LEGISLATIVE COUNCIL

Wednesday, November 17, 1965.

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

QUESTIONS

NUMBER PLATES.

The Hon. L. R. HART: In last night's *News* it was stated that Mr. J. Landon, an American road safety expert, had urged that reflectorized number plates be used in South Australia. The report went on to state that the Minister of Roads, the Commissioner of Police and the Registrar of Motor Vehicles were to meet Mr. Landon and discuss with him the matter of reflectorized number plates. I assume that they discussed other matters as well. Will the Minister make a statement to the Council on his views and possibly the Government's views about introducing reflectorized number plates into South Australia?

The Hon. S. C. BEVAN: As reported in the press, it is true that this gentleman did call on me yesterday morning. This was the first occasion on which I had been consulted about the introduction into this State of reflectorized number plates, but I believe that representations were made to the Hon. Sir Norman Jude about these plates when he was Minister of Roads.

The Hon. Sir Norman Jude: I am very impressed by them.

The Hon. S. C. BEVAN: So am I, and I feel that the introduction of them would be an advantage to this State and to all concerned. Motorists should adopt the use of them because I honestly feel they would prevent the occurrence of many accidents. The Government has been examining this matter. I had made available to me a sample plate, which was taken to Cabinet, and Cabinet looked at it. The introduction of this type of plate into this State is being considered by Cabinet. At this stage I cannot say what Cabinet will decide, because this matter concerns not only the Government but also people such as the Registrar of Motor Vehicles. The Commissioner of Police has been consulted, and he is considerably impressed by the plate.

The Hon. C. R. Story: Are they expensive?

The Hon. S. C. BEVAN: No. I understand that they could be distributed in South Australia to the users or owners of vehicles at £1 a set, which is much cheaper than the plates that can be bought today. That information has been given by the manufacturer and the agent for the plates. I am exceedingly impressed with them and hope that they can be adopted in South Australia.

MEDICAL STUDENTS.

The Hon. F. J. POTTER: Can the Chief Secretary say whether the report of the committee that the Government set up a few weeks ago to report upon facilities for training medical students in South Australia has yet been presented? If not, can he say when it is expected and whether it will be made available to this Chamber?

The Hon. A. J. SHARD: I understand the question to refer to medical students training at hospitals. Although I have not seen the report myself, I understand that it is almost ready. I have not considered whether it will be made available to honourable members, and would consult Cabinet on that matter. It may be in the interests of all concerned that it be made available.

BOTTLED CREAM.

The Hon. D. H. L. BANFIELD: Has the Minister representing the Minister of Agriculture a reply to my question of November 9 regarding the price of bottled cream?

The Hon. S. C. BEVAN: Yes. My colleague, the Minister of Agriculture, informs me that at the present time cream is being made available in the metropolitan area in glass bottles, cartons, and plastic containers, all of which appear to be satisfactory. A considerable quantity of this cream is prepared and packaged in Victoria, and the Metropolitan Milk Board, under existing legislation, has no control over the type of container used.

Locally produced cream is handled by five wholesalers, of which four package their cream in cartons while the other uses bottles. However, one of the companies now using cartons is considering changing from cartons to bottles and it is likely that it will do so in the near future. Whilst the board has a slight preference for bottles, the consumers are divided in their preference for the type of container, and for this reason the board does not consider that any move to insist on the use of bottles is desirable at this stage.

LAND TAX ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from November 16. Page 2792.)

The Hon. Sir ARTHUR RYMILL (Central No. 2): This is not the first time I have

addressed this honourable Chamber on additional land tax. I did so last in 1961, and, of course, my attitude to it has not altered. Land tax is a flat tax on capital, and let us all be clear about that. It is not in the nature of an income tax; it is levied on land whether it is productive or not, whatever its productive capacity may be or whether it has no productive capacity; it is a flat capital tax and thus, in my opinion, is a tax that should be levied, if at all, as lightly as possible. I think the Commonwealth Liberal Government recognized this when it abandoned the field altogether, but the States were quick to take up the leeway.

I do not propose to oppose this Bill; certainly, not at this stage. However, I certainly do not support it either, for the very adequate reasons that I have already mentioned. The tax rates, although they start at a comparatively small amount, rise sharply, and the tax on the top scale of over £100,000 is now to be 9d. in the pound instead of 7½d. which, on my arithmetic, is 3¾ per cent on capital. It is not so long ago that the Commonwealth Loan bond rate was 3½ per cent, yet we are to have all owners of land levied at a rate considerably exceeding that—by §ths per cent—whether it is productive land or not and irrespective of the income they receive from it. Again, of course, I am talking of the high scale. During the last debate on this matter in 1961 I advocated that the steps of the scale should be lengthened on account of the inflation that had occurred. I said that as there had been a three or four times inflation the £5,000 first step should in justice be increased to £15,000, and so on, before the amount was raised. This is in 1961 *Hansard* at page 1112.

The Hon. Sir Lyell McEwin, when addressing himself to the present Bill, quoted a finding by the Ligertwood committee that he referred to as interesting. He quoted, among other things:

> There was one interesting submission on the effect of the progressive scale of rates of land tax when it is applied to an increase in land values. With the steady increase in land values, there has been a steady increase in the amount of tax which each taxpayer has to pay. But under the progressive system there is an additional factor in that the amount of tax may increase not only because of the higher land value but also because the rate of tax may increase.

In other words, because money has lost its value. I am sure that when Sir Lyell McEwin quoted that he did not know that this interesting submission was made to the Ligertwood committee by me. I have a copy of the evidence, and I propose to quote a few extracts from it. The Chairman said when I was called for examination, "You have addressed quite a lengthy memorandum to the committee." Well, I suppose it was rather lengthy, and I do not intend to be lengthy this afternoon. He asked me various questions, and I was able to answer in the first case by giving an example. I said:

> For the sake of simplicity I shall quote an example of an assessment in 1937 of £5,000, on which State land tax would have been ¾d. in the pound. Assuming that that land in actuality is no more valuable today, in money terms it would be valued at at least £15,000 today. I am contrasting real value and money terms of value. Therefore, as a matter of ordinary logic and, I think, justice, the land should be bearing the same rate of tax today as it was in 1937; because, for the purpose of this example, the real value of the land has not increased but the monetary figures attached to that value have trebled. The rate of tax now imposed on £15,000 should not be higher than it was on £5,000 in 1937.

I do not propose to weary the Council with further lengthy quotations, but I told the committee that I had argued this matter in Parliament. The Chairman then asked me:

> When you put up this scheme of the alteration of the steps, what did the Government say to you?

and my reply was:

> I did not put it in these analytical terms; I put it generally. My arguments in Parliament were practically the same.

The Chairman then said:

> You did not get any reaction?

and I said:

> Nothing stirred.

That is how I got on last time and that is how I expect to get on this time. However, I am entitled to put my case and I protest at the fact that justice is not being done because the steps of the sliding scale are being not lengthened but shortened, and considerably shortened. That is the converse of what I put and what I consider to be fair and just.

