that although they have certain privileges they have also certain obligations.

People who have experienced such things or, as members of Parliament, have been approached by widows and children, have expressed the hope that the law will be administered in such a fashion as to enable people who are careless or who refuse to acknowledge their responsibilities in this regard to be brought to book.

I agree with the Minister that the incarcerating of a person does not correct the evil. It makes the person concerned rather bitter and brings no solace, comfort or financial help to those affected by his refusal to obey a maintenance order. Because of the failure of the machinery previously available, there has been some reluctance to institute maintenance proceedings. Deserted wives get rather sick and tired of taking out orders and finding that there is only spasmodic performance by the defendant against whom the judgment has been obtained and they elect to go to work themselves to maintain their families.

I think this is wrong. A husband should not be let off so lightly or be enabled to evade his obligations merely by going interstate. Therefore, if agreement can be reached between Ministers in the respective States to bring in some reciprocal legislation to enable these persons to be made to realise that going interstate does not lessen their responsibilities to their wives and dependent children, it should receive everyone's support.

Although the Bill is a very live one, I do not know whether our State officers were responsible for drafting it. I have commented to my colleagues that it is a pleasure to read it. It makes me feel that it is probably a Commonwealth piece of legislation that has been modified in some respects. I do not say that with any disrespect to anybody. This is an old hobby-horse of mine.

I always think that the Legislature should try to embody its intentions in language that is easily understood. We have heard lawyers today, and at other times, speak of the common problems that occur when cases are being heard. It is rather strange to hear trained barristers speaking of these difficulties. If people who are learned in the law have such difficulties we can appreciate the difficulties confronting those who are not. Indeed, many people have difficulty in understanding what are their rights and privileges. However, this is an occasion when I should like to express my congratulations to all concerned in the preparation of legislation that is easy to read and understand. I have not had occasion to refer to my legal friend the hon. member for South Brisbane or anyone else because the import of every clause is easily understood. It is a very useful piece of social legislation dealing with a highly important social problem that is steadily increasing. I think the opportunity should be taken now to let people who have a predisposition to escape their obligations to their families know that there is an Australia-wide acceptance of the fact that they have definite responsibilities which have to be discharged.

I feel that the Bill will be a marked improvement on existing legislation. I understand that it embodies in one measure most of the practices that have been current for some time. The Bill will make them all readily accessible in one piece of legislation. Steps seem to have been taken to meet widely varying sets of circumstances, and all possible combinations of those circumstances have been anticipated.

The hon. member for Baroona has an amendment to one of the clauses which the Minister might be prepared to accept. If not, he might be able to answer the reasoning behind our desire for the amendment.

I take the opportunity to congratulate the Minister and his officers for doing what I think to be a very good job of work. I think that the Bill will satisfy all members of Parliament, but I feel that the greatest satisfaction probably will come from those whom it is designed to help. The most rewarding part of a Parliamentarian's work is to know that what is being done by him is genuinely appreciated by people who are involved in circumstances beyond their control. It is not very often that we pass legislation of this nature, but when we do I think the Legislature is making a very useful contribution.

Speaking in very general terms, I think this is a very good piece of legislation and indicates that every possible attempt has been made to deal with very vexed and distressing social circumstances. I therefore feel that the Bill deserves the commendation of hon. members on both sides.

Mr. HANLON (Baroona) (5.4 p.m.): As the Leader of the Opposition has pointed out, it would be difficult to quarrel with the Bill in almost any respect. We have one minor reservation. We consider it necessary for a certain aspect of the Bill to be taken into consideration because it might react unfavourably against a claimant. However, I will not proceed with that point at the moment because it can be dealt with better in the Committee stage, by amendment.

As the Minister mentioned, whilst to a great degree the Bill recites the existing law on maintenance, apart from the benefit that will flow from the almost uniform provisions that will apply throughout the Commonwealth and the greater reciprocity with some overseas countries, it also includes such innovations as the nominal order.

That is a very good idea. In other words, an order can be made on desertion in favour of the wife. Even though the wife may not be in necessitous circumstances she can have a nominal order made which protects her rights. Then, should her circumstances deteriorate, she can immediately apply for maintenance to be fixed instead of having to wait until she is destitute.

A further innovation is the preliminary order of up to £2 a week for each child. This is an excellent addition to the law.

The real difficulty with maintenance law lies in its enforcement. We cannot blame the Minister to any great extent for that. Where it can be enforced in relation to a nominal order, and the existing preliminary order, maintenance can now be obtained in respect of each child pending a full hearing. The extension of the limit of £50 for confinements, with certain advantages for funeral expenses and the new provision for the husband to claim against the wife, are all matters of importance. Whilst we cannot blame the Minister, it is to be deplored that there is an increasing tendency in these times, particularly for husbands, to desert their families. An examination of the report of the Director of the Department of State Children discloses that 42 per cent. of the children receiving financial assistance from the department at present are children of deserted wives. It is not unexpected to note that the percentage of children receiving assistance is much higher in the case of deserted wives than in the case of other mothers who are being assisted by the department.

With the increasing number of desertions, a larger number of mothers are obliged to turn for assistance to the State Children Department. I repeat, it is to be deplored that some greater effort is not made to enforce maintenance orders. I admit that a special army would be required to catch up with husbands who desert their families, as this is indeed a difficult matter to police. We could not argue on economic grounds that we could finance a special agency of sufficient strength to make it unprofitable for desertion to take place on such a wide scale, but a greater effort should be made by some authority, whether Commonwealth or State, to let it be known that, as with income-tax offenders, while the offenders may be able to get away with it for some time, eventually someone will catch up with them and it will be very unprofitable when this happens.

Unfortunately, with desertions generally speaking the odds are mainly with the deserter because understandably, as was pointed out by the hon. member for South Brisbane, the police have neither the numbers nor the time, because of their other responsibilities in the detection of crime, to try to launch a concentrated effort to apprehend these offenders. It would be difficult to do so because a person could be located in Rockhampton, Townsville, or Sydney tonight and could be gone tomorrow.

There is no greater criminal than a man who deliberately deserts his wife and children and leaves them in need. A greater effort should be made to prevent such an occurrence. This could be done possibly by establishing a body which would devote itself exclusively to this type of duty rather than have the hotchpotch method we have at the moment. The period immediately after desertion is the time a wife and children need assistance most. Unfortunately, that is when they receive little assistance because of the attitude of the Commonwealth Social Services Department. A different approach is adopted in Victoria. During the debate on the Children's Services Bill the hon. member for Townsville North pointed out that in Victoria a deserted wife is paid a widow's pension, whereas in Queensland the Commonwealth refuses to pay such pension until after a period of six months and until action has been taken for maintenance. The State Department of Labour and Industry grants emergency family assistance here. A wife with four children receives £4 1s. a week. Obviously that is insufficient to enable such a family to survive. Usually these people have a rental problem. That is often the case now that rents are not controlled. Owing to the background of the family circumstances and the economics of the family unit, in these cases the rent is usually in arrears and it is impossible for the deserted wife receiving £4 1s. a week to pay a rental which is too high for a family with a normal income.

I realise, of course, that that is the responsibility of the State and Commonwealth Governments, not of the Minister. As the hon. member for Townsville North pointed out in the debate on the Children's Services Bill, if the Commonwealth Government does not meet its obligation, surely in these circumstances it is incumbent on this Government to make a payment relevant to the cost of living of families. Even with the State aid granted under the Children's Services Bill, the amount will be increased only to £6 3s. 6d. in such a case.

Unless the provisions of the Maintenance Act are enforced more strictly, a deserted family will be in no better position because no sooner will the deserting husband be found than he will escape again. Meanwhile, the entitlement to social service benefits and assistance from the State has been lost while the husband has been making payments. It is easier to re-establish assistance from the State to the limited extent that it is available; in the case of Commonwealth assistance, the wife has to start all over again to try to re-establish her entitlement.

I believe that it is necessary to support the extensions that have been made in the Bill; the new orders and procedures for their enforcement, particularly interstate, and the tightening of the net around deserters. I believe that greater efforts should be made, in co-operation between the Commonwealth and State Governments, to make it unprofitable and difficult to indulge in the desertion of wives and families that is unfortunately a growing feature of modern times.

There are provisions in the Bill, as there are in the Act, concerning imprisonment of defaulters. We all know that a maximum period of 12 months' imprisonment is provided. Imprisonment does not necessarily wipe out the arrears, and a man cannot be imprisoned twice for non-payment of them. I feel that consideration should be given to some form of week-end or part-time detention for deserters.

Mr. Hiley: Let them work out their detention.

Mr. HANLON: Yes, under supervision. Whilst they could still abscond during the day, they would be much easier caught because a quick alert could be put out for them. If they are in permanent confinement, they are earning no money and are of no help to their families.

Although we may condemn these people, they are not all complete "no-hopers". Some are victims of their own economic foolishness, and others may find themselves in this position through ill-health, unemployment, or nervous breakdowns caused by the pace of modern living. Not all of them simply have no regard for their wives and families. The cunning ones go to gaol because they know that they cannot be imprisoned twice for the non-payment of arrears of maintenance. As the hon. member for South Brisbane said at the introductory stage, they serve their time and are then finished with the arrears, or they make small payments that keep them out of difficulties for a while.

If the court was able to order some working-out of detention, as the Treasurer expressed it, they could go to work and earn money during the day, which would enable maintenance to be paid to wives and families and arrears to be met. I think that would be much better than placing them in prison, which benefits nobody. After working out their detention and having been obliged to pay their arrears, in many cases they would settle down to their obligations when they were released and keep up maintenance payments. I am not saying that they would necessarily be reconciled with their wives, but they may acquire a sense of responsibility and continue maintenance payments. That would be preferable to the present system of imprisonment, which is of no benefit to their wives, their families, or themselves.

Mr. HUGHES (Kurilpa) (5.19 p.m.): I wish to comment on several aspects of the Bill. I do not propose to canvass it in detail because I spoke at some length at the introductory stage.

There are many innovations in the Bill which I believe are in keeping with the needs of this modern age. Hon. members on both sides of the House have recognised its commendable provisions, and it is because the Government has adopted a realistic approach to these problems that the Bill has been introduced.

All hon. members at times have to assist constituents with their personal problems, so I am sure they will not be surprised to find that the Bill deals mainly with the problem of maintenance. Although it recognises that in some cases husbands are deserted, it is designed to give further protection and assistance to deserted wives and families by ensuring as far as possible that maintenance orders granted by the courts are enforced. Provision is made for co-operation and reciprocity between the States, and a deserted wife whose husband flits from State to State will find it easier a pursue her claim against him and have it recognised. In this instance there may be two-way traffic. A wife may gain a maintenance order against her husband and later become more secure financially. The husband may then make application for a revision of the maintenance order and it may be varied, on the basis of documentary evidence, with one party in one State and the other party in another. This will not only expedite the hearing of cases but will also reduce costs, and it is something that we should keep to the fore in our minds.

The problem of forcing an absconding husband to pay maintenance should be paramount in the minds of hon. members. It seems that, because of the sense of values now prevailing in society, we shall have to learn to live with the idea of husbands failing to accept their responsibilities and obligations. Hon. members must be cognisant of the problem; the judiciary must be cognisant of it. We must fortify the judiciary by introducing Bills such as this and put teeth into disciplinary action that can be taken under their provisions. It is acknowledged that the sense of family obligation is not as strong today as it was years ago.

The hon. member for Baroona might have been reading my mind when he made his speech, because he expressed the thoughts that I had in mind. He reiterated the point made at the introductory stage that many husbands are not accepting their responsibilities and are leaving their wives destitute. Problems then arise because for a considerable number of months the wife has no chance of obtaining financial assistance from Commonwealth or State funds.

Mr. Sherrington: The Commonwealth could do much more for deserted wives.

Mr. HUGHES: That is so. I agree with the hon. member for Salisbury. I believe that the Commonwealth is not accepting to the fullest extent what is really its social responsibility. The State Department of Labour and Industry has a small fund, but it is able to give only minute assistance when the need is greatest—at the time of desertion.

It is a shame that womenfolk with children who are deserted have to wait the statutory period of six months. Even then, at the end of the statutory period, they have to show that they have taken action through the courts before their case is recognised. That is one of the things that even this Bill will not correct. It will go a long way towards obtaining maintenance once an order is granted but it takes a long time for the machinery of the law to be put into effect and for an order to be granted.

I believe this is a case in which the Commonwealth and the State can work in co-operation to assist a person so affected.

