LEGISLATIVE COUNCIL.

Tuesday, November 19, 1963.

The PRESIDENT (Hon. L. H. Densley) took the Chair at 2.15 p.m. and read prayers.

QUESTIONS.

SEWERAGE FOR GAWLER.

The Hon. M. B. DAWKINS: Has the Minister representing the Minister of Works a reply to my recent question regarding sewerage problems in the Gawler area?

The Hon. N. L. JUDE: Yes. My colleague, the Minister of Works, has conferred with the Engineer-in-Chief who advises that the sewerage of Gawler has a very high priority. Investigations are now almost complete and a report will shortly be submitted by the Engineer-in-Chief for the consideration of Cabinet, but the estimated cost of the work is £637,000 and the project will therefore require investigation by the Public Works Committee. The proposals provide for the extension of the Bolivar-Salisbury-Elizabeth trunk main sewer, now under construction, northwards to Gawler. Extensions to Gawler cannot be proceeded with until the new treatment works at Bolivar are completed and, when these are brought into use in about two years' time, the trunk sewer to Gawler, along with the sewerage of that town, could be proceeded with. These factors, as well as the availability of Loan funds, could govern the actual date of commencement of the scheme.

DIESEL LOCOMOTIVES.

The Hon. G. J. GILFILLAN: I ask leave to make a statement prior to asking a question.

Leave granted.

The Hon. G. J. GILFILLAN: My question relates to the new diesel locomotives being used on the Port Pirie to Broken Hill railway line. They have been hailed with some delight by landholders along the route in these days of fire danger but cause concern to people living in towns along the railway line during shunting operations because of their loud sirens. These sirens can be heard for some miles on a still night and it is causing much distress to elderly people and invalids. I must say that the drivers of the locomotives exercise discretion when using the siren, but although the trains have been operating for a considerable time these people still have not become accustomed to the sound of the very penetrating siren. Can the Minister of Railways say whether the Railways Department will consider the installation of a smaller siren on the locomotives for use during shunting operations in built-up areas?

The Hon. N. L. JUDE: I will get a report on the honourable member's suggestion and let him have it.

HILRA RAILWAY CROSSING.

The Hon. L. R. HART: Has the Minister of Railways a reply to my question of November 12 regarding the Hilra railway crossing near Salisbury?

The Hon. N. L. JUDE: This matter has been exercising my mind, as well as the honourable member's, because I am aware of the accidents that have occurred at the crossing. It is essential that members generally be aware of the fact that this crossing was provided at the express request of the Long Range Weapons Establishment in 1953 and that the construction costs were met by the Commonwealth Government. This is a factor that should be clearly understood. It was not an ordinary public crossing. The Railways Commissioner states:

> Initially the crossing was protected by standard warning boards. In 1956 stop signs were added, following representations by local residents. The crossing traverses four tracks, one being the main line between Salisbury and Port Pirie. The remainder comprise part of the Penfield railway system. Visibility of approaching trains by drivers of road vehicles is good. The District Council of Salisbury and the Weapons Research Establishment have made representations seeking the provision of automatic warning equipment. In 1960 I notified both authorities that the priority of this crossing for provision of such equipment by the department was low. I stated, however, that if either body considered such installation necessary I would have the work carried out provided the cost were defrayed by either or both the authorities. In other cases where similar offers have been accepted by other bodies, I have subsequently accepted liability for maintenance of the installation. In a letter dated October 1, 1963, the District Council of Salisbury has requested consideration of a proposal aimed at improving the flow of road traffic over the crossing. This proposal is now being examined by my officers. I desire, with respect, to add that this matter lies in a category concerning which the Highways Commissioner and I recently made a joint recommendation.

That was in reference to the cost of a railway crossing to provide greater safety. I would add that with the department's present staff it is virtually impossible to install further automatic signalling devices at crossings within a given period, except by altering priorities, which means that another crossing with a priority would have to give way to meet the honourable member's suggestion. That is the chief problem.

WEEDS ACT AMENDMENT BILL.

Read a third time and passed.

LICENSING ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from November 14. Page 1704.)

The Hon. M. B. DAWKINS (Midland): I rise to support this Bill, but I do not wish to discuss it in detail. In supporting the Bill I believe that it is my job to try to represent all sections of the community in as fair a manner as possible. I have the privilege to know some people of very high repute in the grapegrowing and wine industry and I believe they are entitled to their fair share and just place in the community. While I have the honour to represent them I shall endeavour to see that they always receive fair treatment. It is accepted that large numbers of the population wish to drink wine with their meals under civilized conditions. This, I am led to believe, is the most desirable way to drink wine.

I do not believe people could be justified in opposing this type of legislation by being intolerant or ranting and raving. Rather, I believe that these people should learn to agree to disagree where necessary. I am not, nor will I ever be, a prohibitionist. I do not believe in trying to force my will upon others on this or any other matter, but in passing I should like to mention a discussion I had with the Secretary of the Wine and Spirit Merchants' Association. I was informed that one feature of this Bill which could be reviewed (and which may be under consideration now) relates to the returns required from retailers. The Secretary told me that in practice it means that the retailers do not do the necessary book work and go back to the wholesalers to ask them just how much they bought during the year, how much was in one category and how much in another. This means that a great deal of recording and book work will fall on the wholesalers and place a great burden upon them under the conditions that are envisaged at present. However, I believe the Bill provides for civilized drinking under proper conditions and, although I do not support any general extension in licensing hours, I support the second reading.

Bill read a second time.

In Committee.

Clauses 1 to 13 passed.

Clause 14—"Repeal and re-enactment of Division III of principal Act."

The Hon. C. R. STORY: The Hon. Mr. Dawkins raised a point a moment ago with regard to licensing and various categories of licences. Under the principal Act we have a number of licences categorized, such as the publican's licence, the old-time storekeeper's licence, the ordinary wine licence for a wine shop, the brewer's Australian ale licence, and the distiller's storekeeper's licence, etc. Certain representations have been made to some members recently—later perhaps than one would have expected and too late, I think, to enable anything to be done as far as this Chamber is concerned. However, I raise the point with regard to the distiller's storekeeper's licence under paragraph (*f*). The fee which has been £20 in the past now rises to rather astronomical figures under the new 3 per cent arrangement. In the case of one winery I know the fee has been £20 in the past and will rise to £700 or £800. The licensee will, no doubt, get over the difficulty by passing on the cost to the public.

There is another point dealing with the small winery—and we have a number of small winemakers in South Australia, particularly in southern districts and the Barossa Valley. These winemakers are very keen to have their brands established in hotels. A small hotelkeeper will not buy the full amount allowed under the provisions of a distiller's storekeeper's licence, which is a two-gallon licence. He will not buy two gallons of this variety of wine to place on his shelves, but if he could buy three bottles to start the brand off in his hotel these people consider they would be able, in a small way, to establish their own brands. I think this is a legitimate consideration and I should think that when this matter comes before the Government again a good deal of consideration could be given to this point, for it would enable the small winemakers to sell to the trade and a provision could be made by way of an amendment to allow these people to sell to a licensed distributor and not to the general public. It would allow the sale of wine only to a licensee of a hotel or restaurant or somebody who is licensed under this Act. I think this is quite a valid suggestion and I should like the Government to bear it in mind the next time this Act is considered. The same could apply very well to paragraph (*b*).

The Hon. S. C. Bevan: Do you discriminate between the large and small wineries?

The Hon. C. R. STORY: No, you cannot. This matter would assist more the small wineries that do not have the powers of advertising

or the money to advertise. However, by placing their product on the shelves in the battle department the goods themselves would be considered favourably by the public, which is by far the best way to advertise. If one has the quality, people will buy one's goods.

The Hon. Sir Lyell McEwin: This would be confined to Australian wines?

The Hon. C. R. STORY: Yes; this would be confined to Australian, and particularly South Australian, wines.

The Hon. Sir Lyell McEwin: Would not this come under paragraph (c)?

The Hon. C. R. STORY: That would deal only with a restricted licence. That deals with shops that have an Australian wine licence; it does not deal with hotels. The distiller's storekeeper's licence is a two-gallon licence, and the retailers cannot break that parcel up into smaller amounts at the moment. They want to get it into the bottle departments and bars of hotels. At the moment they are prevented from doing that unless the publican is prepared to take the full parcel of two gallons of that particular variety. It would be all right for the storekeeper's Australian licence, in respect of a shop. With regard to paragraph (b)—the storekeeper's licence—they are restricted in the same way because it would be only two gallons of spirits or two gallons of wine. I think it is a legitimate request by the trade, made perhaps too late for anything to be done on this occasion, but I ask the Government to note that and look closely at the suggestions of the smaller winemakers, particularly when they seek something from the Government.

The Hon. Sir LYELL McEWIN (Chief Secretary): I move:

In new section 30 (1) (g) to strike out ''payable'' second occurring.

Sir Arthur Rymill was good enough to refer to me certain matters to be considered on an examination of the drafting, as a result of which I have placed certain amendments on the files, the first of which is now being considered. It is a drafting amendment designed to ensure that all duties shall be included in the definition of ''gross amount''. The word ''payable'' is unnecessary and could have the effect of excluding duties already paid.

The Hon. K. E. J. Bardolph: It is merely a drafting amendment?

The Hon. Sir LYELL McEWIN: Yes.

Amendment carried.

The Hon Sir LYELL McEWIN: I move:

In new section 32 (2) after ''last'' first occurring to insert ''preceding thirtieth''.

These are merely drafting amendments dealing with points overlooked when reference was made to the relevant date in proceedings over applications for licences. Under the Bill intending applicants for renewal of licences have to furnish information by October 1 relating to liquor purchased up to the preceding June 30. The actual application is not made until early in the new year so that as at the date when the information is required there is no application. The amendment removes the reference to ''application'' and refers simply to the preceding June 30, which is what is intended. This drafting amendment provides for that.

Amendment carried.

The Hon. Sir LYELL McEWIN moved:

In new section 32 (2) after ''June'' first occurring to strike out ''preceding the date of the application''; and to strike out ''last'' second occurring and insert ''thirtieth''.

Amendments carried.

The Hon Sir. LYELL McEWIN: I move:

In new section 32 (3) after ''licence'' to insert ''by a person other than a person specified in subsection (5) of this section''.

The purpose of this amendment is to make it clear that only in those few cases where the applicant or the transferor of a licence is the outgoing licensee will he be required to give details of purchases made to date. As the subsection now reads, the transferee could be technically required to give such details. He would not be in a position to know anything about transactions by the transferor. The amendment makes it clear that in such a case the transferee will not be so required.

Amendment carried.

The Hon. Sir LYELL McEWIN moved:

In new section 32 (5) to strike out ''IV and VIII'' and insert ''and IV''.

Amendment carried; clause as amended passed.

Remaining clauses (15 to 33) and title passed.

Bill read a third time and passed.

AUSTRALIAN MINERAL DEVELOPMENT LABORATORIES ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from November 13. Page 1653.)

The Hon. K. E. J. BARDOLPH (Central No. 1): I support the second reading. As the Minister of Mines pointed out, the Bill provides for the continuance of the operations

of the Australian Mineral Development Laboratories, which was established five years ago on a trial basis. Honourable members will remember that when this agreement was consummated by the South Australian and Commonwealth Governments a dinner was held at the South Australian Hotel to celebrate the continuance of the original scheme that had been established 14 years before. That scheme provided for three partners in the agreement—the Commonwealth Government, the South Australian Government and those in the mining industry, each to contribute a proportionate share. The new agreement, established five years ago, was made for the purpose of extracting uranium oxide from the deposits at Radium Hill and over the years quite a scientific personnel has been built up; and it has become necessary, now that the agreement has expired, for the implementation of the arrangements contained in the Bill for the continuance of the laboratories so that they can aid industry and further the development of mineral deposits in South Australia.

I wish to pay a compliment to this section of the Mines Department, because it did remarkable work in developing the Radium Hill project (which has now ceased operations because there is little demand for uranium oxide). The members of the staff are recognized throughout the Commonwealth as being of a high standard. The developmental projects they have undertaken in industry have been appreciated by industry and have helped in the economic and other development of the community. The Bill provides that the scientific personnel, executive staff and employees who have been employed in the laboratories will have their rights and privileges conserved during the five years stipulated in the Bill (to date from January 1 next year). These rights, which include superannuation, standard of pay and all the attendant privileges which have accrued to them over the years, will be safeguarded by this Bill. One of its main provisions was explained by the Minister of Mines, who said:

This Bill is to facilitate such a continuation. Its principal design is:

(1) To authorize the Minister of Mines to make appropriate new arrangements with the other parties and to renew and review those arrangements from time to time.

(2) To vest in the organization the land, buildings, and equipment which were originally provided by the State.

(3) To give rather wider financial powers and responsibilities to the organization.

(4) To place the staff wholly under the control of the organization and require that the staff which was originally engaged under the Public Service Act either transfer fully to the organization or seek alternative appointment within the Public Service.

(5) To provide for the steps to be taken if the arrangements should for any reason cease to operate.

The Bill is most commendable. As I said earlier, it protects the rights of those who help to build up industry and provides for the further development of the various mineral deposits in South Australia. Therefore, I have much pleasure in supporting the second reading.

The Hon. L. R. HART (Midland): I support the Bill. The Australian Mineral Development Laboratories were constituted as a body under the Australian Mineral Development Laboratories Act. The body was established on January 1, 1960, for five years to provide a service for investigating problems relating to the development of mineral resources, mineral processing, and the utilization of mineral products. The laboratories, formerly the Research and Development Branch of the Department of Mines, were set up about 14 years ago at Parkside and Thebarton, and at the time were recognized as the best of their kind in Australia. Their original purpose was to deal with the difficult problem of processing davidite, the raw material from which uranium is recovered. Prior to the advent of the laboratories the uranium fields at Radium Hill were worked in only a small way, although the existence of extensive deposits had been known for many years. Besides being a decisive factor in the successful and economic development of the Radium Hill uranium deposits and the treatment of the ore therefrom, these laboratories rendered valuable service in the planning of the Rum Jungle treatment plant for Zinc Corporation Limited. So high has been the reputation of these laboratories that their services were sought by countries outside the Commonwealth.

It was discovered that sulphuric acid was an ingredient required in the treatment of the raw material containing uranium. This, undoubtedly, led to investigations that resulted in the opening up of the pyrites deposits at Nairne. Great quantities of sulphuric acid were required and this demand, together with the increased demand for superphosphate, led to the opening up of these deposits. In recent times there has been a difficulty in keeping

the laboratories going. As minerals represent a large proportion of the national income in Australia, and in South Australia in particular, a need existed for their continuation. Further, a first-class staff and facilities have been built up during the period of operation. In November, 1959, a Bill was passed in this Parliament which became known as the Australian Mineral Development Laboratories Act. It authorized the establishment of an organization consisting of representatives of the Commonwealth, State and the mineral industries. It was to be controlled by a council, which was to be the executive body of the organization. The council was to consist of two members of the Commonwealth, two nominated by the Minister of Mines and three nominated by the Australian Mineral Industries Research Association Limited, a company which was formed to represent the mineral industries throughout Australia. Also on the council were three members nominated by the council itself. The contributions to the organization were to be £135,000 by the State, £45,000 by the Commonwealth and £45,000 by the industries. The amendments in the Bill are to secure the future operations of the organization for at least another five years.