The tax on land not exceeding £5,000 in value, as we would expect from the present Government, remains the same, but after that, again as we would expect from the present Government, it starts to increase more steeply than it did before and it continues in that manner. In the range from £10,000 to £20,000 (which, incidentally, has been reduced to ranges from £10,000 to £15,000 and from £15,000 to £20,000, which means one more step of taxation) the increase is more than 25 per cent, according to my arithmetic. Exceeding £20,000, the increase is more than

30 per cent, and that rate of increase continues to the top of the scale where the increase is 25 per cent. Verily, the Government is on the up-and-up.

I have said that at this stage I do not propose to oppose this measure. What I said the other day is my creed: I will not oppose money Bills unless I have very good and substantial reasons for doing so. This is a Bill for the purpose of extracting increased revenue from landowners for Government purposes. What the Government will do with the increased revenue remains to be seen, but it is clear that it is seeking increased revenue from every possible source, and this is one way in which it can get increased taxation. I do not oppose the Bill, nor do I support it.

The Hon. F. J. POTTER (Central No. 2): Like the Hon. Sir Arthur Rymill, I have recollection of speaking in a land tax debate in 1961, and I remember that Sir Arthur on that occasion put strongly the points he has made here today. I think it is not without interest to go back to that 1961 debate and to refer very pointedly to the fact that the then Government estimated that under the amending Bill it was proposed to raise £600,000 more in land tax revenue. It was pointed out by the Hon. Sir Arthur Rymill on that occasion that in his opinion, and on the advice he had received, this amount of £600,000 was likely to be very much higher. Indeed, so it turned out to be. I, too, strongly pointed out to the Council on that occasion that, in my opinion, the amount to be raised by this tax would be considerably in excess of £600,000, which the Government was seeking and which it had been advised would be likely to accrue to the Treasury as a result. The difficulty, of course, at that stage of estimating exactly what increase of revenue would accrue to the Government arose because in 1961, too, the Bill then was introduced on the eve of a quinquennial reassessment. I made the point that about 70 or 75 per cent of the land tax revenue from this State came from people in the metropolitan area of Adelaide, and that many of them would be in the first two categories—up to £5,000, and in between £5,000 and £10,000. I should like now to quote what I said on that occasion:

It is possible that the Government may be something like £500,000 out in its estimate. I know it is difficult for a Minister when replying to the sort of question asked by the Hon. Sir Arthur Rymill earlier in this session to give an exact figure, because it is necessary to aggregate the holdings and ascertain the exact total. A tremendous amount of work would be necessary and perhaps it might even neeed the assistance of an electronic computer to work it out accurately. If at least 70 per cent of the revenue from this tax is derived from the metropolitan area where individual assessments have risen two and a half times, it makes an addition of at least £1,000,000 in the total revenue which will be received, and not £600,000, as has been suggested.

It is interesting to note that in the year 1961-62, instead of raising £2,000,000, as the then Government said it would, it raised £2,388,000, which meant that my estimate of an increase of nearly £1,000,000 was not far off the mark. In 1962-63 the figure had risen (and this was probably a more accurate figure, because the full assessment had then been completed) to £2,457,000. In the second reading debate on this Bill the Chief Secretary said that the figure in 1964-65 was £2,485,000. The Government says again, as the previous Government did, that this time it is estimating to get only another £425,000. With the new quinquennial reassessment I think this figure will again be greatly exceeded. Consequently, it is most important that this Council should know more precisely what will be the total effect of this new reassessment, taken in conjunction with the alteration in the rates.

Some idea of this would be available to the Council in 12 months' time. Therefore, I indicate now that I shall support the amendment that I understand the Hon. Sir Lyell McEwin intends to put before the Council to limit the operation of this measure to 12 months. There can be no real objection to such an amendment, as this is a taxation measure, and the income must form part of the Budget from year to year. As the Hon. Sir Arthur Rymill said a moment ago, there has been a steady and regular increase in land tax, and in each case there has been a big jump following the quinquennial revaluations. Of course, the old historic reason for the imposition of this tax—namely, the effort to break up large landholdings—has long since gone by the board, and we now have something that is merely a tax. It has been said that it is a capital tax and that the incidence of the tax falls in different ways upon the country and upon the city.

I think it can be ultimately claimed that in the country it is really a tax upon production or even upon income, because the land there is vitally important because of its productive capacity; but in the case of the first two brackets—up to £5,000, and between £5,000 and £10,000—I am vitally concerned for the

people who live in Central No. 2 District. Perhaps the Hon. Mr. Banfield will allow me to mention also the people living in Central No. 1 District. The people who live in the metropolitan area are those mostly concerned in those two brackets. They are considerably affected by the reassessment, which is based upon the unimproved value of land. Nobody would doubt that even since 1961 there have been some increases in the value of land in the metropolitan area of Adelaide. The assessment of land changes in value for three reasons—(1) because of the inflationary tendency in money values; (2) through the subdivisional activity that has occurred on the fringe of the metropolitan area; and (3) because of the great activity that has taken place in the inner city suburbs with the use of land for the building of home units. In fact, it seems to me that any reasonable and normal size block of land adjacent to transport in the metropolitan area is probably verging on a value of about £5,000 today if it can sustain thereon five home units, because, on my information, the basic land value of £1,000 to a home unit is a fair average cost to any builder engaging in this form of activity. We all know how greatly this has increased since 1961, which, of course, has added to the value of land in the metropolitan area. There is also an upward change in values because land in the metropolitan area is a scarce commodity. Every block of land that is built on means one block less available for someone else. In Central No. 1 and Central No. 2 districts the values in the first two categories are the ones vitally affected. I said in 1961 that in many cases this is a tax, not so much on increased capital value, but on theoretical capital value, because no real capital gain is involved for the person whose land has risen in value from, say, £2,500 to £4,500. That is because, if he sells the land for £4,500, he has to pay that amount or more for a similar block in the same neighbourhood.

The Hon. R. C. DeGaris: His financial return could be less.

The Hon. F. J. POTTER: Yes. I am speaking of land in the metropolitan area and am saying that, in effect, the steady increases in assessments really impose a tax on a theoretical capital gain. As it is clear that about 70 or 75 per cent of the land tax raised in this State comes from the metropolitan area, I think this new proposal will mean that the Government will derive revenue much in excess of what is expected. For that reason, we ought to limit the operation of the legislation to 12 months so that we can see the amount of this extra revenue.

I do not oppose the Bill. On the other hand, I adopt a similar attitude to that adopted by the Hon. Sir Arthur Rymill, in that I cannot be enthusiastic about the Bill or support it actively, in view of what happened in 1961, when more than £500,000 in excess of that expected was raised. There has never been the slightest suggestion to adjust the rates. There should be an adjustment in the rates for categories up to £5,000 and up to £10,000.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—"Taxes on land and rates."

The Hon. Sir LYELL McEWIN (Leader of the Opposition): I move the following suggested amendment:

To strike out the words "and subsequent financial years".

When speaking on the second reading, I said that I reserved the right to examine this clause further. All the tax proposals set out for this year may be completely altered as a result of the quinquennial reassessment next year. This Bill is not consistent with other measures that have been before Parliament, which should have the opportunity to review taxation measures. When we levied State income tax it formed part of the Budget, and every year, as well as the Budget, there was an Income Tax Act. I think that is also the procedure in the Commonwealth Parliament. Again, when we first introduced prices legislation in this State the attitude taken was that conditions changed and ought to be reviewed every year, so we had Bills every year. My suggested amendment provides the opportunity for a review when it is known what the conditions will be in future. It will make this Bill apply to next year only. A moment ago, a proposed amendment was circulated by the Chief Secretary and, although I have not had time to examine it in detail, it appears, on a cursory glance, to accept what I am proposing, but there seems to be a proviso that if the Government does not desire to make any alteration next year the present proposals shall continue. I have not examined whether that proposed amendment in any way breaks down what I have suggested.

