work has been carried out by the department:—

1. Agreements have been negotiated and entered into with the following unions:—
   Australian Workers' Union—General.
   Australian Workers' Union, Westralian Goldfields Mining Branch Industrial Union of Workers, to cover State battery employees.
   Federated Clerks' Union of Workers, to cover timekeepers and cost clerks.
   Amalgamated Transport Union of Workers, to cover Government motor car drivers.

2. Negotiations have almost been finalised for agreements with—
   Australian Workers' Union, Pastoral and Agricultural Industrial Union of Workers, to cover employees on the State farms.
   Shop Assistants' Union of Workers, to cover storemen employed by the Government Stores Department.

3. Negotiations have been started for agreements with the Carpenters' Union of Workers and the Plumbers' Union of Workers.

4. Answers to claims have been prepared and filed in the Court of Arbitration and issues settled in the cases of—
   Hospital Employees' Union, to cover employees at the Wooroloo Sanatorium.
   Hospital Employees' Union, to cover domestics employed at mental hospitals.
   Hospital Employees' Union, to deal with employees at the Old Men's Home.
   Amalgamated Engineering Union, to cover employees at the Public Works, Water Supply, and other departments.
   Amalgamated Engineering Union, to cover men working at pumping stations in connection with the Goldfields Water Supply.
   The Australasian Society of Engineers, to cover employees of the Public Works, Water Supply, and other departments.

5. Negotiations have been carried on to settle the following references of disputes filed in the Court of Arbitration:—
   Dock, Rivers and Harbour Works. All matters agreed to and award made by consent.
   Hotel, Club, Caterers' Union, to cover State Hotel employees. Final offer has been made to the union, and the department is now awaiting acceptance.
   Hospital Employees' Union, to deal with domestics employed at mental hospitals. An award has been made, one point having been left for the court to determine.
   Hospital Employees' Union. This covers the employees at the Wooroloo Sanatorium. The final stages have been reached, and an agreement will probably be arrived at.

6. Claims by Water Supply Union served on departments now under consideration. An answer is being prepared for the metropolitan and goldfields water supply systems.

These particulars should furnish members with an idea of the vast amount of detailed and intricate work that has to be attended to by two officers of the department. Their services are very valuable. They are men who are fair and just in every way. They desire and endeavour to do the fair and proper thing on all occasions. Their relationship with the different industrial organisations is of a very happy character and the greatest confidence exists between the officers of the Labour Department and the representatives of the industrial organisations throughout the State. I feel that the officers of this department and the work carried out by the department from time to time are deserving of the highest praise, and I am very pleased to have this opportunity to make a public utterance in connection with the work those officers are doing, and the activities carried on within the department. I commend to the Committee the Estimates under their various headings.

Progress reported.

House adjourned at 10.40 p.m.

Legislative Council.

Thursday, 18th November, 1937.

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The PRESIDENT took the Chair at 4.30 p.m., and read prayers.

QUESTION—WORKERS' COMPENSATION.

Select Committee Evidence.

Hon. C. F. BAXTER asked the Chief Secretary: 1, In view of the public statements made by members of the Select Committee

on the State Government Insurance Office Bill, and the answer to Question 13, given by the Crown Solicitor to that Select Committee in connection with the effect of Section 10 of the Workers' Compensation Act, does the Government intend, in this session, to introduce legislation to provide that all bonafide insurance companies carrying on workers' compensation business, which have complied with the Insurance Companies Act, will be companies with which it will be lawful to insure against workers' compensation risks? 2, If not, will the Minister, as representing the Government, give a definite assurance that all such companies will on application be approved under the existing provisions of Section 10 of the Workers' Compensation Act?

The CHIEF SECRETARY replied: 1 and 2, These matters are under consideration.

BILL—FINANCIAL EMERGENCY TAX ASSESSMENT ACT AMENDMENT.

Report of Committee.

THE CHIEF SECRETARY (Hon. W. H. Kitson—West) [4.34]: I move—

That the report of the Committee be adopted.

HON. J. CORNELL (South) [4.35]: It is rather unusual to raise a question on the adoption of a report from the Committee. I do so in this instance for the reason that if the Minister will give an explanation on the point I am raising, some hon. member may be able to place on the Notice Paper a motion to recommit the Bill at the third reading stage. The Bill now reported contains a clause enabling the Government to go after an evading taxpayer for a period of three years. At present the period is six months, at the expiration of which the liability ceases. Is it intended that the clause in question shall have retrospective effect for three years from the date of assent to the Bill? Personally I do not care whether it has or not, but certainly an announcement should be made for the benefit of the public. It is unusual for legislation to have retrospective effect unless that is specifically provided. I do not know that that feature has anything to do with the Commissioner of Taxation, who is pretty well a law unto himself. If he decided to go back three years, or two years, or one year, the only recourse of the taxpayer, even if he had the best of cases, would be to go to law. Then the courts would decide whether or not the measure gave the Commissioner that retrospective power. A pronouncement should be made on the point.

THE CHIEF SECRETARY (Hon. W. H. Kitson—West—in reply) [4.36]: I regret very much my inability to say offhand what the position will be from a legal aspect. At the same time, if the report of Committee is adopted, I shall be prepared to procure the necessary advice from the Crown Law Department and supply it to the hon. member for his information.

Hon. J. Cornell: I do not want it.

The CHIEF SECRETARY: That might be the better plan.

Hon. J. Cornell: As long as the third reading is delayed, it is all right.

Question put and passed, report of Committee adopted.

BILL—STATE GOVERNMENT INSURANCE OFFICE.

Second Reading.

Debate resumed from the previous day.

HON. H. V. PIESSE (South-East) [4.37]: The evidence which the select committee on the Bill has placed before this House and another Chamber has afforded hon. members every opportunity to study the measure now before us. In this House we have had the pleasure of listening to many valuable speeches for and against the Bill. To Mr. Drew one always listens with great pleasure, because one realises his honesty of statement and of purpose. Whilst on this occasion I cannot see eye-to-eye with the hon. gentleman in his many arguments, I always respect his opinion. Unlike Mr. Craig, I must say that the older members of the Chamber have my respect. I feel that in Mr. Holmes we have a man whose broad outlook on life and whose great experience are highly valuable to our deliberations. Outside the Chamber Mr. Holmes is looked upon not as a joke but as a most valuable member of the House. Many points of the Bill I do not intend to touch on, but I do say at the outset that the State Government Insurance Office is definitely a State trading concern. Mr. Williams's remarks on the Third Schedule

were highly informative. The hon. member stated that no insurance company, in his opinion, would take the risks under the Third Schedule. If the Bill does become law and if there are no replies to the questions Mr. Baxter asked to-day, one cannot expect the insurance companies, until the full position has been placed before them, to give either an opinion or a decision. It is the duty of the State, we acknowledge, to protect the miners, and certain moneys will have to be found by the State. No member of Parliament knows better what he is talking about than Mr. Williams when he discusses miners' diseases. His practical knowledge is always valuable to us in arriving at a decision. However, until such time as the full position is placed before the insurance companies, a decision cannot be expected of them. They have not turned down the risks, nor have they suggested in their evidence before the select committee that they will not be prepared to proceed on lines similar to those adopted by the Government. Mr. Hall in his speech referred to the fact of directors of insurance companies being members of this House, and said he considered that they should not vote on the measure. But that is absurd. This Chamber includes 17 direct representatives of the pastoral and farming industries. Just imagine what would be the position if those hon. members could not vote on any Bill affecting the electors they represent! I am a director of an insurance company, and know the duties I have to perform. I believe I can say fairly definitely that not one member of this House who is a director of an insurance company holds even a share in the company which he directs. The duties are purely advisory. In many instances when boards meet they do not even discuss the policy of insurance. They have nothing to do with the fixing of rates. Many directors of insurance companies could not tell one rate from another. Their job is almost purely advisory. They may, of course, influence a large amount of business to a company, because the stability of a company is often gauged by the names of the men associated with it. That is one of the main factors of directorship. Men in public positions have frequently been appointed directors of mining companies. Why are such men asked to accept such directorships? In many instances merely so that the shares can be sold to people who will say, "This must be a good show if Mr. So-and-so is a director of it."

Hon. L. B. Bolton: Those people are often wrong, though.