A pleasing feature in the Minister's second reading explanation was that the other two parties would now guarantee an amount equal to the State guarantee. This is necessary because during the year 1962-63 the contribution by the mineral industries was £45,000, but the cost of the work done on their behalf was £86,000. During the last three years the cost of the work done by the organization for the mineral industries has exceeded the contributions by not less than £194,000. During the same period Commonwealth contributions amounted to £135,000 and the cost of the work done was £91,000. For two years it was considerably below the Commonwealth contribution, but last year it was £53,000 against a contribution of £45,000. In each year the amount contributed by the State has far exceeded the cost of the work done on its behalf. The State not only contributes an amount to the organization but has supplied the land, buildings, and paid many of the costs attached thereto. It is pleasing that the Bill provides for the investment in the organization of the land, buildings and the equipment originally provided by the State.

Clause 6 of the Bill protects the status of the staff in relation to the Public Service Act. This is important because staff on loan to the organization from the Public Service should not lose any of their rights in connection with superannuation, leave and other privileges, should they decide to remain with the organization. The Bill is an important one as the mineral industry makes a considerable contribution to the economy of Australia. For the year 1962 the mining and quarrying industries contributed £30,283,000 to the State's finances. This is nearly one-quarter of the total monetary production of the rural industries. We must carry on this organization which was set up to assist the mineral industries, and which has rendered such valuable service to them. I have pleasure in supporting the Bill.

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

SUCCESSION DUTIES ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from November 14. Page 1704.)

The Hon. F. J. POTTER (Central No. 2): I rise to support the second reading of this Bill and I do so principally because clause 5 of the Bill dealing with the second schedule to the principal Act is amended and thereby provides a revenue concession to descendants of deceased persons. I am sure the proposed amendments will be appreciated by all honourable members on both sides of the Chamber. They provide practical assistance in the case of small estates; it does not only apply to small estates but is carried through the scale. Assistance is particularly given to estates not exceeding £4,500 in value where the inheritance is taken by a widow or children under 21. Assistance is also given to other estates whose value does not exceed £2,000 and where the inheritance is by children over 21 or a widower. These exemptions will be widely appreciated and welcomed.

The Hon. K. E. J. Bardolph: Don't you think the exemptions should go further?

The Hon. F. J. POTTER: I think the history of this Government has shown over the years that it has been prepared to make progressive alterations to the schedule and I think it has always kept pace with changing values in money and other circumstances.

The Hon. K. E. J. Bardolph: Don't you think they could go further now?

The Hon. F. J. POTTER: It all depends on how far one wants to go. I suppose there would be some people who would be prepared to say that estates under £10,000 should not be taxed, which is, of course, ridiculous. Along

with the amendments to which I have just referred are some amendments to section 4 of the principal Act dealing with the assessment of duties on settlements made other than by wills, where certain duties are imposed and where powers of appointment are exercised. I read clause 3 of the Bill and quite frankly could not understand it. I turned to the Minister's second reading explanation and discovered that that was even more unintelligible to me. I became a little pessimistic because, after all, although it is some years ago—

The Hon. C. D. Rowe: You mean the speech written by the Parliamentary Draftsman is unintelligible?

The Hon. F. J. POTTER: I am saying the speech delivered by the Minister and the actual provisions in the Bill were unintelligible to me. Although it is many years since I attended the university and did the law course, including equity and property, I found the Bill most difficult to understand. This may be because I do not usually practise in the equitable jurisdiction.

The Hon. K. E. J. Bardolph: Did you pass in law?

The Hon. F. J. POTTER: I thought it would be better to get the advice of leading Queen's Counsel, so I referred the particular amendment to Queen's Counsel and was told that he found great difficulty in following the amendments. Subsequently, I had some discussions—and I think other honourable members did, too—with leading members of the profession in this State who practise in the equitable jurisdiction. Eventually I was able to receive an explanation from a group of four individuals who considered the amendments. It was in the form of a written statement of what they understood the amendments to mean.

The Hon. C. D. Rowe: Who are these people you are referring to?

The Hon. F. J. POTTER: I could name them if necessary. They are all leading members of the profession. If the Minister would like to know, I can say they are Mr. Neil McEwin, Mr. Robert Fisher, Mr. Sangster, Q.C., and Mr. Denys Lloyd, all well-known people in the profession and leaders in their own particular field. These gentlemen were good enough to provide, for my edification and I hope for the edification of honourable members, some explanation of what these clauses mean. It would appear that the proposed amendments in clause 3 seek to widen the scope of section 20 of the Act. As section 20 (1) stands at present, it imposes a liability for succession duty upon property which is comprised in a settlement. This liability is imposed at the death of the person who makes the settlement—that is the settlor—or the death of another person upon or after whose death the trusts or dispositions in the settlement take effect.

Thus we have the position that unless the trusts contained in the settlement take effect on the death of the settlor or some other person there can be no liability at all for succession duty on the property in the settlement. It follows that if there are no trusts in the settlement which take effect on the death of any person the document would be a deed of gift under section 22 of the Succession Duties Act, and chargeable with death or succession duty, only if the donor died within 12 months after the date of the deed of gift. The expressions "settlement" and "deed of gift" are defined in section 4 of the Act and it is precisely that section that this Bill seeks to amend. Clause 3 amends the definition so that the scope of the expression in the existing section 4—namely, "trusts taking effect on the death of a person"—will be expanded to cover the circumstances resulting from the exercise of a power of appointment. It would appear that by means of the exercise of the power of appointment (that is, a power given to a party to actually appoint under the disposition of certain property contained in the settlement) before the death of the settlor (or any other person on whose death the trusts take effect) it has in the past been possible to avoid a liability for duty under section 20.

Prior to the exercise of the power of appointment the interest to be taken by the various beneficiaries would have been uncertain, and would not have become certain until the death of a specified person. For example, it would not be known, say, until such death whether a widow would be surviving or whether there would be children and how many children. Thus, on death, trusts would take effect, and the settlement would be chargeable with duty. However, should this settlement contain a power of appointment, it would be possible to end this state of uncertainty by an exercise of the power of appointment to vest the property indefeasibly in certain beneficiaries, in which case no trusts take effect on the death of any person because they have already taken effect and no duty is chargeable on settlement—at this stage, at least.

The amending legislation contemplates that, if the right to property on the death of one

person accrues to another person in consequence of the exercise of a power of appointment after the commencement of the amending Act (I emphasize that phrase "after the commencement of the amending Act"), then there shall be deemed to be a trust taking effect on the death of the first-mentioned person. In other words, it appears (because even this is not clear) that, if one person has a vested right to the enjoyment of property after the death of another, then no trusts take effect on the death of the latter person, and no duty is payable. In other words, the thinking behind this seems to be that the property has actually vested and is taking effect in interest rather than taking effect in possession, which are the two ways in which it can vest. So this appears to be what is behind the amendment.

However, if the former person acquires that right of enjoyment, not by virtue of the terms of the original settlement but by virtue of the exercise of a power of appointment, then trusts are deemed to take effect on the death of another and then under this section the settlement will be chargeable with duty. I do not know whether that explanation of subclause (1a) is any more clear to honourable members than the clause as drafted or the explanation given by the Minister. I very much doubt whether it is. It is certainly a little clearer to me because I can now just grasp what it is meant to do. There seems to me very little objection to this. First of all, it expresses correctly the thought behind the drafting that I mentioned previously. Secondly, it in fact affects only those exercises of a power of appointment that are made after the coming into operation of this Act.

I turn to subsection (1b) of this amending legislation where a very different situation exists because this subsection does not come into effect after the passing of this Act; it will be retrospective in operation and affect any exercises of powers of revocation that have occurred in the past. The amendment under subsection (1b) is on similar lines to that under subsection (1a) but it applies rather to the converse case of the person mentioned in subsection (1a), who has a vested interest, which interest however another person has power to divest by exercise of a power of appointment or even of revocation. For example, let us take the case of a trust that pays income to a beneficiary at the age of 21 and the capital of the trust at the age of 35, but the settlor retains the power to revoke the trust and, for example, to make the age of payment of the capital 45 instead of 35. In this case until the death of the settlor the beneficiary's right to capital at the age of 35 is not complete or absolute because of the power of revocation which exists. Not until the death of the settlor will the right of the beneficiary become absolute. Again, in a case such as this the trusts are deemed to be trusts taking effect on death, and thus are dutiable in the same way as the trusts taking effect on death under subsection (1a).

I respectfully suggest (I think this is the unanimous opinion of most people with whom I have talked) that this last amendment in subsection (1b) is not a little unfair because many trusts have been created in bygone years. Some of them have been in existence for a long period of time while some perhaps have not existed for very long. Those trusts were drawn up in accordance with the existing law as it was then understood. Those trusts, under the provisions of subsection (1b), will be affected because in fact all trusts that have provided for powers of appointment or powers of revocation will undoubtedly be affected by subsection (1b). It seems that, if any such amendment is to be made or thought to be desirable, then at the very least that amendment should relate only as in the first part of the section to any exercises of powers of appointment that have been created or to settlements created after the date of the coming into operation of this amending legislation.

As honourable members will appreciate from the way in which I have been talking and the explanation that I have given, this is a very technical matter, in which what is intended to be done cannot fairly be expected to be grasped by any lay person without a good deal of study of what is involved. I suggest that it is so technical that it would have been an excellent idea if the whole matter had been submitted to a panel of experts in the matter to look into the actual drafting of the amendments. It is so technical that I think it should have gone before some select committee of the legal profession. The whole point that I feel is so important about this is the one I made a few minutes ago, that subsection (1b) could affect quite a number of trusts for the benefit of children or other persons that have already been set up, drawn with a knowledge of the existing law. From my own experience I know that since the war particularly, many short-term trusts have been set up by people, who would not normally think of doing so, in order to avoid the incidence of income tax. This is perfectly legitimate and can be done within the law. It

may mean that many more short-term trusts exist in accordance with the law as it now stands than may be expected. Therefore, serious consideration should be given to whether this clause should be enacted now without some provision therein that it shall take effect only in relation to changes in settlements made after the passing of the Bill.

The question might also be asked that if these settlements are to be taxed where power of appointment is exercised, why are not all trusts taxed? Why put a tax or duty on these transactions just because the donor preserves the right to guide his grandchildren in the future by providing for power of appointment? For these reasons I believe honourable members should consider whether or not they should support this clause. It may be perfectly all right in principle to be included in the Act, but I question whether clause 3 (1b) should be made retrospective in operation.

The Hon. C. D. **Rowe**: That is your main criticism?

The Hon. F. J. POTTER: Yes. Many trusts could be in existence without our knowledge. As clause 3 (1*a*) provides only for future exercise of powers of appointment, I believe subparagraph (1*b*) should do the same.

Clause 4 increases the value of exemptable gifts from £50 to £200 and will apply to section 35 of the principal Act. I am sure no honourable member would object to this increase because it is only inserted to keep pace with the change in the value of money. Similar amendments have had to be made to other Acts in relation to fines and other matters. However, as this minor amendment is being made to section 35 it gives me the opportunity to point out that I consider this section is crying out for some other type of amendment. Subsection (3) of that section contains provisions which make it extremely hard for any donor to make a gift exceeding £200. Briefly, the section states that if any property is disposed of by deed or gift or otherwise than for full consideration in money or money's worth, and the person taking under the disposition does not immediately (and these are the important words) after the disposition *bona fide* assume the beneficial interest and possession of the said property and thenceforward retain the said interest and possession to the entire exclusion of the person making the disposition and without reservation to that person of any benefit of whatsoever kind or in any way whatsoever, then duty shall be chargeable on that gift. It does not matter whether that person dies within 12 months or 20 or 30 years of making such a disposition. In other words, if the person who receives the gift does not immediately afterwards retain the beneficial interest to the entire exclusion of the person who gave him the property, then the property is dutiable. I repeat that it does not matter when the donor dies.

This section has been before the courts of this country and their decisions have shown that its provisions are extensive. In Western Australia the law has been altered to bring it into line, more or less, with Commonwealth legislation. Under Commonwealth law a gift is dutiable only if the donor dies within three years of the date of a gift. It is not my job to suggest what can be done because any amendment would affect revenue and other matters but I suggest that the action taken in Western Australia should be carefully considered because many transactions are made difficult by this section. For example, if a farmer gives portion of his land to his son many years prior to his death to enable his son to build up his own business, and during a dry year the son assists his father by allowing him to graze sheep on the property, this makes the property dutiable under section 35.

Supposing a farmer gives his property to his son, with a growing crop upon it, but retains the right to take the crop from the property for his own use, the gift of the land then becomes dutiable under section 35. If a farmer gives property to his son but continues to receive from it grain to feed his fowls the property becomes dutiable under the section. If a husband transfers his property from himself to his wife, and continues to live in the house, that makes the gift dutiable irrespective of when he dies. If a mother gives a market garden to her sons on condition that they give her an annuity for the rest of her life this gift is dutiable, too. Altogether, I think that section 35 should receive the Government's attention at an early date.

I have been led to believe that a committee has been formed from the Law Society to make representations to the Government on the matter. If the section is to be reviewed with a view to its reconstruction, clause 3 of the Bill could be deferred for further consideration by the same committee, or perhaps a more expert committee. Nobody would be greatly affected if the matter were to be considered again at an early date. The position the Government is endeavouring to cover has

existed for a long time and no great harm would result if second thoughts were obtained in relation to clause 3. I support the second reading. In Committee we may have further opinions expressed about clause 3, which I repeat could be deleted from the Bill in order to receive further consideration. The consequences of it may create hardships about which we do not know much now.

The Hon. R. C. DeGARIS (Southern): Like the Hon. Mr. Potter, I have certain misgivings about the Bill. I put in half a day trying to understand the meaning of clause 3, but as I am a mere farmer I had much difficulty in finding out what it means. I was completely confused about the issue and I thank the Hon. Mr. Potter for his clear explanation, but I am still somewhat confused. I support what the Hon. Mr. Potter said about section 35, which needs an overhaul and perhaps redrafting. Many of its provisions do not seem to be reasonable.

I commend the Government for having the legislation under review and hope that it will continue to be reviewed from time to time. Clause 5 increases the exemptions from succession duties on property derived by widows and children under 21. It also increases the exemptions for property derived by widowers, descendants and ascendants. At present a property derived by a widow and children under 21 is not dutiable up to £3,500. The Bill increases the amount to £4,500. There will be a saving in this matter of £200 and it will be reflected in the larger estates. In connection with widowers, descendants and ascendants, no duty is paid on an estate up to £1,500. The amount is to be increased to £2,000 and there will be a saving of £50, which also will be reflected in the larger estates. The concessions will cost the Government £200,000 a year. We have been told that this has been made possible by increases in fees under the Licensing Act. Clause 4 amends section 35 and brings to duty certain classes of gifts where the donors have died within 12 months of making the gifts. The amount is increased from £50 to £200. The £50 has remained unchanged for about 40 years and with the change in money values it is reasonable for the amount to be increased to £200. I support the second reading, and agree with the Hon. Mr. Potter about clause 3. At this stage I have much difficulty in following its meaning.

The Hon. M. B. DAWKINS secured the adjournment of the debate.

ROAD MAINTENANCE (CONTRIBUTION) BILL.

Adjourned debate on second reading.

(Continued from November 14. Page 1711.)

