

HOUSE OF ASSEMBLY

Friday, December 4, 1970

The SPEAKER (Hon. R. E. Hurst) took the Chair at 3 p.m. and read prayers.

QUESTIONS

POP FESTIVAL

Mr. EVANS: Has the Attorney-General further information concerning the rumoured pop festival proposed to be held at Silver Lake, Mylor?

The Hon. L. J. KING: In reply to the question asked by the honourable member on November 11, to date the Inspector of Places of Public Entertainment has not received any application for permission to conduct a pop festival in the area adjacent to the Silver Lake at Mylor. The inspector informs me that, should an application be received, an inspection of the area will be made and the provision of adequate toilet facilities will be requested before any licence will be issued. Action will certainly be taken to prevent pollution of the Onkaparinga River.

WATER RESOURCES COMMITTEE

Mr. COUMBE: In the absence of the Minister of Works, can the Premier say why the Government has refused to release the Bennett committee's report on the water resources of South Australia? This committee was set up by the previous Government, and this was an important exercise affecting everyone in South Australia, in view of the importance of our future water supplies. In replying to my previous question on August 26, the Minister of Works said that he would not release the report. Will the Premier also indicate whether, after it has been considered by Cabinet, the report will be released for members of Parliament and for the general public?

The Hon. D. A. DUNSTAN: I cannot undertake to do that, but I will undertake to consult my colleague.

SUCCESSION DUTIES ACT AMENDMENT BILL

Returned from the Legislative Council with the following suggested amendments:

No. 1. Page 2, line 6 (clause 3)—Leave out "right, power, estate or".

No. 2. Page 2, line 6 (clause 3)—Leave out "or over".

No. 3. Page 3, line 9 (clause 6)—Before "The" insert "Subject to subsection (2a) of this section,".

No. 4. Page 3 (clause 6)—After line 13 insert—

- "(2a) In the case of property being—
- (a) an interest in a dwellinghouse held by the deceased person together with the person deriving that interest on the death of the deceased person as a joint tenant and occupied by the deceased person at the time of his death as his principal place of residence;
 - (b) an interest in a savings bank account held by the deceased person together with the person deriving that interest on the death of the deceased person as a joint tenant;
 - or
 - (c) an interest in a dwellinghouse occupied by the deceased person at the time of his death as his principal place of residence,

the net present value of such properties shall not be aggregated for the purposes of subsection (2) of this section but the duties in relation to a particular person shall be assessed upon the net present value of each such property derived or deemed to be derived by that person from the deceased person as a separate succession and shall be chargeable and payable accordingly and shall be subject to the rebate provided for in Part IVB of this Act."

No. 5. Page 3, line 33 (clause 7)—After "settlement" insert "made by the deceased under which the deceased had an interest of any kind".

No. 6. Page 4, lines 25 to 45 (clause 7)—Leave out paragraphs (j) and (k).

No. 7. Page 7, line 36 (clause 8)—Leave out "shall" and insert "need", and in the marginal note leave out "to" and insert "may".

No. 8. Page 12, lines 32 and 33 (clause 31)—Leave out paragraph (a).

No. 9. Page 13, lines 3 to 5 (clause 31)—Leave out "or as a joint tenant or tenant in common or as a member of a partnership".

No. 10. Page 13 (clause 31)—After line 5 insert—

"'rural property', in relation to a deceased person, means land used for primary production by him at the time of his death and includes animals, farm produce, plant and machinery used or held by him at the time of his death exclusively for the business of primary production in connection with that land, but does not include any motor vehicles designed primarily for the conveyance of persons, household furniture, furnishings and appliances."

No. 11. Page 13, lines 6 to 13 (clause 31)—Leave out new section 55f.

No. 12. Page 13, lines 17 and 18 (clause 31)—Leave out "and section 55f of this Act".

No. 13. Page 13, lines 23 to 41 and page 14, lines 1 to 14 (clause 31)—Leave out all words after "deceased person" in line 23 on page 13 and insert "no duty shall be payable under this Act in respect of the first twelve thousand dollars".

No. 14. Page 14, lines 17 to 43 and page 15, lines 1 to 4 (clause 31)—Leave out all words after "deceased person," in line 17 on page 14 and insert "no duty shall be payable under this Act in respect of the first six thousand dollars".

No. 15. Page 15, line 7 (clause 31)—Leave out "land used for primary production" and insert "rural property".

No. 16. Page 15, line 14 (clause 31)—Leave out "two-fifths" and insert "three-fifths".

No. 17. Page 15, line 20 (clause 31)—Leave out "one-tenth" and insert "one-twentieth".

No. 18. Page 15, lines 30 to 32 (clause 31)—Leave out "land used for primary production or in respect of a dwellinghouse or in respect of moneys received under a policy of assurance" and insert "rural property".

No. 19. Page 15, lines 34 to 42 and page 16, lines 1 to 5 (clause 31)—Leave out subsection (2) of new section 55k.

No. 20. Page 16, lines 7 and 8 (clause 31)—Leave out "land used for primary production or in respect of a dwellinghouse" and insert "rural property".

No. 21. Page 16, line 10 (clause 31)—Leave out "land" and insert "property".

No. 22. Page 16, lines 10 and 11 (clause 31)—Leave out "or, as the case may be intends to use the dwellinghouse as a principal place of residence".

No. 23. Page 16, line 14 (clause 31)—Leave out "land used for primary production" and insert "rural property".

No. 24. Page 16, line 20 (clause 31)—Leave out "land used for primary production" and insert "rural property".

No. 25. Page 16, line 25 (clause 31)—Leave out "land" and insert "rural property".

No. 26. Page 16, line 27 (clause 31)—Leave out "land" and insert "property".

No. 27. Page 17, line 15 (clause 31)—Leave out "land used for primary production" and insert "rural property".

No. 28. Page 20, lines 4 and 5 (clause 38)—Leave out "any rebates calculated as provided in".

Consideration in Committee.

Suggested amendments Nos. 1 and 2.

The Hon. D. A. DUNSTAN (Premier and Treasurer): I move:

That the Legislative Council's suggested amendments Nos. 1 and 2 be disagreed to.

The effect of these amendments is to remove vital words which prevent the avoidance of duty. Without these words in the legislation, a person possessing property may divest himself entirely of it during his lifetime but may retain to himself or to some other person a power of appointment over the disposition of the property. That power of appointment

might then be exercised by will or in consequence of death and, unless such action is to be regarded as a disposition, the transaction might be entirely avoiding duty. The words sought to be removed were in the 1966 Bill and were not then objected to. That Bill was debated in this Chamber and in another place, and no objection was taken to those words. The concept was incorporated specifically and clearly in the Gift Duty Act sponsored by the Liberal Government and was properly accepted.

A similar avoidance device, which was comparable to an entail, was in fact operated by one of the richest South Australian families to avoid duty and, as a consequence, an amendment to the Succession Duties Act was secured by the Playford Government to protect the revenues of the State. These suggested amendments would seriously compromise that amendment and would leave the way wide open to an avoidance of not merely thousands of dollars but millions of dollars in duty. They would give a gift, in effect, to the most wealthy people in South Australia, with the avoidance of duty by means of dispositions of this kind. I seriously submit to the Committee that in no circumstances should this raid be made on the revenues of the State.