Hon. H. V. PIESSE: That is so. I do not think all directors of insurance companies are on one side of the House. I have great respect for Mr. Thomas Moore, to whom I listen with much interest whenever he rises in this Chamber. I often vote against him, and, vice versa, he often votes against me. Therefore when Mr. Hall says in effect that members of this Chamber who are directors of insurance companies should neither speak nor vote on such an important measure as this, I in my turn claim that they have every right to do as other members do. The hon. member also mentioned that members who sat on road boards did not vote on matters affecting outside concerns for which they were agents. But that is a different matter altogether. A man who sits on a road board and is an agent for an insurance company receives a monetary consideration for his services as agent. Consequently, when it is a question whether the company he represents is to be engaged as the insurer for the board, it is only right that he should be debarred from voting. I have listened attentively to the various speakers, and I feel that as the State Insurance Office is a trading concern, I must oppose the Bill.

HON. G. FRASER (West) [4.47]: Unlike the speaker who has just resumed his seat, I intend to support the Bill. I have been surprised at the number of times it has been pointed out by speakers during the debate how much competition there is in insurance. Yet if we ask for a quote from a number of companies in respect to a particular item, we will find that there is little difference in the figures. There are one or two who are not in the combine and who have a different rate, but there is not any competition between most of the large companies. It has been protested that the companies have never been given an opportunity to undertake the insurance of miners, but right through the years they have never attempted to go after the business of insuring against miners' phthisis. We have to admit that that is a responsibility the State must carry, and therefore I fail to see why

the House should not legalise the State Insurance Office. We were told last night by Mr. Williams the position with which the State was faced 11 or 12 years ago. Can we afford to allow such a position to arise again? It would be an absolute calamity. A number of hon. members, not only in the course of this debate but during other debates, have reiterated their opposition to State trading concerns. They are most emphatic about it, but I do not know that their attitude has been so emphatic when it has been a question of the establishment of State trading concerns in their own districts. I took the trouble to look up some old history in connection with State trading concerns, and considered as rather remarkable the attitude of some hon. members in connection with one trading concern. I ask hon. members to listen while I read a question that was asked in this Chamber by one from whom the question would not have been expected. One would not have expected such a question to come from someone opposed to State trading. According to "Hansard" of 1924, at page 410, the Colonial Secretary is reported to have stated:—

> This question was asked me, according to "Hansard" of 1914, page 773—"In view of the contract entered into between the Federal Government and an English company for erection of meat works at Port Darwin, and the probability of all cattle from East Kimberley going in that direction, is it the intention of the Government to erect works at Wyndham, and thus conserve the State's trade and the State's supplies for the State's consumers? If so, will provision be made in this year's Estimates to commence the works?"

One would hardly expect a question of that description would come from a member definitely opposed to State trading. Yet Mr. Holmes asked that question in this Chamber. It appears that the locality of the State trading concern has something to do with the attitude of hon. members regarding these institutions. I stand four-square to State insurance. My only regret is that the Bill does not go as far as I would like it to go. Some years back this Chamber endorsed a motion I moved in connection with compulsory third-party insurance. That was five or six years ago, and it was a motion calling upon the Government of the day to introduce compulsory third-party insurance. We have been looking for something along those lines to appear ever since, but nothing has been done. It appears to me, however, that it cannot be delayed much longer. Action will have to be taken in that direction. Having that in mind, the company or institution best fitted to carry on insurance of that description would be the State Insurance Office, acting in conjunction with the Traffic Department. We have to determine that any insurance of a compulsory nature must be made as cheap as possible to the people, so that no unnecessary load will be placed on industry, and no better company could be found than the State Insurance Office to deal with insurance of that description, both from the point of view of cheapness and of co-operation with the Traffic Department. Should the Bill reach the statute-book, it would be something that would be of great benefit to the State. When considering how we shall vote, we are faced with the question as to whether we shall consider big business or service to the State, and in view of what the State is called upon to bear in connection with one industry alone, I have no hesitation in deciding which way my vote will go. Certain members have expressed their intention to vote for the second reading with a view, in the Committee stage, to deleting all references except those concerning workers' compensation and employers' liability. Their reason is that those classes of insurance are in the nature of a social service. I cannot make any line of demarcation between the different classes of insurance from the point of view of social service. I regard the whole of insurance as being in the nature of social service, and cannot understand how any distinction can be made between national insurance and endowment insurance, although some hon. members seem to be able to see a difference. Whether we are making provision to ensure that a man's wages shall be paid, or that he shall be looked after in case of accident, or that his goods and chattels shall be protected, it all appears to me as being in the nature of social service. I therefore regret that the Bill does not go further. I dare say we shall have lively debates in the Committee stage, and any further remarks I may have to make I shall defer until then. I support the second reading.

On motion by Hon. H. Seddon, debate adjourned.

BILL—BUSH FIRES.

Received from the Assembly, and read a first time.

BILL—INCOME TAX ASSESSMENT.

Second Reading.

Debate resumed from the previous day.

HON. C. F. BAXTER (East) [4.57]: This Bill is most important, and is of vital concern to the State and to taxpayers generally, and particularly to the producers, whose efforts are directed to providing the exports on which the future of the State depends. When the Bill was presented to the House, I was under the impression that it was designed to obtain uniformity with the Assessment Acts of the Commonwealth and other States, but since its introduction, I have had opportunity to analyse the measure, at least in part. I use those words advisedly because it would not be possible thoroughly to investigate such an intricate and extensive measure without spending very considerable time in research and study of its numerous provisions. Furthermore, I do not pretend to possess the necessary qualifications to arrive at conclusions on the whole of the different operations of the measure. It is unquestionably a matter for experts. Nevertheless, I have given the subject a good deal of thought, and I find that the Bill does not attain that degree of uniformity with the Commonwealth Act which I first thought was its intention, and that there is quite a number of provisions in the Commonwealth legislation and that of the other States that we might reasonably have expected to find in this Bill but which are not there. It is perhaps questionable whether there is any member of either House who is even reasonably acquainted with such a difficult and far-reaching measure having such an important bearing on the every-day life and the progress of our people. The Bill is certainly one that should not be rushed through this House with undue haste. The ideal of uniform assessment taxing legislation throughout the Commonwealth is no new one. The matter has been under consideration over a long period of years, and it should be realised that the Bill before us is the outcome of the taxation officials' labour and expresses the official mind. This is clearly exemplified in the fact that a number of the recommendations of the Royal Commission favouring the taxpayer have not been given effect to in this measure, although this has been done in the Commonwealth Act, and, in certain of the Acts of other States. We as legislators must consider both aspects—not only that of the State but also the viewpoint of the taxpayer, and for this reason, I consider the greatest caution is necessary in dealing with the Bill. On general principles the Bill appears to be a good one, but in many instances I cannot but feel that there has been a tendency on the part of the Government to accept the official view on very important matters. Even on the score of uniformity care is needed, and it will no doubt be necessary to move amendments more in line with the requirements of the conditions ruling in our State which are not applicable to those of the other States or the Commonwealth. In this connection there are certain clauses in our Bill that are not uniform with the other States' and the Commonwealth Acts, and are not reasonable in their application to the primary producing industries. I intend, therefore, to submit amendments that will preserve and even promote greater uniformity while not being unreasonable from the State's standpoint. I believe that taxation in its application to primary producing interests in this State has been unjust. Investigations conducted by a Commonwealth Royal Commission have shown clearly that because of conditions over which primary producers have no control, income taxation can be made to press with an undue degree of severity on them. Ordinary taxpayers are not subject to seasonal or world's markets vagaries, and the assessment of the annual profits of such taxpayers works reasonably well. Farmers and pastoralists, however, suffer badly in these respects, and when a good season with good prices is experienced, their income is swollen to an abnormal extent and the rate of tax increased accordingly. Division 16 of the Commonwealth Income Tax Assessment Act, 1936, provides for the averaging of the income of a taxpayer over a number of years in order to arrive at an average income for the purpose of determining the rate of tax applicable to the income for the year which is subject to assessment. The averaging system was introduced into the Commonwealth Act in 1921 and applied to all taxpayers, but companies were excluded in 1923, and in accordance with the recommendations of the Royal Commission on Taxation, appointed by the Federal Government, the provisions of the Commonwealth Act will, as from the 1st July, 1937, be restricted to primary producers. Under the State income tax legislation the averaging system has never been

provided for, but it is submitted that the arguments in favour of its introduction in the present Bill are substantial, quite apart from the desirability of establishing uniformity with the Commonwealth legislation on the subject. Previous to the introduction of the averaging system into the Commonwealth Act in 1921, an analysis was made by the Federal Commissioner of Taxation, for the information of the 1920-21 Royal Comission on Taxation, of the annual income figures over several years of 50 primary producers. This analysis showed that the 50 primary producers mentioned paid 55 per cent. more Federal income tax than if the same aggregate amount of income on which they were assessed had accrued in comparatively equal amounts from year to year as in the case of most taxpayers. That is a most important point to which the House should give consideration. Apart from drought losses regard must be had to the necessity for combating animal and weed pests, losses through flood and fire, and the fact that primary products are disposed of in world's markets and are subject to very great price fluctuations, resulting in a marked inclination in the income of the primary producer to rise and fall to a greater extent than that of other classes of taxpayers. The extent of this fluctuation is clearly indicated in the figures given in the annual reports of the State Commissioner of Taxation, showing the percentage of income tax paid by the two main primary producing sections of the aggregate income tax collected by the State Department.