The hon. member for Baroona mentioned that an erring husband could get away with the non-payment of maintenance for some time, but there must be some way of catching up with an offender, just as there is in the case of the Income Tax Department. This is one way in which mutual co-operation between the Commonwealth and the States could get at an offending husband. In most cases the husband would be in receipt of wages and, even though he may escape payment of maintenance for some time, it is unlikely that he will attempt to avoid the payment of income tax.

Mr. Bennett: Why do you try to do that?

Mr. HUGHES: I do not. Sometimes I pay under protest, but I pay. Under the pay-as-you-go system of taxation, in most cases the husband would be paying from his weekly wages and through co-operation on the part of the Income Tax Department——

Mr. Hanlon: Quite often they go under another name and do not furnish any income tax returns—not unless they are entitled to a large refund.

Mr. HUGHES: That may be so.

If the hon. member for South Brisbane, of his own volition, was to canvass the South Brisbane electorate for such types he would probably help not only the State but a tremendous number of deserted wives. However, I should say that they would be few in comparison with the large number of deserting husbands. If a check through the Income Tax Department was possible, I think many offending husbands could be brought to book. I suggest that the State and the Commonwealth Social Services Department might obtain a check through the Income Tax Department, which in many cases could assist a wife and deserted children to obtain maintenance.

Mr. Sherrington: What about if a husband decides to go to gaol rather than pay maintenance?

Mr. HUGHES: I intend to put forward a suggestion which is not quite on the same lines as that put forward by the hon. member for Baroona. This Bill goes some way towards meeting the problem, but I do not think we should have any sympathy whatever for a husband who has deserted his wife and family and has absconded from his obligations. Once he has been given the opportunity of expressing his opinion in court but has lost his case—the court having decided against him—he merits very little sympathy from anyone in the community.

I believe we are here to devise ways and means of preventing the offending husband from evading his obligations by changing his place of residence from State to State. I believe that when he is eventually apprehended, he should go to gaol, even though his wife and children might not benefit at that stage. Here again is where the Bill may be lacking, although there might be a revision of our statutes in other directions which will enable a prisoner to work out his maintenance. And I do not mean only at week-ends.

Mr. Hanlon interjected.

Mr. HUGHES: If the hon. member for Baroona was not suggesting that it be confined to week-end work, we are in agreement. I feel that this would be insufficient to meet the need. In my opinion, the absconding husband should be imprisoned so that he cannot enjoy the social facilities of life. He should be put to work and the statutes should be amended to enable the authorities concerned to deduct his maintenance from the money so earned. At the present time we have prisoners building hospital wards and the like.

This type of prisoner is not a man who has committed a crime against the person such as manslaughter and rape, but is one who has evaded his obligations and responsibilities. Of course, in the eyes of many that is not a lesser crime. I believe that this type of person should be put to work at award wages applicable to his employment, even as a builder's labourer on a Department of Works job. The State has to spend a certain amount to build prisons and other institutions, and I see no reason why this type of prisoner should not be used in their construction. Deductions could be made from his earnings to cover current maintenance obligations and to make up his arrears, although the period of sentence should be sufficient to act as a form of punishment.

The present Act contains garnishee provisions but it is necessary for a deserted wife to serve the garnishee order on her husband's employer each week. This is an almost impossible requirement if the husband constantly changes his place of employment. The permanent garnishee provisions in the Bill are more in keeping with modern times. Even though a husband may change from job to job, I do not think he will so easily avoid the payment of his dues to his wife and children in the future.

At the time he deserts his wife and children the desertion is a calculated step taken by the husband, and therefore he should be prepared to meet his obligations to them. In this day and age, with a high level of employment, a high standard of living and with high wages being paid in most trades and callings, he has the capacity to pay. He should not have the sympathy of the law-enforcement agencies or statutes simply because he may have to keep two homes going. I have no sympathy for the erring husband who has a callous disregard for the needs of his wife and children. This Bill goes a long way to assist the cause of those who have been deserted. It is purposeful and practical.

Mr. Bennett interjected.

Mr. HUGHES: I do not feel that anyone—soldier or otherwise—should be permitted to avoid his obligations.

The Bill, commendable as it is, still has a void. The State and the Commonwealth should make attempts to reduce the waiting time and to provide assistance to some extent when it is urgently needed. In order to catch up with erring husbands the Department of Justice may find it necessary to establish a special section to do so, because many desertions are occurring today. I know that some cases are not proceeding with the utmost expedition.

Mr. Bennett: Name me one.

Mr. HUGHES: I am not dealing in personalities, and I keep confidential the discussions and cases of constituents. I know of cases where there has not been proper expedition in the serving of summonses. In this way mothers and children have been let down to some extent by the State and its enforcement agencies. If the increase in desertions continues, the Government may have to go even further than in this Bill and establish an enforcement agency so that the Bill is not only good in principle but effective in operation.

Mr. BENNETT (South Brisbane) (5.37 p.m.): I do not intend to speak at great length because my Leader and the hon. member for Baroona have made apt observations on what we as parliamentarians, and the parliamentary Opposition, believe to be the merits or otherwise of this legislation. I share their opinion that this is polished legislation. I do not know that the Government or the Minister should be given any commendation for its existence beyond saying that they have decided to authorise or to allow the departmental officers and draftsmen and members of the Justice Department to frame it. It is fair to say that, in the main, it contains nothing new in maintenance law, except that it seeks to tighten up the facilities whereby an erring, runaway husband may be brought to task. Whether that sincere desire can be carried out effectively is a different matter.

Unfortunately I am a little sceptical, not that I wish to doom to disappointment the efforts of the Government to ensure that defaulting husbands measure up. Over the years it has been a constant source of dismay to magistrates to find that, in spite of all types of legislation, it is difficult to harness defaulting husbands who will not measure up to their family obligations and, certainly by the very fact that they have put themselves under the jurisdiction of this Act, they have already indicated to society that they are not prepared to honour the solemn matrimonial vows which they took, perhaps not so solemnly. The evil is there, and the problem must be grappled with. Any legislation that is designed to further the interests of those who are affected adversely by such husbands is to be encouraged. I hope that something of advantage will come from the Bill. It only re-enacts most of the existing maintenance law. It will write into our statutes the results of judicial decisions over the years in this field.

It was with great chagrin and disappointment that I heard the Minister publicly announce the failure of the attempt to introduce uniform maintenance law in Australia. With its certain imperfections, the Commonwealth Matrimonial Causes Act of 1959 did at least achieve uniformity. The Minister gave the impression that it was his desire at that conference of Ministers for Justice or Attorneys-General to establish uniform maintenance law. It would be rather intriguing to discover the real and underlying reasons why his ambition was thwarted or did not reach fruition. I feel that it would not be through any lack of desire on his part.

Jealousy in the minds of representatives from other States could have been the fundamental cause of the failure to bring about uniform legislation. I cannot understand why it was not introduced. Over the years individual States have cherished one or two principles of maintenance law and have shown no desire to drop them. That could be another reason why the majority of Ministers attending that conference would not introduce a uniform Bill. When responsible Ministers meet at a conference of that nature they should realise that uniformity means much more than the retention of petty State jealousies or certain favoured principles that individual States have adopted.

It has been conceded by the Minister and other speakers to this Bill that the main difficulty lies in enforcing a maintenance order, not in obtaining it. The best and quickest method to enforce a maintenance order is to have the same law in all States so that bailiffs, magistrates, and judicial and court officers will understand the law they are implementing or enforcing. In that way the interstate barriers would be lifted and that handicap would not be suffered.

Mr. Smith: I think they take too long before they start proceedings to enforce a writ.

Mr. BENNETT: I agree with the hon. member for Windsor. Queensland and interstate officials do take too long. The majority of persons who have maintenance orders issued against them have a fixed income, usually a moderate or humble wage or a scaled salary, and they cannot afford to fall into arrears, because they cannot catch up, and the greater the time lag, the bigger is the amount of arrears they have to meet. I agree with the hon. member for Windsor that it is well nigh impossible to enforce strict compliance with an order that has been ignored for four or six months.

As I understand the Bill, the Maintenance and Alimony Relief Act of 1935 no longer applies, and its provisions are to be excluded. I quite understand the thinking of the Minister when introducing that principle. He has assumed that the husband has had an order made against him and that, when making the order, the magistrate considered

the merits of the case and his capacity to pay. Why therefore should the Maintenance and Alimony Relief Act apply? That, I understand, is the Minister's line of thought. The husband should not be relieved of any of his payments under the Act because it, as did previous legislation, makes provision for a defendant (for that matter, a plaintiff also) to apply for variation, change, suspension, or complete abandonment of a maintenance order. As I understand it, the Minister's thinking is along those lines. If a person finds complying with the order too much, he has the right to apply for a variation. In theory, that thinking is, of course, quite logical.

On the other hand, as the hon. member for Windsor pointed out, there are delays in the enforcing of orders. I do not for a moment say that any crocodile tears should be shed for defaulting husbands. Nevertheless, when a defaulter on a fixed income allows his maintenance payments to lapse for four to six months and is taken to court on disobedience proceedings to have them enforced, and he says, "I have spent all my pay; I have spent all that I earned up till last Saturday, and I am getting only £16 to £18 a week", how can he comply with an order to pay arrears of £80 or £100? It is not possible. In these matters we have to face facts; we cannot divorce ourselves from reality.

In applications under the Maintenance and Alimony Relief Act, magistrates say, "Circumstances have changed", and they make orders relieving defendants of part of their arrears; they are ordered to pay some of the arrears, which means that wives and starving children get something. If a magistrate now says to a defaulter, "You will pay the lot," where is he to find the money?

I am not trying to raise any sympathy for defaulters; I am merely saying that the position has to be faced realistically. Where is a person who is six months in arrears to find the money? Under the provisions of the Bill, a magistrate does not necessarily have to impose imprisonment. He can allow a man to remain out of gaol, and can make an order for the payment of the full amount of arrears. If he does that, however, the husband does not pay up, because he cannot. He decides that the burden is becoming too great, so he changes his name, leaves the State, or goes to live on the banks of the Barcoo. He takes an assumed name, and does not get on the roll. That is what happens, and the difficulty is to discover a means of dealing with men in this category. With certain exceptions, the fact that an order has been made against a person usually indicates that he is the type of man not readily amenable to family obligations.

I do not know the Minister's attitude to the campaign being waged in many circles, union and otherwise, for equal rights and equal pay for both sexes. My friend the hon. member for Sandgate made some observations on that matter.

Mr. Dean: Good ones, too.

Mr. BENNETT: I think they were good ones, too; I completely agree with him. I know that the Government has not always been prepared to concede equal rights to women, nor has it adopted any policy of equal pay for them. I am wondering whether, in the implementation of what is in effect a new principle in the Bill, a husband will be able to sue his wife for maintenance, and whether the Minister and the Government are indicating to the fairer sex that, if they want equal rights, they have to assume full and equal obligations.

Mr. Hughes: Don't you think there could be a case where the husband is left with the children and the deserting wife is quite secure financially? What about protecting the children in a case such as that?

Mr. BENNETT: I am not arguing against the proposal in the Bill. I am merely drawing attention to the Government's attitude. If a husband is in ill health or, because of some unfortunate circumstances, has no income and is unhappily married to a wealthy woman, I do not suppose there is any reason why he should not be allowed to claim maintenance if she deserts him. But if the Government is granting equal rights under the Maintenance Bill, I am suggesting that it has not measured up to that responsibility in other directions.

Mr. Hughes: Are you in favour of women jurors?

Mr. BENNETT: I do not know what that has to do with the Bill.

Dealing with preliminary expenses, I think it will be acknowledged that £50 is by no means adequate for a wife for confinement expenses, for maintenance for approximately five months for herself and for three months for the child, and for all the necessary clothing, and so on, that she has to buy. It is obvious that she should have considerably more than £50. As I point out with all due respect to the Minister, in many instances the doctor's fees would use up most of the £50. I think £200 would be a fair figure in those circumstances.

There again, defendants who expose themselves to the possibility of an order being made under this clause are usually members of the community who just cannot find the money needed to meet preliminary expenses. I am not putting that argument forward because I have sympathy for their circumstances. I am saying that, even if a girl knows that the clause is in the Bill, she would not find much comfort in it, because most boys who put girls in that position cannot pay £50, though I concede that they should.

Mr. Smith: Couldn't they sell their motorcars to pay the confinement expenses?