The Hon. D. N. BROOKMAN: I ask the Treasurer whether there are any instances in which duty will be payable twice if the relevant definition is not altered. As I do not have the advantage of the *Hansard* pulls of the Legislative Council debate on this matter, I am at a disadvantage in trying to understand the full implications of the amendments.

Mr. Venning: We all are.

The Hon. D. N. BROOKMAN: I want to know whether duty would be payable twice if these words were left in the Bill in the definition of "disposition". I understand that there was discussion in another place about the possibility of a widow, with some rights as to disposition, paying the duty twice.

The Hon. D. A. DUNSTAN: I see no way in which the wording of the Bill as it stands, without this amendment, would provide for double payment on a disposition.

Mr. McANANEY: Why is it necessary to have the words "or over" in this definition?

The Hon. D. A. DUNSTAN: This is consequential on the first amendment; it relates to the "right, power, estate or interest in any property".

Motion carried.

Suggested amendments Nos. 3 and 4.

The Hon. D. A. DUNSTAN: I move:

That the Legislative Council's suggested amendments Nos. 3 and 4 be disagreed to. These amendments are entirely contrary to the principle of the Bill. Although they purport to be justified to look after a widow, they are in general terms and apply to any beneficiary, to any extent whatever, the value of the house or of the bank account. They also treat as separate each separate property and entitle each of these to a statutory rebate. This runs entirely contrary to the principle of aggregation of an individual successor's inheritance that was specifically set forth in the policy speech of the Government at the election.

Mr. Coumbe: You believe in aggregation.

The Hon. D. A. DUNSTAN: I believe in aggregation of each succession going to the one person. What is happening under the amendments, however, is that there can be a statutory rebate for every house or bank balance inherited. If a person had 20 bank balances there would be a separate remission in respect of each one.

Mr. Coumbe: That would do me.

Mr. Venning: And me too.

The Hon. D. A. DUNSTAN: I am not talking about the amount of the inheritance that my successors will be entitled to, because as far as I can see all they will inherit is a liability. Regarding the people who are being asked to pay revenue, the effect of this amendment is extraordinary. The sort of disposition that could be made could be fragmented indefinitely. In fact, a person could have 20 bank accounts and a dwelling worth more than \$12,000, and each of these could receive a benefit of \$12,000 deduction to a widow—about \$250,000 free of duty. One could pass on \$250,000 without paying anything. It will destroy the existing revenues of the State completely if this sort of thing is allowed in the Bill. The suggested amendments are most extraordinary and I ask the Committee not to agree to them.

The Hon. D. N. BROOKMAN: I first saw these suggested amendments 10 minutes ago, and I have not the report of the debate in the other place to read. However, on the description that we have been given, I am completely dissatisfied about accepting the Treasurer's assurances. If I had had some chance to examine the matters, I should be able to discuss them.

The Hon. Hugh Hudson: Read the last six lines.

The Hon. D. N. BROOKMAN: I have not had time to do that. It is all very well for the Minister of Education to interject at this stage. This is becoming a farce: we have a special sitting today and we are handed these suggested amendments and expected to absorb their meaning and to listen to the Treasurer's description of them at the same time. I consider that members of the other place probably know as much about this as the Treasurer knows, and I will give them the benefit of the doubt unless he gives us time to examine the matter objectively and make up our minds. Unless we get that time, I will not agree to his proposal.

The Hon. D. A. DUNSTAN: I suggest to the honourable member in the kindest way that he take a few moments and read the suggested amendment, because it is quite clear and explicit. It provides:

In the case of a property being (a) an interest in a dwellinghouse held by the deceased person together with the person deriving that interest on the death of the deceased person as a joint tenant and occupied by the deceased person at the time of his death as his principal place of residence; (b) an interest in a savings bank account—

It is not an interest in only one savings bank account: it is an interest in "a" savings bank account—

held by the deceased person together with the person deriving that interest on the death of the deceased person as a joint tenant; or (c) an interest in a dwellinghouse occupied by the deceased person at the time of his death as his principal place of residence, the net present value of such properties shall not be aggregated for the purposes of subsection (2) of this section but the duties in relation to a particular person shall be assessed upon the net present value of each such property derived or deemed to be derived by that person from the deceased person as a separate succession and shall be chargeable and payable accordingly and shall be subject to the rebate provided for in Part IVB of this Act.

Each time one of these classes of property is in an estate, the statutory rebate, which in the Bill is designed to apply only once, will be applied. As a result, a person may have a whole series of bank accounts, plus a dwelling, and each separate bank account, as well as the dwelling, has the duty in the schedule applied to it, and the statutory rebate is given in each case.

Mr. Coumbe: Will you accept para (a) and accept the deletion of the remainder?

The Hon. D. A. DUNSTAN: No. The Bill proposes a significant improvement in the present position regarding the derivation

of a property by a widow. In these circumstances, we are giving significant remissions in relation to the inheritance of a matrimonial home, and to add these new provisions, which utterly destroy the principle of aggregation and which could lead, as I have said, to passing on as much as \$250,000 without any duty being payable is utterly unacceptable to the Government. As a consequence, the wealthier people in this State would be able to fragment their estates in order to attract the maximum rebates. Only the poor people would not be able to do so. If accepted, the suggested amendment would leave the way wide open for such a fragmentation that the wealthy estates in South Australia would be paying virtually nothing.

Mr. McANANEY: I think the Treasurer is going to extremes when he says that someone would have 20 savings bank accounts. Surely no-one would have so many bank accounts, on which interest could not be drawn on amounts over a certain limit, in the hope of avoiding the payment of succession duties later. One normally has only a joint stake in a house or occupies one.

Mr. COUMBE: I can readily see the Treasurer's point about savings bank accounts. However, what would be the position, if proposed new subsection (2a) (a) was not accepted, regarding a widow occupying a dwelling with a daughter who had given up her life to look after her invalid mother? Would the Treasurer be willing to accept the part of the suggested amendment that deals with this matter, even if the rest of it was not agreed to?

The Hon. D. A. DUNSTAN: Not as the rest of the proposed new section stands. The Government has gone a long way in trying to provide special provisions in relation to matrimonial homes, and substantial remissions are provided for direct descendants. We can but go so far if we are to have the minimal revenues that this Bill is designed to provide. They are substantially less than would put the revenue of this State into line with that obtained in this area in the two standard States.

Mr. Venning: What do you call the standard States?

The Hon. D. A. DUNSTAN: Victoria and New South Wales. It is necessary for South Australia to bring its revenues at least reasonably into line with those in New South Wales and Victoria if the Grants Commission is to support this State's Budget to the extent necessary to enable it to run services at the level of those in the other two States.

Mr. Venning: What did you do about land tax?

The Hon. D. A. DUNSTAN: I have already pointed out the reasons for this in the land tax Bill, but apparently the honourable member did not listen. A strict comparison for South Australia on a per capita basis means that we are \$6,000,000 short here.

Mr. Coumbe: In this field?

The Hon. D. A. DUNSTAN: In this field.

Mr. Coumbe: Before this Bill?

The Hon. D. A. DUNSTAN: Yes. After the Bill, because it is designed to raise \$1,500,000 (not \$6,000,000) in a full year, we are substantially short of the standard that is being argued for before the Grants Commission. The Commonwealth argued before the commission that we should come to the per capita standard, but even if (and it did not grant this) the commission decided we had a poorer tax base than the other States, the Commonwealth argued that the comparison was \$4,500,000 short on our part, as we are trying to raise only \$1,500,000.

