HOUSE OF ASSEMBLY.

Tuesday, October 18, 1960.

The SPEAKER (Hon. B. H. Teusner) took the Chair at 2 p.m. and read prayers.

QUESTIONS.

RELIEF PAYMENTS.

Mr. FRANK WALSH—I recently received a letter from the wife of an invalid pensioner. The pensioner received a 5s. a week increase in his pension on October 6, but on October 12, when the wife went to the Children's Welfare and Public Relief Department, instead of getting her normal amount of £13 6s. (they have four children) she received £1 less, and over the month she received 30s. less than the monthly amount payable prior to the increase. Bearing in mind that Commonwealth benefits may be increased from time to time as a result of their being so far behind the cost of living, can the Treasurer ensure that, when the necessary increase takes place, the department continue to pay at least the amount these people received, irrespective of the increase in Commonwealth benefits?

The Hon. Sir THOMAS PLAYFORD—I know of no alteration in the board's policy, and there certainly has been no instruction from the Government for any alteration. In fact, the last time this matter came up the Chief Secretary informed me that the department had extended benefits rather than reduced them. If the Leader will let me have the name of the person concerned I will check to ascertain the reason for the alteration, and obtain a full report on the matter.

FLUORIDATION.

Mr. HUTCHENS—In view of the widespread interest and recent public statements for and against the fluoridation of Adelaide's water supply, can the Premier tell the House the Government's policy in this matter? If not, will he obtain a full report from the Minister of Health, as this question is important to the dental health of the community?

The Hon. Sir THOMAS PLAYFORD—The honourable member knows that there is much dispute as to whether or not fluoride should be added to our water supply. We in South Australia are fortunate in having the opportunity of doing some research into this matter, because in one area the water naturally contains some fluoride in a proportion about equal to that which would be added if the water were to be treated; so we are at present taking a keen interest in the effect of that water upon dental health in that area. I will get a report for the honourable member.

BLACKWOOD HIGH SCHOOL.

Mr. MILLHOUSE—In the *Coromandel* of Friday last (October 14) there appears the following report of a comment made by Mr. Richards (Superintendent of Secondary Schools):—

It is now almost certain that the high school will be ready for occupation by the commencement of the first term in 1961.

That is the first time any doubt has been expressed about the school's being ready for use by the beginning of the first term of 1961. Although that statement may have been due to commendable departmental caution, it has caused much perturbation in the district. Can the Minister of Education say what progress is being made on the Blackwood high school and indicate whether it will be ready for the beginning of the first term of 1961?

The Hon. B. PATTINSON—As Minister of Education, I cannot give any positive assurance because I have the responsibility without the power, but the Director of Public Buildings has assured me that the work is in progress and it is expected that the first stage of the school will be ready for occupation by the beginning of the school year.

GAWLER HIGH SCHOOL.

Mr. CLARK—I was recently informed that next year more than 20 children from the Gawler high school at present in the Leaving classes would be forced to go to the city to enrol as Leaving Honours students. I understand also that next year at the Gawler high school the Leaving class will have almost 80 scholars, which presupposes that in 1962 there will be an even larger Leaving Honours exodus from the school. In view of that and the fact that Gawler will soon have an extremely fine new high school, will the Minister of Education consider establishing a Leaving Honours class there?

The Hon. B. PATTINSON—Consideration can be and has been given to it in association with a number of other schools, but I do not think it is likely that a Leaving Honours class will be established next year, because the whole question of such classes is in a state of flux at present. I have had discussions with the Vice-Chancellor of the University, Director of Education and other leading educationists, and the University has set up a special committee

to consider the whole problem. The Association of Independent Headmasters and Headmistresses has been in touch with me and I have arranged to meet in conference with representatives of the association on Friday, October 28, to discuss the whole problem of whether we should discontinue Leaving Honours classes and substitute a higher standard ordinary Leaving class for matriculation purposes. As numbers of highly-qualified young students come out from the Teachers Training Colleges each year I hope that we will be able to extend our higher matriculation classes in many of the larger country high schools, and Gawler would be very high on the list.

EAST ADELAIDE PRIMARY SCHOOL.

Mr. DUNSTAN—I have been asked by the East Adelaide primary school committee to bring before the Minister the condition of the toilet facilities at that school. I believe the committee has made many representations to the department on the necessity of rebuilding these facilities, which, at present, are most unsatisfactory for the thousand children at the school. The committee is all the more alarmed because there have been cases of infectious hepatitis at the school, and it fears that there may be some relationship between the facilities and the hepatitis. Will the Minister of Education urgently consider taking action?

The Hon. B. PATTINSON—I shall be pleased to take urgent and personal action, although up to the present the matter has not been brought to my notice. The honourable member said that there had been some correspondence with the department and it may well be that the matter has been taken up by the Director of Education and the Director of Public Buildings. The matter having been raised by the honourable member I shall give it my personal attention tomorrow.

DENTAL HOSPITAL.

Mr. RYAN—During the debate on the Loan Estimates I asked whether the allocation for new buildings at the dental hospital would minimize the waiting time for people seeking attention, which I understand is up to two years. Has the Treasurer any information on this matter?

The Hon. Sir THOMAS PLAYFORD—The matter has been referred to the Minister of Health and is being examined by him. There are two or three limiting factors regarding our dental services, the worst of which is the few persons coming from the University into the profession. In the last five years there have been only 26, and obviously that number is not sufficient to maintain the services, let alone increase them. I shall have a report as soon as possible for the honourable member.

HOUSING TRUST PURCHASE HOUSES.

Mr. LOVEDAY—Many people seeking to purchase Housing Trust homes at Whyalla are renting them for six months and more before the purchase is settled. In letters they have received from the State Bank regarding the first mortgage it is stated that receipts for rates and taxes for the current year must be produced at settlement. Can the Premier say whether, while these people are tenants and paying rent, they are expected to pay the rates, because usually the owner pays rates; and can he indicate whether during the waiting period before purchase is settled the rent charged by the trust includes an amount for rates?

The Hon. Sir THOMAS PLAYFORD—I shall get details of charges from the Housing Trust and advise the honourable member. The normal procedure under which the trust works is that the rent includes an amount for rates. However, I will ascertain whether that is so in the case of a house that is being purchased.

ROAD-MARKING MACHINE.

Mr. HARDING—Last year it was intimated that the Highways Department intended to purchase a machine from America to mark highways. I understand the machine has arrived and has had a preliminary test. Can the Premier say whether the machine has been successful?

The Hon. Sir THOMAS PLAYFORD—The machine has been purchased and is now in commission. I understand that it is entirely successful.

FIRE DANGER IN SCHOOLS.

Mr. FRED WALSH—On several occasions I have brought to the notice of the House and the Minister of Education the fire danger in portable classrooms in our public schools. In July last I visited one of the schools and when I asked a teacher how frequently the children were trained in the use of the escape hatches that have been provided in the classrooms she said that her class had had a brief drilling back in February and that she believed that other classes had had some drill. While I am not too pleased with the type of hatch that has been installed, I believe that it could be made more effective if the teachers and children were made familiar with its use

through regular fire drill. Will the Minister consider having fire drill at regular intervals for children using portable classrooms?

The Hon. B. PATTINSON—I shall be pleased to consider the request and to put it into effect, because the honourable member was with me at the demonstration of the new system, and I am sure that we both thought the escape hatches would be regularly and systematically used. Last week the honourable member said that at one school a hatch could not be removed and I would think that was probably through insufficient use. I understood that they were to be regularly used so that the children would become familiar with their use. I shall be only too pleased to ask the Director of Education to have a circular letter sent out to the headmasters of all schools at which these rooms are being used. I should like to correct any possible misapprehension about the lack of fire drill generally. Unless the human element has come into the matter and instructions have not been carried out there should be regular fire drill in every school throughout the State, and I am indebted to the honourable member for calling my attention to the fact that in some cases that regularity has not been observed. I will ensure that it is observed in future.

MILLICENT PRIMARY SCHOOL.

Mr. CORCORAN—Has the Minister of Education the report he promised last Thursday in reply to my question about the site of the proposed Millicent primary school?

The Hon. B. PATTINSON—Cabinet has approved of negotiations within the valuation of the Land Board being entered into for the purchase of an alternative site for the proposed new Millicent primary school. A site has been selected and an officer of the Public Buildings Department is in the South-East this week to inspect the proposed site for suitability for building purposes. On receipt of a favourable report negotiations will be opened up with the owners of the land. I hope finality will be reached in a short time because I do not want any delay in the building of the school and its being ready for occupation as soon as possible.

LOXTON REVALUATIONS.

Mr. STOTT—Will the Minister of Repatriation indicate the latest position relating to applications made for revaluation of the Loxton soldier settlement scheme and say how many more applications have been received, whether any more valuations have been sent out by the department to soldier settlers in the district, and when they can expect the revaluation to be completed?

The Hon. Sir CECIL HINCKS—I believe that I gave full details regarding these valuations last week. If there are any additional valuations, recent or in the near future, I will advise the honourable member.

SUBSIDY FOR BARMERA LIBRARY.

Mr. KING—Will the Minister of Education state what arrangements have been made regarding a subsidy for the Barmera public library?

The Hon. B. PATTINSON—The sum of £4,878 has been placed on the Estimates of the Libraries Department for the proposed Barmera public library. It is made up as follows—Capital expenses, £1,550; books, £2,795; and administration, £533. These amounts will be available when the Estimates have been passed by Parliament.

BANK ADVANCES.

Mr. QUIRKE—I should like the Treasurer to explain a position that has arisen in the country, and I suppose in the city as well, in relation to bank advances. There is considerable bewilderment in country districts at the inability to obtain advances from country branches of banks, and I believe this bewilderment exists among managers of those banks, too. This policy is having a tightening effect in the country which I think is entirely unwarranted, and the only opinion that the unfortunate bank managers can express to their clients is that the private banks have been ordered not to make advances. That comes into immediate conflict with certain people in between, for whom there seems to be no limit on money available outside the banks. As this is having a retarding effect in the country, I should like the Treasurer to give some opinion or explanation of the matter.

