LEGISLATIVE COUNCIL.

Wednesday, November 20, 1963.

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

QUESTION.

RAILWAY LOCOMOTIVES.

The Hon. M. B. DAWKINS: I ask leave to make a statement prior to asking a question.

Leave granted.

The Hon. M. B. DAWKINS: We are all very much aware, I am sure, of the increasing efficiency and the improvement in the running costs of our Railways Department in recent years through the adoption of diesel locomotives and the reduction in the fire hazard associated with railway running. I am sure it is appreciated by the general public. In the last day or two I have had information given to me indicating that steam engines are now being used from time to time in the Mid-North, and while I am not one to suggest that we should get rid of all our steam engines, because we might need them from time to time, surely if it is possible to use them in the winter when there is no fire hazard it would be the advantageous time to do it. If it is possible to cease using steam engines in periods of fire hazard, will the Minister of Railways ask the Railways Commissioner to do it?

The Hon. N. L. JUDE: I assure the honourable member that that has been done to a considerable extent over the past few years. It is correct to say that a few steam engines are being used in the summer on occasions when required to remove wheat and so on, but I assure the honourable member that it will be only a matter of a year or two when we shall use no steam engines at all, except for an odd shunt.

BOOK PURCHASERS PROTECTION BILL.

Adjourned debate on second reading.

(Continued from November 19. Page 1770.)

The Hon. R. C. DeGARIS (Southern): I have followed with much interest the debate on this Bill and the first query that arises is whether we should take action in the matter. So far in the debate we have had little evidence to warrant the action proposed in the Bill, which attempts to deal with the problem of the overzealous or impulsive door-to-door book salesman. I think we are all aware of the growth of this particular type of selling, particularly in relation to encyclopaedias. I think we are also aware of the increase that can occur in the future, not only in relation to the selling of books from door to door but in other merchandise that will be peddled in this way. The Hon. Mr. Giles, when speaking on this Bill, mentioned that already there has been notification of the opening in Australia of a cosmetics company that intends peddling goods in exactly the same way. In other words, they would not use any of the normal retail channels.

We have already been pestered, if I may put it that way, in our district by a company that formed an Australian subsidiary not long ago selling plastic ware, and the tactics used were such that I do not think any honourable member in this Chamber would approve of them. These people tend to play on the decent emotions of people to their own particular ends.

The principle of this Bill is to protect people against this type of activity. I think it can be argued whether or not there is a case for such protection to be given, but I think if people understand the full facts of the case they will agree that some protection is necessary. The problem at the moment has largely been brought about by the sellers of encyclopaedias.

I remember when I intended to buy an *Encyclopaedia Britannica* some time ago and one of my friends said, "Do not buy one of those because in my opinion it is the biggest collection of misinformation that has ever been put together between the covers of any encyclopaedia." I did not agree with that, but some research I have done shows, unfortunately, that this may be so. For very many years, perhaps 150 years, the *Britannica* has been a name held to be synonymous with the word "encyclopaedia", but today it is not the quality of the article that is selling it but skill, ingenuity and dubious salesmanship.

The Hon. Sir Frank Perry: And persistence, too.

The Hon. R. C. DeGARIS: Yes, and coercion and badgering—call it what you like. The *Britannica* has enjoyed a great reputation for scholarship and reliability. Indeed, when salesmen attempt to sell a *Britannica* nowadays much emphasis is given to the fact that the firm employs a large team of men on research who are constantly revising and keeping the encyclopaedia up to date. I refer particularly to an article in an English magazine, *Encounter,* which was published in May, 1961. It is a reliable magazine edited by a wellknown

literary figure, Stephen Spender. It contains an article by Harvey Einbinder, who tackles this very point. He says that in the 1960 edition of the *Britannica* one will find no mention of strontium 90, which has caused the Hon. Mr. Giles much concern.

Furthermore, one will find little reference in the *Britannica* to radio-active fall-out. Much research has been carried out in the last 20 or 30 years on the planets around the sun, yet the same article on this subject has been reprinted in the 1960 edition of the *Britannica* as appeared 30 years ago. Many articles in this encyclopaedia are the same as those published 70 or 80 years ago, no attempt having been made to alter them. I should like to point out that the *Britannica* reached its zenith as a reference work in approximately 1910—in, I think, the seventh or eleventh edition of it. Anyway, this was recognized as the zenith of the *Britannica's* reputation as a reliable reference work. It was revised at that stage by about 1,500 English and Scottish professors. But, at that stage, the *Encyclopaedia Britannica* was taken over by Sears Roebuck, I think, and from there passed into American hands. But, in regard to what is contained in it at the present time, one will find any amount of references to biographies of what we may term forgotten Victorians, people working as composers and poets, but there is no reference in the 1960 *Britannica* to that well-known composer Benjamin Britten or poets of the standing of W. H. Auden. The *Britannica* at the moment is not a reliable source of reference. No matter whether one checks it in art, history or music, one will find that that is so.

As I have said, in 1910 the *Britannica* was taken over by American interests. At this point the standing of scholarship and of reliability was substituted for what one may term book salesmanship. Quite a number of articles in magazines printed in Australia have referred to this matter. I should like to refer to the magazine *Nation*, which I think most people will realize is an authoritative magazine and one that takes meticulous care with the articles that it publishes.

The Hon. K. E. J. Bardolph: Where is it published?

The Hon. R. C. DeGARIS: In Sydney, I believe.

The Hon. Sir Arthur Rymill: What basis have you for saying that?

The Hon. R. C. DeGARIS: I believe that to be so.

The Hon. K. E. J. Bardolph: Who advised you on that?

The Hon. R. C. DeGARIS: I advised myself on that. As I say, that organization takes meticulous care in the compiling of its magazines. What I have said in regard to the *Britannica* is perfectly true. This is an extract from a copy of the magazine *Nation*:

The mantle of the old time horse trader descended by a sort of apostolic succession upon the secondhand car salesman. This heritage is well recognized, and all intending buyers of used motor cars approach their purchase in a suitably wary frame of mind. Alas, the last of the horse dealers must also have conducted an unsuspected laying on of hands among salesmen for encyclopaedias. Learning as well as locomotion has become a field for the smooth sell, and the pitchmen selling encyclopaedias are the smoothest of them all. Some time ago the Spy wrote about the *Australian Junior Encyclopaedia*, peddled by a company calling itself the Australian Educational Foundation. I think this is the Ruskin Press. The article continues:

This institution battens on public relations handouts from industry for much of its "scholarship", and its sales methods have engaged Parliamentary attention in several States.

That, too, is true. It has engaged Parliamentary attention in many States.

The Sir Sir Arthur Rymill: Would not this paper be provocative rather than authoritative?

The Hon. R. C. DeGARIS: The Minister of Education in this State has referred to this matter also. He said that the methods used in selling encyclopaedias have reached the stage of being almost a public scandal. The article continues:

The *Encyclopaedia Britannica* has always seemed to be a cut above that sort of thing. It seemed to convey in print an atmosphere somewhere between the French Academy and the Royal Society, in the best manifestations of both institutions. The *Britannica* spends enormous sums to maintain this aura of sanctified scholarship, but the Spy, alas, now sees another of his dwindling store of illusions crumbling. Is the *Britannica* what it cracks itself up to be? And can its red hot sales methods be reconciled in any way with genuine scholarly aspiration?

I should like to refer to another article in *Nation* which refers to the *Australian Junior Encyclopaedia*, and to exactly the same thing taking place with that encyclopaedia. I think the point is being made that these encyclopaedias which were once reliable reference works are no longer so but are being peddled to the public as being absolutely reliable reference works. In Australia we had an excellent encyclopaedia called the *Australian Encyclopaedia*, which was edited by, I think, Alec

Chisholm, who is now Secretary of the Royal Australian Historical Society. This particular encyclopaedia was selling to the public at £50. It has now been taken over, I believe, by the Grolier Society and at present is being peddled from door to door at a cost of £144 10s. I have no doubt that this encyclopaedia, too, will fall into the same category of being no longer a reliable reference work; in other words, it will be reprinted and sold as an encyclopaedia and, once it is in the hands of these people, it will no longer be the reliable reference work that it was previously.

The Hon. K. E. J. Bardolph: What has this to do with the Bill now before the Council?

The Hon. R. C. DeGARIS: One has to understand the background leading up to the formulation of this Bill.

The Hon. K. E. J. Bardolph: Does this not apply to other books, too?

The Hon. R. C. DeGARIS: Yes, but in particular this Bill comes before the Council because of the action of salesmen selling, in the main, encyclopaedias. I should like now to turn to the Bill itself. At the moment it gives a cooling-off period of from five to 14 days in which the original contract or signing of the order is to be confirmed.

The Hon. Sir Arthur Rymill: Was that phrase used in the handing out of encyclopaedias?

The Hon. R. C. DeGARIS: I do not know; the honourable member will see I have put "cooling off" in inverted commas. As far as I am concerned, I am prepared to offer the maximum protection to people in this position. It would be open under this present Bill for this period of from five to 14 days for the purchaser of this merchandise to be pestered, badgered and coerced into signing a confirmation. In this regard, the amendments of the Hon. Mr. Giles are an improvement on the original concept of this Bill.

The Hon. G. O'H. Giles: And Mr. Potter's?

The Hon. R. C. DeGARIS: No. Under Mr. Potter's amendments it would be an offence for anyone to solicit or attempt to get that confirmation from the original purchaser. The amendments of both Mr. Giles and Mr. Potter envisage the original signing of an order or a contract and then, under Mr. Giles's amendments, that contract will remain valid unless the purchaser takes action to negate that contract. Under Mr. Potter's amendments the contract can become invalidated or unenforceable if the purchaser takes no action whatsoever. I think that this particular matter is the crux of the whole problem. If a person wishes to negate a contract and overlooks to do so after the period of seven days, after that seven days this company has the laws of the State behind it to enforce that contract. As I say, as far as I am concerned, I am prepared to do everything possible to offer the utmost protection to purchasers of books. Therefore, I have much pleasure in supporting the Bill and the amendments proposed by the Hon. Mr. Potter.

The Hon. M. B. DAWKINS (Midland): I rise to support the second reading of this Bill and should like to compliment the honourable member for Gouger in another place (Mr. Hall) on introducing it. I am quite sure that the amending legislation was actuated by a desire to protect people who, as the Hon. Mr. DeGaris has said, had been coerced, badgered, and pressurized into purchases that they did not really need. I have known of this type of thing for some years, but last year it came directly to me, not very long after I became a member of this Chamber, when I received from a very irate husband in the Barossa Valley a complaint that his wife had been bullied, or very nearly bullied, into acceptance of something they did not want. I believe that in this case, which I referred to the Attorney-General, a fine was later imposed. I suggested to this gentleman that he should train his wife to say "No" to these salesmen. Certain people will be persuaded by salesmen and they are the people the honourable member for Gouger in another place has set out to protect.

A gentleman in the Gawler district had the misfortune to have an accident last year resulting in the loss of part of his thumb and was off work for some time. He received about £500 in compensation. His family needed a new car, if they needed anything, but were pressurized into buying an encyclopaedia for about £350. It came with a nice little book case, grained and polished, which might have cost £30. These types of people must have some protection from the practices of the pressurizing type of salesman.

The Hon. G. O'H. Giles: They are not all pressurizing types.

The Hon. M. B. DAWKINS: That is so, and I do not believe the Bill will do any harm or cause any real handicap to a genuine, non-pressurizing bookseller. I have much sympathy for the amendments proposed by the Hon. Mr. Giles. His proposals would be the normal procedure for dealing with this type of problem

and, as the Hon. Mr. DeGaris said, they provide the opportunity to negate a contract within seven days. However, although I have sympathy for these proposals, I intend to support the amendments foreshadowed by the Hon. Mr. Potter. He has produced a somewhat unusual procedure, but it is the most effective method of dealing with the problem. If it is unusual it should be remembered that the people we are dealing with, in some instances, resort to unusual and probably unethical practices. In essence the difference between the proposals of Mr. Giles and Mr. Potter is that under Mr. Giles's amendment, as Mr. DeGaris has said, the purchaser has the right to cancel, which may be a logical suggestion, but if the purchaser forgets to cancel he is in trouble. Surely the type of person who forgets to do things, to some degree at least, is the type we are seeking to protect. As Mr. DeGaris said, a book company can put the whole pressure of the law behind it to get people to carry out the contract. Under the amendment proposed by Mr. Potter, until the purchaser confirms the purchase the contract is incomplete.

Although the amendment is slightly unusual this measure deals with unusual people and unusual methods of selling and the amendment will protect the general public in a far more effective way than that proposed by Mr. Giles, and, furthermore, will cause no real inconvenience or be a detriment to honest, non-pressurizing booksellers. I propose to support the amendment to be moved by Mr. Potter. I believe the penalty proposed by him for pressurizing between the date of first signing and the date of confirming a contract will meet that situation adequately and I have pleasure in supporting the second reading.

The Hon. Sir ARTHUR RYMILL (Central No. 2): From my experience outside the Chamber I feel that the Bill has merit in as much as there is a shown abuse in certain cases that requires dealing with or, perhaps I should say, there is some need to deal with it. However, it seems to me that some of the enthusiastic, younger members are rather allowing their emotions to run away with them on this matter. They know of some hard cases that have occurred and they have occurred—I am very conscious of that— but, although I hesitate to say that hard cases make bad laws as the saying is so hackneyed, it is still true. These matters must be approached with the realization that we are not dealing with any particular case but with a general case because we are dealing with all booksellers in this Bill.

The Hon. R. C. DeGaris: Only door-to-door booksellers.

The Hon. Sir ARTHUR RYMILL: Yes, but are we here to prevent door-to-door selling? I do not think we are. I believe it can be a harmless practice and in many cases a valuable practice. In the country areas I have seen people selling goods such as household commodities, greengroceries and so on, from door-to-door from trucks and I believe this is a valuable service to certain people. Door-to-door selling also brings modern developments in goods to the notice of people who may not otherwise have heard of them.

The Hon. C. D. Rowe: The last items you have mentioned would be mainly cash sales.

The Hon. Sir ARTHUR RYMILL: The Attorney-General is more aware than I am that there is a Hire-Purchase Agreements Act dealing with matters in relation to household appliances. It seems to me that if he is so interested in this matter the Government, perhaps, could have gone a little further in its consideration of these matters. The protection of the purchaser is one thing and the prevention of selling is another. I believe Parliament should interfere as little as possible with trade practices and my leaning will always be that way. I will only interfere if it is made abundantly clear to me that the Legislature should intervene. I have not heard one member interject that he considers door-to-door selling should be banned altogether. In the absence of such an interjection I do not propose to go further with the matters. I assume that no members would go as far as that. The Bill deals with a specific instance, but as drawn it goes too far.

A year ago we considered legislation dealing with hire-purchase agreements, and in connection with household appliances we inserted a provision that the consent of the spouse was necessary when a contract of that nature was entered into. The Attorney-General will correct me if I am wrong. If we did that under this Bill it would be sufficient. If both the husband and the wife were silly enough to sign a contract for something they did not want they deserve to be landed with it. We cannot protect people against their stupidity. We cannot stop them from buying goods they do not want and paying for them in cash or getting them on a monthly account basis. How can these people be entirely protected against themselves? That is the tendency in modern legislation, but it cannot be done. When it

comes to trying to protect people against their own stupidity to the disadvantage of the genuine trader (and there are many in this and other fields of door-to-door selling) it is going too far.

I am prepared to support the Bill to the extent that the consent of the spouse should be obtained. I will not go further than that because the more members talk about this matter the more they convince me that is as far as we should go. The Hon. Mr. Dawkins asked what would happen if a person forgot to cancel the contract. One of the amendments foreshadowed by the Hon. Mr. Giles is to protect the purchaser. If the purchaser does not care to take advantage of the protection within the week of signing the contract, does he deserve further protection? I ask the Hon. Mr. Dawkins what would happen if the purchaser forgot to confirm the contract. The Hon. Mr. Potter wants the purchaser to confirm the contract and he wants no canvassing of the confirmation. I know how lackadaisical many people are, and if there were no chasing of the confirmation how many people would forget to confirm in the given period? As I understand it, the Hon. Mr. DeGaris said that if the *Encyclopaedia Britannica* were genuinely scholarly there would be no need for it to be sold under these selling methods.

The Hon. R. C. DeGaris: I did not say that.

The Hon. Sir ARTHUR RYMILL: I understood the honourable member to say "If it were genuinely scholarly". Perhaps he would help me as I want to reply to what he said.

The Hon. R. C. DeGaris: I referred to the fact that the *Encyclopaedia Britannica* at one stage was a worthwhile reference book—a scholarly and reliable reference book. Since 1910 it is no longer so and it is necessary to understand the background of what happened to the *Encyclopaedia Britannica* to understand the sales method adopted.

The Hon. Sir ARTHUR RYMILL: I thank the honourable member. I have not yet had time to read the *Encyclopaedia Britannica* from cover to cover and I cannot tell whether it is scholarly or not, but if I had read it from cover to cover I would still not be able to tell whether it was scholarly. If the sellers of the *Encyclopaedia Britannica*, or other volumes and tomes, do not adopt modern selling methods the *Encyclopaedia Britannica* and the other books will lie dusty on the shelves of booksellers all over the country, and ultimately they will go out of the business. I believe in protection being afforded to people who may be caught on the spur of the moment and be overenthused by high pressure salesmen. I refer particularly to women with children. I know how one can feel about one's children and even the hard-baked businessman sometimes falls on the sentimental side in trying to help his children to be educated. That is why I say the consent of the spouse would be a good thing.

As the Hon. Mr. Giles wants, I would give people the chance to cancel the contract if, after thinking over the matter, they did not want to go on with it. I would not stop salesmen from chasing an order. I certainly would not think that we should hold a purchaser in purgatory as it were, during the cooling-off period referred to by the Hon. Mr. DeGaris. I support the second reading, but if the amendments made in Committee are not to my satisfaction I shall vote against the third reading. The Bill deals with only a fraction of the problem and I do not think it is a well-conceived measure.

The Hon. C. R. STORY (Midland): I thank members for the attention given to the Bill. The speeches were well considered, and members have been provided with much of the background in connection with the door-to-door method of selling books. I listened with much interest to the remarks made by the members who propose to move amendments, and I am worried about those to be moved by the Hon. Mr. Giles, because during the cooling-off period mentioned by the Hon. Sir Arthur Rymill—

The Hon. Sir Arthur Rymill: It was not my phrase.

The Hon. C. R. STORY: The honourable member made the point that he thought it improper that there should be no follow up, as it were, on the contracts. That was one of the worries facing a number of people with regard to this matter: that, if no action were taken during this period, the persons concerned would be rather pressurized and perhaps tricked into confirming the contract. Another matter concerning me is that if a person negates the contract the whole force of the law is then on the side of the bookseller. If this person is not prepared to take delivery of the books when the bookseller arrives with them, having negated the contract—

The Hon. Sir Arthur Rymill: That applies to any other contract under our law as it exists.

The Hon. C. R. STORY: Yes, but this matter is quite different. Whether we have a double acceptance or whether we negate it,

it is an unusual practice, having obtained a contract.

The Hon. Sir Arthur Rymill: Precisely.

The Hon. C. R. STORY: It is something quite different from what we normally do, as the honourable member has pointed out, but in this case, in the matter of negation, the person concerned has failed to tell the company that the couple do not want the books. A man arrives to collect the deposit and to hand over the books; the woman says, "My husband told me I was to write to you, but I am sorry, I forgot" and he says, "Well, I am terribly sorry, but here are your books." She says, "But I have not got the £5 deposit", so I imagine the books will be left there. I cannot see any other way out of it.