Mr. Goldsworthy: How sure are you that you will get only \$1,500,000?

The Hon. D. A. DUNSTAN: We are working on the basis of what has come in from estates over a considerable period in South Australia.

Mr. Coumbe: They fluctuate from year to year.

The Hon. D. A. DUNSTAN: They do, but not as widely as all that. It would need an extraordinary number of deaths of rather wealthy people for us to get the figure that we have forecast, and on our estimates we are substantially short of bringing ourselves into line with New South Wales and Victoria, even on the most reasonable argument that we could put to the commission.

Mr. Goldsworthy: How did Playford get away with it?

The Hon. D. A. DUNSTAN: When he last amended the Succession Duties Act and was before the Grants Commission he put up the same argument as I am putting.

Motion carried.

Suggested amendment No. 5.

The Hon. D. A. DUNSTAN: I move:

That the Legislative Council's suggested amendment No. 5 be disagreed to.

This amendment could not possibly be accepted. The mover has suggested that it is to remedy an inequity in a case which is an extremely unlikely contingency: it relates to settlements. However, it would open wide

not a loophole but a broad avenue for extensive avoidance of duty by adopting settlements rather than direct bequests. If this amendment were accepted a person could remove a settlement from being dutiable with his own estate by making the settlement effective upon someone else's death, and then it would equally be free of duty upon the death of that someone else. In other words, it would not be a disposition. Also, he could adopt the device of making a settlement before his own death but effective upon his own death. Then, because at his death he had no interest in the property, having divested himself of it earlier, it would be freed from duty by the proposed amendment.

This provision has been in South Australian legislation in substantially the form as in the Bill for three-quarters of a century, and it serves a vital need to protect proper revenue. The amendment is entirely unacceptable. It is a case where an attempt to remove a minor point has resulted in measures producing a major inequity. The point the mover has made shows no real inequity. This is a succession duty and not an estate duty, and therefore we are taxing suggested successions and taxing them at the time of the succession and not necessarily taxing a particular estate. There are advantages to inheritors by having a succession duty and, if we are to maintain the succession duty, this is what we must do: we must be able to tax the succession at the time the actual succession occurs. It is the code to have the duty determined by the amount of succession resulting from a particular death. This is pertinent whether or not the deceased actually owned the property. The deceased estate would not be really liable for the extra duty involved but it would ultimately naturally come out of the property in the settlement concerned. In any case when such an unusual settlement is made one would assume it was done by the original settlor with his eyes open and because advantage is thought to accrue from the unusual rather than from a normal bequest.

Mr. Coumbe: Would gift duty be involved?

The Hon. D. A. DUNSTAN: In some cases we may be able to get at some of it with gift duty, but at a lower valuation, and we have to get it.

Mr. Venning: Shame!

The Hon. D. A. DUNSTAN: Apparently, the honourable member believes there should be no tax of this kind at any time, but he proposes that we should spend money for

services in his district. Perhaps he could suggest where the money would come from.

Mr. Venning: From income tax.

The Hon. D. A. DUNSTAN: Tell Gorton to give us more, then.

The Hon. D. N. BROOKMAN: The Treasurer is having a field day. He has all the information he requires, but I have none. I shall oppose his point of view.

Mr. VENNING: I am concerned that it was not until after the Treasurer spoke today that we received details of these amendments, and we are asked to assess the situation quickly.

The Hon. Hugh Hudson: You have colleagues in the Upper House: you have already had your instructions from them.

Members interjecting:

The ACTING CHAIRMAN (Mr. Ryan): Order! The honourable member shall be heard in silence.

Mr. VENNING: I listened to the Treasurer when he spoke to the farmers at the end of their march. I cannot believe what he says in this regard, so I shall oppose the suggested amendment.

The Hon. D. H. McKee: Why?

Mr. VENNING: We have not had the chance to study these amendments. All I know is that officers of the United Farmers and Graziers of South Australia Incorporated and stockowners met the Treasurer a week ago and he assured them on certain aspects. They realized that time would be necessary for the organization to consider the Legislative Council's suggested amendments, but now we find the Treasurer trying to bulldoze them through in a few minutes. Opposition members have not had the chance to do their homework, and we have to do our homework in order to know whether the Treasurer is putting it over.

Motion carried.

Suggested amendment No. 6.

The Hon. D. A. DUNSTAN: I move:

That the Legislative Council's suggested amendment No. 6 be disagreed to.

I was about to deal with amendment No. 7, having missed this one.

Mr. Coumbe: Haven't you read them?

Mr. Rodda: You've had more time than we've had.

The Hon. D. A. DUNSTAN: This Bill has been before Parliament for over six weeks, and it has been before the Legislative Council for three weeks. Time and again, the Legislative Council raised difficulties about it and proceeded to adjourn the debate. Members here have had plenty of opportunity to consult with

their colleagues in the other place. Members here debated this measure, but they did not raise matters concerning these amendments. Members opposite have had time to deal with this matter.

The Hon. D. N. Brookman: You know very well we have had no information from the Legislative Council.

The Hon. D. A. DUNSTAN: If members opposite were prepared to do their homework as members on this side are expected to do it, they could get the same information from the Legislative Council as we got.

Members interjecting:

The ACTING CHAIRMAN: Order! The honourable Premier.

The Hon. D. A. DUNSTAN: Amendment No. 6 deletes clauses and it means that insurances concerned therein will not be dutiable. This is unacceptable, as it will permit people with liquid resources to pass on property extensively without paying duty. Again, it is a clear breach of the principle of aggregation, and it is a clear breach of the provisions of the 1966 measure.

The Hon. Hugh Hudson: It goes further than the existing Act.

The Hon. D. A. DUNSTAN: Exactly; it goes much further than anything enacted by a Liberal Government to provide that people with liquid resources can pass on money and not pay for it, and the average wage and salary earner will be paying through the nose and subsidizing the wealthy. There is not the slightest justification for this amendment.

Mr. McANANEY: The Government accepted the principle that there should be exemptions regarding certain types of insurance, and the Treasurer has said that, in this case, this will be against the interests of the average worker. Many workers participate in super-annuation schemes whereby they contribute moneys and, on retirement, receive an income for the rest of their life, the widow receiving a benefit after the husband dies. Many workers are in such schemes involving an insurance policy. In addition, a person who employs people often has a policy covering employees. Many small private companies have super-annuation schemes involving an investment in insurance. Although perhaps not all insurance policies should necessarily be exempted, I submit that a balance can be arrived at that is fair to all sections of the community.

Mr. BECKER: By rejecting the amendment, is the Treasurer saying that, in the case of any person who has a mortgage protection policy to cover the purchase of a house so as to

ensure that, on his death, the property passes to his widow, the widow will have to go out and work in order to pay for the mortgage?

The Hon. D. A. DUNSTAN: We have already made special provisions under the Bill in relation to the inheritance of a matrimonial home.