The Hon. S. C. BEVAN (Central No. 1): This is new legislation, which imposes a charge on commercial vehicles using South Australian roads. Undoubtedly, it will be necessary to iron out anomalies later. This has been a controversial matter for some time, especially in relation to interstate hauliers who use section 92 of the Commonwealth Constitution to the fullest and evade making any contribution to the maintenance of South Australian roads, other than a small proportion of the amount of the petrol and diesel oil taxes that are collected by the Commonwealth and allocated to the States. The Bill is aimed at getting a contribution from owners of heavy transports that use our roads so that they will make some contribution towards their upkeep. I have always felt that they should make a contribution. Similar legislation has operated in the Eastern States for some time and I hope that in the introduction of its Bill the South Australian Government has benefited from that legislation, which has withstood challenges in the High Court. The Government must exercise care not to discriminate in connection with the various types of vehicles that use our roads. Having regard to the legislation in the Eastern States, it appears that some discrimination must take place, and I shall refer to that later.

Another matter causing me concern is related to the administrative difficulties that must occur. For instance, there must be increased staff to give effect to the legislation. Are we to have check points in various parts of the State, and weighbridges so that loads can be weighed? If we are to have check points and weighbridges they will have to be manned for 24 hours a day, or are we going to rely upon a voluntary declaration of the owners of the vehicles themselves? I suggest that these are a few of the difficulties in the Bill and, although it is more of a Committee Bill, there are some clauses upon which I desire to comment and elaborate. The first is clause 4, dealing with exemptions. It exempts, of course, any vehicle carrying commercial goods under a capacity load of eight tons. I have wondered about this because the legislation in force in all the other States provides for an exemption of a vehicle with a capacity load of four tons. However, we find in this State that the exemption proposed is for a vehicle under eight tons.

If it were loaded to capacity I think we could all appreciate that eight tons is a big load and it would have to be a heavy vehicle, taking into consideration the tare weight. I am of the opinion that primarily the eight-ton load was fixed more on the basis of semi-trailers which bring extensive loads to South Australia and also our own semi-trailers travelling to various parts of this State. Here, we have semi-trailers operating which carry heavy loads but the owners, in accordance with the laws of the State, are compelled to register their vehicles in South Australia and pay the registration fees. The drivers have to hold a licence and there are the various aspects of road transport to be considered. That money is earmarked for the maintenance and making of roads and highways. It is intended that the amount collected from this legislation will also be earmarked and paid into a specific roads fund to be used only for the purposes of maintaining and building highways and roads. It will also assist local government in making main roads within its area. It seems to me that under clause 4 there is a definite discrimination.

The Hon. R. C. DeGaris: How much do they pay now?

The Hon. S. C. BEVAN: The position as I see it is that the owners of these interstate transports are hiding behind section 92 all the way and always have. They are making use of our roads freely; the only contribution they are making is in petrol or diesel oil tax, to which they must contribute. An allocation is made by the Commonwealth Government, and South Australia receives a certain amount but the whole amount should be allocated to roads, not the proportion we get. These people have hidden all along the line behind section 92 of the Commonwealth Constitution. It is all right to come out with printed forms and dockets and distribute them to honourable members as well as to other people who have already received circulars on this question.

These circulars state that owners should make some contribution yet when an attempt has been made to compel them to contribute they have always run to the High Court under section 92. That is how anxious they are to pay! We have all received circulars in relation to this matter because of this legislation now being introduced. The circulars state that a fairer method would be by way of a petrol tax. I am suggesting that motorists registered in South Australia are already making a contribution which these people now are not—and they should! I consider that an eight-ton capacity load will, of course, catch up with those people but a fair number will avoid it because of the legislation in other States. A semi-trailer coming from another State is exempted to a capacity four-ton load and so there is a discrimination. Whilst travelling in or through other States those vehicle owners must contribute in accordance with their particular legislation in regard to the four-ton capacity, but immediately they come over the border into South Australia they are escaping it. The owner of a semi-trailer registered here pays on the capacity of the vehicle in excess of eight tons but immediately it is driven over the border he pays on a capacity of four tons.

The Hon. N. L. Jude: You have got it the wrong way round.

The Hon. S. C. BEVAN: He pays more when he gets into the other States than what he pays in South Australia.

The Hon. R. C. DeGaris: Once the vehicle is over eight tons he pays.

The Hon. S. C. BEVAN: Yes, but under this legislation he is exempted up to eight tons in this State.

The Hon. R. C. DeGaris: No, not so. Eight tons of the semi-trailer is not exempt.

The Hon. N. L. Jude: We are talking of the abolition of the tare weight and the loading capacity.

The Hon. S. C. BEVAN: This is in respect of any vehicle's load capacity, including a semi-trailer's, which is not more than eight tons. In the Eastern States the legislation provides for not more than four tons. Surely in relation to interstate vehicles there is a discrimination. There must be.

The Hon. N. L. Jude: You could not alter the discrimination against the interstate man.

The Hon. S. C. BEVAN: No, but there is a discrimination the other way when a South Australian goes over the border. It can be argued, too, that if we reduce the load from eight tons to four tons then our primary producers will be adversely affected. I am anticipating that it will be advanced by some honourable members that they would be exempt anyhow. We are given to understand in the second reading explanation that this State has followed as closely as possible the legislation in other States.

Clause 5 deals with the contribution, and whatever moneys are collected shall be paid into the Treasury fund to be used for the purpose of the maintenance of roads. However, this is again based on the load capacity and could react harshly on

some carriers in our own State because they could have a capacity load leaving the city to go north, unload half the load in Port Pirie and take the rest of it through to Whyalla. However they would still pay on their load capacity per ton-mile from the time they left the city, irrespective of the actual load. Whatever the load they may be carrying it is not based on the load of the vehicle but the capacity all the time.

The Hon. R. C. DeGaris: Forty per cent of it.

The Hon. S. C. BEVAN: Yes. It is based on that capacity all the time. As I say, I consider it could be fairer if it were worked upon the amount of actual loading.

The Hon. R. C. DeGaris: You would need a weighbridge for that.

The Hon. S. C. BEVAN: I am wondering how under this jurisdiction we shall get on.

The Hon. G. O'H. Giles: You would not have to weigh the load, under your suggestion?

The Hon. S. C. BEVAN: That is so.

The Hon. R. C. DeGaris. You have to weigh your vehicle now.

The Hon. S. C. BEVAN: Yes. One can get the loading capacity from our State Registrar. Clause 6 reads:

> The owner of the vehicle shall keep in duplicate in or to the effect of the form in the Third Schedule an accurate daily record on all journeys of the vehicle along public roads in South Australia.

Shall we rely upon the declaration of the owner of the vehicle itself? This clause says that that is what we shall do. There will be much evasion under this provision. How will the policing of this be affected? Evasion will be simple because of exemptions and mileages, and to arrive at the proper record the vehicle's speedometer reading will be taken as a guide. The driver goes out loaded and comes back empty. Surely it is an easy matter to put down a record of 200 miles one way and 300 the other way in respect of a journey of 250 miles there and 250 miles back so that the speedometer reading will correspond if a reading is taken. This was commented upon by a circular sent out by the transport association, which said:

> Essentially, it has to rely on voluntary declarations by the truck owners, regardless of what enforcement and check-up provisions are set up in the law. Thus the tax is collected in full only from the conscientious operator and thereby penalizes him with respect to less scrupulous operators.

They are suggesting that they have both the less scrupulous operator and the honest man who will be the one who will have to toe the line. These difficulties are there. How shall we overcome them? I do not know unless there is somebody to check up on the vehicle all the time.

Honourable members know that clause 14 amends the Road and Railway Transport Act in relation to licences on controlled routes. Undoubtedly there will be some complaints from a carrier operating on a controlled route and who has a monopoly because he is the only licensed operator. Once the licences go, then others can come in, as undoubtedly they will. So there will be protests from the carriers. I think the time has arrived when the Transport Control Board should be discontinued altogether. It will be dealing with passenger traffic. We know what happens when a bus operator runs a day tour. He may want to run a tour through the Barossa Valley for visitors from other States. First, he has to get a permit. The railways are inconvenient for tourists. There is generally one train a day that will take one to a certain place, and it comes back empty. If trains were run for the convenience of the public, more people would use our railways as passengers. The board should be disbanded and everybody should be allowed free access to the roads. This is principally a Committee Bill. I support the second reading.

The Hon. G. O'H. GILES (Southern): I, too, support the second reading. Many of us in this Chamber have been vociferous for a period of years in announcing our objections to the present method of controlling routes by the Transport Control Board, and in particular may I suggest that the voices of those honourable members representing primary-producing areas are probably louder in their objections than others. So I do not wish to do other at this stage than support the Government in introducing this legislation.

As the Hon. Mr. Bevan has pointed out, the Bill envisages a completely new method of virtually controlling transport. On the other hand, it envisages the complete removal of control on certain routes. So this "control" allows a state of competition to exist not confined merely to road hauliers. The essence of this Bill and what will make it tick, if anything, is competition not only between the road hauliers, between one firm and another, but also between them and a more modernized railway (we hope) with a quicker handling and turn-round of goods and a more efficient timing on an interstate basis. It envisages competition with shipping firms, with more efficiency in wharf operation and less hold-ups and quicker

turn-round of ships. All these points are vital when we decontrol transport, as this Bill envisages.

Clause 5 provides that the owners of vehicles shall pay a charge at the rate of one-third of a penny on the sum of the tare weight and 40 per cent of the load capacity. I am inclined to agree with some of the statements made by the Hon. Mr. Bevan with regard to load capacity. It seems totally unrealistic to me that if a truck is driven backwards and forwards on a road while completely empty it should still be charged 40 per cent on the load capacity—the same charge levied on a truck carrying 20 tons or more. However, I have two qualifications to make. First, provision is made under the Bill to exempt vehicles going to a point of contact to load and returning to the depot. Secondly, it would be totally unrealistic to have to weigh every load before a contribution had to be made under this scheme.

The Hon. N. L. Jude: The Bill deals entirely with vehicles registered at a certain tare weight.

The Hon. G. O'H. GILES: I do not see the point of the interjection.

The Hon. N. L. Jude: You seemed to consider the weight and this measure is not concerned with that.

The Hon. G. O'H. GILES: The Minister has misunderstood me. I had it in mind to agree partially with Mr. Bevan when he said the load should be considered. However, this would be unworkable and I agree that that is not included in the Bill. I could not agree more with Mr. Bevan when he says that it is probably time interstate hauliers paid their way for the use of South Australian roads. This is essential and conditions have arisen that have made it essential for the Minister to introduce this type of legislation. It would be unreasonable for interstate hauliers to carry colossal loads on unmade roads in South Australia without contributing one penny for their maintenance and upkeep. The Government's attitude is commendable and this legislation is a necessity.

The writing has been on the wall for a long while and all road hauliers, whether interstate or local, should have realized that this legislation was inevitable, having regard to what has happened in other States. Honourable members can debate at length, and perhaps *ad nauseum*, about the collecting of these levies. We can debate whether the owners of these firms are reputable people and whether they will fill in their returns, but the fact remains that other States have seen fit to introduce this legislation and evidently it has had a good effect in helping to maintain their roads. In his explanation on the second reading, the Minister referred to a figure of £200,000 which may be obtained through these contributions. I find the term "contributions" a trifle amusing under the circumstances. However, whether they be contributions or a direct levy for use on the roads, I still think they will be valuable and achieve the purpose for which they were designed.

The Hon. S. C. Bevan: That figure will be less administrative costs.

The Hon. G. O'H. GILES: Yes, but other States and other countries have found this to be a worthwhile method of gaining revenue for the maintenance of roads and I can see no justifiable reason why this State should not adopt the same method. It has paid in other places and I hope it will pay here.

Recently I made some comments about section 92 of the Commonwealth Constitution. I now wish to make another comment: under this section the same conditions must apply to intrastate hauliers as to interstate hauliers. If the Bill contains anomalies I am afraid they must be accepted as such and we must do what we can to see that there are not too many of them. The same conditions and contributions must apply to all types of road hauliers if section 92 is to be observed. I thought I detected a little loose thinking in some of the speeches on the Bill and so I will define who will contribute under this scheme and who will not. As members know, there is a formula for the payment of the levy. The definition of "load capacity" must be considered and this occurs in clause 3 of the Bill as follows:

(*a*) the load capacity thereof as shown in the certificate of registration issued in respect thereof under the Motor Vehicles Act, 1959-1962, or under any corresponding legislation or ordinance of any State or Territory of the Commonwealth; or

(*b*) where in such certificate there is shown the maximum permissible gross weight of the motor vehicle or trailer together with the load which may be carried thereon and also the tare weight of the motor vehicle or trailer, the difference between such gross weight and tare weight; or

(*c*) where no such load capacity or weights are shown in such certificate or no such certificate is in force, the load capacity aforesaid of a similar motor vehicle or trailer registered under the Motor Vehicles Act, 1959-1962:

This means that if no definition is available on the registration certificate or by any other means, the fact that previous vehicles of the same type and load capacity have been registered will be the means of assessing the load capacity or weight of the vehicle. That is what I believe paragraph (*c*) means.

The Hon. S. C. Bevan: If the load capacity is 10 tons and a driver is carrying 12 tons, where will he be then?

The Hon. G. O'H. GILES: He will be wide open. I shall now deal with the position affecting the use of ancillary vehicles. The Hon. Mr. Bevan has referred to primary producers and exemptions made under this Bill. I want to refer to the many firms, particularly in country towns, which under present provisions have been forced to operate uneconomically in the transport of their goods. I refer to Male Brothers of Murray Bridge. Their position is significant, and is the same as the position of many country industries that are attempting to carry on economic trading. That firm has been for various reasons, and it may be an income tax reason, running its own heavy trucks for the delivery of the bulky agricultural machinery it manufactures. It delivers this machinery to all parts of the Commonwealth. Its trucks come to Adelaide with machinery, but they must return empty to Murray Bridge. Under the regulations the trucks cannot take goods back to that town. I appreciate the Government's action as it affects this type of industry, and it will apply many times throughout the State, to the advantage of decentralization of industry. I know how pleased many firms will be when they will be able to back-load and so bring about efficient operation. I can imagine nothing more wasteful than the laws that have been applied to this type of cartage.

The Hon. N. L. Jude: Under the Bill they will be able to do it but they will have to pay.

The Hon. G. O'H. GILES: That is what I am saying.

The Hon. N. L. Jude: I do not follow you.

The Hon. S. C. Bevan: The honourable member said that they are not able to do it now but under the Bill they will be able to do it.

The Hon. G. O'H. GILES: Yes. I was about to commend the Minister and I am disappointed that he saw fit to disagree with my congratulatory remarks. Many of us have been saying for a long time what I have just mentioned, and we are pleased that, subject to the contribution, all routes now controlled will be decontrolled. The Minister has a worried look as a result of my statement, but I think he knows what I mean. In future, subject to the payment of the tax, there will be an open go on most roads. This is commendable and hauliers, shippers, railway authorities and so on will be able to work in healthy competition, and in particular the hauliers will contribute something towards the upkeep of our highways.

The Hon. Mr. Bevan quoted from a pamphlet issued by the South Australian Road Transport Association Incorporated. I think that all members have a copy of it. It is headed "Ton-Mile Road Tax—The Facts". What the association says is in most cases true, but it appears that many of its contentions have nothing to do with the wear and tear of our roads. In one place the association refers to the space taken up by a semi-trailer compared with that of a motor car, but I am not interested in space taken up. I do not agree with their further contention about the value of the load carried. I do not care whether it is a load of marbles, diamonds, politicians going to the Snowy River scheme, rubbish or anything else. I do not think the value of the load is important in assessing who should pay fees under the ton-mile tax scheme, and the other matters mentioned in the pamphlet. Under the heading "Defective in Theory" the pamphlet says that the ton-mile is an inaccurate measure of the use of the road. That may be so and possibly the association has a point there, but it is still in my opinion the measure of weight that goes over a point in a period of time that counts. Whether we have a multiplicity of axles or only two axles in proportion to the load carried, the bulk of the weight over the point during a period of time is the same. We all know that the weight applied to a road service at a given time is markedly different. That is why the association may have a point. I do not think it is valid, however, for on a wet day a vehicle may be on a crumbling edge of a built-up road, and the important point is the application of the sheer weight to that crumbling edge.