The Hon. G. J. GILFILLAN: I strongly support the suggested amendment moved by Sir Lyell McEwin. It will have the effect of limiting the proposed increase in the land tax

rates to one year, which is completely reasonable. It will not affect the financial arrangements of the Government, because the Budget is brought in annually, and because there will be time for an examination of this measure in a following financial year. We find that the categories in the schedule have been brought more closely together and, even if the increase as a result of the reassessment next year is a minimum of 25 per cent, the effect, together with the increased rates proposed, could double the taxation paid by country people. The implications of an increased assessment added to the increased rate will be greater than was implied in the second reading explanation. I support the amendment, which is a wise provision to safeguard the interests of the people of this State.

The Hon. A. J. SHARD (Chief Secretary): The Government has considered the amendment, the effect of which would be that there would be no rates of tax for the years following 1965-66. I suggest as a practical solution that the Government will accept the amendment supplemented by other amendments that I shall move to ensure that the present rates of tax will be maintained for subsequent years, thus leaving it for the Government to bring down legislation to alter the rates for next year and subsequent years. The necessary amendments to achieve this result have been prepared, and I shall move them later. They have just been distributed, as I was unable to contact the Parliamentary Draftsman during the lunch hour. The Government is prepared to accept the amendment, and further suggested amendments will provide that the present increase in tax will apply only for the year 1965-66. So as to preserve land taxation, the Government suggests amendments so that the present rates will apply after this year unless the legislation is amended. I think that is the Hon. Sir Lyell McEwin's intention. I do not want a snap vote, so I am prepared to ask that progress be reported.

The Hon. Sir LYELL McEWIN: I support the Minister's suggestion, as I am not sure whether what he wants to do will defeat the amendment.

The Hon. Sir ARTHUR RYMILL: I support the Minister's suggestion. I have had a quick look at the matter but as it is complicated I should like to have a further look at it. I suggest to the Chief Secretary that the suggested amendment to leave out all the words from "striking" does not include "striking". I think the amendment should read "from and including".

The Hon. A. J. Shard: In the copy I have, the word "striking" is struck out.

The Hon. Sir ARTHUR RYMILL: No doubt this amendment has been drawn in a hurry, and it is a minor matter.

Progress reported; Committee to sit again.

CONSTITUTION ACT AMENDMENT BILL (SALARIES).

Adjourned debate on second reading.

(Continued from November 16. Page 2796.)

The Hon. R. C. DeGARIS (Southern): I have much pleasure in supporting the Bill, which increases the payment to those members who are serving on the Subordinate Legislation Committee from £200 per annum to £250 per annum.

The Hon. S. C. Bevan: You must be a member of the committee!

The Hon. R. C. DeGARIS: I am not, but several of my colleagues in this Chamber are, and I assure the Minister that they are extremely hard working and should be rewarded adequately. I should like to give a brief history of the committee. I believe that South Australia is the only State that has such a committee with the powers it has. I believe Victoria has followed our lead, but the committee in that State does not cover as large a field as our committee covers. For example, the Victorian committee does not look at by-laws made under the Local Government Act. Before 1938 the scrutiny of regulations, by-laws, etc. was generally left to individual members of our Parliament. I should like to quote what the Hon. R. C. Mowbray, a former member for the Southern District, said in 1933 at page 1658 of *Hansard*:

> At the commencement of each session of Parliament we are accustomed to seeing hundreds of pages of new by-laws and regulations placed on the table by Ministers, supplementing the provisions of many of the 2,000 or more Acts on the Statute Book. It is not to be wondered at that members shirk the responsibility of wading through them. It was recognition of the fact that what is everybody's business is often nobody's business that prompted the Liberal Party in the Legislative Council to delegate to three of its members the task of examining and reporting to the Party upon all by-laws and regulations tabled in the Council. It sometimes happens, however, that a proposal acceptable to the Council may not be approved by the Assembly and presumably it is for this reason that Mr. Rudall now has a motion before the Assembly as follows:
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> That in the opinion of this House legislation should be introduced providing for the appointment of a permanent committee of members of both Houses to which all rules,

regulations and/or by-laws shall be referred from time to time before being submitted for approval to the Governor.

On March 11, 1935, a committee on subordinate legislation was set up by the Government to consider this matter, and it recommended the appointment of a Parliamentary committee with the responsibility of looking at regulations, by-laws, etc., that came before Parliament. The work of the Subordinate Legislation Committee has grown. In the first seven years (from 1938 to 1945) about 100 papers were handled each year by the committee, whereas in the last Parliament about 150 papers came before it. Already this year the committee has dealt with 175 papers, and it looks as though the number will probably reach 250 during the year. It can be seen that over the years there has been a big increase in the amount of work being done by the committee. We all appreciate and realize the excellent work being done by the members of the Subordinate Legislation Committee, and I support the Bill lifting payment to the members concerned from £200 to £250 a year.

The Hon. Sir LYELL McEWIN secured the adjournment of the debate.

HARBORS ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from November 16. Page 2797.)

The Hon. C. D. ROWE (Midland): I have pleasure in supporting this Bill which covers two or three matters that are relatively minor. Apparently the first point covered is to provide that a signal shall be displayed within 10 miles of a pilot boarding station, as it has been discovered that, because of the peculiar topography of the gulf near Port Augusta, the present Act does not cover the situation and this amendment makes the necessary correction. An amendment in clause 4 provides for the increase in the harbour improvement rate from 1s. to 3s. a ton. I understand that when the Bill was in another place it was suggested that the increase should be from 1s. to 5s. a ton. An amendment was examined and the Government accepted it, thus increasing the rate from 1s. to 3s. a ton. I am particularly pleased to support this amendment because it will facilitate the Government's establishment of a deep-sea port at Giles Point. It will give the Government a little more latitude in order to cover the extra 3d. a bushel growers of wheat agreed to pay in that area, and therefore, if that did represent an obstacle, I must congratulate the Government on removing it. I take it that this will expedite the construction of the deep-sea port which we are all hoping will be commenced at an early date.

A further amendment in clause 4 provides that it is possible to differentiate between charges made in respect of various goods. It seems to me that there could be good reason for having permission to do that if a harbour improvement is provided for the purpose of enabling the port to handle a particular commodity. It would seem logical that that commodity should meet the cost of the capital improvement involved rather than the cost being spread over all commodities that go through that particular port installation. I agree with that amendment.

The only other matter I wish to mention is clause 5 relating to what is commonly known as the Gillman area. That is a large area reclaimed by virtue of the removal of materials from Harbors Board property elsewhere, and it has been built up to make it a desirable industrial area. Apparently there have been difficulties in giving freehold titles to the land to people anxious to secure such a title. The amendment will clear up that difficulty and enable such titles to be issued in the area. If the Government desired to extend this idea of granting freehold titles to people in other parts of the State it would have my keen support. I support the Bill.