The Hon. Sir Arthur Rymill: They have a second chance; don't they deserve to have the books left there?

The Hon. C. R. STORY: Unfortunately, we are dealing with a group of people—and I presume the whole purpose of this Bill relates to this group of people—who apparently cannot look after themselves.

The Hon. Sir Arthur Rymill: That has been the case in our law for centuries.

The Hon. C. R. STORY: But we endeavour in other ways to give certain safety measures to people to save them from their own folly. Not very long ago a hardship was inflicted upon certain manufacturers of refrigerators in that they had to have a certain type of door fitted because people were letting children get into the refrigerator and close the door.

The Hon. Sir Arthur Rymill: Aren't you trying not to protect them, but to put them in a glass case?

The Hon. C. R. STORY: I understand that bookselling is a particularly unusual practice. If a person cannot obtain the money on the contract at a particular time, with this impulse selling he continues to come back until he gets something, unless people are firm and say they do not want anything. However, if the person approached displays any interest he is badgered until he signs the contract. We have had it with other types of people: insurance is a good example where the old-time insurance agent was not beyond doing things of that nature. I think this Bill will be improved by the foreshadowed amendments. I think some of them will be accepted, but I do not think we can afford to be so worried about the age-old custom of contracts in this matter, because I think it is just as wrong to negate a contract, in the eyes of the purists. I do not suppose it is actually protection to have a double acceptance—

The Hon. R. C. DeGaris: In both cases the contract becomes unenforceable.

The Hon. C. R. STORY: Yes. I again thank honourable members for the consideration they have given to the Bill.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—"Interpretation."

The Hon. F. J. POTTER: I move:

After "Act" to insert "(*a*)".

I move this amendment for the purpose of inserting an additional definition in the clause. I think the definition of the word "book" is adequate, but I think it is most important that, as the key word throughout the Bill is the word "contract", it should be defined to show that it includes an order in respect of a book. A contract normally includes an offer and an acceptance and must be evidenced in writing because of the provisions of the Sale of Goods Act. However, it may be argued that an order signed only by the purchaser is not strictly within the definition of the word "contract" and the order may be subject to acceptance, say, interstate, which may provoke argument. Therefore, I think that an additional definition as regards "contract" should be inserted in this clause, which will make it clear that it includes any agreement or order in respect of the sale of a book or books. In order to do this, it will be necessary to make the definition of the word "book" one definition, and the word "contract" another.

The Hon. Sir ARTHUR RYMILL: I find it rather curious draftsmanship that a definition of the word "contract' shall include an order, because an order is not a contract, as the honourable member himself has pointed out, until it is accepted. Therefore, are we not misusing the word "contract" in the Bill if we intend it to mean purely an unaccepted order which, as I understand the position, is what this definition will mean?

The Hon. C. D. ROWE (Attorney-General): One point I raise is with regard to the amendment foreshadowed to paragraph (*b*), where the following will be inserted:

The word "contract" includes any agreement or order with respect to the sale of any book or books.

The CHAIRMAN: The Hon. Mr. Potter has not gone that far yet.

The Hon. C. D. ROWE: My point is that, if we intend to use the word "contract" to

include any agreement or order with respect to the sale of any book or books, that will contravene a subsequent provision in the Bill that states that this provision shall not refer to books sold from a shop.

The Hon. F. J. POTTER: I respectfully suggest that it does not because clause 6 (or clause 7 as it becomes) will not apply to that as that provision specifically states that it exempts any contract; it does not apply. Clause 7 deals with any contract for the sale of a book or books to any person engaged in the buying or selling of books—that is in the trade. In that case the whole Act does not apply. So to any contract, whether an order or not, as defined in the Bill, the clause does not apply. I think that is plain enough. This definition is only an attempt to ensure that the word "contract" includes the order. In answer to the matter raised by Sir Arthur Rymill, I say that it is most essential that we cover the matter of an order because it is precisely an order that is solicited in the first place, I think. I have not had much experience of the methods being used by these salesmen. Perhaps other honourable members have, but the first thing that the salesman seeks to obtain from the householder or the housewife is something in the form of an order, which no doubt could be easily converted into a contract. The purpose of this amendment is to ensure that this is exactly what is intended to be covered by the Act.

The Hon. Sir ARTHUR RYMILL: There is no better defined word in the law than the word "contract", as far as I know. I should not think it was necessary to further define it in any Act of Parliament. A contract is a contract, and all lawyers and most laymen understand what it means. As the honourable member has again pointed out, an order becomes a contract as soon as it is accepted. An order is revocable until accepted, under the law, but, once accepted, it becomes a contract binding on both parties, provided of course it fulfils the ordinary legal requirements of having a consideration attached to it, and so on. Therefore, I think, with all respect to my learned colleague, that this amendment is totally unnecessary because an order need not be accepted. If an order is not accepted and is withdrawn, there is no need to include the word "contract" if the party withdraws before acceptance. Once accepted, however, it then becomes a contract anyhow, so I cannot see that there is any need for this amendment.

The Hon. F. J. POTTER: In answer to that, I say that it is possible that a paper in the form of an irrevocable order can be obtained from a prospective purchaser. It is true that it would be converted into a contract only upon acceptance but later on in the Bill it is on this order that we intend to provide that there shall be capital letters printed, and there will be a copy of it left with the purchaser. It is precisely for that reason that I think it is necessary and prudent to define "contract" for the purposes only of this Act, for I agree with Sir Arthur Rymill that "contract" is a well-known expression in the law; but this is not a limiting definition: this is an expanded definition. It is only an expanding of the definition. It is on this particular document that we shall provide later on that capital letters in certain type are to be printed and a copy is to be left with the purchaser; also a further amendment is foreshadowed in my list that it must contain the total price of the books. That is the reason why we should expand this definition.

The Hon. Sir ARTHUR RYMILL: In answer to my honourable friend, on acceptance of the order the order and acceptance become a contract. Clause 4 provides that there must be printed on the contract in capital letters the words "This contract is unenforceable", etc. Otherwise, it shall be unenforceable, says clause 4. If these words in capital letters are not on the order or acceptance, which will ultimately form the contract, then the contract will be unenforceable or the order will be unenforceable, if one cares to put it that way. Therefore, this amendment is totally unnecessary.

The Hon. G. O'H. GILES: It is rash of me to enter this legal arena, but I should like to point out that my advice on this point was, at the time of my trying to formulate these amendments, that it was not felt that a definition of "contract" was necessary. That is the reason why there is no amendment of that nature standing in my name. I see no purpose in such an amendment.

The Hon. F. J. POTTER: I do not want to be too dogmatic about this but my only other remark is that it may well be, as Sir Arthur Rymill says and as the Hon. Mr. Giles tells us that he was advised, that extending the definition of "contract" is, to a point, unnecessary. But it might be necessary and, if it might be necessary, why not include it? That is the purpose of this amendment.

The Hon. C. D. ROWE: I must agree with the opinions of Sir Arthur Rymill, supported by a source not explained to us by Mr. Giles.

The Hon. G. O'H. Giles: It was a legal source.

The Hon. C. D. ROWE: If it should become necessary, Parliament will look at it again in due course. For the time being, however, I do not think we can concede that a definition of "contract" is necessary.

The Hon. Sir ARTHUR RYMILL: It is a source of great gratification to me that for once I have been supported by the Attorney-General. I should like to express my appreciation of that.

The Committee divided on the amendment:

Ayes (9).—The Hons. Jessie Cooper, M. B. Dawkins, R. C. DeGaris, G. J. Gilfillan, L. R. Hart, Sir Frank Perry, F. J. Potter (teller), C. R. Story and R. R. Wilson.

Noes (9).—The Hons. K. E. J. Bardolph, S. C. Bevan, G. O'H. Giles, N. L. Jude, Sir Lyell McEwin, W. W. Robinson, C. D. Rowe, Sir Arthur Rymill (teller) and A. J. Shard.

The CHAIRMAN: There are nine Ayes and nine Noes. There being an equality of votes I give my casting vote to the Noes.

Amendment thus negatived; clause passed.

Clause 3 passed.

Clause 4—"Evidence of contracts not complying with certain conditions."

The Hon. G. O'H. GILES: I move:

To strike out paragraph (*a*) and insert the following new paragraph:

(*a*) Such contract is in writing and sets out all the terms of the contract including the total price payable.

If honourable members want copies of the amendments, which unfortunately are not on file, they are available. If my amendment is passed the present paragraph (*a*) in the Bill will become paragraph (*b*).

The Hon. K. E. J. BARDOLPH: On a point of order, Mr. Chairman, the honourable member has indicated that the amendments are not on the file but are available if any honourable member wants them.

The Hon. G. O'H. Giles: They have already been circulated.

The Hon. F. J. POTTER: On a point of order, Mr. Chairman, I have an amendment on the file which will make an alteration to paragraph (*a*) and, as I understand it, the Hon. Mr. Giles is moving to make paragraph (*a*) paragraph (*b*) and I therefore ask your ruling as to whether my amendment should be taken first. I think it should in the circumstances.

The CHAIRMAN: It would appear that the Hon. Mr. Giles wishes the present paragraph (*a*) to become paragraph (*b*) so that you will have an opportunity then. I rule that Mr. Giles's amendment shall be dealt with first.

The Hon. F. J. POTTER: Your ruling, Mr. Chairman, would mean that I would have no opportunity to move my amendment if paragraph (*a*) becomes paragraph (*b*) because the new paragraph (*a*) will be in existence and will incorporate my amendment. However, I do not mind because my amendment is almost identical with the amendment of Mr. Giles.

The Hon. Sir ARTHUR RYMILL: If the two amendments are to the same effect it seems to be a matter of form. I believe that Mr. Giles's amendment is well drafted but I do not think it means anything different, from the technical point of view, from what is there already.

The Hon. K. E. J. Bardolph: Are you raising a point of order or speaking to the amendment?

The Hon. Sir ARTHUR RYMILL: I am speaking to the amendment. I am supporting the Hon. Mr. Giles.

The Hon. F. J. POTTER: I am happy to accept the amendment, which makes two paragraphs, whereas I intended to have only one. It does not in any way change the situation.

The Hon. C. R. STORY: Everybody seems to be in an agreeable mood, and as I can see no reason to oppose the amendment I will support it.

Amendment carried.

The Hon. G. O'H. GILES moved:

To strike out "(*a*)" and insert "(*b*)".

Amendment carried.

The Hon. G. O'H. GILES: I move:

In paragraph (*b*) after "contract", where second occurring, to insert "provided that where the purchaser is a married person the contract shall bear thereon the written consent to the contract of the spouse of that person if both are living together in the same residence".

This is in accord with a contention put forward by the Hon. Sir Arthur Rymill some time ago. It further protects the purchaser because the signature of consent is needed as well as the signature to the contract.

The Hon. F. J. POTTER: Members should realize that this is the first step in the new pattern of the Bill which the Hon. Mr. Giles proposes to introduce with his subsequent amendments. In principle there is nothing wrong with the amendment but as the Bill now stands, and as it will be further amended if my other amendments are adopted, there will be so many difficulties in the way of booksellers that to accept the Hon. Mr. Giles's amendment will provide a further difficulty. It is at this stage that members must decide whether to go with me the rest of the way or with the Hon.

Mr. Giles. If the Hon. Mr. Giles's amendment is inserted it will not in any way damage my further amendments but will introduce a complication to the Bill and make the task of book salesmen so impossible that it need not be included in the general pattern, as proposed by my amendments. If members decide to go all the way with the Hon. Mr. Giles I will support the amendment because I think it is an important part of his scheme.

The Hon. G. O'H. GILES: I thank the Hon. Mr. Potter for his impartial summing up of the position. What he says is true. We must decide whether to have the consent to the signature, and whether that is the type of protection we want.

The Hon. F. J. Potter: We are on the threshold of it.

The Hon. G. O'H. GILES: Exactly. Here we have the start of a principle. We should consider whether the business practices that we regard as correct should be allowed some opportunity to continue under the Bill. We should say whether we want to completely eliminate door-to-door selling of books and other goods, or whether we shall allow some semblance of the normal trade that we have to the credit of South Australia at present. I ask members to support my amendment.

The Hon. C. R. STORY: Following the remarks of my honourable friend, I likewise rise to point out to the Committee that we have come to the branching of the way and it is at this point that honourable members will need to make up their minds which way to go. I ask members to adhere to the principle that has been explained very fully—

The Hon. G. O'H. Giles: Which principle?

The Hon. C. R. STORY: The principle of giving full protection to people with regard to the signing of their contracts, so that if they make a mistake they are not penalized by the law.

The Hon. G. O'H. GILES: I think the Hon. Mr. Dawkins was the first to say that sales would not be limited under Mr. Potter's amendments. I suggest that that is not so and that they will limit sales from the human angle alone. Futhermore, I maintain that if they limit sales it will increase the cost of books to the purchaser under this scheme. I believe this is the crux of the problem: do we allow trading to go ahead or do we not? If we do not, let us stop house-to-house trading here and now and not continue with this pretence. On the one hand we say that we will allow it, but on the other hand we penalize it. I do not think this amounts to a proper business practice at all.

The Hon. M. B. DAWKINS: In reply to the Hon. Mr. Giles, he quoted me as having said that I did not think it would limit sales at all. What I said was that I did not think it would limit the scope or selling ability of genuine booksellers.

The Hon. G. O'H. Giles: That is the same thing.

The Hon. M. B. DAWKINS: I did not say it would not limit the scope of people who indulged in doubtful practices. I believe that is what we are trying to do. In regard to what the Hon. Sir Arthur Rymill said about this "cooling-off" period, it is only for that period of a few days that there is no further overture made by the booksellers. After that period, if someone does not confirm the contract, there is nothing to stop the firm writing to remind him.

The Hon. Sir ARTHUR RYMILL: I think this amendment is the most important one and the most desirable of all. Although it refers to spouses, it is aimed, of course, at the matter of the husband's consent to a wife's contract made during the day when he is at work. I think that would apply to about 95 per cent of the cases envisaged in the Bill. There is no other positive provision in any of these amendments or the Bill to give the husband any say in the matter at all. Whether the contract is to be confirmed by the purchaser or whether it is to be negated by the purchaser, which is the tenor of the Bill and the amendments that have been circulated, the husband still has no official say in the matter unless this clause is passed. He may be able to persuade his wife to negate the contract or not to confirm it, but that is as far as it goes.

In most instances he must provide the actual hard cash for it although, of course, the wife, in the case of an unnecessary contract, would also suffer as a member of the household by the amount of money paid for the books not being available for ordinary household purposes. The principle of this clause has been recognized in the Hire-Purchase Agreements Act and I can see no earthly reason why it should not only go into this Bill but be the crux of it, because that is its position in the Hire-Purchase Agreements Act. Why honourable members want some utterly different approach in this matter passes my comprehension. This is a desirable clause.

Amendment negatived; clause as amended passed.

Clause 5—"Receipt of deposits."

The Hon. F. J. POTTER: I move:

After "otherwise" to insert "or deliver to the purchaser any book or books the subject matter of the contract".

This clause as printed provides that there shall not be any passing or acceptance of money under the contract for the sale of the books or any other consideration. Many honourable members have expressed the view that the books, too, should not pass, because many fairly ignorant people get confused when they suddenly find a parcel of books delivered at their doorstep. If it is right to provide that no money shall pass under the contract, it is also proper and necessary to provide that no goods shall be left because in this way an issue could be confusing for the unsuspecting purchaser or the "pressurized" purchaser who has been induced to sign a contract.

The Hon. Sir ARTHUR RYMILL: I think the mover of this amendment will agree that this amendment is detached from the others because we have been hearing much about patterns. There appears to be a certain amount of artifice going on with the amendments in the form of patterns. If anyone supports this amendment, he should not feel obliged to support other amendments. This amendment should be treated on its own merits, and so should the others. Will the mover of this amendment confirm that?

The Hon. F. J. Potter: I am treating the amendment separately and I do confirm that it should be treated only on its merits.

The Hon. G. O'H. GILES: This amendment is also on the file in my amendments. Therefore, I see no need for complaint. It is a very good clause, for one simple reason that, in the drafting, one of the principles I observed strongly was the evidence of undue pestering, worry or coercion. This clause is acceptable to me.

The Hon. Sir ARTHUR RYMILL: I find it necessary in Committee stages, particularly on a Bill like this, that one should trim one's views according to the way the Bill is shaping itself. Thus, I propose to support this amendment because it is ancillary to clause 5 as drawn. It is a proper addition to clause 5 if clause 5 is to remain. My duty is to support anything that I think is an improvement to the clause.

Amendment carried; clause as amended passed.

New clause 5a—"Soliciting notice of confirmation."

The Hon. F. J. POTTER: I move:

After clause 5 to insert the following new clause:

> 5a. A vendor or his agent shall not, during the period hereinbefore allowed by this Act for confirmation of the contract by a purchaser, solicit or otherwise attempt to obtain from such purchaser any notification under paragraph (*e*) of section 4 of this Act.
>
> Penalty: Not exceeding one hundred pounds.

I propose to insert this new clause here because I think it is its proper position. It is a new clause that deals with soliciting notice of confirmation. This was a real weakness in the Bill as it was when it came to this Chamber. In other words, the pattern of the Bill was to provide for a contract and then confirmation in writing of that contract. As so many honourable members have already mentioned in their speeches, it leaves the position wide open for that notice of acceptance or confirmation to be sought from the nominal purchasers within the period mentioned in clause 4. Therefore, it is essential that we have some provision to try to stop this possible solicitation. In the last line of the new clause, as it appears on the files, I refer to paragraph (*d*) of section 4. That will now be paragraph (*e*) because Mr. Giles's original amendment split paragraph (*a*) into paragraph (*a*) and paragraph (*b*). If that is so, paragraph (*d*) should now become paragraph (*e*). I have altered the printed amendment accordingly.

The Hon. Sir ARTHUR RYMILL: As I said in my speech on the second reading, my approach to the Bill is that it is already, if anything, too harsh on sellers. The amendment, instead of making their lot a little easier as Mr. Giles's amendment was designed to do, is going to make it harder. Most members of this Committee have been in business in some form or another and know how dilatory it is possible for people to become. Unless people are allowed to chase confirmations of orders within the time prescribed, how many orders will be confirmed? I believe that only a fraction of the number of people involved will confirm the orders in the time allowed, whether they really want the books or not. This amendment provides a completely unnecessary protection and weighs far too heavily against the sellers of books and, therefore, I do not propose to support it.

New clause inserted.

Clause 6—"Non-application to wholesale trade."

The Hon. F. J. POTTER: I move:

To strike out clause 6 and insert the following:

6. This Act shall not apply to any contract when the purchaser is a person whose trade or business is that of buying and selling books.

This is mainly a drafting amendment and the Parliamentary Draftsman approves of it and thinks it is slightly better worded than the present clause 6. As it now stands, clause 6 raises a difficulty by using the term "contract of sale by wholesale".

Amendment carried; clause as amended passed.

New clause 7—"Summary procedure."

The Hon. F. J. POTTER: I move to insert the following new clause:

7. Proceedings for offences against this Act shall be heard and determined summarily.

This is a most necessary clause which, I believe, was overlooked by the honourable member who introduced the Bill in another place.

New clause inserted.

Title passed.

Bill read a third time and passed.

MAINTENANCE ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from November 13. Page 1635.)