The Hon. R. C. DeGaris: Did the association suggest a way out?

The Hon. G. O'H. GILES: Yes, but it does not fall within the province of the State Government. It suggests a fuel tax in order to get money for road maintenance, and that to the association seems to be more equitable than money derived from registrations or the ton-mile tax. Although we are entitled to make suggestions along these lines, I do not think

there is anything I can do about the matter unless to inquire later from the Minister whether the various State Ministers of Roads have seriously considered the matter. Obviously it is a sort of proposition that would meet much of the objection road hauliers are putting forward at present. Also in the pamphlet the association put forward a proposition that a proportionately greater truck registration fee is generally accepted as compensating the State for the extra cost involved in the maintenance of roads. I do not accept that. I take the view that the small motor car owner, driving at a low speed, and carrying no weight of consequence, would be the person who, by way of registration fees, would be paying most towards the maintenance of roads. So I would deny the contention under paragraph (*e*) of this document. Furthermore, it is pointed out that it disregards the effect of weather and natural causes in relation to deterioration. This factor has apparently been assessed at 60 per cent in the United States of America. Once again I point out that this is a deterioration that will occur almost regardless of the types of vehicle used over a road surface. All of us have noted that during the wet winter numerous cracks have appeared in main roads due to the shifting foundations. These factors are uniform; they may vary from year to year but have very little to do with the break-up of a road until weight is applied to a road in such a condition. When weight is applied at that point it will have some bearing on the break-up of the road, but until then the weather conditions are forces with no bearing on the people who are subject to a ton-mile contribution.

The next matter to which I refer is that the ton-mile road tax is discriminatory because it applies to only a limited class of vehicles; for example, trucks but not commercial motor cars. As regards mileage, who can say that one truck travelling a mile uses more road than or does as much damage as one car travelling 10 miles—or 10 cars travelling one mile—or a number of utilities and light trucks whose loads equal that of one semi-trailer? So I say that here is an anomaly to which I have earlier referred and I believe the Hon. Mr. Bevan referred to it. It is a difficult anomaly to rectify. I think everyone would agree that if there were 15 vehicles each carrying a ton over a mile the effect would be virtually the same as with one semi-trailer.

The Hon. N. L. Jude: If it is not going around a corner.

The Hon. G. O'H. GILES: That may be so. On the other hand, how many axles does the semi-trailer have? Under any of the wheels the proportion of the 15 tons applied to any part of the road is very little and could be equivalent to the 15 utilities carrying the same load. What the Minister agrees to by way of his interjection is that there is not much difference, apart from cornering, where the weight is applied transversely to the point of impact. The only difference under this Bill is that one is taxed heavily and the combination of vehicles is not. I have no real objection to this; I do not think we can resolve this situation to the benefit of the State or to the benefit of our road system at all. It is an anomaly that will exist and one of the anomalies that this particular association in its pamphlet has put forward fairly validly.

I refer now to administrative difficulties mentioned also by the Hon. Mr. Bevan. I agree that there will be administrative difficulties and I am sure the Minister would also agree. Here we have a position where formerly we had a sort of bureaucratic control of transport routes. We have been able to drop that system for some open competition on these routes, and we have traded them for probably a bigger department to control and to look after the legitimate bookkeeping that must be done if these firms are to contribute justly to a ton-mile tax. The Hon. Mr. Bevan, on the other hand, mentioned that inspectors would have to be sitting in the vehicle all the time to keep an eye on the miles travelled and the various trips made. I point out in answer to Mr. Bevan that, in the case of any taxation that is levied, by and large we depend on the authenticity of the individual—

The Hon. R. C. DeGaris: The honesty.

The Hon. G. O'H. GILES: I thank the honourable member—to file correct figures and claims.

The Hon. C. R. Story: What keeps those fellows going?

The Hon. G. O'H. GILES: This is exactly the situation I have just explained. No matter what taxation is levied there are always people who have a good look at the matter—taxation departments and officials—and there will be a minor department looking after this legislation. In other words, I do not agree with Mr. Bevan's contention that we must have inspectors sitting in the cabins of vehicles, because that is not a valid point. However, I have no doubt that a certain amount of supervision will be necessary. The avoidance of double and triple handling due to the provisions of this

Bill when they become law will prove advantageous indeed to the State. I stress again my belief that the competition that will ensue will be not only between firms but, rightly so, between those firms and a modernized railway system with flexivans and lift-off crates and between shipping interests and shipping lines with a more modern approach to wharf facilities. Wherever we go in the world today we find some attempts to co-ordinate transport facilities. I am hoping that under the provisions of the Bill these conditions will occur by competition between one branch of transport and another. I believe the Minister of Railways will have an important job to make sure that the railways are in a fit condition to compete. I hope this will be so, and with these few words I have much pleasure in supporting the second reading.

The Hon. M. B. DAWKINS (Midland): I also rise to support the second reading. In some ways I regret having to do so because I do not like additional controls. However, as I think my honourable friend has just indicated, the effect of the Bill may well reduce control in other ways. For example, the controls of the Transport Control Board will largely be offset and here I should like to congratulate my colleague, the Hon. Mr. Hart, who has, in the 12 months or so that he has been in this place, worked consistently to abolish the Transport Control Board. By reason of this Bill I should think that, by and large, he has very nearly done so. Also, I have recently received copies of correspondence dealing with an interview between a private motor transport company and the Transport Control Board. It is probably good that we are about to abolish that board.

I do not wish to impose unnecessary charges upon hauliers but, as other honourable members have said, this type of legislation obtains in the Eastern States on loads of over four tons. Here in South Australia the legislation will apply only on loads of eight tons, and the charge will be calculated on the sum of the tare weight and 40 per cent of the load capacity. Therefore, many truck users, including most primary producers, will be exempt under this legislation. It is, however, undeniable that heavy loads place a considerable strain on our roads. Honourable members generally are pleased with the high standard of road being laid in this State today and with the heavy base being used. It is my opinion that our highways today are better than most roads in other States. If honourable members will for a moment cast their minds back about 10 or 12 years to the 1951-53 period, they will, I am sure, remember the Duke's Highway as it was then. Many members will have travelled over it to Melbourne. In those days that highway, which was typical of others, consisted of a thin bitumen seal and very little base, and during the wet year of 1951 this thin shell broke and we had a very bad road.

Only recently I referred to another road in my area, main road 410, which I mentioned as being a good example of how not to make a bitumen road. The Minister interjected then and I believe he thought that the road to which I referred was in the district of Mudla Wirra. The portions to which I referred are in the Munno Para and Salisbury areas. That road is breaking up because of the heavy hauliers who are carting earth to the sewage project at Bolivar. This road is typical of the type of bitumen road we used to put down. Now, of course, as I indicated a few moments ago, we put down roads with a good, heavy base of 6in. or more of crushed rock. The road we are putting down today is, generally speaking, very good.

But these roads are very costly, mainly because of this deep base. One of the main reasons (not the only one but certainly one of the main reasons) for needing this excellent deep base construction, which is so costly, is the strain imposed upon roads by the heavy trucks, particularly of hauliers from other States. As the Hon. Mr. Giles has said, if we are to catch up with the interstate hauliers, we also have to catch up with our own intrastate carriers. Therefore, as the exemptions obtain up to eight tons, it is reasonable that the heavy trucks make a contribution to the cost of our highways and roads. As I have said, I regret having to support any further cost to any section of the community but, having regard to the conditions mentioned by other honourable members and the things I have said in the last few minutes, I believe that this is a reasonable and fair provision. Therefore, without going into further detail, I support the second reading.

The Hon. L. R. HART (Midland): I rise to support the second reading, not that I entirely agree with all the provisions of the Bill. We all feel that it is only fair that the people who use the highways and roads should make a fair contribution towards their maintenance but, over the years, the interstate hauliers have been able to use these roads with considerable concessions to themselves. We must appreciate, however, that their using our

roads has provided for this State a service that has been of some value to our industry. We are a manufacturing State and far removed from our main markets and centres of consumption. The fact that we have had a cheap form of transport has meant that we have been able to market our goods in consumer centres without great transport costs. So, it has been of some value to us.

However, we must also appreciate that roads must be maintained and, with the advent of a much heavier type of transport today, the cost of building and maintaining our roads is rising considerably. I have been mentioned in this debate as one endeavouring to get rid of the Transport Control Board. I do not think this is entirely correct.

The Hon. M. B. Dawkins: I am sorry if I said anything inaccurate in that respect.

The Hon. L. R. HART: I have made some endeavours to get some relaxation of the board's controls. It has been my belief that certain classes of goods should have been exempt from control, and I still maintain that. It has been said that roads deteriorate by being used; also from weather and other natural causes. It is also true that bitumen roads deteriorate through lack of use. It has been discovered that, in many of the subdivisional areas where bitumen roads were required to be put down before the subdivisions were granted. Through lack of use many of these roads have considerably deteriorated. The runways at the Edinburgh airfield have to be treated on those sections that are not used by the planes' wheels in landing, because those sections of the runway deteriorate. At that airfield an implement is used to roll these roads on the section not touched by the wheels of aircraft. The light vehicle of the private motorist does cause some wear and tear on the roads but, all in all, he does help to keep bitumen roads alive. I am not entirely clear about certain clauses of the Bill. Clause 4 (*b*) states:

> . . . any vehicle while being used solely for any or some of the purposes specified in the First Schedule or while travelling unladen directly to or from the business premises of the owner of the vehicle so as to be so used or after having been so used.

This means, in effect, that the vehicle can travel from the business premises of the owner to a job and return after completion of the job to the owner's premises without being subjected to a tax. I believe this clause is open to abuse. It could well be that the business premises of the owner are situated somewhere near the line of the point where the truck would go to pick up its load and also the point where it would discharge its load. After discharging its load it could return to the business premises of the owner and would therefore not be subjected to the tax and from that business premises it could go to the point where it could pick up its load also without being subjected to the tax. The tax would be only on the full load it would take from one place to another.

The schedule states that the carriage of livestock from farm to farm shall be exempt from the road tax. I should like the Minister to say whether this means from one farm to another farm owned by the same man.

The Hon. N. L. Jude: No, one farm to any farm.

The Hon. L. R. HART: That means any licensed carrier can drive from one farm to any other farm without being taxed?

The Hon. N. L. Jude: Yes.

The Hon. L. R. HART: If the Bill is passed I believe there should be some form of licensing carriers at a nominal fee. The carrier who applies for a licence must be able to establish some credentials. He is in a position of trust and should be a man who is trustworthy. He should be able to supply credentials given to him by stock agents or banks or whatever the board may consider necessary.

I am not sure that the eight-ton minimum is quite fair. I believe that the idea behind the Bill was to have an Act that would require contributions from interstate hauliers and other hauliers who carry heavy loads, and an attempt has been made to exclude the primary producer. This is commendable and I agree with it, but the provision of an eight-ton limit will mean that many people who use the roads with heavily laden vehicles will be excluded. I believe that the Minister of Roads was concerned that many of his department's trucks would fall within the category of the four-ton limit. With an eight-ton limit it is possible that Highways Department trucks and local government trucks will be exempted. I believe it would be far better to have a lower limit and a wider range of exemptions. It has been mentioned that Victoria has a four-ton limit. That is so, but there are many exemptions there that are not provided in our Bill. I understand that private stock carrying is entirely exempted under the Victorian Act. If this Bill is challenged in the High Court and it is necessary to come back to a four-ton limit the Government should then consider bringing in a schedule that will allow for a wider range of exemptions. I

believe all honourable members can see that a Bill of this nature is necessary; whether this particular Bill covers all the requirements is, perhaps, open to debate, but it is an attempt to rectify an anomaly that has existed for a long while. However, there is always the possibility that it will bring other problems in its train.

Earlier I referred to the fact that many of our products are carried to the Eastern States at low cost for marketing. I understand that, under this Bill, South Australian cement at present marketed in the Eastern States will probably be priced out of this market. If this is so, it is unfortunate because of the quantity of cement marketed in the Eastern States. Bearing these facts in mind I believe the Bill should be carefully examined in Committee to see whether any improvements can be made to it. I support the second reading.

The Hon. R. C. DeGARIS (Southern): I support the second reading. The principal object of the Bill is to impose a charge for road maintenance upon commercial goods vehicles. The legislation follows that already in force in the Eastern States. It has been in operation there for some considerable time. During the weekend I spoke to truck operators in the South-East who mainly work on the interstate run and I found a good deal of opposition to this measure. However, by and large, the operators accept the inevitability of such a tax being levied in this State. They point out that their opposition is based on the fact that it is not a fair tax and that a large bureaucratic force is required for the collection of taxation and the administration of this legislation. Carriers who operate in the South-East are mostly interstate hauliers and the fact that Victoria enjoys a fairly large percentage of the trade in the South-East is largely because it has road transport between there and Melbourne. This has enabled Melbourne business to compete favourably with Adelaide business, but I am sure that the Bill, with the decontrolling of routes which must follow, will allow Adelaide business to compete more favourably.

The Hon. Mr. Bevan referred to the cost of administration. I could not follow his point about interstate transports crossing the border. He said that semi-trailers could be exempt in South Australia and have to pay a tax in the State they enter. The exemption in South Australia is up to an eight-ton load capacity. In other States there is a four-ton capacity. In South Australia the exemptions are not as great as in other States. I do not think that the disparity between eight tons and four tons when vehicles cross the border will mean much. The Hon. Mr. Giles referred to country industries using their own trucks in the delivery of goods, which is an important factor. The people concerned have not been able to get back loading from Adelaide, but under the Bill they will be able to do it, which will reduce costs. The eight tons load capacity that will operate in South Australia will allow the State to administer the Act more simply than the administration in the Eastern States. Because of the eight tons capacity there will be fewer trucks involved, and with the fewer exemptions here we shall have our administration done more cheaply than the administration in the other States.

I was interested in the Minister's reply to the Hon. Mr. Hart about the transport of stock from farm to farm. This is a matter that was put to me by the South-East flat top truck operators. In Victoria the transport of stock is completely exempt, but I was pleased to hear the Minister say that in South Australia the exemption will apply only on transport of stock from farm to farm. In other words, the transport of stock from the farm to the abattoirs will be taxed. The South-East operators feel that this type of legislation must come to the State because it is already operating in the Eastern States. Therefore, I support the Bill.