The Hon. G. J. GILFILLAN secured the adjournment of the debate.

CROWN LANDS ACT AMENDMENT BILL.

In Committee.

(Continued from November 16. Page 2801.)

Clause 37—"Obstructing roads and ways."

The Hon. S. C. BEVAN (Minister of Local Government): During the debate on this Bill a query was raised in relation to the principal Act and it was apparently assumed that some references still existed relating to the Commissioner of Crown Lands. It was also stated that if I gave an assurance in the Committee stage of the Bill and reported progress to enable this matter to be examined no objection would be raised. In fairness to the honourable member who raised the question I did move that progress be reported and that the Committee seek leave to sit again. Since then I have made inquiries relating to the principal Act. The Act was amended, along with other Acts, in 1944 and the title of "Commissioner of Crown Lands and Immigration" was then amended to "Minister of Lands". Therefore, this title has been in operation, and is still in

operation as far as the Crown Lands Act is concerned. Control is vested in the Minister of Lands and not in the Commissioner of Crown Lands, because that position no longer exists.

The Hon. C. R. STORY: I thank the Minister for his reply. I mentioned at the time that this could well be the position and I am glad to know that such is the case. I think that the sooner some of these Acts are consolidated to enable this legislation to be printed in an up-to-date form the better it will be because in reading an Act and amending Acts it is confusing to find the word "Minister" in one place where the Act has been amended while the rest of the Act still refers to "Commissioner of Crown Lands".

Clause passed.

Title passed.

Bill read a third time and passed.

CATTLE COMPENSATION ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from November 11. Page 2762.)

The Hon. M. B. DAWKINS (Midland): I do not intend to speak for many minutes on this Bill, particularly because the Hon. Mr. Hart the other day gave a good and comprehensive review of what it sets out to do. Recently—during this year, as a matter of fact—there has been set up in Adelaide what has sometimes been referred to as a dead meat market (personally, I suggest that a "dressed meat market" might be a better title) run by a company known as Nelsons and Producers Meat Markets (S.A.) Ltd. Those people are selling all their produce on the hook and not on the hoof, as is done at the abattoirs. Therefore, a situation arises wherein people selling their cattle in this way are not paying stamp duty. Clauses 3 and 4 of this Bill set out to amend section 12 of the principal Act by inserting "cattle" and "or each carcass, as the case may be" to overcome the position where people are selling their cattle on the hook and not paying stamp duty. Clauses 3 and 4 will ensure that this will not happen in the future.

The Cattle Compensation Act has frequently been considered in connection with the Swine Compensation Act; they have tended to become similar in their objects and operation. That is appropriate and as it should be. The Swine Compensation Fund is now well over £100,000 (£142,000, my colleague Mr. Hart informs me) and the Cattle Compensation Fund is well over £120,000. Mr. Hart said the other day that the amount of money in the Cattle Compensation Fund was at the disposal of the Treasurer as a trust account and did not bear interest. I echo the suggestion of Mr. Hart that this matter be looked into and rectified. I understand that the Minister of Local Government asked, why wasn't it done previously? We are all guilty of oversights and tend to miss things at times, but that is no reason why the position should not be corrected now that Mr. Hart has drawn it to our attention. I support him in his suggestion there.

The other provision of the Act being amended is section 13, subsection (2) of which is repealed by clause 5 and the following subsection is inserted in lieu thereof:

(2) For every head of cattle or carcass sold, whether singly or in a lot, there shall be payable a stamp duty of sixpence where the amount of the purchase-money in respect of such head or carcass does not exceed thirty-five pounds and a stamp duty of one shilling where the amount of the purchase-money in respect of such head or carcass exceeds thirty-five pounds.

I commend the Government for introducing this clause. It would appear to me to be the great exception. In this morning's *Advertiser* in the first column on page 3 we see a statement by the President of the Adelaide Chamber of Commerce (Mr. Macklin) about 10 Bills that have been dealt with by or are now before Parliament, in one House or another, all of which have embraced increased charges of one sort or another. In addition, he mentioned increased water costs, Municipal Tramways Trust fares, Housing Trust rents and Harbors Board charges. I congratulate the Government because in this Bill it has not followed its usual policy.

The Hon. Sir Norman Jude: Don't remind it!

The Hon. M. B. DAWKINS: I wonder why it has not done so. It appears that at long last it has seen the light, because we have had a succession of such Bills recently.

The Hon. L. R. Hart: It has been getting cheap money for a long time.

The Hon. M. B. DAWKINS: Yes, and it might just as well have taken the duty off altogether, but at least in this case it has not raised it. There is one fault here, which appears in other Bills and which will, no doubt, be corrected in due course. Here we are today, less than three months away from the day we change over to decimal currency and we are enacting legislation that deals with sixpences and shillings. We should now be seriously considering enacting provisions in decimal currency and providing that they shall take

effect as from the date of changeover to decimal currency. If we did that, it would mean that not so many Acts would need to be amended later. The Government could well prepare us for a smooth changeover by phrasing these provisions in terms of decimal currency. I support the Bill.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—"Interpretation."

The Hon. L. R. HART: In my second reading speech I drew the attention of honourable members to the fact that the Cattle Compensation Fund was held by the Government in a trust account on which no interest was paid. I compared that fund with the Swine Compensation Fund, which was held in another trust account which bore interest. There appears to be no logical reason why these two funds should be in different accounts. I asked the Minister to supply us with a reason for that but he has so far failed to reply on this at any stage of the Bill. There must be a reason why these two funds are in different accounts. Furthermore, I know that pressure has been brought to bear in the past for the Cattle Compensation Fund to be transferred to the interest-bearing trust account. Will the Minister explain to members why this has been resisted?

The Hon. S. C. BEVAN (Minister of Local Government): The honourable member says that he knows pressure has been brought to bear on a previous Government to have one fund, and not two. However, apparently, little pressure was brought to bear to amalgamate them.

The Hon. L. R. Hart: I did not say "to amalgamate them".

The Hon. S. C. BEVAN: I must have misunderstood the honourable member. I think he has mentioned that we have two funds and that we should have only one. I also think he has asked why the Swine Compensation Fund carries interest, whereas the Cattle Compensation Fund does not. I find from perusing the dockets that stockowners themselves brought this matter to the notice of the previous Government, but when legislation was before us in 1964 the question was not asked, although honourable members had the opportunity to ask it then. It is a pity that some honourable members raise the matter today, merely because there has been a change of Government. They say that this Government should do something immediately.

In 1948 the same request was made to the then Minister. He was asked why interest was not added. I have found from the dockets that at that time consideration was given to the best method of giving some relief and it was decided that it would be a reduction in the stamp duty, rather than an addition of interest to the fund itself. In the early stages claims had been made on the fund and it was by no means a stabilized fund.

The tax collected over the years has built up the fund and it has become buoyant. Cabinet has given careful consideration to the representations made and it has been decided that the best way to give relief is to reduce the stamp duty at this stage, because of the buoyancy of the fund. This will reduce the amount coming into the fund annually by about 40 per cent, and it will give considerable benefit to the people directly concerned.