Mr. BENNETT: Their motor-cars are usually bought on hire purchase. That is why they go round stealing to buy parts; they cannot meet the cost of maintaining their motor-cars. Not very long ago a boy who was faced with the possibility of having to meet expenses in circumstances such as these was charged with arson. He tried to get the insurance money to meet the expenses. People in those circumstances use all sorts of devious devices in order to escape their obligations.

The provision for a nominal order is a good one and is a departure from the existing law.

Up to date, in order to succeed on a maintenance action, whether or not the plaintiff wife had all the merits on her side and was in fact without means of support, unless and until she was able to prove that her husband had the capacity to pay she was not entitled to a maintenance order. Under the Bill she has not to prove that her husband has the capacity to pay before she can get an order. To get an order of substance, she still no doubt has to prove capacity to pay, but she can establish her rights by getting a nominal order whether or not the husband is working or is a man of means. Having established her right, she can later apply for an increase in the order if and when circumstances permit.

The Bill suggests that children up to 21 years of age will now be able to get maintenance whereas previously the right normally ended at 16 years of age. The law was that if a child was still with the mother or father, was receiving an education and was in fact without means, he could still get maintenance.

The de facto wife should be in a position to pay back moneys she has illegally received as a result of wrong information given under the Act. In my view, that is a weakness or anomaly in the proposed legislation. It makes provision for correcting mistakes made when certain women claim that particular persons are the fathers of their children; it goes further and provides that, if such a person can prove by obtaining further evidence that the order was made in error or by mistake he can have the order annulled or cancelled or suspended; but the mother of the child concerned has not to repay the money that she has improperly—and in my opinion substantially illegally—obtained from the unfortunate victim who she claimed was the father of her child when in fact he was not.

Mr. Smith: It might be a bit hard for her to pay.

Mr. BENNETT: I concede that point, and if she cannot pay I cannot see any reason why the court should make an order forcing her to pay; but surely this legislation should allow the court a discretion in the matter so that the fortunate recipient of an order to which she was not entitled, if she is in comfortable financial circumstances, should be made to pay back the moneys, including the costs of obtaining the order and the professional expenses involved, to the innocent defendant who was saddled with an unnecessary order. He should have the moneys refunded to him if the woman is in a position to pay. I am facing reality. If the woman has not the money, it is no use making an order; but there should be provision for an order for refund against a wealthy woman who has obtained maintenance for a child born out of wedlock if that wealthy woman has got the order improperly and has received the benefit of it over a period of years. She may have banked the money or she may in her own right have the wherewithal to make a refund. I cannot see why she should be protected against returning her ill-gotten gains. That is what it amounts to. I feel there should be provision for making application to a court for a refund of those moneys so that the court can use its discretion whether it will order a refund.

There is a provision also to register arrears of payments as a civil judgment. This again is a departure from existing circumstances. Superficially it would appear to be a desirable improvement. I am not trying to knock it but I suggest it will be cold comfort to wives whose husbands are in arrears because it is not much good obtaining a civil judgment against anybody if that person is without means. It would be a judgment in principle but nothing would be paid under it.

The Bill contains permanent garnishee provisions. I hope that the system will prove effective for deserted wives, but I fear that those husbands who have to be chased to the extent of obtaining a garnishee order against them will again abscond under a different name and under different circumstances if a permanent garnishee order is taken out against them.

[*Sitting suspended from 6 to 7.15 p.m.*]

Mr. BENNETT: One principle perhaps could have been better exploited in the Bill. I refer to the clause dealing with the resumption of cohabitation. Other speakers have spoken about the welfare of the child, and I concede that the welfare of the child is of paramount importance under the maintenance law. I suppose that it is in the best interests of the child that the mother and father should stay together. Any law that encourages the rehabilitation of a marriage is a very desirable one from the point of view of the welfare of the infants of that marriage. Legislation has been foreshadowed in the Federal sphere to the effect that the resumption of cohabitation does not necessarily upset the period of the desertion for the purpose of obtaining a dissolution of marriage. In other words, if a husband and a wife decide to have another attempt to rehabilitate or resurrect a marriage, that need not necessarily be usable as evidence against a petitioning spouse if he or she

eventually decides to institute divorce proceedings. That improvement in the law is being contemplated in Federal circles at the moment.

Mr. Aikens: It was introduced only recently in the Federal Parliament.

Mr. BENNETT: Yes, that is what I am dealing with. It has been a well-known principle under the maintenance law that if a wife who has succeeded in obtaining a maintenance order resumes cohabitation with her spouse for a specific period, she thereby automatically disqualifies herself from retaining the benefit of that order. I have seen many sad and unfortunate examples of that. I have known of cases of genuine, sincere mothers who, in their endeavours to exploit the possibilities of resumption of cohabitation, mainly in the interests of their young families, have been sadly disappointed.

I could name a girl presently studying at the university who some years ago needed only two units for her Bachelor of Arts degree. She married and subsequently had two children. As a good mother she abandoned her ambition to become a graduate to devote the whole of her time and energy to the welfare of the children of her marriage. Eventually, when her husband deserted her, she decided that in the interests of the two young children it would be better for her to complete her Bachelor of Arts degree and thus become more qualified to earn an income commensurate with her standing in the community. She recommenced her course of study early this year. Ordinarily I am sure she would have had no difficulty in obtaining the two final units for her degree. In the early part of the year, her husband returned with the proposal that they resume their matrimonial life together. He stayed with her only a very short time, but in that time she became pregnant. As a result of his return she has lost her maintenance order and now she is endeavouring to earn an income not only for the two young children of the marriage but for the prospective child and, in addition, she is faced with the difficulty of sitting for her examinations not knowing whether or not she may have to go to a maternity hospital during the course of the examinations.

I am not blaming the Government for what the law says, because it has been in operation for many years. However, it is a very unsatisfactory feature of the law which says that, merely because a sincere wife endeavours to rehabilitate a marriage by taking back her husband, she is deemed to have abandoned the order. In the interests of the children, every endeavour should be made by legislators to safeguard the stability of marriage. Even though the husband and wife are not particularly happy themselves, the matrimonial home is useless for the children when the parents are living apart. Indeed, the feelings of one spouse for the other should be immaterial if they have any real feeling for the children of the marriage, and they should put up with grave domestic conditions rather than separate. Generally speaking, no husband can afford to keep two families, irrespective of his situation in life. No husband can economically afford to live apart from his legal wife and family and, in any case, even if he is a wealthy man he will be engaged in so much litigation that ultimately all parties, including the children, will suffer.

I find it rather disquieting that the Army authorities do little to help deserted wives of members of the armed services. I do not say that they are many in number, but there are those who will not honour their obligations to their wives and families. Those of us who have had Army service know only too well that the armed services do give opportunities to individuals of this type for loose living, to such an extent that they overlook their obligations to their wives and families and, not infrequently, set up de facto matrimonial relationships in some other city or town.

Mr. Ramsden: Are you casting aspersions on men in the Army now?

Mr. BENNETT: In view of the hon. member's military background, I should have thought that, if he had one ounce of sincerity, truthfulness or decency, he would agree with that submission. It is absolutely true. I have mixed with many fine men in the services but, at the same time, I have seen a percentage of degenerate men whose company I abhorred because there are these types of men in the community. Hon. members on both sides of the House should be prepared to admit that there are obnoxious men who will not honour their obligations to their children. The Army is not free from such types and I am merely pointing out that Army life encourages them to lead that type of life. That is why we have maintenance laws.

Mr. Aikens: I do not feel that any community is free from that type of man.

Mr. BENNETT: I agree with the observation of the hon. member for Townsville South. No section of the community is free from that type of man. I merely make the point that Army life gives these men more opportunities than the average man.

The Army authorities should not make it easy for personnel to avoid and evade their obligations, as they do, because I know of many young innocent brides who have married men in this category who have then joined the Army to avoid their obligations. Of course, only a few will fail to honour their obligations; the vast majority are loyal, decent husbands and good citizens of whom the country should be proud. However, the men in the category I am referring to use the Army to evade their obligations. The Army authorities say, in turn, that they will not insist on allotting to the wives and families a proportion of the husband's pay

if he does not make the allotment which should be his obligation. Instead of insisting that the money and the expenses be paid out of the Army pay packet, which after all is being provided by the taxpayer, the Army authorities say, "We will let him do as he pleases."

Mr. Hughes: As distinct from an allotment, he still comes within the terms of the Bill.

Mr. BENNETT: The hon. member for Kurilpa shows an amazing lack of comprehension of the difficulties involved. I have seen too many of these young wives who come within the ambit of this Bill. How can they sue a fellow who may be in Vietnam or Singapore?

Mr. Ramsden: The legal fees are too high.

Mr. BENNETT: Yes, they are, because the Government will not provide a fair system of legal aid. I can speak with authority on that system because I am the only legal man in Queensland providing any sort of free legal aid.

Government Members interjected.

Mr. BENNETT: Such a young wife cannot go out to work and cannot find the wherewithal, in normal circumstances, to launch or commence an action, because first of all, although this Bill will make it easier, she would have to pay a private inquiry agent to find out where her husband is, and secondly would have to pay a service and execution process agent or bailiff to serve the necessary court documents on him. If she goes along to the Public Curator—not the Public Defender, who does a particularly good job, and so does the Public Curator for that matter—those in the Public Curator Office whose hands are tied in relation to legal aid, inform her that the Public Curator cannot help her and that she had better go and see Col. Bennett.

Government Members interjected.

Mr. BENNETT: I support the amendment foreshadowed by the hon. member for Baroona. I feel that the illegitimate child of a loose-living mother should not be deprived of the advantage of a maintenance order, provided it can be proved satisfactorily that a particular person was, on the balance of probabilities, the father of that child. In effect, that has been the law up to date. I do not suggest that the court should lightly saddle some unsuspecting individual with the obligation of paying a maintenance order for a child born out of wedlock; but, if the court is completely satisfied that a particular person is the father of an illegitimate child, irrespective of the standards of conduct of the mother, why should the child go without proper maintenance? I feel that the Minister is being unduly cautious in that particular proposal. In any case, if a person lives with a promiscuous woman and engages in conduct with her, or lives it up in various night spots—one is particularly well known to most of us—and he becomes the father of a child, why should he not have to pay for the child and its maintenance? I do not see why he should be protected at all, provided it is proved satisfactorily to the court that he is the father.

There is a protective provision in the legislation which says that a man shall not be taken to be the father of an illegitimate child on the oath of the mother alone. The court could not decide such a matter on the oath of the mother alone; it would have to be satisfied on independent evidence that that particular defendant was the father of an illegitimate child before a maintenance order could be made against him.

The common law on this matter is contained in Litherland's "Maintenance of Deserted Wives and Children," 2nd Edition. It summarises the law as it stands and gives a perfect safeguard to those whose paternity may be in doubt. The author states at page 225—

> "The vital fact that has to be proved is that the child was conceived as the result of sexual intercourse between the woman and the man she alleges is responsible for her pregnancy, or the birth of her child. For obvious reasons, if the woman, or the mother, is alive, is the complainant and available as a witness, and particularly if she is claiming confinement, or preliminary expenses, her evidence is desirable, and it would appear to be essential. It has to be remembered that in connection with corroboration of evidence it is generally the allegation of the mother which must be corroborated."

Later he goes on to say—

> "If evidence can be produced to satisfy the Court that at the time the child was conceived the mother was a common prostitute, that is, was a woman who submitted herself to men for gain the Court would be unable to say that any particular man was responsible for her condition, and except in special circumstances would be unable to make any order."

I stress that phraseology—"except in special circumstances would be unable to make any order." The Minister is now taking the law a great step further and saying that in absolutely no circumstances can an order be made if it relates to a woman of promiscuous character.

Litherland goes on to say—

> "If the defence, or part of the defence of the respondent, is that the mother has been associating with other men, or has had sexual intercourse with other men about the time the child was conceived, or if she had admitted to him, or to others, verbally or in writing, that she had sexual intercourse with other men about the relevant time, such is an issue in the proceedings, the complainant's evidence in cross-examination may be contradicted, and other evidence in support of the material issue may be called."

(Time expired.)

Mr. AIKENS (Townsville South) (7.32 p.m.): The Bill deals with many of the human tragedies that the completely representative members of Parliament come across all too frequently. Whilst it is quite possible that the hon. member for South Brisbane has at times tendered free legal advice to unfortunate people who have gone to him, it is also abundantly true that I have tendered much more, and sounder, advice than he has.

Mr. Murray: And a great deal cheaper, I am sure.

Mr. AIKENS: Certainly much cheaper, and with much better grace.