The Hon. Sir LYELL McEWIN (Chief Secretary): The Bill, which was explained by the Hon. Mr. Bardolph last week, relates to the granting of relief by the Children's Welfare and Public Relief Board. I believe its intention was really to provide relief to the parties concerned and was meant to apply in the main to deserted wives. In explaining the Bill Mr. Bardolph said that public relief has been treated as a repayable loan rather than as a community grant to the people concerned. That is not correct.

The Hon. K. E. J. Bardolph: In some cases it is true in substance and in fact.

The Hon. Sir LYELL McEWIN: The honourable member gave a very short speech in explanation of the Bill and the remarks I have mentioned were about the only relevant remarks I could see in his speech, other than his formal explanation of the meaning of the clauses. In his zeal to introduce this legislation he overlooked the matter of practical and effective administration in the interests of the parties being assisted. The Children's Welfare Board, to which I wish to pay a tribute, is not made up of highly-paid public servants. They are people who are sympathetic to those that seek assistance and they are encouraged by the Government, whose policy it is to give the maximum amount of assistance possible in all cases. The administration has been such that that has been done. The Bill would throw sand into the creek and have the opposite effect to giving greater assistance. In addition, there would be delays while awaiting court decisions. There would be no common order to deal with the matter. The delays that would occur would not occur under a more flexible administration. I have placed on the file a number of amendments. I have no desire to defeat the Bill so I will subscribe to it if it can be put into workable order. Unless members are aware of what happens in connection with these cases they will not be able to properly consider my amendments.

First, I mention that it would not be possible to have anything standard because the position changes from week to week or from fortnight to fortnight, as I will show. If applications have to be made to the court undoubtedly the court and the department will be burdened with many cases. Delays would occur and deserted wives would not get any relief until decisions were made. If a court did not make an order in a particular case the deserted wife could get State relief and maintenance for the period. Under the present arrangement the department tries to ensure that destitute and deserted wives receive a reasonable income from relief or maintenance. In fairness to the deserted wives the department decides the amount that should be paid. If the proposal becomes law the present departmental flexibility, which operates to the general benefit of most destitute families, will be replaced by a rigid procedure, which would not be an advantage. The department is of opinion that a court of law cannot expeditiously deal with these cases, mainly because of the frequently changing complexities of the matter. People in search of relief want the quickest possible machinery to deal with their cases, and that is how the department now works.

I have prepared some examples to indicate how the system operates. In one family the income may comprise the Commonwealth benefit, including child endowment, of £13, and the State relief, according to the number of children concerned, may bring the amount to £14 15s. The department would pay the additional £1 15s., and there would be no maintenance. In the next week or three weeks later there may be a different set of circumstances. The Commonwealth benefit, including the child endowment, may be £13, and the

maintenance payment recovered from the spouse of the deserted wife may be £1 15s. In that case there would be no need for a relief payment. In another period the Commonwealth benefit may amount to £13 and there may be a maintenance payment of only 15s. Then the department would make up the difference. It would keep the income regular for the family. In connection with another family, the Commonwealth benefit, including child endowment, may be £13, and the State relief £1 15s., making £14 15s. in all. In other circumstances it may be £13 for the Commonwealth benefit and £3 for maintenance, making £16 in all. Then there would be a recoup to the department to help maintain the income to the family. In another period the Commonwealth benefit may be £13 and the maintenance recovered may be £1 15s., and then there would be no need for relief.

Obviously in these changing conditions if court orders are necessary it will be the beneficiaries who will suffer. If additional money has to be paid in one period the department should be entitled to some recoup later. If we are to have incomes in accordance with the Bill there will need to be adjustments elsewhere. The Commonwealth amount is limited. If there is a high amount of payment there may have to be a reduction in the Commonwealth amount. It is better to keep the payments equitable as at present. I am prepared to insert provisions that will not mean a complete bottling up of the board's administration. I think this is the best way to set out the board's policy, which is to maintain a proper standard at all times rather than have a period of excess income and another period of low income. It is better to have an equitable distribution for the benefit of all concerned. I shall explain my amendments when the Bill is in Committee. I think they are justified because they will maintain some of the present conditions.

The Hon. F. J. POTTER (Central No. 2): I rise to support the second reading of the Bill and I am pleased to note that the Chief Secretary has indicated that he is prepared to accept it with the amendments he will move. The Bill deals with matters that I encounter quite regularly in practice. I think the clauses are all very good and I am pleased to note that some attempt has been made to deal with an unsatisfactory situation that has existed for some time regarding the receipt of maintenance payments on behalf of persons who have been paid relief whilst awaiting the order of the court. There have been administrative difficulties in this matter from time to time. I am pleased that the Minister is prepared to leave the clause substantially as it is and I am sure that his amendments will be of great assistance to the general administration.

The other clauses in the Bill deal with matters of blood tests in affiliation cases and the obtaining of orders against the salary or earnings of a defendant against whom a maintenance order has been made. I think the amendments proposed in connection with the blood tests are quite good. However, there is a general belief on the part of many lay persons that blood tests are something magical that can solve a problem in an affiliation case in the twinkling of an eye, but this is not so. Of course, the result of a blood test can only prove, in a certain set of circumstances, that a defendant was not, and could not possibly be, the father of an illegitimate child.

That is about as far as it can go because in all other cases the usual result is that the child could be the child of this defendant but, of course, that does not provide any assistance to the court whatsoever. However, I think it is a source of satisfaction to people who are placed in the unhappy position of being defendants in an affiliation case to know that at least they have the right to ask for a blood test if they feel certain that they have been wrongly charged with such paternity. To that extent I think this provision will do some good, but no magical results will follow therefrom. As far as the provision dealing with the attachment of earnings is concerned, I think this is a good provision to have in our summary jurisdiction procedure in this State—

The Hon. K. E. J. Bardolph: It is in the Commonwealth Act.

The Hon. F. J. POTTER: —because it is in the Commonwealth legislation and I think, although it is not being used to any great extent in the divorce jurisdiction of the Supreme Court, it is effective, and I support this amendment which puts it into our Maintenance Act. All in all I am prepared to support the second reading of the Bill and I shall give earnest consideration to the amendments that have been foreshadowed by the Chief Secretary.

The K. E. J. BARDOLPH (Central No. 1): I thank the Chief Secretary and the Hon. Mr. Potter for their contribution to this debate. In regard to the remarks made by the Chief Secretary about the paucity of my second reading explanation, my only answer is that I did

not desire to be too verbose, knowing that he was fully conversant with the machinery and the administration of his department. I did not want to attempt to tell him exactly how his department was run. I would not have the temerity to do that. I have no desire to criticize the administration of the board at all because I have had dealings on behalf of some of my constituents with the board and I have always found it helpful, and in many cases it has extended its powers to relieve necessitous cases.

The Hon. F. J. Potter: It has a hard job sometimes.

The Hon. K. E. J. BARDOLPH: As a matter of fact, as the Chief Secretary has said this afternoon, it has an onerous task and it consists of people of different walks of life who are prepared to carry out a very useful function on behalf of the Government. I had no intention of attempting to belittle the board at all. I trust that this Council will pass the Bill because it has come from another place exactly as it appears on our files. I was not the sponsor of the Bill but merely the custodian of it in this Council for the purpose of presenting it to members for their consideration.

Bill read a second time.

In Committee.

Clauses 1 to 5 passed.

Clause 6—''No deductions without order of court.''

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

To strike out ''Minister'' twice occurring and insert ''board''; to strike out ''his'' and insert ''its''; to strike out ''him'' and insert ''it''; and after ''except'' to insert ''upon the written authority of that person or''.

The amendments on honourable members' files really concern two matters, and I have already referred to one. Honourable members will notice that my first amendment is to strike out ''Minister'' and insert ''board''. Under Part II of the Act it is not the Minister who gives the relief but the board, as the Minister has no funds. The wording at present would render the provision completely unworkable. There follow, of course, consequential amendments if this amendment is carried.

The Hon. K. E. J. BARDOLPH: I can see the Minister's point; whilst the clause contains the word ''Minister'', it is quite true that he is not the controller of the moneys. It is the board that controls them and it is merely, I think, a matter of verbiage.

The Hon. F. J. Potter: A very important matter.

The Hon. K. E. J. BARDOLPH: Yes: verbiage is, of course, very important. If one uses words badly one can be before the courts. Consequently, I am prepared to accept the amendment.

Amendments carried; clause as amended passed.

Clause 7 passed.

Clause 8—''Enactment of principal Act, section 79a.''

The Hon. Sir LYELL McEWIN moved:

To strike out ''Minister'' and insert ''board''.

Amendment carried; clause as amended passed.

Remaining clause (9) and title passed.

Bill read a third time and passed.

EXCESSIVE RENTS ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from November 13. Page 1635.)

The Hon. C. D. ROWE (Attorney-General): This Bill, which was a private Bill introduced by a member in another place, eventually passed through there, I think, as a result of a compromise arrangement between the parties. I think it is therefore something that we can accept as it comes to us in this Chamber. It purports to do three things. Under the existing legislation any lease for a period of a year or more is exempt from the control of the Act. An early clause of the Bill provides that, in future, agreements relating to the renting of premises shall be exempt from the provisions of the Act only if they are for a period of three years or more, but at the same time it protects those agreements even though they be for a lesser term than three years if they are in existence at the time. We accept that.

Secondly, by clause 4, it is competent for a court to impose orders for costs in cases heard under this legislation. In many cases tenants, and in some cases, presumably, landlords, are afraid to take action with regard to the rents being paid because they are afraid of what the effect of an order for costs may be on their financial standing. Consequently, the Bill provides that those costs would not be opposed, which would have some merit.

In clause 5 there is a provision that the court may obtain a valuation from the Prices Commissioner and make it available to the parties, the purpose of the valuation being to give some independent opinion as to what in fact is a fair valuation of the rent payable on the premises. Other suggestions were made in another place, to the effect that the valuation should be

by a licensed valuer or an officer of the Land Board, but I believe the compromise arrangement put into the Bill, namely, that the information shall be supplied by someone from the Prices Branch, is a satisfactory approach to the matter. I support that.

The only other thing of relevance in the Bill is clause 6, which puts back into the legislation something that was there previously, under the Landlord and Tenant (Control of Rents) Act, which has the effect of preventing landlords from taking action to disturb the quiet occupation by the tenant of the house—actions such as cutting off the water or the electricity supply. Unfortunately, that type of technique has occurred in some instances. It is desirable that that should be prevented and, if the landlord is to have his tenant removed from the premises, he is to be restricted to the normal processes of the law. I do not need to speak further. The Government is prepared to accept the Bill in the form in which it has been submitted from another place.

The Hon. F. J. POTTER (Central No. 2): Unlike the Minister, I am not prepared to accept the Bill in the form in which it is before us because in many ways it quite unnecessarily takes a retrograde step and, in fact, goes further in some cases than the old legislation known as the Landlord and Tenant (Control of Rents) Act. In common with previous speakers I find the provisions of the Bill dealing with the non-allowance of costs in any application to the court for fixation of rent under the Act unexceptionable. These provisions applied under the old Landlord and Tenant (Control of Rents) Act and worked well, and it may be that their absence has prevented some people from making application to the court. However, I do not believe that this is the main reason behind the fact that not many applications have been made to the court under this Act.

The Hon. K. E. J. Bardolph: You would be surprised to know the number afraid to go to the court, both landlords and tenants.

The Hon. F. J. POTTER: I am not saying that people are afraid but that few applications have been made. I suggest that one of the reasons is that there has been a great levelling out of rents in the community. I was interested to read the comments of the Premier in another place where he said—

The PRESIDENT: The honourable member must not refer to what was said in another place.

The Hon. F. J. POTTER: I was interested to read that some comment was made that since the abandonment of the old Landlord and Tenant Act there had been only an infinitesimal rise in the rent component in the cost of living index. This is heartening because I have often said previously that this would happen. Other members have said precisely the same. On one occasion I quoted an opinion of the Commonwealth Statistician. It is good to see that what we foreshadowed would happen has happened.

I am not opposed to the provision in the Bill about the unwarranted interference by landlords with tenants' rights. I do not know how often this occurs but mostly it is covered in the routine provisions of a lease whereby the tenant allows inspection of his premises. The lease often provides for regular inspection by the landlord at a quarterly or half-yearly period. Normally, the ordinary provisions of the landlord and tenant law apply in the courts and cover usual circumstances. However, I would not like to see abuses take place and I do not oppose this clause.

I strongly oppose clause 3, which attempts to make all leases in writing which are for a lesser period than 3 years subject to revision by the court. Under the old Landlord and Tenant provisions any lease or agreement in writing for a period of six months was exempt from the provisions of the Act as far as rent was concerned. This provision in the Act was universally used by people and a six-month lease was not subject to review by the Housing Trust. When the new Excessive Rents Bill was introduced it extended the period of an exempted lease to one year.

A lease for one year and upwards was thus exempted from the provisions of the Act and no review of the rent payable could be applied for. In other words, the parties contracted for what they had agreed upon in writing, whether it be strictly in the form of a signed, sealed and delivered document (as so many people seem to think a lease is), or whether in the form of a tenancy agreement. So far no honourable member has given any real explanation of the purpose of this clause. The one-year lease is to be extended to 3 years and all leases whether oral or in writing for a period of 3 years are subject to review. After all, three years is a fair length of time for any people to agree to the leasing of a dwelling-house. In my experience landlords want to know the kind of tenant they are going to get. If they get a satisfactory tenant who behaves himself, pays his rent and does no damage to the premises, perhaps, after a period of time, they may be prepared to give the tenant a

3-year lease. However, few landlords take a person out of the blue without knowing anything about him and grant him a three-year lease. Plenty of houses and flats are available today at competitive rents.

The Hon. S. C. Bevan: Where?

The Hon. F. J. POTTER: Everywhere. About two weeks ago a woman client told me that she had been trying for about three weeks to let her flat at the old rent, which had applied for the previous three years, and had to drop it by £1 1s. a week in order to get a tenant. I have heard of other similar experiences. The general levelling out of rents in the community has been remarkable and every land agent has a list of premises available for rent.

The Hon. Sir Arthur Rymill: I think the Hon. Mr. Bevan was referring to railway homes.

The Hon. S. C. Bevan: You should look at the waiting list for rental homes at the Housing Trust.

The Hon. F. J. POTTER: People on that waiting list have houses somewhere else. My point is that for no explainable reason we are required to put the clock back and make these leases subject to review. Under the old legislation it was possible to agree to a tenancy for six months and the rent would remain unalterable. I do not intend to vote against the second reading because the Bill contains some matters which are quite unexceptionable and should not worry honourable members greatly. If no other member does it, I will move to strike out clause 3.

The Hon. S. C. BEVAN (Central No. 1): I support the Bill, which was introduced not for the purpose of levelling out rents, but because of exploitation of the people in the securing of houses. The Hon. Mr. Potter said that there had been a general levelling out of rents, but that would apply to only one class because of the exorbitant rents being demanded by landlords. I suggest to the Hon. Mr. Potter that he consider the long waiting list that the trust has for rental houses. When we talk about levelling out and the need to reduce rents we must consider it feasible because of the high rents being demanded by landlords. I had a case brought under my notice not long ago where the landlord demanded a rental of £8 a week when in no way was the accommodation worth more than £4 a week. The people concerned had one young child and they could not get accommodation elsewhere, so they had to find the £8.

The Hon. F. J. Potter: Had they signed a lease?

The Hon. S. C. BEVAN: No. They did not have sufficient money to go to a solicitor for an application to be made to the court for a reduction in the rent. This is the sort of thing that is happening today. The Hon. Mr. Potter said that the court had not been called upon to adjudicate very much under this legislation. I remind him that it is always the tenant who wants to go to the court, but he cannot afford to do so.

The Hon. F. J. Potter: Why not go to the Law Society?

The Hon. S. C. BEVAN: Many of these people have been everywhere. It is all very well to say that they should do this or that, but we know what is going on and many people cannot go to the court because they cannot afford to do so. The Bill gives the tenant a reasonable chance of getting a rent reduction, and if the landlord were conscientious what objection could he have to the fixation of a fair rent? We have been told that the Bill will prevent a landlord from cutting off the water supply, for instance, in order to intimidate the tenant and get him out of the house so that it can be let to another tenant at a higher rental. Once I was taken to a house where the floor had been taken up to get rid of the tenant. The Hon. Mr. Bardolph suggested that the Bill would prevent the roof being taken off, and that has been done. We should not say that these things are not done, because they are, and the Bill will prevent them happening.

The Hon. Mr. Potter referred to leases and said that when a lease is entered into it does not come under the Act. We have found that after a lease has been granted for six months at a certain rental and it comes up for renewal the landlord has asked for a higher rental and a longer period of lease. It is all exploitation because of the shortage of houses. If they were available, as the Hon. Mr. Potter suggested they are, these things would not be going on and there would be no need for the Bill. If the measure is passed people will have a choice in the rental of houses instead of being held "over the barrel". The accommodation is simply not available and these things are going on. That is the reason why the Bill was introduced, and it gives protection to the tenant by enabling him to get a fair rent and to know that when he enters into a new lease it will be on the same conditions as the previous lease.

The Hon. Sir ARTHUR RYMILL (Central No. 2): I agree with practically all that the Hon. Mr. Potter said, except that he said that he would not oppose the second reading, whereas I will do so. After it fulfilled its purpose I opposed on every occasion the prolongation of the Landlord and Tenant (Control of Rents) Act. I gave it modified support during the first few years I was here because its provisions were being relaxed gradually. Then I withdrew my support and finally the Government abandoned the measure, and in its place we had an Excessive Rents Act. The Hon. Mr. Potter said that the Bill came from another place after being introduced by a member of the socialistic Party in an attempt to include in the Excessive Rents Act some of the provisions of the Landlord and Tenant (Control of Rents) Act, but that was a wartime measure and it became completely outmoded, and completely contrary to the laws of the land. A similar measure was abandoned in Great Britain, although it was retained for a period between the two world wars. Finally, they saw the light. This Bill is an attempt to drive in the thin end of the wedge and to make the Act apply to all leases, because there is an attempt to cover all leases up to a period of three years. I intend to have nothing to do with the measure. I will oppose the second reading, and if the second reading is carried I will endeavour to strike out various provisions, and at the third reading stage if the Bill is not satisfactory to me I will vote against the third reading.

The Hon. K. E. J. BARDOLPH (Central No. 1): I wish to thank honourable members for their observations in connection with this measure and to indicate that it is perfectly within their prerogative to move amendments to the Bill. It came to this Chamber from another place, was introduced by a private member, and I have the responsibility to attempt to sponsor it here because the Hon. Mr. Shard was away on Commonwealth Parliamentary business when the Bill was introduced. However, this Bill has been accepted by the Government.

The Hon. Sir Arthur Rymill: I said something about that last night.

The Hon. K. E. J. BARDOLPH: I know that. Any criticism that the honourable member may desire to make cannot be directed to the sponsor of the Bill but should be directed against the Government of his own political colour. Be that as it may, I am one of those people who do not desire to bring politics into this issue at all. The Bill is perfectly open for Sir Arthur Rymill to move his amendment and to let the Chamber determine the issue as was done in another place prior to its coming here for our discussion. I thank honourable members for their contribution to the debate. I hope the measure will be carried in the form in which we received it, and I leave it to the wisdom of honourable members to accede to my request.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—"Amendment of section 3 of principal Act."

The Hon. K. E. J. BARDOLPH: Perhaps Mr. Potter could give us his reasons for opposing this clause and I shall then put my views.