The Hon. C. R. STORY (Midland): This Bill will be welcomed in many parts of the State. Since I have been in Parliament many members have referred in rather derogatory terms to the restrictions placed on the movement of road transport in South Australia, and sometimes with much justification. I do not blame the Tansport Control Board but Parliament for having established such controls. I know it was done to endeavour to give our Railways Department an opportunity to compete with road transport. I commend the Government for introducing the Bill because things have changed considerably over the last 15 years. The face of the State has changed and this has included the transport of goods. This is primarily a Committee Bill and no doubt the Minister will provide sufficient time for it to be considered adequately. Assurances from him are necessary on a number of points. It is said that our legislation will differ from the Victorian legislation because we shall have an eight-ton limit as against a four-ton limit in that State. The Hon. Mr. DeGaris said that our exemptions will be more

restricted than those in the other States, but that will be compensated for by our eight-ton limit. In Committee I want the Minister to answer several questions, which I shall now put to him. Clause 3 says:

"Owner" includes every person who is the owner or joint owner or part owner of a commercial goods vehicle and any person who has the use of any such vehicle under a hiring or hire-purchase agreement, and includes any person in whose name a vehicle is registered under the Motor Vehicles Act, 1959-1962, or under any corresponding legislation or ordinance of any State or Territory of the Commonwealth, but does not include an unpaid vendor of such a vehicle under a hire-purchase agreement:

A small firm may be formed called "Blue Trucks Transport Company" and it may acquire five or six trucks. Whether that is done outright or under hire-purchase is incidental. Another company called "Blue Trucks Holdings Ltd." may be formed. The only equipment the transport company may have is the office desk, but the holding company may own the trucks that are leased to the operating company. After operating for some months and getting into arrears to the extent of, say, £5,000 or £10,000 the transport company may declare itself insolvent, and there would be nothing but the office desk as assets, because the holding company would own the vehicles. I understand this racket has been worked successfully in other places. I should have said that on the office desk were all the summonses, and nothing else. Have we taken all the care necessary to see that this sort of thing does not happen in South Australia? It is a bad practice, and it could extend to other phases of our business life.

The next point I wish to raise specifically with the Minister relates to the administrative and policing costs of this proposal. We have estimated that we will receive somewhere between £150,000 and £200,000 as a result of it. If we can estimate how much we would receive in the way of profit, surely some notice can be taken of what the administrative costs will be. I think that if this provision is to be policed carefully it will cost a vast amount of money. It seems to me wrong to bring down legislation that we do not set out to police completely. I have some personal experience of what happens in other States with regard to this matter, and the slick operator, if I may put it that way, escapes a terrific amount of tax because if he thinks he has not been observed on a trip he does not record it, whereas the genuine operator records each trip. I can see that in interstate work it would be much more likely that a person would be detected in this matter because he may go through three States, but with intrastate work, where trucks are working in a regional area, I am wondering whether we shall not have a bevy of people who are—

The Hon. N. L. Jude: Other States have this legislation and that is why they have been urging South Australia to bring it in so that we can have mutual arrangements for policing this provision.

The Hon. C. R. STORY: Quite. That covers the interstate work, but I am not so sure about intrastate work where drivers get off the main bitumen road and it would be distinctly unfair if some reputable people who lived in country towns paid the full amounts due and some other operators did not. Therefore, I rather think that to make this provision effective we must have a large bevy of gentlemen driving around in blue motor cars equipped with sirens. My next point is one that has already been raised by other honourable members. It deals with the matter of transporting stock from farm to farm. If my reading of the Bill is correct it means that a farmer can have his stock transported from his farm at point A to his farm at point B.

The Hon. N. L. Jude: It means he could have it transported from his farm to your farm as well.

The Hon. C. R. STORY: That puts an entirely different complexion upon the views of some people in this Chamber and outside. Another point is the position where a man operating an interstate fleet of trucks also does intrastate work. At the moment he would pay a registration fee to South Australia on the trucks operating within the State. For the remainder of the trucks he would obtain the £1 licence, or whatever it is, for an interstate registration plate. I take it that provided he registers some portion of his fleet which he uses for intrastate work in South Australia it is not necessary for him to register the whole fleet with the full registration fee in South Australia and that these plates will still continue as previously.

The Hon. N. L. Jude: He cannot use an interstate registration plate for any intrastate work.

The Hon. C. R. STORY: I thank the Minister. I am happy with many of the provisions in this Bill and I know it will be somewhat discriminatory against the smaller type of carrier in some areas because the eight-ton limit will enable many people to operate in

that sphere. If a man has three or four semi-trailers which he has been operating for some years, and we allow other people to operate under the eight-ton limit and get away without paying road tax, it could be a hardship upon the large carrier. I realize that the man who has the wheels placed farthest apart, such as a semi-trailer operator, is being asked to contribute towards the roads at a far greater rate than carriers who have the wheels close together and have a compact load. I do not know that that is a fair approach. I also realize that we need the money for repairing roads.

I think we ought to have a close look at the tipper trucks because a number of them, especially those used by district councils on a hire basis, will be excluded from the road tax because their tare weight is 40 per cent of, say, a six-yard load size and will escape under the provisions of the Bill. Those people will be at a distinct advantage over the heavier haulier who, because of economics, probably buys the bigger truck and moves the greater load. It seems to me that a man could make his living completely out of this form of tipper truck carrying and not pay a penny towards road maintenance because he would be just under the limit. However, he could do an immense amount of damage to the roads. Nothing is worse probably for roads than tipper trucks where they are filling and tipping. I realize that some of this will be road maintenance work: it also includes the situation where trucks go off with a load of bricks or sand to new housing areas. I think that to make this provision fair and equitable we should have a close look at the tipper truck situation and I should like the Minister to do something about it before we reach the Committee stage. I have much pleasure in supporting the second reading.

The Hon. G. J. GILFILLAN (Northern): I support the Bill and the principles contained in it. Although several passages in it have been queried by other honourable members I believe that, in the main, it is an attempt to meet most of the requirements of those who use road transport. In the past we have expressed our belief in free competition and this Bill will do much to promote competition between road transport and other means of transport. It will have many advantages and, of course, in the initial stages, some disadvantages. One of the criticisms levelled at the Bill has been the limit of eight tons for taxing trucks. It has been suggested that four tons would be more suitable and another suggestion is that there be no limit at all. There must be a starting point in a Bill of this kind and I agree with the Hon. Mr. DeGaris that the eight tons will make the administration of the Bill much easier. The question of administration has been raised and it will be necessary to find the most economical way to administer the Bill so as to ensure that the maximum net revenue is returned for road maintenance.

The Bill, by taxing larger vehicles, is obtaining money from those vehicles causing the greatest wear on the roads. Some honourable members have said that smaller vehicles wear the roads equally but most of us who have travelled on country roads, particularly when following a heavy vehicle such as a semi-trailer, are aware that because of its extra size it must keep well to the left of the road to allow other traffic to pass and often its wheels run on or just off the shoulder of the road. This causes excessive maintenance work and these repairs are among the most costly forms of maintenance. Although the tax will increase the costs of road transport to some extent it is not vicious and there will be the advantage of road transport being able to operate without the control of the Transport Control Board. The proposed tax means that controls will be lifted thus enabling vehicles to back load. I believe that the average carrier should be able, at least, to recoup his extra costs by this means and there is a good chance he will make a profit on back loading.

Another point raised is that, with an arbitrary dividing line of eight tons and over, some carriers will be at a disadvantage when competing with trucks of less capacity which are able to operate without paying the tax. This is one of the anomalies that will be hard to avoid. Over a period of time owners will have the opportunity to replace their fleets with the size of vehicle that will operate most economically on the type of service they are providing. Although I agree that having an arbitrary line will cause some difficulty, it would be far more confusing if a limit was provided that was likely to be altered from time to time meaning that owners would be repeatedly facing a loss when replacing their vehicles. In general, I believe this Bill has much to recommend it and the difficulties raised will be overcome. I am certain that if practice proves the incidence of any serious anomalies in the Bill they will be rectified at a suitable time. The first schedule lists the exemptions as follows:

(1) the carriage of berries and other soft fruits, unprocessed market garden and orchard

produce (other than potatoes and onions), milk, cream, butter, eggs, meat, fish or flowers, and, on the return trip, any empty containers used on the outward trip for the carriage of any such commodity;

(2) the carriage of livestock to or from agricultural shows or exhibitions or from farm to farm—

The provision about the carriage of stock from farm to farm will be of great benefit, particularly in drought periods. Another matter that should be considered is the carriage of stock from the drier areas to the markets in the fringes of agricultural areas. I think of Burra, Peterborough, Orroroo, Crystal Brook and towns on Eyre Peninsula, to which places stock is brought by road transport over bush tracks and station roads. In the Bill a ''public road'' is defined as any street, road, lane, bridge, thoroughfare or place open to or used by the public for passage with vehicles. There is no railway station between Burra and the border, a distance of 200 miles, and over the border in New South Wales a considerable distance must be travelled before reaching a railway. More consideration should be given to the people who transport stock outside district council areas. If this is not possible in the administration of the legislation, I hope a generous portion of the revenue obtained will be spent on the maintenance of roads in these areas.

The Hon. N. L. JUDE (Minister of Roads): This is a Committee Bill, but a number of questions have been asked by members. I thank all members for the consideration they have given to this new departure in our road transport legislation. During the second reading debate I tried to answer some of the questions by way of interjection. I assure the Hon. Mr. Story that the Government is fully alive to the administrative difficulties, particularly in regard to ownership. This is a problem that has beset the other three States with the legislation, and it is one reason why South Australia should have similar legislation. It will enable us to combine more satisfactorily in the policing of it. I would be foolish if I did not admit that there will be many problems and anomalies in the administration of the Act. Although the field of exemption is smaller here than in the other States, there is a grand exemption of the eight tons against the four tons of the other States, which is a tremendous concession. It is fair to remind members that the concessions granted to primary producers in South Australia are considerable. The 50 per cent reduction in the registration fee of motor vehicles is not enjoyed in many other places. It was originally introduced because the primary producers did not have many good roads. The sealed highways stopped about 20 to 30 miles from the cities. Today we can be proud of the fact that we have hundreds of miles of sealed roads, and only the few people in the far outback areas, where they get other advantages in connection with taxation, do not have good roads on which to transport livestock. I emphasize that it would be highly undesirable to amend the Bill and depart from the general standards approved by the High Court in relation to legislation in other States. I commend the Bill as it stands. I accept the criticism in the spirit in which it has been offered by members and I hope that they will accept the explanations I have given.

Bill read a second time.

In Committee.

Clauses 1 to 5 passed.

Clause 6—''Records of journeys of vehicles.''

The Hon. G. O'H. GILES: It appears relevant to draw the Minister's attention to one of the contentions of the South Australian Road Transport Association in a paper that has been submitted to all members. Under the heading ''Discriminatory practices'' there is the statement that if the full tax is imposed on an unloaded or partially loaded truck it will be a discrimination. I dealt with this matter earlier. Will the Minister comment on the apparent imposition on the truck owner taking his truck from point A to point B partially loaded or empty, as against the fully loaded truck?

The Hon. N. L. JUDE (Minister of Roads): I have no difficulty in answering that question. The basis of the ton-mile tax is the average. A truck always weighs so much. It is not possible to reduce the gross weight of it or the trailer. If it had a load capacity of 12 units there would be nothing to prevent the owner from carrying 20 units, and still paying the same tax. Therefore, the discrimination is in favour of the vehicle owner.

The Hon. C. R. Story: Provided he does not get into trouble over the axle load.

The Hon. N. L. JUDE: We have the best axle load position in Australia.

The Hon. L. R. HART: I have a question that I should have asked during the second reading debate. I do not know to which clause it relates, but I wonder whether carriers will still come under price control.

The Hon. N. L. JUDE: I can only suggest that you rule the honourable member out of order, Mr. Chairman.

Clause passed.

Clauses 7 to 11 passed.

Clause 12—''Recovery of contributions.''

The Hon. C. R. STORY: The Minister has said that this will help in the recovery of fees; does it mean that a person collecting fees in Victoria can go over the border for the purpose of collecting fees and checking interstate transports and does it mean, likewise, that we can send inspectors to other States for the purpose of collecting fees from people who have defaulted in the past? We have had some difficulty in collecting, I understand.

The Hon. N. L. JUDE: We made provision for that after a meeting of the Australian Transport Advisory Council last year and introduced supplementary legislation, agreed to by all the States, by regulation. With regard to the collection in the other States, they will collect our fees and we will collect theirs; it is a reciprocal arrangement.

The Hon. L. R. HART: In the event of a person being convicted under the provisions of this Bill could he immediately afterwards become eligible to set up again as a carrier?

The Hon. N. L. JUDE: I cannot see any objection to that. There is nothing in the Act that prevents carriers from taking on the carriage of goods as a private person or as a carrier who has been licensed in the past.

The Hon. L. R. HART: I consider this a weakness in the Bill. I said in my second reading speech that I considered that the carrier should be licensed for merely a nominal fee, and that to obtain such a licence he should have to establish some credentials. I consider that once the Act becomes operative we shall have a number of people setting up as carriers who are not reputable types and we could well have a price-cutting war and chaos in the industry. To prevent this I think it should be a requirement that a carrier should establish credentials and be licensed, and in such cases, if he has been convicted for an offence under this Act, he should not be able to obtain another licence.

The Hon. N. L. JUDE: I can only say in fairness to my honourable friend that I sympathize with his view; this is a difficult position in which he finds himself. I have listened to him sympathetically over the past few months asking for the removal of the Transport Control Board and for freedom on the roads. The Hon. Mr. Giles this afternoon congratulated the Government and said that this Bill was something that honourable members of this Chamber preferred. The honourable member is suggesting that carriers be licensed again. He cannot have it both ways; he must decide whether we should have a Transport Control Board or not. I readily admit that there will be anomalies, but this Bill is an attempt by the Government to overcome this problem concerning the use of roads by heavy motor vehicles.

The Hon. C. R. STORY: I think in fairness to the Hon. Mr. Hart I should say there has been much chatter around the Chamber about his being hoist on his own petard. I think what the honourable member said is quite valid. After all, a carrier is a fairly important person. I can imagine the Hon. Mr. Hart or the Hon. Mr. Dawkins loading up some of their prize sheep on a truck, and they must be assured that the man they hire to carry the sheep is a decent type of person. He could even go to the abattoirs and sell them. I think that is the point the honourable member was making and we ought to know something about these people. Although there is no provision for them to be licensed I think what the honourable member meant was that we ought to have some way, when these men apply for a carrier's licence and offer themselves for hire, to look at their credentials.

Clause passed.

Clause 13 passed.

Clause 14—''Application of certain provisions.''

The Hon. C. R. STORY: I should like clarification as to the portion in brackets in paragraph (*b*): whether it means that within an area of 25 miles of the General Post Office it is intended to continue licensing, whether a general carrier coming from the country to pick up goods will be affected, and whether they will be affected in any way with a controlled route.

The Hon. N. L. JUDE: The reason for the portion in brackets is that the Road and Railway Transport Act, under new section 39, exempts from the automatic renewal of licences a licence covering roads within 25 miles of the G.P.O. Under a recent order made by the board these licences are to be no longer required as from April 1 next year.

The Hon. C. R. Story: It is quite permissible then for any carrier to come into the metropolitan area and pick up any goods?

The Hon. N. L. JUDE: From April 1 next year.

The Hon. C. R. Story: They cannot do it until April 1 next year?

The Hon. N. L. JUDE: In view of the importance of the question, I should like to get the Parliamentary Draftsman's views on the matter, so I shall ask that we report progress.

Progress reported; Committee to sit again.

STATUTES AMENDMENT (PUBLIC SALARIES) BILL (PUBLIC SERVANTS).

Adjourned debate on second reading.

(Continued from November 14. Page 1712.)