The fund, at the moment, stands at about £120,000 and the addition of interest would bring in about £3,000. The fund would be built up by that amount but no-one would receive any benefit at this stage. If interest were added to the amount in the fund there would be representations later for a reduction in the stamp duty because of the buoyancy of the fund. This Bill gives relief to the people who, we are always told, are worthy of consideration, and that relief should be given immediately, and not in the future. Cabinet has considered the matter of adding interest to the amount in the fund, but it has decided to defer action until this legislation is in operation and its effect seen.

The Hon. L. R. HART: I thank the Minister for his explanation and his statement that Cabinet is considering the payment of interest on the amount in the fund, but I point out that the Government, over a long period, has had the use of this money completely free of interest, and it has made no contribution to the fund. The reduction in the amount of stamp duty is beside the point. If it has been reduced because of the buoyancy of the fund, there is good reason to reduce it in relation to the Swine Compensation Fund, irrespective of the fact that interest is being paid.

There has been no explanation why this fund has not been transferred to a different trust account, and I hope that Cabinet's consideration will result in its being done. At this point I accept the Minister's statement in good faith and in the hope that his promise will be carried out in due course.

Clause passed.

Remaining clauses (4 and 5) and title passed.

Bill read a third time and passed.

COMPULSORY ACQUISITION OF LAND ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from November 16. Page 2799.)

The Hon. C. D. ROWE (Midland): I support the second reading of this Bill, which will assist in cases where it becomes necessary for the Government, or an authority operating under the power and control of the Government, to acquire land compulsorily for a public purpose. It will provide a means by which land needed for public works can be compulsorily acquired by proclamation, whereupon the ownership of the land will become vested in the promoters. The Act now provides that the amount claimed by the person from whom the land is to be acquired must be paid into court, where it remains until the matter is finally determined. If I remember correctly, an instance was given in the second reading explanation of £163,000 being claimed whereas the amount eventually awarded was only £35,000. I know something of this matter and I know that it is an exceptional case; nevertheless, if circumstances like that arise, a large sum of money is lying in court, and it is much greater than the person from whom the land is acquired is entitled to receive.

Some land that the Government wants to acquire is saddled with restrictive covenants and, even if the Government acquires the land, without the power contained in this Bill it takes it subject to those restrictive conditions. The Minister has mentioned an area at Springfield that the Government desires to acquire in order to erect a tank on it for water supply purposes. There has been a problem in getting over the restrictive covenants relating to that land. The purpose of the Bill is to ensure that when the Government takes land it takes it free from any encumbrances or restrictive provisions regarding its use. On the other hand, the persons who own the land have their rights converted into a claim for compensation.

The matter was thoroughly discussed in another place, and new section 23b was added at the instance of the Opposition. I think the addition of that provision materially improves the Bill and gets over one of the most serious objections that can be raised to it. However, some other improvements should be made, and I shall now turn to the individual clauses and deal with amendments which I think should be made and about which I have given notice. I need not deal with clauses 1 to 4, which are purely machinery clauses. However, I wish to deal with clause 5, which inserts new sections 23a and 23b. New section 23a (1) provides:

> Subject to this section, where any land is required by a Minister of the Crown or a prescribed authority for a purpose for which that Minister or authority has power to acquire land compulsorily, the Governor may, not less than twenty-eight days—
>
> (*a*) after notice to treat has been given to the persons referred to in section 21 of this Act (being a notice to treat that has not been withdrawn); or
>
> (*b*) in any case where, diligent inquiry having been made, no such person has become known to the Minister or authority—after the Minister or authority, as the case may be, has published in the *Gazette* a notice to treat addressed to such persons as may have an estate or interest in the land,
>
> by proclamation, declare that the land is acquired for the purpose aforesaid.

This new subsection provides that, where the notice to treat has been issued and 28 days have expired, it is possible for certain further proceedings to be taken, but I think that, in paragraph (*b*), instead of simply saying "in any case where, diligent inquiry having been made, no such person has become known to the Minister" a greater onus should be placed on the Minister to make a more detailed inquiry and try to find the people who have an interest in the land concerned. Instead of using the word "diligent" we should insert the words "due inquiry and search". Those words are used in the Motor Vehicles Act to meet cases when one wants to take action against a nominal defendant, and they mean not only inquiry but diligently searching the district and advertising in newspapers, which procedure, I believe, has been laid down in a large number of cases. As that obligation exists in the case of an action under the Motor Vehicles Act where the defendant cannot be found, I think an equal obligation should apply in this case. I do not think the Government will object to striking out "diligent" and inserting "due inquiry and search".

The next two amendments of which I have given notice have the same purpose; they are consequential one on the other. The second amendment I wish to deal with specifically is in new section 23b (1) (*b*), which provides:

> If—
>
> (*a*) any land is acquired by virtue of a proclamation made under section 23a of this Act; and
>
> (*b*) the promoters have, not later than three weeks after the date of publication of the proclamation in the *Gazette*, received from every person who appears to the promoters to

have a right to compensation in respect of the acquisition notice of his claim for compensation,

the promoters shall give notice to each such person stating the names and addresses of claimants from whom the notices of claim have been received and requiring him, within such time, not less than four weeks after such notice is given, as shall be specified in the notice, or within such further time as the promoters may in writing allow, to prove—

(i) his title to the land so acquired . . .

It seems to me that three weeks is rather a short period.

The Hon. A. J. Shard: You want it to be four weeks?

The Hon. C. D. ROWE: Yes. Although three weeks may appear to be a long time, from experience I know that it usually takes in the Easter or Christmas period, a long weekend, or the period when people are on holidays. In the circumstances I think we should allow the private people concerned an additional week. I do not think the amendment will upset the principle of the Bill, and I shall move it in due course. I considered making it six weeks, but I thought that was a little longer than was necessary. However, three weeks is not long enough if it is a holiday period.

The other amendment I shall move relates to new section 23b (5). This new subsection deals with the payment of compensation and the amount the person whose land is acquired can eventually obtain. It provides:

The amount paid to a claimant under subsection (2) of this section shall, where appropriate, be deducted from the total amount of compensation payable to the claimant by reason of such acquisition, but, if the amount paid under this section exceeds the total amount of compensation to which the claimant is entitled, the amount of the excess may be recovered by the promoters from the claimant as a debt in any court of competent jurisdiction.

It means that if a certain amount is paid to a person entitled to compensation, and it is subsequently decided that the amount should be less, that person is required to repay the excess. I think that is a little harsh on the person whose land has been acquired. Surely if he is offered a certain sum and accepts it, and there is no further litigation on the matter, he should be able to keep that money. If my property were compulsorily acquired and somebody offered me a certain amount of money, which I accepted, I think that should be the end of the transaction.

The Hon. A. J. Shard: If that was done in the first instance this Act would not apply.

The Hon. C. D. ROWE: This only applies where notice to treat is offered.

The Hon. A. J. Shard: But there would not be a notice to treat if an agreement was made.

The Hon. C. D. ROWE: On the other hand, if there was a notice to treat and a certain amount was offered and accepted, that is the amount that should be retained If it was afterwards found that the amount exceeded the proper value of the property it would be too bad.

The Hon. A. J. Shard: There would not be many cases of that kind.

The Hon. C. D. ROWE: Admittedly, but I think that the Minister understands my point. To get over it, I propose to move the following amendment:

In subsection (5) after "entitled" to insert "and the claimant has taken proceedings for compensation before a court or an arbitrator in respect of the acquisition of the land".