The Hon. Sir THOMAS PLAYFORD—I have no precise knowledge of the subject, which is a matter specifically under the control of the Commonwealth Parliament and on which this State is not consulted in any way. Although I have no precise knowledge of the details of the present policy, I have been given to understand that the difficulty has arisen because the Reserve Bank has asked trading banks to maintain a certain degree of liquidity; in other words, they are not to lend more than a certain percentage of their deposits, but must retain a certain percentage as a reserve against withdrawals. Although the Commonwealth has no

control over the State Bank or the Savings Bank, those banks would do this as a matter of prudence so that at all times they would be able to honour their depositors' accounts. I cannot inform the honourable member what percentage of liquidity is required or why the banks are so short of money at the moment, and I do not know whether the Reserve Bank has made drastic demands on the banks' deposits. This position does not exist only in the country but is prevalent everywhere. There is a great tightness in bank advances for all sections of the community, and the Government recently had many requests on whether accommodation could be provided other than to primary producers. I think the Commonwealth Government has expressed the desire that primary producers should not be unduly restricted. I will refer the honourable member's question to the Commonwealth Treasurer and get an official report.

WAIKERIE BOUNDARIES.

Mr. FRANK WALSH—Can the Premier table the reasons of the special magistrate who recommended the annexation of certain areas to the Waikerie District Council?

The Hon. Sir THOMAS PLAYFORD—I have not this information but I will see if I can get it for the Leader.

RESIDENT WELFARE OFFICER.

Mr. RICHES—My question relates to a suggestion made by the Northern Districts special magistrate at Port Augusta that a permanent resident officer of the Children's Welfare and Public Relief Department be appointed to keep in touch with boys and youths placed under the control of the department or on bond in the Northern district. In this morning's *Advertiser* it was reported that, in a case in which two young men were being tried by Mr. Justice Ross, His Honour before imposing sentence said that he wanted a pre-sentence report on one defendant, who was remanded for sentence. The following report appeared in the *Transcontinental*:—

Mr. Marshall said that in many cases when lads were placed in the control of the Children's Welfare Department until they reached the age of 18 years even parents did not understand the full implications of the order. When an officer of the department visited the parents of such boys there was no need to treat him as just another Government official . . . he added that he had made a suggestion to the proper authorities that a permanent officer should be appointed to undertake such necessary work in the three big areas —Port Pirie, Port Augusta and Whyalla—and he hoped that that course might be adopted soon.

The magistrate went on to explain that it would be a great help to him in dealing with applications for release on bond if he had some reliable officer with a knowledge of the background of the application and the conduct of the young people concerned. Mr. Marshall has established for himself a reputation for imaginative thinking and has won the confidence of the people in the north. I believe that this request has general support. Can the Treasurer have the magistrate's suggestion considered and, if possible, given effect to?

The Hon. Sir THOMAS PLAYFORD—As the honourable member's question involves a matter of policy, I ask him to place it on notice.

DOGS IN SCHOOLS.

Mr. HUTCHENS—I am in possession of a letter addressed to the member for Semaphore (Mr. Tapping), who has requested me to ask this question. It appears from the letter (of which a copy has been supplied to the Minister) that the member for Semaphore joins with me in a request for some action to be taken to control stray dogs at schools. The correspondent refers to the Hendon school. The final paragraph of the letter, written by the chairman of the Hendon school committee (Mr. Hurst), states:—

Our initial purpose was in having the support of the Minister for a move we anticipated would be made to place the responsibility on some definite body.

Can the Minister of Education say whether the control of the dog nuisance is in the hands of some definite body, and, if so, what is the name of that body?

The Hon. B. PATTINSON—The Registration of Dogs Act is administered by my colleague, the Minister of Local Government, with whom I shall be pleased to discuss the whole general problem. The problem of dogs attending schools in an unauthorized capacity is by no means new. I think it is due to the natural affinity between children and dogs; they are both extremely affectionate and trusting. Unfortunately, as we grow older we lose to some extent those desirable qualities. The members for Semaphore and Hindmarsh have raised this matter with me several times, and perhaps I could do no better than read a reply I gave in the House to the member for Hindmarsh some time ago. I said then:—

I have been informed that the Police Department is not able to assist in destroying the offensive stray and uncared for dogs that trespass on school property. Section 23 of the Registration of Dogs Act provides that the occupier of any land, after giving public

notice in three successive issues of any two newspapers circulating in the district where the land is situate, of his intention to destroy dogs trespassing on the land, may destroy them. As the Education Department has had a number of complaints regarding this nuisance at the Flinders Park school, in addition to that of the honourable member, I have approved of the necessary notices being placed in newspapers and prominent places on school premises. The matter will then be placed in the hands of the local council officers in the hope that someone can then be made available from the council or the R.S.P.C.A. to carry out the destruction of any dogs that may be caught. I am prepared to adopt the same procedure in other schools where complaints are received. Inquiries at Flinders Park school show that six dogs were recently caught on the premises but they were all found to be registered. It seems they were not strays, but dogs that had followed their youthful owners to school, liked the company of the young people, and decided to make it their home. The difficulty arises because whereas they are docile with their young master or mistress, some of these dogs become savage with other children at the school. It is a real problem, and I would like to help solve it, but unfortunately, under the existing law I cannot call on the services of the police or the local council. Short of that, I am willing to do everything I can to help eradicate what, in many cases, is a dangerous menace to the children.

I have no further powers as Minister of Education, but, as I said at the outset, I shall be pleased to discuss the whole matter with the Minister of Local Government to see whether he considers an amendment of the Act necessary or desirable.

SALT EVAPORATION PROJECT.

Mr. McKEE—Has the Premier any further information regarding the salt evaporation project being established at Port Pirie?

The Hon. Sir THOMAS PLAYFORD—No, I have had no communication in the matter for at least two months. Mr. Dickinson, who had arranged for the taking out of the licence, went overseas to see the parent company of Rio Tinto, with which he was associated at the time. I have since heard from him that he is no longer associated with the company, but I believe the leases are held in the name of the company. I shall make some inquiries in the matter and let the honourable member know.

HOSPITAL BOARDS.

Mr. HUTCHENS—Recently, the Labor Party, after some debate, carried a resolution pointing out that the Royal Adelaide Hospital Board and the Queen Elizabeth Hospital Board controlled and were responsible for the direction of the hospitals. The Party feeling was that, as many patients at those two hospitals were represented by members of the Australian Labor Party, who fully appreciated the needs and requirements of the patients and the services that should be provided by the hospitals, it was desirable that representatives of the Labor Party be appointed to those respective boards. Will the Premier consider that request?

The Hon. Sir THOMAS PLAYFORD—As far as I know, our hospital boards have never been appointed on political alliances, and, broadly, that would not be desirable. Mr. Dawes, who has been a member of the Royal Adelaide Hospital Board for over 20 years, was, before his appointment to that board, the Australian Labor Party Leader of the Opposition.

EXPORT WEEK.

Mr. HARDING—Today's *Advertiser* reports a visit to South Australia by the Hon. John McEwen to encourage and promote a wide export drive from Australia. It is stated that Australia imports £1,000,000,000 worth of goods. Will each State be granted a quota of goods to be displayed for export on the suggested boat trip and will this boat during its four-day stay in South Australia be open to members of Parliament and to the public for inspection?

The Hon. Sir THOMAS PLAYFORD—The Minister for Trade was speaking in broad and general terms. I personally have never seen any figures that would support a valuation of imports along the lines indicated. I doubt whether one could produce specific figures to prove what the Minister said, because so many factors have to be taken into account. I would view those figures with some hesitation. I do not doubt their general validity, but whether they could be specifically produced for that purpose I do not know. For many years Queensland, Western Australia and South Australia have produced overseas balances much greater than their total of imports, but New South Wales and Victoria have always been on the "red" side: the exports from those States have not been sufficient to cover their imports. Again, that is a general statement, and other matters must be considered. For instance, some imports into Victoria are no doubt re-exported to South Australia or Western Australia, so a general assessment cannot be made. The honourable member's question is not valid because there are no import restrictions whatever: everybody is importing what he wants to. Importation is taking place

freely and no quota restriction has been placed upon any State.

Mr. Stott—The latest figures show £100,000,000 on the wrong side.

The Hon. Sir THOMAS PLAYFORD—I know, but that was not the question. The honourable member was asking whether the right to import was being farmed out to the respective States. The answer is "No", because any importer in any State now has an unlimited right to import. The honourable member is correct when he says that the total imports now exceed exports by a large sum each quarter. That is a question of concern and the reason for the particular emphasis being placed upon an export drive. We are not at the moment balancing our trade budget. For many years this State had a favourable overseas trade balance. For about 15 years it was at least £40,000,000, and in some years was as great as £80,000,000 or £90,000,000. That position was even more strongly felt in Queensland, where the favourable trade balance was greater. Western Australia also had a very favourable trade balance. They were three primary-producing States, which were not so industrialized as the others, but New South Wales and Victoria showed a fairly heavy deficit on those occasions.

WORKMEN'S COMPENSATION.

Mr. FRANK WALSH—Does the Government intend to introduce legislation this session to deal with workmen's compensation?

The Hon. Sir THOMAS PLAYFORD—In the early part of this session the House has already passed a Bill dealing with workmen's compensation. We had a report from the advisory committee and the legislation was dealt with fairly expeditiously by the House because it desired the benefits to be available quickly. I have not had any additional report from the advisory committee and cannot say whether it will make any additional report, so I cannot answer the question; but I will see if I can get the information.

PORT LINCOLN COLD STORAGE.

Mr. FRANK WALSH—I have received correspondence from Port Lincoln stating that the South Australian Fishermen's Co-operative Limited desires that £30,000 be spent on additional cold storage facilities to enable it to develop its industry. Can the Premier say whether space will be available to the company in the present cold storage facilities at Port Lincoln or the company will have to apply to the State Bank for finance to establish its own facilities?

The Hon. Sir THOMAS PLAYFORD—The firm has taken over the canning premises previously occupied by another company. It has also taken over the agreement that the other company entered into regarding those premises, which included the provision of some cold storage at the killing works. As far as I know the company has not applied for any additional cold storage. I do not know whether any would be available this year, but there may be. I shall get a report and let the honourable member know.

GOVERNMENT FINANCE.

Mr. QUIRKE (on notice)—

1. By what arrangement with the Savings Bank of South Australia does the Government obtain money in excess of £3,000,000 as represented by eight debentures held by the bank and repayable in instalments until as far forward as 1994, at a charge of 30s. per cent?