The Hon. F. J. POTTER: I wish to move an amendment to strike out clause 3 in its entirety. It is probably not necessary for me to actually move the amendment to delete it entirely, but if it assists the general administration of the Committee I am prepared to do so.

The Hon. C. D. Rowe: You just have to vote against it.

The Hon. F. J. POTTER: I should like a ruling from you, Mr. Chairman, whether I should move for its complete deletion or ask the Committee merely to vote against it in its entirety.

The CHAIRMAN: It is a matter of the Committee voting for or against it.

The Hon. F. J. POTTER: Then I ask the Committee to vote this clause out. It will then mean that the existing law, under the Excessive Rents Act, will remain and any leases up to a year will be subject to review by the court. Any leases in writing for a year, and longer, will be free of review by the court and this is the position that has existed ever since the Act was passed, which I think has worked well. There are many reasons why we should not extend the period from one year to three years, and I have already touched upon that matter in the second reading debate. I think all honourable members should leave the law as it is. We ought not to be extending it to three years and we should vote this clause out.

The Committee divided on the clause:

Ayes (6).—The Hons. K. E. J. Bardolph (teller), S. C. Bevan, N. L. Jude, Sir Lyell McEwin, C. D. Rowe, and A. J. Shard.

Noes (11).—The Hons. Jessie Cooper, M. B. Dawkins, R. C. DeGaris, G. O'H. Giles, G. J. Gilfillan, L. R. Hart, Sir Frank Perry, F. J. Potter (teller), Sir Arthur Rymill, C. R. Story, and R. R. Wilson.

Pair.—Aye—The Hon. A. F. Kneebone.
No—The Hon. W. W. Robinson.
Majority of 5 for the Noes.
Clause thus negatived.
Remaining clauses (4 to 6) and title passed.
Bill reported with an amendment. Committee's report adopted.

On the motion for the third reading.

The Hon. Sir ARTHUR RYMILL (Central No. 2): I said on second reading that I was proposing to oppose the second reading and that if the Bill passed through the Committee stage without amendment to my satisfaction I would oppose the third reading. The principal clause has been negatived. I consider that the other clauses are objectionable, too, and hope that honourable members will join me in voting against the third reading.

The Council divided on the third reading:

Ayes (9).—The Hons. K. E. J. Bardolph (teller), S. C. Bevan, R. C. DeGaris, G. O'H. Giles, N. L. Jude, Sir Lyell McEwin, W. W. Robinson, C. D. Rowe, and A. J. Shard.

Noes (9).—The Hons. Jessie Cooper, M. B. Dawkins, G. J. Gilfillan, L. R. Hart, Sir Frank Perry, F. J. Potter, Sir Arthur Rymill (teller), C. R. Story, and R. R. Wilson.

The PRESIDENT: There are nine Ayes and nine Noes. My casting vote goes to the Noes. Third reading thus negatived.

TOWN PLANNING ACT AMENDMENT BILL.

Second reading.

The Hon. C. D. ROWE (Attorney-General): I move:

That this Bill be now read a second time.

Its object is to enable some action to be taken with reference to the report of the Town Planning Committee recently submitted and laid before this Council under the Town Planning Act. It is in simple terms, taking the form of one operative clause that inserts a new section in the principal Act.

The new section 28a by subsection (1) provides that the Town Planning Committee shall within 12 months call for, receive and consider objections and representations upon the report. By subsection (2) it empowers the committee to recommend amendments to the report, such amendments not to be made until they have lain before both Houses and not been disallowed within 14 days. Subsection (3) provides that the committee may make recommendations to the Minister from time to time as to any regulations concerning any matters referred to in the committee's report. Subsection (6) of the new section will empower the making of regulations to give effect to any such recommendations which by subsections (7) and (8) will take effect after they have been laid before both Houses and have not been disallowed within 14 sitting days.

Before making any recommendations, the committee is required to consult with every council concerned and its recommendation must be accompanied by a certificate to that effect, including a statement of any comments made by the councils consulted (subsections (4) and (5)). This provision will enable full consideration to be given by councils to any proposals before the committee makes any recommendations. I refer to subsection (9) of the proposed new section, which is designed to set the value of any land compulsorily acquired for the purposes of giving effect to any regulation as its value at the time of the making of the regulation and not at the time of the acquisition. The reason for this provision is clear enough: it is designed to prevent speculation between the time of the making of a recommendation or regulation and actual acquisition which would not take place for some time.

Such are the provisions of the Bill. Honourable members will appreciate that to attempt to give effect by legislation to all or some of the recommendations which the committee has made would be not only complicated and the subject of lengthy consideration but also result in static provisions which once enacted by statute could be altered only by Parliament. This appears to be a case where the matter is best left to regulation so that the interim measures may be taken or temporary provision made to prevent developments which would in due course run counter to the general concept envisaged by the committee in its report. Moreover, there may be many matters as to which amendment or variations of the plan in the light of general developments might be desirable from time to time. What is important is that there should be some power to make regulations designed to give some effect to urgent aspects of the report fairly quickly. At the same time having regard to the nature of the subject, the general principle whereby regulations take effect subject to disallowance in due course is being reversed because this is not a subject upon which the state of the law can remain in doubt for a considerable period. I commend the Bill to honourable members as an interim measure designed to secure preliminary action.

The Hon. K. E. J. BARDOLPH secured the adjournment of the debate.

STATUTES AMENDMENT (MENTAL HEALTH AND PRISONS) BILL.

Returned from the House of Assembly without amendment.

PHYSIOTHERAPISTS ACT AMENDMENT BILL.

Returned from the House of Assembly without amendment.

MARINE STORES ACT AMENDMENT BILL.

Returned from the House of Assembly with an amendment.

BUSINESS NAMES BILL.

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

SCAFFOLDING INSPECTION ACT AMENDMENT BILL.

Returned from the House of Assembly without amendment.

ELDER SMITH & CO. LIMITED PROVIDENT FUNDS BILL.

Returned from the House of Assembly without amendment.

NURSES REGISTRATION ACT AMENDMENT BILL.

Returned from the House of Assembly without amendment.

PRICES ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from November 19. Page 1767.)

The Hon. G. O'H. GILES (Southern): I rise, as I usually do at this time of the year, to support the Government on its prices legislation. However, on this occasion there is a shadow of difference. As has been said by other honourable members, this time the legislation also deals with restrictive trade practices and it is a case where the Prices Commissioner obviously feels a little confused. On the one hand, under the Prices Act, he must keep prices down and on the other hand (as provided in this Bill) he must keep prices up. Therefore, it is easy to imagine his job is becoming nearer to that of an ombudsman. Various people and different Government departments refer to him cases of imagined malpractice or, in fact, of malpractice for inquiry, and this has greatly enlarged the sphere of operation of the Prices Commissioner. Last year several remarks of a highly derogatory nature were made with reference to the Prices Commissioner. However, I wish to put the record straight by saying that I believe he performs his duties admirably considering the vast sphere of operation he covers and the itemized and detailed matters he has to look into on occasions.

The Bill before the Chamber is larger than usual and is composed of two parts. I shall deal with the second part first, which is the section dealing with restrictive trade practices. One type of restrictive trade practice that the Government has seen fit to examine is the offering of goods below cost by retailers where a limit is applied on the number of goods at that particular price. I believe all honourable members can see much good in this action. It is action aimed at enabling small delicatessens and corner shops to remain in business and compete with the selling tactics of larger shops of the same type, and I see nothing but good in this clause of the Bill. Another clause deals with the advertising of goods for sale either not in stock or in stock in smaller quantities than implied. This deals with another set of conditions that evidently have operated to the disadvantage of consumers in the past. I have had no experience in this regard and I suppose it is problematical if these conditions apply in country areas as much as in suburban areas surrounding Adelaide.

Thirdly, we have misleading advertisements, and I can see no cause to condemn the Government's action in this matter. However, I offer for the Government's consideration the example of second-hand car dealing. It has come to my notice more than once recently that a man has at 9 a.m. gone to a second-hand car lot to see a car that was advertised perhaps at £393, a 1960 model, with a mileage of so much, but when he arrived there was no such car. Instead, he was offered another car similar in every way but at a higher price. This is where misleading advertising may apply. I would not like to be the Prices Commissioner in his attempt to prove that the car had not been advertised accurately. I hope that if this sort of thing does happen the Prices Commissioner can do something, but I have certain reservations in connection with the sale of second-hand motor cars. Obviously the Government has in mind other goods than second-hand motor cars where it can take action if that is thought necessary. I commend the Government for introducing this provision.

Fourthly, we have something that is slightly different. It is the use of pressure to force preferential discounts on retailers. Part and parcel of normal trading is the offering by manufacturers in particular of lines of goods at differential prices. We all know that it applies. It applies in industry, as well as between wholesalers and retailers, and the number of goods ordered is important. Where this matter differs from normal business trading is that use is made of the word "force". In other words, if discounts apply the Government will take action through the Prices Commissioner if there is any suggestion of force or coercion. Although business people adopt these tactics of giving discounts the Government is only interested in taking action where there has been force or coercion. It is a more complicated provision than the others, but I have no doubt that there is good reason for it. When I say that it is desirable to have some form of restrictive legislation I am reminded that on the one hand the Prices Commissioner has to keep prices up, and on the other hand to keep them down.

I think of the American way of getting at this problem. Frankly, the path there has not been strewn with roses. They get into a confused state in dealing with the anti-trust legislation. It all goes back to 1890 when they passed the Sherman Act to try to maintain true competition. It went right through history until 1936 when they had the Robinson-Patman Act, which was applied through the Federal Trade Commission. It is a delightfully loose body, which has no particular sphere of operation. It has been described by its enemies as anti-anti-trust, but by its friends as anti-trust. One of the real problems there is the problem that we are dealing with in our price control legislation. I will not weary members by going into the five cases mentioned. They are all listed and each is more farcical than the previous one. So we wonder what the Federal Trade Commission is trying to achieve in America. The rights of consumers are frequently ignored in the decisions that are given there. This will be a matter that will concern Australia as her economic progress continues and the necessity to ensure competition becomes greater.

I will not pursue the point but go back to the price control side of the Bill. Whichever way we look at the matter, petrol is the item where the best results from price control are noticed. In primary and secondary industries the advantages have been real indeed. I believe that the amount saved is £5,500,000 over the last six years for primary producers alone, and that for all the people in the State the amount has been estimated at £16,500,000. Again, I will not pursue this matter. In other years I have compared the prices of standard petrol in the various States. From year to year they vary slightly, but always in South Australia the prices of different fuels are as low as, or lower than, the prices in other States. The price of standard fuel in South Australia has been far below the price in the other States. Last year the differential was greater than it was in previous years. I commend the Government for the terrific saving that has been effected for the people of South Australia in connection with petrol, and the saving has been reflected in other phases of our economy.

In connection with housing, the record is good, but it is more difficult to prove that price control has been the reason for the present state of affairs. Members have a list of the items that are still under price control in South Australia. Although the number gets fewer year by year, and rightly so, there is still a long list that affects building in this State. I suggest that the cost of a solid construction house in South Australia is about £800 to £1,000 below the cost of an equivalent solid construction house in other States. That is fairly significant and price control has had a bearing on the matter.

The Hon. Sir Arthur Rymill: Do you really believe that?

The Hon. G. O'H. GILES: It has a bearing on every phase of the building industry. There is no trouble in proving, by implication alone, that this is one more method by which the Government has helped industries in South Australia. I refer briefly to the consumer price index movements in South Australia today in comparison with other States. In Adelaide, since June, 1961, there has been a decrease of 3s. 9d. a week; in Melbourne a decrease of 1s. a week; in Hobart a decrease of 3s. a week; in Sydney a decrease of 9d. a week; in Perth a decrease of 9d. a week; and in Brisbane an increase of 5s. 9d. a week. So we see that, even if only by implication, price control has resulted in those benefits to the general economy of South Australia.

We can have in this Chamber the most learned discussions: we can refer to movements in the C series index, no matter from what source; we can refer to such matters as the law of supply and demand, a matter with which my friend the Hon. Mrs. Cooper is vitally concerned; we can refer to free competition; to the fact that competition in some

stages of the growth of America has allowed mergers to occur and recur until the stage is reached where, in fact, there is very little competition at all—or rather, very little in practice. However, the factor that concerns me first and foremost is that I believe the people of South Australia, and in particular the country people that I represent, have received great benefits from this legislation. I congratulate the Government once again on re-introducing this legislation to extend prices legislation. I should just like to quote from a newspaper with which I do not often agree, but with which in this case I must admit I do. It is from the editorial of *The News* of some time ago and states:

. . . The Government's powers, however (under this legislation), are lightly exercised. In today's highly competitive world of retailing there is little call for maximum price fixing.

In fact, the legislation is largely superfluous. And it is a compliment to the integrity of our retailers that this should be so. Few indeed have been the occasions when the Prices Act has been even brandished.

It remains now as something of a "big stick" which the Government holds as earnest of its concern for the electors, but no man can say that it has not benefited petrol users—and farmers where superphosphates are concerned.

I have much pleasure in supporting the Government on this matter. We all know it is not the cure-all of every ill that may occur but I have no doubt that it will be of great benefit.

The Hon. Sir ARTHUR RYMILL (Central No. 2): The honourable member who has just resumed his seat, like so many other people, wants to buy on a controlled market and sell on a free one. Personally, I have not changed my views in any way about this matter. I think price control should have been abolished years ago and I repeat the remarks I have made in this Chamber so many times before that, if the Government considers there are trade practices that ought to be curbed or abolished, then it should introduce a separate Bill for that purpose and abandon price control legislation. I have said that before, and it is recorded in *Hansard* on a number of occasions over the years in debates on this Bill. I do not think it has ever been more apropos than it is today, because here we find inserted in the Prices Act certain entirely new sections designed for the purpose of restricting undesirable trade practices.

I think this legislation about restrictive trade practices is rather in the experimental stages and thus there possibly is some reason for putting it in a temporary Bill. I say that because that is as far as I can go on that aspect of the matter but, personally, I still hold that these new items should be in a separate Bill, and that a Bill that is only being reviewed from year to year is not the place for them, even if they are in the experimental stage.

The Hon. A. J. Shard: There is something wrong: you and I agree.

The Hon. SIR ARTHUR RYMILL: My honourable friend has interjected that there is something wrong because he and I agree. As a matter of fact we agree on quite a number of things but also we disagree rather violently on a few other things. I think this attempt to curb undesirable trade practices is a laudable thing and I think that it is proper that the matters under consideration should be dealt with. I abhor the idea of the small man being pushed out of business. I have said this many times in relation to the Prices Act because, in my opinion—and I think it is undeniable—the Prices Act itself has had the effect of pushing some people, such as bakers, out of the trade altogether, and I am sure my honourable friend will agree with me once again.

The Hon. A. J. Shard: We have seen it happen.

The Hon. Sir ARTHUR RYMILL: Yes, and I think it is a great pity if we cannot preserve a community in which the small trader can profitably survive. That is the intention of these new sections. I do not propose to deal with them in detail; certainly not at this stage, in any event. I think the Hon. Mr. Potter has canvassed them fairly clearly and successfully, and given us much to think about in relation to them. As I say, I feel they are in the experimental stage, and experimental legislation is always difficult for the legislator, inasmuch as most people generally find some way around it, and time and experience enables it to be tightened up. Thus, in general, I should like to support the new provisions of the Bill but, unfortunately, they are not severable and if I vote for the Bill I am voting for the continuation of the Prices Act, to which I am irrevocably opposed. I must therefore continue to oppose the second reading of this Bill. I know what its destiny will be, for I know how the numbers lie.

I shall not weary the Council with any other dissertation on the merits—or rather the demerits—of the Prices Act. My views are recorded at great length in *Hansard* over the years. I can see a look of relief on the faces of a number of honourable members when I

announce that, but if any of them want any refreshment on my views, which I am sure they do not, they will find pages and pages of them recorded in *Hansard*. I can assure them that my ideas and approach have not altered one iota. Thus, although I approve of the ideas underlying the introduction of these new trade practice clauses, it is impossible for me to support the Bill as at present drawn.

[*Sitting suspended from* 5.47 *to* 7.45 *p.m.*]

The Hon. L. R. HART (Midland): I rise briefly to support the Bill to amend the Prices Act. I do so largely as a representative of the primary-producing industry. This Act has been of material assistance to the primary producers of South Australia who have derived great benefit from its operations. For instance, the price of petroleum products has been subject to price control and, through this, the prices of petroleum products in South Australia have been kept down to a lower level than they would have been if they had not been subjected to price control.

The Hon. M. B. Dawkins: And this had a beneficial effect on the price of petrol throughout Australia.

The Hon. K. E. J. Bardolph: Would not that be due to the easing of the credit squeeze and it being a buyer's market instead of a seller's market?

The Hon. L. R. HART: Another article greatly used by the primary producer is superphosphate. This, too, has been kept down in price to the consumer by the operation of this Act.

The Hon. A. J. Shard: How much cheaper a ton is it here than in other States?

The Hon. L. R. HART: It is not a question of that; it is a matter of how much a ton dearer it would have been had it not been for the operation of the Prices Act. It could be cheaper in other States, particularly in Geelong, but that is only caused by the fact that the Geelong factory produces a far greater quantity than we do in South Australia. If the South Australian factories could produce the quantities that they do in Victoria and New South Wales, our prices here would be lower.

The Hon. K. E. J. Bardolph: You don't believe that, do you?

The Hon. L. R. HART: I certainly do. I do not voice any views in which I do not believe, and that applies to all honourable members on this side of the Council. Again, spare parts are an expensive item for the primary producer but, without price control, spare parts would be considerably dearer than they are at present. I do honestly believe that the Prices Act works for the benefit of primary producers as a whole. Further, this Bill contains a number of new clauses to the effect that some control is to be exercised to prevent unfair trading practices. This is something that has been given much lip-service by honourable members on both sides of the Council; it is something that our honourable friends of the Opposition are as keen on as we are, and I trust that they will give us their support in this regard. There are a number of clauses indicating the action that will be taken.

The Hon. A. J. Shard: We always support good legislation.

The Hon. L. R. HART: It is very good legislation. I think that in due course we shall see further legislation of this type introduced in the Commonwealth Parliament.

The Hon. A. J. Shard: I hope so.

The Hon. L. R. HART: After the Federal election on Saturday week, when the Liberal Party is returned to power, I am quite sure that Sir Garfield Barwick will introduce legislation of this type, and it will be more far-reaching than the legislation provided for in this Bill.

The Hon. K. E. J. Bardolph: He has not got a policy on this, you know!

The Hon. L. R. HART: In South Australia we have not experienced the extent of unfair trade practices that people have in the other States, merely because we have had in operation here the Prices Act, which has had a bearing on keeping unfair trade practices at a minimum in South Australia. However, with the present-day methods of trading brought about by some people with very few scruples, we find it necessary to introduce types of legislation that we should not have thought of a few years ago. Hence, it has been necessary to include in this Bill a number of clauses to deal with these questions.

We all agree with this legislation. I could go on indefinitely naming the various items that this State and its consumers derive benefit from by the operation of this Act. However, I have made my points and trust that this Bill will pass through this Council without amendment. I have much pleasure in supporting the second reading.

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

WORKMEN'S COMPENSATION ACT AMENDMENT BILL (BENEFITS).

Adjourned debate on second reading.

(Continued from November 19. Page 1768.)