Mr. EVANS: That the Bill has been before members for six weeks does not mean that the present amendments have been before us for a similar period. Because members on this side have failed to suggest these amendments does not mean that we are wrong or that we have failed in our duty and, because members of another place have made the suggested amendments, this does not mean that we should not have some time to examine them before making a decision. If the Treasurer is suggesting that we are wrong, I believe that he is wrong in taking that attitude. The discussion in this Chamber at present is whether or not we should accept the amendments, and we must discuss the effect that they will have on the legislation. But how can we do that, if the amendments were placed before us only 20 minutes ago? I know that people say, "Yes, but you have colleagues in another place," but I think most people realize, even if the Government does not, that we do not meet with our colleagues in another place: we believe it is a House of Review.

Members interjecting:

Mr. EVANS: I know that members opposite find that hard to believe.

Members interjecting:

The Hon. G. T. Virgo: How can you believe an untruth?

The ACTING CHAIRMAN: Order! The member for Fisher.

Mr. EVANS: It is not an untruth; perhaps the Minister of Roads and Transport is the one who is trying to spread untruths. We do not meet members in another place (nor have we met with them to discuss this legislation or the amendments). In addition, the pulls on the debate in another place have not been available to us.

The Hon. Hugh Hudson: You don't mean to say that—

Mr. EVANS: If the Minister of Education does not know that, he is more ignorant than I thought he was.

The Hon. D. A. DUNSTAN: The honourable member suggests that there is no contact between members opposite and those in another place. I realize at times that there are such issues between them (and they have

been evident during this session of Parliament) that one would think one side considered the other to be contagious in some way, but I point out that only last evening the honourable member's own Leader left this Chamber and walked along the corridor to consult with the Leader in another place, and came back here and told us his conversation. Do members opposite suggest that they do not have any opportunity of going and finding out what happens in another place? What has been happening about this measure is that members of the Opposition Party in another place have tried to stonewall this measure and refused to debate it.

Members interjecting:

The Hon. D. N. BROOKMAN: On a point of order, it is not in order for the Treasurer to insult the members of another place, and I ask that he withdraw that statement.

Members interjecting:

The ACTING CHAIRMAN: Order! The honourable Premier.

The Hon. D. N. BROOKMAN: On a point of order, Mr. Chairman, I ask that the Treasurer withdraw the statement that members in another place have stonewalled the legislation. It is out of order for the Treasurer or anyone else to criticize members of another place.

The Hon. Hugh Hudson: They had one speaker at a time and—

The ACTING CHAIRMAN: Order! Is the member for Alexandra asking the Treasurer to withdraw that statement?

The Hon. D. N. BROOKMAN: Yes.

The Hon. D. A. DUNSTAN: I do not believe that my statement is in any way unparliamentary, and I do not see that it is necessary for me to withdraw it. An accusation of stonewalling is common within the Parliament, and I point out that the honourable member has himself often made that accusation in the Parliament.

The Hon. D. N. BROOKMAN: On a point of order, I do not think that I should have to put up with loose charges such as that from a man whose statement is the subject of a point of order. I have asked that the words in question be withdrawn. It is well known that it is not in order to criticize or insult members of another place.

The ACTING CHAIRMAN: I rule that the term used is not unparliamentary.

The Hon. D. N. BROOKMAN: On a point of order.

The ACTING CHAIRMAN: There is no point of order. The honourable member having suggested that certain words are unparliamentary, I have ruled that they are not unparliamentary.

The Hon. D. A. DUNSTAN: What has happened—

Mr. McANANEY: I rise on a point of order. Standing Order 148 provides:

No member shall allude to any debate in the other House of Parliament, or to any measure impending therein.

That is what the Treasurer has done.

The ACTING CHAIRMAN: In ruling as I did, I considered that provision. We are discussing the amendments from another place.

The Hon. D. N. BROOKMAN: I want to move disagreement to your ruling.

The Hon. D. A. DUNSTAN: I rise on a point of order, Mr. Acting Chairman. The honourable member must move disagreement to your ruling as soon as the ruling has been given, and he has not done so.

The Hon. D. N. BROOKMAN: As we know, the Treasurer is just evading an issue. I raised the point of order that the Treasurer had criticized members of another place.

The Hon. G. R. Broomhill: What's the point of order?

The Hon. D. N. BROOKMAN: His statement strictly contravenes Standing Order 148, and you, Mr. Acting Chairman, have ruled that the Treasurer is in order. I therefore move:

That the Acting Chairman's ruling be disagreed to.

The Speaker having resumed the Chair:

The ACTING CHAIRMAN: The honourable member for Alexandra has moved: "That the Acting Chairman's ruling be disagreed to."

The SPEAKER: I have closely examined the motion of the member for Alexandra disagreeing to the Acting Chairman's ruling in relation to the Treasurer's statement. I have looked at the situation, and this statement has been made regarding the bicameral system of Government. As such references have been made on previous occasions, I uphold the Acting Chairman's ruling.

The Hon. D. N. BROOKMAN moved:

That the Speaker's ruling be disagreed to.

The SPEAKER: I have received the following from the honourable member for Alexandra:

Mr. Speaker, I move disagreement to your ruling because, when the Premier said that the members of another place were stonewalling legislation, he contravened Standing

Order 148, which prevents allusions to debates in the other House of Parliament. Your statement that allusions have been made on the other place in other debates does not nullify the Standing Order. Indeed, the terms in which the Premier referred to the members of the other place went far beyond ordinary courtesy.

The question is: "That the Speaker's ruling be disagreed to."

The House divided on the motion:

Ayes (17)—Messrs. Allen, Becker, Brookman (teller), Messrs. Carnie, Coumbe, Eastick, Evans, Ferguson, Goldsworthy, Gunn, Mathwin, McAnaney, and Rodda, Mrs. Steele, Messrs. Tonkin, Venning, and Wardle.

Noes (23)—Messrs. Broomhill, Brown, and Burdon, Mrs. Byrne, Messrs. Clark, Crimes, Curren, Dunstan (teller), Groth, Harrison, Hoggood, Hudson, Jennings, Keneally, King, McKee, McRae, Payne, Ryan, Simmons, Slater, Virgo, and Wells.

Majority of 6 for the Noes.

Motion thus negatived.

Mr. COUMBE: Some husbands and wives often take out policies in each other's name and contribute to the premiums either in their own name or by some other arrangement. These policies are commonly called probate policies and, in the event of the death of husband or wife, money is available to the remaining partner so that that partner can carry on until probate is granted. Can the Treasurer say whether paragraphs (j) and (k) affect the advantage that there has been in taking out such policies?

The Hon. D. A. DUNSTAN: They do not. Paragraphs (j) and (k) do not alter the types of policy that are at present dutiable. Many policies of the kind to which the honourable member refers are not dutiable at present and this Bill does not change that situation.

Mr. McANANEY: In introducing the Bill, the Government accepted the premise that it was reasonable for \$2,500 to be claimed as an exemption or rebate in respect of insurance policies. There must surely have been a reason why an exemption of \$2,500 was fixed. Invested at 8 per cent, that sum would return a sum of about \$4 a week. Surely there must be some justification for enabling a superannuated person to claim \$2,500 as an exemption or rebate in respect of insurance policies. Surely, if there is a reason for fixing a \$2,500 exemption there must be a reason for fixing a greater amount.

The Hon. D. A. DUNSTAN: The amount is not greater, because provision must be made

for obtaining revenue for the State. On the honourable member's argument, no-one should be taxed at all.

Mr. McAnaney: Rubbish!