The Hon. K. E. J. BARDOLPH (Central No. 1): I rise to support the second reading of this measure, which has for its purpose an increase by Statute in the salaries of the Auditor-General, the Commissioner of Police, the Agent-General, the Public Service Commissioner, the President and the Deputy President of the Industrial Court, the Public Service Arbitrator, and other high-ranking officers within the Public Service generally. I shall not debate this matter but merely say that all the other heads of Government departments have their salaries fixed by a classification board. The salaries of these officers must be fixed by Statute. I want to say (and I think every honourable member will agree with me) that this State is most fortunate in having men of the character and integrity of those officers I have just mentioned and others in the service of the Government. They carry out the functions of and are ancillary to executive Government. They have performed their duties well over the years and the increase in salaries proposed by this measure makes their salaries commensurate with the work they do, compared with similar salaries obtaining in other States of the Commonwealth.

As I say, the Government is most fortunate in having men of this type with the attributes that I have mentioned. As we have such a good Public Service, it is easy for the Government to pursue its policies with such expert advisers as these gentlemen, who carry out their duties with little or no publicity. They apply themselves assiduously to their respective tasks and I have much pleasure in supporting the proposal for an increase in their salaries.

The Hon. C. R. STORY (Midland): I have no objection to the Bill, and support it. As the Hon. Mr. Bardolph has pointed out, it deals with our high-ranking public servants and particularly those whose salaries are not dealt with by any other tribunal. This is in conformity with what we are doing at the present time in South Australia, since all public servants, and probably other people, are moving up to a higher rung in the salary ladder. I have much pleasure in supporting this Bill.

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

STATUTES AMENDMENT (PUBLIC SALARIES) BILL (MEMBERS).

Adjourned debate on second reading.

(Continued from November 14. Page 1714.)

The Hon. A. J. SHARD (Leader of the Opposition): I rise to support this Bill not so much for what it does but for the way in which it was done. That pleases me greatly. When our Party discussed this matter with the Government it was decided that two prominent public servants should form a committee to inquire into the salaries of members of Parliament. The choice of the two gentlemen concerned was admirable, both being experienced in this type of work. I refer to the Deputy President of the Industrial Court and the Public Service Arbitrator (Mr. Williams). I have previously expressed my opinion of Mr. Williams. He is ideally suited to do this type of work for he has a wealth of knowledge and experience in this field.

The Government appointed, as the other member of the committee, the Auditor-General (Mr. Jeffery), who has the responsibility of protecting the public's interests in the spending of public money. He, too, has had some experience with wage-fixing tribunals. These two gentlemen were most efficient and courteous in carrying out their duties. I understand that any member of Parliament who so desired could (and a number did) go before the committee to put their point of view. I believe they received every consideration. I had the pleasure of reading the committee's report to the Government before I went overseas. I thought those gentlemen did a reasonable job, their decisions being sound and logical. I give them credit for the report they submitted.

I congratulate, too, the Government on having accepted a form of arbitration and conciliation in this matter, and on being courageous enough (if that is the right word) to introduce a Bill to comply entirely with the recommendations of the committee. Having gone to an outside body the Government was left with no other choice, irrespective of the findings, than to implement the recommendations. I know that in the final analysis Parliament must take responsibility for fixing the salaries of members. As the two gentlemen on the committee have outstanding ability there should be no hesitation in accepting their recommendations. They inquired into the disabilities suffered by members of Parliament, various facts were put

before them and the salaries paid in this State were compared with those in other States. I do not agree with all of the committee's findings but I wish to make it abundantly clear that after 25 years of always accepting the decisions of the chairmen of wages boards and as this matter has been determined by conciliation and arbitration I am not going to blot my copy book at this stage and unduly criticize anything the committee has done. The committee's report was laid on the table in another place and a resolution was carried that it be printed. This means that it will be possible for the public to examine the findings of the committee. A sound basis has been established for the future fixation of members' salaries, whether increases or decreases. I compliment the two members of the committee on the able manner in which they presented their report.

Clause 2 amends the payments to be made to members of the Joint Committee on Subordinate Legislation. It increases the amount paid to the Chairman from £250 to £300 a year and members' salaries will be increased from £125 to £200. As I have said previously, this committee has been overworked and underpaid for many years and I am glad to see that its work has been recognized and its members' salaries increased. I am not prepared to say whether the increase is sufficient, but I accept the committee's decision. Clause 3 deals with the salaries of Ministers. I believe that Ministers do not receive an adequate salary. I have the greatest respect for Ministers of the Crown, irrespective of their Party affiliation. My experience has shown me that Ministers must make many sacrifices in regard to their home life and they are required to work long hours. I have not yet said and never will say a word against the work done by Ministers. Their life is not their own; it is dedicated to people all over the State. They do not work ordinary working hours or even a six-day week—in many cases it is a seven-day week. I have never known a Minister who does not do his best in the interests of the State or the country he represents. All Ministers in this State are conscientious men who are doing the best for the State from their point of view. If their salaries are compared with those of executives of large businesses it can be seen that they are sadly underpaid. I hope that at some time in the future this situation will be corrected.

Clause 5 deals with allowances for country members and electoral allowances. Paragraph (*b*) alters the allowance for metropolitan members from £500 to £600. Paragraph (*d*) increases the allowance to country members from £800 to £950. I have always believed that the members who are most badly off are those who represent country districts a long way from Adelaide. They are considerably more out of pocket than metropolitan members. I am glad the committee has seen fit to extend their allowance. Whether they will now receive sufficient I am not prepared to say, but it is a step in the right direction. Earlier this year I accompanied a colleague from another place, who represents a far northern area, to his district and somebody there was criticizing the proposal to increase the salaries of members of Parliament. I said that I would not represent that particular district for £5,000 a year. That ended that argument.

The Hon. G. O'H. Giles: What way did he vote?

The Hon. A. J. SHARD: I don't know and I don't care. I would not have represented that district for £5,000 and, even if that were the salary, the member for that district would still not make a profit. The members of the committee did an excellent job from all points of view and it gives me great pleasure to support the second reading, not because of what we get out of the Bill, but because of the correct way the measure has been dealt with. Anybody who believes in conciliation and arbitration could have no complaints against the Government for bringing in a Bill of this nature at this time.

The Hon. Sir ARTHUR RYMILL (Central No. 2): It is a paradox of human nature that everyone wants to see his own salary increased but never seems to be enthusiastic about anyone else's being similarly dealt with, and so have we seen it every time an increase of Parliamentary salaries is mooted. Honourable members being the final arbiter in this matter (of necessity, because someone has to have the say) must always find this embarrassing, as I do, and I am sure it is a feeling shared by everyone else in this Chamber and in another place to have to fix his own salary. One finds a similar state of affairs in company directorates, but in that situation one is not quite the final arbiter because, although the directors generally have to make some recommendation about an increase, the shareholders under the Companies Act passed by this Chamber and another place, have to vote the amount. It may be said that members of Parliament are not the final arbiter either because, of course, the electors have the ultimate say in these matters. But these Parliamentary salary Bills affect all members of

Parliament, of whatever creed or Party they may be. Therefore, one could possibly say that is not a major point.

Laudably, the Government has tried to get over this difficulty and, in so far as it possibly can, I believe has got over the difficulty by appointing an independent and separate special committee to arbitrate on the matter, and to decide what salaries are appropriate, what is warranted and how those salaries, expenses and so on should be paid. I think that is as far as the Government can possibly go in the matter, by getting this independent view of it. The report of the committee then becomes a matter for the two Houses to deal with according to what they consider should be done. The recommendations of an independent committee whenever they are put before Parliament in any respect at all are compelling, and it is always difficult, even if one does not agree with the recommendations of the committee, to oppose them.

Not all members of Parliament, either here or in another place, are in the same position, whether one regards that position in a financial sense or in any other way. Some members of Parliament have no other means of livelihood; others have other occupations as well. Some are farmers, some are lawyers, some are union men, some are breeders, as my honourable friend on my left (Mr. Giles) occasionally reminds us. But let me remind honourable members of one thing that, whatever a member's other income is, taxation today is a great leavener, and whereas the member who has his Parliamentary salary as his only means of support pays a comparatively small amount the increase in salaries to people who have other income becomes less and less in net amount to them, according to the magnitude of that other income. So that in itself rather (I used the word "leavens" a moment ago) adjusts these anomalies to which I have referred. In other words, where people feel that they do not need the increase as much as others do, taxation deals with that for them because it takes most of it away.

It would be wrong for people to deny to members, whose only source of income is their Parliamentary salary, an increase that is justifiably theirs. As I have said, on the other hand the people whose job as a Parliamentarian is not the only one have their salaries adjusted by way of income tax. That is all I wish to say in relation to the generality of the increases. As honourable members know, there has been a definite salary rise in other circles and although, as I have said, it is embarrassing to honourable members to have to fix their own salaries, someone has to do it and there is no-one else to do it, so they have to grasp the nettle, do it themselves and do what they consider to be justice. From my own point of view I consider that the recommendations of this committee are reasonable, in all the circumstances.

There is one matter of detail with which I wish to deal, and one only, although there are several matters of detail of various adjustments of salaries for individual Parliamentary offices dealt with by the Bill. The item I wish to discuss is the new item labelled "Leader of the Opposition, Legislative Council". This expense allowance has made its way into the Bill for the first time. The Leader of the Opposition, Legislative Council (so called by the Bill), has never previously received any official salary or expense allowance. This to me is a new title. As far as I know, it has never been included in any Bill or Act of Parliament before. As far as I know, it is a title that is not contained in the Standing Orders. It may be painted on a door somewhere in Parliament House but that is the extent of its official recognition so far. It is a title that I do not recognize, because we are a House of Review. I recognize my honourable friend, to whom I am referring, as a generality rather than as an individual, as the Leader of the Labor Party.

The Hon. Sr Lyell McEwin: Do you think "Opposition" might mean "abolition"?

The Hon. Sir ARTHUR RYMILL: I know that that is something that is well and truly contained in a document elsewhere. It has no relation here.

The Hon. K. E. J. Bardolph: Where would that document be deposited?

The Hon. Sir ARTHUR RYMILL: My honourable friend to whom I have been referring is certainly the Leader in this House of the Party that is in opposition in the other place, but, as I have said, this is a House of Review. Thus, in a sense, we can all be described as opposition members. If we feel that it is proper, we oppose any legislation whether it is brought along by the Party under whose banner we ourselves are elected, or whether it is brought along by any other Party. So that in that sense one cannot recognize this term.

It would be proper, if the Leader of the Opposition (so called in the Bill) is to receive this expense allowance, that the chairman or convener, or whatever one cares to call him,

of our own group of members elected under the banner under which I am elected, of independent members—we operate as independent members—were treated in the same way. This Bill does not provide for that and unfortunately the recommendation of the committee, although it leaves the matter open to some extent, does not include any similar recommendation for the person holding the office to which I am referring.

I am supporting the recommendation of the committee. Therefore, I do not propose to move any amendment in this matter, but I do feel that this is a matter that should receive further consideration in the future. I have said that we act independently. I think my honourable friends of the Opposition Party would not deny that we all operate as independent members in this Council.

The Hon. A. J. Shard: You do not show it under test.

The Hon. Sir ARTHUR RYMILL: My honourable friend objects. I say to him that I think he supports Government measures more often than I do. For instance, this afternoon he supported the continuation of the Prices Act. In fact, he said that it did not go far enough.

The Hon. A. J. Shard: That is correct.

The Hon. Sir ARTHUR RYMILL: It is a Government Bill and I will be opposing it.

The Hon. A. J. Shard: That is not the real test.

The Hon. Sir ARTHUR RYMILL: That is the way this Chamber operates and that is why I say we are a true House of Review and take an independent view of all legislation. The convener of our Party should be equally entitled, with the so called Leader of the Opposition, to an expense allowance. I do not foreshadow any amendments because I support the Government in referring this matter to an independent tribunal and I believe, in the circumstances of its recommendation, the Bill should have the support of all honourable members. I support the second reading.

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

BALHANNAH AND MOUNT PLEASANT RAILWAY (DISCONTINUANCE) BILL.

Returned from the House of Assembly without amendment.

LICENSING ACT AMENDMENT BILL.

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

[*Sitting suspended from* 5.36 *to* 7.45 *p.m.*]

CONSTITUTION ACT AMENDMENT BILL (GOVERNOR'S SALARY).

Adjourned debate on second reading.

(Continued from November 14. Page 1711.)

The Hon. K. E. J. BARDOLPH (Central No. 1): I support the Bill. Since the foundation of the State we have been extremely fortunate in the cavalcade of Governors that we have had. Each succeeding Governor has followed the way of his predecessor. In 1848 the Governor's salary was £2,000 a year. In 1855 it was increased to £3,000 and in 1856 to £4,000. In the year 1866-1867 there was provision for an increase of £1,000 in the salary. In 1922 the Act provided for a salary of £5,000 and since then there has been no increase. The salary should be raised not by legislation but in the same way as the Railways Commissioner's salary is raised.

The Hon. Sir Arthur Rymill: You do not want to put the Governor on the basic wage basis.

The Hon. K. E. J. BARDOLPH: I believe in tradition because from history and tradition come the keys of the future. The basic wage does not come into this matter at all. We are dealing with the representative of the Crown. We have been singularly fortunate in the Governors we have had: they have all played their part in a most efficient manner. There is a big drain on their resources and by limiting the salary many men have been denied the opportunity to come here to represent the Crown. We all believe in the Parliamentary tradition, and the Crown represents the fountain head of Parliament. Instead of our having to deal with legislation providing for salary increases for the Governor, the matter should be dealt with in the same way as the Railways Commissioner's salary. It should not be dealt with by Statute but by executive government. We believe in representative government, and whatever the exultations of the public mind and the strife of factions there is something in Parliamentary government on which all people can rely. I refer to the Crown, and the Governor represents the Crown. That is why I support the Bill.

The Hon. C. R. STORY (Midland): It is with pleasure that I support the Bill. The Hon. Mr. Bardolph has apparently done much research into the salary of our Governors. Many of us have read about the ship that came from England and the cabin boy who put the dispatches into the soiled linen bag, resulting in the loss of an Act. It gave an increase to our then Governor and high-ranking

officers. There was much search for the measure, and eventually it was found, thus enabling the Governor to be paid a small amount in addition to what he was already getting.

The Hon. Mr. Bardolph pointed out that we have been fortunate in having such fine representatives of the Crown. South Australia now has the services of Sir Edric Bastyan, who is an excellent Governor, as were many of his predecessors. Since 1922 there has been no increase in the Governor's salary, which must be a record for any responsible State. The Government has taken over certain financial responsibilities from the Governor, such as the payment of household expenses, which makes the position different from earlier days when the Governor was responsible for them. In raising his salary now we are making a gesture to the Governor, which must have the full blessing of all members. I support the Bill with the knowledge that it will be passed without equivocation. We have the great triangle on which our system depends —the Crown, the Parliament and the judiciary, when at this time in many countries there are doubts about democracy. It is people like the Governor-General and our present Governor who uphold the apex of that triangle.

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

HIGHWAYS ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from November 14. Page 1712.)

The Hon. A. J. SHARD (Leader of the Opposition): I have examined this Bill and have compared it with the principal Act. The Commissioner of Highways has requested these provisions in the interests of road safety and to assist the Highways Department to conduct its work. Being a person who is always interested in road safety, I commend these provisions and support the second reading.

The Hon. R. C. DeGARIS (Southern): I rise to support the second reading of the Bill. Clause 3 amends section 26 of the principal Act which deals with the powers of the Commissioner to construct and repair roads. This clause also inserts new provisions that will enable the Commissioner to close roads that have become dangerous to vehicles or pedestrians. Under clause 3 (*d*) the Commissioner, having power to close roads, must notify the district council as soon as practicable of the closing of that road. Clause 3 (*e*) provides that the Commissioner must display such notices and make such provision for lights or other warning devices as is necessary in the interests of public safety.