2. For what purpose have the loans been raised?

3. As such loans when spent become deposits in the same or other banks without reducing deposits in the lending bank, is not this method of money expansion considered inflationary?

The Hon. Sir THOMAS PLAYFORD—The replies are:—

1. In 1945 the trustees of the Savings Bank of South Australia agreed to make £500,000 a year, for eight years, available to the Government at a low rate of interest. This offer was made to assist the Government with the provision of houses at low rentals for persons in modest circumstances. The Government accepted the offer and, with the approval of the Loan Council, the loans were accepted as part of the State's loan raising programmes of the years concerned, and Commonwealth securities were issued to the bank. The rate of interest agreed upon was 1½ per cent per annum and each loan is to be repaid from the National Debt Sinking Fund on a credit foncier basis over 42 years.

2. The loans have been made available in their entirety to the South Australian Housing Trust, which has applied the funds for the specified purpose of providing houses at the lowest possible economic rental.

3. As such loans were derived from the genuine savings of the depositors, and as the expenditure of the funds has been upon labour and materials in the construction of houses, the financial operation cannot be considered inflationary.

If the honourable member wants any supplementary information I can provide it. There was considerable criticism of the Savings Bank because it did not pay any taxation, as a Government instrumentality, and received all

the benefits of a well-ordered society without making any contribution to its upkeep. The trustees felt that the bank had some obligation to the community and asked how best it could make a voluntary contribution to some deserving cause and I suggested that it would be appropriate if such finance were made available for housing persons in distressed circumstances. The bank made available the sum referred to and it has been used by the Housing Trust exclusively for that purpose.

PREVENTION OF CRUELTY TO ANIMALS ACT AMENDMENT BILL.

Received from the Legislative Council and read a first time.

ENFIELD GENERAL CEMETERY ACT AMENDMENT BILL.

The Hon. Sir CECIL HINCKS (Minister of Lands) moved—

That the Speaker do now leave the Chair and the House resolve itself into a Committee of the Whole for the purpose of considering the Enfield General Cemetery Act Amendment Bill.

Motion carried.

Bill taken through Committee without amendment. Committee's report adopted.

Bill read a third time and passed.

BUSH FIRES BILL.

Committee's report adopted.

Bill read a third time and passed.

REAL PROPERTY ACT AMENDMENT BILL.

Committee's report adopted.

Bill read a third time and passed.

HIRE-PURCHASE AGREEMENTS BILL.

Consideration in Committee of the Legislative Council's amendments:

No. 1. Page 5, line 14 (clause 3)—After the word "signed" insert the following words:—

"provided further that if there be more than one prospective hirer it shall be sufficient if the written statement be given to one of such prospective hirers".

No. 2. Page 5, line 20 (clause 3)—After the word "and" insert the following words:—

"where any of the goods comprised in the agreement are goods of a household or domestic character and are for household or domestic use, shall contain the written consent to the agreement of".

No. 3. Pages 5 and 6 (clause 3)—Leave out paragraph (*e*) of subclause (2) and insert new paragraph (*e*) as follows:—

(*e*) shall set out in tabular form—

(i) the price at which at the time of signing the agreement the hirer might have purchased the goods for cash (in this Act called and in the agreement to be described as "cash price");

(ii) any amount included in the total amount payable for maintenance of the goods (in this Act called and in the agreement to be described as "maintenance");

(iii) any amount included in the total amount payable to cover the expenses of delivering the goods or any of them or to the order of the hirer (in the agreement to be described as "freight");

(iv) any amount included in the total amount payable to cover vehicle registration fees (in the agreement to be called "vehicle registration fees");

(v) any amount included in the total amount payable for insurance other than third party insurance (in this Act called and in the agreement to be described as "insurance");

(vi) the total of the amounts referred to in subparagraphs (ii) to (v) inclusive of this paragraph;

(vii) the amount paid or provided by way of deposit (in this Act called and in the agreement to be described as "deposit") showing separately the amount paid in money and the amount provided by a consideration other than money;

(viii) the difference between the amount referred to in subparagraphs (vi) and (vii);

(ix) the amount of any other charges included in the total amount payable (in this Act called and in the agreement to be described as "terms charges");

(x) the total of the amounts referred to in subparagraphs (viii) and (ix);

and shall set out separately the cash price, the amount paid or provided by way of deposit and the difference between such amounts.

No. 4. Page 7, line 11 (clause 3)—After the word "court" insert the following words:—

"before which any proceedings are brought".

No. 5. Page 7, line 18 (clause 4)—After the word "hirer" insert the following words:—

"contemporaneously with or".

No. 6. Page 10, line 12 (clause 7)—After the word "hirer" where second occurring leave out the words:—

"a copy of the agreement together with".

No. 7. Page 10, line 22 (clause 7)—Leave out the words:—

"a copy of the agreement and".

No. 8. Page 10 (clause 7)—After subclause (1) insert new subclause (1a) as follows:—

(1a) At any time before the final payment has been made under a hire-purchase agreement the owner shall, within fourteen days after he has received a request in writing from the hirer together with the sum of five shillings, give to the hirer a copy of the agreement.

No. 9. Page 10, line 25 (clause 7)—Leave out "subsection" and insert "subsections" and after "(1)" insert the words and figures "or (1a)".

No. 10. Page 10, line 26 (clause 7)—Leave out "that" and insert "those".

No. 11. Page 10, line 27 (clause 7)—Leave out "subsection" and insert "subsections".

No. 12. Page 11, line 17 (clause 9)—After the word "or" insert the words "subject to subsection (3) of this section".

No. 13. Page 11, line 27 (clause 9)—After the word "section" insert the words "within fourteen days from the date of such request".

No. 14. Page 12, line 15 (clause 10)—After the word "hirer" insert the words "and subject to such terms and conditions as it shall deem just".

No. 15. Page 12, line 27 (clause 11)—Leave out "less" and insert "after deducting".

No. 16. Page 15, line 27 (clause 15)—After the word "due" where first appearing insert the words "and the owner shall be entitled to recover from the hirer the amount by which the said value of the goods is less than the net balance due".

No. 17. Page 16, line 14 (clause 15)—After the word "costs" insert the words "including legal costs".

No. 18. Page 23, lines 4-6 (clause 23)—Leave out—

"to and in respect of every contract of insurance of goods (whether or not the contract includes any other class of insurance) comprised in a hire-purchase agreement",

and insert—

"only to or in respect of a contract of insurance of goods (whether or not the contract includes any other class of insurance) where the premium or other sum payable for the cover given by the contract of insurance, or any part of that premium or sum, was included as part of the total amount payable for the goods comprised in a hire-purchase agreement".

No. 19. Page 25, line 17 (clause 25)—After the word "farmer" insert the words "and described as such in the agreement".

No. 20. Page 26 (clause 26)—After subclause (2) insert new subclause (3) as follows:—

(3) The provisions of section 41 of the Workmen's Liens Act, 1893-1936, shall not apply to any lien acquired by a worker pursuant to this section.

No. 21. Page 26, line 19 (clause 27)—After the word "land" insert "as purchaser in fee simple or as mortgagee or encumbrancee".

No. 22. Page 29, line 19 (clause 32)—After the word "months" add the words "provided however that nothing in this section shall affect any civil rights of the hirer".

No. 23. Page 30 (clause 36)—Leave out clause 36 and insert new clause 36 as follows:—

36. (1) Upon application to the Court by an owner who is entitled to take possession of any goods comprised in a hire-purchase agreement or by any person acting on behalf of an owner, if the Court is satisfied that the hirer or any person acting on behalf of the hirer has refused or failed to deliver up possession of the goods on the service of a notice of demand made by the owner or by an agent of the owner authorized in that behalf, and if it appears to the Court that the goods are being detained without just cause, the Court may order the goods to be delivered up to the owner at or before a time and at a place to be specified in the order.

(2) Any person who neglects or refuses to comply with any order made under this section shall be guilty of an offence against this Act, and the Court making the said order may issue a warrant to the bailiff of the Court who, by such warrant, shall be empowered to enforce the said order.

(3) All constables and other peace officers shall aid in the execution of every such warrant.

No. 24. Page 30, line 23 (clause 37)—After the word "him" add the following words:—

"Provided that it shall be a sufficient compliance with this paragraph if a notice under section 4 of this Act has been sent by ordinary post".

No. 25. Page 31—After clause 40 insert new clause 40a as follows:—

40a. The costs of any proceedings or application in relation to any matter arising under this Act shall be in the discretion of the Court.

No. 26. Page 31, line 22 (clause 43)—After the word "regulation" insert the words "determine what court or courts shall have jurisdiction in any matter arising under this Act and may".

No. 27. Page 31—After clause 44 insert new clause 44a as follows:—

44a. Notwithstanding anything contained in the Trading Stamp Act, 1924-1935, or any other Act, it shall not be unlawful for a person, on the sale of or in connection with the sale or advertisement of any goods, to promise, offer, or give to any person who hires those goods, as a condition of the purchase of the goods at any time during the hiring an allowance based upon the amount of any rent, hire or instalments paid as rent or hire.

No. 28. Pages 32 to 34—Leave out Part VII.

No. 29. Page 35, First Schedule—Leave out all words after "relating to" and insert the following:—

.....

(description of goods)

The cash price of the goods is £ : :

You are also required to pay for—

Maintenance .. .. £ : :

Freight .. .. £ : :

Vehicle registration .. .. .. £ : :

Insurance for months .. £ : :

Sub-total .. .. £ : :

You may deduct from these—

The amount paid for deposit . .. £ : :

Add allowance on trade-in of . .. £ : : £ : :

Residue .. .. £ : :

To which must be added—

Terms charges .. .. £ : :

Total rent payable .. .. £ : :

The full amount payable by you for the goods is the amount obtained by—

Adding to the amount in the sub-total above, namely . .. .. £ : :

the terms charges above, namely . £ : :

£ : :

The difference between the cash price of the goods and the total amount you will have to pay is therefore .. .. £ : :

Your rent is payable by the following instalments:—

(insert number, amount and intervals of instalments).

No. 30. Page 35, Second Schedule, paragraph (*a*)—

Line 1—Leave out "a copy of the agreement and".