The Hon. D. A. DUNSTAN: Although I do not like imposing taxes, money must come from somewhere. If the exemption were increased until no revenue was obtained, the Government could not meet this State's liabilities and, indeed, could not meet the amount in the Estimates that have been passed by this House. The Government has been as generous as it can, particularly to the smaller estates, where people are receiving a modest succession without having it reduced by the payment of taxation. This taxation is to be imposed on a graduated scale.

Mr. McANANEY: It is not a sufficient excuse for the Treasurer merely to say that the State must have revenue, if by obtaining that revenue injustices to certain sections of the community are created. Persons not receiving superannuation should be protected, otherwise they will be placed at a disadvantage compared to those who are receiving it. Surely it is an injustice if one section of the community is to be exploited compared to another.

Mr. VENNING: Mr. Grant Andrews (Chairman of the United Farmers and Graziers) has said that the Bill, in its present form, will result in an increase in succession duties of between 20 per cent and 60 per cent. Will the Treasurer say whether that is true?

Motion carried.

Suggested amendment No. 7.

The Hon. D. A. DUNSTAN: I move:

That the Legislative Council's suggested amendment No. 7 be agreed to.

This amendment is acceptable as a clarification. It was intended not that the Commissioner be instructed that he must not have regard to an agreement but merely that he was not bound to have regard to it.

Motion carried.

Suggested amendment No. 8.

The Hon. D. A. DUNSTAN: I move:

That the Legislative Council's suggested amendment No. 8 be disagreed to.

The Legislative Council has moved to delete this exception relating to bequests to an uncertain person or upon an uncertain event. This provision was part of the Playford Government's original provision and is considered necessary both for clarity and reasonable equity. The design of the rural rebate has always been to operate only in cases of clear and simple bequests. To remove this clause would open the way to devices for avoidance.

Moreover, it is difficult to see how rebates can be given effectively if it is not known for certain whether an ultimate beneficiary will be a person entitled to rebate.

Motion carried.

Suggested amendment No. 9.

The Hon. D. A. DUNSTAN: I move:

That the Legislative Council's suggested amendment No. 9 be disagreed to.

The Legislative Council has moved to delete the reference to joint tenancy, tenancy in common and partnership. This would so widen the availability of the concession as to be unacceptable. A beneficiary who is already a joint tenant is in any case receiving considerable benefit in that his joint share does not attract any duty. In those circumstances, the removal of these words runs entirely counter to a provision that was urged by Sir Thomas Playford in Parliament and insisted on time and time again: that is, that where devices of joint ownership are used in order to reduce taxation liabilities there is not a separate and further taxation rebate in respect of it. This would hopelessly open the way to the passing of a property without the payment of any duty. This matter was fully debated when members discussed it on second reading and in Committee. The provision is clear.

Mr. McANANEY: The Treasurer keeps saying what Sir Thomas Playford did.

Mr. Gunn: But only when it suits him.

Mr. McANANEY: Yes. The non-aggregation clause entitles a separate assessment to be made in respect of joint estates and enables a considerable exemption to be made in respect thereof. This offsets the loss of the concession in respect of land used for primary production. I am disappointed that the House of Review did not amend the legislation to provide for shareholders in a company running a farm. This is the only way primary producers can overcome their difficulties and run a property commercially. In Victoria, concessions are allowed to tenants in common and joint tenants who run a business in this way. However, such persons in South Australia are to be discriminated against as a result of this legislation. This is entirely wrong, and I support the Legislative Council's suggested amendment.

Mr. VENNING: I, too, support the suggested amendment. As has been said, this matter was debated fully but was defeated on numbers and not on the rights of the primary producer. Why should we discriminate against tenants in common? A man and

his wife may have put equal finance into a partnership as tenants in common, or they may own a property under two separate titles. What would be the position then? It is a different story under these conditions. It is an injustice to the primary industry which is trying to keep its costs down and carry on under adverse conditions, but with the unsympathetic leadership of the State today primary producers will be penalized in this respect. What difference has been made in the Treasurer's attitude towards primary producers after meeting the farmers' committee and a deputation from the United Farmers and Graziers of South Australia Incorporated, particularly in regard to succession duties? It seems to me that there is no difference at all.

The Hon. D. A. DUNSTAN: As I was already concerned about the situation in rural industries in South Australia, I promised that the remissions that would be given in South Australia would be real, and they are. What is more, they are more than have been given anywhere else in Australia, and no Liberal and Country Party Government has granted the concessions that we have granted.

Mr. Goldsworthy: What about the cuts in Western Australia?

The Hon. D. A. DUNSTAN: There are no remissions under the Western Australian Act.

Mr. Venning: It was a 25 per cent reduction.

The Hon. D. A. DUNSTAN: The only other State that has made remissions in estate duties on rural properties is Victoria, and the remissions are only 30 per cent, whereas ours are 40 per cent under this Bill. I met the United Farmers and Graziers and was able to point out to the delegation that I had tried to meet the situation of the farmers as far as reasonably possible given the revenue and expenditure needs of the State, and that I was trying to give them special assistance in a whole series of areas each one of which would cause us trouble before the Grants Commission. I went through it in detail and showed the farmers' representatives how it would occur. I told them that I would consider the definition of rural property. Having done so, I cannot accede to their request, because it would go far beyond what we could possibly hold for revenue. Although the member for Rocky River always likes us to provide services in country areas, he does not like anyone to have to pay for them.

Motion carried.

Suggested amendment No. 10.

The Hon. D. A. DUNSTAN: I move:

That the Legislative Council's suggested amendment No. 10 be disagreed to.

The Council has moved to extend the definition of "rural property" to cover stock, plant, and equipment. The inclusion of these items is such a considerable extension of a concession which is already greater than in other States that it cannot be accepted.

Motion carried.

Suggested amendments Nos. 11 to 13.

The Hon. D. A. DUNSTAN: I move:

That the Legislative Council's suggested amendments Nos. 11 to 13 be disagreed to.

These amendments are designed to make the rebate of \$12,000 for a widow in effect at the highest possible rate instead of at the average rate paid on the succession. This would mean that on a smaller succession a succession to a widow would have effective relief of \$1,800 (as in the Bill as it left here), whilst on a succession of, say, \$212,000 the effective relief would be \$4,800 (compared to about \$3,150 in the present Bill). This assistance is obviously designed to benefit the higher successions. We have gone a long way in the present Bill to provide concessions to widows, and it cannot be taken further on the higher successions.

Motion carried.

Suggested amendment No. 14.

The Hon. D. A. DUNSTAN: I move:

That the Legislative Council's suggested amendment No. 14 be disagreed to.

This is comparable with suggested amendments Nos. 11, 12 and 13, and is unacceptable for the same reasons.

Motion carried.

Suggested amendment No. 15.

The Hon. D. A. DUNSTAN: I move:

That the Legislative Council's suggested amendment No. 15 be disagreed to.

This is consequential on suggested amendment No. 10, which has been disagreed to.

Motion carried.

Suggested amendments Nos. 16 and 17.

The Hon. D. A. DUNSTAN: I move:

That the Legislative Council's suggested amendments Nos. 16 and 17 be disagreed to.