The Hon. A. J. SHARD (Leader of the Opposition): I rise to support this Bill. Although it does not go as far as my Party would like it to, it is a step in the right direction. In the main, it deals with money values according to the recent increases in wages decided on by the arbitration courts and various bodies of that nature, in particular the amounts payable to injured workmen and their dependants being increased by about 10 per cent. The maximum rate of compensation for death is raised from £3,000 (plus £100 for each dependent child) to £3,250 (plus £110 for each dependent child). The minimum rate is raised from £1,000 (and £100 per child) to £1,100 (and £110). The maximum rates of compensation for disability are raised from £3,250 to £3,500 and other amounts have been increased accordingly. The maximum amounts for burial expenses have been raised from £80 to £100. Clause 7 (*e*) makes it clear that, when an injured person has to use an ambulance, costs must be paid not only from the home to the hospital but also for the return journey. Another clause deals with an employee who leaves the premises of his employer and with the authority of the employer goes to another place for his lunch. He will now be covered during the time he is travelling. There have been doubts for years about this cover.

Apprentices were previously covered on the way to and from trade school. This Bill will provide a cover while they are at the school. They will also be covered when they attend trade school out of working hours. An amendment dealing with Q fever, which occurs particularly at the abattoirs, was discussed by the Workmen's Compensation Advisory Committee. I believe the Government intends to bring down a further report in connection with that matter early next year and I trust Opposition members will have an opportunity to move amendments then. I believe this Bill is reasonable, as the amendments contained in it have been recommended by the Workmen's Compensation Advisory Committee, and I support the second reading.

The Hon. Sir FRANK PERRY (Central No. 2): The Hon. Mr. Shard said that the amendments came from the advisory committee. This committee has functioned for about nine years. Every year some amendments to the Act are introduced. It seems strange to me that it is necessary every year to find out these little points in the Act where minor matters have to be covered. Self-preservation is one of the main aims of any individual and it is surprising that so many accidents occur in factories. For instance, in 1961-62 industry had to pay £2,274,000 in premiums to insurance companies for insurance for employees. Claims that year amounted to £1,620,000. We are not dealing with small figures. It is true that accidents do occur and it may be said that employers or employees are to some extent responsible or that the fault lies with the equipment, but it is necessary for an Act of this sort to be in existence. However, I believe the figures are reaching such an astronomical size that the public, employees, employers, unions and others should have a close look at the cost of these accidents.

I am glad that an association called the Industrial Accident Prevention Council has been established in South Australia and right through Australia. Most of the employers in Australia are associated with it. It is pleasing that this State is subsidizing the council. Accidents cause much pain for the workman; he loses time which results in a loss in production and there is also the cost of the premium to be paid, so anything that can be done to prevent accidents should be supported. I believe there is a stronger move now to supply safety officers and install notices in factories about employees wearing the right class of boots and clothing for the type of occupation in which they are engaged. I do not agree with the Hon. Mr. Shard, who said that the Bill deals with anomalies in the legislation. It does not cover anomalies but includes additions, which mean an additional cost. I understand that the insurance companies do not make much profit from workmen's compensation insurance, so every time the legislation is amended it results in premiums being increased, and in some instances it amounts to about 3½ per cent of the wages bill. The Hon. Mr. Shard dealt with various matters in detail, so I will not refer to them. I repeat that the Bill contains additions to the legislation.

The Hon. S. C. Bevan: It brings the payments up to date because of wage increases.

The Hon. Sir FRANK PERRY: Yes. Employees receiving a wage up to £55 a week are now covered, but the maximum payment to an employee under the Bill is about £16 a week. If anything can be done to prevent industrial accidents it should be encouraged.

The Hon. A. J. Shard: During the last few years a genuine attempt has been made in this matter.

The Hon. Sir FRANK PERRY: Yes, and I hope that within the next year or so we shall have fewer industrial accidents. The present number is high, and much higher than most people believe. I support the Bill and hope that the advisory committee has reached about the end of its proposals for alterations to the legislation.

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

ROAD MAINTENANCE (CONTRIBUTION) BILL.

In Committee.

(Continued from November 19. Page 1757.)

Clause 14—"Application of certain provisions."

The Hon. C. R. STORY: In the previous Committee I had asked the Minister of Roads for an explanation of the words "(other than a licence for the carriage of goods within a radius of 25 miles of the General Post Office, Adelaide)". The Minister had said that licences would expire in April, but if this Bill is passed the Act will come into operation before April. Vehicles picking up goods in the metropolitan area will need a permit, but experience has shown that permits are not easy to get from the Transport Control Board. I want an assurance from the Minister that it will be made easier for permits to be granted to transport people who go from the metropolitan area on to uncontrolled routes in country areas. Can I have some assurance along those lines?

The Hon. N. L. JUDE (Minister of Roads): I am unable to give the honourable member an absolute assurance on this matter because, if I did, I would be infringing the rights of the carriers who, at the moment, have licences that expire, I think, on April 1. I have discussed this matter with the Secretary of the Transport Control Board and I have no doubt that a permit would be obtainable. The board knows perfectly well in which direction the Government is moving in regard to decontrolling routes and, as I have indicated, the clause implies that the whole of these licences will become redundant on April 1, although I am subject to correction on the date. I can see no reason at all why the Transport Control Board should not grant a permit, although I cannot give a definite assurance. However, the board is a body appointed by Parliament and not by the Government and it must protect the licensees up to that date.

Quite obviously, the Government will not be out to complicate the position by proclaiming the Act until the regulations covering the Act are already drawn up. One cannot see that being done in a few days. The honourable member suggested a specific case, which I referred to the board, and it said that every permit was considered on its merits. It would be most unlikely that a licensee operating between, say, Adelaide and Elizabeth or Adelaide and Gawler would object, or would have any reason to want to go to, say, Waikerie, or would object to anybody taking pipes (or it may have been asbestos roofing) there on a truck. In any case the time involved was possibly only a couple of minutes and I think we could reasonably rely on the common sense of the board and the Government not to cause more delay than necessary.

The Hon. G. O'H. GILES: The Hon. Mr. Story mentioned the matter of controlled routes, or licences on routes within 25 miles of the metropolitan area. My understanding is that some licences over controlled routes will continue until 1968. Do I take it that these routes will also be controlled, and permits will not be issued readily on such routes, in order to protect the licensee who has a licence in these isolated instances until 1968?

The Hon. N. L. JUDE: The facts are exactly as the honourable member stated. We have, I think, given a fair protection to these men who have built up transport services, and nearly every one of their licences does not expire until 1968, until which time they will have the run of that controlled route which will not be subject to other enterprises or the ordinary ancillary carrier.

The Hon. G. O'H. Giles: Will it be subject to tax?

The Hon. N. L. JUDE: Yes, but not the licence tax. They pay 10 per cent of the loading value at the moment. That will be waived, and, if the honourable member reads the previous clause, he will see that they will have the protection of section 12.

The Hon. L. R. HART: The Hon. Mr. Story was concerned whether carriers coming into the 25-mile radius area would be able to obtain a permit, working on the assumption that the Transport Control Board would endeavour to protect the carriers already licensed in that area. I see this from another angle, in that under the terms of the Act the board would be more concerned in protecting the interests of

the railways rather than those of the transport operators. I think that is where the weakness has been in the Road and Railway Transport Act, right through. The interests of the railways have been uppermost the whole time, rather than the interests of the country and the producers—and perhaps the transport operators in some cases. I think it will be a big problem to obtain a permit because the interests of the railways will be considered first and foremost and this could well be to the detriment of the people requiring permits.

Clause passed.

First schedule.

Paragraph 1.

The Hon. W. W. ROBINSON: I move:

After "milk" to insert "milk products".

I am concerned about exemptions in relation to perishable goods. The Bill provides for butter, cheese, etc., but several—

The Hon. C. R. Story: Not cheese.

The Hon. G. O'H. Giles: It relates to cream.

The Hon. W. W. ROBINSON: It relates to milk, cream and butter, and there are several other milk products not included, such as cheese, casein, dried milk powder, etc.

The Hon. C. R. STORY: I do not know what the Government's attitude is in regard to this amendment. If the Government accepts this amendment I will certainly move an amendment to deal with processed fruits.

The Hon. W. W. Robinson: They are not perishable.

The Hon. C. R. STORY: Neither is dried milk powder in tins or containers. Neither would I consider cheese as perishable. If the Government accepts that, I think it would open a wide field for other members to include commodities produced in their districts. One of our great problems with canned fruits in getting them away for export has been the difficulty in obtaining permits from the Transport Control Board. I think if the Government accepted this amendment it would have to look closely at the amendments that I would forward as regards processed fruits. I fail to see how dried milk could be included in perishable goods.

The Hon. W. W. ROBINSON: Then I would move that milk products, and whatever products are considered perishable, should come under that exemption along with those products that are perishable.

The Hon. C. R. STORY: I think it would be a good idea if the Minister gave us a little time to think this over because obviously he is not yet ready to discuss this matter. It says "milk products", and that covers a very wide variety of things made from milk, processed milk in its various forms. If we were to get this amendment in, I should be failing in my duty completely if I did not make an honest endeavour to get in something dealing with these other processed things that are equally perishable.

The Hon. N. L. JUDE: In view of the honourable member's remarks, which I think have some reasonable backing, I should be happy if the Committee reported progress.

Progress reported; Committee to sit again.

Later:

In Committee.

The Hon. C. R. STORY: When the Committee reported progress the Hon. Mr. Robinson's amendment was before it. I queried the effect that this amendment would have on other commodities and wondered whether, if the Government accepted the amendment, I could include processed fruit, honey and similar commodities. Can the Minister say whether that could be done?

The Hon. N. L. JUDE: No doubt the honourable member can try to do that. The exemptions in this Bill are the broadest offered in Australia as regards the minimum load of eight tons, and the Government considers that that is as far as it should go. Regarding the Hon. Mr. Robinson's amendment, it is obvious from the matters raised by the Hon. Mr. Story that honourable members will realize that once exemptions are discussed the Committee will become involved in unlimited discussion. I regret that I cannot accept Mr. Robinson's amendment.

Amendment negatived; paragraph 1 passed.

Paragraph 2.

The Hon. C. R. STORY: Can the Minister explain what is meant by "or from farm to farm"?

The Hon. N. L. JUDE: The explanation is simple. Travel from farm to farm is exempt but from farm to market is not. That is as far as the Government can go, particularly when the limitation is eight tons rather than four tons.

Paragraph 2 of first schedule passed, second and third schedules and title passed.

Bill read a third time and passed.

MARKETING OF EGGS ACT AMENDMENT BILL (PRODUCER REPRESENTATION).

Adjourned debate on second reading.

(Continued from November 19. Page 1769.)

The Hon. S. C. BEVAN (Central No. 1): This amending Bill deals with the structure of

the marketing of eggs in this State. I understand that representations have been made to the Government to amend this Act and negotiations have taken place from time to time until now we have before us this Bill. The main clause is clause 4. Section 4 of the principal Act provides for the constitution of the board, which comprises six members appointed by the Government. Three of them must be engaged in keeping fowls for the production of eggs, and one of those three must reside more than 20 miles from the Adelaide General Post Office. These three representatives are recommended to the Government for appointment, but it is considered by the producers' organizations that the producer himself should have a say in electing his representative.

This Bill provides that the three representatives shall be elected from the zones as defined in this Bill by those producers who produce 3,000 dozen eggs or more a year. I hope that the boundaries of these zones will be more equitable than our Parliamentary electoral boundaries are. This Bill also provides for rolls to be kept for all those people eligible to vote. It means that the producer who is supplying or producing 3,000 dozen eggs or more a year will be entered on the roll for that specific purpose and he will be entitled to vote for his representatives in one of the three zones that will now operate. The Bill will also enable these people to nominate for a position on the board if they so desire. If more than one producer in a zone nominates, an election will be conducted. In accordance with this legislation, the election will be under the jurisdiction of the Returning Officer for the State. There are various clauses dealing with methods of conducting the election, keeping the rolls, etc.

Another amendment suggested by the producers and agreed to by the Minister deletes subection (5) of section 23 of the Act, which deals with exemptions. This applies to eggs used for hatching. This provision in the past has allowed too many producers to evade the levy. The proposed amendment deals with the exemption of eggs produced for hatching. I understand it has been a point of discussion at least for some time with producers' associations that, because of this exemption, many producers themselves falling within the category laid down in the Bill have not been required to pay the levy, and this may have been a sore point with other producers. The levy should be paid by them the same as it is paid by those supplying eggs for the Egg Board. It is a small subclause in the Bill that rectifies the position of the levy. Undoubtedly, some producers at the moment will not agree with this part of the Bill, particularly those who have been producing eggs primarily for hatching. The reject eggs and perhaps the undersized eggs that are not used for hatching purposes have been held for marketing in certain numbers by the producers themselves. Those producers may take some exception to this legislation, which brings all producers into line in respect of the levy. Those producing more than 3,000 dozen eggs a year will pay the levy.

There are other matters about which the producers are concerned and which have not been dealt with by the Bill. They are matters related to the marketing of eggs in this State. I refer to the establishment of more egg floors in South Australia. I believe there is one at Gawler. The producer takes his eggs to a depot there where grading, etc., takes place. The other floor is within the metropolitan area. Many producers have complained that the returns they get from the eggs are not up to their expectations. Much of their product has been down-graded. Factors affecting this are the transportation of the eggs and the longer distances they have to travel to come into the city, which have a deleterious effect upon the eggs. They are not up to the required standard when they come to be graded by the board, so the returns to the producers are not satisfactory. If more egg floors were established, there would be a greater opportunity for eggs to be graded when they were in better condition, and the returns would be more satisfactory.

There is a practice known as "border-hopping" where the producer sells his eggs in another State and so evades the levy on their production. Sometimes the price of those eggs might be lower than the guaranteed price for eggs marketed through the board in South Australia. These people are content to accept the price in another State rather than send their eggs to the board and pay the levy. I understand a considerable quantity of eggs is going into other States and the levy is evaded by this border-hopping. The same position applies in reverse. Eggs from States where similar legislation operates are sold here. This amending legislation and the creation of the new board with three producer representatives to be elected directly by the producers will probably eliminate some anomalies. As I believe the amending legislation to

be a considerable improvement on the principal Act, I support the second reading.

The Hon. R. R. WILSON (Northern): The main purpose of this Bill is to provide for three producer members on the Egg Marketing Board and I strongly support this move. The amendment allows the board to elect three producer members. Under the previous legislation all members of the board were selected by the Government from a panel of names submitted. Much dissatisfaction has arisen over this method of selection over the years. Under this Bill a producer is eligible for appointment if he produces not less than 3,000 dozen eggs. The Bill will not affect the term of office of the non-producing members of the board—the Chairman and the representatives of the wholesalers and retailers. Clause 8 extends the life of the board until September 30, 1968. The egg industry could be very valuable to this State. Over the years people engaged in the industry have certainly not made much money. In fact, I know some that finish their year's production on the wrong side of the ledger mainly because of the high cost of grain and the low price of their produce. The provision of the Bill, to which I have referred, will encourage producers to stay in the industry. The fact that the industry requires a seven-day working week does not appeal to many people today.

The trading of eggs in other States, in my opinion, has become a racket over many years. People from the Eastern States are bringing eggs to South Australia and South Australians are taking eggs to the Eastern States. This is mostly brought about by the size of the egg and the fluctuating market, as there is no control over the egg size. Under section 92 of the Commonwealth Constitution eggs can be taken from one State to another and sold without the control of the board. It is difficult to estimate the value of the egg industry. The latest *Year Book* shows that the annual revenue from eggs and poultry in South Australia is £3,765,000, and the total revenue in Australia has been as high as £55,000,000. Recently a semi-trailer, fully laden with eggs, arrived here from Victoria and because of a fall in prices not one crate of the eggs was unloaded and the whole load had to be returned to Victoria. In my opinion interstate trade will not stop until there is some Commonwealth control through a board or a stabilization scheme similar to that operating in the wheat industry. Every producer would be expected to pay a levy under such a scheme. In restaurants and hotels an egg is an egg, so to speak. A person who asks for an egg as part of his meal does not know whether it is small or large and one can be sure it will be a small one because small eggs are cheaper.

It has been reported that 800 egg producers in New South Wales went out of production last year because of financial reasons. State egg boards sell 84 per cent of eggs in Australia and only 16 per cent are exported. The revenue derived from eggs in Australia this year was £23,277,208, which indicates the value of the industry to Australia. With the addition of poultry, the production figure is nearly £40,000,000 for the 12 months. The high quality of eggs is essential but no incentive is given to producing the recognized high-quality 2-oz. egg. Most producers are producing a 1½-oz. egg, which has better sales than the 2-oz. egg that producers have been trying to produce over such a long period. It can be seen by looking at the eggs in shops that they are mostly 1½-oz. eggs: very seldom is a 2-oz. egg seen on the market. The size of an egg can be ascertained by feeling its weight. For these reasons producers are not worried about producing the egg they are capable of producing.

Under the Bill, with its electoral districts, every producer in South Australia will be able to elect the producer member of his choice. The electorate is divided into three sections: Electoral District No. 1, the county of Adelaide; Electoral District No. 2, the counties of Sturt, Hindmarsh, Carnarvon, Albert, Alfred, Eyre, Russell, Buccleuch, Chandos, Cardwell, Buckingham, MacDonnell, Robe and Grey; and Electoral District No. 3, the remaining portion of the State. I am wondering what is the remaining portion of the State. I am sure this Bill will give much satisfaction to producers and I have pleasure in supporting it.

The Hon. L. R. HART (Midland): Many speakers to this Bill, both in this House and in another place, have been vocal on what they consider will be the benefits to the poultry industry of the new method of electing members to the Egg Board. I do not fully subscribe to those views. The constitution of the board will remain the same; it will have the same number of members. The only difference will be the method of electing the producer representatives and it is still possible for the same producer representatives to be elected to the board under the new system.

The benefits will be more psychological than material. Much has been said about interstate trading and the evasion of the payment of the levy. Obviously, by taking advantage of interstate trading producers gain, but there are other reasons why eggs are marketed in the other States. One is that they get a better grading than in South Australia, which is a matter that should be investigated. In the last year or so the egg industry has been at the crossroads. Times have been difficult and there have been periods of over-production and loss of overseas markets. At present there is under-production and remunerative prices, which must bring back to the industry a new batch of producers. The industry seems to be one in which a man can get in and out of quickly. The backyard producer could easily make his presence felt.

The present three producer-representatives are from the Electoral District No. 1, County of Adelaide. Under the Bill that district will be entitled to one member on the board, which means that the other two must resign. The board has a huge task in front of it, and it is essential that the best men available should be elected to it, but there could be elected men without any background and little knowledge of the egg industry, which would be a retrograde step. At present the producer-representatives are elected by the Minister from a panel of names submitted to him by producer-organizations. Although this is not acceptable to the producers, I do not think it is a bad method of election. Any producer who markets through the board 3,000 dozen eggs a year, or who has sold an equivalent quantity to hatcheries or for other purposes, is qualified to vote in an election. There must be a qualification for a man to have the right to elect a representative, but there is nothing in the legislation to say that a man must have certain qualifications in order to be elected a member of the board, and we could have elected a man with a little knowledge of the industry. He could be interested in another industry but by certain means get a following and be elected to the board. I am pleased to note that a man living in one district may nominate for election to represent another district. Therefore, the two men from the County of Adelaide who must resign may be elected to represent other districts.