Line 2—Leave out "them" and insert "the same".

Line 3—Leave out "a copy or a".

No. 31. Page 35, Second Schedule—After paragraph (*a*) insert new paragraph (*a*1) as follows:—

(*a*1) You are entitled to a copy of the agreement at any time if you make a written request and forward the sum of five shillings to the owner for the same.

Amendment No. 1.

The Hon. Sir THOMAS PLAYFORD (Premier and Treasurer)—Many amendments have been made to this Bill by the Legislative Council, and I shall deal with them *seriatim*. Many of the amendments are purely machinery or drafting amendments and do not make much difference to the Bill. The first permits the giving of a summary of the proposed hire purchase transaction to only one of the respective hirers where there is more than one. Otherwise, a copy of the summary would have to be given to each hirer. The amendment is reasonable, and it will save much unnecessary extra work and time. I ask that it be agreed to.

Mr. FRANK WALSH (Leader of the Opposition)—We on this side of the House consider that the Bill, when it left this House, was a reasonable approach to the matter although it did not do all we desired. Some amendments are much more than drafting amendments. For these reasons, I oppose this amendment.

Amendment agreed to.

Amendment No. 2.

The Hon. Sir THOMAS PLAYFORD—This amendment will limit the requirement for both spouses to agree to agreements for goods of a household or domestic character for domestic or household use. It also makes it clear that a spouse will sign only as a consenting party and not as a hirer or party to the agreement. For instance, a farmer would not have to get his wife's consent to a hire purchase agreement for an agricultural implement. These implements are considered to be outside the province of the wife to approve of. However, in the case of household appliances, two consents would be necessary. The spouse will sign only as a consenting party and will not be obliged to undertake any obligation as a hirer, so that there will not be an action against both parties. I believe the amendment is feasible and is a good solution to one of the problems of hire purchase—that glib salesmen talk people into buying things that may not be wanted in the house and get signatures before the householders have had ample time to consider the matter.

Mr. FRANK WALSH—On broad principles, I do not object to this amendment. The Premier mentioned smart salesmanship. I have evidence that South Australian salesmen are going to Broken Hill and taking advantage of people there. In view of this, will the Premier state whether people in other States are protected in this way?

The Hon. Sir THOMAS PLAYFORD—This provision was not originally included in the Bill, but it has been advocated for a long time by members opposite. It was inserted in the Bill here and was modified in another place so as not to apply to a farmer purchasing agricultural machinery. As far as I know, a similar provision does not exist in other States; it was not in the uniform Bill.

Mr. FRED WALSH—Will the Premier state whether a motor car used for pleasure would be regarded as being for domestic use?

The Hon. Sir THOMAS PLAYFORD—Although I shall have to check this, I do not think it would be so regarded. I think an article of domestic use would be something much closer to the family life. A motor car could be used purely for business purposes.

Amendment agreed to.

Amendment No. 3.

The Hon. Sir THOMAS PLAYFORD—This amendment varies the order of setting out the amounts that the Bill requires to be set out in a hire-purchase agreement. Nothing is left out, but the order corresponds with the order of the figures given in a summary to the hirer before the agreement is made. A consequential amendment has been made in the first schedule relating to the summary. Both these amendments will save unnecessary work and confusion.

Mr. FRANK WALSH—This amendment relates to the form and content of hire-purchase agreements and is an elaboration of items appearing in the first schedule as referred to in clause 3 (1). Subparagraph (vi) provides that the total of the amounts referred to in subparagraphs (ii) to (v) inclusive of this paragraph shall be set out. The way this amendment reads, this would only give the total of maintenance, freight, vehicle registration fees and insurance, but the way the first schedule is set out it would also include the cash price of the goods. Can this matter be further examined? Should not the Bill be left in the form it was in when it left this Chamber?

The Hon. Sir THOMAS PLAYFORD—The only difference is in the order in which the various amounts are set out; there is no difference in the information contained in the schedule. The Parliamentary Draftsman points out that there is a slight drafting error in this matter, and I therefore move—

In subparagraph (vi) to delete (ii) and to insert (i).

Mr. Hutchens—Could consideration of this amendment be postponed until the matter is clarified?

The Hon. Sir THOMAS PLAYFORD—I think the matter is clear. Subparagraph (vi) as amended would state:—

The total of the amounts referred to in subparagraphs (i) to (v) inclusive of this paragraph.

Amendment carried; Legislative Council's amendment as amended agreed to.

Amendment No. 4.

The Hon. Sir THOMAS PLAYFORD—This is a drafting amendment to make it clear which court is involved.

Amendment agreed to.

Amendment No. 5.

The Hon. Sir THOMAS PLAYFORD—This amendment will permit the owner to give the hirer a copy of the agreement and insurance policy, with advice as to his rights, at the same time as the agreement is made. Without the amendment the owner might have to serve the documents the next day or later. There is no good reason why these papers should not be handed to the hirer at the time the agreement is signed.

Mr. RALSTON—I know of a case where the hirer had entered into an agreement with a hiring company; an insurance was taken out, and during the currency of that insurance, which was for either two and a half or three years, a couple of accidents occurred. The insurance company varied the policy by notifying the hirer that the policy was being cancelled and that it would only be renewed under the conditions that the first £100 of damage would have to be borne by the hirer. Has the Premier heard of any similar case?

The Hon. Sir THOMAS PLAYFORD—I do not know of any such cases. Although the Government is prepared to look at that matter separately, that is not involved in this amendment.

Amendment agreed to.

Amendment No. 6.

The Hon. Sir THOMAS PLAYFORD—Several amendments cover the same matter. Under the Bill in its original form the hirer was able to obtain copies of the agreement at intervals of three months. He receives a copy of the agreement, of course, when it is made. The amendment provides that if he asks for additional copies they are to be supplied to him, but he must pay a fee of 5s. for each copy. I think it is not an unreasonable provision.

Amendment agreed to.

Amendments Nos. 7 to 11 (inclusive) agreed to.

Amendment No. 12.

The Hon. Sir THOMAS PLAYFORD—This is purely a drafting amendment.

Amendment agreed to.

Amendment No. 13.

The Hon. Sir THOMAS PLAYFORD—This amendment is designed to fix a time within which an owner must signify his consent (or refusal) to an assignment by the hirer of his

rights under the agreement. Under the Bill, if an owner fails or refuses to give consent, the hirer can go to court for an order that the owner has been unreasonable, but no time is specified, and this leaves the hirer in the awkward position of not knowing when a reasonable time has elapsed for the owner to make his decision known. The amendment makes it clear that the hirer can apply to the court after 14 days if the owner does nothing within that period. The amendment is a practical one. In my opinion it is in the interests of the hirer, because he can get a decision from the owner without having to go to court and being fearful that the court might consider that the owner was not unreasonable. It places a limit on the delaying tactics that can be pursued.

Mr. FRANK WALSH—It seems to me that the hirer has to apply to the court within 14 days if an owner unreasonably withholds his consent to an assignment of the hirer's rights, and if he does not apply to the court within that period he loses any right of redress. If such is the case, I consider that the 14 days period is too short. I am more concerned with the hirer than the owner. It is possible that the owner will become unreasonable, and I consider the time allowed for the hirer to obtain redress is too short. Can the Premier give any further explanation?

The Hon. Sir THOMAS PLAYFORD—The position is that if the owner refuses to give his consent within 14 days the hirer may take the necessary action. The hirer has not a limit of 14 days in which to take action: the owner has 14 days in which to signify whether he refuses or not. The amendment is entirely in the interests of the hirer, because it sets out the period in which the owner has to come forward with a definite approval or otherwise.

Mr. STOTT—This amendment is desirable. In my view, it stops the owner from unnecessarily taking any action that does not comply with the wishes of the hirer. I have had two or three cases of this sort where negotiations are entered into and people do not feel obliged to give the information or set it out. This amendment approved by the Legislative Council improves the position in the hirer's interest. If a person hiring a certain commodity wants the whole position to be set out and requests the owner to do so, he should do so within 14 days. That is a reasonable time limit.

Amendment agreed to.

Amendment No. 14.

The Hon. Sir THOMAS PLAYFORD—This again is a drafting amendment, in as much as it makes it clear that a court giving permission to a hirer to remove the goods can attach conditions if the court thinks it just. It sets out what we believe to be the law. The power would probably be implied but the amendment makes it express and removes any doubts.

Amendment agreed to.

Amendment No. 15.

The Hon. Sir THOMAS PLAYFORD—This is a drafting amendment.

Amendment agreed to.

Amendment No. 16.

The Hon. Sir THOMAS PLAYFORD—This amendment expressly gives an owner who has repossessed goods a right to recover the difference between what is owing and the value of the goods. It gives effect to what is already law.

Amendment agreed to.

Amendment No. 17.

The Hon. Sir THOMAS PLAYFORD—This again is a drafting amendment making clear that legal costs are included in costs of repossession.

Amendment agreed to.

Amendment No. 18.

The Hon. Sir THOMAS PLAYFORD—This amendment restores the Bill to its former uniform state and is in line with the law in the other States. When we got a uniform Bill, we here made a slight deviation from it. Clause 22 in its original text provided that any arbitration clause with an insurance on hired goods should not be binding if the hirer paid the insurance premium for the whole of the period of hire at the beginning. We altered that slightly to provide that the arbitration clause would not be binding in relation to any hired goods. We could see no need for limiting the provision. The Legislative Council's amendment has returned to the original form and is now in line with the other States. I do not see there is anything much involved either way.

Mr. FRANK WALSH—I have received a letter from Broken Hill indicating that during recent weeks a complaint was made to the council that a door-knocking salesman was selling a bread and meat slicing machine for £12 10s., and an identical machine could be purchased in Broken Hill business houses for £6 19s. On investigation it was established to be substantially correct, the only difference being the enamelling on the machine in the local shop as against the door salesman's

article being polished with an aluminium finish. Expert advice was that the difference in price should have been only a few shillings. Some salesmen are unreasonable in their pressure while others are reputable and reasonable. However, whatever action is taken, some effort will always be made by somebody to evade the law. I gather from the statement made by the Treasurer that this provision will be uniform between the States.