This is simply to provide much greater rebate on rural property. Together with the widening of the definition of property subject to rebate by suggested amendment No. 10, the cost would be increased so heavily as to be unacceptable on revenue grounds as well as equity. Only Victoria in the other States gives a comparable rural rebate, and it is at a

lower rate than proposed in South Australia. It is not possible for South Australia to go further and at the same time to maintain the revenues necessary to run country water supplies and to maintain lower freights for farmers. I point out that the cost of country water supplies is being subsidized to the extent of \$3,000,000 by the metropolitan water system. We have to have some money in the State to meet our revenue expenditure needs. We have given greater concessions than any other Government in Australia has given, and we cannot go further.

Motion carried.

Suggested amendments Nos. 18 to 27.

The Hon. D. A. DUNSTAN: I move:

That the Legislative Council's suggested amendments Nos. 18 to 27 be disagreed to.

These are consequential on suggested amendment No. 10. Suggested amendments Nos. 18, 20 and 22 are partially consequential on suggested amendment No. 4, which treats the dwellinghouse as an entirely separate succession. As they are all consequential on suggested amendments to which we have disagreed, they should be disagreed to.

Motion carried.

Suggested amendment No. 28.

The Hon. D. A. DUNSTAN: I move:

That the Legislative Council's suggested amendment No. 28 be disagreed to.

This is a consequential amendment.

Motion carried.

The following reason for disagreement with the Legislative Council's suggested amendments Nos. 1 to 6 and 8 to 28 was adopted:

Because the suggested amendments destroy the provisions of the Bill relating to revenue which has already been appropriated by Parliament and reduce existing revenues of the State.

Later:

The Legislative Council requested a conference, at which it would be represented by five managers, on its suggested amendments to which the House of Assembly had disagreed.

The House of Assembly granted a conference, to be held in the House of Assembly Committee Room at 5 p.m., at which it would be represented by Messrs. Dunstan, Gunn, Hudson, King, and McAnaney.

At 5.1 p.m. the managers proceeded to the conference, the sitting of the House being suspended. They returned at 5 a.m. on Saturday, December 5. The recommendations were as follows:

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

That the Legislative Council do not further insist thereon but that the House of Assembly

make the following amendment in lieu thereof:

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

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

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

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

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

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

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

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

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

(3) As to suggested amendment No. 5: That the Legislative Council do not further insist thereon.

(4) As to suggested amendment No. 6: That the Legislative Council do not further insist thereon.

(5) As to suggested amendment No. 8: That the Legislative Council do not further insist thereon but that the House of Assembly make the following amendment in lieu thereof:

Page 12, line 33 (clause 31)—After “event” insert “not being land devised by a testator to his son or daughter contingently upon his or her attaining a certain age”.

(6) As to suggested amendment No. 9:

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

Page 13, lines 4 and 5 (clause 31)—leave out “or as a member of a partnership”.

(7) As to suggested amendment No. 10:

That the House of Assembly do not further insist on its disagreement and make such amendment to the Bill.

(8) As to suggested amendments Nos. 11 to 14:

That the Legislative Council do not further insist thereon.

(9) As to suggested amendment No. 15:

That the House of Assembly do not further insist on its disagreement and make such amendment to the Bill.

(10) As to suggested amendment No. 16:

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

Page 15, line 14 (clause 31)—Leave out “two-fifths” and insert “one-half”.

Page 15, line 19 (clause 31)—Leave out “sixteen” and insert “twenty”.

(11) As to suggested amendment No. 17:

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

Page 15, line 20 (clause 31)—Leave out “one-tenth” and insert “three-fortieths”.

(12) As to suggested amendment No. 18:

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

Page 15, lines 30 and 31 (clause 31)—Leave out “land used for primary production” and insert “rural property”.

(13) As to suggested amendment No. 19:

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

Page 15, line 34 (clause 31)—After “widower” insert “or daughter”.

Page 15, line 36 (clause 31)—Leave out “land used for primary production” and insert “rural property”.

(14) As to suggested amendments Nos. 20 to 27:

That the House of Assembly do not further insist on its disagreement and make such amendments in the Bill.

(15) As to suggested amendment No. 28:

That the Legislative Council do not further insist thereon.

Consideration in Committee.

The Hon. D. A. DUNSTAN (Premier and Treasurer): I move:

That the recommendations of the conference be agreed to.

The conference, although lengthy, proceeded in an amicable manner in an endeavour to find a solution to the problems and I think that this Chamber will see that that has been done. As to recommendation No. 1, one of the

Legislative Council members was concerned that there could be, in effect, a double assessment of duty on the non-exercise of the power of appointment in certain circumstances. While it was not the view of the managers of this Chamber that this would take place, the honourable member was satisfied that this amendment would cater for the position that concerned him, and we were satisfied that it would not create a loophole in the Act and so provide for avoidance of succession duties.

As to recommendation No 2, the purpose of new amendments Nos. 3 and 4 is to take the rebate for an assigned insurance to \$5,000, which is an increase in the rebate from \$2,500. The third amendment in recommendation No. 2 provides that a daughter-housekeeper may obtain the same provision in inheriting a matrimonial home as would a widow or widower, and a further consequential amendment provides that the section of the Act that requires the Commissioner to be satisfied that it is intended that the matrimonial home continue to be held and lived in as a matrimonial home be removed. This will allow a widow, widower, or daughter-housekeeper to inherit the matrimonial property, to get the rebate, and to dispose of the property in order to get more satisfactory living quarters. Recommendation No. 3 concerns an amendment which provided for settlements to be free of duty and which would have led conceivably to a wholesale avoidance of duty.

Recommendation No. 4, which concerns suggested amendment No. 6, applies to assigned insurances. I have already explained what has been done in relation to that matter. Suggested amendment No. 8, which is dealt with in recommendation No. 5, was to take out of the exceptions from the rural rebate the primary-producing property inherited by an uncertain person upon an uncertain event. Those words are to be left in the Act, but there is to be a proviso that covers the case to which the Legislative Council was referring in seeking this amendment originally: that is, that the exception from the rural rebate will not apply to land devised by a testator to his son or daughter contingently upon his or her attaining a certain age.

Concerning recommendation No. 6, which deals with suggested amendment No. 9, members will recall that there was considerable debate about the matter of inheriting property that was held in joint tenancy, tenancy in common, or under shares in a company. The clause also contains the words "or as a member

of a partnership". In the Government's view, those words add no meaning to the clause at all, since property in a partnership is necessarily held as property in common; and, as tenants in common are covered by the provision, there is no virtue in having these words included. When the Legislative Council asked that they be removed, we pointed out that that would not achieve any change, but we were content to remove the words because we thought that they had no purpose.

The effect of recommendation No. 7, which enacts amendment No. 10, will be to incorporate into the definition of rural property stock and farm implements used immediately prior to the testator's death for primary production on the rural property. It will be subject to the same limitation on rebate as will apply to rural property generally.

Suggested amendment No. 15, which is the subject of recommendation No. 9, was consequential on suggested amendment No. 10. The effect of suggested amendments Nos. 16 and 17, which are dealt with in recommendations Nos. 10 and 11, is to take the rebate on rural land to 50 per cent instead of 40 per cent as provided in the original Bill, and to provide for a $7\frac{1}{2}$ per cent duty on the excess over the minimal figure. This, then, will taper out at the \$200,000 figure as previously provided. Recommendations 12 to 15 concern amendments consequential on amendments that have been dealt with earlier.