I am particularly pleased that under the Bill, according to my interpretation of it, one of the most obnoxious features of the present maintenance law has been removed. Until the passage of this legislation and its being placed on the Statute Book, a wife who claims maintenance against her husband must prove her inability to maintain herself at the time when she makes the application. For instance, if a husband walked out on his wife in June of this year, the wife, after trying to patch up the quarrel and doing everything possible to bring the marriage from off the rocks, would invariably go out to work. If she appeared before a magistrate in this month of November and asked for maintenance for herself and her children, under the law as it stands today the magistrate could grant maintenance only for the children. All that the magistrate is empowered to do is to grant maintenance to the wife if she is destitute at the time of making the application, despite the fact that she was compelled to go to work from the date of her husband's departure last June in order to feed and clothe her children and herself.

I am particularly pleased to see that under the Bill all that the wife is required to do is prove that when her husband deserted her she was in a state of destitution.

Mr. Bennett: She gets only a nominal order then, of course.

Mr. AIKENS: She gets a nominal order. At least she will be in a better position after the passage of this Bill than she is under the shocking, obnoxious law that is on the Statute Book today, which, as I said at the introductory stage of the Bill, is loaded against the unfortunate wife.

Mr. Smith: She did not have to show that she was destitute.

Mr. AIKENS: She had to show that she was virtually destitute. As a matter of fact, I remember one case in Townsville some years ago in which the husband, a smart Alec who had probably been prompted by a barrister, went into court with a series of advertisements appearing in "The Townsville Daily Bulletin". He said, "Your Worship, here is an advertisement for a housekeeper; here is an advertisement for a barmaid; here is an advertisement for a pantrymaid. My wife is in good health and is able to fill any of these positions and earn her living." Because he was able to convince the magistrate that his wife was able to take any one of those positions and earn a living, the magistrate refused her application for maintenance and granted maintenance only for the children.

Mr. Bennett: It was not as easy as that.

Mr. AIKENS: There may have been one or two little side issues, but I am sure the hon. member for South Brisbane will admit that the maintenance law now in existence is loaded heavily in favour of the deserting husband and against the unfortunate wife.

Mr. Murray: I think the hon. member for South Brisbane has implied that.

Mr. AIKENS: Yes. I find myself, if not completely in accord with the remarks of the hon. member for South Brisbane, at least partly in accord with them. I am sure that this is the result of the hon. member's paying some attention to the remarks that I make in debate from time to time.

All hon. members, I am sure, know of some amazing marital tangles that would require more than the wisdom of an ordinary magistrate to solve. In fact, it would require the wisdom of Solomon to solve some of them. How often have we seen the case of a man who walks out on his wife, leaves her with some children, takes up with another woman (we now call her a de facto wife), has some children by her, and then, when the legal wife takes action against him for maintenance because she cannot work any longer, puts to the court the idea that he cannot afford to pay maintenance for his legal wife and his legal children because his de facto wife and his children by her will starve?

In accordance with the strict interpretation of the existing law, I believe that the magistrate must take those facts into consideration, too. I agree with the hon. member for South Brisbane that, in dealing with maintenance, we should not be concerned at all with the deserting husband, we should be a little bit concerned with the wife who has been deserted, but we should be wholly and solely concerned with the unfortunate children who have been the product of the husband's sexual exploits. Whether they are the children of his legal wife or the children of his de facto wife, at least it behoves us to see that our legislation provides as far as possible that the children should not suffer as a result of the peccadilloes of either their father or their mother, or their father and their mother, as the case may be. Let us, if we possibly can, keep the needs of the children foremost in our minds. If we do, we will not go far astray.

I remember a case not so long ago when a rather attractive lady of just over 60 years of age—some women manage to retain quite a lot of their matronly charm, at any rate, at that age—came to me and asked if I

could get her the old-age pension. I said, "Your husband is working and is in a particularly good position." She said, "I cannot live with him any longer because his girl friend visits him every night and goes into the front bedroom with him while I have to go out onto the veranda." I said, "I do not know whether the Social Services Department will accept that as desertion by your husband." Anyway, I put up a case to the Social Services Department, which chewed it over for some time and then decided to grant her the old-age pension. After they granted it to her, I learnt to my astonishment that she, in her turn, was going down to her boy friend's place and "lying off" with him every night.

Mr. Bennett: It just shows that anybody can put anything over you.

Mr. AIKENS: When it comes to humanitarianism, I do not mind being made a fool of because I believe that I should make my services available to all those who need them. I accepted the lady's story and I am amazed at the interjection from the hon. member for South Brisbane, who has frequently gone into court and defended a man on a criminal charge knowing him to be guilty of the charge that was brought against him. He deliberately goes into court and defends men such as that.

I am pleased that some mention has been made of the Federal divorce law. I am rather amazed that the hon. member for South Brisbane should pick it up so quickly, but what he said was quite true; the Federal divorce law has been amended. I think it was amended only in the last week or so to provide that sexual intercourse is no longer accepted as condonation of adultery. Previously, of course, a man could take action for divorce against his wife, or vice versa, on the ground of adultery and then, if after the action was taken and before it came to the court it could be proved that the husband and the wife had resumed sexual intercourse, that was regarded by the court as condonation of the adultery and the case collapsed.

There was a very famous case—I am not saying anything that has not been broadcast in all the newspapers of Australia—involving a very famous jockey who is now a trainer. I refer to Darby Munro. He took action against his attractive young wife on the ground of adultery. The night before the case was to come before the New South Wales court his wife asked him to go for a car ride with her so that she could talk over the case with him. She took him out in her car and, being very young and attractive, one thing led to another—they were married, of course, the judge not having severed the knot—and she prevailed upon him to have sexual intercourse with her in the car. Immediately the case came before the court next morning she stood up and said, "Your Honour, we had sexual intercourse last night." That was the end of the divorce proceedings. Darby Munro lost his case and had to wait until later on, when he caught his wife with somebody else.

The Federal divorce law now provides——

Mr. Bennett: That would not be true. That could not be the law and it is not the law.

Mr. AIKENS: It was the law. As a matter of fact, if the recent amendment has not yet received the Governor-General's assent, it is still the law. Sexual intercourse between man and wife condones adultery. Any lawyer will tell the hon. member that. Now, with the passage of this latest amendment through the Federal House sexual intercourse does not condone adultery because the Federal Attorney-General takes the sensible view——

Mr. SPEAKER: Order! I trust the hon. member will get back to the Bill.

Mr. AIKENS: My word, I am getting right back to it, although it is very difficult. I pay a tribute to the sensitivity of your hearing, Mr. Speaker, if you can hear me at all with the noise that is going on.

Mr. SPEAKER: Order! The hon. member is provoking the noise. If he gets back to the principles of the Bill, I do not think there will be any noise.

Mr. AIKENS: As I say, the basis of the Federal law is that we should give married people who have separated an opportunity to come together. We should also give an opportunity to a man who has deserted his wife and is covered by this Bill, or a wife who has deserted her husband and is covered by this Bill, an opportunity to come together—to come together and even resume sexual intercourse. Having done that, if they find that they still cannot make a go of it—that they still cannot patch up the rift in the matrimonial lute—I do not think their coming together should in any way affect the rights of the wife or husband in any subsequent maintenance proceedings.

I certainly do not think it should affect the rights or legal standing of the children in subsequent legal proceedings. That is the point I was trying to make. I know that there are many cases of people who have done that. I had a case in Townsville that is very well known to the hon. member for Townsville North. These people have been on my back for years and I very adroitly—I hope—shifted them onto his. The husband and wife separated, maintenance was granted, and then they came together again. The wife became pregnant and the husband "took a powder". They have been going through that cycle of events for years. Now I think they have about 11 children. Every time they come together again they say, "This is a genuine attempt at reconciliation".

Her maintenance is cancelled and they live together until the husband is again responsible for the pregnancy of his wife, and then the husband again "shoots through". Out come officers of the State Children Department. They look under the bed and in the cupboards to make sure that the wife is not hiding her husband while she is making an application for State aid.

Mr. Murray: Is this the Keeffe case?

Mr. AIKENS: No. The hon. member for South Brisbane made some reference to a man by that name as he waved his hand in the direction of the Trades Hall. However, I do not want to deal with him.

Mr. SPEAKER: Order! I ask the hon. member to please continue with the measure before the House.

Mr. AIKENS: These are cases where couples, rightly or wrongly, wittingly or unwittingly, think they are doing the right thing in the interests of their children by coming together, and then subsequently separating again. Unfortunately, I cannot find anything in the Bill that would enable a maintenance order to be reintroduced without costly and cumbersome legal processes once it has been revoked, cancelled or suspended because a husband and a wife have tried to effect a reconciliation.

We know, of course, that we have tremendous problems associated with what we call the de facto wife. I am not concerned about the de facto wife, but I am concerned about the maintenance of her children. We should do everything we possibly can to see that the children are not left destitute. Sometimes the de facto wife is working, the legal wife is working, and the husband may be putting in a few shillings towards his de facto wife's children and a few shillings towards his legal wife's children, but it is a big problem. We have the problem of the de facto wife and her children where there is an intestate estate. We know that the children are not exempted from participating in the intestate estate of the father as long as they can prove paternity. We know, of course, that the de facto wife has no claim whatever. We know, too, that the de facto wife has no claim whatever under the Workers' Compensation Act whereas the children of the dead man have. We want to make sure that our maintenance laws provide exactly the same legal protection for the children of de facto wives as is provided under the laws of intestacy and the Workers' Compensation Act. Both of those sets of laws cut the de facto wife out altogether, but they do protect the children of a de facto union. As long as the children of a de facto union are protected under this Bill just as the children of legal marriages are protected, I will be quite happy with the position.

It is amazing that the hon. member for South Brisbane, in one of his rare lucid moments, dealt with the question of paternity and promiscuous women. Who is to say that a woman is promiscuous?

Mr. Bennett: It is "promiscuous". Can't you pronounce it?

Mr. AIKENS: I heard the hon. member for South Brisbane bungle a very simple word. I heard him talking about "phrase-ee-ology". The word is "phraseology", if he wants to know. If the hon. member wants to enter into an etymological or philological dissertation I will be very happy to educate him.

Who is to determine whether a woman is promiscuous or not? How often does a young girl or a young woman who becomes pregnant——

Mr. SPEAKER: Order!

Mr. AIKENS: I am dealing with maintenance.

Mr. SPEAKER: Order!

Mr. AIKENS: I am dealing with the Bill.

Mr. SPEAKER: Order! I think the hon. member is simply skirting around this subject to make a speech for the benefit of the public in the gallery. It is not very enlightening for the people in the gallery, nor is it a very good reflection on our Parliament.

Opposition Members: Hear, hear!

Mr. SPEAKER: I ask the hon, member to confine his remarks to the Bill; otherwise I will ask him to resume his seat.

Mr. AIKENS: Mr. Speaker, let me make my position clear. I am not responsible——

Mr. SPEAKER: Order! If the hon. member continues to yell at me I will make his position clear. He will be outside this Chamber. I shall deal with him under Standing Order No. 123A.

Mr. AIKENS: I have not the slightest doubt about that, either. I am not responsible for the fact that people are in the gallery. I am not responsible to them.

Mr. SPEAKER: Order! I can assure the hon. member that I am responsible for keeping order in this House. I am also responsible for keeping members in line with the practices of the House. If the hon. member does not discuss the principles of the Bill in its true sense I will ask him to discontinue his speech.

Mr. AIKENS: Very well, Mr. Speaker. I shall try to do all I possibly can to meet your mid-Victorian, mid-Edwardian wishes on this matter.

Mr. SPEAKER: Order! The hon. member has been warned. I now ask him to retire from the Chamber for insulting the Chair.

Mr. AIKENS: And I hope you feel proud of yourself.

(The hon. member for Townsville South withdrew from the Chamber.)

Mr. SMITH (Windsor) (7.52 p.m.): In the course of his remarks, the hon. member who has just left the Chamber said that a wife seeking maintenance had to prove destitution. That is not correct. Under section 10 of the 1949 Act, the wife simply had to show that she was without adequate means of support. That does not mean "destitute", and it never has. I think it is important to set the record straight in case anyone may have been misled by the submissions of the hon. member for Townsville South.

Section 10 of the 1949 Maintenance Act says—

> "The justices hearing a complaint made under this Part of this Act upon proof to their satisfaction—
>
> (a) Of the truth thereof; and
>
> (b) That the defendant husband or father is able to maintain or to contribute towards the maintenance of his wife or, as the case may be, child; and
>
> (c) That such wife or, as the case may be, child is or (in the case of a complaint under paragraph (c) of section eight of this Act) will be in fact left without means of support". . .