The Hon. Sir THOMAS PLAYFORD—This deals with questions contained in clauses 21 and 22. Clause 23 states:—

1. The provisions of sections 21 and 22 of this Act shall apply to and in respect of every contract of insurance of goods (whether or not the contract includes any other class of insurance) comprised in a hire-purchase agreement.

2. The provisions of this Part shall have effect notwithstanding anything contained in any other Act.

The following words have been deleted:—

to and in respect of every contract of insurance of goods (whether or not the contract includes any other class of insurance) comprised in a hire-purchase agreement.

The following words are inserted:—

only to or in respect of a contract of insurance of goods (whether or not the contract includes any other class of insurance) where the premium or other sum payable for the cover given by the contract of insurance, or any part of that premium or sum, was included as part of the total amount payable for the goods comprised in a hire-purchase agreement.

That brings the provision back to uniformity. There is nothing involved in it. We have slightly altered it ourselves, not because there was any question of principle involved but because we could not see the motive actuating the drafting committee of another State.

Amendment agreed to.

Amendment No. 19.

The Hon. Sir THOMAS PLAYFORD—This amendment is designed to ensure that a farmer who desires to take advantage of the special provisions covering farmers can do so only if he is described as a farmer in the agreement. It is designed to prevent an owner from being taken unawares. As there are special provisions dealing with farmers, it is obviously desirable that they should be set out in the first suitable place.

Mr. FRANK WALSH—My notes indicate that this clause deals with the power of the court to restrain repossession of certain goods from farmers. If this amendment is to stand, some provision must be included in the Bill for the occupation of the hirers to be shown in the hire-purchase agreements. Clause 3 (2) seems to be the appropriate place. It refers mostly to household goods. Should something be included in clause 3 (2) for this purpose?

The Hon. Sir THOMAS PLAYFORD—If the Leader will look at clause 25, he will see that subclause (1) states:—

Where—

(*a*) goods consisting of a harvester, binder, tractor, plough or other agricultural implement or a motor truck are comprised in a hire-purchase agreement; and

(*b*) the hirer is a farmer,

then some consequences arise from that. The amendments say that, if the hirer is a farmer, he should be described as such in the agreement. So it will be set out in the agreement that he is a farmer. He cannot get the benefits of this particular provision unless it is disclosed to the owner that he is a farmer. This merely makes it necessary for him to set it out in the agreement.

Mr. Stott—That would include a share farmer?

The Hon. Sir THOMAS PLAYFORD—Yes; it would have not a limited but wide application. If there is any criticism of the amendment, it is that it is only stating something that is already an obvious fact. If it is desired to dot a few "i's" and cross a few "t's" I do not mind that being done.

Amendment agreed to.

Amendment No. 20.

The Hon. Sir THOMAS PLAYFORD—Clause 26 (3) is a new subclause which will take away any right of sale under a lien. The right of sale is peculiar to this State, and the new subclause will bring our law into line with that in other States. The original clause confers a right on a worker to hold the goods in certain circumstances, which right did not previously exist. The new subclause limits that new right to holding the goods. The goods cannot be sold by the worker. He is protected in the holding of his goods but it does not give him the right to sell them.

Amendment agreed to.

Amendment No. 21.

The Hon. Sir THOMAS PLAYFORD—This amendment limits the protection as regards fixtures to owners and mortgagees.

Amendment agreed to.

Amendment No. 22.

The Hon. Sir THOMAS PLAYFORD—A proviso has been added to make it clear that a false statement by a dealer (which is made an offence) will still be subject to the ordinary law: that is, the hirer can still pursue his

civil rights in the ordinary way. This is a desirable amendment and is a distinct protection to a purchaser.

Amendment agreed to.

Amendment No. 23.

The Hon. Sir THOMAS PLAYFORD—A new clause has been substituted to enable an owner to obtain a court order for delivery of the goods in the event of default, and to confer power on the court to issue a warrant to the bailiff to enforce the order. The new clause will give an owner an opportunity, with safeguards, to enforce the order. The amendment is reasonable.

Amendment agreed to.

Amendment No. 24.

The Hon. Sir THOMAS PLAYFORD—A proviso has been added to clause 37 to enable the advice to hirers to be given by ordinary post instead of by registered post, which seems unnecessary and which would involve owners in considerable expense.

Amendment agreed to.

Amendment No. 25.

The Hon. Sir THOMAS PLAYFORD—This amendment makes it clear that the cost of proceedings is entirely in the discretion of the court.

Amendment agreed to.

Amendment No. 26.

The Hon. Sir THOMAS PLAYFORD—This is purely a machinery amendment which will enable regulations to be made determining what courts shall have jurisdiction.

Amendment agreed to.

Amendment No. 27.

The Hon. Sir THOMAS PLAYFORD—The amendment inserts a new clause 44a, which renders it lawful to hire out goods on rental on the understanding that if the hirer subsequently wishes to buy the goods he may do so and receive credit for the amount paid as rent. Technically, such transactions are offences under the Trading Stamp Act, but they are not the type of offence at which that Act was directed. These transactions are not undesirable in themselves. The new clause is desirable from the hirer's viewpoint.

Amendment agreed to.

Amendment No. 28.

The Hon. Sir THOMAS PLAYFORD—This is a much more important amendment in that it removes Part VII from the Bill. Part VII contains clauses 45 to 48 which were debated at length in this House and in the other place. The Government believes that this Bill is eminently desirable in that it will confer benefits on the hiring part of the community. It will correct many abuses that are taking place at present. The Government is anxious for the Bill to be passed and hopes that it will not be wrecked as a result of the proposed amendment. I know that members opposite are most anxious to retain these clauses, as are one or two members of my Party. They have advocated that there should be some provision relating to minimum deposits. If this amendment is accepted so that the Bill can become law without further delay, I will undertake that the Government will be prepared to consider any cases that are brought forward showing that abuses still exist, and if abuse is established the Government will sponsor a Bill to provide for deposits.

Mr. FRANK WALSH—The Opposition has not changed its views on this matter. When these clauses were originally inserted in the Bill the complement of this House was somewhat different. The late member for Light (Mr. Hambour) and other businessmen supported our contention that persons entering into hire-purchase agreements should have some equity in the articles they were obtaining. It was suggested that a deposit of 10 per cent of the purchase price of an article might create hardship in some cases, but we are anxious to protect the hirers. I do not want to judge people who enter hire-purchase agreements, but some people do not know when to stop. Hire-purchase to some people is an obsession. I know of one family that received social service benefits as well as help from the Children's Welfare Department. One member was gaoled for six months and on release the family decided to get him a used motor car. In order to provide the deposit a bill of sale was given over the refrigerator, wireless, washing machine and electric stove. However, the instalments were not paid on the car and the financiers were going to take action. I asked what they hoped to get out of it because immediately they removed the articles from the home the woman would rush to Adelaide to enter into more hire-purchase agreements. I do not know how the case concluded, but the family subsequently entered into an agreement to purchase a television set, and that was when the woman lost her assistance from the Children's Welfare Department. The man who arranged to sell them the television set told me that he had paid 50s. to have the antenna erected and I advised him that the best thing he could do was to pay 50s. to have it dismantled so that he could take it away.

Refrigerators are a necessity nowadays and many people get them on hire-purchase. However, if a man works overtime and his income is inflated thereby he frequently procures an expensive washing machine on hire-purchase and when his overtime cuts out he is confronted with making payments on two articles. Frequently, he is unable to afford the double payments and sometimes loses both articles. If we provide that there must be a deposit on a hire-purchase transaction then people will think twice before they commit themselves too heavily. This House is a popularly elected House, and the limited franchise House that corrected us should be reasonable in its approach to this matter. I accepted the Premier's statement that the Government desires this Bill. The Opposition also desires that it be passed, but in the form in which it left this House.

Mr. STOTT—This amendment goes to the whole root of hire-purchase. This afternoon we heard that the Reserve Bank, in an effort to halt inflation, had drawn funds from the trading banks to restrict their advances at the overdraft rate of 5½ per cent. This amendment will do exactly the opposite because, if a deposit is demanded on a hire-purchase transaction, that tends to halt inflation. Once trading banks, which have been lenders of money through the ages, were the only people apart from a few concerns and building societies that had money available. Although banks are now restricted in lending money, there is nothing to stop a person who has been unsuccessful in obtaining a bank overdraft from borrowing money at an interest rate of eight per cent flat under hire-purchase. This does not help halt inflation, nor does this amendment. The will of this House should prevail, firstly, because we have the popular vote, and, secondly, because we have a greater appreciation of the financial position this country is getting into. I ask members to insist on a minimum deposit. Although I would have preferred a higher deposit, I am satisfied with 10 per cent.

Mr. HUTCHENS—I appreciate the Government's desire to get this Bill through, but, as the Premier's assurance this afternoon was the first we had, I ask for time to consider the amendment.

The Hon. Sir THOMAS PLAYFORD—I ask that consideration of amendment No. 28 be deferred until after consideration of amendments Nos. 29, 30 and 31.

Consideration of amendment No. 28 deferred.

Amendment No. 29.

The Hon. Sir THOMAS PLAYFORD—In this amendment the form of the schedule has been amended to bring it into line with clause 3. This is consequential on amendments this Committee has already accepted to that clause.

Amendment agreed to.

Amendment No. 30.

The Hon. Sir THOMAS PLAYFORD—Amendments Nos. 30 and 31 are consequential on the amendment to clause 7, covering the charge of 5s. for any additional copy of the hire-purchase agreement asked for by the hirer. They are in accordance with what has already been approved by the Committee, and I ask that they be agreed to.

Amendment agreed to.

Amendment No. 31 agreed to.

Progress reported; Committee to sit again.

KIDNAPPING BILL.

Adjourned debate on second reading.

(Continued from October 13. Page 1356.)

Mr. HUGHES (Wallaroo)—I do not wish to give a silent vote on this matter. In view of the tragic happenings in the Thorne case in New South Wales it is readily understood that a Bill of this nature should be introduced. I know of no crime that I detest more than the kidnapping of a child. The terrible ordeal suffered by a kidnapped child could bring about mental unbalance for the remainder of its life, and the torment and worry of the parents, who would be wondering where their child was and whether it was still alive, would be enough to drive them beyond all human endurance. I have read carefully the *Hansard* reports of remarks of other members, and was disappointed to find that strong personal interjections entered into this debate.