One thing that occurred to me was that a road having been closed may mean that a person's access from his home is restricted, but this is covered in clause 3 (*g*) which also deals with the penalty involved for anyone using a road that has been closed by the Commissioner. It also includes a proviso that a person shall not use such a road, except with the permission of the Commissioner. If a road is closed the Commissioner may give a person dispensation to use the road to reach his own home. Clause 4 strikes out subsection (4) of section 26c of the principal Act. Section 26c imposed a limit of £5,000 a year for expenditure on lighting the Anzac Highway and the Port Road. Under the new provision it virtually means that a larger payment may be made by the Commissioner for the lighting of these roads. Clause 5 inserts section 26ca, under which, if the Commissioner considers it necessary for the safety, guidance or direction of road or river traffic so to do, he may, with the approval of the Minister, cause any traffic island, roundabout or dividing strip on any road which is outside a municipality or township within the meaning of the Local Government Act, 1934-1961, or any structure for the maintenance of which the Commissioner is responsible and which is outside a municipality or township within the meaning of the said Act, or any ferry or ferry approach to be illuminated as the Commissioner deems requisite. For the purposes of this section the Commissioner may enter into any contract with any person for the supply of electricity or other illuminant and for any requisite apparatus and machinery and shall have and may exercise all the powers of a council conferred by sections 483 and 484 of the Local Government Act, 1934-1961.

This matter has been discussed at many local government conferences over a long period, the point at issue being that the Commissioner may construct a road island or some other construction on, say, a highway that may be 10 or 20 miles out of a township. Up until now the local council has been responsible for lighting an intersection in such an area. Under this provision I take it that the Commissioner assumes this responsibility, which I consider only fair. Most district councils are quite prepared to accept the responsibility for street lighting in the actual township, but where there is some other intersection that the Commissioner considers must be lit

and which is 20 miles out in the country I think it only fair that the Commissioner should bear the expense of lighting it. Clause 6 is obviously necessary and deals with the right of an authorized officer to enter upon any property for the purpose of surveying or taking levels of any land or for any other purpose that the Commissioner considers necessary. There are clauses that follow under which the Commissioner must give notice to enter the land and the landowner has the right to claim compensation in regard to damages. I support the second reading.

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

PRICES ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from November 14. Page 1710.)

The Hon. A. J. SHARD (Leader of the Opposition): I rise to support this Bill which, amongst other things, this year extends the Prices Act, 1948-62, to 1964. Clause 5 amends section 53 of the principal Act by striking out the words "sixty-four" and inserting the words "sixty-five". It applies to anything sold prior to January, 1965. I support the Bill because my Party believes in price control. My criticism of the Act is that, first of all, it does not go far enough. The real value of the Act is that it is a deterrent to people who may feel that they can get away with something if it is not controlled. The Bill this year goes quite a bit further than dealing with prices and I am at a loss to understand why it contains these amending provisions. Clause 3 reads:

> The long title of the principal Act is amended by inserting at the end thereof the words "and to regulate certain practices respecting the sale of goods and supply of services and for other purposes."

I support that idea because, some few years ago, I brought a case before the Council which at that time was unique. A certain firm advertised goods for sale but, when one went to the firm, the goods were not there. I called it "misrepresentation by advertisement". What the Government has inserted into this Bill is a good thing but I cannot see what connection it has with prices. It would have been a Bill very well dealt with on its own, and it would have been permanent legislation. I have taken the trouble in the limited time at my disposal to read the *Hansard* report of proceedings in another place and the statement of the Treasurer there.

The PRESIDENT: The honourable member must not quote from the proceedings of another place.

The Hon. A. J. SHARD: I am saying that I read it. It has been said that it is an experiment and that this Bill must be reviewed every 12 months. Personally I cannot see the connection, why a Bill that provides these suggested amendments needs reviewing every 12 months. The amendments are very effective. Clause 4 sets out what they mean. Its title states:

> Enactment of new sections 33a, 33b and 33c of principal Act; prohibition of limit on purchases.

If an article is advertised for sale, there should be no limit on the number of such articles that a customer may purchase. If something is for sale at a fixed price, a customer should be able to buy it. This Bill will correct that position if it is given effect to, but there is little use introducing Bills that need administering and policing unless they are administered and policed. I am pleased to see the provision about misleading advertisements, because there is no doubt that, if one were to pin-point every advertisement in every paper, hardly a day would pass without there being a misleading advertisement in the press. One could find at least one every day that was misleading and not honest. I have had experience of that myself.

The Hon. R. C. DeGaris: How about political advertisements?

The Hon. A. J. SHARD: Some of these might be misleading, but not from our side of the fence.

The Hon. Sir Arthur Rymill: Not even on television?

The Hon. A. J. SHARD: Another provision relates to attempts to obtain differential terms. That was good. I have had these things at the back of my mind for some time. The Attorney-General knows I have been concerned for something to be done about this for perhaps two or three years.

The Hon. C. D. Rowe: Certainly the honourable member has mentioned it.

The Hon. A. J. SHARD: Yes. I have mentioned the point several times. On one occasion a particular firm advertised a certain article and an age pensioner came from Tea Tree Gully to the city. He was the first person into the shop with satisfactory credentials. If not the first, he was the second, but the advertised article was not in that store. That was wrong and misleading, and those responsible should suffer a severe penalty. I

have noted what the penalties are. I have looked at the principal Act and should like the Attorney-General's advice on this. Section 50 of the principal Act reads:

(1) A person who commits any breach of this Act or fails to observe any provision of this Act shall be guilty of an offence.
(2) An offence against this Act may be prosecuted either summarily, or upon information in the Supreme Court, but a person shall not be liable to be punished more than once in respect of the same offence.
(3) The punishment for an offence against this Act shall be—
  (*a*) if the offence is prosecuted summarily a fine not exceeding one hundred pounds or imprisonment for a term not exceeding six months, or both; or
  (*b*) if the offence is prosecuted upon information a fine not exceeding five hundred pounds, or imprisonment for a term not exceeding two years, or both.

I take it they would be the penalties in this new situation?

The Hon. C. D. Rowe: They are penalties common to the whole Act.

The Hon. A. J. SHARD: I think the penalties are severe enough and that those people who indulge in that sort of thing are deserving of the severest penalties. I hope the judiciary takes notice of this because to my mind it is wrong that people should do some of the things that some firms are doing. Of course, not every firm does it, nor do I think many firms are likely to do it, but sometimes it applies to the same group of people who continually do it.

The Hon. K. E. J. Bardolph: Just a few sharp-shooters.

The Hon. A. J. SHARD: A penalty should be a deterrent to everybody. If the Government will make a determined attempt to give effect to this legislation, we shall be much better off in the future. The amendments suggested do not go quite far enough. It has been suggested from our side that we could have another amendment, in the following terms:

33e. A manufacturer or wholesale trader shall not sell or offer for sale to any retail trader any goods (whether declared or not) upon condition:
  (i) of the sale by retail of those goods by the retail trader at a minimum price; or
  (ii) of the membership by the retail trader or any trade association or group.
Penalty: Five hundred pounds.

I think that when people say, "You have got to sell these things at a given price and, if you don't, we shall not supply them", they should be stopped. I hope we have not transgressed any rules in this connection. I think the suggested amendments to this Act are worthy of incorporation in an Act on their own; they should not be reviewed every 12 months. I hope the Government will be strong enough to take a determined stand on this and make this legislation permanent. If it is not prepared to make the Prices Act permanent, at least let the Government leave out the unfair trading from this Act. Make that permanent legislation so that everybody will know that if he does wrong he will suffer a severe penalty. That will prevent much hardship. I support the Bill.

The Hon. F. J. POTTER (Central No. 2): I was interested to hear the Hon. Mr. Shard advocate that the new provisions introduced in this Bill for the first time ought properly be made the subject of a separate Act of Parliament. I was pleased to hear him more or less give support to that because I feel as he does on this matter. As honourable members know, over the years I have consistently opposed price control, but on occasions I have said that I would support and favour proper legislation that would effectively deal with restrictive trade practices. To this extent we are now presented with something of a dilemma because, on the one hand, we are asked to extend price control for another year and, on the other hand, we are asked to cast our votes for legislation that might be loosely described as dealing with restrictive trade practices. It would be more accurate to describe it as legislation to restrict trade practices because that is what it does. Had these particular provisions been included in a separate Bill I feel there would be no reason why all members should not support it. I would support these provisions although I should have some doubts as to their effectiveness and queries could be properly raised as to the actual wording of some of the clauses introduced.

Restrictive trade practice legislation is necessary in this country and I hope that the Commonwealth legislation sponsored by the Commonwealth Attorney-General will eventually see the light of day because I believe it is necessary. It may be that it will have to be debated and carefully examined but there is no doubt that the legislation, as it has been proposed, will give real protection to the consumer and help him considerably. On the other hand, I doubt whether the provisions of this Bill will do much for the consumer. There is no doubt that if one looks at the change

which has come over our selling and distribution of commodities over the last 10 years one will see that a tremendous revolution has occurred, maybe as the result of the American influence on our economy. The first notable change has been the growth of self-service stores. It is interesting to note that in 1957, 1,700 of these stores were in operation in Australia and in 1962, only five years later, 4,357 stores were offering self-service to the public. That is indicative of the tremendous change that has come over the retail field. The small retail shopkeeper, with his family helping him and with high overhead costs in the installation of expensive items, such as refrigerators, is having a difficult time.

The second change is the great development of chain stores. These have increased the size of the unit and also the number of outlets throughout the community. No two better examples of that can be given than the growth of stores such as Woolworths and Coles. The third change which has come over commodity distribution has been the move away from specialization. As we all know, when we were children grocers sold groceries and chemists provided medicine, but now, in the individual units of the big self-service stores, grocers are dealing in all lines of goods and chemists in all kinds of things. Stores are selling anything from meat to drapery and fancy goods. The fourth change has been that which has come over the commodities themselves and the great emphasis now placed, both in the stores and on the goods, on what might be called display. The large units display all goods with utmost attention being given to the appealing ingredients in them. Large racks of goods are attractively labelled. The labels and markings have changed and there are bottles of various sizes—king size, economy size and so on.

Along with the changes in the selling and displaying of goods has come the great pressure on manufacturers of goods supplying the big retail outlets. From this has come pressure for discount on quantities. Pressure has been applied for incentive discounts—discounts paid for the selling in quantity of a line; and also what might be called promotional discounts on individual lines. The pressure on manufacturers to provide goods for the big retail outlets at keen prices has reached the point where it might seriously be considered that retailers might themselves turn to the manufacturing of foodstuffs. If this happens, there will be increasing concentration of food sales in the hands of a few people. To some extent the small, independent grocer has managed to counter the extensive competition by forming a group with other grocers. I am satisfied, as I believe other members are, that they have not been successful in countering the extensive competition of the large stores.

Because there is a danger that the virtual control of particular foodstuffs may pass into the hands of a few companies and with that a price-fixing arrangement developed, I believe there is definitely room for restrictive practices legislation aimed at protecting the consumer. To the extent that this legislation attempts to go part of the way it would have my support. But because it has tacked on to it a sting in the tail, as it were, in asking members to vote for an extension of price control, I am unable to change my method of voting and will oppose the Bill. However, I would be prepared to accept these amendments if they were drafted in a separate Bill. I was interested to read the report of the Thirteenth Legal Convention held in Hobart recently, where the Commonwealth Attorney-General (Sir Garfield Barwick) gave a paper on his proposed legislation to deal with restrictive trade practices. In it he aptly and properly summed up my attitude on this matter of price control and restrictive trade practices control. Although what he said was quoted by a member in another place I do not think harm will result if I repeat it. Sir Garfield said:

> It should be mentioned that legislation imposing price control has been used in some States as a form of substitute for restrictive trade practice legislation. There is of course a fundamental difference in kind between price control legislation and legislation to control restrictive trade practices. The one seeks proper price levels by the maintenance of free and competitive enterprise and the elimination of its distortion by restrictive practices, while the other seeks to intrude Government control in order to produce prices desired in point of policy and which are not necessarily related to what competitive conditions would produce.

All members should carefully consider these remarks. I entirely support what Sir Garfield said. It is wrong to have restrictive trade practices legislation in this form. We should not have this intrusion of Government control in the form in which we have had prices legislation for some years. I will not deviate from that view. We should look carefully at the new provisions that have been included in our prices legislation. Although we can agree with the principle of control as far as it goes, we should consider the many aspects of the way in which the Bill seeks

to control the practices. Some of the drafting of the Bill is not satisfactory. I am not completely in accord with the idea that it is good in principle to allow any quantity or number of goods to be supplied on demand to any person going into a shop. I know the legislation is designed to prevent people from offering lines at low prices, sometimes at cost and sometimes a fraction below cost.

The Hon. A. J. Shard: At a big percentage reduction.

The Hon. F. J. POTTER: Whatever it is, this legislation does not draw that cost line. It says that a person can demand any quantity of goods, irrespective of the price, which can be dangerous. In a small country town it could mean that one shopkeeper, having a vendetta against another, could purchase all his rival's stock.

The Hon. L. R. Hart: That is protected by paragraph (*c*).

The Hon. F. J. POTTER: No.

The Hon. Sir Arthur Rymill: It is only a sufficient defence.

The Hon. F. J. POTTER: Yes, but it is loosely worded, and I am not convinced that it is good to have such a provision. I am convinced that if we have stores with cards in their windows saying that butter can be purchased at 4s. a pound, or there might be some other bargain, they must supply any quantity, with the result that the early bird will get the worm. At 9 a.m. when the shop is opened people will descend on the butter counter and by 9.30 a.m. there will be no butter left. I cannot see that that does much for the general customer, except that if he is in the early queue he will get some butter.

The Hon. S. C. Bevan: It will stop the racket of having to buy other goods.

The Hon. F. J. POTTER: It might. It has been suggested that in some stores it has been common for the storekeepers to demand that before a person could get a couple of pounds of butter, or other goods, at a low price he had to buy a quantity of other goods. I have not discovered this, and I do not think it occurs to any extent.

The Hon. A. J. Shard: You have a lot to learn.

The Hon. F. J. POTTER: I have privately asked many members whether they have discovered this sort of thing. They all agree that it is rare, and that they personally have not experienced it.

The Hon. S. C. Bevan: Apparently they do not do the shopping, but leave it to their wives.

The Hon. F. J. POTTER: I do some shopping and I am not absolutely convinced that the way the provision in clause 1 (*d*) is drawn, where any quantity may be demanded, is a good thing. It will be open to abuse and if the Bill is passed, as undoubtedly it will be, the Government will have to keep a good watch on the position that develops. I do not like the situation that when a prosecution is launched for failure on demand to supply a quantity of goods, the onus is placed on the shopkeeper to prove that he has to come within the three exceptions to the section. Particularly do I complain about the fact that one of the permitted excuses is that the goods in question are in short supply. There is absolutely no definition of what is meant by short supply. One could have a short supply of a particular type of goods in general or a short supply to the individual shopkeeper.

I can think of circumstances that arise on a hot day when a shopkeeper may be short of aerated waters but there is no short supply of aerated waters in general. In fact he may go only along the street to find the manufacturer's warehouse stacked to the roof with crates of aerated waters. Therefore this is another point that I raise in saying that there is no explanation or definition of what is meant by "short supply". It is a difficult thing to determine.