That is a statement of the conditions precedent to the making of the order. Once those three things were proved the magistrate had to make an order. He did not have discretion to refuse nor did he have discretion to make a nominal order such as is commonly encountered in matrimonial causes actions. It was quite absurd for the hon. member for Townsville South to say that a wife had to prove that she was destitute.

One thing was to be observed in 1949 after the previous Bill became law. There were a number of cases which decided what was the law. I apprehend that, on the passage of this Bill, there will be another spate of cases to decide just what the law means. We had cases such as Flynn v. Flynn, Hunter v. Hunter, Reithmuller v. Reithmuller, and Vautier v. Vautier deciding the different shades of meaning. After the first few years, they set the pattern. They went on to 1953. Thereafter, the law was crystallised. I imagine that in this case, for the next two or three years we will have people getting up—and certainly those who were advised by the hon. member who has just retired will be urging something that is wrong—and there will be appeals and counter appeals until the matter is settled.

It is quite clear under the previous measure what is to be proved. It is set out in section 10 and the following sections that where the court is satisfied that a wife is left by her husband without adequate means of support and was so left on the date alleged the court may order the husband to pay for or towards her maintenance such amounts as it thinks reasonable.

That is quite a simple statement. There will be shades of meaning of "adequate". What is considered adequate in one case will be far too high in another. This is an objective test, and whether an objective or subjective test is applied will be a matter for the court to decide.

In this Bill there are certain new provisions. But the idea of the husband being able to obtain a maintenance order is certainly not novel. I do not see many opportunities for using this clause, although no doubt some attempts will be made. But the court would be cautious before acting under that clause. It would apply, no doubt as a corollary, the provision in the Matrimonial Causes Act under which a wealthy wife is required to make a settlement for her husband. There was one such case recently in New South Wales involving a substantial amount. I do not expect that we will see very much of that in our courts.

The point in issue here is that once an order is made, facility is provided for collection. Anyone who left Queensland and removed himself to another State caused considerable difficulty to the recipient of an order. First of all there was the question of starting proceedings and the jurisdiction of the court to entertain such proceedings. All that has been set aside.

Like the hon. member for South Brisbane, I regret that we have not a uniform maintenance law. I made that statement at the introductory stage. We have a uniform marriage law, and a uniform matrimonial causes law, and it is completely out of step that we have not a uniform maintenance law. After all, we Australians are much the same whether we come from Western Australia, Queensland, Victoria, or New South Wales. Marriages are solemnised in various churches under various rites throughout Australia, and in the divorce law they are recognised as one marriage no matter where or by whom they were solemnised. So it goes on. It seems to me that the common-sense approach would be to work towards a uniform law. I hope that this Bill will be the pattern used by other States. I am afraid that that is a pious hope and that we will be battling it out in our own field in that regard and the other States will no doubt keep their own.

Funeral expenses, pre-natal expenses, and other provisions were part and parcel of the Act. We have had plenty of experience of them. I think this should be regarded not so much as a completely novel measure but as an amendment of what we are familiar with to bring it into line with current needs. Be that as it may, it seems to me that we will nevertheless have to go through a teething period. Consequently, in view of that, I should like to warn anybody who may have people coming to him to have due regard to the difficulties of interpreting

new sections. They will no doubt go to the hon. member for Townsville South and get some bad advice. Legal aid is a necessity for wives. The hon. member for South Brisbane told us of his monumental work in that field. I do not know that is as monumental as he made out.

Mr. Bennett: Have you heard of Hampson v. Asher, one of the leading authorities? I appeared in that case.

Mr. SMITH: I will not ask the hon. member whom he appeared for.

It is a difficult situation for any wife to find herself in. She must come to court and seek maintenance not only for herself but also for her children. I have seen the spectacle over the years of wives, old and young, in that position. Young wives might be able to find another life for themselves, but an older wife cannot. She faces a bleak and bitter future.

These wives are emotionally disturbed, as one can imagine they must be when seeking maintenance from husbands who have deserted them. They are upset, and their children, who are starved of a father's love and attention, and in many ways starved of the bare necessities of life, are around their skirts and also greatly upset. They are in surroundings that are unfamiliar to them, and to date our courts have certainly been no place for waiting. It behoves us in due course to have some more reasonable place for them to go. The verandas of the old court building are adorned on cold, bleak winter's days by more than one or two families of these unfortunate wives and children. They are exposed to biting winds and rain. The children are penned up waiting for their mothers' cases to come on. It presents an abject and pitiful sight.

I think that not only my colleague but all who have, as most of us have over the years, undertaken some work to assist these people have been struck by the conditions under which they wait for these cases to be called. It is difficult for them to prove their actual need and that they are living without adequate means of support when they have to do it themselves. It seems to me that one provision that should be written into the Bill is some way of assisting them to get proper instruction and aid in presenting their cases.

The Bill heralds a satisfactory era, but it will not be satisfactory till the persons concerned can present their cases properly. Let hon. members imagine a girl, an unmarried mother-to-be in an advanced stage of pregnancy, with the usual mental and physical upsets which that condition brings on. She is probably one of the very least able to present her case. One may not have sympathy with her plight, but these situations do occur and she, for one, would require assistance. I think that that is the point that the hon. member for Townsville South was coming round to, although he was taking a long time to do it.

Mr. Bennett: You are doing it much better than he could.

Mr. SMITH: Thank you; I am indebted to my colleague for his assistance.

I hope that when the new courts are built some provision will be made so that, when wives are waiting with their children for their cases to be heard, the children at least can be better accommodated. After all, these mothers cannot afford to employ baby-sitters or to put their children into child-minding centres. They must have them with them, so the courts will be visited from time to time by mothers and children. I should say that anybody with any susceptibility at all would be struck by their difficulties. One sees mothers trying to feed their children and giving them bottles of milk, fruit, and other food, and the sight is bound to touch even the stoniest of hearts. I hope it is not long before some assistance can be offered to them in having their cases properly presented.

This is something for which I have been agitating for years. I sincerely trust that when the Bill is passed we can look forward to the proper presentation of these cases to the courts, and the avoidance of so much appellate work as a result.

Hon. P. R. DELAMOTHE (Bowen—Minister for Justice) (8.5 p.m.), in reply: I have listened with a great deal of interest to the various speeches, and I thank hon. members for the care and attention they have given to what I regard as a very important measure.

Most of the discussion has related to enforcement, which, as I said at the introductory stage, is a very difficult task because a deserting husband who is determined to avoid his responsibilities will find ways and means of doing so. Therefore, no matter how tightly we draw the provisions of the Bill, there will always be chinks through which deserting husbands will slip.

Hon. members may be interested to hear just how this Bill came into being. Some of them have deplored the fact that there is not a uniform Bill for Australia. Perhaps I am responsible for not making the position clearer than I did. Five States will be bringing down maintenance Bills that are almost exactly similar. There is a little favourite machinery provision here and there that a State has not been willing to give up, but the provisions of the Bills are virtually uniform in the five States. The provisions that will facilitate maintenance within the State are important, but reciprocity between the States is even more important because no longer will a deserting spouse be able to avoid his responsibility by going interstate. In order to achieve that reciprocity we had to have completely uniform provisions in all the States, and that stage has now been reached.

I will tell hon. members how the question arose. Some hon. members probably know—I am sure that members of the legal fraternity in this Chamber know—that there is a United Nations Convention on maintenance, and some time ago the Commonwealth Government sent a circular letter to the States relative to the Commonwealth's signing this convention. As far as I know, no Commonwealth country has yet signed it, but that was the starting point. All the Australian States then looked afresh at their maintenance law to see whether they could honestly tell the Commonwealth Government that the State laws fell roughly within the ambit of the United Nations Convention. The States, on examining their legislation, found that the existing law was much farther advanced than the United Nations Convention, and it was thought that what would flow from the signing of the Convention would be overseas reciprocity—we already had it with Commonwealth countries—with foreign countries, if I may use that expression. It was decided that if all the States had a look at the overall maintenance picture, improved it where possible, and attained uniformity, it could then be advanced as a model for other members of the United Nations.

There can be reciprocity with foreign States only if their orders are similar to our own. We will be able to put their orders into operation only if they are essentially similar to ours. From that small beginning has grown what we have been discussing today.

It has been said that there is nothing new, or very little new, in the Bill. There are almost 50 new provisions, and many of the matters that we discussed did not get into the Bill. Perhaps I should tell hon. members, quickly, one or two of those. I think they were all mentioned today; that is why I bring them forward.

It was suggested that the complainant wife be informed at the time of the maintenance order that she should immediately complain to the clerk of the court when her husband neglects to make payment. That point was brought up by one or two speakers. It was discussed thoroughly at various times and put aside because it was felt that by the time the wife gets her maintenance order she is usually fairly well aware of the means of enforcing that order. That would be so in the vast majority of cases in which the officer of the court assists the deserted wife in making the complaint. He would certainly instruct her, and it was felt that the normal reputable lawyer who acts in other cases would also make it very clear to the wife.

Mr. Bennett: It is the clerk of the court who really has the obligation of seeing that the order is carried out. He is the one who takes action from then on.

Dr. DELAMOTHE: I ask the hon. member to wait until I finish what I have to say.

It was also suggested today that we should include in the legislation a provision that the husband should notify the clerk of the court of any change of address within a certain time of the date of the change, and that he be liable to a penalty for failure to so notify, or alternatively, that a notice be printed on the minute of conviction served on the husband informing him of his liability to notify any change of address. That suggestion was placed aside and discarded on the basis that a man who intended to disobey an order obviously would not notify any change in his address. The fear of a penalty for failure to notify would not appear to be anything of a real deterrent. In the main, it is the deserting husband who loses responsibility in the major matter of avoiding an order and it was felt that if he intended to disobey the order he would not comply with any provision requiring him to notify a change of address, so it was not included in the Bill.

Another suggestion was that arrears of maintenance should be not allowed to accumulate to such an extent that would make it impossible for the husband to pay. I think the hon. member for South Brisbane touched on the point that the clerk of the court, without waiting for a complaint from the wife or a request to do so, should take action to recover arrears before they became unreasonably overdue. Those two suggestions, it was felt, presuppose that the clerk of the court has a duty to enforce this kind of order, irrespective of the wishes or needs of the person for whose benefit the order was made. This proposition is quite the reverse to the basic and general concept of the enforcement of maintenance orders.

As hon. members are aware, before a court can order the enforcement of a maintenance order it must be satisfied that there is a present need for the maintenance and a desire on the part of the person concerned that the order be enforced. The deserted person certainly has a right to the maintenance moneys but, as with any other right, it is within the discretion of the holder of that right to exercise it. We had to include in the Bill special evidentiary provisions requiring a court to assume this present need of maintenance where the collector takes action on behalf of a wife living interstate or overseas; otherwise the court could justifiably insist upon evidence being adduced to establish such a present need and desire.

On this same point, we have provided—and all these provisions are uniform—that the clerk of the court shall not enforce an order without the written authority of the wife. This is because otherwise the clerk cannot be sure that there is a present need for maintenance or a present desire to have an order enforced. Often a woman fails to make any such application for the very good reason that she is being maintained adequately in other ways—sometimes directly

by the defendant, sometimes by someone else, and sometimes out of her own resources. Even where a wife is not being adequately maintained, it is her right, not that of the clerk of the court, to say whether she wants the order enforced.

Motion (Dr. Delamothe) agreed to.

COMMITTEE

(The Chairman of Committees, Mr. Hooper, Greenslopes, in the chair)

Clauses 1 to 29, both inclusive, as read, agreed to.

Clause 30—Order relating to illegitimate child not to be made in certain cases—

Mr. HANLON (Baroona) (8.18 p.m.): As I mentioned at the second-reading stage, the Opposition finds very little fault with the Bill. In bringing forward an amendment to this clause, I am not suggesting that we are doing so as an objection to the Minister's approach, nor do I want the Minister to think that it is a naive amendment in relation to this evidentiary requirement in clause 30.

This clause, dealing with orders relating to illegitimate children not to be made in certain cases, says—

> "Where it is necessary for the purposes of obtaining an order under this Part to satisfy the court that the defendant is the father of an illegitimate child, or that a woman is with child by the defendant (not being her husband), the order shall not be made—
>
> (a) upon the evidence of the mother (or as the case may be, woman) unless her evidence is corroborated in some material particular; or
>
> (b) if the court is satisfied that, at about the time the child was conceived, the mother (or, as the case may be, woman) was a common prostitute or had intercourse with men other than the defendant."