Clause 6 of the Bill repeals section 23 (5). In other words, producers supplying eggs to hatcheries will have to pay the levy. This is perhaps acceptable to the industry until we realize that many eggs going to the hatcheries are for the production of meat chickens and not chickens for egg production. The producers of meat chickens work on a fine margin and if they are loaded with a further payment it will be difficult for them to carry on. The meat chicken side of the industry suppplies 15 to 20 per cent of the eggs to the hatcheries. It would be unfair to expect this side of the industry to pay the levy for the stabilization of the egg industry. The meat chicken industry is growing and in time it could become larger than the egg industry. In Queensland at present the production of meat chickens is greater than the production of chickens for egg production. I think it would be unfair for the meat chicken producers to pay the levy.

A Commonwealth egg marketing authority is proposed to care for the industry. It is possible that it may never really function because everything depends on whether Commonwealth egg marketing legislation is enacted. If it should not function the egg industry will face chaos. We have all seen South Australian eggs going to Victoria and New South Wales, and eggs from those States coming to South Australia. We have heard that, at the present time, the New South Wales Government is in the process of introducing legislation that will prevent eggs under a certain size going into New South Wales. It is claimed that under section 92 of the Commonwealth Constitution this will not be possible, but I believe there are ways in which the New South Wales Government can overcome this. I understand there are possibilities that it can do so under the provisions of the Health Act. It is possible that eggs of certain qualities from other States will not be permitted into New South Wales and, this being so, it could well impose great difficulties upon the industry. We appreciate that it is necessary to have some Commonwealth control or some Commonwealth egg marketing board, but there are great difficulties as regards evasion of the levy. We even have this at the present time. The difficulties could well be greater under a Commonwealth marketing scheme. However, I think that this is a Bill that has been shot at us rather quickly at this stage of the session. We have not had time to have a good look at the full implications of it and I think we should survey this question thoroughly before we give it our blessing. However, I am prepared to support the second reading of the Bill.

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

STATUTES AMENDMENT (PUBLIC SALARIES) BILL (MEMBERS).

Adjourned debate on second reading.

(Continued from November 19. Page 1761.)

The Hon. C. R. STORY (Midland): I rise to discuss this Bill concerning the salaries of members of Parliament. The debate has been on a very high plane in this Chamber and I shall endeavour to keep it that way. It is a peculiar thing that we have similar Bills every three or four years and they seem to attract greater headlines in the press and more comment than any other matter. In fact, I noticed on two occasions recently when this matter was discussed in the newspapers that it took precedence over several great disasters in the world and some very important things the Prime Minister had said; it is virtually the most important thing that happens in the State! In industry and in the Public Service these matters seem to go through without much discussion, creating hardly a ripple on the pond. I do not know why this is so, because members of Parliament have to eat and live just the same as other people do; the public in some instances think they are freaks. However, they do all the things that other people have to do.

I can never ascertain why they are singled out for special attention when it comes to salary increases. These increases are not any different from the rest; they are in conformity with increases to other sections of the community over the period since the last increase. People do not seem to have the slightest comprehension of the commitments of members of Parliament or what it costs them to live. All these things have been said before and I have said them on a number of occasions. I have collected many figures to back up my arguments on this matter and I shall continue to say that a member of Parliament, if he is doing the job properly—and the ballot box is the way in which people can say whether he is doing it properly—earns every penny of his salary. I think there is a good indication that, since members of Parliament have been paid reasonable salaries, it has attracted a very much better type of person into politics. We have seen at one or two elections in recent times people offering themselves for Parliament who receive a very much higher salary outside than they would receive if elected to Parliament. I am pleased that this independent tribunal, which was appointed by the Government at the request of members to look into the position, has made these recommendations to the Government in respect of salaries. I think the Hon. Mr. Shard and the Hon. Sir Arthur Rymill both mentioned these points, and referred particularly to Ministers' salaries. I think the Hon. Mr. Shard was very generous in what he said regarding the Ministers of this Parliament.

The Hon. A. J. Shard: Very factual, though.

The Hon. C. R. STORY: Of course. The honourable member told the truth.

The Hon. K. E. J. Bardolph: As a matter of fact, you agreed with his observations.

The Hon. C. R. STORY: The honourable member could not have done very much better than to say something good about the Ministers of this Parliament. I was pleased to hear him say it. We have, in clause 6, a number of increases affecting some other members of Parliament—the Leader of the Opposition, the Deputy Leader, the Government Whips, etc. I notice, too, that the Leader of the Labor Party in this Chamber will receive an allowance of £300 in respect of expenses. This is quite a new departure, and I think that members of my Party have always maintained that this is a House of Review although we are not recognized by the Leader of the Opposition as such. However, I do not intend this evening to oppose in any way the expense allowance granted by the committee to the gentleman holding that office. I realize that he has some duties other than those that perhaps the ordinary members of his Party in this place have.

The Parliamentary committees are doing a big job in the interests of the general public. Although I do not want to refer to a particular committee, I say that the Public Works Committee saves this State many thousands of pounds every year by watching expenditures and tenders and looking at plans and specifications submitted. The Joint Committee on Subordinate Legislation, too, is called upon to do much work on behalf of members, particularly in regard to by-laws and regulations. There will be much more work for that committee in the near future. So this legislation is only bringing the remuneration of these committee members into line with the work they do.

Likewise, I feel that the allowances given for some of the outlying districts are very fair. I know how many miles a year some country members travel in their vehicles and how much it costs some of them to stay in Adelaide whilst Parliament is in session and they are on their Parliamentary duties. This allowance is justified. Many members find it necessary, and it is necessary, for them to replace a motor car every 18 months, and in some cases every 12 months. The prices of motor cars being what

they are today, one cannot buy a car out of the old electoral allowance. I rose merely to say that I agree with the provisions of this Bill. I will stand up to any test to which I may be put because I conscientiously believe that these increases were due and are justified. I support the second reading.

The Hon. F. J. POTTER secured the adjournment of the debate.

SUCCESSION DUTIES ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from November 19. Page 1745.)

The Hon. M. B. DAWKINS (Midland): Briefly, I support the second reading of this Bill which, in most respects, is very satisfactory. I am aware that clause 3 endeavours to do what the law was originally intended to do and I know that because of some loopholes in the Act it has been possible in some instances for people to evade certain duties that were intended to be paid by everybody in a like manner. This proposed clause 3 will have the effect of retrospectivity, in that some dispositions of property which were executed prior to the coming into force of this legislation can take full effect only at the death at some future time of the person who has the power of appointment.

Under this Bill, these people would be liable for duty. While I support the Bill in general terms, I wonder whether the Government can take another look at this provision, if only for the reason that there may be some fairly big people who have not been caught and should be caught and, under this provision, there may also be many fairly small people who may be brought into it and get hurt in the process. However, in general terms, I support the Bill. As I said earlier, the other provisions are, generally, very satisfactory. My honourable friend, Mr. DeGaris, dealt with clause 5 and I do not propose to reiterate what he said.

The Hon. Sir ARTHUR RYMILL (Central No. 2): I find myself considerably exercised about this Bill: first, because it is an extremely technical Bill; secondly, it is a revenue Bill, which is always difficult in this place to deal with; and thirdly, although I claim to have made a study of powers of appointment in my younger days, and I think I comprehend the law attaching to them fairly clearly, I must say that I am afraid I cannot understand the ramifications of this Bill at all. (When I say "at all", I should say "altogether".) When I look at the second reading explanation, I find it does not illuminate the situation one iota. I should like to refer to what was said in that speech:

> The Bill also affords an opportunity of seeking the approval of Parliament to the amendment to the principal Act contained in clause 3 which will close a loophole through which succession duty particularly in respect of settlements of large estates can be avoided with serious loss of revenue to the State.

Then a technical explanation ensued, which I will guarantee that not one single member of this Council understood, including the Minister himself who read the speech, whoever he might be. I do not know who it was because I was not here when it was read. I can claim that no Minister would understand what followed and I also claim that we have not been told anything about this loophole that exists, how it exists, why it exists, why it should be closed up, why it applies to large estates or why any principle attaches to large estates that does not attach to small estates, except that the revenue of the large estate may suffer more than the revenue of the small estate. I want to ask a number of questions about this Bill, and I think I am entitled to receive answers to them.

The Hon. S. C. Bevan: There is no harm in asking.

The Hon. Sir ARTHUR RYMILL: The honourable member suggests by his interjection that I may not get an answer, but I hope I shall. I think it is necessary for me to embark on some explanation of or dissertation upon what these powers of appointment are. In the law—and I have not re-studied it because I am fairly clear in my mind about it—there are two types of appointment: general powers of appointment and special powers of appointment. General powers of appointment are powers of appointment given to some specified person or person at large whereby it can be directed by such instrument as the deed dictates who shall be the recipient of the trust fund and in what way that person shall receive it. A general power of appointment gives a complete power to the donee to say who is to receive the money, and in what way—whether by way of a life interest, a residual interest or a total interest. A special power of appointment is a different matter; it is a restricted power of appointment given to the donee of the power to appoint among some class of persons or in some other way in which it is restricted. This Bill apparently applies to both powers of appointment, and what appears

to me to have been overlooked, among other things, is that powers of appointment can be exercised in various ways but only according to the deed giving the power. Some deeds say that the donee of the power shall have the power to appoint by deed or will or codicil; other powers give them power to appoint by deed only and—this is the crux of the matter that I am referring to at the moment—other powers of appointment are by will only. Many deeds exist that will come within the ambit of this Bill whereby the person who is entitled to exercise the power can exercise it only by will. That means that he cannot possibly fulfil the requirements of this Act by exercising his power before the Act comes into effect, because he can exercise it only by will, and a will, according to the law, speaks only from the date of his death. Therefore, unless he is prepared to cut his throat or something of that nature before the Act comes into effect, he cannot exercise his powers. I think that has been overlooked in the drafting of this Bill or, if it has not been overlooked, I think it is something that this Council should attend to.

I believe that the maximum that this Council should be prepared to co-operate with the Government in obtaining revenue is in respect of deeds made after the passing of the Act, not by raking in revenue on deeds made in good faith before the Act. I have drawn many of these deeds whereby people have the power of appointment. I drew them in good faith; I drew them because the law said that it was a good thing to do, and the Succession Duties Act said one would be no less favourably treated than if one handled the thing in another way. The virtue of a power of appointment is that one gives the living rather than the dead the right to determine where the estate shall go. In other words, if one settles a trust in strict settlement on people, that trust must go in that direction, even though times and conditions have changed completely. It is often referred to in the law as ruling from the grave, which I think honourable members will agree, especially in our violently changing times, is not a good thing. We must match conditions as they alter. The power of appointment is a conditional thing in the law of equity. I imagine the Hon. Mr. Potter will correct me if I am wrong in saying that it has existed for 200 or 300 years at least, and has been constantly used. I consider that unless at the very least we exempt pre-existing deeds or trusts (and I emphasize pre-existing deeds, not pre-existing appointments) from this legislation, we will be breaking faith with the decent and honourable people who as a matter of course and in good faith have for years and years been drawing deeds in this manner.

I will now outline some of the questions I want to ask, and I hope someone will note them and be prepared to answer them. In a settlement of this nature, where there is a life estate to (*a*) a settlor and then later to (*b*) a child of the settlor, and (*c*) a general power of appointment by that child to whomsoever he wishes, or, alternatively, a special power of appointment by that child among his own children, how many times will that be dutiable under this amendment? Will it be dutiable on the death of the settlor and on the death of the child, or will it be dutiable only once? Will it be dutiable only on the death of the child? Will it be dutiable on the exercise of the powers of appointment? Will it be dutiable on the death in respect of which the power of appointment is exercised? This is one of many cases I can think of under this amending Bill.

The Hon. Sir Frank Perry: They would all be on different values, wouldn't they?

The Hon. Sir ARTHUR RYMILL: Yes. Of course, once lawyers know what the amendment means and involves, they can attune their draftsmanship to the Bill, but when it applies to pre-existing settlements, and if it is going to make them dutiable more than once over (as I suspect it is), it is a very bad piece of law, and I want some assurance on this before I am prepared to vote for it or let it go along. I want to know exactly what it means; I want it explained. There are several facets to this. Another difficulty I see is that once we recognize this principle that powers of appointment under deeds are dutiable once or twice, or whatever it may be, will we not in the next session of Parliament or the one after get a Bill saying that powers of appointment under wills are dutiable? Is not the legislature under this Bill going to deny people the right to give living people the power to direct the destiny of a trust fund in favour of the dead? Is not that the ultimate result of this Bill? That is what I want to know. Is not the effect of this Bill going to be to impose such a penalty by way of duty on people that they will no longer be able to give powers of appointment in the manner in which they have been accustomed, and thus in, for instance, the year 1963 I may have to say how such slender funds as I may be capable of leaving will be disbursed in, say, the year 2,000? That is another thing I want

to know—whether the result of this Bill is not to attach such a heavy penalty to this time-honoured method as to make it impossible to be dealt with in the future.

By the kindness of some person (I am not clear where it came from; I think it was handed to me by a gentleman I called a convenor, among other things, last night) I have a memorandum drafted by the Assistant Parliamentary Draftsman that explains this Bill, and I do not know if it has been read to this Chamber. I would like the guidance of the Council on this matter. It is a three foolscap page memorandum, and I do not know whether the Council has heard its contents. Unfortunately I was in another State when the Bill was discussed previously.

The PRESIDENT: I understand that it has not been read.

The Hon. Sir ARTHUR RYMILL: I think it should be read and I intend to read it. I hope that whilst reading it I shall be enabled to more clearly comprehend what it is all about. As the Draftsman properly says, it is highly technical matter. It does not matter to me whether a person has been highly trained in this matter, its ramifications are exceedingly difficult to understand. The memorandum states:

Clause 3 of the Succession Duties Act Amendment Bill cannot be explained in layman's language except at some length because of its technical nature. Its main purpose is to reverse the effect of a recent decision of the High Court in a case in New South Wales, which alters the effect of a decision given in 1945 by the Full Court of the Supreme Court of this State on the basis of which succession duty on non-testamentary dispositions of property (which are defined in the principal Act as settlements) has been chargeable in this State. The expression "non-testamentary dispositions" means dispositions other than by wills. The Bill applies to that. At present it does not apply to wills, but if we accept the principle it could well apply to them. The memorandum continues:

Under section 4 of the principal Act a settlement is defined, in effect, as a non-testamentary disposition of property which contains trusts or dispositions to take effect upon or after the death of the settlor (*i.e.*, the person making the disposition of property) or some other person. The same section defines a deed of gift, in effect, as a non-testamentary disposition of property made by any person containing trusts or dispositions to take effect or which shall or may take effect during his lifetime. Thus both settlements and deeds of gift are non-testamentary dispositions of property containing trusts or dispositions but the question whether an instrument containing trusts or dispositions is a settlement or a deed of gift depends on whether those trusts or dispositions are to take effect upon or after the death of some person or during the lifetime of the donor.

Under section 20 of the Act the property (which includes any interest in property) given or accruing to a person under a settlement becomes chargeable with succession duty upon the death of the person upon or after whose death the trusts or dispositions in question take effect, but the properties given or accruing to a person under a deed of gift become chargeable with succession duty upon the death of the donor if he should die within 12 months after the date of the deed.

Our succession duties law provides that if a person makes a gift to someone by handing it to him, or gives a cheque, and he dies within 12 months of doing it, the gift is dutiable. Of course, there is a logical reason for this and I need not dwell on it. A person may have an incurable disease and may try to distribute his property in order to avoid the obligation to pay succession duty. That is what we call *donatio mortis causa* in legal language. This is no doubt the reason for the 12-month period, and I have no objection to it, because it is another so-called loophole. The memorandum continues:

The question as to when a non-testamentary disposition of property takes effect in law is not an easy one. Thus a non-testamentary disposition by a person of a fund "to A for life and on the death of A to X, Y and Z" would be a deed of gift because although X, Y and Z would not enter into actual possession and enjoyment of their interests until the death of A (the life tenant) their interests would have completely vested in them upon the execution of the instrument and therefore "taken effect" during the life of the donor (and the life of A).

The Hon. C. R. Story: Would the honourable member read that last part again? I do not follow it.

The Hon. Sir ARTHUR RYMILL: I can hardly blame the honourable member. I am understanding it a little better as I read it. It refers to an ordinary settlement, where a person settles money on a child for life and then on to his or her children. That is a deed where there is no power of appointment. Apparently the complication envisaged by the Bill does not come into play. I repeat:

. . . their interests would have completely vested in them upon the execution of the instrument and therefore "taken effect" during the life of the donor (and the life of A).

The Hon. F. J. Potter: There would not be a charge for succession duties unless the donor died within 12 months.

The Hon. Sir ARTHUR RYMILL: I have always assumed that there is a succession in

that case on the death of the life tenant. I am sure I have seen settlements charged on that basis or on the death of the donor. That is where the obligation comes in. It has been said that the situation has been altered. I am not averse to one taxation, as has been the case in the past. It is proper in relation to these things that there should be only one bite at the whole deed, as I understand has been the position in the past. I am perfectly in favour of it, but I am afraid that on each succession the deed could be taxable with duty. That would be more than once, which would be a complete negation of anything I have understood in the past about the Act, or indeed anything I have seen done under the Act. I am not laying down the law to people, but merely posing my difficulties in relation to the Bill. I want guidance as to what it all means and an assurance that it means what I expect it to mean, or means what I may expect it to mean and that is that the deed shall be taxable once. This is contrasting the ordinary simple settlement to A for life and then to his children. The memorandum continues:

On the other hand, a non-testamentary disposition by a person (whom I shall, for the sake of convenience, refer to as the settlor) of a fund "to A for life and on the death of A to such of A's children as shall be living at A's death" would be assessed for succession duty as a settlement on the death of A (the life tenant) as it clearly contains a trust or disposition that can take effect only on the death of A. The disposition of the life interest to A, however, having "taken effect" during the life of the settlor, would not be affected by the settlor's death and therefore not chargeable with succession duty under section 20.

These are things which I have not confronted previously because when I was practising these matters the contrary, to my recollection, took place. The memorandum continues:

Unfortunately all dispositions are not as straightforward as the foregoing examples. If, for instance, the settlor had reserved to himself a power to revoke the trusts or dispositions and appoint other beneficiaries during his lifetime, the disposition of the life interest in favour of A, though it would take effect in the legal sense upon the execution of the instrument and would not be an absolute interest (in as much as it could be revoked or defeated at the will of the settlor) until the settlor dies without exercising his power of revocation. In other words, the life interest of A does not become irrevocably or indefeasibly vested in him in such a case until the death of the settlor, but succession duty cannot now be charged upon the death of the settlor because in law the disposition of the life interest would be regarded as having taken effect during the settlor's lifetime.

That applies to the disposition of the life interest, but it does not say what happens at the expiry of the life interest, and I have understood that at this stage it would become dutiable because there is a succession on the death of the person. The memorandum continues:

A similar situation exists where the settlor, instead of reserving to himself the right of revocation and appointment, had conferred on A (the life tenant) an over-riding power to appoint such of A's children as he should nominate to take on A's death and had settled the fund, in default of such appointment by A, on such of A's children as should attain the age of 21 years.