This means that if a certain amount has been offered and the claimant accepts that amount, that should be the end of it. On the other hand, if the claimant does not accept the amount offered and takes the matter to court, the court may say, "You are not entitled to the amount offered in those circumstances; the amount is reduced". That would be fair enough if the claimant had submitted the matter to the jurisdiction of the court: he must accept the judgment of the court. If, on the other hand, he makes a bargain to settle the matter with the promoters, that should be the end of it.

The Hon. A. J. Shard: If that happens, and he makes a bargain to settle the matter, why should it then go to a court?

The Hon. C. D. ROWE: In certain circumstances it could be that he would be involved in this matter.

The Hon. A. J. Shard: There would not be many cases like that.

The Hon. C. D. ROWE: I agree there would not be many, but it is the odd case that should be covered.

The Hon. A. J. Shard: I wish they would all agree to settle and then we would have no trouble.

The Hon. C. D. ROWE: The Minister is not the only one who thinks that way, or who has had experience with regard to these matters. However, there are two sides to the question, and sometimes I feel sorry for promoters because on occasions they have to deal with people who are unreasonable in relation to giving up land for a public purpose and the amount of compensation required. On the other hand, I think that

there are other occasions where perhaps a decision has been made too hastily and people seek to acquire land that they really do not need, because the difficulty can be overcome in another way. It is to try and balance things that this Bill has been brought forward.

The Hon. A. J. Shard: Such things do not happen frequently in South Australia.

The Hon. C. D. ROWE: That is so, but I remember a case where a department wanted to acquire a site for a particular purpose. The sale of the land would have caused inconvenience to the owner and when the matter was examined another site, equally suitable, was found and the department sensibly agreed to the alternative site. I think new section 23b, which provides that payment must be made before possession can be given, is important. There is only one other section to which I wish to refer, although I have not suggested an amendment to it. It is a matter that should be examined. I refer to subsection (11) of section 23a. which states:

(11) Any person in possession of any deed, certificate or other instrument evidencing the title to such land shall, upon receiving notice from the Registrar-General, deliver up to him such instrument, to be wholly or partially cancelled, or for the purpose of recording the vesting in the General Registry Office as the case may require; and any person refusing or neglecting so to deliver up any such instrument within fourteen days after receiving such notice shall be guilty of an offence and shall be liable on conviction, to a penalty not exceeding fifty pounds; and the court convicting such person of the offence may order him forthwith to deliver up such instrument to the Registrar-General.

In that subsection the words "or for the purpose of recording the vesting in the General Registry Office as the case may require" are wrong, because I do not think the Registrar-General has any power to partially cancel the deed according to general law. It would be a material alteration that would affect the deed. I can understand the situation if the deed does not contain any other land, but if it does contain other land, and only portion of the land mentioned in the deed is acquired, there is the danger that the claimant may lose his title to the whole of the land. I point out that I am speaking of land held not under the Real Property Act but under the old general law system. As everybody knows, if land is held under the old system a document must be possessed showing that the title was good from the time it was issued by the Crown. If such land held under the old system were acquired the person concerned would be required to deliver the deed to the Registrar-General. It seems to me that the person would lose his title to all the land, which could be valuable land. I suggest that the Minister examine this matter. Obviously if a person delivered up the deed, which was the title to the land, and he still retained some of the land he should be given a document or protected in some way.

The Hon. S. C. Bevan: Would not another document be issued if portion of the land was acquired?

The Hon. C. D. ROWE: In the Lands Titles Office two new titles would be issued: one for the land acquired and one for the land retained. However, under the old general law there is no such provision. The situation may arise where the general law provides for a piece of land to be acquired and another piece to be retained, but the piece to be acquired may be the dominant portion of all the land. In that instance, the person concerned would want to retain it.

I think that the situation should be examined in order that a person may be left with something to show his continuity of title. I do not think it affects the principle of the Bill, but it was a point mentioned to me by a person with detailed knowledge of such matters. I know that it is not the Government's wish to interfere with the title of such a person to his land. I should be grateful if the Parliamentary Draftsman or an appropriate officer could look at the problem from that angle before we got into the Committee stages. It has been raised with me but I have not been able to get an answer. I support the second reading.

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

HOUSING IMPROVEMENT ACT AMENDMENT BILL.

(Second reading debate adjourned on November 16. Page 2798.)

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—"Power to buy land."

The Hon. R. C. DeGARIS: During the second reading debate I directed some questions to the Chief Secretary about this matter. I want to know exactly what addition this clause makes to the principal Act. It appears that all the powers conferred by this clause are already in the Act. As the Chief Secretary is not present, will the Minister of Local Government consider reporting progress on this Bill?

The Hon. S. C. BEVAN (Minister of Local Government): In the circumstances, I ask that progress be reported and that the Committee have leave to sit again.

Progress reported; Committee to sit again.

DECIMAL CURRENCY BILL.

Adjourned debate on second reading.

(Continued from November 16. Page 2795.)

The Hon. L. R. HART (Midland): This Bill is probably a forerunner of other Bills that will have to come before this Council. It is in the form of complementary legislation to that passed by the Commonwealth Parliament. Under section 51 of the Commonwealth Constitution, the Commonwealth Parliament has power to control the currency of this country. It was under this power that the 1963 legislation providing for the conversion of the currency of the Commonwealth of Australia to decimal currency was enacted. The Statutes being dealt with under this Bill are copious. Its preparation undoubtedly required much investigation and research. The officers, Parliamentary Draftsmen and others associated with its drafting are to be congratulated on presenting the Bill in its present form.

The 1963 Commonwealth Currency Act is, I believe, in the process of being repealed at present by a currency Bill before the Commonwealth Parliament. This, in turn, will be superseded, I understand, by a decimal currency board Bill, which will be introduced into the Commonwealth Parliament shortly.

The schedules in this Bill, although probably serving the purpose for which they were included, would appear to be perhaps insufficient. I should have assumed that there were other Acts embracing monetary values that probably should have been included in this Bill. I wonder why the Superannuation Act has not been included in these schedules. No doubt, there is a reason for this, which may be revealed by the Minister in due course; but there may be another reason—that a separate Bill will be introduced to cover the Superannuation Act. The interesting clauses are 7, 8 and 9, and particularly clauses 8 and 9, which deal with the power to amend statutory instruments. Clause 8 (1) states:

Notwithstanding anything to the contrary in any Act or statutory instrument contained the Governor may, by regulation under this Act, amend a statutory instrument by substituting references to amounts of money in terms of the new currency for any references in that statutory instrument to amounts of money in terms of the old currency calculated on the basis of the equivalents specified in subsection (4) of section 8 of the Commonwealth Currency Act.

Subsection (4) of section 8 of the Commonwealth Currency Act states:

The equivalent in the currency provided for by this Act of one sovereign or pound in the currency provided for by the repealed Act is two dollars, the like equivalent of 1s. is ten cents, and the like equivalent of one penny is five-sixths of a cent.

I was wondering how the carriers of this country would get on working out the cost of the tax under the Road Maintenance (Contribution) Act. The actual cost is one-third of a penny per ton per mile, so we shall have to find the equivalent of one-third of a penny per ton per mile under decimal currency. Under this Bill, the currency of the country takes on the cloak of decency, because I understand that in future there will be no such things as vulgar fractions. All costs will be expressed in decimal currency, so it will be interesting to see how the carriers will calculate their tax on a one-third of a penny a ton-mile basis. However, I do not doubt that ready reckoners will be available.