This Bill has become necessary through the introduction into the Commonwealth of Australia of American gangster ideas. Through our generosity toward the peoples of other countries there has come into our midst some of the American type of crime, and, even though I do not subscribe to the Bill in its entirety, I commend the Government for introducing it. Generally, of course, we can see the objectives of this Bill, which is designed to act as a deterrent. Apparently part of clauses 2 and 3 has been added in an attempt to act as such. Previously I pointed out to the House that I would not vote for what I believed to be a complete relic of barbarism. I will vote for the second reading of this measure, but I hope that in the Committee stages an amendment to delete from clauses 2 and 3

the words "may be whipped" will be carried. I do not think the warped reasoning of people who take part in a kidnapping would allow a whipping to deter them from carrying their plan into effect. I do not wish to be misunderstood; I believe the severest type of punishment should be meted out to people taking part in a kidnapping. However, a prison sentence of solitary confinement for the rest of the prisoner's life, with no chance of release after a certain number of years, would act as a greater deterrent than any whipping could ever do. Although we are living in a changed community, Christian principles are as high now as ever they were, and this Parliament is responsible to the community at large. I am sure that if an outside vote were taken on this matter the community we represent would say that guilty persons must be punished severely, but not by barbarity. If this Bill is passed in its present form, it will be a retrograde step and a blot on the progress of this State. I support the second reading.

Mr. FRED WALSH (West Torrens)—I am sure we all endorse the sentiments expressed by the member for Wallaroo (Mr. Hughes). Our feelings about crimes of this nature are very strong. It is unfortunate that we are dealing with this type of legislation at a time when the feelings of the people are raised to such a high pitch against such crimes. Perhaps we are inclined to some extent to be stampeded into passing legislation in such a way that if it were not for the existing circumstances we might form a slightly different opinion and be prepared to weigh up the matter more closely.

I think most people were surprised to know that this class of legislation was not on the Statute Book. It was generally expected, I think, that some Act of Parliament could be used in the event of something like this happening. It is the first time a crime of this character has been committed in Australia, although it is not, of course, the first time an act of kidnapping has taken place. As pointed out by a member on the other side of the House, there have been many instances of a woman taking a child from the custody of her husband after they had become separated and that child had been legally placed in the husband's custody. The opposite has also taken place. A similar case occurred recently in Queensland.

These cases are not nearly as serious as the one that has caused so much concern to the people of Australia and is concerning the people today because of circumstances I shall not mention here. I agree with the member for Wallaroo that we should be able to introduce legislation to provide a sufficiently drastic penalty that will act as a deterrent to any person or persons who may contemplate such an act as this. As he said, it can be done without resorting to acts of barbarism. Whippings are something reminiscent of medieval days. I have seen whipping in the Middle East; it is inflicted not in cases of criminal acts of the kind we are discussing but for stealing, perhaps for taking something off a street barrow, or committing some other pilfering act against the laws of the town. Rather than fill the penal institutions with this class of offender, the authorities round up the guilty persons and impose summary sentences of whipping and caning. The offenders stand on a landing which has three or four steps; their names are called; the number of strokes they are to receive is announced; they are given a shove, and before they have a chance to hit the ground four or five burly policemen take hold of them, whereupon they are caned according to the sentences imposed upon them. I cannot imagine anything more barbarous than that. I think members would agree that it certainly should not be permitted in those cases, and I cannot subscribe to it in cases such as we are discussing.

Mr. Riches—Is pilfering less prevalent as a result of the punishment you have mentioned?

Mr. FRED WALSH—No, that is the way most of them live: they live off one another. However, if it were not for those summary penalties the prisons would be full. Some of us might feel that that penalty is not suitable for the crime. Even though a whipping is prescribed in other legislation in this State it still does not mean that we should subscribe to it. It is for those reasons only that I express my objections to the Bill, for I subscribe to it wholeheartedly in every other sense. The member for Barossa (Mr. Laucke) referred to an alteration of the wording on that particular aspect of the penalty. However, I have studied what he has said, and I feel that it would not make any difference at all to the effect, because I believe that what he feels should be necessary is still in the Bill, but written differently. I therefore do not see any value in his suggestion. Apart from the question of whippings, I would say that we on this side of the House entirely agree with the provisions of the Bill, which I support.

Mr. QUIRKE (Burra)—I support the Bill, but like some other members I am old enough to know now that there is no wisdom and nothing corrective in a whipping. I have grown to appreciate that it is not only degrad-

ing to the person being punished, but the mere fact that a civilized society inflicts such a penalty without achieving anything other than a spirit of revenge degrades that civilized society itself. I think that type of punishment in these so-called enlightened days is unworthy of us. What does it achieve? We hurt the man who has hurt somebody else by kidnapping his child. This is one of the foulest crimes, but do we achieve anything by giving that person a whipping and degrading ourselves in so doing? We hurt him, and all we do then is to exact a sort of personal revenge upon him. I think we should be above that, and I do not subscribe to it.

I am not the softest individual in this House, but I think I have lived long enough to know that we achieve nothing from this sort of punishment. Many of the younger members of the House who are now so vociferous in their support of cutting the skin off somebody's back will have seen the error of their ways by the time they have reached my age. I do not intend to take any action on this aspect because I know the Bill will be passed, but not many years will have passed before the people who today so wholeheartedly support the degradation of hammering the hide off somebody's back, as was done in less enlightened days, will realize that when they advocated such a thing today they were mistaken.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—"Kidnapping."

Mr. DUNSTAN—I move—

After "unlawfully" in subclause (1) to insert "and without a *bona fide* claim to custody".

In the second reading debate I pointed out the grave dangers in interfering with the common law relating to custody as it stood. I pointed out that the substantive provision relating to child stealing is contained in section 80 of the Criminal Law Consolidation Act, which provides:—

Any person who unlawfully, either by force or fraud, leads, takes, decoys, or entices away or detains any child under the age of 14 years; harbours or receives any such child, knowing him or her to have been by force or fraud led, taken, decoyed, enticed away or detained, with intent—

(i) to deprive any parent, guardian, or other person having the lawful care of such child of the possession of such child; or

(ii) to steal any article upon or about the person of such child to whomsoever such article may belong,

shall be guilty of felony.

That is the substantive provision at present. This House very wisely, in accordance with the provisions of the Offences Against the Person Act, 1861, in Great Britain, wrote into the Act a proviso which reads:—

This section shall not render liable to prosecution any person who, in the exercise of any *bona fide* claim to the right to possession of any child, whether as the mother or father of a child which is illegitimate, or otherwise, obtains possesion of any child or takes such child out of the possession of any person having the lawful charge thereof.

It was necessary, in order to protect people acting on the basis of a *bona fide* claim to the custody of the child, to have that provision there. This, I would have thought, was fairly obvious in the law. The member for Mitcham (Mr. Millhouse) addressed an argument to the House on the basis of an old case not related to the statutory child stealing offence but to a common law claim of abduction, which has entirely different ingredients, and read into that case what cannot be read into the case, namely, that a mere claim to the right of the child gives a defence to a statutory offence of this kind, without any such proviso in it. In other words, what the member for Mitcham is saying is that the words in the Criminal Law Consolidation Act that give a defence to a person who has a *bona fide* claim to a right of custody of a child are unnecessary. If they were not there the honourable member would apparently allege, according to the case he read in an old report before the passing of the statutory offence in 1861, that it would not make any difference because that would be giving a complete answer.

Mr. Millhouse—Are you saying *R. v. Tinkler* is not good law?

Mr. DUNSTAN—I am saying it has no relationship whatever to a statutory offence of this kind. I am saying, what is more, that *R. v. Tinkler* does not go to the matter of *mens rea*. If the honourable member had taken the trouble to go into the ingredients of the law he would have seen what the case was about. It bears no relationship to a defence against the statutory provision we write here. It would be impossible to go before a court and say "Look, I thought I had a claim to this child. I did not know it was an offence to do this. Therefore, I cannot be convicted". If the honourable member were to try that defence before the Criminal Court, I am afraid that his client would

not be happy with the results. I refer him to the *Chetwynd* cases and *R. v. Crossman.* That makes it perfectly clear what the meaning of this particular proviso is and that the proviso is necessarily there for anyone who has a *bona fide* claim of right. A person having a *bona fide* claim of right who nevertheless took a child from its lawful guardian, under the Criminal Law Consolidation Act, cannot be guilty of an offence.

The very people about whom I speak as having a *bona fide* claim of right in the custody of a child in no way are related to kidnapping. What is the harm in providing for the defence that I suggest in my amendment and to write into the law that a person who has a *bona fide* claim of right to the custody of a child shall have a defence, the same as is provided in the Criminal Law Consolidation Act? If the honourable member says it is unnecessary, why did the House of Commons take the trouble to write into the law the statutory defence I have outlined? Also, why is it included in the Criminal Law Consolidation Act? The most prominent draftsmen in the world have written in a series of words and are they to be considered to be mere surplusage? The cases I have cited make it perfectly clear that this section was necessary to give people with a *bona fide* claim of right to the possession of a child a defence.

Sir Horace Avory, who appeared for the Crown in the cases I have mentioned, made it perfectly clear that had it not been for this section the mother of the child in question, Mrs. Chetwynd, would have been given no defence, despite the fact that she was the mother of the child and had a *bona fide* claim of right to its possession and attempted to exercise her rights in the matter. Apparently the opinion of Sir Horace Avory and the Lord Chief Justice Alverstone and others goes for nought. Surely the honourable member and the Government could compromise.

The words I have suggested will do no harm. Where is the harm in accepting the amendment? I have had some varied experience of the law in custody matters concerning people who were rightfully exercising a claim to the right of possession of a child. In the cases I mentioned previously of people who had no legal claim to a child in the way of relationship, but had the practical custody of the child over a period, that child ought not to be removed from them because of the harm which could occur to the child through its removal from the custody of people whom it had grown up to love. The parents try to exercise their control over the child who then runs back to the people he has always known. Clearly these people do not commit any offence against the law of child-stealing and on many occasions the court has upheld this. Many people know what happened to Philip Hargreaves. Should the person who had his custody come under the kidnapping provision and be due for a whipping? The reason no action was brought in the Criminal Court against the person concerned was that there was this clear defence in the Criminal Law Consolidation Act. Why cannot we provide that people who have a *bona fide* claim of right be not considered kidnappers? That is all we are asking for and there is no reason why it should not be allowed. Mr. Millhouse must be forced to the admission that what I am proposing to include cannot do any harm to anyone. I consider that my amendment will give much needed protection to people who might otherwise find themselves in very great difficulties.