I think the Council is being extremely patient with me. I do thank honourable members for giving me such a good hearing, because this is extremely technical. On the other hand, it is our duty to understand the provisions if we are going to pass the Bill. The memorandum continues:

Here again, although the disposition in favour of A's children can be said to have taken effect in the legal sense during the lifetime of the settlor, their interests in the fund cannot in any sense be regarded as absolute until A dies without exercising his power of appointment and it has been the practice of the Commissioner of Succession Duties to assess such a disposition as a settlement on the basis of the decision in 1945 of the State Full Court in the case of Elder's Trustee and Executor Company Ltd. *v.* Commissioner of Succession Duty (1945 S.A.S.R. 34). In that case there was, in effect, a disposition by the settlor to a life tenant and on the life tenant's death the appropriate fund was to be held in trust for such of the children or remoter issue of the life tenant as he should have appointed by deed or will and, in default of appointment, for the children of the life tenant who should attain the age of 21 years.

If these deeds are properly drawn they contain what is called a "gift over" in not exercising the appointment. If the person having the power does not exercise it the money goes to so and so and so and so. The memorandum continues:

The life tenant died without exercising his power of appointment and the disposition was held to be a settlement chargeable with succession duty on the death of the life tenant. The effect of this decision, however, appears to have been upset by a decision of the High Court in 1960 in the case of Commissioner of Stamp Duties (N.S.W.) *v.* Sprague (101 C.L.R. 184).

This seems to be the crux of the matter. The memorandum continues:

The disposition of property considered in that case, so far as is material for the purposes of explaining clause 3 of this Bill, was as follows:

> The settlor settled certain property in trust for such of his children as he should by deed or will appoint but, in default of such appointment, for such of his children as should attain the age of 21 years.

There is the "gift over" I referred to. The memorandum continues:

> The settlor died without exercising his power of appointment. Here, because the settlor had reserved to himself the power to nominate as beneficiaries such of his children as he should appoint, the trust in favour of the children could not have taken full effect until the settlor died without exercising that power, but the High Court held that in law the trust took effect during the settlor's life and not upon or after his death.

Again, that seems to be the actuating decision of this Bill. The memorandum continues:

> Applying that decision to the law relating to succession duties in South Australia, it would appear that such a disposition could now no longer be safely assessed as a settlement under the Succession Duties Act as it now stands, and clause 3 therefore seeks to restore the effect of the decision of the State Full Court in the case of Elder's Trustee and Executor Company Ltd. against the Commissioner of Succession Duties, and in doing so, also seeks to prevent the use of appointments by deed as a device to defeat the intention of the legislation. This is a necessary precaution because, unlike an appointment made by a will which would take effect upon the death of the person making a will, an appointment made by deed could still be regarded in law as taking effect when the deed is executed and there would then be no trust or disposition to take effect upon the death of some person even though the right to assume immediate possession of the property concerned might accrue only on the death of the person making the appointment (or perhaps some other person, depending on how the appointment is phrased.) Clause 3 of the Bill accordingly amends section 4 of the principal Act by adding two new subsections which say, in effect, that a trust or disposition will be deemed to take effect upon the death of a person if:
>
> (*a*) as a result of the exercise of a power of appointment thereunder or in relation thereto, any property or the right to assume immediate possession and enjoyment of any property accrues to any person upon, or by reason of, such death; or
>
> (*b*) any incomplete or revocable interest in property vested thereunder in any person becomes absolutely or irrevocably vested in that person upon, or by reason of, such death.

I revert to the beginning of this memorandum where it states:

> Clause 3 of the Succession Duties Act Amendment Bill cannot be explained in layman's language except at some length because of its technical nature.

Apparently this is an explanation in layman's language. I can see that other honourable members have thoroughly understood it!

The Hon. K. E. J. Bardolph: Whose opinion is it?

The Hon. Sir ARTHUR RYMILL: It is the opinion of one of the Parliamentary Draftsman's officers.

The Hon. F. J. Potter: I think it is an extremely good effort.

The Hon. Sir ARTHUR RYMILL: I think it is a wonderful effort. I do not think it possible to put this particular case in layman's language. I find it extremely difficult to follow, and I am not quite a layman. I should not be, with the legal training I have had, although some of my friends at law may perhaps think otherwise. However, there it is. As the Hon. Mr. Potter says, it is an excellent exposition of the Bill's intention. I do not see how it could be put more clearly or how it could be put in lay language, because it is a technical matter.

The Hon. Sir Frank Perry: It could be put only by example.

The Hon. Sir ARTHUR RYMILL: I think so. I do not challenge what this says as being the intention of the legislation, but I want to be sure what the Bill means, and I want to be sure that this is only what it means. I want to be sure that these deeds are not going to be taxed on each succession, as I think the provision could be construed as meaning. I also think it is fair and proper that the Bill should speak only from the time it is passed: that is, that it should not rope in settlements made in good faith under the law as it has been existing and properly interpreted, when they were never previously intended to be dutiable in this manner.

The Hon. K. E. J. Bardolph: In view of what you have said, could not that be determined only by the judiciary?

The Hon. Sir ARTHUR RYMILL: I do not think so. I have raised the point, and provided the Parliamentary Draftsman and/or his assistant are given time to consider the effect of what I have said, I think he will be able to give me an assurance and to supply me with an amendment that will relate this Bill only to settlements *in futuro* (that is, settlements made after the Bill comes into effect) and will not relate to settlements made in good faith previously.

The Hon. K. E. J. Bardolph: The Bill does not purport to be retrospective.

The Hon. Sir ARTHUR RYMILL: It does not say so in express language, but I have no doubt that it applies to any succession. It does not purpose to apply to successions that have already taken place, but once it is proclaimed it would apply to a succession taking place the following day on a deed made umpteen years ago. I think that is the position. The Hon. Mr. Potter has on the file an amendment (which I think is good as far as it goes) to exempt appointments made before the coming into effect of the Bill, but I again point out that there are many deeds made before the coming into effect of this Bill under which an appointment cannot be made except in the future. In many pre-existing deeds an appointment can be made only by will. It is impossible for anyone to make an appointment except by a will that speaks only at his death. He could make the will today, but that would not matter: it is only when he dies that the will exercises the appointment; thus it will be imprisoned in the network of this Bill. I am sure that I have wearied the Chamber. I have spoken in good faith.

The Hon. S. C. Bevan: What is really your point: to exempt altogether the large estates?

The Hon. Sir ARTHUR RYMILL: No, that is not my idea, although I know that the honourable member would think that that would be my idea.

The Hon. S. C. Bevan: I do not think I am far out!

The Hon. Sir ARTHUR RYMILL: I have no doubt that that would be the honourable member's thinking, but nothing is farther from my thoughts. What I want to see is fair play for the myriad small estates that could come under this Bill. I have no sympathy, any more than the honourable member has, for people who deliberately set out to try to make their estates undutiable. I do not agree that an estate should have duty levied on it more than once, and I do not think that the Hon. Mr. Bevan would agree to that, particularly if it were his own estate to which it applied.

The Hon. F. J. Potter: It does not apply only to whole estates.

The Hon. Sir ARTHUR RYMILL: That is so. It could apply to various successions.

The Hon. F. J. Potter: Even to portions.

The Hon. Sir ARTHUR RYMILL: Yes, of course. I am asking for some assurances on this. As I was saying when I was sidetracked, Mr. Potter has on the file an amendment with which I agree as far as it goes. However, as I read it, it is only to exempt pre-existing appointments. I have pointed out that there are plenty of pre-existing deeds made in good faith under which appointments cannot be made at present. My opinion is that the law should not be altered in respect of those deeds that are unassailable. The settlor has divested himself of the property. He cannot alter the deed in the face of the new law. It is a factual thing that is done and finished. He has parted with the money and he cannot repossess it and dispose of it in some other way. However, this legislation should not apply to deeds that were made in good faith under the law as it existed at the time because, as the Hon. Mr. Bardolph has properly inferred by his interjection, this Bill, although it does not say so definitely, has a retrospective effect.

If this matter is deferred until I can get some assurances about it not applying to pre-existing deeds, I shall be happier. I think it does apply to pre-existing deeds and I want to be able to get on members' files a simple amendment to exempt pre-existing deeds as well as pre-existing deeds of appointment. I emphasize that I am not averse to the intention of the Bill as expressed to us, but I want to ensure that the Bill carries out that intention and that it is not made retrospective where it should not be made retrospective.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—"Amendment of principal Act, section 4."

The Hon. Sir ARTHUR RYMILL: I respectfully suggest that at this stage progress be reported to enable answers to be obtained to the points I have raised.

The Hon. Sir LYELL McEWIN (Chief Secretary): I am unable to accede to the honourable member's request; I am sorry. I have delayed this Bill for some time for the convenience of honourable members. The other place is already awaiting work from this Council, and it is necessary that this Bill be dealt with as soon as possible. It has now reached the stage where an amendment is on the files and comes up for consideration. If there is any information that any honourable member desires, I shall try to supply it.

The Hon. G. O'H. GILES: I must admit at this stage of the piece that I have tried to follow a certain portion of what has been said, particularly in the report produced in layman's terms for the benefit of honourable members, but I am still short of knowledge.

Unless certain matters that have been brought up are explained to me to my satisfaction, I cannot see that I can at this moment support this clause. Some of it I can understand. For instance, I understand that it deals with non-testamentary dispositions of property; it does not deal with wills. I understand that primarily it deals with powers of appointment that may or may not come into such instruments. I do understand the more simple things—that this Bill, for instance, evidently is the result of certain decisions in appeals in more than one court. I do understand, too, that this Bill is now before the Council because of what I may call one particular "miss" in the collection of duties for the State coffers. I am explaining the small amount that I do understand.

Also, it is quite apparent at this stage in the piece that the second half of clause 3 deals with the fact that, where a power of appointment does apply to a certain type of deed or settlement, this can go back a great many years in its application. I am not happy that we should (I hesitate to use the word but I do) capriciously alter the law and put people who have acted in completely good faith and within the law in rather, to say the least, a doubtful position. I am not happy yet on that particular point and I seek further guidance on that. I think that, with the two points raised by Sir Arthur Rymill, that is all I can offer by way of information-hunting at this stage, but I should be grateful to the Chief Secretary if he could help a little in these matters because I do not think any honourable member likes to feel that he is lacking in knowledge before coming to a decision on a Bill which is obviously of some importance, both to many ordinary individuals of this State and to the Government.

The Hon. F. J. POTTER: As honourable members will remember, in the second reading debate I endeavoured to make some explanation, as I understood it and as it was explained to me by friends in the legal profession, of the meaning of clause 3. I listened with much interest to the further explanation that Sir Arthur Rymill read to the Council this evening, one that was supplied to him by the Assistant Parliamentary Draftsman. I consider it an excellent explanation of the situation; but, even with that explanation, honourable members will realize how technical this matter is and how one would need a whole series of textbooks to understand exactly how it operated. I repeat what I said in the second reading debate: I rather regret that this matter was not referred to a technical committee drawn from the highest experts in this field, in respect of the draftsmanship.

There was some talk in the second reading debate this evening, and some interjection, suggesting that this provision applied only to estates; but I pointed out then and there that it did not apply only to estates: it can apply to portions of estates or it can apply to straight-out gifts or settlements of property. I was this morning told of another circumstance to which this could apply, one to which I must confess until it was pointed out to me I had no idea it would be possible to apply this section: that is, the power of a life governing director of a company to appoint by deed or by instrument another person to be the life governing director of the company. Although that may seem to honourable members to be absolutely remote from the provisions of this Bill (because normally people say, "That is not worth anything, the fact that you have a right to appoint a governing director to take over on your death; this is not worth anything in money terms"), a recent decision by the Supreme Court of Queensland has ruled that this right to appoint a governing director is in fact worth something in money terms. If that is so, we must conclude that the ramifications of this particular section may be far wider than we originally contemplated.

It is true that subsection (1a) enacted by clause 3 deals only with the exercise of the power of appointment after the commencement of this Act, and to such extent I think that that subsection is probably unobjectionable although, as I understand it, it is introducing into the Succession Duties Act an entirely new conception in using the words "right to assume immediate possession and enjoyment of any property". That is introducing an entirely new idea, something that is not present in the existing succession duties legislation. It seems to me that the effect of this may well be that the powers of appointment may not be exercised or may not even be popular after the coming into operation of this Act. To the extent that leaves it open for a power not to be exercised after the commencement of this Act, I think that is fair enough; but, under new subsection (1b) we are dealing with the converse position, with an estate that may have become vested in the past in some person. I think this does not tie in satisfactorily with the provision in subsection (1a). I have therefore given notice of an amendment to subsection (1b) to more or less put both ends

of the stick—if I may use that expression—on the same basis. I think my amendment does this; at least, I hope that it does. I understand that consideration at some stage was given to this clause, worded in the way in which it will be worded if my amendment is passed.

I am disappointed that we are not getting an explanation or any answer this evening to the important questions the Hon. Sir Arthur Rymill asked of the Minister. I think we should have those explanations. Although it is a technical matter, and although the Minister may not reasonably be expected to understand all its ramifications, expert advice is available to him, and some attempt should be made to answer these important questions. Although I do not intend to move my amendment at this stage, as I rather suspect that a prior amendment may be forthcoming, I make these points, and I ask that if possible the Minister will answer these important questions.

The Hon. Sir LYELL McEWIN: I am pleased that I have been assisted by Sir Arthur Rymill, who has read pages of information prepared for me to give to the Council. Therefore, I have been saved that much breath at all events, particularly at this late hour. Sir Arthur Rymill apparently has some difficulty in understanding the information that has been supplied, but I have gone a little further than he went and I have studied the complete minute, including the final paragraphs, which Sir Arthur omitted to read and which state:

Clause 3 of the Bill accordingly amends section 4 of the principal Act by adding two new subsections which say, in effect, that a trust or disposition will be deemed to take effect upon the death of a person if:

(*a*) as a result of the exercise of a power of appointment thereunder or in relation thereto, any property or the right to assume immediate possession and enjoyment of any property accrues to any person upon, or by reason of, such death; or

(*b*) any incomplete or revocable interest in property vested thereunder in any person becomes absolutely or irrevocably vested in that person upon, or by reason of, such death.

Having read that, I then wondered what it meant in language that members can understand, and I thereupon produced my own interpretation of what it meant and referred it to the Parliamentary Draftsman for any necessary corrections. That information is now available (with the necessary slight alterations to my interpretation) for the information of honourable members. Let me clear up one point that was raised by Sir Arthur Rymill in a direct question as to how many times a duty could apply. I am assured that any property would be dutiable only once.

The Hon. Sir Arthur Rymill: Does that apply to all successions under the same deed?

The Hon. Sir LYELL McEWIN: It applies to what I am discussing now.

The Hon. Sir Arthur Rymill: I am asking you what it applies to.

The Hon. Sir LYELL McEWIN: The honourable member has read three pages of information; surely he has had more time to study it than I have and should be able to understand it more readily than I. I think I can tell members in a nutshell what it all means. Clause 3 only makes definite what the law was originally designed to do. After all, succession duties date back to 1929, and it was a long time before any new escapes were found or before it became possible to evade the duty or tax that was intended to be payable by all alike. There is no exception: everybody shall pay succession duties. The proposed amendment, if agreed to, will have the effect of removing from the application of the Act all dispositions of property which, although executed prior to the amendment, can still take full effect only upon the death at some future time of some person who has the power during his lifetime to revoke or defeat the disposition altogether, and it would mean that where under an existing disposition any property had only partially become vested, the section would not apply even though such vesting became absolute and irrevocable on the death of a person after the Bill became law. This could lead to evasion of tax in such cases, although no-one else would be permitted to evade the tax. In other words, this Bill imposes certain conditions that shall apply from now on. I think it is just as much an analogy to say, when we talk about not altering anything that happened in the past, that we have often varied taxation. If I happened to buy a property yesterday and the stamp duty was increased, I would have to pay the increase. If I buy a motor car and the registration charge is increased, I have to pay the additional cost: because I bought a motor in 1929 it does not mean that I will pay the same tax in 1963 as I did when I bought the car.

The Hon. K. E. J. Bardolph: There is no analogy between an estate and a motor car, because motor car prices fluctuate.

The Hon. Sir LYELL McEWIN: Property prices fluctuate very considerably; too much

in the last few years. Be that as it may, I am referring to what was suggested as the sanctity of some arrangement that had been arrived at so that the exemption should apply forever. The proposals really enable the Act to do what it was always meant to do. The position is not as the Hon. Mr. Dawkins suggested in his unhappy reference to retrospectivity. There is a difference between retrospectivity and retroactivity, as the honourable member will find out if he consults a dictionary. The additional information on that has been given already by the Hon. Sir Arthur Rymill, and because of the further information I have provided I ask the Committee to accept the Bill as submitted.

The Hon. Sir ARTHUR RYMILL: I move the following suggested amendment:

In new subsection (1a) (*a*) after "property" first occurring to insert "executed after the commencement of the Succession Duties Act Amendment Act, 1963".

Its effect is purely and simply to exempt deeds executed before the coming into operation of this Bill.

The Hon. Sir LYELL McEWIN: This, of course, completely nullifies the effect of the clause. For the reasons I have already given, I ask the Council not to accept it.

The Hon. C. R. STORY: For some hours we have been discussing powers of appointment and various other things. I think all members, except those who have had some legal training, are a little confused. I do not know the full effect of the suggested amendment, but I presume it means that in any action taken after the coming into operation of this amending legislation everybody who has done all these things will be exempted. The Chief Secretary said this would be dutiable only once but Sir Arthur Rymill raised another point that was not fully answered. It would assist members if the point about whether it was dutiable only once was cleared up.

The Hon. Sir Frank Perry: And when.

The Hon. C. R. STORY: Yes. Could we have some further explanation of this?

The Hon. C. D. ROWE (Attorney-General): I think perhaps I may be able to help honourable members, and I think the first thing I should say is that the object of this amending legislation is purely to put the law back to where we thought it was before the decision given by the High Court. Until then, everyone thought that this type of disposition carried duty in certain circumstances, and it has now been found that the interpretation placed on the Act by our own Supreme Court that that is the case is not correct. That is where this Bill begins, and it does not go any further than that. In other words, it does not seek to make the Act wider than everyone thought it was. I am assured by the Parliamentary Draftsman that duty would be paid only once.

The Hon. Sir Frank Perry: What do you think about it? We want your information.

The Hon. K. E. J. Bardolph: Why not state it in the Bill?

The Hon. C. D. ROWE: I agree entirely with the Parliamentary Draftsman's opinion on this matter. The Hon. Sir Frank Perry may consider he has a better knowledge of the matter than the Parliamentary Draftsman, but I do not think I have; I have great confidence in what the Parliamentary Draftsman says. I have not had a full opportunity to look into the other aspects as fully as I would have liked, but I am satisfied that duty is payable only at one particular time, and I would think it was payable at the time when the power of appointment was actually exercised.

The Hon. Sir LYELL McEWIN: Section 20 (2) of the principal Act provides:

The property given or accruing to any person under any deed or gift shall be chargeable with succession duty according to the scale in the second schedule hereto.

I am told that it is dutiable only once.

The Hon. Sir ARTHUR RYMILL: It seems to me that this Bill is being rushed through with undue haste.

The Hon. C. D. Rowe: Some members were away when they should have been attending here.

The Hon. Sir ARTHUR RYMILL: I do not know what the Attorney-General means by that. I was away this evening between 7.45 and 9 p.m.

The Hon. C. D. Rowe: You said you were away when the second reading explanation was given.