Another matter for concern is that we shall not be able to arrive at complete equivalents for some amounts of currency. Therefore, there will have to be either a higher or a lower charge made. The schedule for this is set out in the Commonwealth Act. Although large firms may be able to pay stamp duty in bulk and probably will not notice the fractional amounts going either their way or against them, I think the small trader may find himself paying increased stamp duty if he buys a small number of stamps at a time. Undoubtedly, there will be some confusion in the changeover and I assume that banking institutions will require a period in which to make the necessary conversions and adjust their accounts.

The Hon. Sir Arthur Rymill: Of course, we are going to have dual currency for a long time.

The Hon. L. R. HART: Yes, for two years, which is a long period, but the confusion will occur in the first day or two of the changeover and I think it would have been logical to provide for a bank holiday on the day of the changeover, or perhaps for two days, if necessary, to facilitate the conversion. I understand that in Victoria provision has been made for the State Savings Bank to declare a holiday over the period of the changeover.

The Hon. R. C. DeGaris: A "dollarday"?

The Hon. L. R. HART: Yes. However, there is no provision made in this Bill for The Savings Bank of South Australia to declare a holiday if it considers that is necessary. To add to the confusion, we find in a recent report that the Australian Railways Union has served a letter of demand on the Railways Commissioner in South Australia, claiming an allowance of £5 a week for employees responsible for handling cash and I understand that similar claims have been made by the union in New South Wales, Victoria and Tasmania. The union considers that this allowance should be paid for at least six months of the two years during which we shall be handling dual currency. If this is going to be the attitude of all unions, perhaps it would pay us to adhere to the present currency, because any cost involved would have to be passed on to the tax-paying public. Although we appreciate that some responsibility will be placed upon people handling cash, I think we must all realize that we ought to be tolerant and patient and try to assist one another when the changeover is being made.

The Hon. Mr. Gilfillan mentioned that clause 8 provided for regulations relating to the substitution of the currency that will not be covered by the Acts Interpretation Act; in other words, there will be no need for Parliament to review any such regulations. Perhaps this is undesirable and establishes a practice that we should guard against.

In terms of clause 9, the Governor may, by proclamation, resolve a doubt or difficulty or get instructions for the purpose of removing it or declaring what is to be done, and there is provision that any such proclamation shall have effect as though it were a provision of the Bill. I consider that, if there is not a clear interpretation, the regulation should come before Parliament or should be dealt with by the Acts Interpretation Act. If that Act does not provide for contingencies that may arise, perhaps there should be an amendment for this particular purpose.

However, regardless of whatever we may think or do on a State basis, we really have no option, because the law dealing with currency is Commonwealth law and, when the Commonwealth passes an Act, it is more or less obligatory on the States to pass complementary legislation. I support the second reading of this Bill.

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

MAINTENANCE ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from November 16. Page 2794.)

The Hon. F. J. POTTER (Central No. 2): I support the second reading of this Bill. As I think has been mentioned during the debate, it is really a Committee Bill, and one that makes wide and important amendments to the present Maintenance Act. In fact, one criticism I have of the Bill is that it amends the existing Act. I consider that the amendments are so extensive and important that it would have been better had the Government repealed the existing Maintenance Act and brought down an entirely new Bill so that we would have had the whole thing before us from section 1 to the last section; we would then have been able to follow more clearly what was being done.

I must confess that it has been extremely difficult to know exactly the effects of each and every amendment made by this Bill to the Act and what is left in the principal Act. It is obvious that what has happened is that this draft Bill has been prepared as a result of conferences with the Attorneys-General of the various States. I understand that conferences were going on for a long time and that eventually a uniform Bill was worked out that was to be presented in all other States, but this has not eventuated. What has happened here is that certain provisions have been taken out of the uniform Bill and incorporated in our existing Act. It seems to me that this has been done with some apparent intention of making a show of uniformity as though in a way uniformity has some particular attraction. However, I do not wish to take that criticism too far, as I know that much time and trouble has been spent in working out some form of uniform Bill, but it seems a shame that the thing has not come to proper fruition and that a complete Bill has not been brought before us.

One of the most important changes is in the administration of the department. It will no longer be under the control and administration of the Children's Welfare and Public Relief Board but it will function really as a department of the Public Service and will be under the jurisdiction of a Minister and the Director. Although the board has functioned well and has been composed of public-spirited persons, I think the new arrangement will work more satisfactorily than the present system. It seems to me that there have been some defects in boards with administrative powers. The Bill provides that the board

will be retained as an advisory body. I think some trouble has been caused in the past because the board has been outside the ambit of the Public Service and the control of the department has not been under the Minister and the Director, which is the normal set-up. I hope that the department will function much better than it has and that the advisory board that we shall have in place of the administrative board will render assistance to the Director and Minister.

The Hon. C. R. Story: Did you say you supported Ministerial control?

The Hon. F. J. POTTER: I think in this department, which is concerned with the dispensation of large sums of public moneys, Ministerial control will work well.

The Hon. C. R. Story: With that proviso?

The Hon. A. F. Kneebone: Don't confuse him!

The Hon. F. J. POTTER: I am speaking not personally but for many people who have had some contact with the workings of the department, all of whom have expressed the opinion that this is, after all, virtually a department of the Public Service that dispenses a large sum of public money. In the circumstances, I think there is no reason why the new set-up should not work well.

The Hon. Sir Lyell McEwin: Do you think it will be more generous?

The Hon. F. J. POTTER: I do not think it will be more generous; I cannot see anything in the Bill that will make the actual handing out of money more generous than in the past. The provisions dealing with the dispensation of maintenance and relief seem to me not to have been changed.

The Hon. C. R. Story: It will mean something to the people that they will have to deal with the Attorney-General, though!

The Hon. F. J. POTTER: The Attorney-General may live to rue the day that he decided that this should come under his administration, as there may be many problems that dissatisfied clients (if I may call them this) can raise.

The Hon. R. C. DeGaris: Some of them raise quite a few points now.

The Hon. F. J. POTTER: They do. The administration of this Act has always been a fruitful field for complaint by people who think they are entitled to get relief and by members of the legal profession acting for them. As far as I know, there is no real change in the set-up of the department dealing with the dispensation of relief; in fact, in one instance, which has always caused some heartburning in the past, there has been no change whatever. I refer to clause 8, which deals with section 39. This provides:

> The Director shall not deduct from moneys in his hands received as payments of maintenance for or on behalf of any person any sum or sums for repayment to him of relief granted under this Division except upon the written authority of that person.

As I recall, this is one aspect of the administration of relief that has caused much dissatisfaction, but no change has been brought about by this Bill. If relief is afforded a woman and her children because she has been left by her husband, it is afforded only on a written undertaking from her that when maintenance is available from her husband the payment out of relief shall be recouped. One often has the situation where perhaps the wife has been given £5 or £6 a week as a relief payment, an order for maintenance is subsequently made against her husband when he is found and proceeded against, and the woman continues to receive only the amount of relief she has been receiving previously, despite the fact that extra money is coming from the husband, because the extra money would be deducted by the department to recoup the relief previously paid to the wife. Although I can appreciate the Government's position, and that it is necessary for as much of this relief to be recovered as possible, I know of cases where some hardship has been caused to a wife. That situation has not changed, and it seems that in future no relief will be afforded to a person unless that person has undertaken in writing to repay any relief received.