Mr. McANANEY: I concur with the Treasurer when he says that the conference was held in the most amicable manner. In most things we came to a satisfactory agreement. I regret that joint estates and tenants in common are still not eligible for the rural property concession. However, the decision to make it a rural property instead of just land used for primary production provides a good concession indeed.

I congratulate the managers of the Legislative Council on the excellent case they put up on most matters, and I also congratulate the Treasurer and the two Ministers on concurring in several instances. This will make a big difference to the tax primary producers' will have to pay. In many cases, owners of smaller estates will pay less, whereas the owners of some bigger estates will have to pay more. Those who have formed private companies, carrying out joint estates in a businesslike manner, will not get any concessions, whereas those who have not managed their estates so well will receive the greatest benefits from the

concessions made this evening. I believe that a good solution has been arrived at.

Mr. HALL (Leader of the Opposition): I appreciate the agreement that has been reached in the sense that at least the Bill as it left this Chamber is not as severe as it was. This does not mean that I approve of the Bill, as I very much regret its passage. However, I believe that the Legislative Council has achieved something on behalf of South Australians, and it is to be complimented on this; I certainly give it full credit for approving the solutions reached in this case. However, in no way do I give any approval to the Bill because of that.

Motion carried.

Later, the Legislative Council intimated that it had agreed to the recommendations of the conference.

MINES AND WORKS INSPECTION ACT AMENDMENT BILL

(Continued from December 2. Page 3315.)

A message was received from the Legislative Council agreeing to a conference to be held in the Legislative Council Committee Room at 5 p.m.

The Hon. D. A. DUNSTAN (Premier and Treasurer) moved:

That the Hon. D. H. McKee be a manager at the conference in place of the Hon. D. A. Dunstan.

Motion carried.

At 5.1 p.m. the managers proceeded to the conference, the sitting of the House being suspended. They returned at 5 a.m. on Saturday, December 5. The recommendations were as follows:

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

Page 1, lines 12 and 13 (clause 2)—Leave out the definition of "the advisory committee" and insert definition as follows:

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

Pages 2 and 3 (clause 4)—Leave out new sections 10a, 10b and 10c and insert new sections as follows:

Appeals.

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

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

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

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

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

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

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

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

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

and

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

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

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

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

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

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

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

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

Quorum, etc.

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

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

and that the House of Assembly agree thereto.

The Legislative Council intimated that it had agreed to the recommendations of the conference.

Consideration in Committee.

The Hon. G. R. BROOMHILL (Minister for Conservation): I move:

That the recommendations of the conference be agreed to.

The Legislative Council had been insisting on an amendment in relation to the opal-mining section of the Bill. In addition, it was proposing a new clause in relation to compensation. After discussing this question, the managers agreed that the Council would not further insist on its attitude towards those two matters. During the discussion the question of the right of a person to appeal, after he had been ordered by an inspector to cease mining operations, was considered. Members may recall that the Bill provided that a person who was ordered to cease his mining operations had the right to appeal to the Minister against the order, and the Minister could refer such appeal to the advisory committee for advice and then decide. It was held by members of the other place that this was a limited form of appeal, and the new arrangements will provide that a person ordered by an inspector to cease mining operations, because they may impair the amenities of the area, may first appeal to the advisory committee (which has been renamed the appeal board), and after the board has considered representations, should the person seek a further appeal, he may take it to the Minister direct. These provisions are designed towards that end.

Mr. RODDA: I do not know whether the miners at Coober Pedy will be as happy as they could have been, but these amendments will give each party a right of appeal, and that will be as fair as we could wish in the circumstances. I am pleased that a separate appeal board will consider the problems raised from time to time, and if the board's decision does not prove satisfactory the matter may be considered by the Minister. In all the circumstances, I think the conference has arrived at a reasonable compromise.

Motion carried.

EIGHT MILE CREEK SETTLEMENT (DRAINAGE MAINTENANCE) ACT AMENDMENT BILL

Returned from the Legislative Council without amendment.

MOUNT GAMBIER HOSPITAL ADDITIONS

The SPEAKER laid on the table the report by the Parliamentary Standing Committee on Public Works, together with minutes of evidence, on Mount Gambier Hospital Additions. Ordered that report be printed.

AIRCRAFT OFFENCES BILL

Adjourned debate on second reading.

(Continued from November 25. Page 3084.)

Mr. CARNIE (Flinders): As the Attorney-General said in his second reading explanation, there has been a marked increase in recent years in the number of offences involving aircraft. Fortunately, Australia has been relatively free from this type of offence, which is almost common in certain overseas countries. The Crimes (Aircraft) Act, enacted by the Commonwealth Government in 1963, deals with this situation within the limits of its constitutional power but, as the Attorney-General said, its power to legislate concerning aircraft engaged on flights within the State is limited. This Bill is almost identical, word for word, with the Commonwealth Act. It is to be hoped that it will never be necessary to act under this measure in Australia but, as hijackings and bombings, as well as threats regarding hijackings and bombings, are prevalent throughout the world, we must be prepared and ensure that we are adequately covered in this respect.

Clause 15 deals with the hoaxer. Even in Australia, hoaxes are a common occurrence; particularly when an important person is about to travel on an aircraft, a hoaxer will make a telephone call, saying that he has planted a bomb on that aircraft. This clause provides for a penalty of two years' imprisonment. Under section 21 of the Commonwealth Act, the Attorney-General is the only person who can institute a charge under that legislation, but there is no corresponding provision in this Bill. Although I am sure that there is an adequate legal reason for this omission, I should appreciate the Attorney-General's explaining it. I presume that it makes our measure wider, so that a prosecution can be instituted by the police and not necessarily only by the Attorney-General.

The Hon. L. J. King: Under our system, the Attorney-General files the charges for all indictable offences.

Mr. CARNIE: I thank the Attorney-General for that explanation. Section 13 of the Commonwealth Act provides that an offence where-in a person who destroys an aircraft to which

that section applies and causes the death of a person or acts with reckless indifference to the safety of a person's life shall be an indictable offence punishable by death. The penalty for a similar offence under this Bill is life imprisonment and, although when a division was held last evening on the Capital and Corporal Punishment Abolition Bill I voted to retain the death penalty in South Australia, I would certainly not move to amend this provision in any way. As I consider that the Bill is necessary to enable the provisions of the Commonwealth Crimes (Aircraft) Act to apply throughout South Australia, I support the measure.

Mr. CUMBE (Torrens): In view of certain current events, it is important that this Bill be passed to supplement the complementary Commonwealth legislation. Although there has been a time lag between implementing the Commonwealth legislation and introducing this measure, the important thing is that the position will soon be corrected. One often reads in a newspaper of events that have happened involving not only hijacking but also bombing, bombs having been planted in aircraft for one reason or another. I am not saying that this sort of thing could never happen here: it could happen on a commercial flight that any member of this House might care to take tomorrow. This legislation will provide a safeguard in this respect, provided it is adequately policed. I have taken a special interest in several rather ingenious devices that have been invented, some (not all) of which have been completely efficient for the purpose of screening people before they board an aircraft to see whether they are carrying a bomb. The screen shows some most peculiar things, but I will not go into details. A gentleman in South Australia of German extraction invented a system whereby, when a person went through the revolving door of the guest lounge to go to the aircraft, a gun or bomb carried would show up, a bell would ring, the door would close, and the person could not get out.