PERCENTAGE TO AGGREGATE INCOME TAX COLLECTED BY STATE.

Year.	Farmers.	Pastoralists.
	%	%
1924–25	13	10
1925–26	20	6
1926–27	15	3
1927–28	11	2
1928–29	15	4
1929–30	8	3
1930–31	5	·7
1931–32	2	·5
1932–33	·8	·8
1933–34	3	·9
1934–35 (incomplete) ...	4	5
1935–36 (incomplete) ...	2	1·4

I desire to quote some figures to show the effect of the application of the averaging system for the purposes of determining the rate of tax payable as against the assessment of tax at the rate applicable to the income for any one year.

Income.	Tax if Average System Applied.	Tax on Actual Income.
£	£ s. d.	£ s. d.
100	0 13 4	0 13 4
200	1 6 8	1 16 0
500	4 10 0	8 0 0
1,000	12 14 8	27 13 4
1,000	17 8 0	27 13 4
500	9 12 8	8 0 0
200	3 17 1	1 16 0
100	1 14 8	0 13 4
Total tax payable over period ...	£51 17 1	£76 5 4

It will be seen from those figures that, on a fluctuating income over the period, which is typical of the position of most primary producers, the total tax payable, if the averaging system were adopted, would be £51 17s. 1d. as against £76 5s. 4d. under the existing method of the State in treating each year on its own and taxing such income at the rate applicable to that income. The Royal Commission on Taxation, 1932, in submitting its recommendations on the subject, arrived at the conclusion that the primary producer was in a different position from that of taxpayers generally in regard to the question of averaging. The recommendations are set out in paragraph 641 of the report as follows:—

(1) That the averaging of incomes for the purposes of determining the rate of tax to be applied to the income of the year preceding the year of assessment be abolished in respect of all taxpayers other than primary producers who ordinarily carry on primary production as their sole or main business.

(2) That the same basis of assessment of primary producers be adopted by the States.

That is a very good argument for the amendments I intend to move. It is suggested, therefore, that for similar reasons to those which actuated the recommendations of the Royal Commission on Taxation, provision should be made in the Bill for the averaging system to apply to those taxpayers engaged in primary production. As many of our grazing properties are owned by limited companies the majority of shares in which are owned by one or two shareholders, in most cases actively engaged in the working of such properties, it will be necessary to see that the definition of "primary producer" for the purposes of averaging includes shareholders whose income is mainly derived from dividends from companies engaged in primary production. Clause 79 of the Bill provides, amongst other things, for a deduction

of £62 in respect of each child who is resident in Australia and is under 16 years of age at the beginning of the year of income and is wholly maintained by the taxpayer. This deduction is the same as under our existing Act, and, in my opinion, is quite equitable as far as it goes. I consider, however, that something more is justified and should be allowed in the case of those taxpayers who are located in the outback areas of the State where the Government have either been unable to provide educational facilities or else their provision would be unjustified having regard to the few pupils to be served. In most cases such taxpayers are compelled, whether they are really in a position to afford it or not, to send their children to a place where educational facilities are available and, of course, shoulder the additional expense involved. In such cases, I think, that they might reasonably be allowed at least a deduction of £100 for each of the children whom they are required of necessity to send away from home to be educated, and I propose accordingly to seek an amendment of the clause. It has always been a cause for serious complaint that the State Income Tax Assessment Act failed to make adequate provision for the carrying forward of losses. Particularly has this been so in the case of those engaged in primary production, whose returns are subject to violent fluctuations through causes over which they have no control, such as crop failures, droughts and price movements on the world's markets in which, of necessity, most of our primary products are disposed of. In 1922 the Income Tax Assessment Act was amended to permit a deduction for certain past losses as follows:—

Section 31. (2.) (a) Net trading, prospecting, or business losses incurred in any one or more years during the three years preceding the year of assessment.

(b) Net losses arising over a like period from the loss of stock in trade, crops, and livestock due to droughts or other circumstances or conditions over which the taxpayer had no control or was unable to protect or insure against.

This allowance is, of course, restricted to individual taxpayers, companies being assessed under the Dividend Duties Act in which there is no corresponding provision. The position of companies will be dealt with separately. When the Assessment Act was amended in 1922, there is no doubt that the Government of the day and Parliament generally thought that they were permitting a deduction of losses incurred during the preceding three years from profits earned in the fourth year, but subsequently under the Taxation Department's ruling only two years' losses were allowed. The legality of the department's ruling is not questioned and arises out of the definition of the words "year of assessment," which the Act states is the—

"financial year ending the 30th June for which the tax is imposed."

and consequently means the year following the year in which income was earned. As evidence of Parliament's intention, it is only necessary to consider the action of the Minister for Mines who was in charge of the Bill in the Assembly when the 1922 amendment was being dealt with. The Legislative Council, following on a report submitted by a select committee, decided to amend the Bill and among other deductions to allow—

"net trading, prospecting, or business losses incurred in one or more years during the five years preceding the year of assessment."

When this amendment came before the Assembly, the Minister for Mines stated, according to "Hansard," page 2979, that he was afraid the Council had gone too far with the suggestion, as an individual could make profits for four years and yet go back to the fifth year when he made a loss and deduct that from his income this year and perhaps pay no income tax. He, therefore, moved a modification to the Council's amendment:—

"That the words 'in any year during the 5 years' be struck out, and the words 'in the year immediately' inserted in lieu."

The Minister's modification was not acceptable to the House which, however, ultimately altered the term of five years to the present provision of three years. Had Parliament agreed to the Minister's modification, the relative clause would have read—

"Net trading, prospecting, or business losses incurred in the year immediately preceding the year of assessment.

This would have meant that a taxpayer was entitled to deduct net trading, prospecting or business losses from profits earned only in the same year. As the whole idea of Parliament's deliberation at that particular time was to provide for the carrying forward of losses, it cannot seriously be contended that the Minister deliberately sought to modify the Council's

amendment by introducing a meaningless provision. He undoubtedly desired to restrict the carrying forward of losses from one year to the next. Parliament in its wisdom decided to make the term three years, and definitely intended that losses incurred during the preceding three years should be deductable from the profits earned in the fourth year. It failed, however, to express its intention and confused the "year of assessment" with the "year next preceding the year of assessment." The result of Parliament's failure to express itself correctly has been that taxpayers have been deprived of a deduction to which morally they were justly entitled. The extent of the additional tax to which taxpayers have been called upon to pay in the aggregate is a matter of conjecture. One actual case, however, that of a wool producer, may be cited to show clearly the hardship that has been inflicted, and this case is no doubt typical of many others even though they may not have involved such large amounts. The taxpayer referred to spent a large amount of money on his property which, owing to drought and low wool prices, recorded the following results between the years 1929-1933:—

	£
Year ended 30th June, 1929—Loss	392
" " " 1930 "	1,393
" " " 1931 "	6,265
" " " 1932 "	1,513
" " " 1933 "	545
Total Losses ...	£10,108

In 1934 the property concerned experienced a bountiful season which, combined with the high price of wool, enabled a book profit of £12,714 to be shown, a great part of which unfortunately represented a paper profit on the natural increase brought to account. Much of this natural increase was subsequently lost in the following dry seasons. The net result over the six years was a profit of £2606. When he received his taxation assessment for the year in which the profit was recorded, he was called upon to pay Federal taxation of £8/6/7, having been permitted to deduct under the Federal legislation the losses incurred for the four years from 1930 to 1933 inclusive aggregating £10,546. The State Department, however, demanded a tax of no less a sum than £2,476 15s. 8d. State income tax thus absorbed practically the whole of the net result of six year's work, a result largely brought about by the fact that he was deprived of the benefit of deducting the loss incurred in 1931 because of the Department's ruling that only two year's losses were deductable. Had Parliament's intention been given effect to when the Act was amended in 1922 he would have been enabled to deduct the loss of £6,000, incurred in the third year preceding the year of income for which the assessment referred to was made, and the State tax payable would have been reduced from £2,476 to a figure comparable to that payable for Commonwealth tax. The present Bill provides that a taxpayer may deduct losses incurred in any of the three years next preceding the year of income, thus giving effect to what undoubtedly was the intention in 1922. It, however, seeks to restrict in the first year of assessment under the Act the deduction of losses to two years. This is definitely unfair, and there is no good reason why the full benefit of the section should not be made available to taxpayers from the commencement of the new Act. They have already been deprived of the full benefit of that to which they were entitled over a number of years, and that position should be rectified without further delay.