One aspect of the Bill causes me considerable trouble, and I have not made up my mind on it as yet. It deals with the difference that exists between proceedings taken under section 43 of the Act and those taken under section 66. Section 43 states that where a husband unlawfully deserts his wife, or leaves her without adequate means of support, a complaint may be issued on behalf of the wife for maintenance of herself and the children. It is interesting to note that section 43a is a complementary section introduced many years later, and it gives the right to a husband to claim maintenance from his wife where the wife has left him without adequate means of support. It is to be noted that under that section the question of desertion does not enter into the matter at all; in fact, those words do not appear. To some extent the two sections are not

complementary. The important point is that under section 43 the position has always been that it is an answer to a complaint under the section that a man has deserted his wife, or left her without adequate means of support (which is the usual charge laid), if a *bona fide* offer has been made by the husband to provide a home for his wife.

It seems to me that perhaps the draftsman has not realized the effect new section 76e (2) has upon the existing state of affairs, because it seems to me this section has modified the law applicable to section 43 in a material way. It is interesting to note that section 76e has been taken from the Victorian Act and, although it has been followed word for word, I doubt whether the existence of the two sections in the South Australian law makes it at all appropriate. In South Australia a deserted wife has always had two entirely separate procedures open to her in applying for maintenance.

Under section 43, if the wife proves that she is without adequate means of support her husband is bound to maintain her, and her reason for leaving home does not matter. His only defence to the action is to provide his wife with a home. He is not entitled in a defence under section 43 to raise any aspect of his wife's conduct in order to justify his leaving her. On the other hand, his liability under this section is only to provide his wife with a subsistence level of maintenance; a level necessary to sustain what perhaps could be described as the bare necessities. If the wife wishes to allege that her husband has deserted her, and uses section 66 of the Act, the husband is required to maintain her at a higher level, and more in accordance with her customary position in life. The Act makes it clear that this is, in fact, to be the standard for section 66 complaints in future. That is made clear under section 39b. The price that the wife pays, if we put it that way, for the more luxurious rate of maintenance is that under section 66 she must face up to all the normal matrimonial defences that can be raised by her husband. He can justify the leaving by proving, for instance, that his wife is guilty of some misconduct, which could be adultery, cruelty or something of a similar nature.

It seems to me that by leaving in this Bill subsection (2) of section 76e we have upset the balance between section 43 and section 66. That subsection enables an applicant wife under section 43 to attack the husband's offer of a home by, for instance, alleging misconduct on his part and so justifying her refusal of his offer of a home. The important point is that, although that facility is available to a wife, it is not available to a husband who does not wish his wife to return, and I think this could have an unfortunate result. This seems to be one of the most disturbing features of this clause, which came from the Victorian Act. Perhaps another slightly disturbing feature is the fact that section 43 proceedings are competent to be dealt with by justices of the peace, whereas section 66 proceedings, which open up the whole of the matrimonial relationships and afford defences to the husband, can be dealt with only by a special magistrate. The matrimonial situation and the legal results flowing therefrom are things that should be dealt with by a special magistrate, because they raise fairly complicated questions of law. If by this procedure we open under section 43 investigations by justices of the peace into the matrimonial conduct of the parties, so that the questions can be balanced as to whether the wife was justified in refusing the offer of a home by the husband, I think they are complex questions and should not be decided by justices of the peace. It does not seem to me that there is any harm in justices of the peace hearing cases under section 43, because that is a simple question whether or not the wife has been left without adequate means of support. In most cases (in fact, in 99 cases out of 100) as no question of justification of the conduct of the parties is involved, the husband who is presented with a complaint under section 43 is content to consent to an order at the fairly low subsistence level applying under this section. The trouble has arisen by the clause having been lifted from the Victorian legislation, which is completely different from our existing Maintenance Act, because it makes no distinction between sections 43 and 66. In fact, the Victorian legislation is a kind of middle path between the two sections. While clause 76e (2) is appropriate in Victoria, it cannot be said that it is appropriate in South Australia. Accordingly, when this Bill gets into Committee, I shall have to ask honourable members to look again at the provisions of this clause in the way that they affect the operation of section 43. If honourable members have not been following everything I have been saying on this matter, when we get into Committee I may have an opportunity of explaining it a little more fully. There is a difference between these two sections and it is important that we maintain that difference.

There is one other matter that seems to me worthy of comment. There is a subtle change in the onus of proof (if we like to put it that way) in cases where a person is charged with being the father of an illegitimate child. It is a well-known principle of law that in any criminal cases involving a sexual offence against a female person the jury is always warned that it is unwise to convict a person if the only evidence is the uncorroborated evidence of the female concerned. The importance of this is always emphasized in criminal cases. Into section 60 of the Act something of the importance of this principle was written. That section states that it is not necessary to require any corroboration of the evidence of the mother in an affiliation case unless and until the defendant has, on his oath, denied the allegations. Then, provided the defendant does on his oath deny the allegations, no order shall be made against him unless the evidence of the mother is corroborated in some material particular.

If we look at section 76f, we see that this onus has been slightly changed, because there it is provided:

Upon the hearing of a complaint under this Part . . . the evidence of a woman that the defendant is the father of her illegitimate child or that she is pregnant by the defendant . . . shall not be accepted without corroboration . . . except in the following cases, namely: (*a*) where the defendant is present in court . . . and does not give evidence on oath denying that he is the father.

Then the evidence of the mother can be accepted without corroboration. The same applies if the defendant has been served with a summons and does not turn up at the hearing of the court. So we can see that there has been a subtle change from the present section. At present if the defendant denies on oath that he is the father the evidence must be corroborated, but under the Bill, if he does not deny it, the evidence need not be corroborated. This is a subtle shift in the onus of proof which, I feel, ought to be carefully looked at. The present section has worked well; it has not been unfair and is in accordance, virtually, with the situation prevailing in other courts.

The Hon. C. R. Story: Why has this change been made?

The Hon. F. J. POTTER: I do not know. As I say, there is this subtle shift and we ought to look carefully before we interfere with this, because it has always been a cardinal rule that the evidence of the mother ought to be corroborated in some material particular in a case where she is charging a man with being the father of her illegitimate child. It may, of course, be argued that this is only the same thing put differently, but I have my doubts about this and intend to look at it carefully. Perhaps we should examine it in the Committee stages. When I first examined this Bill I found a number of provisions calling for attention, but the Bill as it has come into this Chamber is not the same Bill that was originally presented in another place. I am pleased to say that many of the queries I had when I looked at it some months ago have been satisfied. Consequently, I do not have to take up the time of this Chamber by pointing out many of the defects that were in the original Bill. We shall need to examine each clause in Committee. I reserve the right to make further remarks when we get into Committee, particularly on the two important matters that I have just raised. I support the second reading.

The Hon. C. D. ROWE secured the adjournment of the debate.

ADJOURNMENT.

At 4.45 p.m. the Council adjourned until Thursday, November 18, at 2.15 p.m.