We realise that obviously (a) must apply, or a claim could be made against any young man by a woman without any material to support it.

This has been dealt with fully by the hon. member for South Brisbane. We feel that (b) absolutely disqualifies the claim on behalf of a mother of a child, if she is a common prostitute, and it is unnecessarily loading the dice against the mother. We claim that the circumstances are sufficiently covered in the provisions in (a), which requires that her evidence must be corroborated in some material particular. In the circumstances envisaged by (b), the magistrate would obviously require very strong corroboration, which is already required under (a).

With the insertion of (b) in addition to (a) as a denial of an order, a man who forms a liaison with a prostitute is given specific protection. We do not think he should be given it. The rights of the baby must be protected; the interests of the child are paramount. In justice to the child and the mother I move the following amendment:—

> "On page 21, lines 35 to 41, omit the words—
>
> '(a) upon the evidence of the mother (or, as the case may be, woman) unless her evidence is corroborated in some material particular; or
>
> (b) if the court is satisfied that, at about the time the child was conceived, the mother (or, as the case may be, woman) was a common prostitute or had intercourse with men other than the defendant.'
>
> and insert in lieu thereof the words—
>
> 'upon the evidence of the mother (or, as the case may be, woman) unless her evidence is corroborated in some particular.'"

We think this would enable the magistrate to take into account the circumstances in (b). It may be argued that (a) can be satisfied and there may still be doubt as to (b). I cannot imagine a magistrate granting an order in circumstances such as envisaged in (b). The defendant could demonstrate effectively that the situation under (b) left him free. I do not imagine that, under (b), a magistrate would give a decision in favour of a woman seeking maintenance unless he was well convinced that she had adequate grounds. However, as the clause stands, it absolutely disqualifies a claim by such a person. We do not think that is absolutely necessary and for that reason we have advanced the amendment for the Minister's consideration.

Mr. BENNETT (South Brisbane) (8.24 p.m.): I briefly add my support to the amendment so ably moved by the hon. member for Baroona. I will not speak in tedious detail for I pointed out my reasons for supporting the amendment when speaking at the second-reading stage. The proposal contained in the Bill is unduly harsh. I realise the purpose and the significance of the change intended in the Bill. In effect, the Minister is saying that if a girl or a woman has been promiscuous, why should any individual be saddled with the financial obligation of maintaining her baby? The Minister is saying, too, that it would operate unfairly, prejudicially and harshly against a person to be saddled with this responsibility when in fact any one of a number could be, or should be, in the same position.

Quite frankly I agree with what I take to be the sympathies and thinking of the Minister that no particular person should be singled out virtually for punishment when there could be several offenders. The amendment does not seek to do that, either. It is in keeping with the existing legislation, and its spirit is to the effect that, even though one individual may be a little unfortunate, if the court in fact is satisfied that that particular individual is the father of a particular child or of a certain child, he should be required to pay for its maintenance.

Fundamentally, our thinking is different from that of the Minister; we are placing more stress and importance on the welfare and upbringing of the child. In all the circumstances, no matter which way the problem is looked at, the child is a completely innocent party. It has no responsibility for the ethics or conduct of its mother and is certainly in no way to blame for the conduct of its father, whoever he might be; so that we are considering the rights and welfare of the innocent child. If, in the process, we are inclined to err against some individual, we are certainly not erring against any innocent individual. In this tripartite arrangement the mother is certainly not blameless and the father or defendant is certainly not blameless. The only one of the three who is completely innocent, and whose purity has not been challenged, is the child. Let us make sure the child does not go without and that it is properly maintained. If it can be proved—and it must be proved—that one individual could have been the father by virtue of his undoubted conduct, the law is not far wrong. It might take a step further by way of emphasis and, seeing there must be a father, ensure that no injustice is being done in any case.

The law contains a fairly strong safeguard for the interests of the father in any case. It says that a man shall not be taken to be the father of an illegitimate child upon the oath of the mother only. The corroboration necessary before an order can be made is contained in a lot of complicated law all of which strongly protects the interests of the defendant father. Among the authorities are the well-known cases of Flohr v. McMahon, Jensen v. Ilka, Hobbs v. Davies, and Hampson v. Asher.

I have already quoted from Litherland's "Maintenance of Deserted Wives and Children." At the risk of a little tedious repetition I shall repeat some of it in order to gain a sense of the full extract, which I did not have time to read. This is the leading Australian textbook on the subject and it is a leading textbook in New Zealand. On page 226 the author says—

> "If the defence, or part of the defence of the respondent, is that the mother has been associating with other men, or has had sexual intercourse with other men about the time the child was conceived, or if she had admitted to him, or to others, verbally or in writing, that she had sexual intercourse with other men about the relevant time, such is an issue in the proceedings, the complainant's evidence in cross-examination may be contradicted, and other evidence in support of the material issue may be called."

He quotes authority for that claim, and goes on to say—

> "For example, if there is evidence that in response to the respondent's request for information as to the names of any other men who had sexual intercourse with her during the relevant period, the mother writes down or mentions a name or names, and the respondent intimates that he denies paternity, but will help her, if the other man or men will do the same, evidence may be given on this material issue, and, if she denies the evidence, she may be contradicted. On the other hand, if there is no such material issue raised, the usual rule of evidence will apply, and, if in cross-examination she denies questions aimed at showing that another man or other men had sexual intercourse with her about the material date, then the respondent will be bound by her replies and cannot call evidence to contradict her."

There then follows a lot of legal reasoning for that proposition.

The proposal of the Minister in the Bill is to exclude completely from consideration for maintenance a child of a mother who has been, to use the general term, promiscuous. Not only does the clause state, "if the court is satisfied that, at about the time the child was conceived, the mother was a common prostitute."; it goes a step further and states, "if the court is satisfied that, at about the time the child was conceived, the mother had intercourse with men other than the defendant." The child then cannot possibly get an order made in its favour. Under the Bill not only the child of a common prostitute will be debarred but also the child of a mother who had intercourse with men other than the defendant at the relevant time. That provision extends the category of exemption considerably. It goes beyond those who are, in the eyes of society, regarded as prostitutes, and also excludes from the possibility of getting an order those who can be proved to have had intercourse with other men at the particular time.

I am not putting up a case for loose-living girls who may be regarded as promiscuous women. Whilst we frown on their conduct, why should we show any undue or extraordinary consideration for men who knowingly associate with this type of women, seek their company, spend a lot of money on them—much more than the average boy spends on the ordinary girl—and are generally prepared to lavish largesse on them until a baby is expected, when they refuse to pay the paltry amount of maintenance that a court will award in favour of the child when it is born? It would be an amount quite negligible compared with the money that has been frittered away at night-clubs and other well known joints, which term I use advisedly. Such a man is prepared to spend all of that money on that type of activity, yet we are protecting him from paying 30s. or £2 a week maintenance for the child.

Mr. Murray: It is also fair to say that many prostitutes have turned out excellent mothers.

Mr. BENNETT: I readily concede the observation made by the hon. member for Clayfield. I quite willingly say that most of

them do turn out excellent mothers. They usually face up to their obligations to their children and see that they do not want in any way for their education and maintenance expenses. They cherish and treasure their children and look after them particularly well. I do not think that it is asking too much to expect the father of such a child to contribute to its welfare. If the law, even with the stringent safeguards that have been taken, does err in some isolated instances in dealing with promiscuous fathers and calls upon them to pay maintenance when it is remotely possible that some other person was responsible, what great harm is done? If a person is not too proud to associate continually and closely with a girl until such time as financial obligations are involved, what harm is the law doing by making him contribute to the upkeep of the child?

We are merely saying that this man should not be lightly or easily saddled with a maintenance order of this nature. We are saying that the court should be able to take into consideration the standards of the mother as an issue of the proceedings. No doubt it should also be able to take into consideration the standards of the father as an issue in the proceedings. If the court is then satisfied that a maintenance order should be made, why should we, as a legislature, completely deny the court that right, and, in so doing, perhaps destroy the future economic security of the child who was born as a result of the union between these two people, neither of whom was blameless?

Hon. P. R. DELAMOTHE (Bowen—Minister for Justice) (8.37 p.m.): First I should tell hon. members that this clause was discussed at great length by the standing committee of the Attorneys-General and it was agreed to by all the States and by the Commonwealth. To that extent, it is one of the uniform provisions of the Bill.

I inform the hon. member for Baroona that subparagraphs (a) and (b) are part of the model uniform draft that was finally agreed upon. As far as I am aware, every State intends to retain subparagraph (a), and every State, with the exception of New South Wales, intends to retain the whole of subparagraph (b). I am therefore unable to recommend that the amendment moved by the hon. member for Baroona be accepted, at least so far as the clause relates to common prostitutes. If it were accepted, Queensland would be out of line with all other Australian States; in the reference to what might be described as "amateurs", it would probably be out of line with all the States with the exception of New South Wales.

In the discussions on the model Bill, it was generally agreed that, where paternity cannot be ascertained with reasonable certainty, as is the case in both instances referred to in 30 (b), we should not create a situation in which the woman concerned could make her own choice of a convenient or suitable father for the child; nor could we agree that an order should be made that a man maintain for 16 years, or possibly for 21 years, a child of which, at best, it could be said that he might be the father. Perhaps I may draw an analogy. If a man working a circular saw cuts his finger on the saw, it is just as impossible to tell which tooth of the saw cut his finger as it is in this case to say who is the father of the child.

I believe that the argument raised by New South Wales might open the door to a man alleged to be the father to bring along perjured evidence that other men had been concerned with the woman at the relevant time. We have discussed this Bill with various State child welfare officers who conclude from experience that it is extremely unlikely that a defendant will find two other men both of whom will swear so and in such a case the average magistrate is not likely to be convinced by such false evidence. The mother has to establish paternity to the court's satisfaction, and the evidence of such men is not conclusive. It has to be believed by the magistrate and we have, generally, sufficient faith in magistrates to consider that the negation of justice by such means is most unlikely. In any case, we felt that any such risk—unlikely as we all agreed it is—is preferable to the situation of a woman being able to choose the most convenient father for the child.

Amendment (Mr. Hanlon) negatived.

Clause 30, as read, agreed to.

Clauses 31 to 140, both inclusive, and schedule, as read, agreed to.

Bill reported, without amendment.

BUSINESS NAMES ACT AMENDMENT BILL

INITIATION IN COMMITTEE

(The Chairman of Committees, Mr. Hooper, Greenslopes, in the chair)

Hon. P. R. DELAMOTHE (Bowen—Minister for Justice) 8.40 p.m.: I move—

> "That a Bill be introduced to amend the Business Names Act of 1962, in certain particulars."

The proposed Bill is a simple and short one designed to simplify the administration of the law relating to the registration of business names, and the reforms submitted besides facilitating work in the Registrar's office, will remove certain minor inconveniences to the public.

The Business Names Act of 1962, which replaced the Registration of Firms Acts, 1942 to 1956, is substantially uniform with the relative Acts in the other States and is complementary to certain provisions of the uniform companies legislation which operates throughout Australia. However, the Business Names Act of 1962 retained

the previous requirements that renewal of registration should be effected annually and that clerks of the court throughout the State should act as deputy registrars and maintain particulars of locally registered business names at court houses within their district.

The amendments now proposed relate to difficulties which have arisen from these local requirements, and thus do not affect at all the basic uniform principles of the business names legislation.

Under the present Act the registration of a business name remains in force until the following thirty-first day of January, but may be renewed up to one month thereafter. As a consequence, the initial registration of a business name may not cover a full year before renewal is required to be effected, and a person registering a business for the first time in, say, November or December is faced with the obligation to renew the registration and pay the fee again within a few months. This system has always operated in Queensland, and it will be appreciated that the lodgement of thousands of renewal notices during the month of February causes an avalanche in the Registrar's office and causes continual staff difficulties at that time of the year. It is now proposed to amend the Act to provide that all registrations shall remain in force for a period of 12 months, and may be renewed from time to time by lodgement of the prescribed form with the Registrar. Instead of having them all coming in in February, they will be spread out throughout the year.

Mr. Newton: When they fall due?

Dr. DELAMOTHE: Yes. Thus, the registration of business names will be brought into line with motor vehicle and other forms of registration which remain in force for a period of 12 months. Present administrative arrangements involving the forwarding of reminder notices regarding the obligation to renew registrations will, of course, be maintained.