Mr. MILLHOUSE—I always feel that in this place legal argument is very stale and unprofitable. Therefore, I do not propose to enter into a legal argument with the honourable member on this matter. As I said in my speech on the second reading, I am confident that the honourable member has misconstrued this clause and has failed entirely to give proper weight to the words "to the intent that or whereby such person may be or is held, confined or imprisoned or prevented from returning to his normal place of abode or sent or taken out of the State . . . ". As I said previously, unless that intent or the fact of the "holding confinement or imprisonment, etc" is proved, either one or the other, then the offence is not committed. I suggest that the honourable member has entirely failed to take these words into account. If they were absent from the clause there may very well be something in what he says. In fact, what he has said does not take account of those words and I suggest that is a complete answer. I suggest to the Committee that it is unnecessary to insert his amendment and also that the answer to what the honourable member's amendment provides are in the words I have already mentioned. That is fundamental to the clause and if a prosecution under the clause is to succeed then the intent or the fact of the "holding, confinement or imprisonment" must be proved. I oppose the amendment.

Mr. DUNSTAN—I regret that we seem to be getting into a sterile legal argument and that the honourable member seems to have taken no notice of the law's requirements in relation to

those custody cases, nor does he seem to have read subclause (2) which provides:—

A person under the age of 18 years shall be deemed incapable of consenting to being led, taken, decoyed, inveigled or enticed away, abducted, seized, carried off, detained, held, confined or imprisoned.

In other words, if a person is held with his consent, that still falls within the provisions of the section. One does not have to confine or imprison a person forcibly or without his consent, if he is under 18 years. When an application is made to the court for the custody of an illegitimate child it is necessary to have a writ of *habeas corpus*, which is based on the fiction that a person is held against his will. Therefore, it comes back to the court and the court considers that he has been detained even where it is with his consent if he be a child. That is exactly the same as that which has been written into this clause.

It is clear that if a person takes away a child who is in the lawful custody of another person, even if it is with the child's consent, then we might have a *bona fide* case of right, but under this clause a person will be liable for life imprisonment and a whipping unless there is written into the clause the provision which I seek to have included. There is nothing in the clause as regards intent which makes it any different from the common law provision, and the honourable member must know the fiction to which the law goes on this subject. There is only one way to protect the people I mention and that is by doing what I propose. The only thing that the honourable member can allege against it is not that it makes the clause any worse or will allow any kidnappers to get away; but he says that the words suggested are unnecessary and should not be included. From my experience in custody cases I consider it most vital to the protection of the rights of the law to determine the custody of a child that the words I suggest should be included. I urge the Committee to accept the amendment.

The Hon. Sir THOMAS PLAYFORD—(Premier and Treasurer)—Obviously I am not qualified to get into a legal argument with two such eminent legal men, but I have had a report on the amendment and it strongly favours the argument put forward by the member for Mitcham. In broad terms the report says that the member for Norwood is wrong in his conclusion, and that the amendment is not necessary. Whether I should cite cases to prove this I do not know, but I oppose the amendment. I shall have these latest remarks by Mr. Dunstan considered by the Crown Law Office, and if this Bill is allowed to pass here I shall have any amendment necessary to the provision made in another place. In South Australia we do not want a kidnapping like the one that occurred in New South Wales. The Bill requires much legal consideration. When it was decided to introduce it the Government did not get the advice of the Crown Law Office only, but called on the best legal brains available to the Government. It was thought that tremendous legal argument could arise. I do not ask Mr. Dunstan to withdraw his amendment. I shall oppose it and even if it is defeated I shall see whether or not the matter should be dealt with in another place. The advice I have is contrary to the argument put forward by Mr. Dunstan.

Mr. Dunstan—Is the report from people experienced in the law of custody,

The Hon. Sir THOMAS PLAYFORD—The honourable member is not the only legal man in South Australia experienced in custody law. Other authorities are competent to give decisions on legal matters. We do not want to be pedantic. If there is any doubt about the legal position we should clarify it. I do not say these things in the hope that the honourable member will withdraw his amendment.

Mr. Lawn—Why not report progress?

The Hon. Sir THOMAS PLAYFORD—We have already reported progress on one matter this afternoon, and in any case this Bill has been before Parliament for some time. No new circumstances have arisen in connection with it. Obviously there is a difference of opinion on the legal interpretation of certain words. Mr. Millhouse says they mean one thing and Mr. Dunstan says they mean something else. The Crown law authorities do not support Mr. Dunstan. After reading his full statement they may find it necessary to alter their opinion, but I do not know about that. I cannot agree to report progress because that would not solve the difficulty.

Mr. LAWN—Parliament would be ridiculous if it accepted or rejected this proposal knowing that later expert advice is to be obtained regarding it. The Premier said that he would get the opinion of the Crown law authorities on this matter, and we would be ridiculous if we proceeded with the matter when we do not know the true legal position regarding the amendment. We are asked to pass this matter, about which we have a doubt, on the promise by the Premier that the position can be rectified in another place if necessary. I think the

proper procedure would be to report progress pending the receipt of information from the Crown Law Office.

The Hon. Sir THOMAS PLAYFORD—I am sorry that I cannot agree with the honourable member. Frequently Parliament deals with matters with which members do not have an intimate knowledge. The Public Works Committee accepts evidence tendered by our engineers. It is sometimes necessary to accept the views of experts. I have a full report on Mr. Dunstan's amendment, and if members want to hear it I shall read it.

Mr. Riches—Does it say there is harm in the amendment?

The Hon. Sir THOMAS PLAYFORD—Yes.

Mr. Corcoran—You said that you had obtained the highest legal opinion on the matter.

The Hon. Sir THOMAS PLAYFORD—Yes.

Mr. Stott—Where did you get it? From the Crown Law Office?

The Hon. Sir THOMAS PLAYFORD—From the Parliamentary Draftsman. It is as follows:—

The adverse criticisms advanced by Mr. Dunstan may be summarized as follows:—

(1) While "unlawfully" covers the case of a person who acts in the realization that he has no claim to custody, it would not cover the case of one who has a *bona fide* claim to custody, which on examination is unfounded in law.

(2) The Bill alters the common law "and says that no one under the age of 18 years can consent to going into some custody other than that of the parent or guardian".

(1) This is wrong in two ways:—(*a*) It involves a disregard of the wording of the clause. (*b*) It involves a disregard of well established principles of criminal law.

(*a*) An offence would only be created where the abducting was "to the intent that or whereby such person may be or is held, confined, or imprisoned or prevented from returning to his normal place of abode or sent or taken out of the State". A person who takes into his custody a child and in so doing has a *bona fide* claim to such custody can hardly be said to have an intent, or, in fact, would rarely, hold, confine or imprison the child in his charge. The aim or result of an abduction or taking into custody would almost inevitably be bound up with the welfare of the child, and not some action which would amount or amounts to false imprisonment. From this point of view, Mr. Dunstan has not given proper weight to this part of the section.

(*b*) His criticism entirely overlooks the general principle of the criminal law that any person against whom it is alleged that he has "taken" something "unlawfully" always has the defence of "claim of right". This is a general principle and is not confined to larceny, embezzlement, fraudulent conversion—see, for example, *Tinkler* 175 E.R. 832: 1 F. & F. 513. Any person finding himself in the circumstances outlined by Mr. Dunstan would be able to say to the court "I was acting for what I thought was best for all concerned and in the honest belief that I was entitled to do what I did", and if this was a reasonable possibility he would be entitled to be acquitted. It must not be overlooked that (as Mr. Dunstan has said himself over and over again) personal liberty is a precious thing and is becoming more so day by day, and it is only right that people should be deterred from interfering in any way with the safeguards that protect it.

(2) The short answer to this is that the Bill neither does nor purports to do anything of the kind. If a youth or maiden, for whatever reason, whether deceived or misled or merely ill-advised, goes to live with a stranger who had no right to custody of the child, that stranger could by no manner of means or argument be brought within the sanction of the clause as drafted. The stranger would not have the intent nor would the result follow which is proscribed by the clause. If, moreover, such youth or maiden, went to someone else's custody with his or her consent given in fact in the absence of fraud or duress, it is rather difficult to see how he or she could be said to have been "led, taken, decoyed, inveigled or enticed" away, and if that had been achieved without fraud or duress, then there would be a complete absence of a guilty mind. In either event the stranger would be not guilty.

Whether that is right, or whether Mr. Dunstan's contention is right, I am not in a good position to say. I have said that irrespective of the result of the vote on the amendment here I shall have the matter re-examined following on Mr. Dunstan's latest statement. If there is any doubt about the matter it can be dealt with in the appropriate way.

Mr. LAWN—I am astounded at the information given by the Premier who led us to believe that in the drafting of the measure he had the highest legal advice available. We on this side of Parliament—in fact, probably the majority of members—thought that the Premier was speaking of the Crown Law Office. It was not until the interjection by the member for Ridley (Mr. Stott)—the Premier delayed reading the report until a few minutes ago although he had had it for some time; previously, he did not want to give the report to members—who asked "Is that from the Crown Law Office?" that the Premier said "No; it is from the

Parliamentary Draftsman.'' What the Premier read out from that report we had earlier this afternoon from the member for Mitcham (Mr. Millhouse). We felt that there was a difference of view between the member for Norwood and the member for Mitcham and thought the Premier was going to place those views before the Crown Law Office. I ask that that be done. In the meantime, will the Premier delay asking the House to vote upon this Bill until we obtain the opinion of the Crown Law Office, to clarify the opinions of the member for Mitcham and the member for Norwood? We believed this afternoon that the member for Mitcham was expressing his own opinion, but now we find that it is the opinion of the person who drafted the Bill.