The 1932 Royal Commission on Taxation devoted considerable attention to this subject in the course of its inquiry, and recommended that a taxpayer should be permitted to deduct losses sustained in any of the four years next preceding the year in which the income was derived, and that each State should make a similar concession. Since the attainment of a greater degree of uniformity in regard to the assessment of income for the purpose of taxation by the Commonwealth and State is the basis of the present Bill, it might reasonably have been expected that the measure would have adopted the principle of allowing taxpayers a similar deduction in regard to past losses, as is permitted under the Federal Act, and in addition such a course would have implemented the recommendations of the Royal Commission on Taxation. Companies are at present assessed for income tax by the State under the Dividend Duties Act. The title of this Act is really a misnomer as assessments are made on companies' profits, irrespective of whether dividends are distributed or not. The posi-

tion will be rectified by the Bill, and the profits of individuals and companies will be assessed for taxation in future under the one Act. The Dividend Duties Act does not permit companies to deduct past losses, but by an amendment passed in 1931 companies engaged in pastoral or grazing business are permitted to deduct from any year's profits such portion of the net losses made during the two preceding years as was due to the loss of livestock caused by drought. The Premier has stated that this section has been very difficult to administer, and it is open to question whether the companies, which the section was framed to benefit, have to date received any material advantage. Despite the difficulties which it is stated have been experienced in the administration of the provision, the Bill proposes to continue it for two years without any attempt to clarify the position.

All companies as regards the carrying forward of losses should be treated on the same basis as individual taxpayers, but failing this, companies engaged in pastoral or grazing business should be permitted to deduct the whole of the past losses within the period stipulated, instead of the present provision which restricts the deduction to that portion of such losses due to the loss of livestock by drought. If this course were adopted the difficulties of administration would be obviated without serious effect on the revenue of the department.

Section 54 of the Commonwealth Income Tax Assessment Act, 1936, allows depreciation as a deduction in the following terms:—

(1) "Depreciation during the year of income of any property being plant, or articles owned by a taxpayer and used by him during that year for the purpose of producing assessable income and of any property being plant or articles owned by the taxpayer which has been installed ready for use for that purpose and is during that year held in reserve by him shall, subject to this Act, be an allowable deduction.

(2) In this section 'plant' includes—

(a) animals used as beasts of burden or working beasts in a business other than a business of primary production, and machinery, implements, utensils and rolling stock; and

(b) fences, dams and other structural improvements on land which is used for the purposes of agricultural or pastoral pursuits, but does not include improvements used for domestic or residential purposes."

Section 56 of the Bill follows the provisions of Section 54 of the Commonwealth Act word for word with the exception that it omits Subsection 2, paragraph (b).

While the primary producer is, therefore, permitted, under the Federal Act, to deduct depreciation on fences, dams and other structural improvements on land which is used for the purposes of agricultural or pastoral pursuits other than improvements used for domestic or residential purposes, the Bill does not provide for a similar deduction. It is contended that the depreciation allowance permitted by the Commonwealth Act is equitable, and that a similar provision should be incorporated in the present Bill. It is considered also that depreciation allowed on such structural improvements should be definite and fixed and not subject to adjustment on the sale of a property, either as regards the writing back of any "profit" or the allowance of any "loss," as is the case with plant.

It may be a sound principle theoretically in the matter of a depreciation allowance to require an adjustment when the asset which has been depreciated is sold, but in practice many difficulties are met with in applying this principle to fences and other structural improvements which do not arise in the case of movable plant. Fixed improvements become part of the land and cannot be removed. Plant and machinery on the other hand may be sold without the property and furthermore at some stage or other has had to be purchased which permits the cost price to be ascertained with some degree of certainty. Many structural improvements are carried out by farmers and others with their own labour and the labour of their families, and not unusually the addition of such improvements is spread over a long term of years. The cost is not recorded in the accounts of the producer, and, as a consequence, is not subject to depreciation. If on a sale, however, he is required to account for the difference between the sale price and the depreciated value of the improvement, a fictitious surplus would be shown by reason of the total cost not having been included on which he would be unjustly taxed. Such improvements have a long life, and it would be a matter of extreme difficulty to maintain records indicating the cost over a lengthy period. There is on record the case of a primary producer in one of the other States who, having sold his property, was asked by the Deputy Commissioner to supply figures relating to the cost of im-

provements erected 45 years previously, because of the Commonwealth Act requiring an adjustment of the depreciation written off such improvements when sold. To ensure that depreciation allowed in respect of the assets mentioned in the proposed subsection shall be fixed and definite and not subject to revision and adjustment on the sale of a property, Clause 61 of the Bill will require amendment. Section 75 of the Commonwealth Income Tax Assessment Act, for which there is no counterpart in the present Bill, provides for a deduction for the purpose of arriving at assessable income in the following terms:—

Expenditure incurred in the year of income by a taxpayer engaged in primary production on any land in Australia in—

(a) the eradication or extermination of animal or vegetable pests from the land;
(b) the destruction and removal of timber, scrub or undergrowth indigenous to the land;
(c) the destruction of weed or plant growth detrimental to the land;
(d) the preparation of the land for agriculture;
(e) ploughing and grassing the land for grazing purposes; and
(f) the draining of swamp or low-lying lands where that operation improves the agricultural or grazing value of the land,

shall be an allowable deduction.

It may be contended that the State Commissioner has in the past allowed, and will continue to allow, at his discretion part at least of the expenditure itemised in the section of the Commonwealth Act I have quoted. It is desirable, however, that the legislation shall specifically deal with the matter and thus obviate differences of opinion between the Commissioner and the taxpayers on the matter, as well as possibly avoiding litigation. The whole of the expenditure contemplated in the provision referred to is directed towards the production and/or the protection of the income of the primary producer, and as such there should be no doubt as to his right to deduct the amount from income for the purpose of assessment of his taxation. New South Wales, Victoria and Queensland each have sections in their respective assessment Acts in some measure comparable with the Commonwealth provisions, and, apart from the equity of the deduction, the principle of uniformity will be promoted by the inclusion in the State Bill of a provision on the lines of Section 75 of the Commonwealth Act. I cannot see why there should be any differentiation at all. The Commonwealth Act makes provision for reasonable deductions, and it must be recognised that encouragement extended to producers in the direction of assisting them to develop their properties must mean that with increased production more revenue must be available for both the Commonwealth and the State. I shall submit amendments during the Committee stage in the directions I have indicated. The Bill is a lengthy one, and I have not been competent to deal with the whole of it because it is more or less a matter for experts. I have gone as far as I can, particularly in the direction of protecting the interests of the primary producers. If we can so amend the Bill that they will have the advantage of an augmented income, it will be to the advantage of everyone concerned. It is rather unfortunate that the primary producers have not had the advantage of the section relating to averaging over a period of years. However, the Commissioner has acted upon the construction he has placed upon the section, with the result that the averaging system, which was incorporated in the Act in 1922, has been of no practical use to an industry that it was desired to assist. Perhaps it was due to faulty draftsmanship. The Bill goes some way towards rectifying the position, but I think we should extend the three-year period to one of four years. If it became necessary for the sake of uniformity, should other Acts be amended in the meantime, we could revert to the three-year period. I support the Bill with the reservations I have indicated.

On motion by Hon. G. W. Miles, debate adjourned.

BILL—FACTORIES AND SHOPS ACT AMENDMENT.

In Committee.

Resumed from the 16th November; Hon. J. Cornell in the Chair, the Chief Secretary in charge of the Bill.

Clause 6—Amendment of Section 18 of the principal Act:

The CHAIRMAN: Progress was reported on this clause.

Hon. J. NICHOLSON: The select committee recommended the deletion of the clause on the ground that it was consequen-

tial upon the decision arrived at regarding the definition of a factory. It was thought it might be desirable to retain Subsection 2 of Section 18 because it dealt with a number of factories that were registered under the old Act. However, it is not an important matter.