It is also proposed to give the Registrar a discretionary power to treat late lodgements as renewals rather than as new registrations. Under the present Act a business name which is not renewed within one month after the thirty-first day of January expires, and forms lodged after that date must consequently be treated as new registrations. This has caused manifold difficulties with country deputy registrars, who must obtain the Registrar's approval before effecting any new registrations. The proposed amendment reintroduces a provision which was contained in the Registration of Firms Acts, and which worked very well in practice.

A further amendment provides that where one business name is substituted for another, all particulars effecting the change shall be denoted on one form. The present requirement providing for the lodgement of a cessation notice in regard to one business name and the lodgement of a further registration notice in regard to the substituted name has been the subject of criticism by business people from time to time. The proposed new provision was also contained in the repealed Acts.

The foregoing are simple amendments which, while eliminating a number of administrative inconveniences, will assist in providing an improved service to the public. I submit that it is a worth-while measure which should meet with general agreement.

Mr. DUGGAN (Toowoomba West—Leader of the Opposition) (8.51 p.m.): Anyone who has been listening to the Minister will agree that the Bill contains eminently satisfactory proposals. To be frank, I must admit that I was unaware of the circumstances concerning the need for the legislation as outlined by the Minister. I feel that there may be some merit in the proposal to extend the registration period. After all, if we are to give a person the benefit of 12 months' registration there are certain administrative advantages in staggering the applications to conform to the time of establishment of new businesses. Obviously they will be on different days of the year but ultimately they will fall into a category like motor vehicle registrations, which the Minister referred to.

While the Minister was talking I was thinking about the need to renew applications each year. I think there could be some merit in a firm which is registered remaining so until the business is disposed of, or until, for some reason or other, it changes its name. If the Government is concerned about the revenue amounting to £3 a year——

Mr. Harrison: What about the registration fee?

Mr. DUGGAN: Unless this is a tax-gathering measure—I do not think that is the intention—I think the average person would prefer a continuous period. I cannot see any reason why registration cannot be effected until such time as the circumstances necessitate a change. If it is a matter of getting revenue I think most firms would prefer to make the payment on a five-yearly basis, which would mean £15 for five years. If there was a problem at the end of five years a person might have to say, "Well, I overlooked it; I forgot that my registration was due." The same trouble occurs with drivers' licences which last for five years. I cannot see any reason for not instituting the same principle in this case.

This amendment is typical of the type of thing brought to the notice of senior officials or the Minister. If the Minister looks at it and is sufficiently interested, he may think it worth while to take the matter further so that it culminates in legislation similar to this.

Frankly, I am amazed to think that the position has obtained for so long, irrespective of who is responsible for rejecting the previous system. However, I do not think there is anything worse than the unnecessary completing and forwarding of forms. It creates unnecessary staff and causes irritation to people engaged in business. There is a multiplicity of forms to be filled in. Of course, if there is some statistical information to enable the Statistician to get an idea of the movement of capital or production it should be continued, as no country can be made properly aware of the developments or deficiencies in the economy unless the necessary information reaches the appropriate authorities.

The Minister should consider abolishing the need for annual registration or, alternatively, making it possible for people effecting registration to elect to let it carry on for a stated period.

I am more concerned, however, with the provision that firms shall notify the Registrar of Companies of intention to cease trading under a certain name and to transfer to another name. That is an extremely sensible suggestion, because it will enable us to keep track of what the movement has been.

I am concerned with the facility with which companies can be registered. I do not want to canvass this subject too closely because I am loath to reveal confidential information. I was amazed to learn quite recently that the Government had given a certain firm an option in which there may be a valuable consideration. Because the company was not able to carry out its responsibilities under the terms of the option under which it was given the opportunity of doing certain development work, it then transferred its name or went out of existence. Another company was then formed to do precisely the same thing, and it did not carry out its responsibilities either.

To put it more simply, a parcel of land on one of the islands in Moreton Bay could be applied for by a company which desired to develop it as a tourist resort—the company might say it would be known as the Moreton Bay Tourist Company—and the Government might say, "We will give you the right to excise a certain area of land provided you spend £10,000 in developing it." The company might then fall down on its performance. In the case I have in mind, the company, having fallen down, then re-registers, using another name, and makes application to transfer the land to the new company, which carries out the obligations. That possibility should be considered when looking at this general question of registration of firms.

In the particular cases that occur from time to time it could be a millstone around a company's neck if it had to state in the relevant form why it is changing its name. The facility with which a company can beguile the public by changing its name seems to have rather sinister implications. It has been used by certain people unscrupulously, and the public have become involved.

Palmer's has joined the companies which have failed. I am not suggesting that it is in the category of a failure—I hope it is not—but in the receiver's notice to creditors the number of subsidiary companies was amazing. I think there were 15 or 18 companies involved in all of its activities. It is obviously to promote the sale of products under different names that that sort of device is used in the commercial world. Some of those practices might well form the subject of an inquiry by responsible officers charged with the administration of the Companies Act. This is a proposal in regard to specific measures. In taking the action outlined by the Minister, common sense has been used. According to the information conveyed by the Minister, it is not only desirable but essential that these alterations be made.

I ask the Minister to consider what impediment there is to the idea of making this a mandatory provision every 12 months, unless the revenue aspect enters the question. At £3 a time it could be considerable. The hon. member for Baroona suggested to the Treasurer the other day raising from £2 to £5 the minimum assessment notice for land tax. The Treasurer was not unsympathetic. In this instance only £3 is involved.

The Treasurer ought to extend some measure of sympathy because the number of business firms would not be greater than the number of people obliged to pay land tax. I do not know if the Minister has that information at his fingertips. Probably the amount would run to some thousands of pounds, but would be no more than the total of land tax assessments from time to time where the amount is £2 or £4.

If the Treasurer is not amenable to the proposal to lift the exemption rate from £2 to a higher rate, and if the requirement to register is not for the purpose of bringing in revenue, I cannot see the necessity for seeking the information every year. After all, some firms have been established for many years and I think it is quite unnecessary for them to have to go to the trouble of effecting re-registration every year. I am speaking now of reputable firms. I am less concerned with fly-by-night businesses who adopt misleading names, such as Australian Liquidation Company, and have liquidation sales and sales of contraband and suggest by their names that they have access to property confiscated by the Customs Department and that only people dealing with them have the opportunity of obtaining so-called bargains. This is the type of activity that needs close attention. I refer particularly to fly-by-night firms of questionable integrity which, for various reasons, continually change their names.

For the reasons that the Minister indicated I think the measure is a timely one, and I express the hope that the Minister might be sympathetic to the general submissions that I have made.

Mr. HUGHES (Kurilpa) (9.2 p.m.): I shall be brief in my remarks on the Bill. The Minister said that the present legislation is complementary to uniform legislation throughout the various States. The Bill provides an opportunity for the Registrar of Companies to relate applications for registration of firms to the dates of those applications. This is a realistic approach to present-day needs. There are in Queensland today many businesses and small industries, and I feel that everything should be done to co-operate with them and provide every facility for their establishment. The Bill will assist in this direction.

I can imagine that many businessmen desirous of becoming established here find compliance with Government and local authority regulations and the filling-in of numerous forms very irksome. Quite often one hears references to the amount of paper work that has to be done and "Sign form X in triplicate" and so on. Of course, all the similar accusations made cannot be substantiated, but where it is possible to reduce paper work I feel that doing so will do much to help people who wish to establish businesses here.

I find myself in agreement with the remarks of the Leader of the Opposition concerning registration renewals. I cannot see any justifiable reason for limiting the period of registration of the name of a firm to 12 months. Of course, if a period of three to five years was granted, a business may go out of existence and the Registrar of Companies would not know about it if the owner did not notify the department. He is expected to do so. The firm may have a good-sounding or descriptive trading name, such as, for example, Television Repair Service Company, and there may be a call on the use of such a title.

Surely the department could be advised that a company has gone out of business? I agree with the suggestion of the Leader of the Opposition that the restriction of the term of registration of a firm name to one year appears to be only for the purpose of bringing in further revenue. The Minister may be able to consider the position and bring down an amendment at a later date to make the provisions of the Act more workable.

I know that members such as the hon. member for South Coast, Mr. Gaven, and others who are associated with tourist areas, are as concerned as I am about the use of names for flats. Place and firm names are used when motels, tourist resorts, and so on, are established, and a name such as "Sun and Surf Flats" may be advertised widely throughout Australia and overseas. It may be a small or a large building containing a number of flats. Because the name typifies a tourist area or the type of service that the proprietor is providing, he may wish to protect not only his capital investment but also the prestige attaching to the name. I understand that the name of flats can be registered as a firm name, but the Minister may be able to enlighten hon. members on that point. There may be a "Sun and Surf Flats" on the Gold Coast, and applications may be made to register that name for flats at Burnett Heads, Yeppoon, Cairns, or some other tourist resort.

Mr. Davies: A good tourist area such as Hervey Bay.

Mr. HUGHES: Yes. I think we should do all we can to protect the tourist industry and also those who have capital invested in it. If they have registered a name, they may want to prevent its use by someone who may not provide the same standard of service, comfort, and convenience. The tourist industry brings millions of pounds to Queensland, and the Government should do everything it can to protect it. The need to register the name of flats, a motel, or a tourist resort will need to be clarified by the provisions of the Bill.

Mr. Bennett: You did not register the name of the firm that ran your paper.

Mr. HUGHES: Whenever I have been connected with a business, either alone or with someone else, it has always obeyed all the relevant laws and has been registered correctly.

The Leader of the Opposition made a relevant point, and I hope that in the future a workable solution will be found to the problem of re-registration in 12 months. At least the Bill goes some way in removing the irksome provision that requires a firm which registers in September, October or November in one year to re-register in January the following year.

I know that the application is simple and that the office provides an efficient service which is carried out with all due expediency and courtesy. By the same rule, I feel that there are ways and means of making even easier the way in which industries, industrialists and businessmen can comply with our statutes. In this regard, it is good to see that the Registrar has a discretionary power to re-register a firm name after the expiry date. Some small businessman may be away from his place of business; he may be overseas, or there may be other acceptable reasons why re-registration has not taken place. In this respect the legislation is not only tolerant but is helpful in the protection of the business and its name, because the Registrar has a discretionary power to re-register. I feel that that is not only a worth-while move but a jumping-off point from which in the future we can make even greater facilities more readily available to a larger number of companies and firms.

Mr. BENNETT (South Brisbane) (9.12 p.m.): The way the Government introduces legislation with a great fanfare of trumpets never ceases to amaze me, as it did in 1962 when it introduced the original Bill that became the Business Names Act of 1962. That Bill repealed the old Registration of Firms Act of 1942 and subsequent amendments.

As members of the Government then expressed it, it was introduced in the hope that they were cleaning up iniquities relative to the registration of firms and their conduct. From time to time Labour members in Opposition questioned the integrity of that claim by asking certain questions. Certain itinerant firms which had ornate letterheads and advertised themselves well were, and still are, able to impress themselves on the gullible public and it behoves Parliament, and the Government in particular, to protect the public from the nefarious operations of these firms.

My colleague the hon. member for Salisbury, on 8 October, 1964, asked the Minister for Justice the following question—

> "In view of the growing number of complaints relating to the sale of educational books in this State and the alleged tactics of firms dealing in this type of literature, what action is contemplated to protect the public in this regard?"

The Minister replied—

> "As already indicated in this House on November 15 last, the matter of contracts with door-to-door salesmen—a subject which covers a much wider field than the particular matter raised by the Honourable Member—is under review, not only by myself but by certain other Attorneys-General."

Without reading the full answer, he concluded by saying—

> "The Honourable Member may be assured that the protection of the public will have paramount consideration in the determination of such action as may be necessary or desirable in relation to the whole subject."

In introducing this Bill the Minister is now admitting, in effect, that he has not the staff throughout the State to implement the principles that were so much espoused during the initial stages of the introduction of the new Act in 1962. I think the time is now opportune—in fact, it has arrived—when the Minister has a bounden obligation to tell us just what has been done to curtail questionable practices on the part of these firms. From time to time we have been, as it were, fobbed off by Cabinet Ministers when endeavouring to find out what the results of that Act have been.

Since we are now amending this Act, the time is at hand when the Minister should tell us just what results have been achieved and whether or not he has the staff to cope with the provisions of the original Act and the police force—I use that term in the general sense—at his disposal to see that the principles of the legislation are being adhered to.