The Hon. Sir Lyell McEwin: It is drawing a long bow.

The Hon. F. J. POTTER: After all, this is an onus that is placed upon the particular shopkeeper to satisfy the court that he has this particular ground of defence. It seems to me that this is questionable anyway. I was interested to hear the Hon. Mr. Shard give great support to the clause dealing with misleading or false statements in advertising. Actually, I am not quite sure what is intended by the Bill—whether certain advertising is to be prohibited altogether or whether it merely applies to a statement that a shopkeeper has a number of goods in stock or has a greater number of goods in stock than he in fact has.

The Hon. A. J. Shard: In the case I questioned he would have been prosecuted and convicted.

The Hon. F. J. POTTER: I do not remember what the case was.

The Hon. A. J. Shard: He advertised an article but he did not have it.

The Hon. F. J. POTTER: There are all sorts of statements made in advertising that are false or misleading. We get the sort of statement that four out of five housewives use such and such a soap or cleanser. This is, of course, false and under the Bill as it is worded it would be covered. I have an open mind on the question but I raise this as a drafting problem. I think that in clause 33 (*d*), where there is some attempt to control the conditions upon which goods can be offered, it is open for anybody to get around the provisions as they now exist. However, I think it is good in principle to endeavour to check this sort of selling on conditions. I am satisfied that one could in fact find many loopholes in the clause as it stands. I predict that in the next 12 months we shall find a number of legitimate ways in which the relevant section in the Act can be avoided and it will not therefore achieve the result intended.

The Hon. K. E. J. Bardolph: You are trying to damn the Bill with faint praise.

The Hon. F. J. POTTER: I hope I have made it very clear that I am drawing a sharp distinction in regard to the clauses which have been dragged into this Bill which I support in principle and to which I would be happy to give my unqualified support if their drafting were tidied up. However, I do oppose the extension of price control until 1965.

The Hon. K. E. J. Bardolph: You praised this Government the other day.

The Hon. F. J. POTTER: I am giving the Government some praise now for its attempt to introduce this form of legislation I have referred to. I repeat that I would have supported it had it been in a separate Bill. I probably know why it was not put into a separate Bill, but at the same time I think it was altogether wrong to endeavour to do it in this way.

The Hon. Sir Arthur Rymill: It would be rather difficult to support the amendments or the additions without supporting the continuation of price control, wouldn't it?

The Hon. F. J. POTTER: Yes, I think that is pretty obvious. However, I trust that in the ensuing 12 months when this Bill will undoubtedly be in operation in this State the Government will have a look at it in operation and endeavour to see if there are any abuses or difficulties because I think there could be abuses and I think there will be real difficulties. I trust that in 12 months' time, when undoubtedly we shall hear something of this Act again, the Government will have given serious consideration to extracting these provisions from the Bill and introducing them as a separate measure. We may then be able to obtain a clear and untrammelled vote on both issues and we shall not be placed, as it were, on the horns of a dilemma because that is exactly where we are at the moment.

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

WORKMEN'S COMPENSATION ACT AMENDMENT BILL (BENEFITS).

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

The Hon. Sir LYELL McEWIN (Chief Secretary): I move:

That this Bill be now read a second time.

Its provisions are based on a report by the Workmen's Compensation Advisory Committee, which has met during the year and considered various matters in connection with the revision of the Act. The first set of provisions made by the Bill will raise the amounts payable for compensation. The maximum rate of compensation for death is raised from the present £3,000 plus £100 for each dependent child to £3,250 and £110 respectively (clause 5 (*b*)). The minimum rate is raised from £1,000 and £100 a child to £1,100 and £110 respectively (clause 5 (*a*)). The maximum rates of compensation for disability are raised from £3,250 to £3,500 (clauses 7 (*d*) and 9), payments in respect of wives and children being raised from £4 and £1 10s. a week to £4 10s. and £1 15s. respectively (clause 7 (*a*)). Maximum weekly payments are raised from £15 and £10 5s. to £16 5s. and £11 respectively (clause 7 (*b*) and (*c*)).

These are the principal amendments regarding amounts of compensation but I refer also to the raising of the maximum amounts for burial expenses from £80 to £100 (clauses 5 (*c*) and 6) and for damage to clothing from £25 to £30 (clause 8 (*c*)), and the raising of the exclusion based on earnings from £45 to £55 a week (clause 4). At the same time the minimum compensation for a workman under 21 with no dependants is raised from the present £5 10s. to £6 a week (clause 7 (*e*)).

The Bill also makes some incidental amendments considered desirable, which I list as follows: In the first place, section 18a of the principal Act is amended to make it clear that ambulance services will include not only transport to hospital but also where necessary on return journeys; likewise, it is made clear that

medical services include renewals or replacements of surgical apparatus (clause 8 (*a*) and (*b*)). Another unrelated matter concerns section 27 of the Act (which relates to review of weekly payments of compensation) by making provision for regard to be had to fluctuations in wage rates as was done in connection with section 25 in 1961 when a similar provision was made as to the fixing of the amount of weekly payments (clause 10).

In addition to the foregoing, the Bill makes three important amendments of principle to the principal Act. First, it makes definite provision for cover while travelling for or in connection with medical treatment resulting from compensable injuries as exists in Victoria (new paragraph (*c*) inserted in section 4 (2) by clause 3 (*c*)). Secondly, it provides for cover during temporary absence during authorized meal breaks (new paragraph (*d*) inserted in section 4 (2) by clause 3 (*c*)). The additional cover is limited to cases where the employer consents to the absence and is designed to exclude completely unrelated activities or anything undertaken contrary to an employer's instructions. The third amendment of substance removes what have hitherto been gaps in the law. First, the present Act omits provision for an accident arising while a workman is at a trade school. Similarly, no provision is made for the case (perhaps not very frequent) where a workman actually stops work at the end of the day and immediately proceeds to the trade school because his class is held at that time. Technically, he is not in such a case travelling during ordinary working hours although, if he had left a short period before the conclusion of the day, he would have been covered. (Clause 3 (*a*) and (*b*) and new paragraph (*c*) inserted in section 4 (2) by clause 3 (*c*) of the Bill deal with this matter.)

Clause 11 of the Bill provides that the amendments (other than that designed to remove doubts as to replacements) are to apply prospectively only. I should mention that the committee has also given some consideration to certain questions relating to what is known as Q fever. In view of difficulties of a technical character relating to this disease, it has not been possible to cover the matter in the Bill in the available time. The Chairman of the committee is pursuing the question with interested parties with a view to making a report to the Government as soon as practicable.

The Hon. A. J. SHARD secured the adjournment of the debate.

MARKETING OF EGGS ACT AMENDMENT BILL (PRODUCER REPRESENTATION).

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

The Hon. Sir LYELL McEWIN (Chief Secretary): I move:

That this Bill be now read a second time.

Its main purpose is to make provision for the three members of the Egg Board who represent the producers to be elected by producers instead of being selected from a panel of names submitted to the Government. Under section 4 of the principal Act, the Egg Board consists of six members—a chairman, three members representing producers, and two members of whom one represents retailers of eggs and the other is a person experienced in the egg trade. All members are appointed by the Governor.

Representatives of various producer organizations have requested that the producer members be elected by the producers themselves, as is the case with some of the other marketing boards. The Government has agreed to this request. Clause 3 therefore adds to section 4 of the principal Act a new subsection which, in effect, will provide that, on and after a day to be fixed by the Governor, the three producers elected in accordance with the provisions of the Bill shall be appointed members of the Egg Board. A new section 4a (inserted by clause 4) makes provision for the elections. Under subsection (1) of the new section the State is divided into three electoral districts (specified in the Schedule to the Bill) and one producer member will be elected for each district. Under new subsections (5) and (6), a producer is qualified to vote at an election if, during the preceding financial year, he has delivered to the board or sold for hatching or under the authority of an exemption granted by the board not less than 3,000 dozen eggs. Under new subsection (4) the board is responsible for compiling a roll of electors for each electoral district. In view of the vast amount of work involved in examining some 250,000 account sales to determine those producers who are qualified to vote, it is possible that some names will be missed. New subsection (7) therefore provides that the board, at the direction of the Minister, shall add to the roll the name of a producer who furnishes a statement, supported by statutory declaration, indicating that he is qualified to vote.

The actual elections will be conducted by the Assistant Returning Officer for the State, but at the expense of the board. This is provided for in new subsections (10) and (11).

Subection (8) requires the Assistant Returning Officer to conduct the first elections as soon as convenient after the Bill becomes law. This will be done as soon as the electoral rolls are prepared by the board. It is expected that this will be early next year. After the first elections the Governor will, in accordance with subsection (9), fix a convenient day upon which the three elected members will take office.

Clause 5 amends section 7 by adding new subsections (2) and (3) thereto. These are consequential transitional provisions which provide that when the first three elected members take office the three producer members of the existing board will vacate their offices, and that the term of office of the three new members will expire on March 31, 1967. They also provide that the amendments effected by the Bill do not effect the term of office of the three non-producer members; that is, the chairman and the two members representing the egg trade and retailers of eggs. Their term of office will therefore expire in the ordinary course on March 31, 1966.

Clause 7 inserts three new paragraphs in section 34 of the principal Act so as to enable regulations to be made on matters incidental to an election and with respect to preparing the rolls of electors. The regulations will provide that for a specified time before the closing date of a poll in respect of a district, the board shall make available for inspection a copy of the roll of electors for that district. This will enable *bona fide* producers to ascertain whether or not they are listed on the roll and, in the event of their names being missed, they shall have time to take appropriate action before the poll is closed.

By section 23 (5) of the principal Act it is provided that the Act does not apply to eggs sold for hatching. It is extremely difficult to police all sales of eggs to hatcheries and, in the opinion of the Egg Board, this exemption has been used by some producers as a means of avoiding levies and other dues under the Act. The benefits of the Act apply equally to producers of eggs for hatching as they do to producers of eggs for consumption. Clause 6 accordingly repeals section 23 (5). The effect of the repeal is that the exemption of hatchery eggs is removed. Clause 8 amends section 35 of the principal Act by extending the duration of the principal Act, and consequently the life of the Egg Board, until September 30, 1968. Honourable members will recall that recently a Bill was passed by this Council to extend the life of the board for three years—until 1966. However, it is now considered advisable to provide for a further two-year extension, because in the past the board, owing to its limited life, has often experienced difficulties in suitably arranging its affairs and entering into contracts and other business transactions on the most advantageous and economical terms. Clause 9 adds a schedule to the principal Act which sets out the three electoral districts for the purpose of the elections to be held for the three producer members of the board.

The Hon. S. C. BEVAN secured the adjournment of the debate.

LOCAL GOVERNMENT ACT AMENDMENT BILL (GENERAL).

Returned from the House of Assembly with amendments.

BOOK PURCHASERS PROTECTION BILL.

Adjourned debate on second reading.

(Continued from November 14. Page 1718.)

The Hon. F. J. POTTER (Central No. 2): I support the second reading and in doing so I wish to say that it is a most interesting Bill and has produced some interesting amendments from the Hon. Mr. Giles. The honourable member spoke at length on Thursday and made some good points. His speech showed that there are two lines of approach to this problem. In many ways it is a novel Bill to deal with a fairly difficult and novel situation that has arisen as a result mainly of the door-to-door selling by interstate book companies of their line of wares.

I believe there are two approaches to the problem. There is the approach made in the Bill as sent from another place. We can provide for two distinct steps in a contract of this nature, both of which are necessary before a final and binding contract can be arrived at between the parties. That is precisely what the Bill attempted to do and I suggest that it did not do it completely. Some amendments will be necessary to tidy up the intention of the original author. If one likes to take the other philosophy (if that word is applicable) there is the suggestion of the Hon. Mr. Giles. Under it there is first established an existing and binding contract and a period of time is allowed during which a purchaser may avoid the contract. He may do so by signing a form of negation of the contract, as suggested by the Hon. Mr. Giles. I think his proposed amendments effectively deal with the matter, if we adopt his line of approach. He said that the main

reason why we should adopt his approach to the problem was that it would not change the law in relation to the selling of books. In other words, he advocated that we should preserve what he called normal trading as far as possible. He made the point that we should not change the existing law.

The Hon. G. O'H. Giles: There should be proper business practices.

The Hon. F. J. POTTER: Yes, or what the honourable member called the law of contract. Apart from the provisions of the Sale of Goods Act, the ordinary law of contract, as we know it, is an unwritten law. It is a case-made law established over many hundreds of years. Although I have every sympathy for the approach suggested by the Hon. Mr. Giles, I think it is as novel a solution of the problem as the proposition put to us by the author of the Bill, namely, that we should impose at a subsequent stage an additional step in the contract before it becomes binding. Both approaches are new to the law of contract. From that point of view I do not think that the basic premises of the proposed amendments have any more to commend them than did the methods included in the first place. The Bill attempts to deal with a real problem and I think it does so in a neat way. As originally introduced, the Bill contains some difficulties, and on the files I have placed some amendments which I think will greatly improve the measure.

The Hon. K. E. J. Bardolph: Will there be any legal technicalities with your amendments?

The Hon. F. J. POTTER: No. They are designed to overcome legal technicalities. One of my amendments makes it an offence to in any way attempt to solicit or obtain from the purchaser a notification of confirmation of the contract before the contract becomes binding. That provision was not in the original Bill. It was said that if the purchaser signed a contract he would be badgered for confirmation on it. The proposal will help the purchaser who has been talked into making the contract. This Bill has been well canvassed amongst members, both inside and outside the House. Since I have been here I do not think there has been a measure so productive of outside debate and discussion amongst members. Much time has been devoted to it in many ways and we have the carefully-worded amendments proposed by me to give effect to the original intention of the Bill, including the two steps necessary to confirm a contract, and the amendments proposed by the Hon. Mr. Giles, which are good amendments, if we approach the matter in the same way as he does.

The Hon. K. E. J. Bardolph: You do not think that this Bill will be the forerunner of censorship?

The Hon. F. J. POTTER: I do not think so, but it could be the forerunner of a Bill to deal not only with the selling of books by door-to-door salesmen but with the selling of many other goods that are hawked from door to door, the purchase of which is pressed upon housewives who are susceptible to persuasion.

The Hon. K. E. J. Bardolph: That is a slur on the housewives.

The Hon. F. J. POTTER: I hope not. Everybody knows that the average housewife can be easily prevailed upon to buy an encyclopaedia, which in most instances is an excellent product. The housewife can be easily persuaded that the encyclopaedia will be a great help in the education of her children. Undoubtedly the selling of books from door to door has been productive of many problems and complaints to members. The Attorney-General said that in recent years no other single form of selling had produced so many complaints to his office. It is due to high-pressure salesmanship, with which is associated much skill. There is something to be said for the suggestion to have legislation dealing with sales of all kinds of goods but I think it should be a Government Bill.

The Hon. K. E. J. Bardolph: Do you think the Government is shilly-shallying?

The Hon. F. J. POTTER: No. I think the Government will support the measure, and it will be interesting to see whether that happens. Not only do I hope that it supports the Bill, but also that it supports my amendments. This is really a Committee Bill and the sooner we get into Committee the better it will be.

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

ROAD TRAFFIC ACT AMENDMENT BILL (DIAMOND TURNS).

Returned from the House of Assembly without amendment.

TOWN PLANNING ACT AMENDMENT BILL.

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

ADJOURNMENT.

At 9.58 p.m. the Council adjourned until Wednesday, November 20, at 2.15 p.m.