Does the Government want to steamroller this Bill through the House? I protest against the way the Bill is being handled by the Government. It gets the Parliamentary Draftsman to give a report in respect of the measure he has drafted. He hands the report to the member for Mitcham to use in the House, and the Premier says ''If the House passes it or rejects it, I will submit it to the Crown Law Office for opinion.'' We believed that the highest legal opinion had been forthcoming from the Crown Law Office in addition to that of the Parliamentary Draftsman. I object to this procedure, to this Bill being railroaded through this House. I demand that I be not asked to cast my vote on this measure now because I want to cast an honest and intelligent vote. I do not want to vote today. Yet I support the principles of the Bill. I am not antagonistic to the Bill, but I want to cast an honest and intelligent vote. I want to hear what the Crown Law Office has to say, not upon the opinion of the member for Mitcham but upon the opinions of the member for Norwood and the Parliamentary Draftsman.

The Hon. Sir THOMAS PLAYFORD—Let me make clear the Government's purpose in introducing this Bill. It has no other purpose than to try to protect innocent citizens. That is its only purpose. I was correct when I said that we had this Bill drafted with much more than ordinary care. The Crown Solicitor sat in, waited upon me, and discussed it with me and with the Parliamentary Draftsman before the Bill was produced. It was produced, as I say, as a result not of one opinion but of the best advice that the Government could get. The member for Norwood has expressed his view upon it quite freely. He has stated his view of what he believes to be the position, but I venture to suggest that the Government can do nothing to make this Bill acceptable to the member for Norwood unless it completely alters its nature.

Mr. Dunstan—Then why on earth do you think I would vote for the second reading?

The Hon. Sir THOMAS PLAYFORD—The honourable member has stated his views upon the Bill and I have no objection to that. However, I am informed by the Parliamentary Draftsman that the report that has been issued was prepared in consultation with the Crown Law Office. I am happy if the honourable member wants some time in which to make up his mind. Let him have some time to study the authorities that have been cited.

Progress reported; Committee to sit again.

EVIDENCE ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from August 24. Page 770.)

Mr. DUNSTAN (Norwood)—I support the provisions of this Bill as they stand. I see no objection whatever to them, but I intend to move some amendments in Committee. As these are matters which I think affect severely the present administration of justice, the earliest opportunity should be taken of bringing them before the House. This appears to me an adequate opportunity to do so. As the matters on which I intend to move amendments are not contained in the Bill as it stands, I do not propose further to debate the Bill at this stage. I simply support the second reading.

Bill read a second time.

Mr. DUNSTAN moved—

That it be an instruction to the Committee of the Whole House on the Bill that it have power to consider amendments relating to the suppression from publication of names of accused persons and of evidence at a preliminary inquiry.

The House divided on the motion:—

Ayes (16).—Messrs. Bywaters, Clark, Corcoran, Dunstan (teller), Hughes, Hutchens, Jennings, Lawn, Loveday, McKee, Quirke, Ralston, Riches, Stott, Frank Walsh and Fred Walsh.

Noes (17).—Messrs. Brookman, Coumbe, Dunnage, Hall, Nicholson, Harding and Heaslip, Sir Cecil Hincks, Messrs. Jenkins, King, Millhouse, Nankivell, Pattinson and Pearson, Sir Thomas Playford (teller), Mr. Shannon and Mrs. Steele.

Pairs.—Ayes—Messrs. Tapping and Ryan. Noes—Messrs. Laucke and Bockelberg.

Majority of 1 for the Noes.

Motion thus negatived.

Bill taken through Committee without amendment. Committee's report adopted.

Bill read a third time and passed.

MONEY-LENDERS ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from August 30. Page 840.)

Mr. DUNSTAN (Norwood)—The proposals contained in the Bill to make it unnecessary for a company which is a registered money-lender under the Act to make certain returns, and also simplify the question of to which local court a company must make its returns. However, it is a long time since legislation concerning the administration of money-lending in this State was before this House. Money-lending has got to the stage where the original intentions of this House, as contained in the principal Act, are not being complied with. This is of grave concern to people who encounter cases of money-lenders taking advantage of unfortunate people. Although it is true that in some cases money-lenders lend money at considerable risk and must expect to get some added return because of that, nevertheless some money-lenders get returns on their money amounting to 25 per cent per annum. I do not think that is a healthy state for society; I do not think that that is right or just in relation to the person who has applied to the money-lender; and I do not think it was the intention when the original Act was passed. Indeed, there are provisions in the original Act which would tend to make any layman think that it should not be the case, and that any transaction which would allow for such a rate of interest would be something which the court could re-open. Unfortunately, however, the courts have not tended to re-open cases of this kind and there have been instances where the courts have found that the rates of interest are something with which they will not interfere.

I do not think that was the original intention of this Legislature and as we now have the opportunity to do something about it expeditiously I propose, on the carrying of the second reading, to move for an instruction to the Committee. I cannot debate the contents of that instruction in full, because it is not at present before the House, but I have briefly outlined the attitude I shall take on the matter.

Bill read a second time.

Mr. DUNSTAN moved—

That it be an instruction to the Committee of the Whole House on the Bill that it have power to consider amendments relating to excessive rates of interest.

The Hon. Sir THOMAS PLAYFORD (Premier and Treasurer)—Generally speaking, the Government believes that if a Bill is introduced for a specific purpose and members wish to deal with some other purpose then they should move in their own right on private members' day to amend the Act to enable it to be debated. When we were considering the Evidence Act Amendment Bill the member for Norwood wanted the House to consider something entirely outside the scope of the Bill which the Government had introduced. He could have introduced an amendment to the Act on private members' day. The Government proposes to oppose his present motion whereby he seeks to fix a flat rate of interest. The honourable member did not discuss that subject, and I do not propose to. I have examined the principal Act to see if it deals with these matters and, as a matter of interest, sections 29 and 32 specifically deal with them. In those circumstances I oppose the motion.

Mr. STOTT (Ridley)—This matter goes to the root of the system of Parliamentary government. I have fully examined the question of the rights of members to be heard and I am surprised that the Premier should say that because an amendment does not come within the four corners of a Bill Parliament should not discuss it but that a private member should introduce a Bill to deal with that subject. Parliamentary procedure should be precise and when a Bill to amend a principal Act is before the House a private member is entitled to be heard. Whether or not we agree with the private member's amendment is another matter but surely we must uphold the rights of citizens in a democracy and give members the right to be heard. The principle of this contingent notice of motion is that it be an instruction to the Committee of the Whole House that it have the right to hear the honourable member's amendment. Therefore, I make it perfectly clear that I stand four-square on the right of Parliament to hear an elected representative of the people.

Mr. QUIRKE (Burra)—I join with the member for Ridley and I appreciate that the Government wishes to pass its legislation and that it uses the machinery of the House to get it through, but there is provision in the Standing Orders of this House for this instruction. The

wisdom of those who formulated the Standing Orders is not now in dispute and there must have been a reason for that provision; I suggest that is one of the reasons. I appreciate the Government's position but I also appreciate the right of the private member. The private member would not get a say at all, but for this instruction, unless he introduced a Bill containing his amendment and if he did introduce a private Bill he would come up against the full weight of opposition in Parliament and, incidentally, might waste the time of the House too.

This question has cropped up frequently and it is time the House recognized the right of every one of its members to participate in Parliament. Parliament is not the Government; the Government is something apart from Parliament.

The Hon. D. N. Brookman—Do you know of any other Parliament where the private members get as good a go?

Mr. QUIRKE—No, but that is completely beside the point. I am happy with the go private members get here but there is no reason why they should not have everything that Standing Orders allow. Why should they have less than that? There are some Parliaments in Australia in which the treatment of private members is disgraceful but that charge has never been levelled at this Parliament. I have been happy in my association with this Parliament and on this matter I have previously been forced to vote against certain members. The Government, by weight of numbers, may push everything through. In another place it may push it through by the power of guillotine but that has not been done here in my time although it is something that has been done in other places. We should not go to the extent of saying that because a Government has introduced a Bill it has the right to oppose this motion. Every honorable member has the right to see that the rights given under Standing Orders shall be observed and that is why I agree with the member for Ridley. If that attitude is upheld it certainly will not detract from the honour and prestige of this Parliament. Indeed, it could add to its lustre.

Mr. RICHES (Stuart)—The Government will not lose anything by allowing the motion to be discussed. The Opposition co-operated with the Government this afternoon when, after the Government opposed a contingent notice of motion, Opposition members remained and assisted the Government to suspend Standing Orders to allow that Bill to pass through its remaining stages. The matter discussed by the member for Norwood is not something brought forward on the spur of the moment because the amendment has been on the files for some time. The member for Norwood had two avenues open to him: he could have introduced a private member's Bill covering the matter or he could have taken this course of asking Parliament to pass a contingent notice of motion when the Government's Bill was before the House.

I believe that the business of Parliament is facilitated by having amendments to the Money-lenders Act in the one Bill rather than having two Bills before the House. I do not think the Government is really prepared to hear a constructive matter brought forward in this way by the Opposition when members belabour the matter or prolong the discussion. However, it would be prolonging the business of the House if the Government insisted that every amendment by an Opposition member should be by way of a separate Bill rather than by such a motion as this.

I hope that the House will carefully consider the vote it is about to cast because I, and the members who have already spoken on the issue, regard it as important. It may affect the procedure of Parliament in days to come. It also affects the rights of members and, therefore, it behoves us all to guard jealously the few remaining rights of private members. I hope in this connection that, because of the steps that have been taken and because of the due notice given, members will allow this contingent notice of motion to be carried.

The House divided on the motion:—

Ayes (16).—Messrs. Bywaters, Clark, Corcoran, Dunstan (teller), Hughes, Hutchens, Jennings, Lawn, Loveday, McKee, Quirke, Ralston, Riches, Stott, Frank Walsh and Fred Walsh.

Noes (17).—Messrs. Brookman, Coumbe, Dunnage, Hall, Nicholson, Harding and Heaslip, Sir Cecil Hincks, Messrs. Jenkins, King, Millhouse, Nankivell, Pattinson and Pearson, Sir Thomas Playford (teller), Mr. Shannon and Mrs. Steele.

Pairs.—Ayes—Messrs. Tapping and Ryan. Noes—Messrs. Laucke and Bockelberg.

Majority of 1 for the Noes.

Motion thus negatived.

Bill taken through Committee without amendment. Committee's report adopted.

ADJOURNMENT.

At 5.36 p.m. the House adjourned until Wednesday, October 19, at 2 p.m.