The miscellaneous provisions of the Bill are akin to those in the Commonwealth navigation legislation and the State marine legislation, whereby the master of a vessel has the power to arrest. Under this Bill the captain of an aircraft has power to arrest and to hold a person without warrant. Under the navigation legislation, the master of a vessel can hold an investigation, but it would not be possible for the captain of an aircraft to do that: his job is to land the aircraft safely. I commend the

member for Flinders for having done his homework on the matter and I support the Bill.

Bill read a second time.

In Committee.

Clauses 1 to 13 passed.

Clause 14—"Taking or sending dangerous goods on aircraft."

The Hon. D. N. BROOKMAN: Can the Attorney-General say how dangerous goods are determined? What is dangerous to persons may not necessarily be dangerous to aircraft, and vice versa.

The Hon. L. J. KING (Attorney-General): I think that the expression "dangerous goods" is the expression used in the Commonwealth Act. Its meaning is clear enough, although it is obviously a general description. I would say that, in this context, dangerous goods are undoubtedly goods whose presence on an aircraft may endanger the safety of the aircraft or the persons it carries. I do not think it is possible to be more specific in an Act of Parliament than that. The great danger is that, if the Parliamentary Draftsman starts to list specific objects that are prohibited, he will certainly not cover the whole field and he will omit something that should have been included. The court can consider whether certain goods did in fact endanger the safety of the aircraft or the person travelling in it. Similar considerations are made in other cases. I do not believe this will create a problem.

Clause passed.

Clauses 15 to 19 passed.

Clause 20—"Person not to be convicted twice for same act or omission."

Dr. EASTICK: What means will be used to decide whether a person will be charged under the State or the Commonwealth legislation?

The Hon. L. J. KING: The offences correspond to one another because the two measures are identical. It does not really matter whether a person is charged under Commonwealth or State legislation: that will simply depend on the incident that initiates the law enforcement action. The important thing is that this clause ensures that a person is not liable under both sets of legislation and that he cannot be punished twice for the same offence.

Mr. CARNIE: I accept the explanation. However, as the Commonwealth legislation provides for the punishment of death and the State legislation for life imprisonment it is important under which legislation a person is charged. Can the Attorney-General clarify this point?

The Hon. L. J. KING: The charge could be laid under either Act and, if State authorities had the conduct of the matter, it would be laid under the State Act. On the other hand, if Commonwealth authorities had the conduct, probably it would be laid under the Commonwealth Act. That is assuming that both Acts applied, but that would be only in rare cases, because the Commonwealth Act applies to interstate flights and the State Act to intrastate flights. There may be an overlapping, but that would be a rare case. This is a precautionary provision to ensure that a person cannot be caught by both Acts. Obviously, the South Australian Parliament can do nothing to prevent Commonwealth authorities from laying a charge under the Commonwealth Act and from executing the offender if he is convicted.

Clause passed.

Clause 21—"Offences under Act."

The Hon. L. J. KING: By way of interjection earlier, I made an explanation to the member for Flinders. As my microphone was not turned on at the time, I shall again give the explanation to get it into *Hansard*. The member for Flinders has asked why the Commonwealth Act provides that offences under that Act should be instituted by the Attorney-General, when there is no corresponding provision in the State Act. The explanation is that the State Act, as with the Commonwealth Act, provides that all offences are indictable, but the charges are laid on information, and in South Australia informations are filed by the Attorney-General. It therefore follows that the action must be instituted by the Attorney-General. This is not the Commonwealth system. I think that under the Commonwealth system more than one officer has authority to file informations, so the express provision was made to ensure that action under this Act was reserved to the Attorney-General.

Clause passed.

Title passed.

Bill read a third time and passed.

MARINE ACT AMENDMENT BILL

Returned from the Legislative Council with the following amendments:

No. 1. Page 2, lines 5 to 7 (clause 4)—Leave out all words after "includes" and insert—

"—
(a) a hovercraft or other air-cushion vehicle;

or

(b) any other vehicle supported or propelled by pneumatic force, that traverses any navigable waters within or adjacent to the State."

No. 2. Page 2, line 19 (clause 8)—After "fishing vessel" insert "that will when built be subject to the requirements of this Act relating to survey,".

Consideration in Committee.

The Hon. J. D. CORCORAN (Minister of Marine): I move:

That the Legislative Council's amendments be agreed to.

The first amendment, which is identical to the amendment made to the Harbors Act Amendment Bill, makes the legislation consistent; it refers to the description of hovercraft or other air-cushioned vessels, and I have no objection to it. Nor do I see any objection to the second amendment: I think during the debate on this Bill the question was asked about which vessels would be subject to survey or how a fishing vessel would be defined, and this amendment tidies up that matter.

Mr. COUMBE: The amendments seem reasonable, and I have no objection to them.

Motion carried.

HARBORS ACT AMENDMENT BILL

Returned from the Legislative Council with the following amendment:

Page 1, lines 14 to 16 (clause 2)—Leave out all words after "includes" and insert—

"—
(a) a hovercraft or other air-cushion vehicle;

or

(b) any other vehicle supported or propelled by pneumatic force, that traverses any navigable waters within or adjacent to the State."

Consideration in Committee.

The Hon. J. D. CORCORAN (Minister of Marine): I move:

That the Legislative Council's amendment be agreed to.

The effect of the amendment is that it extends slightly the definition of hovercraft or other air-cushioned vehicle by including "any other vehicle supported or propelled by pneumatic force, that traverses any navigable waters within or adjacent to the State". I see no objection to the amendment.

Motion carried.

ADJOURNMENT

The Hon. D. A. DUNSTAN (Premier and Treasurer): I move:

That the House at its rising adjourn until Tuesday, February 23, 1971, at 2 p.m.

In moving this motion, I point out that this is not a prorogation and, in consequence, we will not have the usual speech-making at this hour of the day or time of the year; nor will we

be singing any song. However, I think it would be inappropriate if, in moving this motion, I did not express the thanks of all members to you, Mr. Speaker, and to the staff of Parliament House for the help they have given us during the year. I particularly thank the Parliamentary Draftsman and his officers and also the Treasury officers (Mr. Seaman and the Commissioner of Succession Duties), who have been here throughout the night to assist us with a lengthy and difficult conference and who, as always, have given enormous assistance to members. On behalf of the Government, I extend to all members best wishes for Christmas and the hope that after a short break they will return refreshed to a hard-working and, no doubt, lively session.

Mr. HALL (Leader of the Opposition): The Opposition, of course, is not served by entirely the same people as those who serve the Government, but we know that the State is.

I extend Christmas greetings to all those who have helped so much, and we look forward to returning to work at the time appointed by the Premier.

The SPEAKER: I think it is appropriate if I, too, extend my best wishes to the staff, including Gordon Combe, Aub Dodd, Jack Lawson and the messengers, Miss Stengert, Les Martin, Miss Emmott (my secretary) and the members' secretaries for their co-operation. I also thank honourable members: I hope they have a good rest, a happy Christmas, and return to a bright and prosperous new year. I sincerely wish those members who, unfortunately, have been sick a speedy recovery; I hope that they enjoy the festive season with their families, and I hope to see them back soon.

Motion carried.

At 5.37 a.m. the House adjourned until Tuesday, February 23, 1971, at 2 p.m.