The CHIEF SECRETARY: I can hardly understand Mr. Nicholson's contention. The clause deals with Subsection 2 of Section 18.

Hon. J. Nicholson: It is really a carry-over provision.

The CHIEF SECRETARY: But it has been a dead letter since 1921. It was inserted to deal with factories that were registered under the old Act and it provided that those factories would be deemed to be registered under the new Act for a period of one month during which the changed registration could be effected. That particular section operated for one month only, at the expiration of which it was of no use whatever in the Act. It cannot possibly apply to any factory at the present time.

Clause put and passed.

Clause 7—Amendment of Section 20:

Hon. J. NICHOLSON: This clause provides a new method of registration. The matter was considered by the select committee, and evidence was given showing that the proposal in the Bill might be productive of some trouble to persons who might wish to start a factory. It will be noticed that under Section 20 of the Act an application has to be made first, and on receipt of the application the inspector is required without delay to examine the premises it is proposed to register as a factory. If he is not satisfied that the premises are suitable for the purpose, he may require alterations to be made before registering the factory. That has sometimes been found inconvenient by some applicants for registration of factories. The proposal contained in the Bill is that an application can be made and the registration effected without any inspection at all. Then subsequently the inspector can make his examination of the premises, and if he finds they are not suitable for the purpose he can annul the registration and require certain alterations to be made in the premises. Of course, if his requirements are not complied with, the application can be annulled and he can forbid the premises being used as a factory. That was commented upon by certain witnesses, who said the trouble with that proposal is that when the registration is effected the applicant might be induced to spend a substantial sum of money, and might later be called upon to do something that to him is impracticable in order to satisfy the requirements of the Chief Inspector. Therefore it was thought that it would be better to retain the old position and have the inspection made before registration is granted. For that reason the select committee decided to leave the relative sections as they are in the Act at present. I will move for the deletion of Clause 7.

The CHAIRMAN: The hon. member will vote against the clause.

The CHIEF SECRETARY: The amendment in the Bill is desired by the department at the instigation of the Chief Inspector. It is desired not only to assist the department, but also to assist people desirous of occupying premises as a factory. At present premises cannot be used as a factory until they have been inspected and the necessary alterations, if any, desired by the Chief Inspector have been completed. According to the Chief Inspector, this has worked hardship in many cases, because the delay involved by waiting until the premises have been inspected and the alterations, if any, desired by the Chief Inspector have been completed, has been in some instances very considerable. So it was desired to reverse the process, resulting in an automatic registration which can be effected as soon as the application is received. Then subsequently one of the inspectors would have a look at the premises and, if they were suitable to the purpose, that would be the end of it. Alternatively, if alterations were required, the factory owner would set about making those alterations, the business of the factory going on in the meantime. The Chief Inspector is particularly keen on this amendment, and from what I know of the operations of the Act, I should say the clause would be of great benefit to those desiring to register a factory. Clauses 8 and 9 are consequential on Clause 7, so if we decide that the suggestion of the Chief Inspector is worthy of inclusion in the Act, then Clauses 8 and 9 also must be agreed to. On the other hand, if we do not agree to Clause 7, then Clauses 8 and 9 will go out automatically.

Hon. J. M. MACFARLANE: If it was in respect of a proposed new building that application was being made for registra-

tion, I understand that plans and specifications would have to be submitted to the Chief Inspector. But I take it that the clause refers more particularly to existing premises, in which case I think it would be better for the Chief Inspector to inspect the building with the applicant when the application for registration is first made.

Hon. L. B. BOLTON: It seems to me likely that the premises for which registration is desired were previously registered for some specific work, but after a while were used for something entirely different. The clause would give the inspector power to cancel the registration. Anybody erecting a new building for the purpose of a factory would be very foolish if he did not submit to the Chief Inspector the plans of that building.

Hon. J. Nicholson: This would apply to any building, whether old or new.

Hon. L. B. BOLTON: That is so, but an old building may not be suitable for the purpose, and so the Chief Inspector would require alterations to be made.

Hon. J. J. HOLMES: At present no one can start a factory without the approval of the Chief Inspector. Whilst in that officer we have one we know and admire, nevertheless we have to legislate for the future. A person may start a factory, and after it is in operation the Chief Inspector may declare the building to be unsuitable, and order such alterations as the owner is unable to carry out. That is where the hardship may occur under this proposal. The better plan would be to adhere to the existing system. Some delay may occur in obtaining the Chief Inspector's consent as to the suitability of premises, but I would prefer that to allowing people first to spend their money and then be told that the premises are unsuitable.

The CHIEF SECRETARY: The Act has given rise to a good deal of dissatisfaction. A factory may not be registered until it has received the approval of the Chief Inspector. At a later date, because of some change in the methods employed by the occupier, the Chief Inspector may have to request that certain alterations be made to the building. The occupier may contend that during the currency of the certificate of the Chief Inspector he should not be obliged to comply with that demand. When an occupier alters his factory methods so as to require an alteration to the premises, he should not complain. Before making such alterations he should consult the Chief Inspector to ascertain what objection, if any, there would be to the proposal. Under the present system unavoidable delays frequently occur. The proposed amendment will make for an improvement in the working of the department.

Hon. L. CRAIG: The clause does not seem to be a vital one. The Chief Inspector recommends its adoption as a means of benefiting the manufacturers, and I think we should pass it as printed.

Hon. G. FRASER: Under the Act people must wait for an official inspection and approval, but under the proposed new method the occupier of a factory will not be placed at a disadvantage in that he can continue his operations until the inspection is made.

Hon. J. J. HOLMES: The difficulty of having inspections made seems to be a myth. A clause in the Bill provides for the appointment of an assistant chief inspector. This addition to the staff would remove any danger of delay.

Hon. J. M. MACFARLANE: I favour a retention of the old conditions. I should prefer to deal with the Chief Inspector before I conducted any work in a building of mine, or installed any new plant. If I started out without official approval I should feel that I was working in the dark.

The CHIEF SECRETARY: Under the present Act not only have the premises to be inspected, but all inquiries by the Chief Inspector must be completed before the factory can be worked. The proposed method will prevent delay in many instances. From the point of view of the Chief Inspector and many occupiers of factories the clause will be more beneficial than the kindred provisions of the Act.

Clause put and passed.

Clauses 8 to 10—agreed to.

Clause 11—Repeal of Section 31 of the principal Act:

Hon. J. NICHOLSON: This is one of the important clauses. It proposes to delete Section 31, dealing with the hours of labour for adult males.

Sitting suspended from 6.15 to 7.30 p.m.

Hon. J. NICHOLSON: The clause seeks, in effect, to enact that the hours of labour shall be limited to 44 per week, for both

male and female workers. Certain avocations, however, are not of such an arduous nature that the eight hours per day would represent something of an extreme character. The select committee by a majority recommends the deletion of Clause 11, it being considered that the alteration proposed by the Bill is a function of the Industrial Arbitration Court. If hon. members weigh the matter seriously, they cannot but recognise the importance of leaving all questions of hours of labour and conditions as mentioned by the select committee in its report proper. What chance have we as a body of legislators to decide whether 44 hours or 40 hours or 48 hours represents a proper working week? In retaining the relevant section of the Act we shall be merely affirming the established principle that 48 hours shall constitute a week's work.

Hon. H. V. PIESSE: I support Mr. Nicholson. I represent an industry which has been before the Arbitration Court and has been awarded a 44-hour week. We have a right to appeal, and have appealed, and if our appeal is rejected we shall have to accept the reduced hours. The select committee has recommended the right course.

The CHIEF SECRETARY: Mr. Nicholson has certainly explained the position from the point of view of members of the select committee, but I do not think he has put the case to the Chamber as it actually stands. The reason submitted by the select committee for the deletion of Clause 11 is one with which I cannot agree, because the Act operates only where the Arbitration Court does not operate. How is it that the Act provides a 48-hour week for males and a 44-hour week for females if what the hon. member says is right, that the Arbitration Court should be the only tribunal to fix hours of labour? This Chamber did not take the same objection in 1920 as it takes to-day, and in 1920 many industries worked more than 48 hours. I repeat, legislative provisions dealing with hours of labour and wages apply only where the Arbitration Court has no jurisdiction. If we leave the Act unaltered until such time as the Arbitration Court gives decisions on this and allied matters, there will never be any alteration, because those matters are not likely ever to come before the court. I do not know what evidence was given before the select committee on this particular question, but I feel sure that a perusal of the evidence will disclose that what I have said is correct. It is 17 years since the parent Act was passed, and in that period there have been many material alterations in hours of labour, and in a downward direction, in a large number of European and American countries. Hours of labour have been reduced there by two, four, and even eight hours per week. Therefore the Bill does not ask for anything out of the way. Where the Arbitration Court has jurisdiction, factories work 44 hours.