On 15 November, 1963, my colleague, the hon. member for Port Curtis, asked the following question of the Minister for Justice—

> "(1) Has it been brought to his notice that in recent months many people have been fleeced by high-pressure door-to-door salesmen and, in particular, by those selling encyclopaedias and dictionaries?
>
> "(2) In view of the fact that many people sign contracts with these salesmen without realising their commitments and in view of the fact that the Victorian Government is considering legislation to deal with the matter, based on a three-day 'cooling-off' period before the contract is declared valid, will he investigate the desirability of introducing similar legislation here?"

If similar legislation is to be introduced, this would be an appropriate time to introduce it. The Minister then replied to the hon. member for Port Curtis as follows—

> "(1) I am aware of complaints in this respect.
>
> "(2) The matter of the signing of contracts with door-to-door salesmen is under review and has already been mentioned at a conference of State Attorneys-General."

They are all very nice answers but evasive ones. What has the Minister done to collect and collate statistics to show whether the claims made by my colleague by way of question were accurate? What has been done to eliminate these practices by legislation, as he suggested by implication he would? This is the last opportunity. The Business Names Act of 1962 will not be amended again by this Parliament. The Minister would obviously concede that if the Act is to be amended to eliminate these questionable tactics and practices, this is the appropriate time to do it. I should imagine that either he will tell us that he is prepared to delay the passage of the Bill to enable appropriate legislation to be drafted or he will admit that the glib answers given by Ministers have been designed to forestall the eventual admission of the truth that they cannot be curtailed because of the lack of numerical strength of the department.

When the original Business Names Bill was introduced, the then Minister for Justice, now Sir Alan Munro, said—

> "It is hoped that this provision will facilitate the control of undesirable practices, especially by itinerant vendors in country areas. At present, where persons from another State register and a resident desires to make a claim against them arising out of the business conducted by them, he may find they all reside in other States and redress may be unnecessarily difficult and expensive.
>
> "The provisions relating to the use of names are in terms generally similar to those of the Companies Act of 1961.

"The proposed Bill requires renewal of registration on a yearly basis, which coincides with the position under the present law."

I had intended to end the quotation there, but, in view of the submissions made by my Leader, which obviously have met with the approbation of all, I shall quote what the Minister said after that. He said—

"I might mention that the model Business Names Bill prepared by the Standing Committee of Attorneys-General provides for a three-yearly renewal, but that provision was included merely as an illustration of one possible administrative procedure. The law of certain States did not require renewal of registration, while others required renewal at five-yearly, three-yearly, or annual periods."

I think those remarks are very appropriate in view of the present position. The then Minister was well aware of the practices that the Bill was designed to safeguard against. The present Minister should tell us succinctly and clearly whether that legislation has been successful or in what respect it has failed. It obviously has failed in many ways. He should tell us why it has failed. I venture to suggest that the Minister must agree that the main reason it has failed is that it has not been policed, and it has not been policed because there is not sufficient manpower to police it.

The Act makes provision for names to be registered, with precise descriptions to be given of the Christian names and the address of individuals associated with the company. If an infant is involved, his full address and the date of his birth have to be given.

It is true to say that in this State firms of an unsavoury nature are operating whose registration has not been effected, and I venture to say they have never been prosecuted. I invite the Minister to inform the House of the number of prosecutions instituted for failure to register under Section 7 of the Act and to give the particulars of the essential nature of the firms.

I point out to the Minister also that, at the time, it was written into the Act that the registration of business names that are undesirable would not be allowed. I am sure it would be fair and accurate to say that there are firms with undesirable names, and undesirable purposes for that matter, which continue to function and, so far as I know, they have not been prosecuted. It is now three years since the original Bill became law. I think it became law on 26 November, 1962. I invite the Minister to name the number, type, and outcome of any prosecutions launched since that measure became effective.

Under the Business Names Act, the registrar has power to cancel the registration of business names that were undesirable, that is, after he had originally allowed them. I should like the Minister to indicate the number that have been cancelled. There is a wealth of material and information which the Minister could give us in the introduction of this Bill. Perhaps he did not anticipate a request of this nature; perhaps he considered that the amendments were formal amendments; perhaps he did not realise that parliamentarians generally, and certainly those on this side of the Chamber, are hungry for information about results of the operation of this legislation. If that is the position, I can quite understand that he would not have the information available for us this evening. But I exhort the Minister to find out these particulars before the second-reading stage so that he may fully inform us of what has been done under the measure since it was assented to.

A section of the Act says that a person shall not sign or lodge with the registrar a statement made, or purporting to be made, for the purposes of the Act which, to his knowledge, is false in any material particular; a person shall not authorise or permit the lodging with the registrar of such a statement which, to his knowledge, is false in any material particular. I request the Minister, at the appropriate time—which, I suggest, is at the introduction of the second reading—to give us full particulars of any false statements that have been made to the registrar under that section. It would be idle for the Minister to say—and I do not think for one moment that he will—that no offences have been committed under the Act since its inception. I will not be surprised to hear that there have been suspicions and suggestions of manifold offences in numerous ways under the Act. I am particularly keen to know what restrictive action has been taken, and what were the results of that restrictive action. What does the Minister intend to do in the future to curtail the activities of these firms for the protection of the ordinary person, who relies on the integrity of operators and assumes it from the very fact that they are allowed to operate? Will the Minister ensure that the confidence of these people is not shattered by the lack of interest taken by the Government in providing the necessary personnel to ensure that the provisions of the Act are complied with?

Mr. NEWTON (Belmont) (9.25 p.m.): I support the remarks of the Leader of the Opposition. We should make the registration of business names as simple a procedure as possible. The appointment of the clerk of the court as deputy registrar in his locality will overcome a problem because thousands and thousands of registrations are handled each year. There is no doubt that the renewal of the registration of business names on the due date will help these people who are taking over this work as deputy registrars because they have other work to do for various Government departments.

I agree with the Leader of the Opposition that this will make it easier to track down certain business names. As he said, business names are being changed continually. The Minister said that this will all be contained on one form, which will show the names of the people who were in the business so that they can be tracked down when a search is made. It is a simple matter to go to the place of registration and pay £3 in order to become registered as a business.

My main interest concerns the building industry. On going to the address shown as the registered address of a registered firm, union representatives find locked doors. These firms usually consist of two persons and an accountant. People pay the firm a deposit of £500 or £700 towards the erection of a house, and months go by and nothing is done. The same position arises when union members go along to collect wages or accumulated leave entitlements. With provision for tracking down those connected with the firm, a good deal of this problem will be overcome. For instance, a firm known as Property Service Company changes its name and, the next time the union's industrial officers catch up with it, it is Modern Building Company. If it gets into trouble again or has taken too many people down, it changes its name again and in that way is able to dodge the law.

Mr. Bennett: That is happening all the time.

Mr. NEWTON: I agree with the hon. member for South Brisbane. I rose to speak not to delay the Committee but to appeal to the Minister, as the Leader of the Opposition and the hon. member for South Brisbane have done, to have a very good look at this matter. There is no doubt that it is desirable to do what was outlined by the Minister and the hon. member for Kurilpa. I agree with what they said as it relates to reputable business people. On the other hand, a let-out is provided for those who are not so reputable, and, between now and the second reading of the Bill, the Minister may take the opportunity to see whether this problem can be overcome. Some people in business have to be watched constantly because they are continually changing their trading names to avoid their responsibilities arising from deposits, wages, and accumulated leave due to workers.

Although I do not want to delay hon. members, I felt, from the experience that I have had, that this matter should be raised so that the Minister may be able to look into it and see what can be done. By all means let the registration period be extended for reputable organisations, for whom I have no objection to renewals each five years. I think that that would be quite a good thing. On the other hand, the public must be protected against snide operators who are only in business in a small way but who use very clever tactics and have got away with far too much for far too long.

Mr. SHERRINGTON (Salisbury) (9.32 p.m.): I know hon. members opposite always say, "Oh, no", when I rise; nevertheless I intend to say what I have to bring before the Committee.

Because of an engagement that I had to fulfil, I was unfortunately absent from the Chamber when the Minister introduced the measure. I understand its purpose is to provide registration of firms from the date when they officially come into existence and are registered instead of having them all registered on the one day. I think that is the main purpose of the Bill.

I should like to take the opportunity to say a few words about the registration of companies because of a matter brought to my notice concerning a firm trading in the business of selling trousseau linen. Salesmen were sent out to the suburbs for the specific purpose of selling certain trousseau items to housewives and young people intending to be married. Having secured orders from customers, the firm then proceeded to collect weekly or monthly amounts till the full cost of the items had been paid. At that stage, the items would be supplied to the customers.

This is a matter that I took up with the Minister, and he informed me that under the Act it was difficult at that time to do anything about it. I feel that if registering companies over staggered periods means that each company applying for registration or re-registration will be scrutinised very thoroughly by the Registrar of Companies, and full information about its credit status and capacity to deliver the goods is made available to departmental officers, a lot of the activities of businesses such as the one that I have mentioned would be curtailed. I do not think there would be any advantage in my naming the firm, because it has gone out of business, but, briefly, it was sending its salesmen out to the general public——

Mr. Smith: What has that to do with firm names?

Mr. SHERRINGTON: The hon. member would not understand, so why should I interrupt my speech to try to make him understand?

Mr. Smith: You are talking about an ordinary commercial transaction.

Mr. SHERRINGTON: I am talking about the registration of firm names. The firm concerned had unsecured creditors to the extent of £23,480. They were made up mainly of persons who had signed to purchase articles from the company. It was still sending salesmen out to the public when it had unsecured creditors to the extent of £23,480 and its assets were £700, including a bank balance of £215.

Mr. Smith: A bit light on.

Mr. SHERRINGTON: The hon. member for Windsor says, "A bit light on." Being facetious will not help the people who have been the victims of this firm. They have,

in good faith, signed contracts, paid nine-tenths of the purchase price of the articles, and then found that the firm is broke and cannot meet its commitments. They have been the losers by what surely is a confidence trick.

The TEMPORARY CHAIRMAN (Mr. Campbell): Order! I remind the hon. member that the Bill does not refer to the Companies Act. It refers to the registration of business names.

Mr. SHERRINGTON: As I indicated earlier, I entered the Chamber after fulfilling an engagement, and I was under the impression that the Bill dealt with the registration of firms. In spite of the asinine interjections of the hon. member for Windsor, I thought it would at least give me the opportunity of bringing these facts to the Minister's notice. Perhaps I have strained your tolerance, Mr. Campbell, but I think the proposed legislation would be worth while if it did something to control the operations of companies such as the one to which I have referred.

Hon. P. R. DELAMOTHE (Bowen—Minister for Justice) (9.38 p.m.), in reply: It is obvious that, from the Leader of the Opposition right through, there has been confusion in the minds of hon. members opposite about the provisions of the Bill. I propose to deal with three main points.

Firstly, the Leader of the Opposition asked why registration has to take place yearly instead of after a longer period. That question has been discussed and examined rather fully. There are many reasons why it must be done yearly, the most important of which is that the registration of firm names entails also the notation and registration of the people who make up the firms. Mercantile firms and other firms that extend credit constantly desire to check on the personnel of the firms registered under particular names. It changes quite rapidly in many instances, although the name of the firm remains the same. On the original registration it might be thoroughly creditworthy; in 12 months' time it might not be credit-worthy. If we extend the period for registration to two, three, or four years, very seldom will the information on the register be up to date.

Another point is that it is obligatory, when a firm goes out of business, to notify the Registrar to that effect within 14 days. In fact, very few do that; they simply close up shop and disappear. With yearly re-registration, that is picked up at the next registering date and the firm name becomes available for use by other people. These are just facets of the reasons for keeping this information up to date. That is why we insist on annual registration.

The second point I wish to deal with was raised by the hon. member for Kurilpa namely, whether flats such as Bill Edwards's flats, or Avoca Flats, could be registered as firm names. There is no reason why they cannot be; they are a business and, instead of being Bill Edwards's Flats at Surfers Paradise, they are Avoca Flats, Surfers Paradise.

Mr. Newton: Once a firm has taken a business name, it must register it?

Dr. DELAMOTHE: Yes.

Finally, the hon. member for South Brisbane asked me to state very succinctly what had been done under this Act in connection with door-to-door salesmen. I will say it very succinctly—nothing—because door-to-door salesmen have nothing whatever to do with this Act.

Motion (Dr. Delamothe) agreed to.

Resolution reported.

FIRST READING

Bill presented and, on motion of Dr. Delamothe, read a first time.

The House adjourned at 9.44 p.m.