The Hon. Sir ARTHUR RYMILL: I was, but I had no duties to perform here on that occasion. I think the Attorney-General is applying the argument *ad hominem*, which is always the evidence of a weak case. I think honourable members have been denied the right to have a full, proper, lucid and deliberative explanation of this Bill. If the Government intends to go on and rush this Bill through, I can only make my protest and ask members to vote in favour of my suggested amendment. However, the Attorney-General a few moments ago said that this clause was intended to put the position back where everyone thought it was before the High Court's decision. If that is correct, I ask him to explain new

subsection (1a) (*b*), which provides as a prerequisite to the thing being dutiable that such power of appointment is exercised after the commencement of this Bill. Surely that does not put it back. In other words, any power of appointment executed before this Bill is exempted, and my amendment merely asks that deeds where the power of appointment cannot be exercised before the Bill comes into effect be placed in exactly the same category. That seems a simple and reasonable request. The Government has already seen fit to exempt powers of appointment exercised before the commencement of the Bill, despite the fact that the Attorney-General says that it is putting the law back where it was—which it clearly is not. I am merely asking in justice that deeds where the power of appointment has been exercised before the commencement of the Bill—and I have given instances—should not be put into the same category.

The Hon. Sir LYELL McEWIN: Referring to the matter raised by the Hon. Sir Arthur Rymill, I have conferred with the Parliamentary Draftsman and he confirms that it would prevent any retrospective application of the Act in so far as taxation is concerned. It applies to any taxation that comes due after the passing of the measure. It protects the position in regard to taxation.

The Hon. G. O'H. GILES: Does the Chief Secretary think it fair that people who have already given instructions going back some years should now find the conditions changed because of an Act of Parliament? It appears that some people acting in the greatest of good faith in a period going back more than 30 years in some cases may have accepted the best legal advice and done what they thought was the right thing. I am not happy about the explanation of the intention of the clause and I am not satisfied that it is fair to people who acted in good faith over a long period.

The Hon. Sir LYELL McEWIN: I think it is fair that if we apply succession duty at all it should apply to everybody, and that will be so from now on. The honourable member says that somebody did something in good faith but I have a recollection that it was possible at one time to take out an insurance policy that was exempt from duty. I cannot recall the facts or when it applied, but I know that it was quickly removed and no longer applies. If one cared to make sufficient investigation one could no doubt find many instances of a similar nature. I think it is fair and proper to have succession duties, but some people prefer not to have them. Whilst we have them I think it is only fair that they should apply to everybody.

The Hon. Sir ARTHUR RYMILL: That is exactly my point. The clause as drawn exempts powers of appointment exercised before the commencement of the Act, but it does not exempt deeds under which the power of appointment cannot be exercised, and which were entered into before the commencement of the Act. I want them to be included. The Government has seen fit to exempt powers of appointment exercised before the commencement, so why not include deeds where there are powers of appointment? My amendment is aimed at that matter.

The Committee divided on the Hon. Sir Arthur Rymill's suggested amendment:

Ayes (7).—The Hons. Jessie Cooper, M. B. Dawkins, G. O'H. Giles, L. R. Hart, Sir Frank Perry, Sir Arthur Rymill (teller), and C. R. Story.

Noes (11).—The Hons. K. E. J. Bardolph, S. C. Bevan, R. C. DeGaris, G. J. Gilfillan, N. L. Jude, Sir Lyell McEwin (teller), F. J. Potter, W. W. Robinson, C. D. Rowe, A. J. Shard, and R. R. Wilson.

Majority of 4 for the Noes.

Suggested amendment thus negatived.

The Hon. F. J. POTTER: I move the following suggested amendments:

In new subsection (1b) (*a*) to strike out "has become" and insert "becomes" and after "person" insert "after the commencement of the Succession Duties Act Amendment Act, 1963."

I said earlier that new subsection (1b) deals with the converse situation to what exists under new subsection (1a), which deals with the revocation of the power of appointment. As new subsection (1a) affects only those powers of appointment exercised after the commencement of the Act it is only right and proper that the same position should apply in respect of new subsection (1b). The amendments will tie up completely the two new subsections. It may well be that it would not apply in many instances, and may only cover a possibility, but it is fair that the two should be joined in this manner. I have discussed this at length with the Assistant Parliamentary Draftsman, and I hope the Government will be disposed to accept these amendments.

The Hon. Sir LYELL McEWIN: This matter has been fully debated, and I ask the Committee to oppose this amendment.

Suggested amendments negatived; clause passed.

Remaining clauses (4 and 5) and title passed.

Bill read a third time and passed.

PARLIAMENTARY SUPERANNUATION ACT AMENDMENT BILL.

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.

As honourable members are aware, the joint committee (consisting of the Public Service Arbitrator and the Auditor-General), appointed to inquire into and report upon the salaries and allowances of members of Parliament, was authorized by the Government to extend its inquiries also into the subject of superannuation for members. In the course of its inquiries the joint committee considered the Parliamentary superannuation schemes in the other States and a number of submissions from Ministers and members, both individually and collectively, as well as from other persons, and, in its report, dated November 8, 1963, made several recommendations, most of which have the Government's approval.

This Bill gives effect to all the recommendations of the joint committee which affect members generally. I intend to deal with these recommendations in detail as I explain the clauses of the Bill. Section 9 of the principal Act deals with the present rates of annual contribution by members, while section 13 sets out the annual amounts of pension payable to ex-members. At present there are three rates of contribution in operation. They are:

£72 per annum—which attracts a pension of £260 per annum at 10 years' service increasing by £20 per annum for each additional year up to 18 years and for each additional three years thereafter up to a maximum pension of £500.

£100 per annum—which attracts a pension of £390 per annum at 10 years' service increasing by £30 per annum for each additional year up to 18 years and for each additional three years thereafter up to a maximum pension of £750.

£150 per annum—which attracts a pension of £585 per annum at 10 years' service increasing by £45 per annum for each additional year up to 18 years and for each additional three years thereafter up to a maximum pension of £1,125.

At present two members contribute at the rate of £72 per annum, one at £100 per annum and the rest at £150 per annum. Although the Act provides that members who commenced to contribute to the fund prior to 1960 at the rate of £58 10s. per annum could continue to do so, there are no contributors at that rate. The joint committee has recommended:

(*a*) that the rate of contribution of £58 10s. per annum and corresponding benefits be eliminated provided the rights of persons at present receiving benefits derived from contributions at that rate are preserved;

(*b*) that the rate of contribution of £72 per annum and corresponding benefits be eliminated for all but existing contributors at that rate who may choose to continue to contribute at that rate, provided also that the rights of persons at present receiving benefits derived from such contributions are also preserved;

(*c*) that the rates of contribution be revised to enable members to contribute at rates and to receive benefits as follows:

£100 per annum—which will attract a pension of £360 per annum after nine years' service increasing by £30 per annum for each year up to 18 years and for each additional three years thereafter up to a maximum pension of £750.

£150 per annum—which will attract a pension of £540 per annum after nine years' service increasing by £45 per annum for each additional year up to 18 years and for each additional three years thereafter up to a maximum pension of £1,125.

£200 per annum—which will attract a pension of £720 per annum after nine years' service increasing by £60 per annum for each additional year up to 18 years and for each additional three years thereafter up to a maximum pension of £1,500.

If a member at present contributing at the rate of £72 per annum elects to continue to contribute at that rate, the joint committee has recommended that his pension payable after nine years' service should be £240 per annum increasing by £20 per annum for each additional year up to 18 years and for each additional three years thereafter up to a maximum pension of £500. It also recommended, however, that existing members should be permitted to contribute at the next higher rate above that at which they are at present contributing, if they elect to do so before a specified date but, if they do not make an election within the prescribed time, they should continue to contribute at the rate at which they are now contributing.

With respect to female members, the committee recommended that they should contribute only two-thirds of the rates payable by male members but that no pensions should be payable to their dependants or widowers although the same pension rates should be payable both to male and female ex-members. Clauses 3 and 6 give effect to these recommendations.

Sections 11 and 14 of the principal Act prescribe the conditions which qualify a contributor to a pension on defeat, retirement or resignation. Under section 11 the normal qualifying period of service is 10 years. That section further provides that a person of or over the age of 50 years who has served as a member for 18 years or more need not comply with section 14. The committee has recommended that the normal qualifying period of 10 years' service should be reduced to nine years and that the age bar of 50 years of age for a member who has served for 18 years or more should be removed subject to further conditions which I shall deal with presently. Clause 4 repeals and re-enacts subsection (1) so as to reduce the normal qualifying period of service from 10 years to nine years but to preserve the existing rights of persons who are presently receiving pensions. The further conditions of entitlement to pensions, however, are stated in section 14. Subsections (1), (2) and (2a) thereof provide in effect that in addition to satisfying the requirements of section 11:

(*a*) a person of or over the age of 50 years who has served for less than 18 years and ceased to be a member upon resignation or when his term expires, must either satisfy a judge that there were good reasons for his resignation or for not seeking re-election or stand for re-election and be defeated; and

(*b*) a person under the age of 50 years who ceases to be a member upon resignation or when his term expires must satisfy a judge that there were good reasons for his resignation or for not seeking re-election unless his total service is 20 years or more and he has stood for re-election and been defeated.

The joint committee has recommended, however, that these conditions should be modified as follows:

(*a*) Any member of or over the age of 65 years who has the normal qualifying service of nine years, and any member under that age who has 18 years' service or more, should be entitled to resign or retire at any time with pension rights without being obliged to stand for re-election or to satisfy a judge that there were good reasons for his resignation or for not seeking re-election;

(*b*) any person under the age of 65 years who has the normal qualifying service of nine years but less than 18 years and ceases to be a member upon resignation or when his term expires should not be entitled to a pension unless he either satisfies a judge that there were good reasons for his resignation or for not seeking re-election or stands for re-election and is defeated;

(*c*) if a person under the age of 50 years becomes entitled to a pension on any grounds (other than that he has satisfied a judge that there were good reasons for his not continuing as a member) he should not be entitled to receive such pension before he attains the age of 50 years and his pension will commence only on his attaining that age unless he has elected to receive a refund of his contributions.

Clause 7 gives effect to these recommendations. Section 12 of the principal Act, in effect, provides that a pension accrues as from the day following the day when a member completes

compliance with the requirements of section 11 (1) (*a*) to (*e*). These requirements are that he must have ceased to be a member and to be entitled to any Parliamentary salary after having served for the minimum qualifying period, and that his contributions to the fund should not be less than £351. Under the joint committee's recommendations, where a person qualifies for a pension when he is under 50 years of age but does not become entitled to receive it until he attains that age, his pension would not accrue until he in fact attains that age. Clause 5 accordingly re-enacts section 12 so as to make an exception in such cases. Clause 8 (*a*) and (*c*) are consequential amendments.

Clause 8 (*b*) adds a new subsection to section 16 of the principal Act which provides that where, before the death of a person who had qualified for a pension which had not commenced because he had not attained the age of 50 years, he had not elected to receive a refund of his contributions (as is provided in the amendment to section 18 of the principal Act as proposed by clause 10) his widow shall be entitled to a pension except where he marries after he ceases to be a member. Section 17 (2) of the principal Act provides that if a person in receipt of a pension holds an office under the Crown for which he is remunerated at a rate exceeding £500 a year, his annual pension shall be decreased by the amount by which such remuneration exceeds £500. As this amount of £500 has not been altered since 1953 the joint committee has recommended that it be increased to £750 and clause 9 gives effect to this recommendation. The joint committee has also recommended that a person who qualifies for a pension which does not commence until he attains the age of 50 years should be permitted to elect to receive a refund of his contributions in lieu of the future pension. This recommendation is given in clause 10 of the Bill.

Section 19 of the principal Act provides that, where a person dies during his term of office, the trustees shall pay the amount of his contributions to his widow (if she is not entitled to a pension under the Act) or his personal representatives or some other person to whom the trustees deem it just to pay it. Clause 11 of the Bill re-enacts section 19 so as to extend its application to the case where a person dies after becoming entitled to a pension that had not commenced because he had not attained the age of 50 years but without electing to receive a refund of his contributions.

During the debate in another place the Premier, because of some references brought to his notice, undertook to refer to the joint committee that inquired into Parliamentary superannuation and whose recommendations this Bill gives effect to, any further proposals that members might wish to make for removing existing anomalies in, or for improving, the legislation. The Government invites members in this Chamber also to submit their proposals, which will be referred to that committee in due course. I am sure that honourable members are fully aware of what is involved in this legislation, and there is no need for me to commend this Bill for their consideration.

The Hon. K. E. J. BARDOLPH secured the adjournment of the debate.

SECOND-HAND DEALERS ACT AMENDMENT BILL.

Returned from the House of Assembly with amendments.

LOCAL GOVERNMENT ACT AMENDMENT BILL (POLES AND RATES).

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

REAL PROPERTY ACT AMENDMENT BILL.

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

OPTICIANS ACT AMENDMENT BILL.

Returned from the House of Assembly without amendment.

INDUSTRIAL CODE AMENDMENT BILL.

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

ROAD TRAFFIC ACT AMENDMENT BILL (SEAT BELTS).

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

Consideration in Committee.

The Hon. C. R. STORY: I move:

That the Legislative Council's amendments be not insisted upon.

In moving that, I should inform honourable members that another place has now returned this Bill to us and has put it back into the form in which it originally was before the amendments moved by the Hon. Mr. Hart

were inserted. That is where the Bill now stands. Seat belts will be compulsory in vehicles if the motion I have just moved is carried by this Council. I have no reason at all to depart from anything I said during the second reading or Committee stages of this Bill. I had the support of 50 per cent of the Council then. Therefore, it was a very close vote and it was only on your casting vote, Sir, that the amendments were carried. In that case, I see no reason at all why I should alter my vote on it, nor do I feel that any good purpose would be served by my doing so.

We have heard a great deal since the introduction of this Bill. If it has accomplished nothing else, it has at least made people very much aware of the benefit of seat belts in motor vehicles. It has been a very good debate, and this place has been a good forum in which to advance the cause of safety on roads and of seat belts. I was surprised when the Minister of Roads said the other day that he did not think that the National Safety Council was very much in favour of the Bill. I had a different opinion: I was of the opinion that the council was very much in favour of seat belts in motor cars on a compulsory basis. However, I shall not delay this Chamber, which has been so tolerant this evening. I ask honourable members to consider what I have said. In the debates they have had all the explanations that can be given.

The Hon. N. L. JUDE (Minister of Roads): I gather that the honourable member supports the attitude adopted in another place. I have no hesitation in saying that I feel that this Chamber, having passed a resolution, having debated the matter at considerable length, and having had the benefit of far more facts than did the other House regarding what I shall call the undesirable feature of the Bill (the compulsion), should insist on the amendments that it has made. I have quoted only a portion of the minutes of the Transport Advisory Council which I have in my possession. I do not wish to be lengthy about this, but I point out that Mr. Neilson, the Minister from Western Australia, said:

It would be better to have a resolution that the motor trade should install fittings for belts so that if a customer wanted seat belts he could arrange their installation.

Mr. McMahon, a Labor Minister from New South Wales, said:

Once we make something compulsory, do we get the best? It is essential to encourage the use of safety belts.

That is the very thing I have said myself. Mr. McMahon went on:

I am not going to agree to compulsory legislation.

The Minister representing Queensland (Mr. Chalk) moved:

That the motor trade should be encouraged to install belts of an approved standard in all motor vehicles.

The Victorian Minister (Mr. Meagher) said:

It seems to me that any attempt by way of compulsion usually has the opposite effect to that intended, therefore I second the motion.

The Commonwealth Minister, who was the Chairman, spoke at somewhat greater length, and in quoting him I assure members that I am not taking his words out of their context. He said:

We should encourage people to wear them. There was no suggestion whatever of any compulsion. On that occasion I stated that I thought we should set an example, and the Government has done just that. We have a Government minute in this State to the effect that if the driver of a Government vehicle wishes that vehicle to be fitted with safety belts it shall be so fitted, and many of those vehicles are. The Chairman of the Transport Advisory Council, before the motion was carried, concluded the debate by saying:

I think the use of the word "encourage" is a satisfactory compromise.

The motion was then carried. That, Sir, happened at a meeting attended by Dr. Darling, the President of the National Safety Council of Australia. These facts were not available when the Bill was debated in another place, or, if they were, apparently they were not used in the argument put forward there. I maintain that this Chamber, having considered this matter at length, should insist upon its amendments being accepted. Therefore, I must oppose the Hon. Mr. Story's motion.

The Hon. G. O'H. GILES: I do not wish to take up much time on this matter. The Minister said that the Western Australian Minister did not wish to compel people to fit safety belts, but he did not say that he would not be in favour of encouraging people to wear them if they were compulsorily fitted to vehicles. I remind the Minister that 71 per cent of people in Western Australia believe that it would be advisable to fit safety belts compulsorily in vehicles. Quite frankly, I think that the Western Australian Minister had quite a nerve in adopting the attitude that he did. It is quite apparent, when we compare the different age groups, that the younger the age group the more the people in that group favour the

compulsory wearing of belts; these figures apply in South Australia and in every other State of Australia. I do not think we need look any further for evidence that in a few years' time the people of South Australia will wish that this legislation was in force.

The Hon. S. C. Bevan: Why?

The Hon. G. O'H. GILES: Because already more than 70 per cent of the people in the younger age groups, both drivers and passengers, favour the use of safety belts for one reason or another, perhaps because many of them travel on the roads at night. A Gallup Poll vote discloses this fact.

The Hon. S. C. Bevan: Why don't they get them fitted in their cars?

The Hon. G. O'H. GILES: All I am saying is that a Gallup Poll shows most people in this State and in Australia consider that the compulsory fitting of safety belts in cars is desirable. They do not consider—as the Hon. Mr. Bevan wants me to say—that they should be compelled to wear the safety belts. I hope the Committee takes an enlightened view of the Bill before us and votes for the compulsory fitting of safety belts to vehicles. I am getting a little fed up—if the Committee will forgive me for saying so—with some of the eyewash I have heard so far in discussions on this matter. All the figures support the fact that people should be encouraged to wear safety belts, and the best encouragement is a provision that the belts will be fitted to new vehicles as from some date in the future. I support the Bill, which has come before this Chamber again in what I gather was its original form.

The Hon. G. J. GILFILLAN: I spoke on this matter during the debate, but I rise again to support the Hon. Mr. Story's motion. I believe that this matter is a very serious one. When the Bill was before this Chamber before many of us expressed our beliefs and voted accordingly. I still feel that the main issue before us is whether or not we believe in the fitting of safety belts, that we are here to vote according to our consciences on these things, and that we are dealing in human lives and human injuries. We are not here just to sway one way or the other: either we have some conviction in this matter or we have not.

The Hon. Sir ARTHUR RYMILL: I feel I must apologize to the Attorney-General for the fact that I was not present when this matter was last before this Chamber. The Government on that occasion, I understand, had no compunction in using the pair that I left with it. I am very happy that this Chamber made the amendments to the Bill, because I left my vote deliberately for that purpose. I propose to proceed along the same line, and I will not vote for the Hon. Mr. Story's motion; in other words, I support the attitude of insisting on the amendments.

The Committee divided on the Hon. C. R. Story's motion:

Ayes (5).—The Hons. R. C. DeGaris, G. O'H. Giles, G. J. Gilfillan, F. J. Potter, and C. R. Story (teller).

Noes (11).—The Hons. K. E. J. Bardolph, S. C. Bevan, Jessie Cooper, M. B. Dawkins, L. R. Hart, N. L. Jude (teller), Sir Lyell McEwin, W. W. Robinson, C. D. Rowe, Sir Arthur Rymill, and A. J. Shard.

Majority of 6 for the Noes.

Motion thus negatived.

ADJOURNMENT.

At 11.19 p.m. the Council adjourned until Thursday, November 21, at 2.15 p.m.