Hon. H. Tuckey: Why cannot the matter be brought before the Arbitration Court?

The CHIEF SECRETARY: Because in many instances the numbers employed are not sufficiently large, or the factories are situated in isolated districts. I object to the reason given by the select committee, that the matter should be determined by the Arbitration Court. It is not possible at present for the court to give decisions in all these cases. I realise that the recommendation of the select committee is likely to be the decision of the Committee of the House. At the same time it is necessary for me to submit that this is the considered policy of the Government. Wherever it has been possible the Government has put into operation the 44-hour week, which is enjoyed almost without exception by all Government employees. The number of people who will be affected by the Act may not be very large because in the metropolitan area most of the factories are covered by Arbitration Court awards, but there are some people who are not so covered, and they would be catered for by this measure and are entitled to 44 hours a week.

Hon. J. J. HOLMES: I take exception to what the Minister said about our being opposed to a 44-hour week. That is wrong. We say that the Arbitration Court should decide the number of hours on the evidence brought before it. I do not care whether it is 44 or 40 or 36 hours, but the correct decision can only be arrived at in the light of evidence supplied to the court. All sorts of complications will arise if Parliament begins to enter the field of fixing hours. I understand that the shop assistants of Perth have an agreement with the employers which has been in existence for 20 years. Assuming that the agreement provides for 48 hours a week, if the clause is passed, we will have shop assistants in small country places working 44 hours a week and those under agreement in the

metropolitan area working 48 hours. There is nothing to prevent those employees in the small towns from coming under an award of the court. At one time there were unions at Bunbury, Northam, York, Geraldton, and elsewhere, but an attempt was made to dominate them from Perth under the One Big Union principle. All those small unions now prefer to make their own agreement with employers, but that does not coincide with the policy of the Government, which wants this dragnet clause to bring everybody under a 44-hour week.

The CHIEF SECRETARY: The hon. member has repeated the statement time after time about the Arbitration Court awards being overridden, but once there is an award or industrial agreement registered with the court this Act will not be operative in regard to hours. I want the hon. member to accept my word for that.

Hon. J. J. Holmes: I do.

The CHIEF SECRETARY: Well, that is the first time; the hon. member has repeated that statement dozens of times. The Act deals with only those employees not covered by Arbitration Court awards. The Arbitration Court overrides this Act. In some factories governed by an award, a 44-hour week operates; in other factories not so governed, and carrying on the same class of work, the employees are doing 48 hours, which is not fair. I therefore ask the Committee to do the fair thing by those people who, in most cases, cannot help themselves.

Hon. G. B. WOOD: We have to face up to a shorter working week in most industries. I did not think it was the function of this House to decide such questions until I heard the Minister. Would it not be possible to bring all these industries under the court and let the court decide this matter?

Hon. H. S. W. PARKER: I take it that what the discussion is really about is contained in Clause 12. It all depends upon the fate of Clause 12 as to whether Clause 11 should remain in the Bill.

The Chief Secretary: Or vice versa.

Hon. H. S. W. PARKER: My idea is to vote to support the Minister to keep Clause 11 in, but I may vote against the next clause. I agree that where there is an award or agreement under the Arbitration Act, these clauses have no effect whatever. That is set out in Section 155 of the Factories and Shops Act. If we strike out Section 31 of the Act, as is provided for in Clause 11, then there is no mention in the Act as to the time during which males may be employed in a factory.

The Chief Secretary: Read Section 32.

Hon. H. S. W. PARKER: Section 32 provides for the employment of women and boys but it is proposed under Clause 12 to alter that to read "persons" instead of "women and boys," and that covers anybody. I am prepared to agree with the Minister on this clause but may not on the next.

Hon. J. M. MACFARLANE: The Minister has indicated that it is the policy of the Government progressively to reduce hours. If this Bill is passed and Arbitration Court awards provide for 48 hours, it will not be long before the unions will point to the amendment of this Act in support of a claim for a universal 44-hour week.

Hon. J. Nicholson: Several witnesses testified that it would be bound to have an influence on the court.

Hon. J. M. MACFARLANE: I represent an industry that deals in perishable commercial products. With a 48-hour working week something satisfactory can be accomplished, but less than that is going to hinder the development of an industry that can become a valuable asset to the State.

Hon. G. FRASER: Objection has been taken to hours being fixed by this House, but that is nothing new. Unless hours are laid down here, quite a number of people working in shops and factories will be debarred from having decent working conditions. It is not possible for the common rule to cover the position. Apart from country towns, there are factories in the metropolitan area not covered by awards or agreements, and the employees in those factories would continue to work 48 hours. There is a factory within half a mile of Parliament House employing a large number of workers, and they are not permitted to organise.

Hon. G. B. Wood: It is hard to believe that.

Hon. G. FRASER: Unless the Act is amended, those employees will have to continue to work hours stipulated by Parliament 18 years ago. Surely there has been a sufficient improvement in machinery, etc., to permit of a shorter working week being introduced. From 80 to 85 per cent. of the awards made during those years provide for

a 44-hour week. Parliament must fix some hours.

Hon. J. Nicholson: We recommend that the provision in the Act be retained.

Hon. L. B. Bolton: It might be an inducement for such employees to go to the court.

Hon. G. FRASER: That is impossible in some instances because of the attitude of the employers.

Hon. J. Nicholson: How could the employers prevent it?

Hon. G. FRASER: They have the thick end of the stick. Some of them refuse to allow their employees to organise.

Hon. L. B. Bolton: That is nonsense.

Hon. G. FRASER: I am prepared to give the hon. member the names of such employers.

Hon. L. B. Bolton: I cannot believe it.

Hon. G. FRASER: Then let me instance the match factory.

Hon. C. H. Wittenoom: How long do those employees work?

Hon. G. FRASER: We cannot ascertain the conditions, because we cannot get the employees organised.

Hon. L. B. Bolton: I suppose they are so satisfied.

Hon. G. FRASER: They are not satisfied.

Hon. H. S. W. Parker: The inspector of factories would know how long they work.

Hon. G. FRASER: There are other employees not covered by awards.

Hon. H. Tuckey: They must be well treated.

Hon. C. H. WITTENOOM: If the clause were passed, the working week for employees would be restricted to 44 hours. That would be detrimental to some businesses, and probably would result in the destruction of others.

Hon. J. J. HOLMES: The only deduction to be drawn from Mr. Fraser's remarks is that the employees at the match factory have ordered the union representatives off the premises because they are satisfied with their employers and do not want outside interference. At one time I controlled 39 shops from South Fremantle to Leonora, and I had to insist upon my best men joining the union because of the trouble caused at union meetings by an element that no one would employ. If we fixed the hours at 44, all employees under agreements providing for 48 hours would want their awards amended by the court, saying that Parliament had set 44 hours as the standard. Could members imagine anything more confusing happening? At present boys under 16 and women may not work more than 44 hours a week, while men may be worked 48 hours a week. The Bill proposes to establish a 44-hour week throughout, regardless of what the court may have determined after hearing all the facts.

Hon. G. Fraser: Did the fact of Parliament stipulating 48 hours in the Act make 48 hours the standard throughout the State?

Hon. J. J. HOLMES: The hon. member makes a point of the fact that Parliament once decided certain hours. A start had to be made.

Hon. H. Tuckey: There was no court in those days.

Hon. J. J. HOLMES: Parliament now has no knowledge of the facts, and should say, "There is the court; put up your case and the country will have to abide by the court's decision."

Hon. L. B. BOLTON: I oppose the deletion of the section because it is not the province of Parliament to fix a standard of working hours less than the average of the arbitration awards. The present average is 45.3 hours per week.

The Chief Secretary: For factories?

Hon. L. B. BOLTON: Yes. To fix hours is the work of the court. To amend the Act as suggested would seriously interfere with a large number of agreements operating in the metropolitan area.

Hon. W. J. MANN: The Chief Secretary was not quite right in asserting that the select committee favoured a 44-hour week. The select committee did not even discuss the number of hours that should constitute the working week. The stand the select committee took was that hours, wages and working conditions were purely matters for the court. The State has provided an Arbitration Court with machinery to enable practically everybody to approach it and if they do not approach it, that is not the fault of Parliament. Evidence was given to the select committee to show how many establishments were grouped under different headings and a return was submitted by the Chief Inspector showing that 47 establishments were not subject to registration nor covered by an award.

The CHIEF SECRETARY: I am sorry the hon. member should attempt to justify his arguments by quoting evidence which was supplied to the select committee for

an entirely different purpose. The list of 47 establishments to which he referred is not a complete list of the factories in the metropolitan area not covered by awards of the court or industrial agreements.

Hon. W. J. Mann: I quoted from the list as it was presented to us.

The CHIEF SECRETARY: The list was provided for another purpose altogether; it was provided by the courtesy of the Chief Inspector who obtained the information from his inspectors who, in turn, supplied it from memory. That information was furnished to the Committee for another purpose altogether. Besides, the list which purports to be a list of unregistered factories not subject to awards is by no means complete, and to use it in the way the hon. member endeavoured to do to support his argument is unfair; there was no need for him to do so. The discussion has gone far beyond what the clause or the section contains. Section 31 of the Act simply deals with the hours of labour for male employees not covered by awards or agreements and if we delete that section then it will be necessary for us to amend the following section, Section 32, which at present deals with the hours of women and boys. If we accept what has been put forward, it will amount to this, that the Chamber declares that there are many employees who will for many years to come be without hope of improvement in the hours of labour simply because this House insists that they shall go to the Arbitration Court. In many cases it is impossible under the Act for them to do so and in other instances there is not a sufficient number of employees to form a union, and unless those employees are members of a union they cannot approach the court. Also for several other reasons, it is not possible for some of the employees to approach the court to have the hours adjudicated.

Hon. J. NICHOLSON: There is no need to offer excuses for the recommendations that have been submitted by the select committee. They have been put forward on sound grounds and after serious consideration on the part of the select committee. According to the Chief Secretary there are only a few people, comparatively speaking, not covered by awards. The select committee took into consideration an important matter in connection with the economic and industrial life of the State and that was the State's position in competition with the other States. In the Eastern States it is well known that they are not by Act of Parliament compelled to work 44 hours, while here it is proposed by our legislation to limit the hours to 44, and thus influence the Arbitration Court and so commit what I believe would be a very serious injury to industrial employment in this State. There may be private agreements that are not a common rule, private agreements between individuals and their employers, agreements providing for 48 hours a week to be worked in five days. Why should not that be permitted so long as during the week the 48 hours as the maximum set down by Section 31 of the Act are not exceeded? We would nullify the effects of those private agreements if we were to agree to the clause.

The CHAIRMAN: I hope members will pardon me if I draw their attention to one matter. Although the Bill has been the subject of consideration by a select committee, the Committee of this Chamber has spent over one hour on this particular clause. I draw hon. members' attention to portion of Standing Order 397 which reads—

> The President or the Chairman of Committees may call the attention of the Council or Committee, as the case may be, to continued irrelevance or tedius repetition on the part of any member, and may direct such member to discontinue his speech.

That Standing Order was inserted for some particular purpose, and I think it will be agreed that it has been frankly infringed this evening.

Hon. W. J. MANN: By way of explanation, I wish to draw attention to the fact that the Chief Secretary appeared to take great exception to the fact that I quoted from a list supplied by the Chief Inspector of Factories. I have great admiration for that particular officer, and I would not do anything to place him in an invidious position. The Chief Secretary has been misinformed, or he has not read the evidence. The Minister said very definitely that the Chief Inspector had no list of unregistered factories. I propose to read a portion of the evidence in that particular point—

> 12. By Hon. J. J. Holmes: Have you a list of the registered factories?—Yes. I have handed one to the Committee. (Exhibit 1.) That list was prepared two months ago, and there have been some additions and charges

in the meantime. I also have a list of unregistered factories (Exhibit 2), and that shows factories or premises that we know of that are not subject to registration as factories because there are either not more than four or more persons, including the occupier, employed there, or there is no mechanical power exceeding one horse power used in connection with the undertaking. I shall furnish you with another list showing some of the industries that are subject to registration under the Factories and Shops Act, but not subject to any award or agreement.

There has never been any semblance of a claim that those were complete lists. The suggestion that they were complete originated from the Minister. In fairness to me and the select committee, the Minister will admit that he was not in possession of the full facts when he made his statement.

The CHIEF SECRETARY: I repeat what I have already stated, namely, the Chief Inspector has no list of factories that are not registered.

Hon. W. J. Mann: What about his statement in evidence?

The CHIEF SECRETARY: That statement is correct so far as it goes; he has a list of some factories. As a matter of fact, the list referred to was supplied by the officers of the department from memory in order to comply with the suggestion from the select committee that a list of such factories should be furnished. The department has between 25,000 and 30,000 files and it would be very difficult for the Chief Inspector or any of his inspectors to compile from those files, at short notice, a complete list of unregistered factories. Dealing with the clause, I am glad Mr. Nicholson referred particularly to the evidence, because it seemed to supply the reason why the select committee had agreed that the clause should be deleted.

Hon. J. Nicholson: We considered it from an economic standpoint and also from that of the competition emanating from the Eastern States.

The CHIEF SECRETARY: The select committee took the point of view of the secretary of the Employers' Federation.

Hon. J. Nicholson: I ask that that statement be withdrawn.

The CHAIRMAN: Order! We are in Committee and the hon. member can reply.

Hon. J. Nicholson: But I ask for a withdrawal.

The CHAIRMAN: What does the hon. member suggest should be withdrawn?

Hon. J. Nicholson: The Chief Secretary stated that the select committee took the view of the secretary of the Employers' Federation as the reason for their recommendation. We were not actuated by that circumstance at all.

The CHAIRMAN: That is merely a matter of opinion.

Hon. J. Nicholson: The statement was made against the expression of opinion I have placed before members emphatically on behalf of the select committee.

The CHIEF SECRETARY: To satisfy Mr. Nicholson, I will withdraw the statement. The decision on this clause will affect others, and it is therefore important. I take exception to the reasons advanced by the Committee against the clause. It appears to me that they merely represent an excuse, because members of the select committee must have known that the Arbitration Court cannot act in these matters.

Clause put and a division taken with the following result:—

Ayes	4
Noes	14
Majority against	10

AYES

Hon. J. M. Drew	Hon. W. H. Kitson
Hon. E. H. Gray	Hon. G. Fraser (*Teller.*)

NOES.

Hon. E. H. Angelo	Hon. J. Nicholson
Hon. C. F. Baxter	Hon. H. S. W. Parker
Hon. L. B. Bolton	Hon. H. V. Piesse
Hon. J. T. Franklin	Hon. H. Tuckey
Hon. J. J. Holmes	Hon. C. H. Wittenoom
Hon. J. M. Macfarlane	Hon. G. R. Wood
Hon. W. J. Mann	Hon. V. Hamersley (*Teller.*)

PAIRS.

AYES.	NOES.
Hon. A. M. Clydesdale	Hon. L. Craig
Hon. T. Moore	Hon. G. W. Miles
Hon. E. H. H. Hall	Hon. A. Thomson

Clause thus negatived.

Clause 12—Amendment of Section 32 of the principal Act:

The CHIEF SECRETARY. There is just one point to which I would draw the attention of members. The first three subclauses are consequential upon the deletion of Clause 11, but Subclause 4 is in a different category. This is the provision rendered necessary in order to deal with cases such as I mentioned in the second reading, where an employee might be employed in a shop and in a factory as well for the maximum number of hours, and still only be paid one week's wage.

Hon. J. Nicholson: Mr. Bradshaw quoted such a case.

The CHIEF SECRETARY: Yes, I have it here.

Hon. J. M. Macfarlane: Nobody wants such a condition of affairs.

Hon. J. NICHOLSON: I move an amendment—

That paragraph (a) be struck out.

Amendment put and passed.

Hon. J. NICHOLSON: I move an amendment—

That in paragraph (b) the words "by deleting Subsection (2) and" be struck out.

Amendment put and passed.

Hon. J. NICHOLSON: I move an amendment—

That proposed Subsections (2) and (3) be struck out.

Amendment put and passed.

The CHIEF SECRETARY: I wish to retain Subclause (4), but it is no longer in its proper place in the Bill, so on recommittal I will probably ask the Committee to transfer it to the miscellaneous section of the Bill.

Clause, as amended, agreed to.

Clause 13 put and negatived.

Clause 14—Amendment of Section 34 of the principal Act:

The CHIEF SECRETARY: In paragraph (b) seemingly the word "child" has slipped in. No child can be employed in a factory. I am inclined to move that paragraph (b) be struck out.

Hon. J. Nicholson: The select committee desires the deletion of the whole clause.

Clause put and negatived.

Clause 15—Amendment of Section 37:

Hon. J. NICHOLSON: The select committee recommends the adoption of paragraph (a) and the deletion of paragraph (b) and of the amended proviso. I move an amendment—

That paragraph (b) be struck out.

Amendment put and passed; the clause, as amended, agreed to.

Clauses 16, 17—agreed to.

Clause 18—New section:

[Hon. Sir John Kirwan took the Chair.]

The CHIEF SECRETARY: What this clause is asking for applies to women and boys, but not to men. Unfortunately, the overtime provisions of awards are easily evaded. In some industries there are awards that limit the overtime that may be worked. It has frequently been found that a particular employer is endeavouring to compete most unfairly with other employers in the same industry by working his employees for longer periods than he is entitled to do. When an inspector is able to get into one of these factories, he has found that, although many employees are on the premises at unusual hours, and showing signs that they have been working, at the moment they have been doing nothing in the shape of work. It has, therefore, become necessary to take steps to prevent evasions of this kind. Incidents of this sort have been of frequent occurrence, particularly in the furniture trade. It is essential that the law should be amended to give the Arbitration Court power to put a stop to such practices.

Hon. J. J. HOLMES: Under the clause any employee found on the premises after the working hours fixed by the court can be claimed to be illegally there, and the employer held responsible. In some industries the employees must have a bath and change their clothes after finishing work. If such employees are found on the premises engaged in those occupations they can be deemed to be illegally there. One can imagine a stay-in strike. In the event of such a strike the employers would be responsible for the employees being on the premises after hours, and would be liable for their wages as well. The select committee was quite right in suggesting that the clause would have a more far-reaching effect than might be contemplated and in recommending its deletion.

Hon. L. B. BOLTON: The company manufacturing matches here treats its employees extraordinarily well. It provides them with baths, changing rooms, etc., and tennis courts upon which many of the employees play up to as late as 7 o'clock at night. That company, too, would be held responsible for employees being on the premises after hours.

The CHIEF SECRETARY: Some members are drawing upon their imaginations to an extent that used to be quite common. I had hoped this had dropped out of fashion. Mr. Holmes seems to think he has found a

nigger in the woodpile. This matter must be looked at from the point of view of commonsense. The select committee did not actually disagree with the principle contained in the clause. Indeed, I suggest its members thought there was a good deal in it. It would have been better if that committee had put up an amendment which in its opinion would have improved the clause.

Hon. J. J. Holmes: There might be something in that.

The CHIEF SECRETARY: It did not, however, suggest any amendment, but merely recommended the deletion of the clause.

Hon. J. J. Holmes: We are not Parliamentary draftsmen.

The CHIEF SECRETARY: I am aware of that. I do not think that is quite as it should be. If the Chamber is prepared to agree to the principle enunciated by the Government, members should help me to draft a clause that will meet their wish and mine. In any case, the Act will be administered with discretion. An alternative to meet the position I have described could be discovered. Inspectors should not be defeated in their efforts to ensure the observance of the relevant Acts.

Hon. J. NICHOLSON: The select committee was desirous of giving every possible help towards making the measure as effective as possible. However, the clause is so far-reaching that we were bound to make the recommendation we did make. Under the clause as it stands, there is grave liability in respect to accidents occurring when employees are even in the vicinity of the factory. So long as an employee is on factory premises after ceasing work, there is a liability as to workers' compensation and in other ways. We shall render every possible help to the Chief Secretary, but in the meantime the clause had better be deleted.

Clause put and negatived.

Clause 19—Repeal of Section 42 of the principal Act and insertion of new section; General holiday provisions:

Hon. J. NICHOLSON: This clause is on the same principle as Clauses 13 and 14. Such matters should be left to the Arbitration Court.

The CHIEF SECRETARY: I point out again that the Arbitration Court has no jurisdiction where this measure applies, and therefore the select committee's suggestion is valueless. Women and boys employed in factories are now entitled to the paid holidays enumerated. Men employed in the same factories, and therefore not covered by the Arbitration Court, are not entitled to those paid holidays. There may be difference of opinion as to how many paid holidays there should be, but I do not think any member of the Chamber would object to an employee being paid for Christmas Day, Good Friday, and other such days.

Hon. L. B. Bolton: But you are asking for too many holidays.

Hon. J. Nicholson: The matter is one for the court to decide.

The CHIEF SECRETARY: The court does not decide, and cannot decide, in cases covered by this legislation. Only one holiday proposed here can be classed as additional to those already enjoyed by women and boys. Annually, for many years past, proclamations have been issued with regard to all those holidays except Easter Saturday. The clause merely asks that male employees shall be entitled to paid holidays in the same way as women and boys. That is a matter over which the Arbitration Court has no jurisdiction. If the objection of hon. members is that the number of holidays is being increased, let them say so.

Hon. J. J. HOLMES: There is more in this clause than the Minister suggests. Paragraph (b) provides that when any holiday falls on a Saturday, employees engaged in a factory in which 44 hours per week are worked on five days of the week, from Monday to Friday inclusive, shall be allowed a paid holiday on the following Monday or shall be paid an additional day's wages in lieu thereof. It has been made clear, however, by many Arbitration Courts that holidays are for the purpose of rest and recreation, and not for the purpose of increasing pay. That is a point to which the Minister did not refer.

The CHIEF SECRETARY: The reason given by the select committee for urging the deletion of the clause is that the matter should be left to the Arbitration Court.

Hon. J. J. Holmes: We followed your policy of "hands off the Arbitration Court."

The CHIEF SECRETARY: I understood the hon. member accepted my words but now he seems to have forgotten. The clause contains a number of subclauses, some of which are acceptable to members. The Committee should not reject the whole clause merely because one or two subclauses cannot

be accepted. I suggest we adopt the same procedure as previously and although we delete the clause at this stage, on recommittal a clause may be drafted that will meet with approval.

Hon. L. B. BOLTON: I sympathise with the Minister because the clause does embody some good features. I would like to correct him regarding the number of holidays. There are eight holidays specified in the parent Act, but the Bill provides for eleven, so that the Minister was not accurate in his statement.

The CHIEF SECRETARY: I do not want it thought that I tried to mislead the Committee.

Hon. J. Nicholson: We know you would not do that.

The CHIEF SECRETARY: I pointed out that, as far as I could see, the clause provided for one additional paid holiday. In the section there are certain specified holidays that are paid for and in addition, speaking from memory, there are four additional holidays that for years past have been proclaimed and paid for in the same way.

Hon. L. B. Bolton: I did not suggest you tried to mislead the Committee.

The CHIEF SECRETARY: No, but I point out that last week we passed a Bill dealing with the King's Birthday in order to make the position clear. I am now in receipt of advice showing that my statement was not correct with regard to the holidays. The proclaimed holidays that I referred to do not affect factories. I thought they applied all round.

Clause put and negatived.

Clause 20—Amendment of Section 43 of the principal Act:

The CHIEF SECRETARY: The select committee recommends that the clause be deleted. Here, again, there is no logical reason why males should not enjoy the same benefits as those prescribed for women and boys. The Act sets out that occupiers of factories are to allow a half-holiday on every Saturday when shops are required to close on that day, or an any other day when, by agreement, the half-holiday is observed. Why should not that provision apply to all employees? I suggest that here, again, we adopt the procedure of deleting the clause and deal with the matter further on recommittal.

Hon. J. NICHOLSON: The select committee had to take into consideration an important industry in which the Honorary Minister is interested, namely, the baking industry. In view of the evidence given in connection with this particular clause, the Committee found it best to make the recommendation that has been made. I am prepared to say, and I think the other members of the select committee will agree with me, that if there is a way out of the difficulty we shall be pleased to confer with the Chief Secretary.

The CHIEF SECRETARY: Bakers are covered by an award and this particular clause would not operate in regard to them, but only in regard to employees not covered by awards.

Clause put and negatived.

Progress reported.

House adjourned at 9.33 p.m.

Legislative Assembly,

Thursday, 18th November, 1937.

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The SPEAKER took the Chair at 4.30 p.m. and read prayers.

RETURN—RAILWAYS, COAL SUPPLIES.

MR. WILSON (Collie) [4.32]: I move—

That a return be laid upon the Table of the House showing—

(a) the total tonnage of Collie coal used by the Railways for the past ten years, each year ended on the 30th June,